

**VILLAGE OF AUGUSTA, MICHIGAN****ORDINANCE NO. 173**

An ordinance to amend the Uniform Traffic Code, adopted by the Village by Ordinance No. 152.

**Whereas**, the Village of Augusta has previously adopted the Uniform Traffic Code by Ordinance No. 152, and

**Whereas**, it is necessary to adopt amendments to the Uniform Traffic Code to make the Uniform Traffic Code as adopted by the Village consistent with recent amendments to the Michigan Motor Vehicle Code,

**NOW, THEREFORE, THE VILLAGE OF AUGUSTA, MICHIGAN, ORDAINS:**

**Section 1. Adoption of amendments to Uniform Traffic Code.** The Uniform Traffic Code, adopted by the Village by Ordinance No. 152, is hereby amended to read as follows:

**Sec. 5.15 Operating motor vehicle while under influence of intoxicating liquor or controlled substance; operating motor vehicle when visibly impaired; operation of motor vehicle by person less than 21 years of age; sanctions; costs; guilty plea or nolo contendere; 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 the Village of Augusta 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 the Village of Augusta by a person who is under the influence of intoxicating liquor, a controlled substance or a combination of intoxicating liquor and a controlled substance or 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 the Village of Augusta 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 the Village of Augusta 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 subsections (1), (3) or (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 by one or more of the following:

(a) Community service for not more than 60 days.

(b) A fine of not more than \$500.

(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 257.625b, order vehicle immobilization as provided by MCL 257.904d.

(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 or more than \$500.

(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 or more than \$500, 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.

(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 one or more of the following:

- (i) Community service for not more than 45 days.
- (ii) A fine of not more than \$250.

(b) If the violation occurs within seven years of one or more prior convictions, the person may be sentenced to one or more of the following:

- (i) Community service for not more than 60 days.
- (ii) A fine of not more than \$500.
- (iii) Imprisonment of not more than 93 days.

A prior conviction shall be established at sentencing by one 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.

(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), 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 Village 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 257.625n or MCL 257.904d.

(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 seven 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.

**Sec. 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 the Village of Augusta, the operator of a vehicle involved in the accident and was operating the vehicle in violation of section 5.15.

(b) The person is found in the driver's seat of a vehicle parked or stopped on a highway or street within the Village of Augusta 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 the Village of Augusta 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 Village of Augusta 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 the Village of Augusta 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 MCL 257.319d. A peace officer shall order out-of-service as required under MCL 367. 319d a person who was operating a commercial motor vehicle and who refuses to submit to a preliminary chemical breath analysis as 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 MCL 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 ordinance 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, MCL 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 who withdraws or analyzes blood or assists in the withdrawal or analysis in accordance with this act 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 515c(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 Village 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, MCL 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.

(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 515(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 515c(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.

#### **Sec. 5.15c Implied Consent.**

(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 the Village of Augusta 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 in all of the following circumstances:

(a) If the person is arrested for a violation of section 5.15(1), (3), (4) or (5) or 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).

**Sec. 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.

**Sec. 5.15e Notice of receipt of report; request for hearing; contents; failure to request hearing, consequences; counsel.**

(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.

**Sec. 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.**

(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 one 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 5.15m, 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 MCL 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 Village Attorney requests receipt of the notice, to the Village 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 one 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).

(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 section 24.286 of the Michigan Compiled Laws. Upon notification of the filing of a petition for judicial review pursuant to MCL 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 as provided in MCL 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 as provided in MCL 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 5.15m, 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 Village 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 as provided in MCL 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 person's residence and of each state in which he or she has a license to operate a motor vehicle.

**Sec. 5.15g Confiscation and destruction of license; notification of secretary of state.**

(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 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 one 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 Village Attorney shall notify the secretary of state if a case referred to the Village Attorney is not prosecuted. The arresting law enforcement agency shall notify the secretary of state if a case is not referred to the Village 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:

(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 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.

#### **Sec. 5.15m Commercial Motor Vehicles.**

(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 the Village of Augusta.

(2) 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 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 the Village of Augusta 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) 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.

**Sec. 5.15z. Tampering with court-ordered immobilized vehicle; violation as misdemeanor.**

(1) 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 pursuant to section 904d (MCL 257.904d) for vehicle immobilization or attempt to operate a vehicle that he or she knows or has reason to know has been ordered immobilized pursuant to section 904d of the Michigan Vehicle Code, 1949 Public Act 300, as added by 1998 Public Act 358.

(2) 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 (MCL 257.904e).

**Sec. 5.16. Transporting or possession of alcoholic liquor in motor vehicle by person under 21 years of age.**

(1) A person less than 21 years of age shall not knowingly transport or possess alcoholic liquor in a motor vehicle as an operator or occupant unless the person is employed by a licensee under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, a common carrier designated by the liquor control commission under the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, the liquor control commission, or an agent of the liquor control commission and is transporting or having the alcoholic liquor in a motor vehicle under the person's control during regular working hours and in the course of the person's employment. This section does not prevent a person less than 21 years of age from knowingly transporting alcoholic liquor in a motor vehicle if a person at least 21 years of



age is present inside the motor vehicle. A person who violates this subsection is guilty of a misdemeanor. As part of the sentence, the person may be ordered to perform community service and undergo substance abuse screening and assessment at his or her own expense as described in section 703(1) of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1703.

(2) Within 30 days after the conviction for a violation of subsection (1) by the operator of a motor vehicle, which conviction has become final, the arresting law enforcement officer or the officer's superior may make a complaint before the court from which the warrant was issued. The complaint shall be under oath and shall describe the motor vehicle in which alcoholic liquor was possessed or transported by the operator, who is less than 21 years of age, in committing the violation and requesting that the motor vehicle be impounded as provided in this section. Upon the filing of the complaint, the court shall issue to the owner of the motor vehicle an order to show cause why the motor vehicle should not be impounded. The order to show cause shall fix a date and time for a hearing, which shall not be less than 10 days after the issuance of the order. The order shall be served by delivering a true copy to the owner not less than three full days before the date of hearing or, if the owner cannot be located, by sending a true copy by certified mail to the last-known address of the owner. If the owner is a nonresident of the state, service may be made upon the secretary of state as provided in section 403.

(3) If the court determines upon the hearing of the order to show cause, from competent and relevant evidence, that at the time of the commission of the violation the motor vehicle was being driven by a person less than 21 years of age with the express or implied consent or knowledge of the owner in violation of subsection (1), and that the use of the motor vehicle is not needed by the owner in the direct pursuit of the owner's employment or the actual operation of the owner's business, the court may authorize the impounding of the vehicle for a period of not less than 15 days or more than 30 days. The court's order authorizing the impounding of the vehicle shall authorize a law enforcement officer to take possession without other process of the motor vehicle wherever located and to store the vehicle in a public or private garage at the expense and risk of the owner of the vehicle. The owner of the vehicle may appeal the order to the circuit court and the provisions of governing the taking of appeals from judgments for damages apply to the appeal. This section does not prevent a bona fide lienholder from exercising rights under a lien.

(4) A person who knowingly transfers title to a motor vehicle for the purpose of avoiding this section is guilty of a misdemeanor.

(5) A law enforcement agency, upon determining that a person less than 18 years of age allegedly violated this section, shall notify the parent or parents, custodian, or guardian of the person as to the nature of the violation if the name of a parent,

guardian, or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated this section is less than 18 years of age and may be made in person, by telephone, or by first-class mail.

(6) As used in this section, "alcoholic liquor" means that term as defined in section 105 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1105 (MCL 257.624b).

**Sec. 516a. Purchase, consumption or possession of alcoholic liquor by person under 21 years of age; attempts, furnishing or use of fraudulent identification to purchase alcoholic liquor.**

(1) A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, or possess or attempt to possess alcoholic liquor, except as provided in this section. Notwithstanding section 909, a minor who violates this subsection is guilty of a misdemeanor punishable by the following fines and sanctions, and is not subject to the penalties prescribed in section 909:

(a) For the first violation a fine of not more than \$100.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the Public Health Code, 1978 PA 368, MCL 333.6107, and designated by the administrator of substance abuse services, and may be ordered to perform community service and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (3).

(b) For a violation of this subsection following a prior violation of this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, a fine of not more than \$200.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the Public Health Code, 1978 PA 368, MCL 333.6107, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (3).

(c) For a violation of this subsection following two or more prior violations of this subsection or section 33b(1) of former 1933 (Ex Sess) PA 8, a fine of not more than \$500.00, and may be ordered to participate in substance abuse prevention or substance abuse treatment and rehabilitation services as defined in section 6107 of the Public Health Code, 1978 PA 368, MCL 333.6107, and designated by the administrator of substance abuse services, to perform community service, and to undergo substance abuse screening and assessment at his or her own expense as described in subsection (3).

(2) A person who furnishes fraudulent identification to a minor, or notwithstanding subsection (1) a minor who uses fraudulent identification to purchase alcoholic liquor, 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.

(3) The court may order the person convicted of violating subsection (1) to undergo screening and assessment by a person or agency as designated by the substance abuse coordinating agency as defined in section 6103 of the Public Health Code, 1978 PA 368, MCL 333.6103, in order to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs.

(4) The secretary of state shall suspend the operator's or chauffeur's license of an individual convicted of violating subsection (1) or (2) as provided in section 319 of the Michigan Vehicle Code, 1949 PA 300, MCL 257.319.

(5) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor may require the person to submit to a preliminary chemical breath analysis. A peace officer may arrest a person based in whole or in part upon the results of a preliminary chemical breath analysis. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a criminal prosecution to determine whether the minor has consumed or possessed alcoholic liquor. A minor who refuses to submit to a preliminary chemical breath test analysis as required in this subsection is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than \$100.00.

(6) A law enforcement agency, upon determining that a person less than 18 years of age who is not emancipated pursuant to 1968 PA 293, MCL 722.1 to 722.6 allegedly consumed, possessed, purchased, or attempted to consume, possess, or purchase alcoholic liquor in violation of subsection (1) shall notify the parent or parents, custodian or guardian of person as to the nature of the violation if the name of a parent, guardian or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated subsection (1) is less than 18 years of age and not emancipated under 1968 PA 293, MCL 722.1 to 722.6. The notice may be made by any means reasonably calculated to give prompt actual notice including, but not limited to, notice in person, by telephone, or by first-class mail. If an individual less than 17 years of age is incarcerated for violating subsection (1), his or her parents or legal guardian shall be notified immediately as provided in this subsection.

(7) This section does not prohibit a minor from possessing alcoholic liquor during regular working hours and in the course of his or her employment if employed by



a person licensed by the act, by the commission, or by an agent of the commission, if the alcoholic liquor is not possessed for his or her personal consumption.

(8) This section does not limit the civil or criminal liability of the vendor or the vendor's clerk, servant, agent, or employee for a violation of this act.

(9) The consumption of alcoholic liquor by a minor who is enrolled in a course offered by an accredited postsecondary educational institution in an academic building of the institution under the supervision of a faculty member is not prohibited by this act if the purpose of the consumption is solely educational and is a requirement of the course.

(10) The consumption by a minor of sacramental wine in connection with religious services at a church, synagogue, or temple is not prohibited by this act.

(11) Subsection (1) does not apply to a minor who participates in either or both of the following:

(a) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the person's employer and with the prior approval of the local prosecutor's office as a part of an employer-sponsored internal enforcement action.

(b) An undercover operation in which the minor purchases or receives alcoholic liquor under the direction of the state police, the commission, or a local police agency as part of an enforcement action unless the initial or contemporaneous purchase or receipt of alcoholic liquor by the minor was not under the direction of the state police, the commission, or the local police agency and was not part of the undercover operation.

(12) The state police, the commission, or a local police agency shall not recruit or attempt to recruit a minor for participation in an undercover operation at the scene of a violation of subsection (1), section 80(2) or section 701(1).

(13) As used in this section:

(a) "Probate court disposition" means an order of disposition of the probate court or the family division of the circuit court for a child found to be within the provisions of Chapter XIIA of 1939 PA 288, MCL 712A.1 to 712A.32.

(b) "Work location" means, as applicable, either the specific place or places of employment, or the territory or territories regularly visited by the person in pursuance of the person's occupation, or both (MCL 436.1703).



**Sec. 516b. Transportation or possession of alcoholic liquor in container open or uncapped or upon which seal broken; violation as misdemeanor; exception.**

(1) Except as provided in subsection (2), a person who is an operator or occupant shall not transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken within the passenger compartment of a vehicle upon a highway, or within the passenger compartment of a moving vehicle in any place open to the general public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, in the Village of Augusta.

(2) A person may transport or possess alcoholic liquor in a container that is open or uncapped or upon which the seal is broken within the passenger compartment of 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 in the Village of Augusta, if the vehicle does not have a trunk or compartment separate from the passenger compartment, the container is enclosed or encased, and the container is not readily accessible to the occupants of the vehicle.

(3) A person who violates this section is guilty of a misdemeanor. As part of the sentence, the person may be ordered to perform community service and undergo substance abuse screening and assessment at his or her own expense as described in section 703(1) of the Michigan Liquor Control Code of 1998, 1998 PA 58, MCL 436.1703. A court shall not accept a plea of guilty or nolo contendere for a violation of this section from a person charged solely with a violation of section 515(4).

(4) This section does not apply to a passenger in a chartered vehicle authorized to operate by the state transportation department.

**Sec. 5.16c. Consumption of liquor prohibited on public highways and other public places.**

(1) Alcoholic liquor shall not be consumed on the public highways.

(2) Alcoholic liquor shall not be possessed or consumed in public parks, public places of amusement, or a publicly owned area (an area under the jurisdiction of the Village) not licensed to sell for consumption on the premises, except as may be specifically allowed by other ordinance, order, or resolution of the Village Council (MCL 436.34).

(3) A person who violates this section is guilty of a misdemeanor.

**Sec. 5.16d Transport or possession of alcoholic liquor by person less than 21 years of age.**

(1) A person less than 21 years of age shall not knowingly transport or possess alcoholic liquor in a motor vehicle as an operator or occupant unless the person is employed by a licensee under the Michigan Liquor Control Code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, a common carrier designated by the Liquor Control Commission under the Michigan Liquor Control Code of 1998, 1998 PA 58, MCL 436.1101 to 436.2303, the Liquor Control Commission, or an agent of the Liquor Control Commission and is transporting or having the alcoholic liquor in a motor vehicle under the person's control during regular working hours and in the course of the person's employment. This section does not prevent a person less than 21 years of age from knowingly transporting alcoholic liquor in a motor vehicle if a person at least 21 years of age is present inside the motor vehicle. A person who violates this subsection is guilty of a misdemeanor. As part of the sentence, the person may be ordered to perform community service and undergo substance abuse screening and assessment at his or her own expense as described in section 703(1) of the Michigan Liquor Control Code of 1998, 1998 PA 58, MCL 436.1703.

(2) Within 30 days after the conviction for a violation of subsection (1) by the operator of a motor vehicle, which conviction has become final, the arresting law enforcement officer or the officer's superior may make a complaint before the court from which the warrant was issued. The complaint shall be under oath and shall describe the motor vehicle in which alcoholic liquor was possessed or transported by the operator, who is less than 21 years of age, in committing the violation and requesting that the motor vehicle be impounded as provided in this section. Upon the filing of the complaint, the court shall issue to the owner of the motor vehicle an order to show cause why the motor vehicle should not be impounded. The order to show cause shall fix a date and time for a hearing, which shall not be less than 10 days after the issuance of the order. The order shall be served by delivering a true copy to the owner not less than 3 full days before the date of hearing or, if the owner cannot be located, by sending a true copy by certified mail to the last known address of the owner. If the owner is a nonresident of the state, service may be made upon the secretary of state as provided in MCL 257.403.

(3) If the court determines upon the hearing of the order to show cause, from competent and relevant evidence, that at the time of the commission of the violation the motor vehicle was being driven by the person less than 21 years of age with the express or implied consent or knowledge of the owner in violation of subsection (1), and that the use of the motor vehicle is not needed by the owner in the direct pursuit of the owner's employment or the actual operation of the owner's business, the court may authorize the impounding of the vehicle for a period of not less than 15 days or more than 30 days. The court's order authorizing the impounding of the vehicle shall authorize a law enforcement officer to take possession without other process of the motor vehicle

wherever located and to store the vehicle in a public or private garage at the expense and risk of the owner of the vehicle. The owner of the vehicle may appeal the order to the circuit court and the provisions governing the taking of appeals from judgments for damages apply to the appeal. This section does not prevent a bona fide lienholder from exercising rights under a lien.

(4) A person who knowingly transfers title to a motor vehicle for the purpose of avoiding this section is guilty of a misdemeanor.

(5) A law enforcement agency, upon determining that a person less than 18 years of age allegedly violated this section, shall notify the parent or parents, custodian or guardian of the person as to the nature of the violation if the name of a parent, guardian, or custodian is reasonably ascertainable by the law enforcement agency. The notice required by this subsection shall be made not later than 48 hours after the law enforcement agency determines that the person who allegedly violated this section is less than 18 years of age and may be made in person, by telephone, or by first-class mail.

(6) As used in this section, "alcoholic liquor" means that term as defined in section 105 of the Michigan Liquor Control Code of 1998, 1998 PA 58, MCL 436.1105.

**Sec. 5.62a Operating vehicle if license, registration certificate, or designation suspended, revoked, or denied; penalty.**

(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 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 the Village of Augusta.

(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 the Village of Augusta 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 by this section.

(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, 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 section, 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 existing is guilty of a misdemeanor punishable, except as otherwise provided in this section, by imprisonment for not more than 3 days or less than 93 days or a fine of not more than \$100, or both.

(7) This section does not apply to a person who has one currently effective suspension or denial on his or her Michigan driving record under MCL 257.321a and has never been convicted of or received a civil infraction determination for a violation that occurred during that suspension or denial.

(8) 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.

**Sec. 5.62b Vehicle Immobilization Required; Duties of Police Officer; Validity of Temporary Vehicle Registration; Duration.**

(1) When a peace officer detains the driver of a motor vehicle for a violation of an 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 257.226a or .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.

**Sec. 5.62c Vehicle immobilization; manner; storage; removal.**

(1) A court shall order a vehicle immobilized under MCL 257.904d 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 5.62a to pay the cost of immobilizing and storing the vehicle.

(2) 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.

(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 this 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 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.

(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 any provision herein regarding the storage or removal of vehicles conflicts with an order of immobilization issued by the court, the ordinance 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.

**Sec. 5.70a. Change of address; notice; violation as civil infraction.**

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

(2) A person who violates this section is responsible for a civil infraction.

**Sec. 5.70b. Operation of vehicle by nonresident owner without registration, commercial vehicle, pleasure vehicle; nonresidents carrying on business within state.**

(1) A nonresident owner, except as otherwise provided in this section, owning any foreign vehicle of a type otherwise subjected to registration hereunder may operate or permit the operation of such vehicle within this state without registering such vehicle in, or paying any fees to, this state subject to the condition that such vehicle at all times when operated in this state is duly registered in, and displays upon it a valid registration certificate and registration plate or plates issued for such vehicle in the place of residence of such owner.

(2) A nonresident owner of a foreign vehicle operated within this state for the transportation of persons or property for compensation, shall register such vehicle and pay the same fees therefore as is required with reference to like vehicles owned by residents of this state, except that the department may issue to the nonresident owners a temporary permit authorizing the operation of the foreign vehicle within this state for a period of ten days, without registering the vehicle, on the payment of a fee as provided in section 802a of the Act. The temporary permit may be in such form as prescribed by, and shall be displayed on such foreign vehicle in a manner determined by the secretary of state.

(3) A nonresident owner of a pleasure vehicle otherwise subject to registration under the Act shall not operate the same for a period exceeding 90 days without securing registration in this state.

(4) Every nonresident, including any foreign corporation carrying on business within this state and owning and operating in such business any vehicle subject to registration as provided in Chapter II of the Act, shall be required to register each such vehicle and pay the same fee therefore as is required with reference to like vehicles owned by residents of this state, except as otherwise provided by law.

(5) A person who violates this section is guilty of a misdemeanor (MCL 257.243).

**Sec. 5.70c. Producing evidence of vehicle insurance upon request of police officer.**

(1) The owner of a motor vehicle who operates or permits the operation of the motor vehicle upon the highways of this state or the operator of the motor vehicle shall produce, pursuant to subsection (2), upon the request of a police officer, evidence that the motor vehicle is insured under Chapter 31 of Act No. 218 of the Public Acts of 1956, as amended, being sections 500.3101 to 500.3179 of the Michigan Compiled Laws.

(2) An owner or operator of a motor vehicle who fails to produce evidence under subsection (1) when requested to produce that evidence is responsible for a civil infraction.

(3) A certificate of insurance, if issued by an insurance company, which certificate states that security which meets the requirements of section 3101 and 3102 of Act No. 218 of the Public Acts of 1956, as amended, being section 500.3101 and 500.3102 of the Michigan Compiled Laws, is in force shall be accepted as prima facie evidence that insurance is in force for the motor vehicle described in the certificate of insurance until the expiration date shown on the certificate. The certificate, in addition to describing the motor vehicles for which insurance is in effect, shall state the name of each person named on the policy, policy declaration, or a declaration certificate whose operation of the vehicle would cause the liability coverage of that insurance to become void.

(4) If an owner of a motor vehicle is determined to be responsible for a violation of subsection (1), the court in which the civil infraction determination is entered may require the person to surrender his or her operator's or chauffeur's license unless proof that the vehicle has insurance meeting the requirements of section 3102 of Act No. 218 of the Public Acts of 1956, as amended, is submitted to the court. If the court requires the license to be surrendered, the court shall order the secretary of state to suspend the person's license and shall forward the surrendered license and a certificate of civil infraction to the secretary of state. Upon receipt of the certificate of civil infraction and the surrendered license, the secretary of state shall suspend the person's license beginning with the date on which a person is determined to be responsible for the civil infraction for a period of 30 days or until proof of insurance which meets the requirements of section 3102 of Act No. 218 of the Public Acts of 1956, as amended, is submitted to the secretary of state, whichever occurs later. If the license is not forwarded, an explanation of the reason why it is not forwarded shall be attached. A person who submits proof of insurance to the secretary of state under this subsection shall pay a service fee of \$10.00 to the secretary of state. The person shall not be required to be examined as set forth in section 320c of the Act.

(5) An owner or operator of a motor vehicle who knowingly produces false evidence under this section is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$50.00, or both.

(6) Points shall not be entered on a driver's record pursuant to section 320a of the Act for a violation of this section.

(7) This section does not apply to the owner or operator of a motor vehicle that is registered in a state other than this state or a foreign country or province (MCL 257.318).

**Sec. 5.70d. Operation of a vehicle without security.**

(1) An owner or registrant of a motor vehicle or motorcycle with respect to which security is required shall not operate the motor vehicle or motorcycle or permit it to be operated upon a public highway in this state without having in full force and effect security complying with this section 3101 or 3103 of the Act.

(2) A person who violates this section is guilty of a misdemeanor. Any other person who operates a motor vehicle or motorcycle upon a public highway in this state with the knowledge that the owner or registrant does not have security in full force and effect is guilty of a misdemeanor. A person convicted of a misdemeanor under this section shall be fined not less than \$200.00 nor more than \$500.00, imprisoned for not more than 90 days, or both.

(3) A nonresident owner or registrant of a motor vehicle or motorcycle not registered in this state shall not operate or permit the motor vehicle or motorcycle to be operated in this state for an aggregate of more than 30 days in any calendar year unless he or she continuously maintains security for the payment of benefits pursuant to Chapter 31 of 1956 Public Act 218, as amended (MCL 500.3102).

**Sec. 5.82. Mandatory child restraints; violation or civil infraction. (Effective until the effective date of Public Act No. 29 of 1999.)**

(1) Except as provided in this section, or as otherwise provided by law, a rule promulgated pursuant to Act No. 306 of the Public Acts of Michigan of 1969 (MCL 24.201 et seq., MSA 3.560(101) et seq), as amended, or 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 one (1) year of age in a child restraint system which meets the standards prescribed in 49 C.F.R. 571.213.



(b) Any child one (1) year of age or more but less than four (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 one (1) year of age or more but less than four (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 act (MCL 257.710b, MSA 9.2410(2)) or 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 No. 306 of the Public Acts of Michigan of 1969 (MCL 24.201 et seq., MSA 3.560(101) et seq.), 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) 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.

(7) This section shall be effective until the effective date of Public Act No. 29 of 1999, after which time it shall no longer be effective.

**Sec. 5.82. Mandatory child restraints; violation or civil infraction. (Effective upon the effective date of Public Act No. 29 of 1999.)**

(1) Except as provided in this section, or as otherwise provided by law, a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, or federal regulation, each driver transporting a child less than 4 years of age in a motor vehicle shall properly secure that child in a child restraint system that meets the standards prescribed in 49 C.F.R. 571.213.

(2) This section does not apply 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 federal law or regulations.

(4) A person who violates this section is responsible for a civil infraction.

(5) Points shall not be assessed under section 320a for a violation of this section. An abstract required under section 732 shall not be submitted to the secretary of state regarding a violation of this section.

(6) The secretary of state may exempt by rules promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, 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) 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.

(7) This section shall become effective upon the effective date of Public Act No. 29 of 1999.

**Section 5.83. Mandatory safety belt use; violation or civil infraction. (Effective upon the effective date of Public Act No. 29 of 1999.)**

(1) This section does not apply to a driver or passenger of any of the following:

(a) A motor vehicle manufactured before January 1, 1965.

(b) A bus.

(c) A motorcycle.

(d) A moped.

(e) A motor vehicle if the driver or passenger possesses a written verification from a physician that the driver or passenger is unable to wear a safety belt for physical or medical reasons.

(f) A motor vehicle that is not required to be equipped with safety belts under federal law.

(g) A commercial or United States postal service vehicle that makes frequent stops for the purpose of pickup or delivery of goods or services.

(h) A motor vehicle operated by a rural carrier of the United States postal service while serving his or her rural postal route.

(2) This section does not apply to a passenger of a school bus.

(3) Each driver and front seat passenger of a motor vehicle operated on a street or highway in this state shall wear a properly adjusted and fastened safety belt, except that a child less than 4 years of age shall be protected as required in section 5.82. If there are more passengers than safety belts available for use, and all safety belts in the motor vehicle are being utilized in compliance with this section, the driver of the motor vehicle is in compliance with this section.

(4) Each driver of a motor vehicle transporting a child 4 years of age or more but less than 16 years of age in a motor vehicle shall secure the child in a properly adjusted and fastened safety belt. If the motor vehicle is transporting more children than there are safety belts available for use, all safety belts available in the motor vehicle are being utilized in compliance with this section, and the driver and all front seat passengers comply with subsection (3), then the driver of a motor vehicle transporting a child 4 years of age or more but less than 16 years of age for which there is not an available safety belt is in compliance with this subsection, if that child is seated in other than the front seat of the motor vehicle. However, if that motor vehicle is a pickup truck without an extended cab or jump seats, and all safety belts in the front seat are being used, the driver may transport such a child in the front seat without a safety belt.

(5) If after December 31, 2005 the office of highway safety planning certifies that there has been less than 80% compliance with the safety belt requirements of this section during the preceding year, then enforcement of this section by state or local law enforcement agencies shall be accomplished only as a secondary action when a driver of a motor vehicle has been detained for a suspected violation of another section of this act.

(6) (Reserved).

(7) A person who violates this section is responsible for a civil infraction.

(8) A law enforcement agency shall conduct an investigation for all reports of police harassment that result from the enforcement of this section.

(9) (Reserved).

(10) (Reserved).

(11) (Reserved).

(12) It is the intent of the Village that the enforcement of this section be conducted in a manner calculated to save lives and not in a manner that results in the harassment of the citizens of this state.

(13) (Reserved).

(14) This section shall become effective upon the effective date of Public Act No. 29 of 1999.

## **Section 2: Inconsistent Ordinances Repealed; Repeal of Ordinance No. 172**

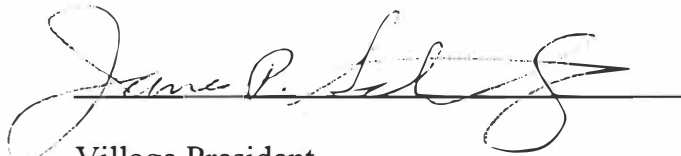
Any other ordinance, or portion thereof, inconsistent with this ordinance is hereby repealed. Ordinance No. 172 is hereby repealed, provided, however, any proceeding instituted or pending for any offense committed under said Ordinance may be continued until completion.

## **Section 3: Severability**

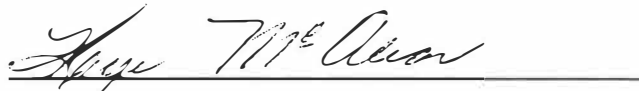
Should any part of this Ordinance be invalidated by a court, the remainder of the Ordinance shall not be affected thereby and shall continue in effect.

## **Section 4: Effective Date**

This Ordinance shall take effect upon the date of its publication, which publication shall be within 15 days after its adoption.



Village President



Village Clerk

## **CERTIFICATE**

I hereby certify that the foregoing Ordinance was adopted by the Village of Augusta at a meeting held on 12-13-99, 1999, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, Public Act 267 of 1976, as amended, and was published as required by law.



I further certify that a Notice of Adoption of the foregoing Ordinance was published in Kalamazoo Gazette, a newspaper of general circulation in the Village, within fifteen (15) days of the adoption of the Ordinance, on December 20, 1999. I further certify that the Notice contained a statement to the effect that a complete copy of Uniform Traffic Code is available for public use and inspection at the office of the Village Clerk.

Kaye M. Dean

Village Clerk

December 13, 1999

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