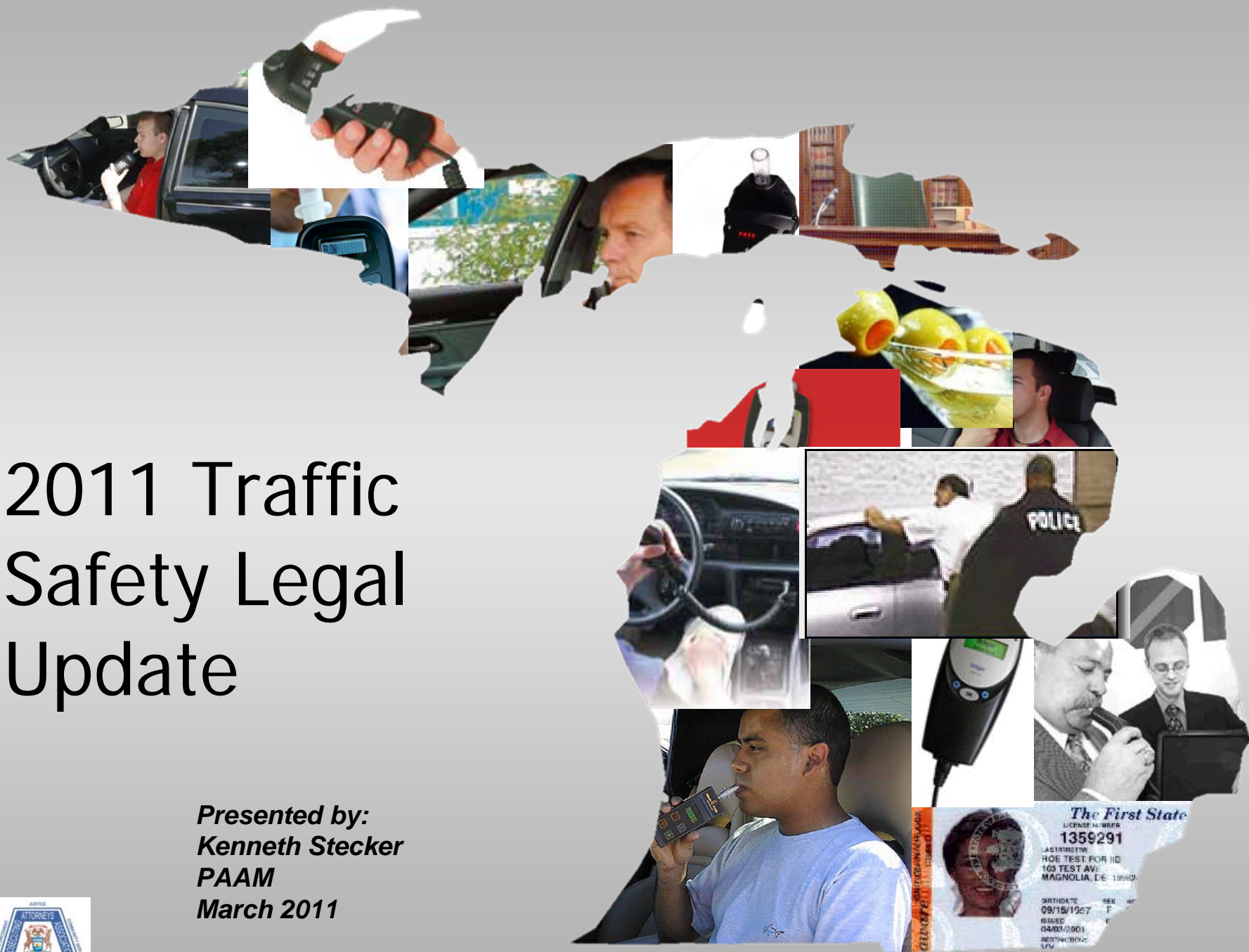


2011 Traffic Safety Legal Update

*Presented by:
Kenneth Stecker
PAAM
March 2011*





CHASE LITOU

People v Hyde, No. 282782 (Mich. App., September 1, 2009)

- The Court held that taking the blood sample under the implied consent law was improper due to the defendant's diabetes.
- Therefore, the Court concluded that the defendant's blood was unconstitutionally seized in violation of the 4th Amendment, and the test results should be suppressed.



Operated a Vehicle (not just “driving”)

A person, whether licensed or not, shall not **operate** a vehicle upon highway or other place open to the general public or generally accessible to motor vehicles including an area designated for the parking of vehicles.....MCL 257.625(1).

People v Stephens, 262 Mich App 213 (2004)

People v Solmonson, 261 Mich App 657 (2004)

Even if suspect was not “operating” at moment that police observed conduct (sleeping in a parked car), can still be charged and convicted if can prove circumstantially that suspect was operating vehicle while intoxicated prior to the police approach.





People v. Lechleitner, No. 293577

(Mich. App., December 7, 2010)

- The Court ruled that “A person who places a motor vehicle in motion or in a position posing a significant risk of causing a collision, remains responsible for that motor vehicle until such time as that vehicle is put into some position where it poses no risk to other drivers.”

People v Horton, Mich App, March 31, 2009

Information provided to law enforcement officers by concerned citizens who have personally observed suspicious activities is entitled to a finding of reliability when the information is sufficiently detailed and is corroborated within a reasonable time period of time by the officer's own observations.





People v Burruss,
2009)

Case No. 281039 (Mich. App., Nov. 18,

The dangling ornaments did not create reasonable suspicion for stopping a vehicle properly registered in another state.



Statutory Law Update

Basic Driver Improvement Course

Law-MCL 257.320d

- Effective, December 31, 2010, the SOS shall not enter points corresponding to a moving violation committed by an individual if the individual attends and successfully completes a basic driver improvement course.
- An individual is ineligible to take a basic driver improvement course for a number of reasons including the violation is a criminal offense or the violation is for which 4 or more points may be assessed, or the individual has 3 or more points on his or her driving record. MCL 257.320d(3)(a)-(h).





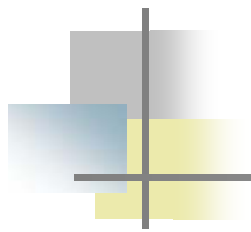
Beer Keg Law

- Effective, December 21, 2010, 2010 PA 344 requires sold beer kegs to have an identification tag that allows the keg to be traced to the purchaser.
 - Remove an identification tag from a beer keg. MCL 436.2030(5)(b)(i).
 - Allow the removal of the ID tag from a beer keg purchased by that individual. MCL 436.2030(5)(b)(ii).
 - Provide false information in the purchase of a beer keg. MCL 436.2030(5)(b)(iii).
- Misdemeanor-93 days and/or a fine of up to \$500.

Graduated Driver License (GDL)

- MCL 257.310e, effective 3/30/11, will make two major changes to the GDL and affects the number of passengers and hours of operation for a level 2 driver.





High BTAC Law

“Michigan’s High BAC / Ignition Interlock” Law

Effective, October 31, 2010, MCL 257.625(1)(c) prohibits operation of a vehicle if:

(c) The person has an alcohol content of 0.17 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.

- Law only applies to first-time offenders
- Implied consent applies
- There will be 3 different “drunk driving” crimes





“High BAC” Criminal Penalties

- Misdemeanor-maximum of 180 days
- \$200-\$700.00 in fines
- Up to 360 hours community service
- Cost of Prosecution
- Immobilization not exceeding 180 days allowed
- 6 points



Operating Without an Interlock

- MCL 257.625I(2): “A person who is only permitted to operate a motor vehicle equipped with an ignition interlock device shall not operate a motor vehicle on which an ignition interlock devices is not properly installed.”

Requesting That Another Person Blow into an Interlock

- MCL 257.625I(3): “A person who has an ignition interlock device installed and whose driving privileges is restricted shall not request or solicit any other person to blow into an ignition interlock device or to start a vehicle equipped with the device for the purpose of providing the person whose driving privileges is restricted with an operable vehicle.”



Blowing into an Interlock for another Person

- MCL 257.625I(4): “A person shall not blow into an ignition interlock device or start a motor vehicle equipped with the device for the purpose of providing an operable vehicle to a person who has an interlock device installed and whose driving privileges are restricted.”





Tampering with an Interlock

- MCL 257.625I(3): “A person shall not blow into an ignition interlock device or start a motor vehicle equipped with the device for the purpose of providing an operable vehicle to a person who has an interlock device installed and whose driving privileges are restricted.”



Criminal Penalty

- It is a misdemeanor punishable for up to 6 months and/or a fine of not more than \$5,000.00, or both (MCL 257.625I(6))



Breath Alcohol Ignition Interlock Devices (BAIIDs)

SOS is required to provide a list of manufacturers of approved ignition interlocks to each person who is issued a restricted license with a BAIID condition (MCL 257.625k)

Approved Ignition Interlock Device Manufacturers

- Smart Start, Inc.; LifeSafer Interlock; Draeger; Consumer Safety Technology; Alcohol Detection Systems
- These manufacturers' ignition interlock systems effectively separate drinking from driving

New Technology-Photo ID Interlock

- Records every test for accurate positive identification
- Answers the question...
Who took the test?



Photo ID client

May 2nd, 2008 09:05:37 AM

9:05:37 AM Picture Requested Test Started

9:05:50 AM Initial Test-Pass 0.000

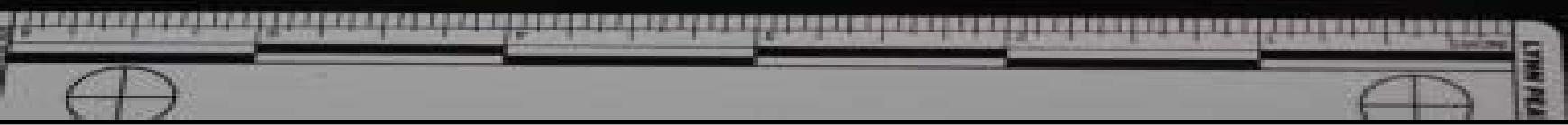
9:05:54 AM Engine Start

9:05:55 AM Picture Requested Vehicle Started





Spice/K2





SPICE/K2

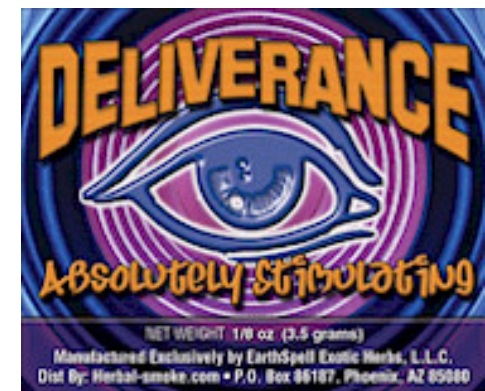
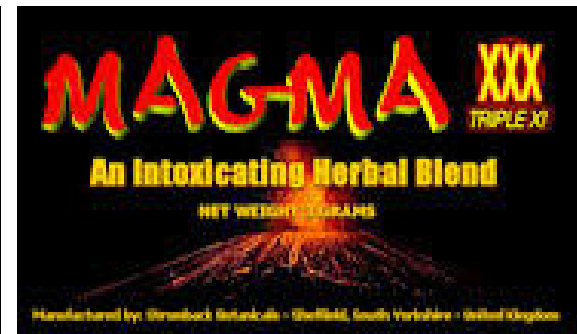
- Plant material
- Marketed as incense
- Laced with various synthetic compounds that behave like THC
- Smoked or mixed in drink or food
- Sold LEGALLY and LOCALLY
- 1g -3g packages About 2x price of pot

SPICE K2



Ingredients: Baybean, Blue Lotus, Lion's Tail, Lousewort, Indian Warrior, Dwarf Scullcap, Maconha Brava, Pink Lotus, Marshmallow, Red Clover, Rose, Siberian Motherwort, Canavalia Maritime, Leonotis Leonurus, Leonurus Sibiricus, Pedicularis Densiflora, Scutellaria Nana, Vanilla Planifolia, Zorinia Latifolia, Magnolia Officinalis, Rosa Gallica, Trifolium

Brands/Flavors



Psychoactive Compounds

Solid (white powder) or Oil

- HU-210

- Synthetic cannabinoid
- 100-800x more potent than THC
- Binds over 100 times more tightly to CB1 receptor
- Structurally and pharmacologically similar to THC

Psychoactive Compounds

Solid (white powder) or Oil

■ CP-47,497

- Synthetic cannabinoid
- Created by Pfizer 1995
- Not structurally related to THC
- NOT currently a controlled substance



■ JWH-073

- Synthetic cannabinoid
- Not structurally related to THC
- NOT currently a controlled substance

Worse than Marijuana?

- 6 week period (Feb – March 2010) ER
 - St Louis = 30 bad trips
 - Atlanta = 12
 - New Jersey = 2
 - MO Poison Control 10+ (Dec 09 – Jan 2010)



"When you take these drugs, you are hijacking the part of the brain important for many functions: temperature control, food intake, perception, memory and problem solving" – Dr. Huestis

Chief of Chemistry and Drug Metabolism
National Institute Drug Abuse



What can you do?

- **REPORT**

DEA would appreciate information related to LEO encounters, identification and abuse of Spice

DEA Headquarters

Attn: Drug and Chemical Evaluation Section

8701 Morrissette Dr

Springfield, VA 22152

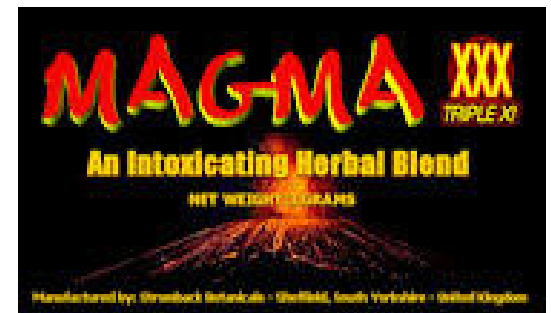
(202) 307-7183

ODE@usdoj.gov



K2 Spice Law in Michigan

- Effective, October 1, 2010, K2 Spice is classified as a Schedule 1 Controlled Substance under the Michigan Public Health Code

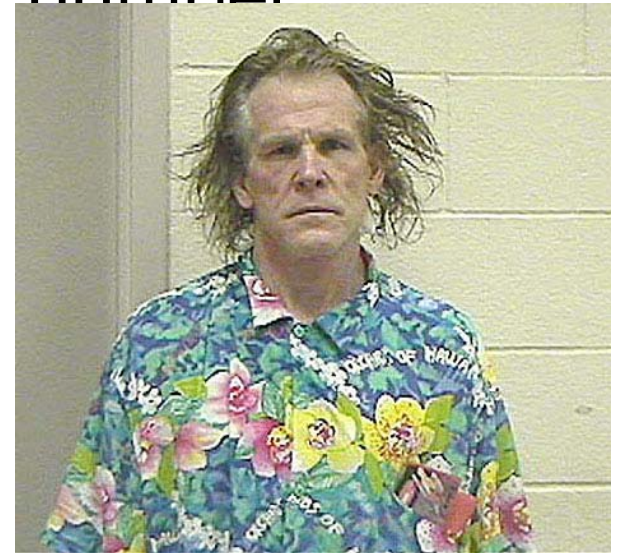




Drugged Driving

Alcohol Impaired Driver

- Bloodshot, watery eyes
- Slurred speech
- Strong odor of intoxicants
- Unable to pick the correct number between 12 and 14
- BAC of .08 or higher



Drug Impaired Driver

May be
unknown





Growing Problem

- One in three (33%) of all drivers with known drug-test results who were killed in motor vehicle crashes in 2009 tested positive for drugs (illegal substances as well as medications).
- “Drugged driving is a much bigger public health threat than most people realize.” Gil Kelikowske, Director of National Control Drug Policy.

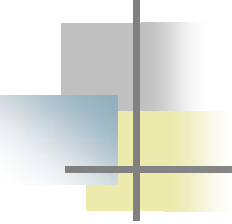


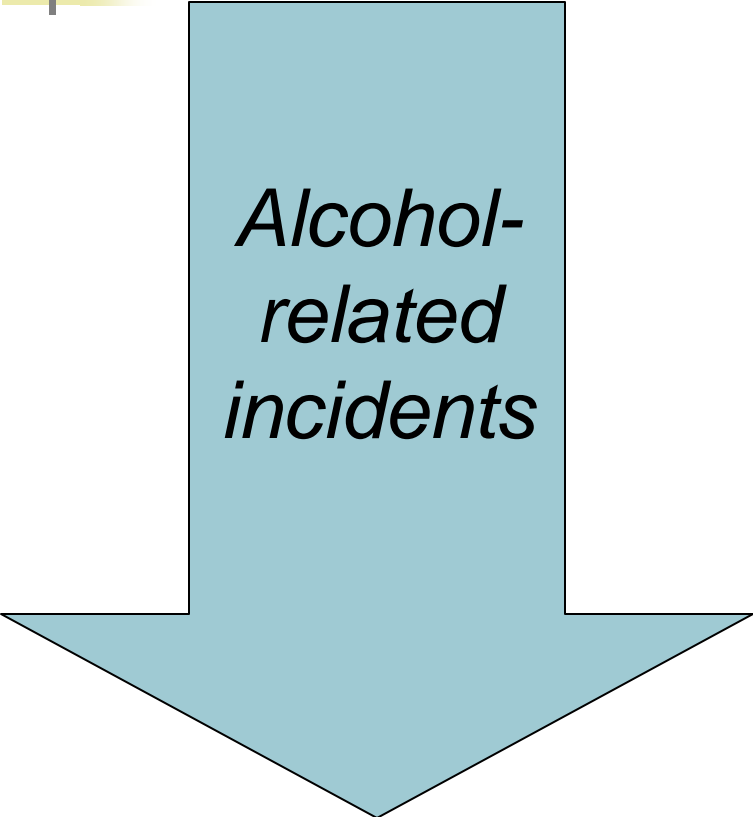
2007 National Roadside Survey

- What about the other 86.2%
 - Prescription and Over-the-Counter
 - Stimulants
 - Sedatives
 - Anti-Depressants
 - Narcotics




Michigan Drugged Driving Issues



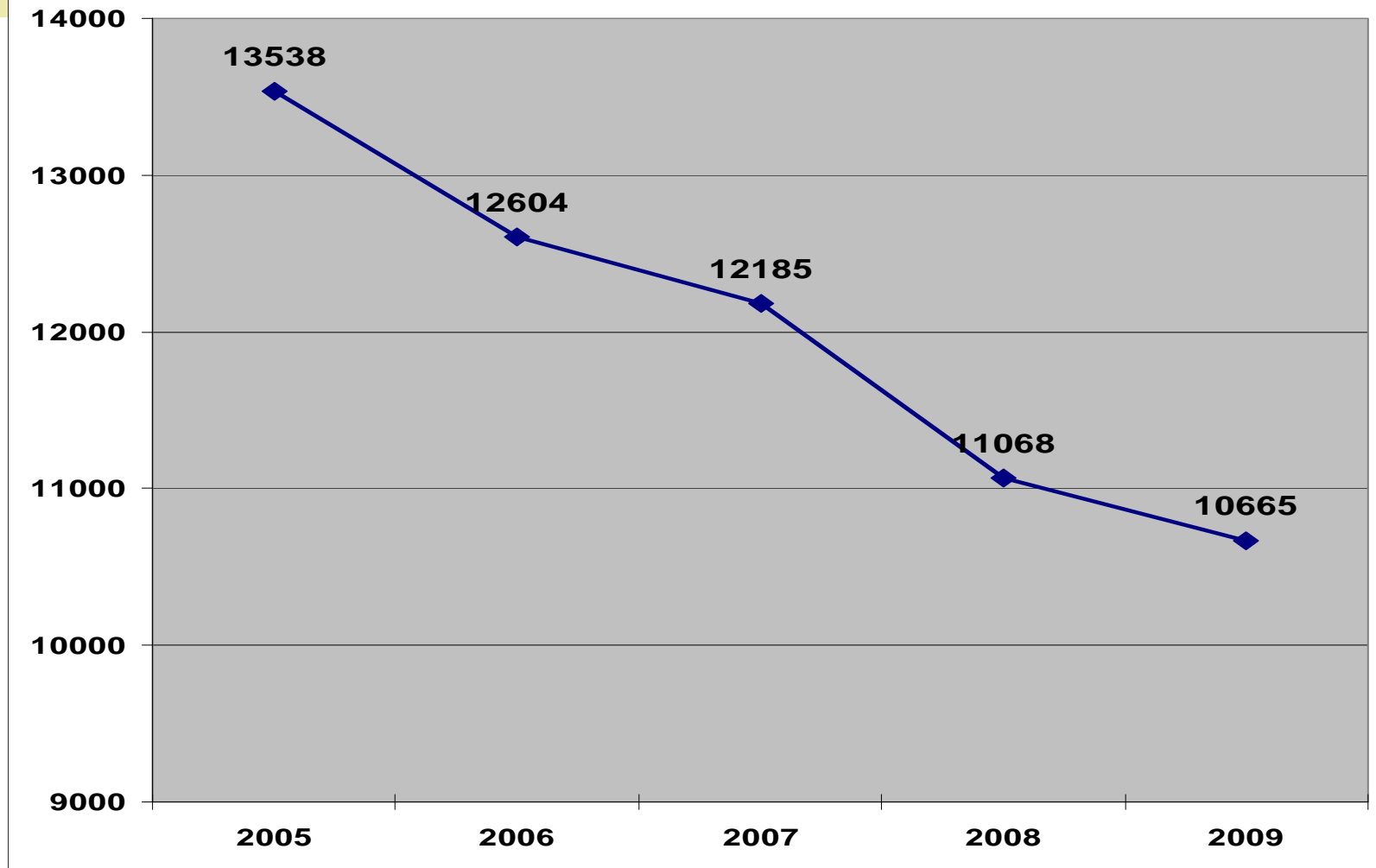


*Alcohol-
related
incidents*

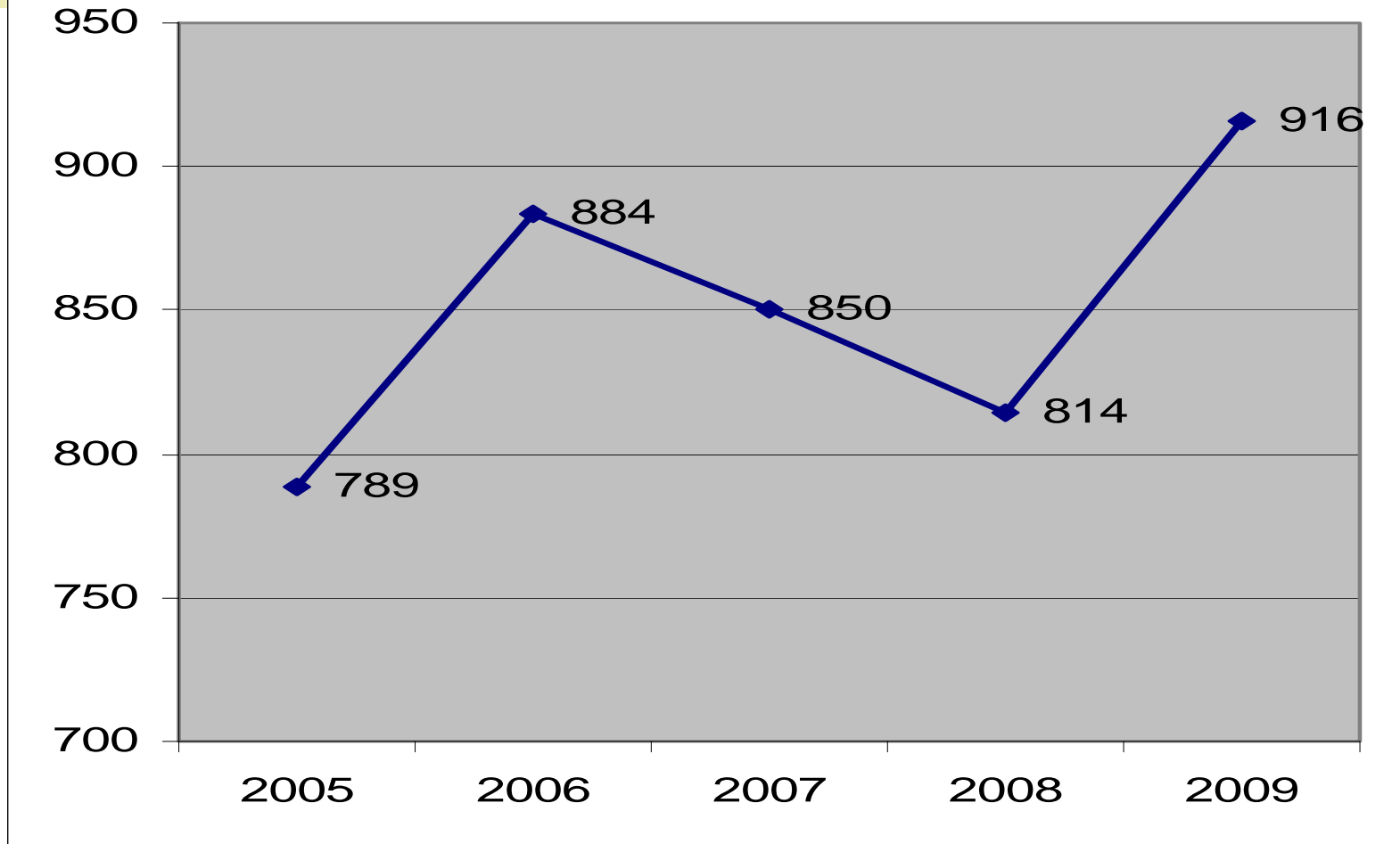


*Drug-
related
incidents*

Alcohol-Related crashes 05-09



Drug-Related crashes 05-09



Available drugs

- Marihuana
- B.C. Bud
- Diverted pharmaceutical drugs
- K2/Spice
- Ketamine
- Ambien

Problem

- Officer stops for OWI
 - No bad driving
 - Appears to be impaired
 - Performs SFST properly
 - .001 on the preliminary breath test
 - Decide to arrest or not?





Drug Evaluation and Classification Program

- As of December 2010, Michigan is a Drug Recognition Expert (DRE) State.
- First DRE Class is April-May, 2011, sponsored by OHSP.
- Three-Phase Training Program:
 - Pre-School (drug terminology)
 - DRE School (30 modules of instruction)
 - Certification Training (average 120 hours)



Advance Roadside Impaired Driving Enforcement (ARIDE)

- Train law enforcement officers to observe, identify and articulate the signs of impairment related to drugs, alcohol or a combination of both.



Difference Between DECP and ARIDE

DREs:

- 72 Hrs classroom
- Field certifications
- Comprehensive final knowledge examination
- Maintain certification through continuing education

ARIDE:

- 16 Hrs classroom
- Focus on SFST proficiency
- Broad knowledge of drug impairment indicators
- Introduction to drug identification matrix





Upcoming ARIDE Classes

- June 7-8th, Auburn Hills
 - July 12-13th, Genesee County
 - August 9-10th, Walker
-
- Contact James Leece at 517-241-2923 or leecej@michigan.gov.





Mental Health Law

What is Prohibited Under the Act?

- Smoking marijuana "in any public place"
- Smoking marijuana on any form of public transportation
- Any use by a person who has no serious or debilitating medical condition
- Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while under the influence of marijuana
- Any use or possession in a school bus
- Any use or possession on the grounds of any preschool, primary, or secondary school
- Any use or possession in any correctional facility





Other Michigan Laws

MCL 333.26427(e) reads that:

“All other acts and parts of acts inconsistent with this act do not apply to the **medical use** of marihuana as provided by this act.”



Operation of a Motor Vehicle

- Although the Act prohibits the operation of any motor vehicle while under the influence of Marihuana; it does not make reference to Michigan's current OUID Per Se Law.



People v Feezel, No. 138031 (Mich. Sup. Ct., June 8, 2010)

- The Court ruled that 11-Carboxy-THC ("TCOOH") is not a derivative of marihuana.
- In doing so, the *Feezel* Court removed 11-Carboxy-THC ("TCOOH") from the list of Schedule 1 "controlled substances" that can be considered under MCL 257.625(8).



People v. Koon, November 16, 2010

- The Circuit Court ruled that:
“The MMMA, which supersedes MCL 257.625, states that qualified patients are proscribed from operating a motor vehicle while under the influence of marijuana. Therefore, evidence of impairment is a necessary requirement.”



People v. Chase, September 23, 2010

- The District Court ruled that:
“MCL 257.625(8) was not amended after the adoption of the Medical Marihuana Act to carve out an exception for the medical marihuana qualified patients to drive with THC in their system.”



OUID LAW in Michigan

- If any amount of a schedule one controlled substance (e.g. marihuana) or cocaine in body, the Prosecutor does not need to prove that suspect was under the influence or impaired. MCL 257.625(8). If it is not a schedule one or cocaine, the Prosecutor must prove operating under the influence or impaired. MCL 257.625(1).
- 11-Carboxy THC ("TCOOH") is not a schedule 1 controlled substance -- the prosecution can not charge a defendant for OUID Per Se if the defendant only has 11-Carboxy THC ("TCOOH") in his/her system. *People v. Feezel*, No. 138031 (Mich. Sup. Ct., June 8, 2010).





FOX FOX

11 NEWS NEWS

SAN DIEGO MARIJUANA FIR

Jimmy Kimmel

ebaumsworld.com



Alcoholic Energy Drinks

Do you know the difference?

- Can you tell which of these contains alcohol?



3 SUM

■ **3SUM** is an Alcopop "infused" with the energy components caffeine, ginseng, and taurine. 3SUM is considered an energy drink and a flavored alcoholic beverage. 3SUM is available in 4 different flavors: original, apple, tropical, and watermelon.





Banned in Michigan

- On November 4, 2010, Michigan's Liquor Control Commission announced a statewide ban in Michigan on stimulant-laced alcoholic energy drinks.
- The decision was made in light of the several studies regarding alcohol energy drinks, the widespread community concerns aired by substance abuse prevention groups, parent groups and various members of the public.
- Manufacturers had until December 2, 2010 to remove these products from the market. Website of the following products banned in Michigan:

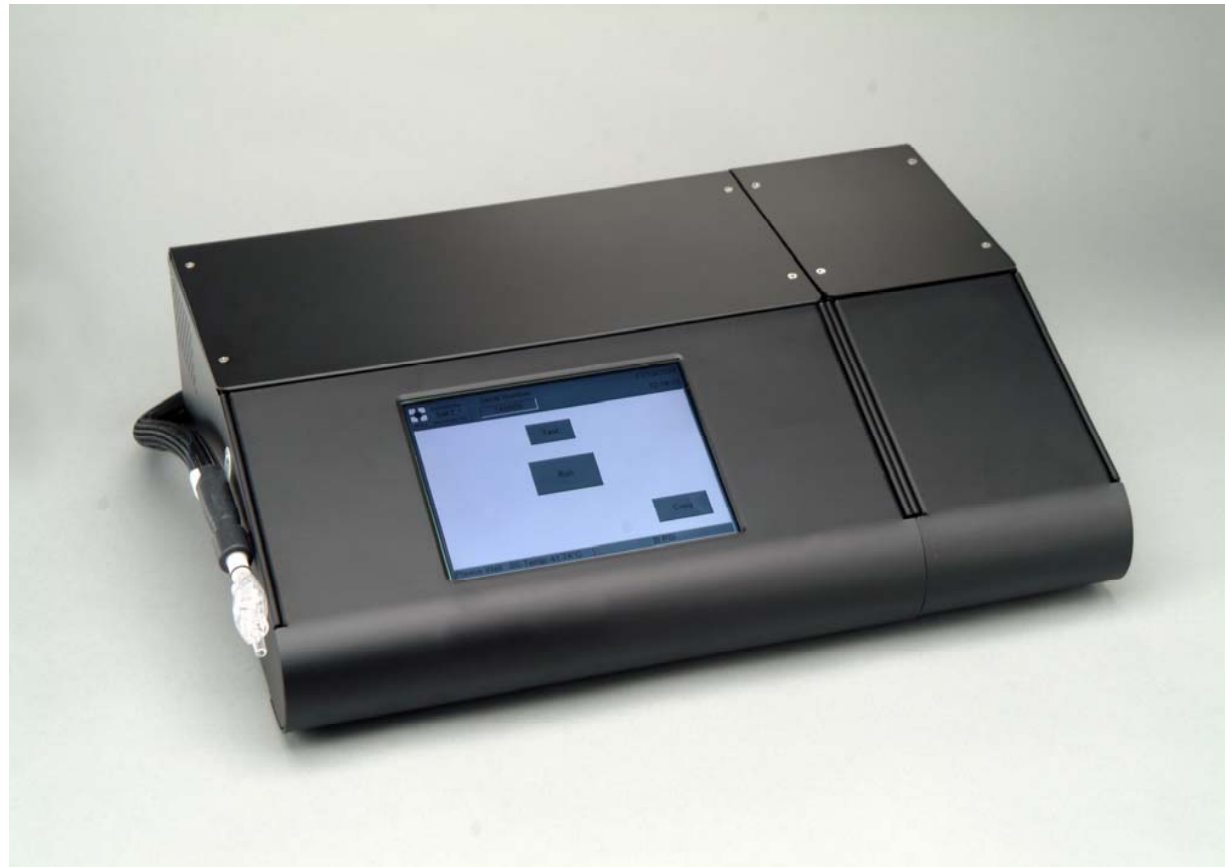
http://www.michigan.gov/documents/dleg/11_AED_Product_Release_12-2-2010_339777_7.pdf





New DataMaster

NEW DATAMASTER



NEW DATAMASTER W/GAS TANK



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QUESTIONS?