

HOUSE BILL No. 5420

January 25, 1990, Introduced by Reps. Crandall, Fitzgerald, Knight, Ouwinga, Hoekman, Middaugh, Gilmer, Munsell, Emmons, Camp, Stacey, Bandstra, Muxlow, Bender, Van Regenmorter, DeLange, Allen, Krause and Willis Bullard and referred to the Committee on Transportation.

A bill to amend sections 709 and 907 of Act No. 300 of the Public Acts of 1949, entitled as amended

"Michigan vehicle code,"

section 709 as amended by Act No. 470 of the Public Acts of 1988 and section 907 as amended by Act No. 89 of the Public Acts of 1989, being sections 257.709 and 257.907 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 709 and 907 of Act No. 300 of the
2 Public Acts of 1949, section 709 as amended by Act No. 470 of the
3 Public Acts of 1988 and section 907 as amended by Act No. 89 of
4 the Public Acts of 1989, being sections 257.709 and 257.907 of
5 the Michigan Compiled Laws, are amended to read as follows:

6 Sec. 709. (1) A person shall not drive a motor vehicle with
7 any of the following:

1 (a) A sign, poster, nontransparent material, window
2 application, reflective film, or nonreflective film upon or in
3 the front windshield, the side windows immediately adjacent to
4 the driver or front passenger, or the sidewings adjacent to and
5 forward of the driver or front passenger, except that a tinted
6 film may be used along the top edge of the windshield and the
7 side windows or sidewings immediately adjacent to the driver or
8 front passenger if the material does not extend more than 4
9 inches from the top of the windshield, or lower than the shade
10 band, whichever is closer to the top of the windshield.

11 (b) A rear window or side window to the rear of the driver
12 composed of, covered by, or treated with a material that creates
13 a total solar reflectance of 35% or more in the visible light
14 range, including a silver or gold reflective film.

15 (c) A dangling ornament or other suspended object except as
16 authorized by law which obstructs the vision of the driver of the
17 vehicle.

18 (2) A person shall not drive a motor vehicle if driver visi-
19 bility through the rear window is obstructed, unless the vehicle
20 is equipped with 2 rearview mirrors, 1 on each side, adjusted so
21 that the operator has a clear view of the highway behind the
22 vehicle.

23 (3) This section shall not apply to:

24 (a) The use of draperies, louvers, or other special window
25 treatments, except those specifically designated in this section,
26 on the rear window, or a side window to the rear of the driver if
27 the vehicle is equipped with 2 outside rearview mirrors, 1 on

1 each side, adjusted so that the driver has a clear view of the
2 highway behind the vehicle.

3 (b) The use of a nonreflective, smoked or tinted glass, non-
4 reflective film, perforated window screen, or other decorative
5 window application on the rear window or a side window to the
6 rear of the driver.

7 (c) The placement of a necessary certificate or sticker that
8 does not obstruct the driver's clear view of the roadway or an
9 intersecting roadway.

10 (d) A vehicle registered in another state, territory, com-
11 monwealth of the United States, or another country or province.

12 (e) A special window treatment or application determined
13 necessary by a physician or optometrist, for the protection of a
14 person who is light or photosensitive, if the owner or operator
15 of a motor vehicle has in possession a letter signed by a physi-
16 cian or optometrist, indicating the need for the special window
17 treatment or application as a medical necessity. However, the
18 special window treatment or application shall not interfere with
19 or obstruct the driver's clear vision of the highway or an inter-
20 secting highway.

21 (4) Except as provided in subsection (5), the windshield on
22 each motor vehicle shall be equipped with a device for cleaning
23 rain, snow, or other moisture from the windshield, which device
24 shall be so constructed as to be controlled or operated by the
25 driver of the vehicle. A vehicle licensed as an historical vehi-
26 cle is exempt from this subsection if the vehicle was not

1 originally equipped with such a device. Each windshield wiper
2 upon a motor vehicle shall be maintained in good working order.

3 (5) A truck with a gross weight over 10,000 pounds, truck
4 tractor, bus, or a truck regardless of weight carrying hazardous
5 materials on which a placard is required to be posted pursuant to
6 49 C.F.R. 171 parts 100 to 199 having a windshield shall be
7 equipped with not less than 2 automatically operating windshield
8 wiper blades, 1 on each side of the centerline of the windshield,
9 for cleaning rain, snow, or other moisture from the windshield.
10 The blades shall be in such condition as to provide clear vision
11 for the driver, unless 1 blade is so arranged as to clean an area
12 of the windshield extending to within 1 inch of the limit of
13 vision through the windshield at each side. However, in
14 driveaway-towaway operations, this subsection shall apply only to
15 the driven vehicle. In addition, 1 windshield wiper blade suf-
16 fices under this subsection when the driven vehicle in a
17 driveaway-towaway operation constitutes part or all of the prop-
18 erty being transported and has no provision for 2 blades. A
19 truck and truck tractor, manufactured after June 30, 1953, that
20 depends upon vacuum to operate the windshield wipers, shall be so
21 constructed that the operation of the wipers is not materially
22 impaired by change in the intake manifold pressure.

23 (6) A truck with a gross weight over 10,000 pounds, truck
24 tractor, bus, or a truck regardless of weight carrying hazardous
25 materials on which a placard is required to be ~~posed~~ POSTED
26 pursuant to 49 C.F.R. 171 parts 100 to 199 shall not be operated
27 on the highways at any time unless it is equipped with a hot air

1 windshield defroster or an electrically heated windshield or
2 other scientific method that is devised so long as the windshield
3 is heated and maintained in operable condition at all times.

4 (7) A licensed motor vehicle which is manufactured after
5 January 1, 1956, shall not be operated on the highways unless it
6 is equipped with a windshield washer maintained in operable con-
7 dition at all times and capable of cleaning the windshield so as
8 to leave the driver with a clear view of the highway or an inter-
9 secting highway.

10 (8) A PERSON WHO APPLIES A MATERIAL TO A MOTOR VEHICLE THAT
11 VIOLATES SUBSECTION (1)(A) OR (B) IS RESPONSIBLE FOR A CIVIL
12 INFRACTION.

13 (9) ~~(8)~~ As used in this section:

14 (a) "Physician" means a person licensed by the state to
15 engage in the practice of medicine or the practice of osteopathic
16 medicine and surgery under article 15 of the public health code,
17 Act No. 368 of the Public Acts of 1978, being sections 333.16101
18 to 333.18838 of the Michigan Compiled Laws.

19 (b) "Optometrist" means a person licensed by the state to
20 engage in the practice of optometry under article 15 of the
21 public health code, Act No. 368 of the Public Acts of 1978.

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

26 (2) If a person is determined pursuant to sections 741 to
27 750 to be responsible or responsible "with explanation" for a

1 civil infraction under this act or a local ordinance
2 substantially corresponding to a provision of this act, the
3 judge, district court referee, or district court magistrate may
4 order the person to pay a civil fine of not more than \$100.00 and
5 costs as provided in subsection (4). However, for a violation
6 of section 674(1)(s) or a local ordinance substantially corre-
7 sponding to section 674(1)(s), the person shall be ordered to pay
8 costs as provided in subsection (4) and a civil fine of not less
9 than \$50.00 nor more than \$100.00. For a violation of
10 section 710d, the civil fine ordered under this subsection shall
11 not exceed \$10.00. For a violation of section 710e, the civil
12 fine and court costs ordered under this subsection shall be
13 \$25.00. Permission may be granted for payment of a civil fine
14 and costs to be made within a specified period of time or in
15 specified installments, but unless permission is included in the
16 order or judgment, the civil fine and costs shall be payable
17 immediately.

18 (3) If a person is determined to be responsible or responsi-
19 ble "with explanation" for a civil infraction under this act or a
20 local ordinance substantially corresponding to a provision of
21 this act while driving a commercial motor vehicle, OR IF A PERSON
22 IS DETERMINED TO BE RESPONSIBLE OR RESPONSIBLE "WITH EXPLANATION"
23 FOR A CIVIL INFRACTION UNDER SECTION 709(1)(A) OR (B) OR A LOCAL
24 ORDINANCE SUBSTANTIALLY CORRESPONDING TO SECTION 709(1)(A) OR
25 (B), he or she shall be ordered to pay costs as provided in
26 subsection (4) and a civil fine of not more than \$250.00.

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

12 (5) In addition to a civil fine and costs ordered under
13 subsection (2) or (3) and subsection (4), the judge, district
14 court referee, or district court magistrate may order the person
15 to attend and complete a program of treatment, education, or
16 rehabilitation.

17 (6) A district court referee or district court magistrate
18 shall impose the sanctions permitted under subsections (2), (3),
19 and (5) only to the extent expressly authorized by the chief
20 judge or only judge of the district court district.

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

1 cases on the basis of a defendant's prior record of civil
2 infractions or traffic offenses, or a combination of civil
3 infractions and traffic offenses.

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

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

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

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

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

16 (13) The court shall waive any civil fine or cost against a
17 person who received a civil infraction citation for a violation
18 of section 710d if the person, before the appearance date on the
19 citation, supplies the court with evidence of acquisition, pur-
20 chase, or rental of a child seating system meeting the require-
21 ments of section 710d.

22 (14) In addition to any fines and costs ordered to be paid
23 under this section, the judge, district court referee, or dis-
24 trict court magistrate shall levy an assessment of \$5.00 for each
25 civil infraction determination, except for a parking violation or
26 a violation for which the total fine and costs imposed are \$10.00
27 or less. Upon payment of the assessment, the clerk of the court

1 shall transmit the assessment levied to the state treasury to be
2 deposited into the Michigan justice training fund. An assessment
3 levied under this subsection shall not be considered a civil fine
4 for purposes of section 909.

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