

AERONAUTICS CODE OF THE STATE OF MICHIGAN (EXCERPT)
Act 327 of 1945

259.185 Operation of aircraft while under influence of intoxicating liquor or controlled substance.

Sec. 185. (1) A person, whether or not the person is the holder of a certificate of competency issued pursuant to section 83, who is under the influence of intoxicating liquor or a controlled substance, or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, or a combination of intoxicating liquor and a controlled substance or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, shall not operate an aircraft or act or attempt to act as a crew member of an aircraft over or upon the lands or waters of this state. A peace officer may, without a warrant, arrest a person when the peace officer has reasonable cause to believe that the person was, at the time of an accident, the operator or crew member of an aircraft involved in the accident and was operating or acting or attempting to act as a crew member of the aircraft over or upon the lands or waters of this state while under the influence of intoxicating liquor or a controlled substance, or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, or a combination of intoxicating liquor and a controlled substance or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft.

(2) A person, whether or not the person is the holder of a certificate of competency issued pursuant to section 83, who has an alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine shall not operate an aircraft or act or attempt to act as a crew member of an aircraft over or upon the lands or waters of this state.

(3) A person, whether or not the person is the holder of a certificate of competency issued pursuant to section 83, shall not operate an aircraft or act or attempt to act as a crew member of an aircraft over or upon the lands or waters of this state within 8 hours after the consumption of an intoxicating liquor or a controlled substance, or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft.

(4) A person, whether or not the person is the holder of a certificate of competency issued pursuant to section 83, who operates an aircraft or acts as a crew member of an aircraft in violation of subsection (1), (2), or (3) and by the operation of that aircraft or by serving as a crew member of that aircraft causes the death of another person is guilty of a felony, punishable by imprisonment for not more than 15 years or a fine of not less than \$2,500.00 or more than \$10,000.00, or both.

(5) A person, whether or not the person is the holder of a certificate of competency issued pursuant to section 83, who operates an aircraft or acts as a crew member of an aircraft in violation of subsection (1), (2), or (3) and by the operation of that aircraft or by serving as a crew member of that aircraft causes a serious impairment of a body function of another person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than \$1,000.00 or more than \$5,000.00, or both. As used in this subsection, "serious impairment of a body function" includes, but is not limited to, 1 or more of the following:

- (a) Loss of a limb or use of a limb.
- (b) Loss of a hand, foot, finger, or thumb or use of a hand, foot, finger, or thumb.
- (c) Loss of an eye or ear or use of an eye or ear.
- (d) Loss or substantial impairment of a bodily function.
- (e) Serious visible disfigurement.
- (f) A comatose state that lasts for more than 3 days.
- (g) Measurable brain damage or mental impairment.
- (h) A skull fracture or other serious bone fracture.
- (i) Subdural hemorrhage or subdural hematoma.

(6) Except as otherwise provided, a person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not less than \$100.00 or more than \$500.00, or both, together with costs of the prosecution.

(7) A person who violates this section or a local ordinance substantially corresponding to subsection (1), (2), or (3) within 7 years of a prior conviction may be sentenced to imprisonment for not more than 1 year, or a fine of not less than \$200.00 or more than \$1,000.00, or both, together with costs of the prosecution. For purposes of this section, "prior conviction" means a conviction under this section, a local ordinance substantially corresponding to subsection (1), (2), or (3) or a law of another state substantially corresponding to subsection (1), (2), (3), (4), or (5).

(8) A person who violates this section or a local ordinance substantially corresponding to subsection (1),

(2), or (3) within 10 years of 2 or more prior convictions, as defined in subsection (7), is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not less than \$500.00 or more than \$5,000.00, or both, together with costs of the prosecution.

(9) As part of the sentence for a violation of this section or a local ordinance substantially corresponding to subsection (1), (2), or (3), the court may order the person to perform service to the community, as designated by the court, without compensation, for a period not to exceed 45 days. The person shall reimburse the state or appropriate local unit of government for the cost of insurance incurred by the state or local unit of government as a result of the person's activities under this subsection.

(10) Before imposing sentence for a violation of this section or a local ordinance substantially corresponding to subsection (1), (2), or (3), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.

(11) Before accepting a plea of guilty or nolo contendere under this section, the court shall advise the accused of the statutory consequences possible as the result of a plea of guilty or nolo contendere in respect to the penalty imposed for violation of this section.

History: Add. 1985, Act 81, Eff. Mar. 31, 1986;—Am. 1995, Act 62, Eff. Oct. 1, 1995.