

HOUSE BILL No. 4651

May 7, 2003, Introduced by Reps. Milosch, Hoogendyk, Brandenburg, Hummel, Caswell, Sheen, LaJoy, Voorhees, Vander Veen, Drolet, Pappageorge and Kooiman and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 328 and 907 (MCL 257.328 and 257.907), section 328 as amended by 1995 PA 287 and section 907 as amended by 2002 PA 534.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 328. (1) The owner of a motor vehicle who operates or
2 permits the operation of the motor vehicle upon the highways of
3 this state or the operator of the motor vehicle shall produce,
4 pursuant to subsection (2), upon the request of a police officer,
5 evidence that the motor vehicle is insured under chapter 31 of
6 the insurance code of 1956, ~~Act No. 218 of the Public Acts of~~
7 ~~1956, being sections 500.3101 to 500.3179 of the Michigan~~
8 ~~Compiled Laws~~ **1956 PA 218, MCL 500.3101 to 500.3179.** An owner
9 or operator of a motor vehicle who fails to produce evidence of

1 insurance under this subsection when requested to produce that
2 evidence or who fails to have motor vehicle insurance for the
3 vehicle as required under chapter 31 of ~~Act No. 218 of the~~
4 ~~Public Acts of 1956~~ **the insurance code of 1956, 1956 PA 218, MCL**
5 **500.3101 to 500.3179**, is responsible for a civil infraction.

6 (2) A certificate of insurance ~~—if—~~ issued by an insurance
7 company, ~~which certificate~~ **that** states that security ~~which~~
8 ~~meets~~ **meeting** the requirements of sections 3101 and 3102 of ~~Act~~
9 ~~No. 218 of the Public Acts of 1956, being sections 500.3101 and~~
10 ~~500.3102 of the Michigan Compiled Laws~~ **the insurance code of**
11 **1956, 1956 PA 218, MCL 500.3101 and 500.3102**, is in force shall
12 be accepted as prima facie evidence that insurance is in force
13 for the motor vehicle described in the certificate of insurance
14 until the expiration date shown on the certificate. The
15 certificate, in addition to describing the motor vehicles for
16 which insurance is in effect, shall state the name of each person
17 named on the policy, policy declaration, or a declaration
18 certificate whose operation of the vehicle would cause the
19 liability coverage of that insurance to become void.

20 (3) If an owner or operator of a motor vehicle is determined
21 to be responsible for a violation of subsection (1), the court in
22 which the civil infraction determination is entered may require
23 the person to surrender his or her operator's or chauffeur's
24 license unless proof that the vehicle has insurance meeting the
25 requirements of sections 3101 and 3102 of ~~Act No. 218 of the~~
26 ~~Public Acts of 1956~~ **the insurance code of 1956, 1956 PA 218, MCL**
27 **500.3101 and 500.3102**, is submitted to the court. ~~—If—~~ **Except as**

1 **otherwise provided in section 907(15), if** the person submits
2 proof to the court that the vehicle has insurance meeting the
3 requirements of sections 3101 and 3102 of ~~Act No. 218 of the~~
4 ~~Public Acts of 1956~~ **the insurance code of 1956, 1956 PA 218, MCL**
5 **500.3101 and 500.3102**, in addition to the civil fine and costs
6 provided by section 907, the court shall assess a fee of \$25.00.
7 If the court requires the license to be surrendered, the court
8 shall order the secretary of state to suspend the person's
9 license. The court shall immediately destroy the license and
10 shall forward to the secretary of state an abstract of the court
11 record as required by section 732. Upon receipt of the abstract,
12 the secretary of state shall suspend the person's license
13 beginning with the date on which a person is determined to be
14 responsible for the civil infraction for a period of 30 days or
15 until proof of insurance ~~which~~ **that** meets the requirements of
16 sections 3101 and 3102 of ~~Act No. 218 of the Public Acts of~~
17 ~~1956~~ **the insurance code of 1956, 1956 PA 218, MCL 500.3101 and**
18 **500.3102**, is submitted to the secretary of state, whichever
19 occurs later. A person who submits proof of insurance to the
20 secretary of state under this subsection shall pay a service fee
21 of \$25.00 to the secretary of state. The person shall not be
22 required to be examined as set forth in section 320c and shall
23 not be required to pay a replacement license fee.

24 (4) If an owner or operator of a motor vehicle is determined
25 to be responsible for a violation of subsection (1), the court in
26 which the civil infraction determination is entered shall notify
27 the secretary of state of the vehicle registration number and the

1 year and make of the motor vehicle being operated at the time of
2 the violation. This notification shall be made on the abstract
3 or on a form approved by the supreme court administrator. Upon
4 receipt, the secretary of state shall immediately enter this
5 information in the records of the department. The secretary of
6 state shall not renew, transfer, or replace the registration
7 plate of the vehicle involved in the violation or allow the
8 purchase of a new registration plate for the vehicle involved in
9 the violation until the owner meets the requirements of section
10 227a or unless the vehicle involved in the violation is
11 transferred or sold to a person other than the owner's spouse,
12 mother, father, sister, brother, or child.

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

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

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

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

26 (2) If a person is determined pursuant to sections 741 to 750
27 to be responsible or responsible "with explanation" for a civil

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

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

1 or responsible "with explanation" for a civil infraction under
2 section 319g or a local ordinance substantially corresponding to
3 section 319g, that person shall be ordered to pay costs as
4 provided in subsection (4) and a civil fine of not more than
5 \$10,000.00.

6 (4) If a civil fine is ordered under subsection (2) or (3),
7 the judge, district court referee, or district court magistrate
8 shall summarily tax and determine the costs of the action, which
9 are not limited to the costs taxable in ordinary civil actions,
10 and may include all expenses, direct and indirect, to which the
11 plaintiff has been put in connection with the civil infraction,
12 up to the entry of judgment. Except in a civil infraction for a
13 parking violation, costs of not less than \$5.00 shall be
14 ordered. Costs shall not be ordered in excess of \$100.00. A
15 civil fine ordered under subsection (2) or (3) shall not be
16 waived unless costs ordered under this subsection are waived.
17 Except as otherwise provided by law, costs are payable to the
18 general fund of the plaintiff.

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

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

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

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

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

25 (10) A default in the payment of a civil fine or costs
26 ordered under subsection (2), (3), or (4) or an installment of
27 the fine or costs may be collected by a means authorized for the

1 enforcement of a judgment under chapter 40 of the revised
2 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or
3 under chapter 60 of the revised judicature act of 1961, 1961
4 PA 236, MCL 600.6001 to 600.6098.

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

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

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

27 (14) If a person has received a citation for a violation of

1 section 223, the court shall waive any fine and costs, upon
2 receipt of certification by a law enforcement agency that the
3 person, before the appearance date on the citation, produced a
4 valid registration certificate that was valid on the date the
5 violation of section 223 occurred.

6 (15) The court shall waive any civil fine, fee, and cost
7 against a person who received a civil infraction citation for a
8 violation of section 328 if, before the appearance date on the
9 citation, the person supplies the court with evidence that the
10 vehicle was, at the time of operation, insured under chapter 31
11 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 to
12 500.3179.