

HOUSE BILL No. 5097

September 30, 2003, Introduced by Rep. Tobocman and referred to the Committee on Judiciary.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending sections 8701 and 8801 (MCL 600.8701 and 600.8801),
section 8701 as added by 1994 PA 12 and section 8801 as amended
by 2000 PA 80.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8701. As used in this chapter:

2 (a) "Authorized local official" means ~~a~~ **either of the**
3 **following:**

4 *(i)* **A** police officer or other personnel of a county, city,
5 village, township, or regional parks and recreation commission
6 created under section 2 of ~~Act No. 265 of the Public Acts of~~
7 ~~1961, being section 46.352 of the Michigan Compiled Laws 1961~~
8 **PA 265, MCL 46.352**, legally authorized to issue municipal civil
9 infraction citations.

1 (ii) Any other individual legally authorized to issue
2 municipal civil infraction citations. A county, city, village,
3 or township may adopt an ordinance authorizing individuals other
4 than those described in subparagraph (i) to issue a municipal
5 civil infraction citation for the violation of any other
6 ordinance of the county, city, village, or township. A regional
7 parks and recreation commission may adopt a rule authorizing
8 individuals other than those described in subparagraph (i) to
9 issue a municipal civil infraction citation for the violation of
10 any other rule of the regional parks and recreation commission.

11 (b) "Citation" means a written complaint or notice to appear
12 in court upon which an authorized local official records the
13 occurrence or existence of 1 or more municipal civil infractions
14 by the person cited.

15 (c) "Municipal civil infraction determination" means a
16 determination that a defendant is responsible for a municipal
17 civil infraction by 1 of the following:

18 (i) An admission of responsibility for the municipal civil
19 infraction.

20 (ii) An admission of responsibility for the municipal civil
21 infraction, "with explanation".

22 (iii) A preponderance of the evidence at an informal hearing
23 or formal hearing on the question under section 8719 or 8721,
24 respectively.

25 (iv) A default judgment for failing to appear as directed by
26 a citation or other notice, at a scheduled appearance under
27 section 8715(3)(b) or (4), at an informal hearing under

1 section 8719, or at a formal hearing under section 8721.

2 Sec. 8801. (1) This chapter applies only to a state civil
3 infraction action involving a violation of state law that is
4 designated as a state civil infraction.

5 (2) This chapter does not apply to a civil infraction action
6 involving a traffic or parking violation.

7 (3) As used in this chapter:

8 (a) "Citation" means a written complaint or notice to appear
9 in court upon which a law enforcement officer records the
10 occurrence or existence of 1 or more state civil infractions by
11 the person cited.

12 (b) "Civil infraction determination" means a determination
13 that a defendant is responsible for a state civil infraction by 1
14 of the following:

15 (i) An admission of responsibility for the state civil
16 infraction.

17 (ii) An admission of responsibility for the state civil
18 infraction, "with explanation".

19 (iii) A preponderance of the evidence at an informal hearing
20 or formal hearing on the question under section 8819 or 8821,
21 respectively.

22 (iv) A default judgment, for failing to appear as directed by
23 a citation or other notice, at a scheduled appearance under
24 section 8815(3)(b) or (4), at an informal hearing under
25 section 8819, or at a formal hearing under section 8821.

26 (c) "Law enforcement officer" means any of the following:

27 (i) A sheriff or deputy sheriff.

(ii) An officer of the police department of a city, village, or township, or the marshal of a city, village, or township.

(iii) An officer of the Michigan state police.

(iv) A conservation officer.

(v) A security employee employed by the state pursuant to section 6c of ~~Act No. 59 of the Public Acts of 1935, being section 28.6c of the Michigan Compiled Laws~~ **1935 PA 59,**

MCL 28.6c.

(vi) A motor carrier officer appointed pursuant to section 6d of 1935 PA 59, MCL 28.6d.

(vii) A public safety officer employed by a university as authorized by either of the following:

(A) ~~1965 PA 278, MCL 390.711 to 390.717~~ **Section 5a of 1965 PA 278, MCL 390.715a.**

(B) 1990 PA 120, MCL 390.1511 to 390.1514.

(viii) If authorized by the governing body of a political subdivision, a constable of the political subdivision.

(ix) A park and recreation officer commissioned pursuant to section 1606 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.1606.

(x) A state forest officer commissioned pursuant to section 83107 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.83107.

(xi) **Any other individual legally authorized to issue state civil infraction citations. A department of this state may adopt a rule pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, authorizing individuals other**

1 than those described in subparagraphs (i) to (x) to issue a state
2 civil infraction citation for the violation of a law or order
3 that the department is charged with enforcing.