

HOUSE BILL No. 4343

March 17, 1987, Introduced by Reps. Bandstra, Hollister, Fitzgerald, Kosteva, Gilmer, Knight, Van Singel, Hoekman, Honigman, Sikkema, Strand, DeLange, Leland, Stabenow, Kilpatrick, Smith, Hertel, Bartnik, Dutko, Hickner, Emmons, Martin, Gubow, Bennane, Willis Bullard, Middaugh, Brown, Hillegonds, Johnson and Munsell and referred to the Committee on Judiciary.

A bill to amend sections 745 and 907 of Act No. 300 of the Public Acts of 1949, entitled as amended "Michigan vehicle code," section 907 as amended by Act No. 1 of the Public Acts of 1985, being sections 257.745 and 257.907 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 745 and 907 of Act No. 300 of the
2 Public Acts of 1949, section 907 as amended by Act No. 1 of the
3 Public Acts of 1985, being sections 257.745 and 257.907 of the
4 Michigan Compiled Laws, are amended to read as follows:

5 Sec. 745. (1) A person to whom a citation is issued under
6 section 742 shall appear by or at the time specified in the
7 citation and may respond to the allegations in the citation as
8 provided in this section.

1 (2) If the person wishes to admit responsibility for the
2 civil infraction, the person may do so by appearing in person, by
3 representation, or by mail. If appearance is made by representa-
4 tion or mail, the court may accept the admission with the same
5 effect as though the person personally appeared in court. Upon
6 acceptance of the admission, the court may order any of the sanc-
7 tions permitted under section 907.

8 (3) If the person wishes to admit responsibility for the
9 civil infraction "with explanation", the person may do so in
10 either of the following ways:

11 (a) By appearing by mail.

12 (b) By contacting the court in person, by mail, by tele-
13 phone, or by representation to obtain from the court a scheduled
14 date and time to appear, at which time the person shall appear in
15 person or by representation.

16 (4) If a person admits responsibility for a civil infraction
17 "with explanation" under subsection (3), the court shall accept
18 the admission as though the person has admitted responsibility
19 under subsection (2) and may consider the person's explanation by
20 way of mitigating any sanction which the court may order under
21 section 907. HOWEVER, MITIGATION OF THE SANCTION FOR A VIOLATION
22 OF SECTION 674(1)(S) OR 710E IS SUBJECT TO THE LIMITATIONS SET
23 FORTH IN SECTION 907(2). If appearance is made by representation
24 or mail, the court may accept the admission with the same effect
25 as though the person personally appeared in court, but the court
26 may require the person to provide a further explanation or to
27 appear in court.

1 (5) If the person wishes to deny responsibility for a civil
2 infraction, the person shall do so by appearing for an informal
3 or formal hearing. Unless the hearing date is specified on the
4 citation, the person shall contact the court in person, by repre-
5 sentation, by mail, or by telephone, and obtain a scheduled date
6 and time to appear for an informal or formal hearing. The court
7 shall schedule an informal hearing, unless the person expressly
8 requests a formal hearing. If the hearing date is specified on
9 the citation, the person shall appear on that date for an infor-
10 mal hearing unless the person contacts the court at least 10 days
11 before that date in person, by representation, by mail, or by
12 telephone to request a formal hearing. If the person expressly
13 requests a formal hearing, the court shall schedule a formal
14 hearing. If a hearing is scheduled by telephone, the court shall
15 mail the defendant a confirming notice of that hearing by regular
16 mail to the address appearing on the citation or to an address
17 which may be furnished by the defendant. An informal hearing
18 shall be conducted pursuant to section 746 and a formal hearing
19 shall be conducted pursuant to section 747.

20 Sec. 907. (1) A violation of this act or a local ordinance
21 substantially corresponding to a provision of this act, which is
22 designated a civil infraction shall not be considered a lesser
23 included offense of a criminal offense.

24 (2) If a person is determined pursuant to sections 741 to
25 750 to be responsible or responsible "with explanation" for a
26 civil infraction under this act or a local ordinance
27 substantially corresponding to a provision of this act, the

1 judge, district court referee, or district court magistrate may
2 order the person to pay a civil fine of not more than \$100.00 and
3 costs as provided in subsection (3). However, ~~beginning~~
4 ~~March 30, 1983, a person determined pursuant to sections 741 to~~
5 ~~750 to be responsible or responsible "with explanation" for a~~
6 ~~civil infraction under~~ VIOLATION OF section 674(1)(s) or a
7 local ordinance substantially corresponding to section 674(1)(s)
8 THE PERSON shall be ordered to pay costs as provided in subsec-
9 tion (3) and ~~shall be ordered to pay~~ a civil fine of not less
10 than \$20.00 nor more than \$100.00, UNLESS THE JUDGE, REFEREE, OR
11 MAGISTRATE MAKES A FINDING ON THE RECORD OR IN WRITING THAT,
12 UNDER THE CIRCUMSTANCES SURROUNDING THE INFRACTION, THE IMPOSI-
13 TION OF THE MINIMUM FINE OF \$20.00 OR OF ANY FINE AND COSTS WOULD
14 BE UNJUST. For a violation of section 710d, the civil fine
15 ordered under this subsection shall not exceed \$10.00. ~~Until~~
16 ~~January 1, 1986, for~~ FOR a violation of section 710e, the ~~civil~~
17 ~~fine ordered under this subsection shall not exceed \$10.00.~~
18 ~~After January 1, 1986, for a violation of section 710e, the civil~~
19 ~~fine and court costs ordered under this subsection shall be~~
20 ~~\$25.00~~ PERSON SHALL BE ORDERED TO PAY A CIVIL FINE AND COURT
21 COSTS TOTALING \$25.00, UNLESS THE JUDGE, REFEREE, OR MAGISTRATE
22 MAKES A FINDING ON THE RECORD OR IN WRITING THAT, UNDER THE CIR-
23 CUMSTANCES SURROUNDING THE INFRACTION, THE IMPOSITION OF THE FULL
24 AMOUNT OF THE FINE AND COSTS OR OF ANY FINE AND COSTS WOULD BE
25 UNJUST. Permission may be granted for payment of a civil fine
26 and costs to be made within a specified period of time or in
27 specified installments, but ~~in the absence of~~ UNLESS permission

1 ~~being~~ IS included in the order or judgment, the civil fine and
2 costs shall be payable immediately.

3 (3) If a civil fine is ordered to be paid under
4 subsection (2), the judge, district court referee, or district
5 court magistrate shall summarily tax and determine the costs of
6 the action, which shall not be limited to the costs taxable in
7 ordinary civil actions, and may include all expenses, direct and
8 indirect, to which the plaintiff has been put in connection with
9 the civil infraction, up to the entry of judgment. Except in a
10 civil infraction for a parking violation, costs of not less than
11 \$5.00 shall be ordered. Costs shall not be ordered in excess of
12 \$100.00. Except as otherwise provided by law, costs shall be
13 payable to the general fund of the plaintiff.

14 (4) In addition to a civil fine and costs ordered under
15 subsection (2), the judge, district court referee, or district
16 court magistrate may order the person to attend and complete a
17 program of treatment, education, or rehabilitation.

18 (5) A district court referee or district court magistrate
19 shall impose the sanctions permitted under subsections (2) and
20 (4) only to the extent expressly authorized by the chief judge or
21 only judge of the district court district.

22 (6) Each district of the district court and each municipal
23 court may establish a schedule of civil fines and costs to be
24 imposed for civil infractions which occur within the respective
25 district or city. If a schedule is established, it shall be
26 prominently posted and readily available for public inspection.
27 A schedule need not include all violations which are designated

1 by law or ordinance as civil infractions. A schedule may exclude
2 cases on the basis of a defendant's prior record of civil infrac-
3 tions or traffic offenses, or a combination of civil infractions
4 and traffic offenses.

5 (7) The state court administrator shall annually publish and
6 distribute to each district and court a recommended range of
7 civil fines and costs for first-time civil infractions. This
8 recommendation shall not be binding upon the courts having juris-
9 diction over civil infractions but is intended to act as a norma-
10 tive guide for judges, district court referees, and district
11 court magistrates and a basis for public evaluation of dispari-
12 ties in the imposition of civil fines and costs throughout the
13 state.

14 (8) If a person has received a civil infraction citation for
15 defective safety equipment on a vehicle under section 683, the
16 court shall waive a civil fine and costs, upon receipt of certi-
17 fication by a law enforcement agency that repair of the defective
18 equipment was made before the appearance date on the citation.

19 (9) If a person has received a civil infraction citation
20 under section 328 for failure to produce evidence that a motor
21 vehicle is insured under chapter 31 of the insurance code of
22 1956, Act No. 218 of the Public Acts of 1956, as amended, being
23 sections 500.3101 to 500.3179 of the Michigan Compiled Laws, the
24 court shall waive a civil fine and costs upon receipt of certifi-
25 cation by a law enforcement agency that the defendant, before the
26 appearance date on the citation, has produced evidence that the

1 vehicle was insured on the date of issuance of the citation as
2 required.

3 (10) A default in the payment of a civil fine or costs
4 ordered under subsection (2) or an installment of the fine or
5 costs may be collected by a means authorized for the enforcement
6 of a judgment under chapter 40 of the revised judicature act of
7 1961, Act No. 236 of the Public Acts of 1961, as amended, being
8 sections 600.4001 to 600.4065 of the Michigan Compiled Laws, or
9 under chapter 60 of Act No. 236 of the Public Acts of 1961, as
10 amended, being sections 600.6001 to ~~600.6097~~ 600.6098 of the
11 Michigan Compiled Laws.

12 (11) If a person fails to comply with an order or judgment
13 issued pursuant to this section, within the time prescribed by
14 the court, the ~~driver's~~ OPERATOR'S OR CHAUFFEUR'S license of
15 that person shall be suspended pursuant to section 321a until
16 full compliance with that order or judgment occurs. In addition
17 to this suspension, the court may also proceed under
18 section 908.

19 (12) The court shall waive any civil fine or ~~cost~~ COSTS
20 against a person who received a civil infraction citation for a
21 violation of section 710d if the person, before the appearance
22 date on the citation, supplies the court with evidence of acqui-
23 sition, purchase, or rental of a child seating system meeting the
24 requirements of section 710d.

25 (13) In addition to any fines and costs ordered to be paid
26 under this section, the judge, district court referee, or
27 district court magistrate shall levy an assessment of \$5.00 for

1 each civil infraction determination, except for a parking
2 violation or a violation for which the total fine and costs
3 imposed are \$10.00 or less. Upon payment of the assessment, the
4 clerk of the court shall transmit the assessment levied to the
5 state treasury to be deposited into the Michigan justice training
6 fund. An assessment levied under this subsection shall not be
7 considered a civil fine for purposes of section 909.

8 (14) If a person has received a citation for a violation of
9 section 223, the court shall waive any fine and costs, upon
10 receipt of certification by a law enforcement agency that the
11 person, before the appearance date on the citation, produced a
12 valid registration certificate that was valid on the date the
13 violation of section 223 occurred.