

SENATE BILL No. 19

January 8, 2003, Introduced by Senator JELINEK 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 2002 PA 534.

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
3 commission **or a motor carrier officer of the department of state**
4 **police** having reason to believe that the weight of a vehicle and
5 load is unlawful may require the driver to stop and submit to a
6 weighing of the vehicle by either portable or stationary scales
7 approved and sealed by the department of agriculture as a legal
8 weighing device, and may require that the vehicle be driven to
9 the nearest weighing station of the state transportation

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1 department ~~for the purpose of allowing an officer or agent of~~
2 ~~the state transportation department or county road commission~~ to
3 determine whether **or not** the ~~conveyance~~ **vehicle** is loaded ~~in~~
4 ~~conformity 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
13 material unloaded as provided under this subsection shall be
14 cared for by the owner or operator of the vehicle at the risk of
15 the 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
26 determined, 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
26 chapter, 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 an
2 owner-operator, ~~or~~ **and any** other person **or entity**, who causes
3 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
10 representative is driving a duly marked vehicle, clearly showing
11 and denoting 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
18 vehicle and load by means of a portable scale, is guilty of a
19 misdemeanor **punishable by imprisonment for not more than 1 year**
20 **or by a fine of not less than \$500.00 or more than \$1,000.00, or**
21 **both.**

22 (7) A person responsible or responsible "with explanation"
23 for a civil infraction violation of this section or section 722
24 shall not be assessed costs of more than \$200.00.

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

1 included offense of a criminal offense.

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

24 (3) Except as provided in this subsection, if a person is
25 determined to be responsible or responsible "with explanation"
26 for a civil infraction under this act or a local ordinance
27 substantially corresponding to a provision of this act while

1 driving a commercial motor vehicle, he or she shall be ordered to
2 pay costs as provided in subsection (4) and a civil fine of not
3 more than \$250.00. If a person is determined to be responsible
4 or responsible "with explanation" for a civil infraction under
5 section 319g or a local ordinance substantially corresponding to
6 section 319g, that person shall be ordered to pay costs as
7 provided in subsection (4) and a civil fine of not more than
8 \$10,000.00.

9 (4) If a civil fine is ordered under subsection (2) or (3),
10 the judge ~~—, district court referee,~~ or district court
11 magistrate shall summarily tax and determine the costs of the
12 action, which are not limited to the costs taxable in ordinary
13 civil actions, and may include all expenses, direct and indirect,
14 to which the plaintiff has been put in connection with the civil
15 infraction, up to the entry of judgment. Except in a civil
16 infraction for a parking violation, costs of not less than \$5.00
17 shall be ordered. ~~—Costs—~~ **Except for a civil infraction**
18 **violation of sections 722 and 724, costs** shall not be ordered in
19 excess of \$100.00. A civil fine ordered under subsection (2) or
20 (3) shall not be waived unless costs ordered under this
21 subsection are waived. Except as otherwise provided by law,
22 costs are payable to the general fund of the plaintiff.

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

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

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

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

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

1 citation.

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

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

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

21 (13) In addition to any fines and costs ordered to be paid
22 under this section, the judge ~~—, district court referee,~~ or
23 district court magistrate shall levy an assessment of \$5.00 for
24 each civil infraction determination, except for a parking
25 violation or a violation for which the total fine and costs
26 imposed are \$10.00 or less. Upon payment of the assessment, the
27 clerk of the court shall transmit the assessment levied to the

1 state treasury to be deposited into the Michigan justice training
2 fund. An assessment levied under this subsection is not a civil
3 fine for purposes of section 909.

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