

**SENATE BILL NO. 1094**

April 29, 1998, Introduced by Senators HART, BYRUM, BERRYMAN and A. SMITH and referred to the Committee on Transportation and Tourism.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 710d, 710e, and 907 (MCL 257.710d, 257.710e, and 257.907), section 710d as amended by 1990 PA 90, section 710e as amended by 1991 PA 25, and section 907 as amended by 1995 PA 287.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 710d. (1) Except as provided in ~~this section, or as~~  
2 ~~otherwise provided by law, a rule promulgated pursuant to the~~  
3 ~~administrative procedures act of 1969, Act No. 306 of the Public~~  
4 ~~Acts of 1969, as amended, being sections 24.201 to 24.328 of the~~  
5 ~~Michigan Compiled Laws, or federal regulation, each driver trans-~~  
6 ~~porting a child in a motor vehicle shall properly secure each~~  
7 ~~child in a child restraint system as follows~~ SUBSECTION (7), A  
8 PARENT WHO IS OPERATING OR RIDING IN A MOTOR VEHICLE SHALL NOT

1 PERMIT HIS OR HER CHILD TO RIDE IN THE MOTOR VEHICLE UPON A  
2 HIGHWAY OF THIS STATE WITHOUT PROVIDING AND PROPERLY USING A  
3 CHILD PASSENGER RESTRAINT SYSTEM FOR THE CHILD IF THE CHILD IS  
4 EITHER OF THE FOLLOWING:

5       (a) ~~Any child less than 1 year of age in a child restraint~~  
6 ~~system which meets the standards prescribed in 49 C.F.R. 571.213,~~  
7 ~~except as provided in subsection (6)~~ LESS THAN 4 YEARS OF AGE.

8       (b) ~~Any child 1 year of age or more but less than 4 years~~  
9 ~~of age, when transported in the front seat, in a child restraint~~  
10 ~~system which meets the standards prescribed in 49 C.F.R. 571.213,~~  
11 ~~except as provided in subsection (6)~~ LESS THAN 40 POUNDS IN  
12 WEIGHT.

13       (c) ~~Any child 1 year of age or more but less than 4 years~~  
14 ~~of age, when transported in the rear seat, in a child restraint~~  
15 ~~system which meets the standards prescribed in 49 C.F.R.~~  
16 ~~571.213, unless the child is secured by a safety belt provided in~~  
17 ~~the motor vehicle, except as provided in subsection (6).~~

18       (2) ~~This section does not apply to any child being nursed.~~  
19 EXCEPT AS PROVIDED IN SUBSECTION (7), A DRIVER SHALL NOT TRANS-  
20 PORT A CHILD IN A MOTOR VEHICLE UPON A HIGHWAY IN THIS STATE  
21 WITHOUT PROVIDING AND PROPERLY USING A CHILD PASSENGER RESTRAINT  
22 SYSTEM FOR THE CHILD, UNLESS THE PARENT OF THE CHILD IS ALSO  
23 PRESENT IN THE MOTOR VEHICLE AND IS NOT THE DRIVER, IF THE CHILD  
24 IS EITHER OF THE FOLLOWING:

25       (A) LESS THAN 4 YEARS OF AGE.

26       (B) LESS THAN 40 POUNDS IN WEIGHT.

1 (3) This section does not apply if the motor vehicle being  
2 driven is a bus, school bus, taxicab, moped, motorcycle, or other  
3 motor vehicle not required to be equipped with safety belts under  
4 federal law or regulations.

5 (4) A person who violates ~~this section~~ SUBSECTION (1) OR  
6 (2) is responsible for a civil infraction AND IS LIABLE FOR A  
7 FINE OF \$100.00. HOWEVER, THE COURT MAY WAIVE THE FINE IF THE  
8 VIOLATION IS A FIRST OFFENSE UNDER THIS SECTION AND THE COURT  
9 FINDS THAT THE DEFENDANT IS ECONOMICALLY DISADVANTAGED, AND SHALL  
10 REFER THE DEFENDANT TO A CHILD PASSENGER RESTRAINT LOW-COST PUR-  
11 CHASE OR LOANER PROGRAM. A WAIVER OF THE FINE UNDER THIS SUBSEC-  
12 TION IS NOT GROUND FOR WAIVING THE ASSESSMENT OF POINTS UNDER  
13 SECTION 320A.

14 (5) A PERSON WHO VIOLATES SUBSECTION (1) OR (2) A SECOND OR  
15 SUBSEQUENT TIME IS LIABLE FOR A FINE OF \$100.00.

16 (6) ~~(5)~~ Points shall ~~not~~ be assessed under section 320a  
17 for a violation of ~~this section~~ SUBSECTION (1) OR (2). An  
18 abstract required under section 732 shall ~~not~~ be submitted to  
19 the secretary of state regarding ~~a~~ THE violation. ~~of this~~  
20 ~~section.~~

21 (7) ~~(6)~~ The secretary of state may exempt by rules promul-  
22 gated pursuant to ~~Act No. 306 of the Public Acts of 1969, as~~  
23 ~~amended,~~ THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306,  
24 MCL 24.201 TO 24.328, a class of children from the requirements  
25 of this section, if the secretary of state determines that the  
26 use of the child restraint system required under ~~subsection (1)~~  
27 SUBSECTIONS (1) AND (2) is impractical because of physical

1 unfitness, a medical problem, or body size. The secretary of  
2 state may specify alternate means of protection for children  
3 exempted under this subsection. FURTHER, IN THE CASE OF AN EMER-  
4 GENCY, OR WHEN A CHILD IS BEING TRANSPORTED IN AN AUTHORIZED  
5 EMERGENCY VEHICLE, A CHILD WHO IS NOT LESS THAN 1 YEAR OLD MAY BE  
6 TRANSPORTED WITHOUT THE USE OF A CHILD PASSENGER RESTRAINT SYSTEM  
7 IF THERE IS NO CHILD PASSENGER RESTRAINT SYSTEM AVAILABLE AND THE  
8 CHILD IS SECURED BY A SAFETY BELT.

9 (8) AN INDIVIDUAL SHALL NOT SELL, OFFER FOR SALE, OR INSTALL  
10 IN A MOTOR VEHICLE IN THIS STATE A PASSENGER RESTRAINT SYSTEM  
11 INTENDED FOR USE BY A CHILD THAT DOES NOT MEET OR EXCEED THE  
12 STANDARDS PRESCRIBED IN 49 C.F.R. 571.213. AN INDIVIDUAL WHO  
13 VIOLATES THIS SUBSECTION IS RESPONSIBLE FOR A CIVIL INFRACTION  
14 AND LIABLE FOR A CIVIL FINE OF \$250.00. AN INDIVIDUAL WHO VIO-  
15 LATES THIS SUBSECTION A SECOND OR SUBSEQUENT TIME IS LIABLE FOR A  
16 CIVIL FINE OF \$600.00.

17 (9) A HEALTH CARE FACILITY SHALL PROVIDE AND DISCUSS INFOR-  
18 MATION CONCERNING THE REQUIREMENTS OF THIS SECTION WITH A PARENT  
19 OR OTHER PERSON TO WHOM A CHILD IS RELEASED AT OR BEFORE THE TIME  
20 THE CHILD IS DISCHARGED. HOWEVER, THE HEALTH CARE FACILITY IS  
21 NOT LIABLE FOR THE FAILURE OF THE PARENT OR OTHER PERSON TO WHOM  
22 THE CHILD IS RELEASED TO USE A CHILD PASSENGER RESTRAINT SYSTEM.

23 (10) AS USED IN THIS SECTION:

24 (A) "CHILD PASSENGER RESTRAINT SYSTEM" MEANS A CHILD PASSEN-  
25 GER RESTRAINT SYSTEM THAT MEETS OR EXCEEDS THE STANDARDS PRE-  
26 SCRIBED IN 49 C.F.R. 571.213.

1 (B) "HEALTH CARE FACILITY" MEANS HOSPITAL, CLINIC, OR  
2 BIRTHING CENTER.

3 (C) "PARENT" MEANS PARENT, STEPPARENT, OR LEGAL GUARDIAN.

4 Sec. 710e. (1) This section ~~shall~~ DOES not apply to a  
5 driver or passenger of:

6 (a) A motor vehicle manufactured before January 1, 1965.

7 (b) A bus.

8 (c) A motorcycle.

9 (d) A moped.

10 (e) A motor vehicle if the driver or passenger possesses a  
11 written verification from a physician that the driver or passen-  
12 ger is unable to wear a safety belt for physical or medical  
13 reasons.

14 (f) A motor vehicle ~~which~~ THAT is not required to be  
15 equipped with safety belts under federal law.

16 (g) A commercial or United States postal service vehicle  
17 ~~which~~ THAT makes frequent stops for the purpose of pickup or  
18 delivery of goods or services.

19 (h) A motor vehicle operated by a rural carrier of the  
20 United States postal service while serving his or her rural  
21 postal route.

22 (2) This section ~~shall~~ DOES not apply to a passenger of a  
23 school bus.

24 (3) Each driver and front seat passenger of a motor vehicle  
25 operated on a street or highway in this state shall wear a prop-  
26 erly adjusted and fastened safety belt, except ~~that a child less~~

1 ~~than 4 years of age shall be protected~~ as required in THIS  
2 SECTION AND section 710d.

3       (4) ~~Each driver of a motor vehicle transporting a child~~  
4 ~~4 years of age or more but less than 16 years of age in a motor~~  
5 ~~vehicle shall secure the child in a properly adjusted and~~  
6 ~~fastened safety belt. If the motor vehicle is transporting more~~  
7 ~~children than there are safety belts available for use, all~~  
8 ~~safety belts available in the motor vehicle are being utilized in~~  
9 ~~compliance with this section, and the driver and all front seat~~  
10 ~~passengers comply with subsection (3), then the driver of a motor~~  
11 ~~vehicle transporting a child 4 years of age or more but less than~~  
12 ~~16 years of age for which there is not an available safety belt~~  
13 ~~is in compliance with this subsection, if that child is seated in~~  
14 ~~other than the front seat of the motor vehicle. However, if that~~  
15 ~~motor vehicle is a pickup truck without an extended cab or jump~~  
16 ~~seats, and all safety belts in the front seat are being used, the~~  
17 ~~driver may transport such a child in the front seat without a~~  
18 ~~safety belt.~~ A PARENT WHO IS OPERATING OR RIDING IN A MOTOR  
19 VEHICLE SHALL NOT PERMIT HIS OR HER CHILD TO RIDE IN THE MOTOR  
20 VEHICLE UPON A HIGHWAY OF THIS STATE WITHOUT PROVIDING AND PROP-  
21 ERLY USING CHILD SAFETY RESTRAINT IF THE CHILD IS EITHER OR BOTH  
22 OF THE FOLLOWING:

23       (A) 4 OR MORE BUT LESS THAN 16 YEARS OF AGE.

24       (B) 40 OR MORE POUNDS IN WEIGHT.

25       (5) A DRIVER SHALL NOT TRANSPORT A CHILD IN A MOTOR VEHICLE  
26 UPON A HIGHWAY IN THIS STATE WITHOUT PROVIDING AND PROPERLY USING  
27 CHILD SAFETY RESTRAINT FOR THE CHILD, UNLESS THE PARENT OF THE

1 CHILD IS ALSO PRESENT IN THE MOTOR VEHICLE AND IS NOT THE DRIVER,  
2 IF THE CHILD IS EITHER OR BOTH OF THE FOLLOWING:

3 (A) 4 OR MORE BUT LESS THAN 16 YEARS OF AGE.

4 (B) 40 OR MORE POUNDS IN WEIGHT.

5 (6) ~~(5)~~ Enforcement of ~~this section~~ SUBSECTION (3) by  
6 state or local law enforcement agencies shall be accomplished  
7 only as a secondary action when a driver of a motor vehicle has  
8 been detained for a suspected violation of another section of  
9 this act.

10 (7) ~~(6)~~ Failure to wear a safety belt OR TO USE CHILD  
11 SAFETY RESTRAINT in violation of this section ~~may be considered~~  
12 IS evidence of negligence and may reduce the recovery for damages  
13 arising out of the ownership, maintenance, or operation of a  
14 motor vehicle. However, such negligence shall not reduce the  
15 recovery for damages by more than 5%.

16 (8) ~~(7)~~ A person who violates this section is responsible  
17 for a civil infraction ~~—~~ AND IS LIABLE FOR THE FOLLOWING CIVIL  
18 FINE:

19 (A) FOR A VIOLATION OF SUBSECTION (3), \$25.00.

20 (B) FOR A VIOLATION OF SUBSECTION (4) OR (5), \$50.00, EXCEPT  
21 AS PROVIDED IN SUBSECTION (9).

22 (9) A PERSON WHO VIOLATES SUBSECTION (4) OR (5) A SECOND OR  
23 SUBSEQUENT TIME IS LIABLE FOR A CIVIL FINE OF \$100.00.

24 (10) ~~(8)~~ Points shall ~~not~~ be assessed under section 320a  
25 for a violation of this section.

26 (11) AS USED IN THIS SECTION:

1 (A) "CHILD SAFETY RESTRAINT" MEANS A CHILD SAFETY SEAT THAT  
2 MEETS OR EXCEEDS FEDERAL MOTOR VEHICLE SAFETY STANDARDS FOR  
3 CHILDREN WHO ARE 40 OR MORE POUNDS IN WEIGHT OR A PROPERLY  
4 FASTENED SAFETY BELT, OR BOTH.

5 (B) "PARENT" MEANS PARENT, STEPPARENT, OR LEGAL GUARDIAN.

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

10 (2) If a person is determined pursuant to sections 741 to  
11 750 to be responsible or responsible "with explanation" for a  
12 civil infraction under this act or a local ordinance substan-  
13 tially corresponding to a provision of this act, the judge, dis-  
14 trict court referee, or district court magistrate may order the  
15 person to pay a civil fine of not more than \$100.00 and costs as  
16 provided in subsection (4). However, for a violation of  
17 section 674(1)(s) or a local ordinance substantially correspond-  
18 ing to section 674(1)(s), the person shall be ordered to pay  
19 costs as provided in subsection (4) and a civil fine of not less  
20 than \$50.00 nor more than \$100.00. For a violation of section  
21 328, ~~or 710d,~~ the civil fine ordered under this subsection  
22 shall not exceed \$10.00. FOR A VIOLATION OF SECTION 710D(1) OR  
23 (2), THE CIVIL FINE ORDERED UNDER THIS SUBSECTION SHALL BE  
24 \$100.00, UNLESS IT IS WAIVED PURSUANT TO SECTION 710D(3). FOR A  
25 VIOLATION OF SECTION 710D(8), THE CIVIL FINE ORDERED UNDER THIS  
26 SUBSECTION SHALL BE \$250.00 FOR A FIRST OFFENSE OR \$600.00 FOR A  
27 SECOND OR SUBSEQUENT OFFENSE, AS APPROPRIATE. For a violation of

1 section ~~710e~~ 710E(3), the civil fine and court costs ordered  
2 under this subsection shall be \$25.00. FOR A VIOLATION OF SEC-  
3 TION 710E(4) OR (5), THE CIVIL FINE ORDERED UNDER THIS SUBSECTION  
4 SHALL BE \$50.00 FOR A FIRST OFFENSE OR \$100.00 FOR A SECOND OR  
5 SUBSEQUENT OFFENSE, AS APPROPRIATE. Permission may be granted for  
6 payment of a civil fine and costs to be made within a specified  
7 period of time or in specified installments, but unless permis-  
8 sion is included in the order or judgment, the civil fine and  
9 costs shall be payable immediately.

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

16 (4) If a civil fine is ordered to be paid under  
17 subsection (2) or (3), the judge, district court referee, or dis-  
18 trict court magistrate shall summarily tax and determine the  
19 costs of the action, which shall not be limited to the costs tax-  
20 able in ordinary civil actions, and may include all expenses,  
21 direct and indirect, to which the plaintiff has been put in con-  
22 nection with the civil infraction, up to the entry of judgment.  
23 Except in a civil infraction for a parking violation, costs of  
24 not less than \$5.00 shall be ordered. Costs shall not be ordered  
25 in excess of \$100.00. Except as otherwise provided by law, costs  
26 shall be payable to the general fund of the plaintiff.

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

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

10 (7) Each district of the district court and each municipal  
11 court may establish a schedule of civil fines and costs to be  
12 imposed for civil infractions ~~which~~ THAT occur within the  
13 respective district or city. If a schedule is established, it  
14 shall be prominently posted and readily available for public  
15 inspection. A schedule ~~need not include~~ INCLUDES all viola-  
16 tions ~~which~~ THAT are designated by law or ordinance as civil  
17 infractions. A schedule may exclude cases on the basis of a  
18 defendant's prior record of civil infractions or traffic  
19 offenses, or a combination of civil infractions and traffic  
20 offenses.

21 (8) The state court administrator shall annually publish and  
22 distribute to each district and court a recommended range of  
23 civil fines and costs for first-time civil infractions. This  
24 recommendation shall not be binding upon the courts having juris-  
25 diction over civil infractions but is intended to act as a norma-  
26 tive guide for judges, district court referees, and district  
27 court magistrates and a basis for public evaluation of

1 disparities in the imposition of civil fines and costs throughout  
2 the state.

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

8 (10) A default in the payment of a civil fine or costs  
9 ordered under subsection (2), (3), or (4) or an installment of  
10 the fine or costs may be collected by a means authorized for the  
11 enforcement of a judgment under chapter 40 OR 60 of the revised  
12 judicature act of 1961, ~~Act No. 236 of the Public Acts of 1961,~~  
13 ~~being sections 600.4001 to 600.4065 of the Michigan Compiled~~  
14 ~~Laws, or under chapter 60 of Act No. 236 of the Public Acts of~~  
15 ~~1961, being sections 600.6001 to 600.6098 of the Michigan~~  
16 ~~Compiled Laws~~ 1961 PA 236, MCL 600.4001 TO 600.4065 AND 600.6001  
17 TO 600.6098.

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

24 (12) The court ~~shall~~ MAY waive any civil fine or cost  
25 against a person who received a civil infraction citation for a  
26 violation of section 710d if the person, before the appearance  
27 date on the citation, supplies the court with evidence of

1 acquisition, purchase, or rental of a child ~~seating~~ PASSENGER  
2 RESTRAINT system meeting the requirements of section 710d.

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

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