

MICHIGAN TRAFFIC LAW AND SPEEDING SURVIVAL GUIDE

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Written By: Goldman & Associates Attorneys

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INTRODUCTION

When it comes to encounters with the law, the most common cause is a traffic or speeding violation. The average person may never be arrested for any other crime, but will likely have several encounters with a traffic cop and at least one speeding or traffic ticket. Therefore it is important to understand the traffic and speeding laws of your state, as well as how to protect yourself if you find yourself at the wrong end of one. This guide is intended to help you do just that. It also contains helpful tips about how to proactively avoid getting ticketed in the first place.



CHAPTER 1: BASIC CONCEPTS

Before we can discuss the specifics of Michigan traffic and speeding laws, there are a few basic concepts that need to be covered first. Most if these concepts have to do with “Traffic Violation Point System”.

The Michigan Traffic Point System

Like many other states, Michigan uses a point demerit system in addition to the standard penalties for traffic and speeding violations. The point system is a straightforward and nuanced way to track a driver’s history of traffic violations and reckless driving. Each violation is given a point value based on the severity of the offense. Earning too many points in a short period of time could result in the suspension or even complete confiscation of your driver’s license.

A few examples of Point values are as follows:

- 2 points: driving 1-5 mph above speed limit, refusal to consent to a breathalyzer test, having an open container of alcohol in your car
- 3 points: Driving 11-15 mph over the speed limit, careless driving, disobeying a stop sign/traffic signal, improper passing, failure to stop at a railroad crossing, failure to stop for a school bus, disobeying a school crossing guard.
- 4 points: 16+ miles above the speed limit, drag racing, OWVI (operating while visibly impaired), testing for any alcohol content when you are under 21, failure to yield for emergency vehicles

- 6 points: Manslaughter, negligent homicide, any felony involving a motor vehicle, driving under the influence of alcohol or drugs, failure to stop and identify yourself at the scene of a crash, reckless driving, BAC level above .08, refusal to take a chemical test, fleeing police

The consequences of point accumulation

Once points have been imposed by a conviction, they will remain on your record for 2 years. A certain amount of points will cause your license to either be suspended or revoked. A suspended license can be reinstated (for a fee) at the end of the designated suspension period. You can reapply for a revoked license after 1 year. If your license is revoked a second time, then the waiting period before reapplication is 5 years.

In addition to the loss of your license, the accumulation of points (as well as the tickets that cause them) can also result in hikes in your auto insurance rates. Your driving record is the primary factor that auto insurance companies look at when determining how safe a driver you are. If the risk factor becomes too great, your insurer may refuse to cover at all. This is a huge problem because auto insurance is necessary in order to legally operate an automobile in Michigan.

Removing points from your record

When you accumulate points on your record, there are only two ways to remove them (other than preventing them from being imposed in the first place). The first method is to wait the 2 years for your record to be cleansed. The other method is to participate in a basic driver improvement course (BDIC). The test will cause moving violations to be removed from your record, but the course can only be taken by the driver one in a lifetime.

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CHAPTER 2: SPEEDING TICKETS

Violations of Michigan’s automobile speed limit laws can be divided into two distinct categories with unique factors, the basic speeding law and the absolute speed limit.

Basic Speeding law

Some of the people reading this guide may have adopted one or more of the myths about the speed limit. You may have been told at some point that you cannot get ticketed for speeding if you go less than 5 mph over, or that you are fine as long as you drive at the posted speed. Unfortunately, both of those claims are false. Michigan speeding law is a bit more complicated than that.

The essence of Michigan basic speeding law is that a motorist must always drive at a safe and reasonable speed, depending on the circumstances. A safe and reasonable speed is one which allows the motorist to come to a stop within a reasonable distance (i.e. before colliding with the car driving in front of you). Even if the sign says 60 mph, if there is fog everywhere and ice on the road, then driving at the posted speed limit could still be considered speeding. On the other hand, driving too slowly can also be unreasonable and dangerous. Driving 3 mph when the sign says 50 mph would also violate the basic speeding law even though it isn’t technically “speeding”.

Absolute speed limit

The general rule for the Michigan speed limit is decidedly more straightforward. You can be charged with speeding if you are traveling even 1mph above the speed limit. That being said, most traffic enforcement officers have better things to do than pull over every motorist who goes that fast.

It should also be noted that “speed limit” is not limited to the number posted on the sign. Different types of roads have default speed limits under Michigan law. These are the designated speed limit unless a physical sign indicates otherwise. Examples of these default speed limits include:

- Business districts: 25 MH
- Residential districts: 25 MPH
- Boundaries of a public park: 25 MPH
- Truck lines and county highways: 55 MPH
- Gravel highways: 55 MPH
- Limited access freeways: 70 MPH

Penalties for speeding

In addition to points on your record, a speeding ticket is usually punished with a fine. Typical speeding fines are as follows:

- Driving 1-5 MPH above the limit: \$90
- Driving 5+ MPH over the limit: \$100
- Driving 26+ MPH over the limit: \$155 plus an additional \$4 for every additional mile

Speeding is considered a civil infraction. The court can also impose an additional surcharge on top of the fine, which usually goes towards certain public programs.

A severe enough speeding offense can be charged as reckless driving, which is a misdemeanor punishable by 93 days in jail and/or fines of up to \$500.



CHAPTER 3: TRAFFIC TICKETS

Traffic tickets and violations typically cover any other automobile related offense other than speeding. Everything from failing to use a turn signal to vehicular manslaughter. A few examples of traffic infractions include:

- Failing to use a turn signal (subject to fines of up to \$95)
- Failing to obey a stop sign or stop light (note: yellow light means stop if it is safe to do so)
- Failure to stop for a school bus (fines of up to \$180)
- Improper U-turns (fines of up to \$100)
- Failure to provide another driver their right of way
- Hit and run (might be either a misdemeanor or a felony)
- Faulty vehicle equipment (suck as a broken taillight or turn signal)
- Failure to wear a seatbelt (front seat passengers, and all children between the ages of four and fifteen must wear one)

Drunk Driving/DUI

Driving while intoxicated is also a pretty common traffic infraction that is seriously penalized and quite dangerous. In Michigan the official term is OWI (operating while intoxicated). You can be convicted of OWI if you drive an automobile while under the effects of alcohol or any other intoxicating substance. There is also another crime called OWVI (operating while visibly impaired), which can be charged if the prosecutor can prove that there was visible proof that your ability to safely drive was hindered by the effects of alcohol or drugs.

For a first-time OWI conviction, the prosecutor must prove that had a blood alcohol level of at least .08%, or that you were severely impaired.

An OWVI conviction only requires the government to prove that you were visibly impaired. There is no specific rule about how the government may or must prove this. The police officer who issued the citation can simply testify at trial. If either the judge or the jury is convinced by this testimony that you were visibly impaired. The level of impairment for OWVI is actually less than that of an OWI charge. Any level of impairment even slightly below the ability level of a normal, careful, driver is sufficient.

The penalties for OWI tend to be more severe, mainly because it either involves much worse intoxication or the fact that blood alcohol content is a more objective measure of impairment.

These penalties are all for a first time OWI/OWVI. A repeat offense will likely result in even harsher penalties. If you have no OWI/OWVI convictions for seven straight years, your record will be reset to zero and your next conviction will be considered a first-time offense.

Penalties for an OWI/OWVI conviction

The first OWI/OWVI offense can land you up to 93 days in jail. The fines for an OWVI are capped at \$300.

If you blow a blood alcohol level of .17% or higher, the maximum jail time for OWI jumps to 180 days (nearly double). Standard fines for OWI are \$100-\$500 dollars, but a .17% BAC will also boost that to \$200-\$700. The penalty for a first time OWVI conviction cannot exceed \$300.

OWI and OWVI can also be punished by up to 360 days of community service.

The second and third offenses for OWI and OWVI will also result in the confiscation of your license plate and the denial of vehicle registration.

The first OWI offense is worth six points. The first OWVI is worth four points. The second and third offenses (in a seven year period) is worth an additional four or six points respectively.



CHAPTER 4: COMMON MISTAKES

Here are just a few mistakes made by people who are given traffic and speeding tickets:

- Refusing to fight it at all: Even if it's just you in court making a weak argument, it can often be worthwhile to at least try to contest the ticket. The officers who hand out tickets and the equipment they use are not infallible
- Failing to even consult an attorney: While it may be true that, barring a misdemeanor/felony or the loss of your license, the penalties for a speeding/traffic ticket usually aren't as costly as hiring a lawyer. That being said, it can be helpful to at least sit down with a defense attorney for one meeting to discuss your case, even if they never end up representing you in court.
- Refusing to submit to a breathalyzer test: Under Michigan law, all people who use public roads are presumed to have consented to any and all alcohol tests administered by police officers. Refusing to comply means an automatic two points will still be added to your record. Furthermore, your refusal will be used as evidence that you actually were intoxicated at the time.
- Driving recklessly: The best way to get out of a speeding or traffic ticket is to never receive one in the first place



CHAPTER 5: HOW TO FIGHT A SPEEDING/TRAFFIC TICKET

Attack errors/inaccuracies in the charging document

This one is pretty straightforward. The police officer issues a ticket (and possibly other documents) alleging a set of facts that is being used to charge you. Mistakes on those documents such as an incorrect traffic code or a misidentification of the vehicle can be used to undermine the allegations against you and create a “reasonable doubt”.

Make sure the officer is telling the truth

Nothing will sink a prosecutor’s case faster than proof that the arresting/charging officer actually lied about something. A good example of this might be an officer writing down the results for a breathalyzer test that was never administered. They are rarely as obvious as this example, so it would be highly advisable for defendants and their attorneys to be vigilant.

Attack the accuracy and reliability of the laser gun (speed measurer) and any other equipment used by the police

Modern traffic enforcement officers rely on laser based speed measuring equipment in order to identify

speeders. However, this technology is not infallible. Flaws in the device, weather conditions, and even the presence of nearby cars can affect the precision and accuracy of the device's measurement. It is not unheard of for the device to misidentify which car in the line of traffic was actually speeding.

Make sure you understand precisely what you are being charged with

Telling your side of the story doesn't help you if the story you tell still counts as whatever infraction you have been charged with.

If you think a mistake has been made, always fight the ticket

If you think a ticket and the accompanying points were not justified, you must make sure you fight the ticket right away. Once you are convicted, the Secretary of state is powerless to remove the points from your record. The only time you can effectively challenge the ticket is when it is being adjudicated in court.



CHAPTER 6: TIPS FOR AVOIDING TRAFFIC/SPEEDING TICKETS (DEFENSIVE DRIVING 101)

Adopting the practices of defensive driving is really the only reliable way to minimize your odds of getting a speeding/traffic ticket. That and not intentionally breaking the law. If you don't believe me just remember that the State of Michigan is willing to remove points from your record if you agree to learn about defensive driving. Here are just a few tips to help you:

- Don't tailgate: Always leave a safe and healthy distance between you and the car in front of you. This is also a good way to avoid speeding.
- Match the speed of traffic: This is really the only way to safely drive even a mile above the posted speed limit. If everyone in front and behind you is also doing it, chances are you won't be the one who gets pulled over.
- Use your turn signals properly: This is just a good idea in general. The only thing worse than getting pulled over is getting into a car crash.
- Take your car into the shop when you accumulate enough miles: In other words, perform adequate maintenance. The law also requires your car meet certain mechanical standards as well. A broken taillight is just as illegal as not using a turn signal.
- Keep focused on the road ahead of you: the essence of defensive driving is anticipating sudden

hazards like children crossing the road or cars slamming on the brakes.

- Mind the weather: Go slightly below the speed limit if it is raining or snowing.
- Don't drive while stressed or exhausted: Any condition which hinders your ability to drive safely can result in a ticket or car accidents. Never get behind the wheel if your body and mind aren't up to the task.