

**Law Change: Preliminary Breath Test Involving Minors
Michigan Liquor Control Code of 1998 (excerpt) Act 58 of 1998
436.1703 Amended
Effective October 10, 2017**

(7) A peace officer who has reasonable cause to believe a minor has consumed alcoholic liquor or has any bodily alcohol content may request that individual to submit to a preliminary chemical breath analysis. If a minor does not consent to a preliminary chemical breath analysis, the analysis shall not be administered without a court order, but a peace officer may seek to obtain a court order. The results of a preliminary chemical breath analysis or other acceptable blood alcohol test are admissible in a state civil infraction proceeding or criminal prosecution to determine if the minor has consumed or possessed alcoholic liquor or had any bodily alcohol content.

**Law Change: Minor in Possession
Public Act 357 of 2016 MCL 436.1703 Amended
Effective October 10, 2017**

Offense	Punishment	Licensing Action
First	Civil Infraction; Fine > \$100; Substance abuse treatment; Community service; No deferral possible	None <i>(but infraction will be posted on driving record)</i>
Second	Misdemeanor; Fine > \$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 > \$500; Substance abuse treatment; Community service; 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

"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)

Under the law, the court can order a deferral for a first misdemeanor offense. Upon successful completion, there is no conviction. **This can only be done once under the MIP statute.** A record of the deferral is kept by the Secretary of State's Office. If the deferral is successfully completed and another MIP charge is brought afterwards, the second charge is considered a first offense. However, it cannot be deferred unless another statute applies. If the deferral was not successfully completed, then a conviction is entered for a first offense. MCL 436.1703(3)

If a minor gets an MIP deferral for their first MIP misdemeanor pursuant to MCL 436.1703(3) and the MIP is eventually dismissed pursuant to that statute, the same minor could use the Holmes Youth Training Act (HYTA) for the second misdemeanor (or third MIP offense) pursuant to MCL 762.11.

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)

A 19- or 20-year old person who lawfully consumes alcohol in Canada or Wisconsin cannot be convicted for unlawful consumption in Michigan.

People v. Rutledge, 250 Mich App 1 (2002)

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