

SENATE BILL No. 270

March 1, 2001, Introduced by Senators HART, SMITH, YOUNG, MILLER, MURPHY, LELAND and EMERSON 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), sections 710d and 710e as amended by 1999 PA 29 and section 907 as amended by 1998 PA 103.

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, 1969 PA 306, MCL 24.201 to~~
4 ~~24.328, or federal regulation, each driver transporting a child~~
5 ~~less than 4 years of age in a motor vehicle shall properly secure~~
6 ~~that child in a child restraint system that meets the standards~~
7 ~~prescribed in 49 C.F.R. 571.213~~ SUBJECT TO SUBSECTION (7), A
8 PARENT WHO IS OPERATING OR RIDING IN A MOTOR VEHICLE SHALL NOT
9 PERMIT HIS OR HER CHILD TO RIDE IN THE MOTOR VEHICLE UPON A

1 HIGHWAY OF THIS STATE WITHOUT PROVIDING AND PROPERLY USING A
2 CHILD PASSENGER RESTRAINT SYSTEM FOR THE CHILD IF THE CHILD IS
3 EITHER OF THE FOLLOWING:

4 (A) LESS THAN 4 YEARS OF AGE.

5 (B) LESS THAN 40 POUNDS IN WEIGHT.

6 (2) ~~This section does not apply to any child being nursed~~
7 SUBJECT TO SUBSECTION (7), A DRIVER SHALL NOT TRANSPORT A CHILD
8 IN A MOTOR VEHICLE UPON A HIGHWAY IN THIS STATE WITHOUT PROVIDING
9 AND PROPERLY USING A CHILD PASSENGER RESTRAINT SYSTEM FOR THE
10 CHILD, UNLESS THE PARENT OF THE CHILD IS ALSO PRESENT IN THE
11 MOTOR VEHICLE AND IS NOT THE DRIVER, IF THE CHILD IS EITHER OF
12 THE FOLLOWING:

13 (A) LESS THAN 4 YEARS OF AGE.

14 (B) LESS THAN 40 POUNDS IN WEIGHT.

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

19 (4) A person who violates ~~this section~~ SUBSECTION (1) OR
20 (2) is responsible for a civil infraction AND IS LIABLE FOR A
21 FINE OF \$100.00. HOWEVER, THE COURT MAY WAIVE THE FINE IF THE
22 VIOLATION IS A FIRST OFFENSE UNDER THIS SECTION AND THE COURT
23 FINDS THAT THE DEFENDANT IS ECONOMICALLY DISADVANTAGED, AND SHALL
24 REFER THE DEFENDANT TO A CHILD PASSENGER RESTRAINT LOW-COST PUR-
25 CHASE OR LOANER PROGRAM. A WAIVER OF THE FINE UNDER THIS SUBSEC-
26 TION IS NOT GROUND FOR WAIVING THE ASSESSMENT OF POINTS UNDER
27 SECTION 320A.

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

3 (6) ~~-(5)-~~ Points shall not be assessed under section 320a
4 for a violation of ~~this section~~ SUBSECTION (1) OR (2). An
5 abstract required under section 732 shall ~~not~~ be submitted to
6 the secretary of state regarding ~~a~~ THE violation. ~~of this~~
7 ~~section.~~

8 (7) ~~-(6)-~~ The secretary of state may exempt by rules promul-
9 gated pursuant to the administrative procedures act of 1969, 1969
10 PA 306, MCL 24.201 to 24.328, a class of children from the
11 requirements of this section, if the secretary of state deter-
12 mines that the use of the child restraint system required under
13 subsection (1) OR (2) is impractical because of physical unfit-
14 ness, a medical problem, or body size. The secretary of state
15 may specify alternate means of protection for children exempted
16 under this subsection. FURTHER, IN THE CASE OF AN EMERGENCY, OR
17 WHEN A CHILD IS BEING TRANSPORTED IN AN AUTHORIZED EMERGENCY
18 VEHICLE, A CHILD WHO IS NOT LESS THAN 1 YEAR OLD MAY BE TRANS-
19 PORTED WITHOUT THE USE OF A CHILD PASSENGER RESTRAINT SYSTEM IF
20 THERE IS NO CHILD PASSENGER RESTRAINT SYSTEM AVAILABLE AND THE
21 CHILD IS SECURED BY A SAFETY BELT.

22 (8) AN INDIVIDUAL SHALL NOT SELL, OFFER FOR SALE, OR INSTALL
23 IN A MOTOR VEHICLE IN THIS STATE A PASSENGER RESTRAINT SYSTEM
24 INTENDED FOR USE BY A CHILD THAT DOES NOT MEET OR EXCEED THE
25 STANDARDS PRESCRIBED IN 49 C.F.R. 571.213. AN INDIVIDUAL WHO
26 VIOLATES THIS SUBSECTION IS RESPONSIBLE FOR A CIVIL INFRACTION
27 AND LIABLE FOR A CIVIL FINE OF \$250.00. AN INDIVIDUAL WHO

1 VIOLATES THIS SUBSECTION A SECOND OR SUBSEQUENT TIME IS LIABLE
2 FOR A CIVIL FINE OF \$600.00.

3 (9) A HEALTH CARE FACILITY SHALL PROVIDE AND DISCUSS INFOR-
4 MATION CONCERNING THE REQUIREMENTS OF THIS SECTION WITH A PARENT
5 OR OTHER PERSON TO WHOM A CHILD IS RELEASED AT OR BEFORE THE TIME
6 THE CHILD IS DISCHARGED. HOWEVER, THE HEALTH CARE FACILITY IS
7 NOT LIABLE FOR THE FAILURE OF THE PARENT OR OTHER PERSON TO WHOM
8 THE CHILD IS RELEASED TO USE A CHILD PASSENGER RESTRAINT SYSTEM.

9 (10) AS USED IN THIS SECTION:

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

13 (B) "HEALTH CARE FACILITY" MEANS HOSPITAL, CLINIC, OR BIRTH-
14 ING CENTER.

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

16 Sec. 710e. (1) This section does not apply to a driver or
17 passenger of any of the following:

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

19 (b) A bus.

20 (c) A motorcycle.

21 (d) A moped.

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

26 (f) A motor vehicle that is not required to be equipped with
27 safety belts under federal law.

1 (g) A commercial or United States postal service vehicle
2 that makes frequent stops for the purpose of pickup or delivery
3 of goods or services.

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

7 (2) This section does not apply to a passenger of a school
8 bus.

9 (3) Each driver and front seat passenger of a motor vehicle
10 operated on a street or highway in this state shall wear a prop-
11 erly adjusted and fastened safety belt, except ~~that a child less~~
12 ~~than 4 years of age shall be protected~~ as required in THIS SEC-
13 TION AND section 710d. If there are more passengers than safety
14 belts available for use, and all safety belts in the motor vehi-
15 cle are being utilized in compliance with this section, the
16 driver of the motor vehicle is in compliance with this section,
17 EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION (4).

18 (4) ~~Each driver of a motor vehicle transporting a child~~
19 ~~4 years of age or more but less than 16 years of age in a motor~~
20 ~~vehicle shall secure the child in a properly adjusted and~~
21 ~~fastened safety belt. If the motor vehicle is transporting more~~
22 ~~children than there are safety belts available for use, all~~
23 ~~safety belts available in the motor vehicle are being utilized in~~
24 ~~compliance with this section, and the driver and all front seat~~
25 ~~passengers comply with subsection (3), then the driver of a motor~~
26 ~~vehicle transporting a child 4 years of age or more but less than~~
27 ~~16 years of age for which there is not an available safety belt~~

~~1 is in compliance with this subsection, if that child is seated in~~
~~2 other than the front seat of the motor vehicle. However, if that~~
~~3 motor vehicle is a pickup truck without an extended cab or jump~~
~~4 seats, and all safety belts in the front seat are being used, the~~
~~5 driver may transport such a child in the front seat without a~~
~~6 safety belt.~~ A PARENT WHO IS OPERATING OR RIDING IN A MOTOR
7 VEHICLE SHALL NOT PERMIT HIS OR HER CHILD TO RIDE IN THE MOTOR
8 VEHICLE UPON A HIGHWAY OF THIS STATE WITHOUT PROVIDING AND PROP-
9 ERLY USING CHILD SAFETY RESTRAINT IF THE CHILD IS EITHER OR BOTH
10 OF THE FOLLOWING:

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

12 (B) 40 OR MORE POUNDS IN WEIGHT.

13 (5) A DRIVER SHALL NOT TRANSPORT A CHILD IN A MOTOR VEHICLE
14 UPON A HIGHWAY IN THIS STATE WITHOUT PROVIDING AND PROPERLY USING
15 CHILD SAFETY RESTRAINT FOR THE CHILD, UNLESS THE PARENT OF THE
16 CHILD IS ALSO PRESENT IN THE MOTOR VEHICLE AND IS NOT THE DRIVER,
17 IF THE CHILD IS EITHER OR BOTH OF THE FOLLOWING:

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

19 (B) 40 OR MORE POUNDS IN WEIGHT.

20 (6) ~~(5)~~ If after December 31, 2005 the office of highway
21 safety planning certifies that there has been less than 80% com-
22 pliance with the safety belt requirements of this section during
23 the preceding year, then enforcement of ~~this section~~
24 SUBSECTION (3) by state or local law enforcement agencies shall
25 be accomplished only as a secondary action when a driver of a
26 motor vehicle has been detained for a suspected violation of
27 another section of this act.

1 (7) ~~-(6)-~~ Failure to wear a safety belt OR TO USE CHILD
2 SAFETY RESTRAINT in violation of this section ~~may be considered~~
3 IS evidence of negligence and may reduce the recovery for damages
4 arising out of the ownership, maintenance, or operation of a
5 motor vehicle. However, such negligence shall not reduce the
6 recovery for damages by more than 5%.

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

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

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

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

15 (10) ~~-(8)-~~ A law enforcement agency shall conduct an inves-
16 tigation for all reports of police harassment that result from
17 the enforcement of this section.

18 (11) ~~-(9)-~~ The secretary of state shall engage an indepen-
19 dent organization to conduct a 3-year study to determine the
20 effect that the primary enforcement of this section has on the
21 number of incidents of police harassment of drivers. The organi-
22 zation that conducts the study shall submit a report to the leg-
23 islature not later than June 30, 2001 and an annual report not
24 later than June 30 each year thereafter.

25 (12) ~~-(10)-~~ The secretary of state shall promote compliance
26 with the safety belt AND CHILD SAFETY RESTRAINT requirements of

1 this section at the branch offices and through any print or
2 visual media determined appropriate by the secretary of state.

3 (13) ~~-(11)-~~ The secretary of state shall conduct a study
4 with the cooperation and contribution of the directors of the
5 department of state police, the department of community health,
6 the state transportation department, and the insurance bureau to
7 analyze the monetary savings, if any, arising from the enactment
8 of the amendatory act that added this subsection. The secretary
9 of state shall report the findings of the study to all of the
10 following not later than May 1, 2000:

11 (a) The senate and house of representatives appropriations
12 committees.

13 (b) The senate and house of representatives fiscal
14 agencies.

15 (14) ~~-(12)-~~ It is the intent of the legislature that the
16 enforcement of this section be conducted in a manner calculated
17 to save lives and not in a manner that results in the harassment
18 of the citizens of this state.

19 (15) ~~-(13)-~~ Points shall ~~not~~ be assessed under section
20 320a for a violation of this section.

21 (16) AS USED IN THIS SECTION:

22 (A) "CHILD SAFETY RESTRAINT" MEANS A CHILD SAFETY SEAT THAT
23 MEETS OR EXCEEDS FEDERAL MOTOR VEHICLE SAFETY STANDARDS FOR CHIL-
24 DREN WHO ARE 40 OR MORE POUNDS IN WEIGHT OR A PROPERLY FASTENED
25 SAFETY BELT, OR BOTH.

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

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

5 (2) If a person is determined pursuant to sections 741 to
6 750 to be responsible or responsible "with explanation" for a
7 civil infraction under this act or a local ordinance substan-
8 tially corresponding to a provision of this act, the judge, dis-
9 trict court referee, or district court magistrate may order the
10 person to pay a civil fine of not more than \$100.00 and costs as
11 provided in subsection (4). However, for a violation of
12 section 674(1)(s) or a local ordinance substantially correspond-
13 ing to section 674(1)(s), the person shall be ordered to pay
14 costs as provided in subsection (4) and a civil fine of not less
15 than \$50.00 or more than \$100.00. For a violation of section
16 328, ~~or 710d,~~ the civil fine ordered under this subsection
17 shall not exceed \$10.00. FOR A VIOLATION OF SECTION 710D(1) OR
18 (2), THE CIVIL FINE ORDERED UNDER THIS SUBSECTION SHALL BE
19 \$100.00, UNLESS IT IS WAIVED PURSUANT TO SECTION 710D(4). FOR A
20 VIOLATION OF SECTION 710D(8), THE CIVIL FINE ORDERED UNDER THIS
21 SUBSECTION SHALL BE \$250.00 FOR A FIRST OFFENSE OR \$600.00 FOR A
22 SECOND OR SUBSEQUENT OFFENSE, AS APPROPRIATE. For a violation of
23 section ~~710e~~ 710E(3), the civil fine and court costs ordered
24 under this subsection shall be \$25.00. FOR A VIOLATION OF SEC-
25 TION 710E(4) OR (5), THE CIVIL FINE ORDERED UNDER THIS SUBSECTION
26 SHALL BE \$50.00 FOR A FIRST OFFENSE OR \$100.00 FOR A SECOND OR
27 SUBSEQUENT OFFENSE, AS APPROPRIATE. For a violation of section

1 682 or a local ordinance substantially corresponding to section
2 682, the person shall be ordered to pay costs as provided in sub-
3 section (4) and a civil fine of not less than \$100.00 or more
4 than \$500.00. Permission may be granted for payment of a civil
5 fine and costs to be made within a specified period of time or in
6 specified installments, but unless permission is included in the
7 order or judgment, the civil fine and costs shall be payable
8 immediately.

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

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

26 (5) In addition to a civil fine and costs ordered under
27 subsection (2) or (3) and subsection (4), the judge, district

1 court referee, or district court magistrate may order the person
2 to attend and complete a program of treatment, education, or
3 rehabilitation.

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

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

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

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

6 (10) A default in the payment of a civil fine or costs
7 ordered under subsection (2), (3), or (4) or an installment of
8 the fine or costs may be collected by a means authorized for the
9 enforcement of a judgment under chapter 40 of the revised judica-
10 ture act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or under
11 chapter 60 of the revised judicature act of 1961, 1961 PA 236,
12 MCL 600.6001 to 600.6098.

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

19 (12) The court shall waive any civil fine or cost against a
20 person who received a civil infraction citation for a violation
21 of section 710d if the person, before the appearance date on the
22 citation, supplies the court with evidence of acquisition, pur-
23 chase, or rental of a child ~~seating~~ PASSENGER RESTRAINT system
24 meeting the requirements of section 710d.

25 (13) In addition to any fines and costs ordered to be paid
26 under this section, the judge, district court referee, or
27 district court magistrate shall levy an assessment of \$5.00 for

1 each civil infraction determination, except for a parking
2 violation or a violation for which the total fine and costs
3 imposed are \$10.00 or less. Upon payment of the assessment, the
4 clerk of the court shall transmit the assessment levied to the
5 state treasury to be deposited into the Michigan justice training
6 fund. An assessment levied under this subsection shall not be
7 considered a civil fine for purposes of section 909.

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