

HOUSE BILL No. 6257

November 5, 1998, Introduced by Rep. Varga and referred to the Committee on Regulatory Affairs.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 113 and 8511 (MCL 600.113 and 600.8511), as
amended by 1996 PA 79.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 113. (1) As used in this act:
2 (a) "Civil infraction" means an act or omission that is pro-
3 hibited by a law and is not a crime under that law or that is
4 prohibited by an ordinance and is not a crime under that ordi-
5 nance, and for which civil sanctions may be ordered. Civil
6 infraction includes, but is not limited to, the following:
7 (i) A violation of the Michigan vehicle code, ~~Act No. 300~~
8 ~~of the Public Acts of 1949, being sections 257.1 to 257.923 of~~
9 ~~the Michigan Compiled Laws~~ 1949 PA 300, MCL 257.1 TO 257.923,
10 designated as a civil infraction.

1 (ii) A violation of a city, township, or village ordinance
2 substantially corresponding to a provision of ~~Act No. 300 of the~~
3 ~~Public Acts of 1949~~ THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL
4 257.1 TO 257.923, if the ordinance designates the violation as a
5 civil infraction.

6 (iii) A violation of an ordinance adopted pursuant to ~~Act~~
7 ~~No. 235 of the Public Acts of 1969, being sections 257.941 to~~
8 ~~257.943 of the Michigan Compiled Laws~~ 1969 PA 235, MCL 257.941
9 TO 257.943.

10 (iv) A violation of a city, township, or village ordinance
11 adopting the uniform traffic code promulgated under ~~Act No. 62~~
12 ~~of the Public Acts of 1956, being sections 257.951 to 257.954 of~~
13 ~~the Michigan Compiled Laws~~ 1956 PA 62, MCL 257.951 TO 257.954,
14 if the uniform traffic code designates the violation as a civil
15 infraction.

16 (v) A violation of an ordinance adopted by the governing
17 board of a state university or college pursuant to ~~Act No. 291~~
18 ~~of the Public Acts of 1967, being sections 390.891 to 390.893 of~~
19 ~~the Michigan Compiled Laws~~ 1967 PA 291, MCL 390.891 TO 390.893,
20 if the ordinance designates the violation as a civil infraction.

21 (vi) A violation of regulations adopted by a county board of
22 commissioners pursuant to ~~Act No. 58 of the Public Acts of 1945,~~
23 ~~being section 46.201 of the Michigan Compiled Laws~~ 1945 PA 58,
24 MCL 46.201.

25 (vii) A municipal civil infraction.

26 (viii) A state civil infraction.

1 (ix) A violation of the pupil transportation act, ~~Act~~
 2 ~~No. 187 of the Public Acts of 1990, being sections 257.1801 to~~
 3 ~~257.1877 of the Michigan Compiled Laws~~ 1990 PA 187, MCL 257.1801
 4 TO 257.1877, designated as a civil infraction.

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

8 (c) "Municipal civil infraction" means a civil infraction
 9 involving a violation of an ordinance. Municipal civil infrac-
 10 tion includes, but is not limited to, a trailway municipal civil
 11 infraction. Municipal civil infraction does not include a viola-
 12 tion described in subdivision (a)(i) to (vi) or (ix) or any act
 13 or omission that constitutes a crime under any of the following:

14 (i) Article 7 or section 17766a of the public health code,
 15 ~~Act No. 368 of the Public Acts of 1978, being sections 333.7101~~
 16 ~~to 333.7545 and 333.17766a of the Michigan Compiled Laws~~ 1978 PA
 17 368, MCL 333.7101 TO 333.7545 AND 333.17766A.

18 (ii) The Michigan penal code, ~~Act No. 328 of the Public~~
 19 ~~Acts of 1931, being sections 750.1 to 750.568 of the Michigan~~
 20 ~~Compiled Laws~~ 1931 PA 328, MCL 750.1 TO 750.568.

21 (iii) ~~Act No. 300 of the Public Acts of 1949, being sec-~~
 22 ~~tions 257.1 to 257.923 of the Michigan Compiled Laws~~ MICHIGAN
 23 VEHICLE CODE, 1949 PA 300, MCL 257.1 TO 257.923.

24 (iv) The Michigan liquor control ~~act, Act No. 8 of the~~
 25 ~~Public Acts of the Extra Session of 1933, being sections 436.1 to~~
 26 ~~436.58 of the Michigan Compiled Laws~~ CODE OF 1998, 1998 PA 58,
 27 MCL 436.1101 TO 436.2303.

1 (v) Part 801 ~~—(marine safety)—~~ of the natural resources and
2 environmental protection act, ~~Act No. 451 of the Public Acts of~~
3 ~~1994, being sections 324.80101 to 324.80199 of the Michigan~~
4 ~~Compiled Laws~~ 1994 PA 451, MCL 324.80101 TO 324.80199.

5 (vi) The aeronautics code of the state of Michigan, ~~Act~~
6 ~~No. 327 of the Public Acts of 1945, being sections 259.1 to~~
7 ~~259.208 of the Michigan Compiled Laws~~ 1945 PA 327, MCL 259.1 TO
8 259.208.

9 (vii) Part 821 ~~—(snowmobiles)—~~ of ~~Act No. 451 of the Public~~
10 ~~Acts of 1994, being sections 324.82101 to 324.82159 of the~~
11 ~~Michigan Compiled Laws~~ OF THE NATURAL RESOURCES AND ENVIRONMEN-
12 TAL PROTECTION ACT, 1994 PA 451, MCL 324.82101 TO 324.82159.

13 (viii) Part 811 ~~—(off-road recreation vehicles)—~~ of ~~Act~~
14 ~~No. 451 of the Public Acts of 1994, being sections 324.81101 to~~
15 ~~324.81150 of the Michigan Compiled Laws~~ OF THE NATURAL RESOURCES
16 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.81101 TO
17 324.81150.

18 (ix) The railroad code of 1993, ~~Act No. 354 of the Public~~
19 ~~Acts of 1993, being sections 462.101 to 462.451 of the Michigan~~
20 ~~Compiled Laws~~ 1993 PA 354, MCL 462.101 TO 462.451.

21 (x) Any law of this state under which the act or omission is
22 punishable by imprisonment for more than 90 days.

23 (d) "Municipal civil infraction action" means a civil action
24 in which the defendant is alleged to be responsible for a munici-
25 pal civil infraction. Municipal civil infraction action
26 includes, but is not limited to, a railway municipal civil
27 infraction action.

1 (e) "State civil infraction" means a civil infraction
2 involving either of the following:

3 (i) A violation of state law that is designated by statute
4 as a state civil infraction.

5 (ii) A violation of a city, township, village, or county
6 ordinance that is designated by statute as a state civil
7 infraction.

8 (f) "State civil infraction action" means a civil action in
9 which the defendant is alleged to be responsible for a state
10 civil infraction.

11 (g) "Trailway municipal civil infraction" means a municipal
12 civil infraction involving the operation of a vehicle on a recre-
13 ational trailway at a time, in a place, or in a manner prohibited
14 by ordinance.

15 (h) "Trailway municipal civil infraction action" means a
16 civil infraction action in which the defendant is alleged to be
17 responsible for a trailway municipal civil infraction.

18 (2) Except as otherwise provided in this act:

19 (a) A civil infraction action involving a traffic or parking
20 violation is governed by ~~Act No. 300 of the Public Acts of 1949~~
21 THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.1 TO 257.923.

22 (b) A municipal civil infraction action is governed by chap-
23 ter 87.

24 (c) A state civil infraction action is governed by chapter
25 88.

1 (3) A determination that a defendant is responsible for a
2 civil infraction and thus subject to civil sanctions shall be by
3 a preponderance of the evidence.

4 Sec. 8511. A district court magistrate shall have the fol-
5 lowing jurisdiction and duties:

6 (a) To arraign and sentence upon pleas of guilty or nolo
7 contendere for violations of the following acts or parts of acts,
8 or a local ordinance substantially corresponding to these acts or
9 parts of acts, when authorized by the chief judge of the district
10 court and if the maximum permissible punishment does not exceed
11 90 days in jail or a fine, or both:

12 (i) Michigan vehicle code, ~~Act No. 300 of the Public Acts~~
13 ~~of 1949, being sections 257.1 to 257.923 of the Michigan Compiled~~
14 ~~Laws~~ 1949 PA 300, MCL 257.1 TO 257.923, except for violations of
15 sections 625 and 625b of ~~Act No. 300 of the Public Acts of 1949,~~
16 ~~being sections 257.625 and 257.625b of the Michigan Compiled~~
17 ~~Laws~~ THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.625 AND
18 257.625B. However, the magistrate may have the jurisdiction to
19 arraign defendants and set bond with regard to violations of sec-
20 tions 625 and 625b of ~~Act No. 300 of the Public Acts of 1949~~
21 THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.625 AND
22 257.625B.

23 (ii) Part 487 ~~(sport fishing)~~ of the natural resources and
24 environmental protection act, ~~Act No. 451 of the Public Acts of~~
25 ~~1994, being sections 324.48701 to 324.48740 of the Michigan~~
26 ~~Compiled Laws~~ 1994 PA 451, MCL 324.48701 TO 324.48740.

1 (iii) Part 401 ~~-(wildlife conservation) of Act No. 451 of~~
2 ~~the Public Acts of 1994, being sections 324.40101 to 324.40119 of~~
3 ~~the Michigan Compiled Laws~~ OF THE NATURAL RESOURCES OF ENVIRON-
4 MENTAL PROTECTION ACT, 1994 PA 451, MCL 324.40101 TO 324.40119.

5 (iv) Part 801 ~~-(marine safety) of Act No. 451 of the Public~~
6 ~~Acts of 1994, being sections 324.80101 to 324.80199 of the~~
7 ~~Michigan Compiled Laws~~ OF THE NATURAL RESOURCES AND ENVIRONMEN-
8 TAL PROTECTION ACT, 1994 PA 451, MCL 324.80101 TO 324.80199.

9 (v) The motor carrier act, ~~Act No. 254 of the Public Acts~~
10 ~~of 1933, being sections 475.1 to 479.43 of the Michigan Compiled~~
11 ~~Laws~~ 1933 PA 254, MCL 475.1 TO 479.43.

12 (vi) Motor carrier safety act of 1963, ~~Act No. 181 of the~~
13 ~~Public Acts of 1963, being sections 480.11 to 480.21 of the~~
14 ~~Michigan Compiled Laws~~ 1963 PA 181, MCL 480.11 TO 480.22.

15 (vii) Part 821 ~~-(snowmobiles) of Act No. 451 of the Public~~
16 ~~Acts of 1994, being sections 324.82101 to 324.82159 of the~~
17 ~~Michigan Compiled Laws~~ OF THE NATURAL RESOURCES AND ENVIRONMEN-
18 TAL PROTECTION ACT, 1994 PA 451, MCL 324.82101 TO 324.82159.

19 (viii) Dog law of 1919, ~~Act No. 339 of the Public Acts of~~
20 ~~1919, being sections 287.261 to 287.290 of the Michigan Compiled~~
21 ~~Laws~~ 1919 PA 339, MCL 287.261 TO 287.290.

22 (ix) Section ~~33a, 33b, or 34 of the Michigan liquor control~~
23 ~~act, Act No. 8 of the Public Acts of the Extra Session of 1933,~~
24 ~~being sections 436.33a, 436.33b, and 436.34 of the Michigan~~
25 ~~Compiled Laws~~ 703 OR 915 OF THE MICHIGAN LIQUOR CONTROL CODE OF
26 1998, 1998 PA 58, MCL 436.1703 AND 436.1915.

1 (x) Part 5 ~~—(department of natural resources general powers~~
2 ~~and duties) of Act No. 451 of the Public Acts of 1994, being~~
3 ~~sections 324.501 to 324.511 of the Michigan Compiled Laws~~ OF THE
4 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451,
5 MCL 324.501 TO 324.511.

6 (xi) Part 811 ~~—(off-road recreation vehicles) of Act No. 451~~
7 ~~of the Public Acts of 1994, being sections 324.81101 to 324.81150~~
8 ~~of the Michigan Compiled Laws~~ OF THE NATURAL RESOURCES AND ENVI-
9 RONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.81101 TO
10 324.81150.

11 (xii) Part 89 ~~—(littering) of Act No. 451 of the Public Acts~~
12 ~~of 1994, being sections 324.8901 to 324.8907 of the Michigan~~
13 ~~Compiled Laws~~ OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTEC-
14 TION ACT, 1994 PA 451, MCL 324.8901 TO 324.8907.

15 (xiii) Part 435 ~~—(hunting and fishing licensing) of Act~~
16 ~~No. 451 of the Public Acts of 1994, being sections 324.43501 to~~
17 ~~324.43561 of the Michigan Compiled Laws~~ OF THE NATURAL RESOURCES
18 AND ENVIRONMENTAL PROTECTION ACT, 1994 PA 451, MCL 324.43501 TO
19 324.43561.

20 (xiv) Part 731 ~~—(recreational trespass) of Act No. 451 of~~
21 ~~the Public Acts of 1994, being sections 324.73101 to 324.73111 of~~
22 ~~the Michigan Compiled Laws~~ OF THE NATURAL RESOURCES AND ENVIRON-
23 MENTAL PROTECTION ACT, 1994 PA 451, MCL 324.73101 TO 324.73111.

24 (xv) Chapter LXXXV of the Michigan penal code, ~~Act No. 328~~
25 ~~of the Public Acts of 1931, being sections 750.546 to 750.552a of~~
26 ~~the Michigan Compiled Laws~~ 1931 PA 328, MCL 750.546 TO
27 750.552B.

1 (b) To issue warrants for the arrest of a person upon the
2 written authorization of the prosecuting or municipal attorney,
3 except written authorization shall not be required for a vehicle
4 law or ordinance violation within the jurisdiction of the magis-
5 trate if a police officer issued a traffic citation pursuant to
6 section 728 of the Michigan vehicle code, ~~Act No. 300 of the~~
7 ~~Public Acts of 1949, being section 257.728 of the Michigan~~
8 ~~Compiled Laws~~ 1949 PA 300, MCL 257.728, and the defendant failed
9 to appear.

10 (c) To fix bail and accept bond in all cases.

11 (d) To issue search warrants, when authorized to do so by a
12 district court judge.