

MIP Law – Public Act 357 of 2016 – MCL 436.1703 Amended Effective January 1, 2018

Offense	Punishment	Licensing Action
First	Civil Infraction; Fine <u>≤</u> \$100; Substance Abuse Treatment; Community Service; No deferral possible	None (<i>but infraction will be posted on driving record</i>)
Second	Misdemeanor; Fine <u>≥</u> \$200; Substance Abuse Treatment; Community Service; Deferral possible 30 days jail possible only upon violation of probation, failure to successfully complete substance abuse treatment, and/or failure to pay fine	License shall be suspended 90 days; restriction after 30 days
Third	Misdemeanor; Fine <u>≥</u> \$500; Substance Abuse Treatment; Community Service; No deferral possible 60 days jail possible only upon violation of probation, failure to successfully complete substance abuse treatment, and/or failure to pay fine	License shall be suspended 1 year; restriction after 60 days
Additional Items	<p>"Any bodily alcohol" is a violation of the MIP law. This is defined as a .02 BAC or higher. MCL 436.1703(1) and (18)</p> <p>Under the law, the court can order diversion for a first misdemeanor offense. Upon successful completion, there is no conviction. This can only be done once. A record of the diversion is kept by the Secretary of State's Office. If diversion is successfully completed and another MIP charge is brought afterwards, the second charge is a first offense. However, that one cannot be diverted. If diversion was not successfully completed, then a conviction is entered for a first offense. MCL 436.1703(3)</p> <p>A United States District Court ruled that the portion of the MIP statute, which compels a PBT from a non-driving minor upon a finding of reasonable cause, amounted to an unreasonable search and required a search warrant. <i>Platte v. Thomas Township</i>, 504 F. Supp. 2d 227 (E.D. Mich., 2007); see also, <i>People v. Chowdhury</i>, 285 Mich. App. 509 (2009)</p> <p>Police officers may not rely on any authority granted pursuant to MCL 436.1703(7).</p> <p>A minor who has consumed alcoholic liquor and who voluntarily presents himself or herself to a health facility or agency for treatment or for observation is not considered to be in violation of MCL 436.1701. MCL 436.1703(10)</p> <p>A 19- or 20-year old person who lawfully consumes alcohol in Canada or Wisconsin cannot be convicted for unlawful consumption in Michigan. <i>People v. Rutledge</i>, 250 Mich App 1 (2002)</p>	

Prepared By: Kenneth Stecker and Kinga Gorzelewski, Michigan Traffic Safety Resource Prosecutors