

TITLE XII: TRAFFIC CODE

Chapter

70. TRAFFIC REGULATIONS

CHAPTER 70: TRAFFIC REGULATIONS

Section

70.01	Uniform Traffic Code adopted by reference
70.02	Uniform Traffic Code amendments
70.99	Penalty

§ 70.01 UNIFORM TRAFFIC CODE ADOPTED BY REFERENCE.

(A) *Uniform Traffic Code adopted.* The Uniform Traffic Code for Cities, Townships and Villages, as amended through 1999, and in accordance with Public Act 62 of 1956, being M.C.L. §§ 257.951 through 257.954, is hereby adopted by reference as may be modified in this chapter.

(B) *References in the Uniform Traffic Code.* References in the Uniform Traffic Code for Cities, Townships and Villages to “governmental unit” shall mean the township's unincorporated area.

(C) *Notice to be published.* The Township Clerk shall, at the same time the township code is published, publish a supplementary notice setting forth the purpose of the Uniform Traffic Code and of the fact that complete copies of the code are available at the office of the Township Clerk for inspection by and distribution to the public at all times.

(Ord. 157, passed 11-13-84) Penalty, see § 70.99

Statutory reference:

Uniform Traffic Code, see Mich. Admin. Code R. 28.1001 et seq.

§ 70.02 UNIFORM TRAFFIC CODE AMENDMENTS

The following sections 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. Subsequent section numbers used in this section refer to the like numbered actions of the Uniform Traffic Code.

Section 5.15 is hereby amended to read, as follows:

Southfield Township, Michigan Code of Ordinances

Section 5.15. Operating motor vehicle while under influence of intoxicating liquor or controlled substance; operating motor vehicle when visibly impaired; penalties for causing death or serious impairment of a body function; operation of motor vehicle by person less than 21 years of age; requirements; costs; enhanced sentence; guilty plea or nolo contendere; establishment of prior conviction; special verdict; public record; burden of proving religious service or ceremony.

(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 township 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 township 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 township 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 township 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 or 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, is subject to the following requirements:

(a) He or she shall not operate a vehicle in violation of subsection (1) or (3) 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 crime punishable as follows:

Southfield Township, Michigan Code of Ordinances

(i) A person who violates this subdivision is guilty of a misdemeanor and shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00 and to 1 or more of the following:

(A) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

(B) Community service for not less than 30 days or more than 90 days.

(b) He or she 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:

(i) Except as provided in subparagraph (ii), a person who violates this subdivision may be sentenced to 1 or more of the following:

(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.

(ii) If the violation occurs within 7 years of a prior conviction or within 10 years of 2 or more prior convictions, a person who violates this subdivision shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00 and to 1 or more of the following:

(A) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

(B) Community service for not less than 30 days or more than 90 days.

(c) In the judgment of sentence under subdivision (a)(i) or (b)(i), the court may, unless the vehicle is ordered forfeited under section 5.15m, order vehicle immobilization in compliance with M.C.L. § 257.904d. In the judgment of sentence under subdivision (b)(ii), the court shall, unless the vehicle is ordered forfeited under section 5.15n, order vehicle immobilization as provided in M.C.L. § 257.904d.

(6) If a person is convicted of violating subsection (1), all of the following apply:

(a) Except as otherwise provided in subdivision (b), the person is guilty of a misdemeanor punishable by 1 or more of the following:

(i) Community service for not more than 45 days.

(ii) Imprisonment for not more than 93 days.

(iii) A fine of not less than \$100.00 or more than \$500.00.

(b) If the violation occurs within 7 years of a prior conviction, the person shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00 and 1 or more of the following:

(i) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of the term of imprisonment imposed under this subparagraph shall be served consecutively.

(ii) Community service for not less than 30 days or more than 90 days.

Southfield Township, Michigan Code of Ordinances

(c) A term of imprisonment imposed under subdivision (b) shall not be suspended.

(d) In the judgment of sentence under subdivision (a), the court may order vehicle immobilization as provided in M.C.L. § 257.904d. In the judgment of sentence under subdivision (b), the court shall, unless the vehicle is ordered forfeited under section 5.15n, order vehicle immobilization as provided in M.C.L. § 257.904d.

(e) In the judgment of sentence under subdivision (b), the court may impose the sanction permitted under section 5.15.

(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) If a person is convicted of violating subsection (3), all of the following apply:

(a) Except as otherwise provided in subdivision (b), the person is guilty of a misdemeanor punishable by 1 or more of the following:

(i) Community service for not more than 45 days.

(ii) Imprisonment for not more than 93 days.

(iii) A fine of not more than \$300.00.

(b) If the violation occurs within 7 years of 1 prior conviction, the person shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00, and 1 or more of the following:

(i) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of the term of imprisonment imposed under this subparagraph shall be served consecutively.

(ii) Community service for not less than 30 days or more than 90 days.

(c) A term of imprisonment imposed under subdivision (b) shall not be suspended.

(d) In the judgment of sentence under subdivision (a), the court may order vehicle immobilization as provided in M.C.L. § 257.904d. In the judgment of sentence under subdivision (b), the court shall, unless the vehicle is ordered forfeited under section 5.15n, order vehicle immobilization as provided in M.C.L. § 257.904d.

(e) In the judgment of sentence under subdivision (b), the court may impose the sanction permitted under section 5.15n.

(9) If a person is convicted of violating subsection (4), all of the following apply:

(a) Except as otherwise provided in subdivision (b), the person is guilty of a misdemeanor punishable by 1 or both 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.

Southfield Township, Michigan Code of Ordinances

(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, M.C.L. §§ 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 the prosecuting attorney intends to seek an enhanced sentence under this section or a sanction under section 5.15n based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information, or an amended complaint and information, filed in district court, a statement listing the defendant's prior convictions.

(13) If a person is charged with a violation of subsection (1), (3), or (5), or section 5.15m, 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.

(14) A prior conviction shall be established at sentencing by 1 or more of the following:

- (a) An abstract of conviction.
- (b) A copy of the defendant's driving record.
- (c) An admission by the defendant.

(15) Except as otherwise provided in subsection (17), 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.

(16) Except as otherwise provided in subsection (17), 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.

(17) A special verdict described in subsections (15) and (16) 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.

Southfield Township, Michigan Code of Ordinances

(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.

(18) If a jury or court finds under subsection (15), (16), or (17) 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 section 5.15n or M.C.L. § 257.904d.

(19) Except as otherwise provided by law, a record described in subsection (18)(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.

(20) 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.

(21) Subject to subsection (23), as used in this section, "prior conviction" means a conviction for any of the following, whether under an ordinance of this township, a law of this state, or a substantially corresponding local ordinance or a law of another state:

(a) Except as provided in subsection (22), a violation or attempted violation of subsection (1), (3), (4), or (5), section 5.15m.

(b) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.

(c) A violation of M.C.L. § 257.653a(4).

(22) Except for purposes of the enhancement described in subsection (7)(b), only 1 violation or attempted violation of subsection (4), a local ordinance substantially corresponding to subsection (4), M.C.L. § 257.625(6), or a law of another state substantially corresponding to subsection (4) may be used as a prior conviction.

(23) If 2 or more convictions described in subsection (21) are convictions for violations arising out of the same transaction, only 1 conviction shall be used to determine whether the person has a prior conviction.

(State law reference - See M.C.L. § 257.625.)

Section 5.15a is hereby amended to read, as follows:

Section 5.15a. Arrest without warrant; circumstances; preliminary chemical breath analysis; operator ordered out-of-service; refusal of commercial motor vehicle operator to submit to breath analysis as misdemeanor; provisions applicable to chemical tests and analysis; evidence; availability of test results; presumptions; admissibility of refusal to submit to chemical test.

(1) A peace officer may arrest a person without a warrant under either of the following circumstances:

(a) The peace officer has reasonable cause to believe the person was, at the time of an accident in this township, the operator of a vehicle involved in the accident and was operating the vehicle in violation of section 5.15.

Southfield Township, Michigan Code of Ordinances

(b) The person is found in the driver's seat of a vehicle parked or stopped on a highway or street within this township if any part of the vehicle intrudes into the roadway and the peace officer has reasonable cause to believe the person was operating the vehicle in violation of section 5.15.

(2) A peace officer who has reasonable cause to believe that a person was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this township and that the person by the consumption of intoxicating liquor may have affected his or her ability to operate a vehicle, or reasonable cause to believe that a person was operating a commercial motor vehicle within the township while the person's blood, breath, or urine contained any measurable amount of alcohol or while the person had any detectable presence of intoxicating liquor, or reasonable cause to believe that a person who is less than 21 years of age was operating a vehicle upon a public highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within this township while the person had any bodily alcohol content as that term is defined in section 5.15(4), may require the person to submit to a preliminary chemical breath analysis. The following provisions apply with respect to a preliminary chemical breath analysis administered under this subsection:

(a) A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis.

(b) The results of a preliminary chemical breath analysis are admissible in a criminal prosecution for a crime enumerated in section 5.15c(1) or in an administrative hearing for 1 or more of the following purposes:

(i) To assist the court or hearing officer in determining a challenge to the validity of an arrest. This subparagraph does not limit the introduction of other competent evidence offered to establish the validity of an arrest.

(ii) As evidence of the defendant's breath alcohol content, if offered by the defendant to rebut testimony elicited on cross-examination of a defense witness that the defendant's breath alcohol content was higher at the time of the charged offense than when a chemical test was administered under subsection (6).

(iii) As evidence of the defendant's breath alcohol content, if offered by the prosecution to rebut testimony elicited on cross-examination of a prosecution witness that the defendant's breath alcohol content was lower at the time of the charged offense than when a chemical test was administered under subsection (6).

(c) A person who submits to a preliminary chemical breath analysis remains subject to the requirements of Sections 5.15c, 5.15d, 5.15e, and 5.15f for purposes of chemical tests described in those sections.

(d) Except as provided in subsection (5), a person who refuses to submit to a preliminary chemical breath analysis upon a lawful request by a peace officer is responsible for a civil infraction.

(3) A peace officer shall use the results of a preliminary chemical breath analysis conducted pursuant to this section to determine whether to order a person out-of-service under M.C.L. § 257.319d. A peace officer shall order out-of-service as required under section M.C.L. § 257.319d a person who was operating a commercial motor vehicle and who refuses to submit to a preliminary chemical breath analysis as

Southfield Township, Michigan Code of Ordinances

provided in this section. This section does not limit use of other competent evidence by the peace officer to determine whether to order a person out-of-service under M.C.L. § 257.319d.

(4) A person who was operating a commercial motor vehicle and who is requested to submit to a preliminary chemical breath analysis under this section shall be advised that refusing a peace officer's request to take a test described in this section is a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both, and will result in the issuance of a 24-hour out-of-service order.

(5) A person who was operating a commercial motor vehicle and who refuses to submit to a preliminary chemical breath analysis upon a peace officer's lawful request 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.

(6) The following provisions apply with respect to chemical tests and analysis of a person's blood, urine, or breath, other than preliminary chemical breath analysis:

(a) The amount of alcohol or presence of a controlled substance or both in a driver's blood or urine or the amount of alcohol in a person's breath at the time alleged as shown by chemical analysis of the person's blood, urine, or breath is admissible into evidence in any civil or criminal proceeding.

(b) A person arrested for a crime described in section 5.15c(1) shall be advised of all of the following:

(i) If he or she takes a chemical test of his or her blood, urine, or breath administered at the request of a peace officer, he or she has the right to demand that a person of his or her own choosing administer 1 of the chemical tests.

(ii) The results of the test are admissible in a judicial proceeding as provided under this Code and will be considered with other admissible evidence in determining the defendant's innocence or guilt.

(iii) He or she is responsible for obtaining a chemical analysis of a test sample obtained pursuant to his or her own request.

(iv) If he or she refuses the request of a peace officer to take a test described in subparagraph (i), a test shall not be given without a court order, but the peace officer may seek to obtain a court order.

(v) Refusing a peace officer's request to take a test described in subparagraph (i) will result in the suspension of his or her operator's or chauffeur's license and vehicle group designation or operating privilege and in the addition of 6 points to his or her driver record.

(c) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or an individual operating under the delegation of a licensed physician under section 16215 of the public health code, 1978 PA 368, M.C.L. § 333.16215, qualified to withdraw blood and acting in a medical environment, may withdraw blood at a peace officer's request to determine the amount of alcohol or presence of a controlled substance or both in the person's blood, as provided in this subsection. Liability for a crime or civil damages predicated on the act of withdrawing or analyzing blood and related procedures does not attach to a licensed physician or individual operating under the delegation of a licensed physician

Southfield Township, Michigan Code of Ordinances

who withdraws or analyzes blood or assists in the withdrawal or analysis in accordance with this Code unless the withdrawal or analysis is performed in a negligent manner.

(d) A chemical test described in this subsection shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in section 5.15c(1). A person who takes a chemical test administered at a peace officer's request as provided in this section shall be given a reasonable opportunity to have a person of his or her own choosing administer 1 of the chemical tests described in this subsection within a reasonable time after his or her detention. The test results are admissible and shall be considered with other admissible evidence in determining the defendant's innocence or guilt. If the person charged is administered a chemical test by a person of his or her own choosing, the person charged is responsible for obtaining a chemical analysis of the test sample.

(e) If, after an accident, the driver of a vehicle involved in the accident is transported to a medical facility and a sample of the driver's blood is withdrawn at that time for medical treatment, the results of a chemical analysis of that sample are admissible in any civil or criminal proceeding to show the amount of alcohol or presence of a controlled substance or both in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subdivision. A medical facility or person disclosing information in compliance with this subsection is not civilly or criminally liable for making the disclosure.

(f) If, after an accident, the driver of a vehicle involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner to determine the amount of alcohol or the presence of a controlled substance, or both, in the decedent's blood. The medical examiner shall give the results of the chemical analysis of the sample to the law enforcement agency investigating the accident and that agency shall forward the results to the department of state police.

(g) The department of state police shall promulgate uniform rules in compliance with the administrative procedures act of 1969, 1969 PA 306, M.C.L. §§ 24.201 to 24.328 for the administration of chemical tests for the purposes of this section. An instrument used for a preliminary chemical breath analysis may be used for a chemical test described in this subsection if approved under rules promulgated by the department of state police.

(7) The provisions of subsection (6) relating to chemical testing do not limit the introduction of any other admissible evidence bearing upon the question of whether a person was impaired by, or under the influence of, intoxicating liquor or a controlled substance, or a combination of intoxicating liquor and a controlled substance, or whether the person had 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 if the person is less than 21 years of age, whether the person had any bodily alcohol content within his or her body. As used in this section, "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.

Southfield Township, Michigan Code of Ordinances

(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.

(8) If a chemical test described in subsection (6) is administered, the test results shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall furnish the results at least 2 days before the day of the trial. The prosecution shall offer the test results as evidence in that trial. Failure to fully comply with the request bars the admission of the results into evidence by the prosecution.

(9) Except in a prosecution relating solely to a violation of section 5.15(1)(b) or (4), the amount of alcohol in the driver's blood, breath, or urine at the time alleged as shown by chemical analysis of the person's blood, breath, or urine gives rise to the following presumptions:

(a) If there were at the time 0.07 grams or less of alcohol per 100 milliliters of the defendant's blood, per 210 liters of the defendant's breath, or per 67 milliliters of the defendant's urine, it is presumed that the defendant's ability to operate a motor vehicle was not impaired due to the consumption of intoxicating liquor and that the defendant was not under the influence of intoxicating liquor.

(b) If there were at the time more than 0.07 grams but less than 0.10 grams of alcohol per 100 milliliters of the defendant's blood, per 210 liters of the defendant's breath, or per 67 milliliters of the defendant's urine, it is presumed that the defendant's ability to operate a vehicle was impaired within the provisions of section 5.15(3) due to the consumption of intoxicating liquor.

(c) If there were at the time 0.10 grams or more of alcohol per 100 milliliters of the defendant's blood, per 210 liters of the breath, or per 67 milliliters of the defendant's urine, it is presumed that the defendant was under the influence of intoxicating liquor.

(10) A person's refusal to submit to a chemical test as provided in subsection (6) is admissible in a criminal prosecution for a crime described in section 5.15c(1) only to show that a test was offered to the defendant, but not as evidence in determining the defendant's innocence or guilt. The jury shall be instructed accordingly.
(State law reference - See M.C.L. § 257.625a.)

Section 5.15b is hereby amended to read, as follows:

Section 5.15b. Arraignment of person arrested for misdemeanor violation; pretrial conference; advising accused of maximum penalty before acceptance of plea; screening, assessment, and rehabilitative services; action by secretary of state pending appeal.

(1) A person arrested for a misdemeanor violation of section 5.15(1), (3), (4), or (5) or section 5.15m shall be arraigned on the citation, complaint, or warrant not more than 14 days after the arrest for the violation or, if an arrest warrant is issued or reissued, not more than 14 days after the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with this time limit. The time limit does not apply to a violation of section 5.15(1) or (3) or a violation of section 5.15(1), (3), (4), or (5).

(2) The court shall schedule a pretrial conference between the prosecuting attorney, the defendant, and the defendant's attorney in each case in which the

Southfield Township, Michigan Code of Ordinances

defendant is charged with a misdemeanor violation of section 5.15(1), (3), (4), or (5) or section 5.15m. The pretrial conference shall be held not more than 35 days after the person's arrest for the violation or, if an arrest warrant is issued or reissued, not more than 35 days after the issued or reissued arrest warrant is served, whichever is later. If the court has only 1 judge who sits in more than 1 location in that district, the pretrial conference shall be held not more than 42 days after the person's arrest for the violation or, if an arrest warrant is issued or reissued, not more than 42 days after the date the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with the applicable time limit. The court shall order the defendant to attend the pretrial conference and may accept a plea by the defendant at the conclusion of the pretrial conference. The court may adjourn the pretrial conference upon the motion of a party for good cause shown. Not more than 1 adjournment shall be granted to a party, and the length of an adjournment shall not exceed 14 days.

(3) Except for delay attributable to the unavailability of the defendant, a witness, or material evidence or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, the court shall finally adjudicate, by a plea of guilty or nolo contendere, entry of a verdict, or other final disposition, a case in which the defendant is charged with a misdemeanor violation of section 5.15(1), (3), (4), or (5) or section 5.15m within 77 days after the person is arrested for the violation or, if an arrest warrant is issued or reissued, not more than 77 days after the date the issued or reissued arrest warrant is served, whichever is later. The court shall not dismiss a case or impose any other sanction for a failure to comply with this time limit.

(4) Before accepting a plea of guilty or nolo contendere under section 5.15 the court shall advise the accused of the maximum possible term of imprisonment and the maximum possible fine that may be imposed for the violation and shall advise the defendant that the maximum possible license sanctions that may be imposed will be based upon the master driving record maintained by the secretary of state under M.C.L. § 625.204a.

(5) Before imposing sentence for a violation of section 5.15(1), (3), (4), or (5), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. Except as otherwise provided in this subsection, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs as part of the sentence. If the person has 1 or more prior convictions, the court shall order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs as part of the sentence. The person shall pay for the costs of the screening, assessment, and rehabilitative services.

(6) If the judgment and sentence are appealed to circuit court, the court may ex parte order the secretary of state to stay the suspension, revocation, or restricted license issued by the secretary of state pending the outcome of the appeal.

(State law reference - See M.C.L. § 257.625b.)

Section 5.15c is hereby amended to read, as follows:

Southfield Township, Michigan Code of Ordinances

Section 5.15c. Consent to chemical tests; persons not considered to have given consent to withdrawal of blood; administration of tests.

(1) A person who operates a vehicle upon a public 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 township is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or presence of a controlled substance or both in his or her blood or urine or the amount of alcohol in his or her breath if the person is arrested for a violation of section 5.15(1), (3), (4) or (5), section 5.15a(5), or section 5.15m.

(2) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician is not considered to have given consent to the withdrawal of blood.

(3) The tests shall be administered as provided in section 5.15a(6).
(State law reference - See M.C.L. § 257.625c.)

Section 5.15d is hereby amended to read, as follows:

Section 5.15d. Refusal to submit to chemical test; court order; report to secretary of state; form.

(1) If a person refuses the request of a peace officer to submit to a chemical test offered pursuant to section 5.15a(6), a test shall not be given without a court order, but the officer may seek to obtain the court order.

(2) A written report shall immediately be forwarded to the secretary of state by the peace officer. The report shall state that the officer had reasonable grounds to believe that the person had committed a crime described in section 5.15c(1), and that the person had refused to submit to the test upon the request of the peace officer and had been advised of the consequences of the refusal. The form of the report shall be prescribed and furnished by the secretary of state.

(State law reference - See M.C.L. § 257.625d.)

Section 5.15e is hereby amended to read, as follows:

Section 5.15e. Refusal to submit to chemical test pursuant to § 5.15d; request for hearing; notice.

(1) If a person refuses to submit to a chemical test pursuant to section 5.15d, the peace officer shall immediately notify the person in writing that within 14 days of the date of the notice the person may request a hearing as provided in section 5.15f. The form of the notice shall be prescribed and furnished by the secretary of state.

(2) The notice shall specifically state that failure to request a hearing within 14 days will result in the suspension of the person's license or permit to drive. The notice shall also state that there is not a requirement that the person retain counsel for the hearing, though counsel would be permitted to represent the person at the hearing.

(State law reference - See M.C.L. § 257.625e.)

Section 5.15f is hereby amended to read, as follows:

Section 5.15f. Effect of failure to request hearing; hearing procedure; notice; authority of hearing officer; scope of hearing; finding; record; licensing sanctions; judicial review; notice to motor vehicle administrator of another state.

Southfield Township, Michigan Code of Ordinances

(1) If a person who refuses to submit to a chemical test pursuant to section 5.15d does not request a hearing within 14 days after the date of notice pursuant to section 5.15e, the secretary of state shall impose the following license sanctions:

(a) If the person was operating a vehicle other than a commercial motor vehicle, suspend or deny the person's operator's or chauffeur's license or permit to drive, or nonresident operating privilege, for 6 months or, for a second or subsequent refusal within 7 years, for 1 year. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall not issue the person a license or permit for 6 months or, for a second or subsequent refusal within 7 years, for 1 year.

(b) If the person was operating a commercial motor vehicle, for the first refusal, suspend all vehicle group designations on the person's operator's or chauffeur's license or permit or nonresident privilege to operate a commercial motor vehicle or, if the person is a resident without a license or permit to operate a commercial motor vehicle in the state, not issue the person an operator's or chauffeur's license with vehicle group designations, for 1 year.

(c) If the person was operating a commercial motor vehicle, for a second or subsequent refusal that occurred in a separate incident from and within 10 years of a prior refusal, revoke all vehicle group designations on the person's operator's or chauffeur's license or permit or nonresident privilege to operate a commercial motor vehicle or, if the person is a resident without a license or permit to operate a commercial motor vehicle in the state, not issue the person an operator's or chauffeur's license with vehicle group designations, for not less than 10 years and until the person is approved for the issuance of a vehicle group designation.

(d) If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 5.15c other than a violation of section 5.15a(5) or 5.15m, impose the license sanction described in subdivision (a) and the license sanction described in subdivision (b) or (c), as applicable.

(2) If a hearing is requested, the secretary of state shall hold the hearing in the same manner and under the same conditions as provided in accordance with M.C.L. § 257.322. Not less than 5 days' notice of the hearing shall be mailed to the person requesting the hearing, to the peace officer who filed the report under section 5.15d, and if the prosecuting attorney requests, to the prosecuting attorney. The hearing officer may administer oaths, issue subpoenas for the attendance of necessary witnesses, and grant a reasonable request for an adjournment. Not more than 1 adjournment shall be granted to a party and the length of an adjournment shall not exceed 14 days. A hearing under this subsection shall be scheduled to be held within 45 days after the date of arrest for the violation. The hearing officer shall not impose any sanction for a failure to comply with these time limits.

(3) Except for delay attributable to the unavailability of the defendant, a witness, or material evidence, or due to an interlocutory appeal or exceptional circumstances, but not a delay caused by docket congestion, a hearing shall be finally adjudicated within 77 days after the date of arrest. The hearing officer shall not impose any sanction for a failure to comply with this time limit.

(4) The hearing shall cover only the following issues:

(a) Whether the peace officer had reasonable grounds to believe that the person had committed a crime described in section 5.15c(1).

Southfield Township, Michigan Code of Ordinances

(b) Whether the person was placed under arrest for a crime described in section 5.15c(1).

(c) If the person refused to submit to the test upon the request of the officer, whether the refusal was reasonable.

(d) Whether the person was advised of the rights under section 5.15a(6).

(5) A person shall not order a hearing officer to make a particular finding on any issue enumerated in subsection (4)(a) to (d).

(6) The hearing officer shall make a record of a hearing held pursuant to this section. The record shall be prepared and transcribed in accordance with section 86 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being M.C.L. § 24.286. Upon notification of the filing of a petition for judicial review in compliance with M.C.L. § 257.323 and not less than 10 days before the matter is set for review, the hearing officer shall transmit to the court in which the petition was filed the original or a certified copy of the official record of the proceedings. Proceedings at which evidence was presented need not be transcribed and transmitted if the sole reason for review is to determine whether the court will order the issuance of a restricted license. The parties to the proceedings for judicial review may stipulate that the record be shortened. A party unreasonably refusing to stipulate to a shortened record may be taxed by the court in which the petition is filed for the additional costs. The court may permit subsequent corrections to the record.

(7) If the person who requested a hearing does not prevail, the secretary of state shall impose the following license sanctions after the hearing:

(a) If the person was operating a vehicle other than a commercial motor vehicle, suspend or deny issuance of a license or driving permit or a nonresident operating privilege of the person for 6 months or, for a second or subsequent refusal within 7 years, for 1 year. If the person is a resident without a license or permit to operate a vehicle in the state, the secretary of state shall not issue the person a license or permit for 6 months or, for a second or subsequent refusal within 7 years, for 1 year. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial in compliance with M.C.L. § 257.323.

(b) If the person was operating a commercial motor vehicle, impose the sanction prescribed under subsection (1)(b) or (1)(c), as applicable. The person may file a petition in the circuit court of the county in which the arrest was made to review the suspension or denial in compliance with M.C.L. § 257.323.

(c) If the person was operating a commercial motor vehicle and was arrested for an offense enumerated in section 5.15c other than a violation of section 5.15a(5) or 5.15m, impose the license sanctions described in subdivisions (a) and (b).

(8) If the person who requested the hearing prevails, the peace officer who filed the report under section 5.15d may, with the consent of the prosecuting attorney, file a petition in the circuit court of the county in which the arrest was made to review the determination of the hearing officer in compliance with M.C.L. § 257.323.

(9) When it has been finally determined that a nonresident's privilege to operate a vehicle in the state has been suspended or denied, the department shall give notice in writing of the action taken to the motor vehicle administrator of the state of the

Southfield Township, Michigan Code of Ordinances

person's residence and of each state in which he or she has a license to operate a motor vehicle.

(State law reference - See M.C.L. § 257.625f.)

Section 5.15g is hereby amended to read, as follows:

Section 5.15g. Duties of peace officer if person refuses chemical test or if test reveals unlawful alcohol content; test results; duration of temporary license or permit; "unlawful alcohol content" defined.

(1) If a person refuses a chemical test offered pursuant to section 5.15a(6), or submits to the 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 section 5.15d 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.

(2) If a person submits to a chemical test offered pursuant to section 5.15a(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 (1)(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 (1)(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.

(3) 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 section 5.15f, 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.

(4) As used in this section, "unlawful alcohol content" means any of the following, as applicable:

Southfield Township, Michigan Code of Ordinances

(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 township, 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 subdivision (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.

(State law reference - See M.C.L. § 257.625g.)

Sections 5.15h-k are hereby amended to read, as follows:

Sections 5.15h – k are hereby RESERVED.

Section 5.15l is hereby amended to read, as follows:

Section 5.15l. Ignition interlock device; prohibited conduct; violation as misdemeanor; penalty; definition.

(1) A person who has an ignition interlock device installed and whose driving privilege is restricted shall not request or solicit any other person to blow into an ignition interlock device or to start a vehicle equipped with the device for the purpose of providing the person whose driving privilege is restricted with an operable vehicle.

(2) A person shall not blow into an ignition interlock device or start a motor vehicle equipped with the device for the purpose of providing an operable vehicle to a person who has an interlock device installed and whose driving privilege is restricted.

(3) A person shall not tamper with or circumvent the operation of an ignition interlock device.

(4) A person who violates subsection (1), (2), or (3) is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$5,000.00, or both.

(5) As used in this Code, "ignition interlock device" or "device" means an alcohol concentration measuring device that prevents a motor vehicle from being started at any time without first determining through a deep lung sample the operator's breath alcohol level. The system shall be calibrated so that the motor vehicle may not be started if the breath alcohol level of the operator, as measured by the test, reaches a level of 0.025 grams per 210 liters of breath.

(State law reference - See M.C.L. § 257.625l.)

Section 5.15m is hereby amended to read, as follows:

Section 5.15m. Operation of commercial motor vehicle by person with certain alcohol content; arrest without warrant; violation as misdemeanor; sentence; "prior conviction" defined.

(1) A person, whether licensed or not, who has an alcohol content of 0.04 grams or more but not more than 0.07 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine shall not operate a commercial motor vehicle within this township.

(2) A peace officer may arrest a person without a warrant under either of the following circumstances:

Southfield Township, Michigan Code of Ordinances

(a) The peace officer has reasonable cause to believe that the person was, at the time of an accident, the driver of a commercial motor vehicle involved in the accident and was operating the vehicle in violation of this section.

(b) The person is found in the driver's seat of a commercial motor vehicle parked or stopped on a highway or street within this township if any part of the vehicle intrudes into the roadway and the peace officer has reasonable cause to believe the person was operating the vehicle in violation of this Section.

(3) Except as otherwise provided in Subsection (4), a person who is convicted of a violation of this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$300.00, or both, together with costs of the prosecution.

(4) A person who violates this section within 7 years of 1 prior conviction may be sentenced to imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(5) A term of imprisonment imposed under subsection (4) shall not be suspended.

(6) Subject to subsection (8), as used in this section, "prior conviction" means a conviction for any of the following, whether under an ordinance of this township, a law of this state, or a substantially corresponding local ordinance or a law of another state, except as provided in subsection (7), a violation or attempted violation of this section, section 5.15 (1), (3), (4), or (5),

(7) Only 1 violation or attempted violation of section 5.15(4), M.C.L. § 257.625(6), or a substantially corresponding local ordinance or law of another state may be used as a prior conviction.

(8) If 2 or more convictions described in subsection (6) are convictions for violations arising out of the same transaction, only 1 conviction shall be used to determine whether the person has a prior conviction.

(State law reference - See M.C.L. § 257.625m.)

Section 5.15n is hereby amended to read, as follows:

Section 5.15n. Forfeiture of vehicle or return to lessor.

(1) Except as otherwise provided in this section and in addition to any other penalty provided for in this Code, the judgment of sentence for a conviction for a violation of section 5.15(1) described in section 5.15(6)(b), a violation of section 5.15(3) described in section 5.15(8)(b), a violation of section 5.15(5), or section 5.62a, may require 1 of the following with regard to the vehicle used in the offense if the defendant owns the vehicle in whole or in part or leases the vehicle:

(a) Forfeiture of the vehicle if the defendant owns the vehicle in whole or in part.

(b) Return of the vehicle to the lessor if the defendant leases the vehicle.

(2) The vehicle may be seized pursuant to an order of seizure issued by the court having jurisdiction upon a showing of probable cause that the vehicle is subject to forfeiture or return to the lessor.

(3) The forfeiture of a vehicle is subject to the interest of the holder of a security interest who did not have prior knowledge of or consent to the violation.

Southfield Township, Michigan Code of Ordinances

(4) Within 14 days after the defendant's conviction for a violation described in subsection (1), the prosecuting attorney may file a petition with the court for the forfeiture of the vehicle or to have the court order return of a leased vehicle to the lessor. The prosecuting attorney shall give notice by first-class mail or other process to the defendant and his or her attorney, to all owners of the vehicle, and to any person holding a security interest in the vehicle that the court may require forfeiture or return of the vehicle.

(5) If a vehicle is seized before disposition of the criminal proceedings, a defendant who is an owner or lessee of the vehicle may move the court having jurisdiction over the proceedings to require the seizing agency to file a lien against the vehicle and to return the vehicle to the owner or lessee pending disposition of the criminal proceedings. The court shall hear the motion within 7 days after the motion is filed. If the defendant establishes at the hearing that he or she holds the legal title to the vehicle or that he or she has a leasehold interest and that it is necessary for him or her or a member of his or her family to use the vehicle pending the outcome of the forfeiture action, the court may order the seizing agency to return the vehicle to the owner or lessee. If the court orders the return of the vehicle to the owner or lessee, the court shall order the defendant to post a bond in an amount equal to the retail value of the vehicle, and shall also order the seizing agency to file a lien against the vehicle.

(6) Within 14 days after notice by the prosecuting attorney is given under subsection (4), the defendant, an owner, lessee, or holder of a security interest may file a claim of interest in the vehicle with the court. Within 21 days after the expiration of the period for filing claims, but before or at sentencing, the court shall hold a hearing to determine the legitimacy of any claim, the extent of any co-owner's equity interest, the liability of the defendant to any co-lessee, and whether to order the vehicle forfeited or returned to the lessor. In considering whether to order forfeiture, the court shall review the defendant's driving record to determine whether the defendant has multiple convictions under section 5.15 or multiple suspensions, restrictions, or denials under section 5.62a, or both. If the defendant has multiple convictions under section 5.15 or multiple suspensions, restrictions, or denials under section 5.62a, or both, that factor shall weigh heavily in favor of forfeiture.

(7) If a vehicle is forfeited under this section, the unit of government that seized the vehicle shall sell the vehicle and dispose of the proceeds in the following order of priority:

(a) Pay any outstanding security interest of a secured party who did not have prior knowledge of or consent to the commission of the violation.

(b) Pay the equity interest of a co-owner who did not have prior knowledge of or consent to the commission of the violation.

(c) Satisfy any order of restitution entered in the prosecution for the violation.

(d) Pay the claim of each person who shows that he or she is a victim of the violation to the extent that the claim is not covered by an order of restitution.

(e) Pay any outstanding lien against the property that has been imposed by a governmental unit.

Southfield Township, Michigan Code of Ordinances

(f) Pay the proper expenses of the proceedings for forfeiture and sale, including, but not limited to, expenses incurred during the seizure process and expenses for maintaining custody of the property, advertising, and court costs.

(g) The balance remaining after the payment of items (a) through (f) shall be distributed by the court having jurisdiction over the forfeiture proceedings to the unit or units of government substantially involved in effecting the forfeiture. Seventy-five percent of the money received by a unit of government under this subdivision shall be used to enhance enforcement of the criminal laws and 25% of the money shall be used to implement the crime victim's rights act, 1985 PA 87, M.C.L. §§ 780.751 to 780.834. A unit of government receiving money under this subdivision shall report annually to the department of management and budget the amount of money received under this subdivision that was used to enhance enforcement of the criminal laws and the amount that was used to implement the crime victim's rights act, 1985 PA 87, M.C.L. §§ 780.751 to 780.834.

(8) The court may order the defendant to pay to a co-lessee any liability determined under subsection (6). The order may be enforced in the same manner as a civil judgment.

(9) The return of a vehicle to the lessor under this section does not affect or impair the lessor's rights or the defendant's obligations under the lease.

(10) A person who knowingly conceals, sells, gives away, or otherwise transfers or disposes of a vehicle with the intent to avoid forfeiture or return of the vehicle to the lessor under this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(11) The failure of the court or prosecutor to comply with any time limit specified in this section does not preclude the court from ordering forfeiture of a vehicle or its return to a lessor, unless the court finds that the owner or claimant suffered substantial prejudice as a result of that failure.

(12) The forfeiture provisions of this section do not preclude the prosecuting attorney from pursuing a forfeiture proceeding under any other ordinance of this township, a law of this state, or substantially corresponding local ordinance to this section.

(State law reference - See M.C.L. § 257.625n.)

Sections 5.62 and 5.62a are hereby amended and supplemented to read, as follows:

Section 5.62. Operator's or chauffeur's license or registration; suspension, revocation or denial; penalty for operation of vehicle; subsequent offenses; confiscation of plates; status and record of person

(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 as per M.C.L. § 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 township.

(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

Southfield Township, Michigan Code of Ordinances

accessible to motor vehicles, including an area designated for the parking of vehicles, within this township by a person whose license or registration certificate is suspended or revoked, whose application for license has been denied, or who has never applied for a license, except as permitted under this Code.

(3) Except as otherwise provided in this section, a person who violates subsection (1) or (2) is guilty of a misdemeanor punishable as follows:

(a) 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.

(b) For a violation that occurs after a prior conviction, by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both. Unless the vehicle was stolen, the registration plates of the vehicle shall be canceled by the secretary of state upon notification by a peace officer.

(4) If the prosecuting attorney intends to seek an enhanced sentence under this section based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information, or an amended complaint and information, filed in district court, circuit court, municipal court, or family division of circuit court, a statement listing the defendant's prior convictions.

(5) A prior conviction under this section shall be established at or before sentencing by 1 or more of the following:

- (a) An abstract of conviction.
- (b) A copy of the defendant's driving record.
- (c) An admission by the defendant.

(6) Upon receiving a record of a person's conviction or civil infraction determination for the unlawful operation of a motor vehicle or a moving violation reportable under M.C.L. § 257.732 while the person's operator's or chauffeur's license is suspended or revoked, the secretary of state immediately shall impose an additional like period of suspension or revocation. This subsection applies only if the violation occurs during a suspension of definite length or if the violation occurs before the person is approved for a license following a revocation.

(7) Upon receiving a record of a person's conviction or civil infraction determination for the unlawful operation of a motor vehicle or a moving violation reportable under M.C.L. § 257.732 while the person's operator's or chauffeur's license is indefinitely suspended or whose application for a license has been denied, the secretary of state immediately shall impose a 30-day period of suspension or denial.

(8) Upon receiving a record of the conviction, bond forfeiture, or a civil infraction determination of a person for unlawful operation of a motor vehicle requiring a vehicle group designation while the designation is suspended pursuant to M.C.L. §§ 257.319a or 257.319b, or revoked, the secretary of state immediately shall impose an additional like period of suspension or revocation. This subsection applies only if the violation occurs during a suspension of definite length, if the violation occurs before the person is approved for a license following a revocation, or if the person operates a commercial vehicle while disqualified under the commercial motor vehicle safety act of 1986, Title XII of Public Law 99-570, 100 Stat. 3207-170.

Southfield Township, Michigan Code of Ordinances

(9) If the secretary of state receives records of more than 1 conviction or civil infraction determination resulting from the same incident, all of the convictions or civil infraction determinations shall be treated as a single violation for purposes of imposing an additional period of suspension or revocation under subsection (6), (7), or (8).

(10) 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.

(11) 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.

(12) A person whose vehicle group designation is suspended or revoked and who has been notified as provided as per M.C.L. § 257.212 of that suspension or revocation, or whose application for a vehicle group designation has been denied as provided under the Michigan Vehicle Code, or who has never applied for a vehicle group designation and who operates a commercial motor vehicle within this township, except as permitted under this Code, while any of those conditions exist 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.

(13) If a person has a second or subsequent suspension or revocation within 7 years as indicated on the person's Michigan driving record, the court shall proceed as provided per section 5.62d.

(14) Any period of suspension or revocation required under subsection (6), (7), or (8) does not apply to a person who has only 1 currently effective suspension or denial on his or her Michigan driving record under M.C.L. § 257.321a and was convicted of or received a civil infraction determination for a violation that occurred during that suspension or denial. This subsection may only be applied once during the person's lifetime.

(15) 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. (State law reference - See M.C.L. § 257.904.)

Section 5.62a. Inability to show issuance of valid license within preceding three years; penalty for operation of vehicle

Any person, not exempt from license under this Code, a law of this state, or a substantially corresponding local ordinance or law of another state, who shall operate a motor vehicle upon the highways of this township and who is unable to show that he or she has been issued a license to operate a motor vehicle by any state or foreign country valid within the 3 years preceding is guilty of a misdemeanor, and upon conviction shall be punished by imprisonment for not more than 90 days, or by a fine of not less than \$50.00 nor more than \$100.00, or both. Any person convicted of a second offense under this section shall be punished by imprisonment for not less than 2 nor more than 90 days, or by a fine of \$100.00, or both.

(State law reference - See M.C.L. § 257.904a)

Southfield Township, Michigan Code of Ordinances

Section 5.62b. Impounding of motor vehicle; time; impoundment order, execution, content; expenses, removal, storage; disposal upon abandonment

(1) When a person is convicted of an offense punishable under section 5.62(1) for operating a motor vehicle while his or her license to operate a motor vehicle is suspended, revoked, or denied, the court shall order the motor vehicle, if it is owned in whole or in part or leased by that person, impounded for not less than a period the court orders but not more than 120 days from the date of judgment.

(2) When a person is convicted of an offense punishable under section 5.62(2) for operating a motor vehicle while his or her license to operate a motor vehicle is suspended, revoked, or denied, the court may order the motor vehicle, if it is owned in whole or in part or leased by that person, impounded for not more than 120 days from the date of judgment.

(3) An order for the impounding of a motor vehicle issued pursuant to this section is valid throughout this township or the state. Any peace officer may execute the impoundment order. The order shall include the implied consent of the owner of the vehicle to the storage for insurance coverage purposes.

(4) The owner of a motor vehicle impounded pursuant to this section is liable for expenses incurred in the removal and storage of the vehicle whether or not the vehicle is returned to him or her. The vehicle shall be returned to the owner only if the owner pays the expenses for removal and storage. If redemption is not made or the vehicle is not returned as provided in this section within 30 days after the time set in the impoundment order for return of the vehicle, the vehicle shall be considered an abandoned vehicle and disposed of as provided per M.C.L. § 257.252a.

(5) This section does not affect the rights of a conditional vendor, chattel mortgagee, or lessor of a motor vehicle registered in the name of another person as owner who becomes subject to this Code.

(State law reference - See M.C.L. § 257.904b.)

Section 5.62c. Detention of driver; vehicle immobilization; temporary vehicle registration plate

(1) When a peace officer detains the driver of a motor vehicle for a violation of a law 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 M.C.L. §§ 257.226a or 257.226b.

(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 information network in a form prescribed by the secretary of state that the registration plate was confiscated and destroyed, and a temporary plate was issued.

(2) A temporary vehicle registration plate issued under this section 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.

Southfield Township, Michigan Code of Ordinances

(State law reference - See M.C.L. § 257.904c.)

Section 5.62d. Vehicle immobilization, violations of section 5.15; suspension, revocation, or denial of license; prior suspensions

- (1) Vehicle immobilization applies as follows:
 - (a) For a conviction under section 5.15(1), (3), or (5) with no prior convictions, the court may order vehicle immobilization for not more than 180 days.
 - (b) For a conviction under section 5.15(1), (3), or (5) within 7 years after a prior conviction, the court shall order vehicle immobilization for not less than 90 days or more than 180 days.
 - (c) For a conviction under section 5.15(1), (3) or (5) within 10 years after 2 or more prior convictions, the court shall order vehicle immobilization for not less than 1 year or more than 3 years.
- (2) For a conviction or civil infraction determination resulting from a violation that occurred during a period of suspension, revocation, or denial, the following apply:
 - (a) Except as provided in subdivision (b), for 1 prior suspension, revocation, or denial under section 5.62(6), (7), or (8), the court may order vehicle immobilization for not more than 180 days.
 - (b) For any combination of 2 or 3 prior suspensions, revocations, or denials under section 5.62(6), (7), or (8), the court shall order vehicle immobilization for not less than 90 days or more than 180 days.
 - (c) For any combination of 4 or more prior suspensions, revocations, or denials under section 5.62(6), (7), or (8), the court shall order vehicle immobilization for not less than 1 year or more than 3 years.
- (3) The defendant shall provide to the court the vehicle identification number and registration plate number of the vehicle involved in the violation.
- (4) The court may order vehicle immobilization under this section under either of the following circumstances:
 - (a) The defendant is the owner, co-owner, lessee, or co-lessee of the vehicle operated during the violation.
 - (b) The owner, co-owner, lessee, or co-lessee knowingly permitted the vehicle to be operated in violation of section 5.15(2) or section 5.62(2) regardless of whether a conviction resulted.
- (5) An order required to be issued under this section shall not be suspended.
- (6) If a defendant is ordered imprisoned for the violation for which immobilization is ordered, the period of immobilization shall begin at the end of the period of imprisonment.
- (7) This section does not apply to any of the following:
 - (a) A suspension, revocation, or denial based on a violation of the support and parenting time enforcement act, 1982 PA 295, M.C.L. §§ 552.601 to 552.650.
 - (b) A vehicle that is registered in another state or that is a rental vehicle.
 - (c) A vehicle owned by the federal government, this state, or a local unit of government of this state.
 - (d) A vehicle not subject to registration under M.C.L. § 257.216.
 - (e) Any of the following:

Southfield Township, Michigan Code of Ordinances

- (i) A violation of chapter II of the Michigan Vehicle Code.
- (ii) A violation of chapter V of the Michigan Vehicle Code.
- (iii) A violation for failure to change address.
- (iv) A parking violation.
- (v) A bad check violation.
- (vi) An equipment violation.
- (vii) A pedestrian, passenger, or bicycle violation, other than a violation of M.C.L. § 257.703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, M.C.L. § 436.1703 or a local ordinance substantially corresponding to M.C.L. § 257.703(1) or (2) of the Michigan liquor control code of 1998, 1998 PA 58, M.C.L. § 436.1703, or M.C.L. §§ 257.624a or 257.624b or a local ordinance substantially corresponding to M.C.L. §§ 257.624a or 257.624b.
- (viii) A violation of a local ordinance substantially corresponding to a violation described in subparagraphs (i) to (vii).

(8) As used in this section:

(a) Subject to subsection (9), "prior conviction" means a conviction for any of the following, whether under an ordinance of this township, a law of this state, or a substantially corresponding local ordinance or law of another state:

(i) Except as otherwise provided in this subparagraph, a violation or attempted violation of section 5.15(1), (3), (4) or (5) or section 5.15m. However, only 1 violation or attempted violation of section 5.15(4) may be used as a prior conviction.

(ii) Negligent homicide, manslaughter, or murder resulting from the operation of a vehicle or an attempt to commit any of those crimes.

(iii) A violation of section M.C.L. § 257.653a(3).

(b) "Vehicle immobilization" means requiring the motor vehicle involved in the violation immobilized in a manner provided in section 5.62e.

(9) If 2 or more convictions described in subsection (8)(a) are convictions for violations arising out of the same incident, only 1 conviction shall be used to determine whether the person has a prior conviction.

(State law reference - See M.C.L. § 257.904d.)

Section 5.62e. Vehicle immobilization, available technology to prevent operation of vehicle; sale or lease of immobilized vehicle; removal or tampering with immobilization devices; penalties; preemption

(1) A court shall order a vehicle immobilized under section 5.62d 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 section 5.15 or a suspension, revocation, or denial under section 5.62 to pay the cost of immobilizing and storing the vehicle.

(2) A vehicle subject to immobilization 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, M.C.L. § 205.93 without a court order.

Southfield Township, Michigan Code of Ordinances

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

(4) 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 for vehicle immobilization or operate or attempt to operate a vehicle that he or she knows or has reason to know has been ordered immobilized.

(5) A person who violates this section 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.

(6) To the extent that this section regarding the storage or removal of vehicles conflicts with an order of immobilization issued by the court, this section is preempted.

(7) 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.

(8) 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.

(State law reference - See M.C.L. § 257.904e.)

§ 70.99 PENALTY.

(A) *Civil Infraction.* Unless another penalty is expressly provided by an ordinance of this governmental unit, a violation of this chapter or rules substantially corresponding to the act that is designated a civil infraction is not a crime and shall not be punishable by imprisonment or a penal fine. A civil infraction shall not be considered a lesser-included offense of any criminal offense.

(B) *Misdemeanor.* Unless another penalty is expressly provided by an ordinance of this governmental unit, every person who is convicted of a misdemeanor violation of any provision of this chapter shall be punished as provided in § 10.99. (Ord. 157, passed 11-13-84)