

CRIMINAL DEFENSE

Misdemeanors & Infractions

We hope the following overview is helpful. It discusses what would happen if convicted of a crime. Please call us at 734-451-0324 to discuss your case personally.

MISDEMEANORS & INFRACTIONS

The Michigan Penal Code classifies all criminal offenses as infractions, misdemeanors or felonies. Offenses such as traffic violations (e.g. speeding tickets, etc.) are infractions punishable by a fine usually not exceeding \$250.00 plus penalty assessments (court costs). No time in jail can be imposed for an infraction.

Misdemeanors are more serious offenses (e.g. drunk driving, petty theft, etc.) and can be punishable by imprisonment in the county jail for up to one year and a fine up to \$1,000.00.

You should be wary of potential collateral consequences of a misdemeanor conviction. Some individuals with professional certifications and licenses can lose their livelihood depending upon the nature of a conviction. The sentencing scheme for most misdemeanors is typically found within the definition of the specified crime.

Many misdemeanors provide for a minimum punishment which leaves the judge no discretion to change. For example, a conviction for a multiple offender DUI requires jail time or equivalent jail alternative, work programs and/or community service, alcohol programs and fines.

If the crime is defined in the law as a misdemeanor but fails to mention a specific punishment, then the maximum jail time is six months. However, an attorney can often convince a judge not to order any jail time, especially for some "first offense" misdemeanors.

Frequently, it is appropriate for your attorney to negotiate a "plea-bargain" or reduction of an offense or compromise on the proposed punishment so as to avoid more serious consequences. Some crimes (such as theft) are known as "wobblers" and can be punished as felonies or misdemeanors depending upon the amount of the merchandise in question.

Some offenses (e.g. under the influence of drugs etc.) may be eligible for "plea under advisement" or "diversion". These provisions permit someone, who has pled guilty or no contest to a drug charge, to complete a drug awareness program and have the underlying criminal case dismissed after 18 months. However, if the defendant fails to successfully complete the program, the court can impose a jail sentence. Other provisions apply to theft offenses.

If someone is convicted of a misdemeanor, the court can either grant or deny probation. The length of the term of probation will vary based upon each individual's current situation, and the circumstances that resulted in the conviction. Any prior convictions will also play a part in the length and terms of the probation. Offenses such as DUI, child endangerment, domestic violence and being under the influence of drugs permit probation to last up to 5 years. The court, in its discretion, could even order that any custody time be served in a home detention (house arrest or electronic-monitoring) program. If the court imposes a fine, it will often provide for an alternative sentence consisting of community service hours in

lieu of a fine.

Lastly, an attorney for a defendant may even petition the court to have his conviction “expunged” (erased) from his record. If probation was granted, the defendant must have successfully completed the terms of probation. If probation was not granted, the defendant must have completed the sentence of the court and wait a year before filing the petition. The defendant must also establish that he/she is living an honest life and is free of any other subsequent arrests or sentence. This remedy does not have the effect of sealing the record of arrest. Further, the “conviction” which is set aside can be pled as an enhancement in future prosecutions. Defendants must still disclose the arrest and proceedings when applying for certain professional licensing or government jobs.

Misdemeanor-Infraction Disclaimer

This misdemeanor and infraction defense information including but not limited to theft, DUI, drunk driving, etc or other legal defense information presented at this site should not be construed to be formal legal advice or information nor the formation of a lawyer or attorney client relationship. Our law firm encourages you to seek independent counsel for legal advice regarding your individual criminal defense.

Any results portrayed here are dependent on the facts of that case and the results will differ based on different facts. Contact us at the **Goodwin, Gillis & Heck, PLC** at **734-451-0324**.

FELONIES

Felonies are the most serious offenses and require a vigorous defense. The Michigan Legislature has stated that the primary goal of Michigan’s Sentencing Law, enacted in 1977, is to punish the offender. Every felony is sorted into one of six “crime groups.” The Court, when imposing sentencing after a conviction, or a plea of guilty, takes certain factors into consideration. For example, any prior convictions, the type of offense, the harm to the victim, or property, etc. Any prior misdemeanors will also have an effect on the term of sentence imposed.

For persons facing their first felony conviction, it is possible for your attorney to negotiate with the prosecutor for a “plea under advisement” or “diversion” program, depending on the felony for which you were charged.

Unless specifically precluded by a statute (depending on the type of crime), a judge can sentence a convicted felon to a term of probation. Among other things, the court may require the defendant, as a term and condition of probation, to serve local jail time, pay fines, complete community service and pay restitution.

As you can see, an arrest and conviction can have extremely serious consequences. Goodwin, Gillis & Heck, PLC have experienced attorneys that can help you. You can call for a FREE INITIAL CONSULTATION at 734-451-0324.

DRIVING OFFENSES

Drunk Driving & DUI Law Multiple Offenses

Question: I have just been arrested for OUIL. My last conviction was over ten years ago. Can or will the judge look at this previous history for sentencing purposes?

Answer: Yes, effective January 3, 2007, 2006PA564, eliminates the 10 year requirement and allows all convictions involving drinking and driving in a lifetime to be considered and provides that a third offense is a felony regardless of the number of years that have elapsed since any prior conviction.

Another complicated aspect of Michigan's drinking and driving laws is the system often referred to as "stacking." Stacking is the process in which a prior conviction of the same or similar nature is used as a predicate offense to create a new more serious offense. Under this system, if a defendant has been convicted of two "operating while impaired" misdemeanor charges and is subsequently charged with a third drinking and driving offense, they can be charged with a felony. Considering the possibility of loss of license, loss of employment and loss of liberty, an individual should seriously consider the consequences if they are not represented by counsel.

Drunk Drivers Cannot Register Vehicles

A new Michigan law, which took effect on June 1, 2000, holds that those drivers with three or more alcohol-related convictions or four or more violations of a driver license suspension or revocation or denial will not be allowed to register a vehicle in his or her name. If such a person wants to purchase a vehicle, it will have to be titled in someone else's name. However, anyone who would allow such a bad driver to possess a vehicle that is titled to him or her would run a tremendous liability risk.

TRAFFIC VIOLATIONS

Traffic Tickets - Basics

More than ninety percent of the people in this country over the age of sixteen are licensed to drive, and there is more than one car registered for each one of them. These figures translate into trillions of miles driven each year with millions of traffic infractions, making traffic control an issue of immense proportions. The first traffic laws and regulations began to appear in the 1920s, and they now constitute a huge part of most state codes.

The primary purpose of traffic-violation regulations is to deter unsafe driving and to educate and reform bad drivers. Studies have shown that traffic offenders generally keep amassing traffic violations, and that most people obey the laws, even when there is no perceived safety reason for doing so, such as waiting for a green light at 2:00 am. Compliance with the laws increases when drivers believe they will be caught and decreases when they perceive they can get away with a specific infraction.

Traffic Tickets: "Strict Liability Offenses"

The majority of traffic tickets are issued for strict-liability offenses. This means that no particular criminal intent is required to convict a person of the offense. The only proof needed is that the person did the prohibited act. Strict-liability traffic offenses typically include such offenses as:

- Speeding
- Failure to use turn signals
- Failure to yield
- Turning into the wrong lane
- Driving a car with burned-out headlights
- Parking in a handicap spot without the required sticker, and
- Overdue parking meters

Moving Violations vs. Non-Moving Violations

A moving violation occurs whenever a traffic law is violated by a vehicle in motion. Some examples of moving violations are speeding, running a stop sign or red light, and drunk driving. A non-moving violation, by contrast, is usually related to parking or faulty equipment. Examples include parking in front of a fire hydrant, parking in a no-parking zone, parking in front of an expired meter, and excessive muffler noise.

Below you will find traffic laws and driving rules in Michigan -- including the online vehicle code, statutes on common traffic violations, and state-specific driving manuals

(where available).

- What Every Driver Must Know (Driver Manual)
- Uniform Traffic Code

Drinking & Driving Violations	<u>Driving while intoxicated and reckless driving</u> (MI Vehicle Code sections 257.625 to 257.626c)
Driving Without a License/With a Suspended License	<u>Violation of license provisions</u> (MI Vehicle Code sections 257.324 to 257.329)
Driving Without Insurance/With Insufficient Insurance	<u>Producing evidence of motor vehicle insurance</u> (MI Vehicle Code section 257.328)
Driving Without Registration/With Expired Registration	<u>Offenses against registration</u> (MI Vehicle Code section 257.255 to 257.259)
Illegal U-Turn	<u>Turning at intersection; violation as civil infraction</u> (MI Vehicle Code section 257.647)
Leaving the Scene of an Accident/Hit & Run	<u>Accidents</u> (MI Vehicle Code section 257.617 to 257.624b)
Mechanical Violations	<u>Equipment</u> (MI Vehicle Code sections 257.683 to 257.711) <u>Vehicle Equipment Requirements (PDF)</u> (MI State Police)
Reckless Driving	<u>Driving while intoxicated, and reckless driving</u> (MI Vehicle Code sections 257.625 to 257.626c)
Running a Red light/Stop Sign	<u>Traffic Signs, Signals & Markings</u> (MI Vehicle Code sections 257.608 to 257.616a)
Seat Belt/ Child Restraint Violations	<u>Safety belt required</u> (MI Vehicle Code section 257.710e) <u>Child restraint system required</u>

	(MI Vehicle Code section 257.710d) <u>Safety Belt and Child Restraint Laws (PDF)(MI State Police)</u>
Speeding	<u>Speed restrictions (MI Vehicle Code sections 257.627 to 257.633)</u>
Unlawful vehicle modifications	<u>Equipment (MI Vehicle Code sections 257.627 to 257.711)</u> <u>AfterMarket Lighting (PDF)(MI State Police)</u> <u>High Rise Vehicle Law (PDF)(MI State Police)</u>

Goodwin, Gillis & Heck, PLC
5773 Canton Center Rd., Ste 2
Canton, Michigan 48187
Phone: (734) 451-0322 / Fax: (734)451.0326
Email: Clyde Goodwin- cgoodg@aol.com
Erma Gillis- elgillis4032@yahoo.com
Sean Heck- sheck2121@yahoo.com

The information contained in this web site is intended to convey general information about Goodwin, Gillis & Heck, PLC. It should not be construed as legal advice or opinion. It is not an offer to represent you, nor is it intended to create an attorney-client relationship. Any email sent to Goodwin, Gillis & Heck, PLC. using the above email address should not be viewed as confidential and would not create an attorney-client relationship.