

## **Chapter 411 – OUIL**

### **Section 411.1 – Punishable Offense**

- A. A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the public or generally accessible to motor vehicles, including an area designed for the parking of vehicles, within the Township of Lenox if either of the following applies:
1. The person is under the influence of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance.
  2. The person has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

### **Section 411.2 – Punishable Offense**

The owner of a vehicle or person in charge or in control of a vehicle shall not authorize or knowingly permit the vehicle to be operated upon a highway or another place open to the general public or generally accessible to motor vehicles, including an area designed for the parking of motor vehicles, within the Township of Lenox by a person who is under the influence of intoxicating liquor, a controlled substance or a combination of intoxicating liquor and a controlled substance, who has an alcohol content of 0.10 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or whose ability to operate the motor vehicle is visibly impaired due to the consumption of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance.

### **Section 411.3 – Punishable Offense**

A person, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the general public or generally accessible to motor vehicles, including an area designed for the parking of vehicles, within the Township of Lenox when, due to the consumption of intoxicating liquor, a controlled substance, or a combination of intoxicating liquor and a controlled substance, the person's ability to operate the vehicle is visibly impaired. If a person is charged with violating Section 411.1, a finding of guilty under this Section may be rendered.

#### **Section 411.4 – Punishable Offense**

- A. A person who is less than twenty-one (21) years of age, whether licensed or not, shall not operate a vehicle upon a highway or other place open to the public or generally accessible to motor vehicles, including an area designated for the parking of vehicles, within the Township of Lenox if the person has any bodily alcohol content. As used in this Section “any bodily alcohol content” means either of the following:
1. Alcohol content of not less than 0.02 grams or more than 0.07 grams per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
  2. Any presence of alcohol within a person’s body resulting from the consumption of intoxicating liquor, other than consumption of intoxicating liquor as a part of a generally recognized religious service or ceremony.

#### **Section 411.5 – Misdemeanor Sentence**

- A. A person, whether licensed or not, shall not operate a vehicle in violation of Section 411.4 while another person who is less than sixteen (16) years of age is occupying the vehicle. A person who violates this Section is guilty of a misdemeanor is punishable as follows:
1. Community service for not more than sixty (60) days.
  2. A fine of not more than five hundred dollars (\$500.00).
  3. Imprisonment for not more than ninety-three (93) days.
- B. In the judgment of the sentence under this Section, the Court may, unless the vehicle is ordered forfeited under Section [MCL 257.625b] order vehicle immobilization as provided in Section [MCL 257.904d].

#### **Section 411.6 – Sentence Possibilities for Violating Section 1**

- A. If a person is convicted for violating Section 411.1, they shall be guilty of a misdemeanor punishable by one or more of the following:
1. Community service for not more than forty-five (45) days.

2. Imprisonment for not more than ninety-three (93) days; and
3. A fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00).

#### **Section 411.7 – Sentence for Violation of Section 2**

If a person is convicted of violating Section 411.2, they shall be guilty of a misdemeanor punishable by imprisonment for not more than ninety-three (93) days or a fine of not less than one hundred (\$100.00) dollars or more than five hundred (\$500.00) dollars, or both.

#### **Section 411.8 – Possible Sentences for Violating Section 3**

- A. If a person is convicted of violating Section 411.3, they shall be guilty of a misdemeanor punishable by one or more of the following:
  1. Community service for not more than forty-five (45) days.
  2. Imprisonment of not more than ninety-three (93) days; and
  3. A fine of not more than three hundred dollars (\$300.00).

#### **Section 411.9 – Sentence for Violation of Section 4**

- A. If a person is convicted of violating Section 411.4, all the following apply:
  1. Except as otherwise provided in Section 411.9A2, the person is guilty of a misdemeanor punishable by one or more of the following:
    - a. Community service for not more than forty-five (45) days.
    - b. A fine of not more than two hundred dollars (\$200.00).
  2. If the violation occurs within seven (7) years of one or more prior convictions, the person may be sentenced to one or more of the following:
    - a. Community service for not more than sixty (60) days.

- b. A fine of not more than five hundred dollars (\$500.00).
- c. Imprisonment of not more than ninety-three (93) days.

#### **Section 411.10 - Costs**

In addition to imposing the sanctions prescribed under this Section, the Court may order the person to pay the costs of the prosecution under the Code of Criminal Procedure, 1927 PA 175, MCL 760.1 to 776.22.

#### **Section 411.11 – Payment for Supervision**

A person sentenced to perform community service under this Section shall not receive compensation and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government because of the person's activities in that service.

#### **Section 411.12 – Plea Requirements**

If a person is charged with a violation of Section 411.1, 411.3, or 411.5, or Section [MCL 275.625m], the Court shall not permit the defendant to enter a plea of guilty or nolo contendere to a charge of violating Section 411.4 in exchange for dismissal of the original charge. This Section does not prohibit the Court from dismissing the charge upon the prosecuting attorney's motion.

#### **Section 411.13 – Special Verdict Requirement with Certain Charges**

Except as otherwise provided in Section 411.15, if a person is charged with operating a vehicle while under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance in violation of Section 411.1, the Court shall require the jury to return a special verdict in the form of a written finding or, if the Court convicts the person with a jury or accepts a plea of guilty or nolo contendere, the Court shall make a finding as to whether the person was under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.

### **Section 411.14 – Special Verdict Requirement**

Except as otherwise provided in Section 411.15, if a person is charged with operating a vehicle while his or her ability to operate the vehicle was visibly impaired due to his or her consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance, the Court shall require the jury to return a special verdict in the form of a written finding or, if the Court convicts the person without a jury or accepts a plea of guilty or nolo contendere, the Court shall make a finding as to whether, due to the consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance, the person's ability to operate a motor vehicle was visibly impaired at the time of the violation.

### **Section 411.15 – Special Verdict Exceptions**

- A. A special verdict described in Sections 411.13 and 411.14 is not required if a jury is instructed to make a finding solely as to either of the following:
  - 1. Whether the defendant was under the influence of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.
  - 2. Whether the defendant was visibly impaired due to his or her consumption of a controlled substance or a combination of intoxicating liquor and a controlled substance at the time of the violation.

### **Section 411.16 – Court Procedure**

- A. If a jury or court finds under Sections 411.13, 411.14, or 411.15 the defendant operated a motor vehicle under the influence of or while impaired due to the consumption of a controlled substance or a combination of a controlled substance and an intoxicating liquor, the Court shall do both of the following:
  - 1. Report the finding to the Secretary of State; and
- B. On a form or forms prescribed by the State Court Administrator, forward to the Department of State Police a record that specifies the penalties imposed by the Court, including any term of imprisonment, and any sanction imposed under Sections [MCL 257.625n] or [MCL 257.904d].

### **Section 411.17 – Record Retainment**

Except as otherwise provided by law, a record described in Section 411.16(B) is a public record and the Department of State Police shall retain the information contained on that record for not less than seven (7) years.

### **Section 411.18 – Religious Exception**

In a prosecution for a violation of Section 411.4, the defendant bears the burden of proving that the consumption of intoxicating liquor was a part of a generally recognized religious service or ceremony by a preponderance of the evidence.

### **Section 411.19 – [MCL 257.625g]**

- A. If a person refuses a chemical test offered pursuant to Section [MCL 257.625a(6)] or submits to a chemical test or a chemical test is performed pursuant to a Court Order and test reveals an unlawful alcohol content, the law enforcement officer who requested the person to submit to the test shall do all of the following:
  - 1. On behalf of the Secretary of State, immediately confiscate the person's license or permit to operate a motor vehicle and, if the person is otherwise eligible for a license or permit, issue a temporary license or permit to the person. The temporary license or permit shall be on a form provided by the Secretary of State,
  - 2. Forward a copy of the written report of the person's refusal to submit to a chemical test required under Section [MCL 257.625d] to the Secretary of State.
  - 3. Notify the Secretary of State by means of the law enforcement information network that a temporary license or permit was issued to the person.
  - 4. Destroy the person's driver's license or permit.
- B. If a person submits to a chemical test offered pursuant to Section [MCL 257.625a(6)] that requires an analysis of blood or urine and a report of the results of that chemical test is not immediately available, the law enforcement officer who requested the person to the test shall comply with Section 411.19 (A)(1) pending receipt of the test report. If the report reveals unlawful alcohol content, the law enforcement officer who requested the person to submit to the test shall immediately comply with Section 411.19(A)(1). If the report does not reveal

unlawful alcohol content, the law enforcement officer who requested the person to submit to the test shall immediately notify the person of the test results and immediately return the person's license or permit by first-class mail to the address given at the time of the arrest.

- C. A temporary license or permit issued under this Section is valid for one of the following time periods:
  - 1. If the case is not prosecuted, for ninety (90) days after issuance or until the person's license or permit is suspended pursuant to Section [MCL 257.625f], whichever occurs earlier. The prosecuting attorney shall notify the Secretary of State if a case referred to the prosecuting attorney is not prosecuted. The arresting law enforcement agency shall notify the Secretary of State if a case is not referred to the prosecuting attorney for prosecution.
  - 5. If the case is prosecuted until the criminal charges against the person are dismissed, the person is acquitted of those charges, or the person's license or permit is suspended, restricted, or revoked.
- D. As used in this Section, "unlawful alcohol content" means any of the following, as applicable:
  - 1. If the person tested is less than twenty-one (21) years of age, 0.02 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
  - 2. If the person tested was operating a commercial motor vehicle within the state, 0.04 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
  - 3. If the person tested is not a person described in Section 411.19(A) or (B), 0.10 grams or more of alcohol per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

