

A. **PURPOSE.** To outline the procedure for arresting a minor for possessing or having consumed an alcoholic beverage not related to any driving offense.

B. **LEGAL AUTHORITY**

1. Michigan Compiled Law [436.1109\(6\)](#) defines a minor as “an individual less than 21 years of age.”
2. Michigan Compiled Law [436.1703\(1\)](#) states:

“A minor shall not purchase or attempt to purchase alcoholic liquor, consume or attempt to consume alcoholic liquor, possess or attempt to possess alcoholic liquor, or have any bodily content except as provided by this section.” “Any bodily alcohol content means .02% or higher.”
3. Pursuant to the Michigan Liquor Control Act, officers may issue a citation to a minor for Minor in Possession of Alcohol if the officer has probable cause to believe that the minor is in possession of or has consumed an alcoholic beverage.

C. **MINOR IN POSSESSION OF ALCOHOL INVESTIGATIONS**

1. Officers should investigate using the tools of observation, i.e.
 - a. What is in their hands?
 - b. How do their eyes look?
 - c. What do they smell like?
 - d. How do they speak?
 - e. How do they act?
 - f. Are there beer bottles around the person?
 - g. What evidence is there that the minor has been drinking?
2. In appropriate situations officers may:
 - a. Obtain a valid consent to submit to a preliminary breath test (PBT) and document the consent.
 - b. If consent is not given, obtain a search warrant for a blood draw.

D. **THE ADMINISTRATION OF PRELIMINARY BREATH TESTING**

1. Officers shall follow the procedure outlined in the PBT section of the “OWI and Operating–Presence of Controlled Substance” procedure when administering a preliminary breath test to a minor (MOP 5-8.3, Section F, Preliminary Breath Tests.)
 - a. Note that minors cannot be issued a civil infraction for refusing to submit to a Preliminary Breath Test in an MIP investigation.
 - b. Officers shall document the refusal in the report narrative.
2. A person under 21 years of age who possesses alcohol or whose PBT result is .02% or higher, whether in a vehicle or not, shall be issued a citation.
3. A person less than 21 years of age who possesses alcohol **as a driver or passenger in a vehicle** may be issued a traffic citation. This does not prevent an individual less than 21 years of age from knowingly transporting alcoholic liquor in a motor vehicle if an individual at least 21 years of age is present inside the motor vehicle. The citation shall be marked “in Violation of State Law,” sec. 257.624b and shall designate if he/she is the driver or passenger.
4. PBT Form and Administration
 - a. If driving, see MOP 5-8.3 section F.7.
 - b. For other offenses, obtain consent from the minor or guardian/parent to submit to the PBT, document in the incident report who obtained the minors consent to submit to the PBT, who administered the test, and the results of the test.

E. PARENTAL NOTIFICATION REQUIREMENTS

1. If the violator is less than 18 years of age and is not legally emancipated, Officers are required by law to notify the parent(s), custodian, or legal guardian as to the nature of the violation within 48 hours of the offense.
2. Notice may be made by any means reasonably calculated to give prompt notice including, but not limited to, notice in person, by telephone, or by first-class mail. Such notice and any attempts to notify shall be included in the arresting Officer’s report and/or investigator’s investigative notes.

F. EXCEPTIONS

1. This statute does not apply to minors:
 - a. who have consumed alcohol and are seeking treatment for any injury/condition they have incurred as the result of CSC.
 - b. who accompany other minors who are voluntarily seeking treatment for alcohol consumption or CSC-related injuries.
 - c. who initiate contact with a Police Officer or EMS for “legitimate health care concerns.”
 - d. who have consumed alcohol as a requirement of an accredited postsecondary course under supervision of a faculty member.
 - e. who have consumed sacramental wine in connection with a religious ceremony.
 - f. who possess (but do not consume) alcohol during regular working hours in the course of his or her employment, if employed by a person licensed under the Michigan Liquor Control Act.