

HOUSE BILL No. 5178

September 26, 1991, Introduced by Reps. Gubow, Perry Bullard, DeMars, Dobronski, Nye, Sparks, Willis Bullard, Power, Kosteva and Profit and referred to the Committee on Judiciary.

A bill to amend sections 113, 8313, 8375, 8391, and 8512 of Act No. 236 of the Public Acts of 1961, entitled as amended "Revised judicature act of 1961," section 8512 as amended by Act No. 278 of the Public Acts of 1984, being sections 600.113, 600.8313, 600.8375, 600.8391, and 600.8512 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 113, 8313, 8375, 8391, and 8512 of Act
2 No. 236 of the Public Acts of 1961, section 8512 as amended by
3 Act No. 278 of the Public Acts of 1984, being sections 600.113,
4 600.8313, 600.8375, 600.8391, and 600.8512 of the Michigan
5 Compiled Laws, are amended to read as follows:

6 Sec. 113. (1) As used in this act:

7 (a) "Civil infraction" means an act or omission prohibited
8 by law ~~which~~ THAT is not a crime as defined in section 5 of THE

1 MICHIGAN PENAL CODE, Act No. 328 of the Public Acts of 1931,
2 being section 750.5 of the Michigan Compiled Laws, and for which
3 A civil ~~sanctions~~ SANCTION may be ordered.

4 (b) "Civil infraction action" means a civil action in which
5 the defendant is alleged to be responsible for a civil
6 infraction.

7 (C) "MARINE LAW VIOLATION" MEANS A VIOLATION OF THE MARINE
8 SAFETY ACT, ACT NO. 303 OF THE PUBLIC ACTS OF 1967, BEING SEC-
9 TIONS 281.1001 TO 281.1199 OF THE MICHIGAN COMPILED LAWS, RULES
10 PROMULGATED PURSUANT TO THAT ACT, OR A LOCAL ORDINANCE ENACTED
11 PURSUANT TO THAT ACT.

12 (2) Except as otherwise provided in this act, a civil
13 infraction action involving a traffic or parking violation ~~shall~~
14 ~~be~~ IS governed by THE MICHIGAN VEHICLE CODE, Act No. 300 of the
15 Public Acts of 1949, as amended, being sections 257.1 to 257.923
16 of the Michigan Compiled Laws.

17 (3) EXCEPT AS OTHERWISE PROVIDED IN THIS ACT, A CIVIL
18 INFRACTION ACTION INVOLVING A MARINE LAW VIOLATION IS GOVERNED BY
19 THE MARINE SAFETY ACT, Act No. 303 of the Public Acts of 1967. ~~—~~
20 ~~being sections 281.1001 to 281.1199 of the Michigan Compiled~~
21 ~~Laws.~~

22 (4) ~~(3) A determination that a~~ A PERSON PROSECUTED FOR A
23 CIVIL INFRACTION IS SUBJECT TO CIVIL SANCTIONS IF THE TRIER OF
24 FACT DETERMINES, BY A PREPONDERANCE OF THE EVIDENCE, THAT THE
25 person is responsible for a civil infraction. ~~and thus subject~~
26 ~~to civil sanctions shall be by a preponderance of the evidence.~~

1 Sec. 8313. ~~All violations~~ A PROSECUTING ATTORNEY SHALL
2 PROSECUTE A PERSON FOR A VIOLATION of state criminal law ~~shall~~
3 ~~be prosecuted~~ in the district court. ~~by the prosecuting~~
4 ~~attorney. All ordinance violations which are misdemeanors or~~
5 ~~which are not designated as civil infractions shall be prosecuted~~
6 ~~in the district court by the attorney for the political subdivi-~~
7 ~~sion whose law was violated.~~ THE ATTORNEY FOR A POLITICAL SUBDI-
8 VISION SHALL PROSECUTE A PERSON FOR AN ALLEGED VIOLATION OF AN
9 ORDINANCE OF THAT POLITICAL SUBDIVISION IF THE VIOLATION IS A
10 MISDEMEANOR OR IF THE VIOLATION IS NOT DESIGNATED A CIVIL
11 INFRACTION. If the violation is a civil infraction, the prosecut-
12 ing attorney or attorney for the political subdivision ~~shall be~~
13 IS required to appear in court only in ~~those~~ A CONTESTED civil
14 infraction ~~actions which are contested~~ FORMAL HEARING before a
15 judge of the district court ~~in a formal hearing~~ as provided in
16 ~~section~~ THE FOLLOWING:

17 (A) SECTION 747 of THE MICHIGAN VEHICLE CODE, Act No. 300 of
18 the Public Acts of 1949, being section 257.747 of the Michigan
19 Compiled Laws.

20 (B) SECTION 186 OF THE MARINE SAFETY ACT, ACT NO. 303 OF THE
21 PUBLIC ACTS OF 1967, BEING SECTION 281.1186 OF THE MICHIGAN
22 COMPILED LAWS.

23 Sec. 8375. (1) The district court may assess the same costs
24 as are permitted in the circuit court. In civil infraction
25 actions the district court may assess costs as provided in
26 ~~section~~ THE FOLLOWING:

1 (A) SECTION 907 OF THE MICHIGAN VEHICLE CODE, Act No. 300 of
2 the Public Acts of 1949, being section 257.907 of the Michigan
3 Compiled Laws.

4 (B) SECTION 188 OF THE MARINE SAFETY ACT, ACT NO. 303 OF THE
5 PUBLIC ACTS OF 1967, BEING SECTION 281.1188 OF THE MICHIGAN
6 COMPILED LAWS.

7 (2) A district court magistrate may assess costs in an
8 amount fixed by rule of the district court.

9 Sec. 8391. (1) With the approval of the governing body of a
10 district control unit, the district court may establish within
11 the court a traffic bureau which may be administered by clerks or
12 other personnel of the district court to accept, as authorized by
13 the judges of the district: ~~, admissions~~

14 (A) ADMISSIONS for civil infractions under THE MICHIGAN
15 VEHICLE CODE, Act No. 300 of the Public Acts of 1949, as amended,
16 being sections 257.1 to 257.923 of the Michigan Compiled Laws, or
17 a CORRESPONDING local ordinance. ~~corresponding thereto, and to~~
18 ~~collect civil~~

19 (B) ADMISSIONS FOR CIVIL INFRACTIONS UNDER THE MARINE SAFETY
20 ACT, ACT NO. 303 OF THE PUBLIC ACTS OF 1967, BEING
21 SECTIONS 281.1001 TO 281.1199 OF THE MICHIGAN COMPILED LAWS, OR A
22 CORRESPONDING LOCAL ORDINANCE.

23 (C) CIVIL fines and costs as prescribed by the judges of the
24 district.

25 (2) Beginning August 1, 1979, a traffic bureau may also
26 accept ~~pleas~~ A PLEA of guilty for ~~such~~ A traffic ~~offenses~~
27 ~~as~~ OFFENSE FOR WHICH A GUILTY PLEA IS authorized by the judges

1 of the district, except for violations of sections 625, 625b,
2 626, 626b, and 904 of THE MICHIGAN VEHICLE CODE, Act No. 300 of
3 the Public Acts of 1949, as amended, or a local ordinance corre-
4 sponding ~~thereto~~ TO THOSE SECTIONS, and collect fines and costs
5 as prescribed by the judges of the district, if the offense
6 occurred before August 1, 1979 and if the maximum permissible
7 punishment for the offense at the time the offense was committed
8 did not exceed 90 days in jail or a fine of not more than
9 \$100.00, or both.

10 (3) ~~The~~ SUBJECT TO SUPREME COURT SUPERVISION, THE presid-
11 ing judge of ~~the~~ A district ~~, subject to the supervision of~~
12 ~~the supreme court, shall have~~ HAS authority over ~~the~~ TRAFFIC
13 BUREAU personnel and SHALL determine the location and number of
14 traffic bureau offices IN THAT DISTRICT.

15 (4) Appeals as of right may be taken from the traffic bureau
16 to the district court. Appeals shall be taken within 7 days
17 after the entry of the civil infraction admission and shall be
18 heard de novo.

19 Sec. 8512. (1) A district court magistrate may hear and
20 preside over civil infraction admissions and admissions with
21 explanation and conduct informal hearings in civil infraction
22 actions pursuant to section 746 of THE MICHIGAN VEHICLE CODE, Act
23 No. 300 of the Public Acts of 1949, being section 257.746 of the
24 Michigan Compiled Laws, AND SECTION 185 OF THE MARINE SAFETY ACT,
25 ACT NO. 303 OF THE PUBLIC ACTS OF 1967, BEING SECTION 281.1185 OF
26 THE MICHIGAN COMPILED LAWS. In exercising the authority
27 conferred by this subsection, the magistrate may administer

1 oaths, examine witnesses, and make findings of fact and
 2 conclusions of law. If the defendant is determined to be respon-
 3 sible for a civil infraction, the magistrate may impose the
 4 APPLICABLE civil sanctions authorized by section 907 of Act
 5 No. 300 of the Public Acts of 1949, being section 257.907 of the
 6 Michigan Compiled Laws, OR SECTION 188 OF ACT NO. 303 OF THE
 7 PUBLIC ACTS OF 1967, BEING SECTION 281.1188 OF THE MICHIGAN
 8 COMPILED LAWS.

9 (2) A district court magistrate shall not conduct an infor-
 10 mal hearing in a civil infraction action INVOLVING TRAFFIC OR
 11 MARINE LAW until he or she has successfully completed a special
 12 training course in traffic AND MARINE law adjudication and
 13 sanctions. ~~, which course shall be given periodically by the~~

14 (3) THE state court administrator SHALL PERIODICALLY PROVIDE
 15 A SPECIAL TRAINING COURSE IN TRAFFIC AND MARINE LAW ADJUDICATIONS
 16 AND SANCTIONS FOR DISTRICT COURT MAGISTRATES.

17 (4) ~~(3)~~ A district court magistrate may exercise the
 18 authority conferred by this section only to the extent expressly
 19 authorized by the chief judge, presiding judge, or only judge of
 20 the district court district.

21 Section 2. This amendatory act shall not take effect unless
 22 all of the following bills of the 86th Legislature are enacted
 23 into law:

24 (a) Senate Bill No. _____ or House Bill No. 5179
 25 (request no. 03785'91).

26 (b) Senate Bill No. _____ or House Bill No. 5177
 27 (request no. 03785'91b).