



MICAP RECAP

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(A Publication of the Michigan Council on Alcohol Problems)

Lead Article: **Operating While Intoxicated (OWI) in Michigan**

by Dennis D. Bryde, Ph.D., MS

Insert: **Update on H.R. 4573**

(A Michigan Bill to extend sales of beverage alcohol)

by Rev. W. J. (Bill) Amundsen

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Dear Members and Friends,

Our lead article, "Operating While Intoxicated (OWI) In Michigan," will bring us up to date with Michigan Law regarding drinking and driving. Dr. Bryde points out that persons who choose to drink and drive still need to be responsible and that responsibility is measurable. Dr. Bryde is an expert on breathalyzers and gives expert testimony in courts regarding whether the person ticketed was responsible or not. We are fortunate to have him on the Board of Directors of MICAP.

The Insert is an UPDATE on House Resolution 4573 which has made its way in the Michigan House so as to be voted on twice. HR 4573 is still "alive" until the Legislative Session ends on December 31, 2008. MICAP believes that there are already more than enough "sales hours" in our state for persons who desire to drink beverage alcohol, and that more sales hours is bad social policy. See the UPDATE for the particulars on House Resolution 4573 and also how you can help to defeat it. This is MICAP's most important challenge in 2008.

Finally, I am including more information on smoking cessation which I acquired from a website of the Holden Comprehensive Cancer Center (univ. of Iowa). I hope this will be helpful as you encourage friends and neighbors to quit smoking for their health's sake and the sake of the environment and the economy.

We, at MICAP, find ourselves blessed to be a blessing and I hope that you do too.

Rev. W. J. (Bill) Amundsen, Retired,
Chairperson, Board of Directors,
Michigan Council on Alcohol Problems

Operating While Intoxicated, OWI, in Michigan

By Dennis D. Bryde, Ph.D., MS
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What does it mean to illegally Operate a vehicle While Intoxicated (OWI)? In Michigan this criminal act has two definitions. The first definition of OWI focuses on the inability to operate a vehicle, while the second definition focuses on the presence of a given amount of alcohol or illegal drug in the body.

Impairment is described in the first definition, and occurs when a person operates a vehicle while their ability is weakened or reduced from what it would have been had they not consumed alcohol and/or taken a controlled substance. Controlled substances are listed in the law and typically require a physician's prescription, they include pain killers, tranquilizers, sedatives, and other drugs. The volume of alcohol and/or controlled substance needed to cause impairment varies widely from driver to driver, and many persons become impaired for purposes of driving at concentrations well below Michigan's legal limit 0.08. This is all too often the case with the inexperienced driver, inexperienced drinker or the older person with limited abilities coupled with medications.

The second definition of the violation OWI has nothing to do with whether the person is impaired, intoxicated or drunk. Rather this criminal act of OWI addresses those persons who operate a vehicle with an illegal concentration of alcohol and/or an illegal drug in their blood, breath or urine. Examples of illegal drugs are heroin, cocaine, marijuana, and other schedule I controlled substances.

It is illegal in Michigan to have a concentration of alcohol at 0.08 grams or above in a given volume of a driver's blood, breath or urine. For illegal drugs, there are no permissible levels; zero. In short, all a prosecutor has to show is that the OWI violator operated a vehicle with an illegal concentration of alcohol or an illegal drug in the driver's blood, breath or urine.

For those who operate a vehicle that requires a commercial drivers license, CDL, the illegal concentration is set at 0.04 grams or more of alcohol. While it is not an illegal act to operate a vehicle that requires a CDL with an alcohol concentration of 0.015 to 0.039, Michigan law requires that the CDL operator be taken off the road for 24 hours.

Those under age 21 cannot operate a vehicle with any bodily alcohol content. A 0.02 or more, by law,

is evidence that the underage driver has been drinking. Here again, this violation occurs even though there may be no impairment.

What effect does alcohol have on one's ability to operate a vehicle and how does alcohol reduce ability to drive? To answer this question, one needs to examine what is needed to safely operate a vehicle. A safe driver needs the ability to react appropriately to other drivers and to the driver's environment. That is, to safely operate a vehicle, one needs to be able to:

1. See and perceive potential hazards.
2. Apply suitable judgment and decide what to do in a timely manner.
3. Physically carryout an appropriate response to avoid a hazard.

Alcohol, a central nervous system depressant drug, negatively impacts on all three needed components for safe operation of a vehicle.

Referencing seeing and perceiving, alcohol impacts negatively on vision. That is, alcohol degrades peripheral vision and blurs the images of moving objects. This is a major problem in a moving vehicle and is exacerbated with increased vehicle speeds. Alcohol also degrades the ability to see at night, increases susceptibility to glare blindness, and reduces the ability to judge distances. Obviously, one cannot react appropriately, timely and safely if potential driving hazards cannot be properly seen.

Furthermore, alcohol impacts on the ability to recognize a potential hazard due to the fact that alcohol:

- a. causes a false state of well-being. With this false state, the drinking driver often does not recognize the gravity of a life-threatening situation in a timely fashion.
- b. causes an inability to divide attention. Safe operation requires the ability to handle varying activities at the same time, both driving and non-driving tasks. This inability all too often interferes with the ability to recognize and avoid potential hazards.

- c. causes inattention and eye fixation. This involves fixating on one aspect of a driving task at the expense of other critical aspects. This again may destroy the ability to recognize potential driving hazards.
 - d. causes driving fatigue and increases natural fatigue often associated with early morning driving and lack of sleep.
 - e. causes heightened emotionalism, aggression and road rage.
 - f. causes decreased attention span, the inability to focus for an appropriate period of time on necessary aspects of driving.
 - g. reduces short-term memory. While a potential hazard may be initially recognized, this recognition may be lost in a very short period of time. For example a "stop ahead" sign may initially be observed, but this recognition may not be retained at the time the intersection is reached.
 - h. reduces one's internal sense of timing. This capability is a critical aspect of safe driving in situations requiring timing maneuvers, including passing, changing lanes, merging, etc.
 - i. causes reduced inhibitions. This all too often results in a willingness to take chances, becoming aggressive and driving beyond one's capability or environmental conditions.
 - j. causes a diminished ability to comprehend rapidly changing events.
 - k. causes carelessness which is a propensity towards hasty, negligent and disorganized driving performance.
- a. Alcohol disturbs the ability to coordinate body movement.
 - b. Alcohol decreases reflexes and hand-eye coordination.
 - c. Alcohol lessens the sense of touch. This may result in a heavy foot on the brake pedal and accelerator due to the numbing of the body by alcohol.
 - d. Alcohol may cause dizziness, clumsiness and exaggerated body movement.

Again, Michigan's case law states that if one's ability to operate a vehicle is weakened or reduced, it is illegal to operate a vehicle. As stated earlier, if a given concentration of alcohol is in the blood, breath or urine, with or without impairment, it is also illegal to operate a vehicle. The question is how can one determine how much alcohol is too much?

Alcohol concentrations in the body are influenced by the following factors.

- a. The weight of the drinker
- b. The number of drinks consumed
- c. The proof or percent of alcohol in the beverage consumed.
- d. The time period that alcohol has been in the body
- e. The gender of the drinker. Men's bodies can generally handle more alcohol primarily due to differing body fat content between genders.
- f. The amount and type of food in the stomach at the time of drinking

Once a potential driving hazard has been observed and recognized, a driver needs to determine what needs to be done. Alcohol slows this ability to reason and may result in an inappropriate response. In short, too much alcohol destroys judgment and timely reasoning, obviously two critical aspects associated with safe driving.

The following tables show how many regular beers are typically required to achieve an illegal concentration of 0.08 in relation to a person's weight. Note the longer the drinking period, the more one can consume before achieving an illegal concentration. This is because the drinker's body removes alcohol over time.

Lastly, once a driving decision is made, right or wrong, a driver needs the physical ability to implement that action. Alcohol negatively influences this ability in the following ways:

A person drinking regular 12-ounce beers over a two-hour period, may be above Michigan's legal limit to drive if he or she consumes the number of beers described in the tables below or other drinks with equivalent alcohol content. One regular beer is typically equivalent to 1.5 ounces of 80 proof beverage or 5 ounces of 12% alcohol wine.

The tables below accurately reflect the fact that it is legal to consume alcohol and then drive in Michigan. However, it is illegal to operate with a BAC of 0.08 or more and it must be emphasized that for many persons it is illegal to operate at concentrations well below 0.08 because of lack of tolerance or experience with alcohol.

Female Drinker

100 lbs = 3 or more beers
125 lbs = 3 or more beers
150 lbs = 4 or more beers
175 lbs = 4 or more beers
200 lbs = 5 or more beers
225 lbs = 6 or more beers
250 lbs = 6 or more beers

Male Drinker

100 lbs = 3 or more beers
125 lbs = 4 or more beers
150 lbs = 4 or more beers
175 lbs = 5 or more beers
200 lbs = 6 or more beers
225 lbs = 6 or more beers
250 lbs = 7 or more beers

MICAP BOARD MEETING DATES

Meetings are held at Central United Methodist Church, 215 North Capital Avenue, Lansing, Michigan 48933 from 12 Noon to 3:00 p.m. unless otherwise announced.

August 19, 2008

November 18, 2008

February 16, 2009

May 19, 2009 (Annual Meeting)

MICAP FINANCES

Your support of our ministry is appreciated and allows us to continue. Thank you for your help by using the envelope enclosed!

SMOKING CESSATION

Nicotine Transdermal Patches are thin medicated patches, which are attached to the skin with adhesive. They provide an alternate source of nicotine, and so help reduce withdrawal symptoms. It requires smokers to discontinue the use of cigarettes when using the patch. This method is a good choice for a highly addictive smoker, particularly if they have been smoking a cigarette with a high level of nicotine. Each patch lasts 24 hours. In order to be successful, individuals must have a high level of motivation and adherence. Therapy with this method is usually recommended for 10 to 12 weeks. This method can cost up to several hundred dollars but is much cheaper than smoking. Transdermal patches are not recommended for use during pregnancy, for persons with a history of high blood pressure or other heart diseases. Minor side effects include skin redness where the patch is applied and restless sleep.²

2. <http://www.uihealthcare.com/topics/medicaldepartments/-cancercenter/smokingcessation/index.htm>

LANSING LEGISLATIVE ACTIVITY

MICHIGAN HOUSE BILL 4573, REVISITED

(A Bill to Extend Hours of Beverage Alcohol Sales)

A White Paper Update

By Rev. W. J. (Bill) Amundsen, President, Board of Directors, AADIF (doing business as MICAP)

BACKGROUND

Following Prohibition, which was repealed in 1933, provisions were made in Michigan for the distribution of beverage alcohol. Those provisions gave the Michigan Public access to beverage alcohol, but also limited unbridled access in several ways: 1) limiting the number of hours during which beverage alcohol could be bought or served, 2) limiting the access points (only a certain number based on the population of the village, township, city, etc), 3) taxation [generally, the higher the cost, the less beverage alcohol is consumed], and 4) limiting the age at which beverage alcohol may be purchased/consumed.

Through the years, the pressure has been brought to bear on the State Legislature and the Michigan Liquor Control Commission (MLCC) to ease these restrictions.

HOUSE BILL 4573 and ADDITION

The occasion of this paper is that House Bill 4573 is in a FAST-TRACK stage in its journey toward becoming law. If passed, HB 4573 would provide that Licensees selling beverage alcohol in Michigan could purchase a permit to remain open longer in the wee hours of the morning. Licensed sellers of beverage alcohol could then remain open past the 2:00 a.m. closing time to 4:00 a.m. An additional Bill has been subsumed under HB 4573 which would provide for the sale of Alcoholic Beverages between 7:00 a.m. and 12:00 noon on Sundays. Current rules limit beverage alcohol sales on Sunday from 12 noon to 2:00 a.m. (Monday morning)

LEVEL THE PLAYING FIELD

The argument, as I hear it from one of our representatives, is supposed unfair competition by Windsor Casinos (across from Detroit). The implication (unsaid) is that Windsor stores, bars, and casinos sell beverage alcohol until 4:00 a.m. By adding the extra two (2) hours for Michigan servers and retailers to sell beverage alcohol, the playing field would be leveled.

ALAS! THE PLAYING FIELD IS ALREADY LEVEL

Yes, the playing field is already level! I, personally, called the Windsor establishments. Their telephone answering machines confirmed that their bar hours are still listed with a 2:00 a.m. closing time. Additionally, the internet tells me that the Province of Ontario, Canada (in which Windsor is situated) moved from a 1:00 a.m. closing time to a 2:00 a.m. closing time in 1996 because Michigan regulations allowed beverage alcohol sales until 2:00 a.m. When that happened, Windsor experienced a sudden rise in alcohol-related motor vehicle casualties in the Windsor area. This was contrasted by a significant decrease in motor vehicle casualties in the Detroit area in the same time frame (Vingilis, 2006).¹ Experts believe the reason is that “repatriated” Windsor drivers are now driving in Windsor after the extended opening hours.

MORE TO THE POINT!

More to the point are the checks to access built into the historical Michigan system when Prohibition was reversed in 1933. They are listed in the first paragraph above. Our forefathers knew that there are some persons who are unable or unwilling to police themselves with regard to beverage alcohol. By including LIMITED HOURS, those who first organized the beverage alcohol distribution system in Michigan put that safeguard in for all of us. By stripping away the limitations, we jeopardize the well-being of the whole state, including those who cannot police themselves.

BUT MY, THOSE DOLLARS MAY LOOK GOOD

Up to this point, no one criticizing HB 4573 has said anything about the financial difficulty the State of Michigan is in at the present, nor what effect that might have on votes to adopt HB 4573. When first created, HB4573 asked for a \$5000.00 fee for an “extra hours” permit. The added Sunday permit would have cost \$2500.00 on top of that. More recently, both “extra hours” permits have been reduced to \$2500.00 and \$1500.00 respectively, and I suspect they will be further reduced. I suspect that to get it passed, the cost will have dropped enough to make it enticing for every casino, bar and retail store in the state to purchase them. That would mean a larger influx of dollars into the state coffers. **But it would be disastrous social policy with the costs far out-weighting the income produced by the permits.**

YOUR SUPPORT IS NEEDED NOW

Michigan does not need longer “open hours” for bars, hotels, grocery stores, casinos, or other retail establishments. Any lengthening of those hours will add injury to the already stressed “social fabric” of our state in many ways, including: business failures, motor vehicle accidents, poor job performance, injuries, assaults, disease, bankruptcies and a host of other incidents. Please write or call your Michigan Legislators and ask them to say “NO” to HB 4573 and/or any other bill which replaces it but encourages the same action. HB 4573 is deplorable social policy. It puts the interests of the liquor, casino, and tourism industries ahead of the interests of the common citizens in Michigan. The costs incurred by the state will never be covered by the fees established within the Bill.

LAME DUCK LEGISLATION

This Bill had its Third Reading in October, 2007. Because a Session of the Michigan Legislature lasts 2 years, **HB 4573 DID NOT DIE ON December 31, 2007.** Instead, it is poised to be adopted whenever sponsors choose to bring it up to a vote. A friend tells me that those pushing for more sales hours will wait until after Fall Elections. Then, they’ll use the old “Lame Duck” approach to get it adopted. What is that? It’s this: “Well, you won’t have anything to lose by voting for this (BAD) piece of legislation, so go ahead and vote for it anyway” rationale. My friend thinks it will sail right through and become law.

We, at MICAP do not think it will sail through! Michigan Legislators are really quite astute. Because sponsors and lobbyists used bogus claims to sponsor Bill 4573, Michigan Legislators will resist voting for a bill which is clearly “Bad” social policy. Consider the ramifications of being able to sit in a bar and drink for two more hours before driving home. That, in itself, is tantamount to raising the death toll in Michigan from alcohol-related auto crashes.

We, at MICAP are urging you, our Constituency, to write to your State Representative AND your State Senator (Yes, if it passes the House, it will go directly to the Senate) to remind them to vote “NO” whenever this comes up for a vote. We are also urging you to write to our Governor, Jennifer M. Granholm, urging her to veto this legislation if it should be adopted. The address information is below.

THANK YOU

Thank You, AGAIN, for your help on this issue. Let us continue to let our Senators and Representatives know what **BAD SOCIAL POLICY HR 4573 IS FOR THE CITIZENS OF THE STATE OF MICHIGAN.** I, personally, look forward to the day when **HR 4573** will be recessed for good and we can concentrate on some other issues.

Address Information for our Representatives, Senators, and Governor

A. E-Mail Addresses for these persons are as follows:

1. E-Mail addresses for your Michigan Senators can be found at <www.michgo.com> and then by clicking on “Mi Senate”.
2. E-Mail addresses for your Michigan Representatives can be found at <www.michgo.com> and then by clicking on “Mi Representatives”
3. To E-Mail Governor Granholm, go to <<mi.gov/gov>>. Then scroll down to, and click on “share your opinions.” Because of virus concerns, the governor’s office is unable to respond to e-mails, so leave your home address and telephone number in the body of your message to receive a response.

B. Regular postal mail may be addressed as follows:

1. Michigan Senators may be addressed at: P. O. Box 30036, Lansing, Michigan, 48909-7536
2. Michigan Representatives may be addressed at: P. O. Box 30014, Lansing, Michigan 48909-7514.
3. Postal mail may be sent to our Governor at: The Honorable Jennifer M. Granholm, Governor, P. O. Box 30013, Lansing, Michigan 48909

C. Points to make in your written correspondence include:

1. The Liquor Lobby’s claim that Windsor and Ontario bars are open to 4 a.m. is a bogus claim. A 1996 Ontario Law mandates bars close at 2:00 A.M. because Michigan moved from 1 a.m. to 2 a.m.
2. There are plenty of sales hours for persons feeling the need to purchase beverage alcohol between 7 a.m. and 2 a.m. weekdays, and 12 Noon and 2:00 a.m. on Sunday.
3. Extra hours will only enable problem drinkers to add more problems to our highways, our families, our communities, and their own person.
4. The dollars received for permits will be a drop in the bucket compared to the overwhelming cost of accidents and other consequences of extended hours in the wee morning and early Sunday morning.