

# HOUSE BILL No. 4584

April 17, 2001, Introduced by Reps. Jelinek, Julian, Richardville, Pumford, Pappageorge, LaSata and Stallworth and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
by amending sections 724 and 907 (MCL 257.724 and 257.907), section 724 as amended by 1988 PA 346 and section 907 as amended by 1998 PA 103.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 724. (1) A police officer or a duly authorized agent  
2 of the state transportation department or a county road commis-  
3 sion OR A MOTOR CARRIER OFFICER OF THE DEPARTMENT OF STATE POLICE  
4 having reason to believe that the weight of a vehicle and load is  
5 unlawful may require the driver to stop and submit to a weighing  
6 of the vehicle by either portable or stationary scales approved  
7 and sealed by the department of agriculture as a legal weighing  
8 device, and may require that the vehicle be driven to the nearest  
9 weighing station of the state transportation department ~~for the~~

1 ~~purpose of allowing an officer or agent of the state~~  
2 ~~transportation department or county road commission~~ to determine  
3 whether OR NOT the ~~conveyance~~ VEHICLE is loaded ~~in conformity~~  
4 ~~with~~ AS PRESCRIBED BY this chapter.

5 (2) ~~When~~ IF the officer or agent, ~~upon~~ AFTER weighing a  
6 vehicle and load, determines that the weight is unlawful, the  
7 officer or agent may require the driver to stop the vehicle in a  
8 suitable place and remain standing until that portion of the load  
9 is shifted or removed as necessary to reduce the gross axle load  
10 weight of the vehicle to the limit permitted under this chapter.  
11 THE OFFICER MAY DEMAND FROM THE DRIVER A BOND OF \$200.00 PLUS THE  
12 AMOUNT OF THE FINE AS CALCULATED UNDER SUBSECTION (3). All mate-  
13 rial unloaded as provided under this subsection shall be cared  
14 for by the owner or operator of the vehicle at the risk of the  
15 owner or operator. A ~~judge or magistrate~~ COURT imposing a  
16 civil fine and costs under this section which are not paid in  
17 full immediately or for which a bond is not immediately posted  
18 ~~in double the amount of the civil fine and costs~~ shall order  
19 the driver or owner to move the vehicle at the driver's own risk  
20 to a place of safekeeping within the jurisdiction of the ~~judge~~  
21 ~~or magistrate~~ COURT, inform the ~~judge or magistrate~~ COURT in  
22 writing of the place of safekeeping, and ~~keep~~ HOLD the vehicle  
23 until the fine and costs are paid or sufficient bond is furnished  
24 or until the ~~judge or magistrate~~ COURT is satisfied that the  
25 fine and costs will be paid. The officer or agent who has deter-  
26 mined, after weighing a vehicle and load, that the weight is  
27 unlawful, may require the driver to proceed to a ~~judge or~~

1 ~~magistrate~~ COURT within the county. If the ~~judge or~~  
2 ~~magistrate~~ COURT is satisfied that the probable civil fine and  
3 costs will be paid by the owner or lessee, the ~~judge or~~  
4 ~~magistrate~~ COURT may allow the driver to proceed, after the load  
5 is made ~~legal~~ TO COMPLY WITH THIS CHAPTER. If the ~~judge or~~  
6 ~~magistrate~~ COURT is not satisfied that the owner or lessee,  
7 after a notice and a right to be heard on the merits is given,  
8 will pay the amount of the probable civil fine and costs, the  
9 ~~judge or magistrate~~ COURT may order the vehicle to be impounded  
10 until trial on the merits is completed under conditions set forth  
11 in this section for the impounding of vehicles after the civil  
12 fine and costs have been imposed. Removal of the vehicle, and  
13 forwarding, care, or preservation of the load shall be under the  
14 control of and at the risk of the owner or driver. Vehicles  
15 impounded shall be subject to a lien, subject to a prior valid  
16 bona fide lien of prior record, in the amount of the civil fine  
17 and costs and if the civil fine and costs are not paid within  
18 ~~90~~ 30 days after the seizure, the ~~judge or magistrate~~ COURT  
19 shall certify the unpaid judgment to the prosecuting attorney of  
20 the county in which the violation occurred, who shall proceed to  
21 enforce the lien by foreclosure sale in accordance with procedure  
22 authorized in the case of chattel mortgage foreclosures. When  
23 the duly authorized agent of the state transportation department  
24 or county road commission OR A MOTOR CARRIER OFFICER OF THE  
25 DEPARTMENT OF STATE POLICE is performing duties under this chap-  
26 ter, the agent shall have all the powers conferred upon peace  
27 officers by the general laws of this state.

1       (3) An owner of a vehicle, ~~or~~ a lessee of the vehicle of  
2 an owner-operator, ~~or~~ AND ANY other person OR ENTITY, who  
3 causes or allows a vehicle to be loaded and driven or moved on a  
4 highway, when the weight of that vehicle violates section 722  
5 ~~is~~ ARE JOINTLY AND SEVERALLY responsible for a civil infraction  
6 and shall pay a civil fine in an amount equal to 3 cents per  
7 pound for each pound of excess load over 1,000 pounds when the  
8 excess is 2,000 pounds or less; 6 cents per pound of excess load  
9 when the excess is over 2,000 pounds but not over 3,000 pounds; 9  
10 cents per pound for each pound of excess load when the excess is  
11 over 3,000 pounds but not over 4,000 pounds; 12 cents per pound  
12 for each pound of excess load when the excess is over 4,000  
13 pounds but not over 5,000 pounds; 15 cents per pound for each  
14 pound of excess load when the excess is over 5,000 pounds but not  
15 over 10,000 pounds; and 20 cents per pound for each pound of  
16 excess load when the excess is over 10,000 pounds. However, the  
17 court shall have discretionary power as to the amount of the  
18 civil fine within the schedule provided by this subsection and  
19 may impose the civil fine provided in section 907(3) for a civil  
20 infraction where, at the time of the violation, either the motor  
21 vehicle, motor vehicle and semitrailer, or trailer did not exceed  
22 the total weight which would be lawful for each unit by a proper  
23 distribution of the load upon the various axles supporting each  
24 unit.

25       (4) A driver or owner of a vehicle, truck or truck tractor,  
26 truck or truck tractor with other vehicles in combination, or  
27 special mobile equipment who knowingly fails to stop at or who

1 knowingly bypasses any scales or weighing station is guilty of a  
2 misdemeanor PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR  
3 OR BY A FINE OF NOT LESS THAN \$500.00 OR MORE THAN \$1,000.00, OR  
4 BOTH.

5       (5) An agent or authorized representative of the state  
6 transportation department or a county road commission OR A MOTOR  
7 CARRIER OFFICER OF THE DEPARTMENT OF STATE POLICE shall not stop  
8 a truck or vehicle in movement upon a road or highway within the  
9 state for any purpose, unless the agent or authorized representa-  
10 tive is driving a duly marked vehicle, clearly showing and denot-  
11 ing the branch of government represented.

12       (6) A driver or owner of a vehicle who knowingly fails to  
13 stop when requested or ordered to do so by a police officer, or a  
14 duly authorized agent of the state transportation department, or  
15 a representative or agent of a county road commission, OR A MOTOR  
16 CARRIER OFFICER OF THE DEPARTMENT OF STATE POLICE, authorized to  
17 require the driver to stop and submit to a weighing of the vehi-  
18 cle and load by means of a portable scale, is guilty of a misde-  
19 meanor PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR BY  
20 A FINE OF NOT LESS THAN \$500.00 OR MORE THAN \$1,000.00, OR BOTH.

21       (7) A PERSON RESPONSIBLE OR RESPONSIBLE "WITH EXPLANATION"  
22 FOR A CIVIL INFRACTION VIOLATION OF THIS SECTION OR SECTION 722  
23 SHALL NOT BE ASSESSED COSTS OF MORE THAN \$200.00.

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

1       (2) If a person is determined pursuant to sections 741 to  
2 750 to be responsible or responsible "with explanation" for a  
3 civil infraction under this act or a local ordinance substan-  
4 tially corresponding to a provision of this act, the judge, dis-  
5 trict court referee, or district court magistrate may order the  
6 person to pay a civil fine of not more than \$100.00 and costs as  
7 provided in subsection (4). However, for a violation of  
8 section 674(1)(s) or a local ordinance substantially correspond-  
9 ing to section 674(1)(s), the person shall be ordered to pay  
10 costs as provided in subsection (4) and a civil fine of not less  
11 than \$50.00 or more than \$100.00. For a violation of section 328  
12 or 710d, the civil fine ordered under this subsection shall not  
13 exceed \$10.00. For a violation of section 710e, the civil fine  
14 and court costs ordered under this subsection shall be \$25.00.  
15 For a violation of section 682 or a local ordinance substantially  
16 corresponding to section 682, the person shall be ordered to pay  
17 costs as provided in subsection (4) and a civil fine of not less  
18 than \$100.00 or more than \$500.00. Permission may be granted for  
19 payment of a civil fine and costs to be made within a specified  
20 period of time or in specified installments, but unless permis-  
21 sion is included in the order or judgment, the civil fine and  
22 costs shall be payable immediately.

23       (3) If a person is determined to be responsible or responsi-  
24 ble "with explanation" for a civil infraction under this act or a  
25 local ordinance substantially corresponding to a provision of  
26 this act while driving a commercial motor vehicle, he or she

1 shall be ordered to pay costs as provided in subsection (4) and a  
2 civil fine of not more than \$250.00.

3       (4) If a civil fine is ordered to be paid under  
4 subsection (2) or (3), the judge, district court referee, or dis-  
5 trict court magistrate shall summarily tax and determine the  
6 costs of the action, which shall not be limited to the costs tax-  
7 able in ordinary civil actions, and may include all expenses,  
8 direct and indirect, to which the plaintiff has been put in con-  
9 nection with the civil infraction, up to the entry of judgment.  
10 Except in a civil infraction for a parking violation, costs of  
11 not less than \$5.00 shall be ordered. ~~Costs~~ EXCEPT FOR A CIVIL  
12 INFRACTION VIOLATION OF SECTIONS 722 AND 724, COSTS shall not be  
13 ordered in excess of \$100.00. Except as otherwise provided by  
14 law, costs shall be payable to the general fund of the  
15 plaintiff.

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

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

25       (7) Each district of the district court and each municipal  
26 court may establish a schedule of civil fines and costs to be  
27 imposed for civil infractions which occur within the respective

1 district or city. If a schedule is established, it shall be  
2 prominently posted and readily available for public inspection.  
3 A schedule need not include all violations which are designated  
4 by law or ordinance as civil infractions. A schedule may exclude  
5 cases on the basis of a defendant's prior record of civil infrac-  
6 tions or traffic offenses, or a combination of civil infractions  
7 and traffic offenses.

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

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

22 (10) A default in the payment of a civil fine or costs  
23 ordered under subsection (2), (3), or (4) or an installment of  
24 the fine or costs may be collected by a means authorized for the  
25 enforcement of a judgment under chapter 40 of the revised judica-  
26 ture act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or under



1 chapter 60 of the revised judicature act of 1961, 1961 PA 236,  
2 MCL 600.6001 to 600.6098.

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

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

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

25 (14) If a person has received a citation for a violation of  
26 section 223, the court shall waive any fine and costs, upon  
27 receipt of certification by a law enforcement agency that the

1 person, before the appearance date on the citation, produced a  
2 valid registration certificate that was valid on the date the  
3 violation of section 223 occurred.