

# QUARTERLY NEWSLETTER: LEGAL UPDATES & NEWS

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## SKYE SUH'S NOTE:

Dear clients and community:

Thank you for your continuous support. If there are any topics or questions that you would personally like addressed, please email us at [mail@skyesuhplc.com](mailto:mail@skyesuhplc.com) or write us at **SKYE SUH, PLC, 32000 Northwestern Hwy., Suite 260, Farmington Hills, MI 48334.**

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## DRINKING & DRIVING: YOU COULD BE DEPORTED

### Driving under the Influence as Basis for Deportation

Most people do not realize that even if they only have one drink and get behind the wheel of a car, that there is a very good chance that they are in violation of Michigan's drunk driving laws, which are considered some of the toughest in the nation.

There is no minimum blood alcohol content (BAC) for you to be convicted of an impaired driving offense. Any amount of alcohol may be sufficient for a conviction of Operating While Impaired.

In addition to the fines and court costs, estimated in Michigan at \$1,990.00, for a first offense, the license suspension and the increased insurance expense, drunk driving convictions can impact your immigration status. If while driving under the influence, you are in-

involved in a serious injury accident, including passengers in your own vehicle, or you have two prior alcohol related offenses, you can be charged with a felony.

A single felony conviction for alcohol related driving offenses is sufficient for you to be immediately placed in mandatory detention and removed (formerly deported) from the United States. While the United States Supreme Court ruled in 2004, that the removal is not automatic, the burden is upon the non-citizen to demonstrate a compelling reason to remain in the United States.

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## NEXT MONTH'S TOPICS:

- Visa and Greencards through investments
- Soliciting Minors on the Internet: a deportable offense
- The importance of answering a complaint and attending court hearings

**INSIDE STORY HEADLINE****Consequences of Failure to Depart after Deportation Order**

Consider the consequences of failing to depart after ordered by an Immigration Judge:

*Hypothetical:* Jim is found in violation of his visa status in State X. Jim is put into immigration deportation proceedings. Immigration Judge in State X enters an order of voluntary departure. Jim fails to depart within the specified time (90 days). Jim does not understand that the consequences of his failure to depart. Jim does not turn in the documents required to be turned in within the 90 days to notify USCIS that Jim has timely departed.

Five years pass. Jim decides to travel outside the United States. Jim is stopped for routine document verification at the port of entry, entering into Country Z. In reviewing Jim's documents for entry into Country Z, Country Z's examination determines that an Order of Voluntary Departure was entered against Jim five years ago, and that Jim did not depart as ordered. Country Z officials contact United States Border Patrol ("USBP") officers, to detain Jim. USBP officer arrests Jim and puts him in jail. Jim sits in jail for weeks waiting for USBP to enforce the five year old order from the Immigration Judge. After several weeks, Jim is escorted by USBP offi-

cers to an airplane and Jim is exported to Jim's home country.

*Law:* Willful failure to depart the U.S. within 90 days of a final deportation order is a felony punishable by up to 4 years. If the person was deportable because of a criminal offense, security issues, or falsification of documents, the individual is subject to a felony punishable by 10 years.

When USBP is enforcing a previous deportation order from an Immigration Judge, the individual has very limited recourse. Failure to timely depart as ordered renders the person a felon under United States immigration law. Accordingly, the individual will be barred from entry into the U.S. in the future. Further, individuals determined to be "felons" are ineligible for immigration waivers.

*Qualified immigration legal counsel should be consulted in the event as individual is detained and put in custody by USBP.*

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**Guardianship for Minors.**

Many people send their minor children abroad to study in the United States. This provides a wonderful cross-cultural experience for the children and an invaluable education experience in U.S. schools. Most parents do not consider the possibility of something going wrong; however, parents must consider and provide for safeguard of their children's well-being. In the United States, minors do not have the same rights as adults. The age of a consenting "adult" may differ from state to state and for various purposes. For example, the legal driving age in the State of Michigan is 16 years. The legal age for voting is 18 years. The legal drinking age is 21 years. More importantly, in many cases, a child must be 18 or older to consent to surgery. This means that hospitals and doctors require the legal parent's or guardian's consent for any necessary surgery. If a parent is sending a child overseas, they should appoint a trusted person as the child's guardian and give him/her the power to act on the parent's behalf for matters that may be beyond the parent's control, such as a medical emergency. Giving another person power to make decisions can be accomplished by a power of attorney. Also, certain schools require certain forms, so always check with the school that your child is attending. Parents should also make sure that they have obtained appropriate health insurance for their child while in the United States. Many schools will offer health insurance at a discounted rate.

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