

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

259.187 Chemical test generally.

Sec. 187. (1) The amount of alcohol or the presence of a controlled substance, or both, 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, in the operator's blood at the time alleged as shown by chemical analysis of that person's blood, urine, or breath is admissible into evidence in a criminal prosecution for a violation of section 185, 186, or of a local ordinance substantially corresponding to section 185(1), (2), or (3), or section 186.

(2) If a test is given, the results of the test shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall furnish the report at least 2 days before the day of the trial and the results shall be offered as evidence by the prosecution in a criminal proceeding. Failure to fully comply with the request shall bar the admission of the results into evidence by the prosecution.

(3) Except in a prosecution relating solely to a violation of section 185(2), it shall be presumed that the operator was under the influence of intoxicating liquor if the person's blood at the time contained 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine at the time of testing as shown by chemical analysis of that person's blood, urine, or breath.

(4) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or an individual operating under the delegation of a licensed physician under section 16215 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.16215 of the Michigan Compiled Laws, and qualified to withdraw blood acting in a medical environment, at the request of a peace officer, may withdraw blood for the purpose of determining the amount of alcohol or the presence of a controlled substance, or both, or the presence of 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, in the person's blood, as provided in this act. Liability for a crime or civil damages predicated on the act of withdrawing blood and related procedures shall not attach to a licensed physician or individual operating under the delegation of a licensed physician who withdraws or analyzes blood or assists in the withdrawal or analysis in accordance with this act unless the withdrawal or an analysis is performed in a negligent manner.

(5) The tests shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in subsection (1). A person who takes a chemical test administered at the request of a peace officer, as provided in this section, shall be given a reasonable opportunity to have a person of his or her own choosing administer 1 of the chemical tests described in this section within a reasonable time after his or her detention, and the results of the test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant. If the person charged is administered a chemical test by a person of his or her own choosing, the person charged shall be responsible for obtaining a chemical analysis of the test sample. The person charged shall be informed that he or she has the right to demand that a person of his or her own choosing administer 1 of the tests provided for in subsection (1), that the results of the test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant, and that the person charged shall be responsible for obtaining a chemical analysis of the test sample.

(6) The person charged shall be advised of the following:

(a) That if the person refuses the lawful request of a peace officer to take a test described in this section, a test shall not be given without a court order.

(b) That a written report will be forwarded by the peace officer to the federal aviation district office having jurisdiction over the county in which the person refused to submit to the test.

(c) That the person may be subject to sanctions as provided under federal law and regulations promulgated pursuant to federal law.

(7) This section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the person was 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, or whether the person had 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, or whether the person acted or attempted to act as a crew member of an aircraft or operated an aircraft 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.

(8) If after an accident the operator of an aircraft or a crew member of an aircraft involved in the accident is transported to a medical facility and a sample of the person's blood is withdrawn at that time for the purpose of medical treatment, the result of a chemical analysis of that sample shall be admissible in a criminal prosecution for a crime described in subsection (1) to show the amount of alcohol or the presence of a controlled substance, or both, or the presence of 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, in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subsection. A medical facility or person disclosing information in compliance with this subsection shall not be civilly or criminally liable for making the disclosure.

(9) If after an accident the operator of an aircraft or a crew member of an aircraft involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner for the purpose of determining blood alcohol content or presence of a controlled substance, or both, or the presence of 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.

History: Add. 1985, Act 81, Eff. Mar. 31, 1986;—Am. 1985, Act 185, Imd. Eff. Dec. 20, 1985;—Am. 1995, Act 62, Eff. Oct. 1, 1995.