



THE DOCKET

The Newsletter of the Michigan Association of District Court Magistrates

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ARIDE IS COMING TO MICHIGAN

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The Advanced Roadside Impaired Driving Enforcement (ARIDE) program was developed by the National Highway Traffic Safety Administration (NHTSA) with input from the International Association of Chiefs of Police (IACP), Technical Advisory Panel (TAP), and the Virginia Association of Chiefs of Police. ARIDE was created to address the gap in training between the Standardized Field Sobriety Testing (SFST) and the Drug Evaluation and Classification (DEC) Program.

The SFST program trains officers to identify and assess drivers suspected of being under the influence of alcohol, while the DEC Program provides more advanced training to evaluate suspected drug impairment. The SFST assessment is typically employed at roadside, while an officer trained as a drug recognition expert (DRE) through the DEC Program conducts a drug evaluation in a more controlled environment such as a detention facility.

ARIDE is intended to bridge the gap between these two programs by providing officers with general knowledge related to drug impairment and by promoting the use of DREs in states that have the DEC Program. One of the more

significant aspects of ARIDE is its review and required student demonstration of the SFST proficiency requirements. The ARIDE program also stresses the importance of securing the most appropriate biological sample in order to identify substances likely causing impairment.

ARIDE is a 16-hour training course and may be taught by DREs, DRE instructors or SFST instructors, who are also DREs. The training will be conducted under the control and approval of the DEC Program state coordinator.

On June 3-4, 2009, the Michigan State Police with the assistance of the Prosecuting Attorneys Association of Michigan conducted the first ARIDE Program for the State of Michigan. Twenty-three law enforcement officers and prosecuting attorneys attended. There have been several classes since the June 2009 class. Based on the evaluations from the participants, the classes have been very successful.

Editor's Note: *District Court Magistrates and Judges may begin seeing an increase in ARIDE factors appearing in Affidavits for Search Warrants as the local police agencies receive more training on recognizing drug impairment.*

Messaging While Driving Banned, But Stiffer Penalties for CMV Drivers

On April 30, 2010, Governor Jennifer Granholm signed a package of laws [Public Acts 58, 59 and 60 of 2010], which are effective July 1, 2010 and will prohibit sending or viewing text messages or emails from a handheld device while operating a motor vehicle. The law enacts a mandatory civil fine of \$100 for a first violation and \$200 for a subsequent. Costs may also be assessed by the court, but shall not exceed \$100. One of the laws also prohibits drivers from receiving SOS points for they are found responsible of this civil infraction.

However, back on January 26, 2010, the FMCSA put an immediate ban on texting for commercial motor vehicle drivers. Transportation Secretary Ray LaHood announced a federal guidance relating to 49 CFR 390.17 banning hand-held texting by commercial truck drivers and buses to avoid the danger of distracted driving. The prohibition was effective immediately and follows a similar ban in December 2009 for all drivers of federal government vehicles.

The CMV ban carries federal fines up to \$2,750. At present, nearly half of the states currently ban texting for all motor vehicles and others are considering the move. Legislation also has been introduced in Congress to prohibit texting by vehicle drivers.

For further guidance, applicability of the Federal Motor Carrier Safety Regulations to texting by CMV drivers is attached at the end of the CMV quarterly. Additional information on the federal guidance and distracted driving can be found at the following link <http://www.dot.gov/affairs/2010/dot3110.htm>

New Speed Measurement Standards

Michigan Speed Measurement Standards

The following standards for operators and instructors were formally adopted by the full Commission on Law Enforcement Standards at the December 9, 2009 meeting. The standards take effect January 1, 2010.

1. Speed Measurement Operators Must....

- Be licensed as a law enforcement officer in the state of Michigan.
- Satisfactorily complete a 24-hour speed measurement class, which includes a written examination and a demonstration of performance.
- Maintain 100 hours of speed measurement enforcement per year (records to be maintained by the agency).
- Recertify as a speed measurement operator once every five years through updates, testing, or demonstrated proficiency.

2. For the Speed Measurement Operator Course (24-hour), Participants Must.....

- ◆ Participate in a classroom facilitated discussion regarding the importance of speed measurement enforcement.
- ◆ Identify the common features of a radar speed measurement device.
- ◆ Describe the scientific principles of radar speed measurement.
- ◆ Properly prepare for speed measurement enforcement.
- ◆ Operate a radar speed measurement device.
- ◆ Describe the scientific principles of lidar speed measurement.
- ◆ Operate a lidar speed measurement device.
- ◆ Demonstrate an understanding of speed measurement legal considerations.
- ◆ Prepare for court hearings.
- ◆ Demonstrate an understanding of speed measurement enforcement by satisfactorily completing a written examination.
- ◆ Demonstrate the ability to operate a radar and lidar device accurately under controlled field conditions.

The revised standards apply to operators who are initially certified as speed measurement operators

on or after January 1, 2010. All radar and/or lidar operators certified prior to 2010 are “grandfathered” and may continue speed measurement enforcement. Note that the revised operator standards include both radar and lidar training in one 24-hour block of instruction.

3. Speed Measurement Instructors Must....

- Function as a speed measurement operator for a minimum of two years.
- Satisfactorily complete a general instructor school (minimum 24 hours) **OR** possess demonstrable prior work experience in teaching or classroom instruction.
- Satisfactorily complete a 16-hour speed measurement instructor class.
- Recertify as an instructor once every five years through updates, testing, or demonstrated proficiency.

4. Equipment Procurement and Specifications

- Each law enforcement agency shall determine the type and model that best fits its needs. Consideration should be given to device performance, size and mounting, optional features and functions, compatibility with existing speed measurement equipment, agency policies and procedures, and potential maintenance costs.
- Although the courts in Michigan rule on the admissibility of evidence, MCOLES supports the use of speed measurement devices that comply with the International Association of Chiefs of Police (IACP) **Consumer Product List (CPL)**.
- Equipment procured by agencies shall be electronically pre-tested by the manufacturer before they are put into use in Michigan. Proof of compliance is demonstrated by being placed on the consumer product list.
- The State of Michigan's Department of Management and Budget (DMB)

maintains an open bid contract for new speed measurement equipment, which may be used by agencies.

- It is not necessary to have the devices periodically recertified because a properly trained operator will be able to determine when a specific device is malfunctioning.

Speedometer Calibration

Patrol vehicle speedometers must be independently calibrated for accuracy at the time of purchase and prior to initial speed measurement enforcement. Thereafter, the speedometer should be re-calibrated if the patrol vehicle undergoes any of the following:

- a) transmission repair, b) major body repair, c) tire-size changes, or d) wheel-size changes.

The following calibration methods are suggested:

Time-Distance techniques
Dynamometer
Fifth-Wheel
Lidar device
GPS

A copy of the initial speedometer calibration and any re-calibration should be kept on file with the

More MSP Offices Have Moved

Both the MSP Traffic Safety Division (Commercial Vehicle Enforcement & Traffic Services Section) and the Office of Highway Safety Planning (OHSP) have moved to the new MSP Headquarters in downtown Lansing. Their new addresses are as follows:

Michigan State Police
Traffic Safety Division
333 S. Grand Avenue
Lansing, MI 48933

(Mailing)
Traffic Safety Division
P.O. Box 30634
Lansing, MI 48913

Office of Highway Safety Planning
333 South Grand Avenue
P.O. Box 30634

Lansing, MI 48913-0634
Ph: (517) 241-2500 Fax: (517) 241-2501

For a complete OHSP staff roster with new contact information, visit: www.michigan.gov/ohsp

Magistrate Specialty Seminar Is July 28th

The MJJ, with technical assistance from the National Judicial College, and additional support from the Michigan Office of Highway Safety Planning, will be holding a one-day seminar for new and experienced district court magistrates.

Presentations will expose participants to some cutting edge issues that affect civil infraction dispositions such as sentencing for the younger and older traffic offender and commercial driver's licensing Issues.

As part of the latter presentation, magistrates will be able to sit in the cab of a "Big Rig" to get a feeling of the diligence a long haul trucker must have. More information on the seminar will be sent out in mid to late May.

Small Claims Jurisdictional Amounts In Other States

The National Center for State Courts reports that these four states **passed laws in 2009** which increased their jurisdictional limits for small claims:

Maine - Increased small claims jurisdiction from \$4,500 to \$10,000. Signed by Governor 6/17/09.

New Hampshire - Increased small claims jurisdiction to \$7,500, and requires claims from

\$5,000-\$7,500 be subject to mandatory mediation. Signed by Governor 6/9/09.

North Dakota - Increased small claims jurisdiction from \$5,000 to \$10,000. Signed by Governor 4/8/09.

Utah - Increased small claims jurisdiction from \$7,500 to \$10,000. Signed by Governor 3/23/09.

The following states have **proposed bills in 2010** that would increase the limits:

Georgia - HB 976 would increase magistrate court jurisdiction from \$15,000 to \$25,000. In House Judiciary Committee.

Hawaii - HB 2784 & SB 2465 would increase small claims jurisdiction from \$3,500 to \$7,000. House Judiciary Committee hearing set for 2/9/10. In Senate Judiciary Committee. SB 359 would increase small claims court jurisdiction from \$3,500 to \$5,000. In Senate Judiciary Committee.

Iowa - HB 2002 would increase small claims jurisdiction from \$5,000 to \$10,000. In House Judiciary Committee. SB 2162 would increase small claims jurisdiction from \$5,000 to \$10,000. In Senate Judiciary Committee.

Kentucky - HB 103 would increase small claims jurisdiction from \$1,500 to \$2,500. In House Judiciary Committee. HB 365 would increase small claims jurisdiction from \$1,500 to \$2,500. In House Judiciary Committee.

Massachusetts - HB 1317, HB 1341, HB 1648, HB 1715, HB 1761 & HB 1762 would increase small claims jurisdiction from \$2,000 to \$5,000. In House (no committee).

Minnesota - HB 1181, SB 1627, SB 1083 would increase conciliation court jurisdiction from \$7,500 from \$15,000 or, if case involves consumer credit transaction, from \$4,000 from \$7,500. All three bills at different stages.

Mississippi - HB 255 would increase Justice Court jurisdiction to \$10,000. In House Judiciary B Committee.

Missouri - HB 1255 would increase small claims court jurisdiction from \$3,000 to \$5,000. In House Small Business Committee.

Nebraska - LB 695 would increase small claims jurisdiction to \$5,000. Continues to authorize Supreme Court to adjust small claims limit in 2015 based on Consumer Price Index. Hearing held in House Judiciary Committee 1/21/10.

New York - AB 3876 & AB 4070 would increase small claims court jurisdiction from \$3,000 to \$5,000 for justice courts. In Assembly Judiciary Committee. AB 7701 would increase small claims court jurisdiction from \$3,000 to \$6,000 In Assembly Judiciary Committee.

Oklahoma - SB 814 would increase small claims jurisdiction from \$6,000 to \$25,000. In Senate Judiciary Committee. SB 815 would increase small claims jurisdiction from \$6,000 to \$25,000. Approved by full Senate 3/3/09. Slightly different version approved by House 4/22/09. Conference committee could not reach agreement.

Rhode Island - HB 7042 would increase small claims jurisdiction from \$2,500 to \$5,000. Allows for future increases based upon the Consumer Price Index. In House Judiciary Committee.

South Carolina - SB 200 would increase Magistrate Court's Jurisdiction from \$7,500 to \$10,000. Requires mandatory mediation in all cases equal to or above \$5,000 (except landlord/tenant) under procedures established by the South Carolina Supreme Court. In Senate Judiciary Committee. SB 285 would increase Magistrate Court's jurisdiction from \$7,500 to \$15,000. In Senate Judiciary Committee.

Virginia - SB 651 would increase small claims jurisdiction from \$5,000 to \$10,000. Requires limit be adjusted July 1, 2015 and every five years thereafter based on Consumer Price Index. In Senate Committee for Courts of Justice.

Wisconsin - AB 524 would increase small claims court jurisdiction from \$5,000 to \$10,000 if the claimant has commenced 20 or fewer such actions within the previous 365 days. Hearing held in Assembly Judiciary Committee 12/1/09.

New Public Acts

P.A. 200 of 2009 - amended section 81101 (MCL 324.81101) of the "Natural Resources and Environmental Protection Act" by changing the definition of "ATV" to include 3 wheeled or 6 wheeled vehicles, and from 50 cc to 1000cc; also added a definition of "farm vehicle" to this act. (HB 5187) – 12/29/09, immediate effect.

P.A. 10 of 2010 - accidents; removal from roadway of motor vehicle involved in accident; require under certain circumstances (HB 5140) – 3/8/10, immediate effect.

P.A. 57 of 2010 - Allows electronic seals on court documents (SB 719 & 720) – 4/29/10, immediate effect.

P.A. 58, 59 & 60 of 2010 - Prohibits messaging on an electronic wireless device while operating a motor vehicle (HB 4370, HB 4394, SB 468) – 4/30/10, effective 7/1/10.

Proposed Legislation to Watch

HB 4098 Would eliminate Driver Responsibility Fees.
SB 317

HB 4101 Would amend Driver Responsibility Fees to one-year assessments instead of two-year.

HB 4141 Would add \$10 fee to all alcohol-related convictions to be paid to Supreme Court for drug treatment courts.

HB 4163 Would require use of headlights during periods of precipitation.

HB 4267 Would prohibit courts from furnishing to the public a copy of an arrest or bench warrant until it is returned (arrest made).

HB 4322 Would create a new 30-day misdemeanor for providing false information regarding court-ordered community service. **Passed House – 6/10/09.**

- HB 4343 Would amend window tint law to: (1) allow person to operate vehicle with tint if they reside with the owner who has doctor letter and have permission from the owner; (2) allow other person to operate vehicle with tint if the owner who has a doctor letter is a passenger in the vehicle; and (3) require a new SOS sticker in the back window of a vehicle that has tint and owner has the required letter from a doctor.
- HB 4360 Would codify the extension of the seat belt usage exemption to newspaper delivery personnel, and defines "frequent stops" as a series of stops with at least 1 stop within every ½ mile of travel.
- HB 4362 Would prohibit use of cell phones while operating school bus.
- HB 4369 Would prohibit use of mobile phones while operating a motor vehicle, unless hands-free or under certain exceptions.
- HB 4482 Would amend fleeing and eluding offenses to add a 2-year mandatory minimum to all degrees.
SB 80
- HB 4493 Would prohibit all first year drivers from having more than 1 passenger under 18 years of age other than family member in car.
- HB 4495 Would remove the horsepower threshold from the definition of a moped.
- HB 4604 Amend Driver Responsibility Fees - add for certain offenses, and eliminate for certain offenses. Also, payment options amended.
SB 127
- HB 4648 Would regulate motor vehicle pursuits by police officers.
- HB 4705 & 4706 Would create an Indigent Defense Counsel Fund, and require Courts to impose a 5% bail surcharge and sliding scale probation fee (not to exceed \$135), and transmit monies to the Treasury Dept. for the Fund.
- HB 4747 Would abolish helmet requirement for motorcycles.
Passed House – 3/25/10.
- HB 4748 Would require police officers to ascertain and indicate the race or ethnicity of a person to whom a traffic citation is issued.
- HB 4978 Would prohibit lane changes in an intersection.
- HB 5123 Would require district court magistrates to be licensed attorneys.
- HB 5143 Would revise provision relating to establishment of speed limits.
- HB 5254 Would abolish motorcycle helmet requirement.
- HB 5277 Would extend expiration of driver's licenses or permits to the next business day if expires on a government shutdown day.
- HB 5506 Would reestablish speed restrictions on certain gravel and dirt roads.
HB 5600
- HB 5661 Would increase the crime victim assessment from \$60 to \$130 on charged felonies and from \$50 to \$75 on misdemeanors. **Passed House – 3/2/10.**
- HB 5913 Would require all passengers to wear seat belts.
- HB 6054 Would allow SOS to issue vehicle registrations for a 6-month time period (with prorated fee).
- SB 473 Would require (whenever possible) the use of 2-Way Interactive Video in certain proceedings.
- SB 566 Would require written notification of the applicability of a driver responsibility fee on a traffic citation written for no proof of insurance.
- SB 1262 Would amend the [new] driver improvement provisions of the Motor Vehicle Code [MCL 257.320d] to add the language that an "approved sponsor" shall remit to SOS a portion [to be determined annually by SOS] of the \$100 fee collected; Would eliminate the 10 day holding of points; Would add that if the "approved sponsor" does not send notice of successful completion with 60 days, then points shall enter the points required by MCL 257.320A.

Mark Your Calendars!

**Magistrates Specialty Seminar
July 28, 2010 at HOJ**

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**MADCM Annual Conference**