

Act No. 287
Public Acts of 1995
Approved by the Governor
January 9, 1996
Filed with the Secretary of State
January 9, 1996

STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995

Introduced by Senator Bouchard

ENROLLED SENATE BILL No. 776

AN ACT to amend sections 227, 328, and 907 of Act No. 300 of the Public Acts of 1949, entitled as amended "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," section 227 as amended by Act No. 19 of the Public Acts of 1982, section 328 as added by Act No. 459 of the Public Acts of 1980, and section 907 as amended by Act No. 89 of the Public Acts of 1989, being sections 257.227, 257.328, and 257.907 of the Michigan Compiled Laws; and to add sections 227a and 227b.

The People of the State of Michigan enact:

Section 1. Sections 227, 328, and 907 of Act No. 300 of the Public Acts of 1949, section 227 as amended by Act No. 19 of the Public Acts of 1982, section 328 as added by Act No. 459 of the Public Acts of 1980, and section 907 as amended by Act No. 89 of the Public Acts of 1989, being sections 257.227, 257.328, and 257.907 of the Michigan Compiled Laws, are amended and sections 227a and 227b are added to read as follows:

Sec. 227. (1) Application for renewal of a vehicle registration shall be made by the owner upon proper application and by payment of the registration fee for the vehicle, as provided by law.

(2) Every such application shall be accompanied by the certificate of title pertaining to the vehicle, showing ownership in the person applying for registration at the time of the application. However, the secretary of state may waive the presentation of the certificate of title.

(3) Beginning January 1, 1983, every application for renewal of a motor vehicle registration made by mail, shall be accompanied by proof of vehicle insurance in a form determined by the secretary of state.

(4) Beginning January 1, 1981, every application for renewal of a motor vehicle registration made in person at a secretary of state field office shall be accompanied by proof of vehicle insurance in a form determined by the secretary of state.

(5) Notwithstanding subsections (3) and (4), the secretary of state shall accept as proof of vehicle insurance a transmission of the applicant's vehicle identification number only for an insured vehicle for which vehicle registration is sought. The secretary of state may determine in what format the secretary of state will receive vehicle identification number information. The transmission to the secretary of state of a vehicle identification number is proof of insurance to the secretary of state for motor vehicle registration purposes only and is not evidence that a policy of insurance actually exists between an insurer and an individual. Vehicle identification numbers received by the secretary of state under this subsection are confidential, are not subject to the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws, and shall not be disclosed to any person except pursuant to an order by a court of competent jurisdiction in connection with a claim or fraud investigation or prosecution.

Sec. 227a. (1) If a court has notified the secretary of state of a vehicle registration number as provided in section 328(4) and the owner has not secured proof that the vehicle involved in the violation is currently insured under chapter 31 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.3101 to 500.3179 of the Michigan Compiled Laws, the secretary of state shall not renew, replace, or transfer the registration plate of the vehicle involved in the violation or allow the purchase of a new registration plate for the vehicle involved in the violation, until the owner or the owner's representative appears at a branch office and does both of the following:

(a) Shows a certified statement from an automobile insurer on a standard form prescribed by the commissioner of insurance that the vehicle involved in the violation is currently insured under a prepaid noncancelable policy for a period of not less than 6 months under chapter 31 of Act No. 218 of the Public Acts of 1956.

(b) Pays a fee of \$50.00 in addition to any other fee required by law, of which \$25.00 shall be allocated to the secretary of state to defray the costs of administering this section.

(2) The secretary of state may cancel the registration of a motor vehicle under either of the following circumstances:

(a) The secretary of state receives notice that a court has determined that a vehicle involved in the violation was not insured as required by chapter 31 of Act No. 218 of the Public Acts of 1956, at the time of registration.

(b) The secretary of state receives notice that a court has determined that the owner or the owner's representative presented a certificate of insurance that was forged, altered, fraudulent, or counterfeit when insurance was required by this act.

(3) Before a cancellation occurs under subsection (2), the person who will be affected by the cancellation shall be given notice and an opportunity to be heard.

Sec. 227b. (1) There is created a private insurance verification board to provide vehicle insurance verification to the secretary of state for renewal of motor vehicle registrations. The insurance verification board shall consist of 7 directors, 5 of whom shall represent private insurers in this state, 1 of whom shall represent the general public and not be employed by the insurance industry or this state, and 1 of whom shall represent independent insurance agents in this state. Both the initial and successor directors of the insurance verification board representing the general public and independent insurance agents shall be appointed by the secretary of state. The 5 initial directors of the insurance verification board representing private insurers shall be appointed by the commissioner of insurance with recommendations to be made by the insurance industry in this state and shall include 2 directors representing the largest share of the automobile insurance market in this state and 3 directors who are generally representative of small and medium automobile insurers. Successor directors to the insurance verification board representing private insurers in this state shall be selected by the insurers who choose to provide proof of vehicle insurance to the secretary of state pursuant to this section and shall include 2 directors representing the largest share of the automobile insurance market in this state and 3 insurers representing small and medium insurers. The 2 insurers representing the largest share of the automobile insurance market in this state shall only serve if they are participating in the program to provide proof of vehicle insurance to the secretary of state pursuant to this section.

(2) Directors of the insurance verification board shall serve for terms of 1 year.

(3) Business of the insurance verification board shall be conducted at a public meeting pursuant to the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Notice of the date, time, and place of the public meeting of the board shall be as prescribed in Act No. 267 of the Public Acts of 1976.

(4) The insurance verification board may select 1 organization upon such terms as are established by the board for the purpose of collecting proof of vehicle insurance information by vehicle identification number. The board or the organization selected by the board shall make this information available to the secretary of state for motor vehicle registration purposes in the format required by the secretary of state.

(5) The insurance verification board shall establish a plan providing for the confidentiality of the proof of vehicle insurance information provided by insurers.

(6) The insurance verification board or the organization selected by the board shall be operational and able to transmit to the secretary of state by June 1, 1996 proof of vehicle insurance by vehicle identification number in the format required by the secretary of state at the request of any licensed automobile insurer in Michigan who chooses to provide proof of vehicle insurance to the secretary of state pursuant to section 3101a(2) of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being section 500.3101a of the Michigan Compiled Laws.

(7) The insurance verification board shall establish a plan of operation providing for the assessment of the start-up and annual costs of the insurance verification board among the insurers who choose to provide proof of vehicle insurance to the secretary of state pursuant to section 3101a(2) of Act No. 218 of the Public Acts of 1956, but shall not assess more or expend more than \$150,000.00 in start-up costs and not more than \$100,000.00 in annual costs to implement this section. The \$100,000.00 annual cost amount shall be adjusted annually to reflect the annual average percentage increase or decrease in the Detroit consumer price index. As used in this subsection, "Detroit consumer price index" means the most comprehensive index of consumer prices available for the Detroit area from the United States department of labor, bureau of labor statistics.

Sec. 328. (1) The owner of a motor vehicle who operates or permits the operation of the motor vehicle upon the highways of this state or the operator of the motor vehicle shall produce, pursuant to subsection (2), upon the request of a police officer, evidence that the motor vehicle is insured under chapter 31 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being sections 500.3101 to 500.3179 of the Michigan Compiled Laws. An owner or operator of a motor vehicle who fails to produce evidence of insurance under this subsection when requested to produce that evidence or who fails to have motor vehicle insurance for the vehicle as required under chapter 31 of Act No. 218 of the Public Acts of 1956 is responsible for a civil infraction.

(2) A certificate of insurance, if issued by an insurance company, which certificate states that security which meets the requirements of sections 3101 and 3102 of Act No. 218 of the Public Acts of 1956, being sections 500.3101 and 500.3102 of the Michigan Compiled Laws, is in force shall be accepted as prima facie evidence that insurance is in force for the motor vehicle described in the certificate of insurance until the expiration date shown on the certificate. The certificate, in addition to describing the motor vehicles for which insurance is in effect, shall state the name of each person named on the policy, policy declaration, or a declaration certificate whose operation of the vehicle would cause the liability coverage of that insurance to become void.

(3) If an owner or operator of a motor vehicle is determined to be responsible for a violation of subsection (1), the court in which the civil infraction determination is entered may require the person to surrender his or her operator's or chauffeur's license unless proof that the vehicle has insurance meeting the requirements of sections 3101 and 3102 of Act No. 218 of the Public Acts of 1956, is submitted to the court. If the person submits proof to the court that the vehicle has insurance meeting the requirements of sections 3101 and 3102 of Act No. 218 of the Public Acts of 1956, in addition to the civil fine and costs provided by section 907, the court shall assess a fee of \$25.00. If the court requires the license to be surrendered, the court shall order the secretary of state to suspend the person's license. The court shall immediately destroy the license and shall forward to the secretary of state an abstract of the court record as required by section 732. Upon receipt of the abstract, the secretary of state shall suspend the person's license beginning with the date on which a person is determined to be responsible for the civil infraction for a period of 30 days or until proof of insurance which meets the requirements of sections 3101 and 3102 of Act No. 218 of the Public Acts of 1956, is submitted to the secretary of state, whichever occurs later. A person who submits proof of insurance to the secretary of state under this subsection shall pay a service fee of \$25.00 to the secretary of state. The person shall not be required to be examined as set forth in section 320c and shall not be required to pay a replacement license fee.

(4) If an owner or operator of a motor vehicle is determined to be responsible for a violation of subsection (1), the court in which the civil infraction determination is entered shall notify the secretary of state of the vehicle registration number and the year and make of the motor vehicle being operated at the time of the violation. This notification shall be made on the abstract or on a form approved by the supreme court administrator. Upon receipt, the secretary of state shall immediately enter this information in the records of the department. The secretary of state shall not renew, transfer, or replace the registration plate of the vehicle involved in the violation or allow the purchase of a new registration plate for the vehicle involved in the violation until the owner meets the requirements of section 227a or unless the vehicle involved in the violation is transferred or sold to a person other than the owner's spouse, mother, father, sister, brother, or child.

(5) An owner or operator of a motor vehicle who knowingly produces false evidence under this section is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than \$1,000.00, or both.

(6) Points shall not be entered on a driver's record pursuant to section 320a for a violation of this section.

(7) This section does not apply to the owner or operator of a motor vehicle that is registered in a state other than this state or a foreign country or province.

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

(2) If a person is determined pursuant to sections 741 to 750 to be responsible or responsible "with explanation" for a civil infraction under this act or a local ordinance substantially corresponding to a provision of this act, the judge, district court referee, or district court magistrate may order the person to pay a civil fine of not more than \$100.00 and costs as provided in subsection (4). However, for a violation of section 674(1)(s) or a local ordinance substantially corresponding to section 674(1)(s), the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not less than \$50.00 nor more than \$100.00. For a violation of section 328 or 710d, the civil fine ordered under this subsection shall not exceed \$10.00. For a violation of section 710e, the civil fine and court costs ordered under this subsection shall be \$25.00. Permission may be granted for payment of a civil fine and costs to be made within a specified period of time or in specified installments, but unless permission is included in the order or judgment, the civil fine and costs shall be payable immediately.

(3) If a person is determined to be responsible or responsible "with explanation" for a civil infraction under this act or a local ordinance substantially corresponding to a provision of this act while driving a commercial motor vehicle, he or she shall be ordered to pay costs as provided in subsection (4) and a civil fine of not more than \$250.00.

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

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

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

(7) Each district of the district court and each municipal court may establish a schedule of civil fines and costs to be imposed for civil infractions which occur within the respective district or city. If a schedule is established, it shall be prominently posted and readily available for public inspection. A schedule need not include all violations which are designated by law or ordinance as civil infractions. A schedule may exclude cases on the basis of a defendant's prior record of civil infractions or traffic offenses, or a combination of civil infractions and traffic offenses.

(8) The state court administrator shall annually publish and distribute to each district and court a recommended range of civil fines and costs for first-time civil infractions. This recommendation shall not be binding upon the courts having jurisdiction over civil infractions but is intended to act as a normative guide for judges, district court referees, and district court magistrates and a basis for public evaluation of disparities in the imposition of civil fines and costs throughout the state.

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

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

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

(12) The court shall waive any civil fine or cost against a person who received a civil infraction citation for a violation of section 710d if the person, before the appearance date on the citation, supplies the court with evidence of acquisition, purchase, or rental of a child seating system meeting the requirements of section 710d.

(13) In addition to any fines and costs ordered to be paid under this section, the judge, district court referee, or district court magistrate shall levy an assessment of \$5.00 for each civil infraction determination, except for a parking violation or a violation for which the total fine and costs imposed are \$10.00 or less. Upon payment of the assessment, the clerk of the court shall transmit the assessment levied to the state treasury to be deposited into the Michigan justice training fund. An assessment levied under this subsection shall not be considered a civil fine for purposes of section 909.

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

Section 2. This amendatory act shall not take effect unless Senate Bill No. 777 of the 88th Legislature is enacted into law.

This act is ordered to take immediate effect.

Secretary of the Senate.

Clerk of the House of Representatives.

Approved -----

Governor.