

SENATE BILL No. 555

June 5, 2003, Introduced by Senator PATTERSON and referred to the Committee on Technology and Energy.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 320a and 907 (MCL 257.320a and 257.907), section 320a as amended by 2002 PA 149 and section 907 as amended by 2002 PA 534.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 320a. (1) The secretary of state, within 10 days after
2 the receipt of a properly prepared abstract from this or another
3 state, shall record the date of conviction, civil infraction
4 determination, or probate court disposition, and the number of
5 points for each, based on the following formula, except as
6 otherwise provided in this section and section 629c:
7 (a) Manslaughter, negligent homicide, or a felony
8 resulting from the operation of a motor vehicle, ORV,
9 or snowmobile..... 6 points

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- 1 (b) A violation of section 601b(2) or (3), 601c(1) or
 2 (2), or 653a(3) or (4)..... 6 points
- 3 (c) A violation of section 625(1), (4), (5), or (7),
 4 section 81134 or 82127(1) of the natural resources and
 5 environmental protection act, 1994 PA 451,
 6 MCL 324.81134 and 324.82127, or a law or ordinance
 7 substantially corresponding to section 625(1), (4),
 8 (5), or (7) or, section 81134 or 82127(1) of the
 9 natural resources and environmental protection act,
 10 1994 PA 451, MCL 324.81134 and 324.82127..... 6 points
- 11 (d) Failing to stop and disclose identity at the
 12 scene of an accident when required by law..... 6 points
- 13 (e) Operating a motor vehicle in violation of section
 14 626..... 6 points
- 15 (f) Fleeing or eluding an officer..... 6 points
- 16 (g) Violation of section 627(9) pertaining to speed
 17 in a designated work area by exceeding the lawful
 18 maximum by more than 15 miles per hour..... 5 points
- 19 (h) Violation of any law other than the law described
 20 in subdivision (g) or ordinance pertaining to speed by
 21 exceeding the lawful maximum by more than 15 miles per
 22 hour..... 4 points
- 23 (i) Violation of section 625(3) or (6), section 81135
 24 or 82127(3) of the natural resources and environmental
 25 protection act, 1994 PA 451, MCL 324.81135 and
 26 324.82127, or a law or ordinance substantially
 27 corresponding to section 625(3) or (6) or, section

1 81135 or 82127(3) of the natural resources and
2 environmental protection act, 1994 PA 451,
3 MCL 324.81135 and 324.82127..... 4 points
4 (j) Violation of section 626a or a law or ordinance
5 substantially corresponding to section 626a..... 4 points
6 (k) Violation of section 653a(2)..... 4 points
7 (l) Violation of section 627(9) pertaining to speed
8 in a designated work area by exceeding the lawful
9 maximum by more than 10 but not more than 15 miles per
10 hour..... 4 points
11 (m) Violation of any law other than the law described
12 in subdivision (l) or ordinance pertaining to speed by
13 exceeding the lawful maximum by more than 10 but not
14 more than 15 miles per hour or careless driving in
15 violation of section 626b or a law or ordinance
16 substantially corresponding to section 626b..... 3 points
17 (n) Violation of section 627(9) pertaining to speed
18 in a designated work area by exceeding the lawful
19 maximum by 10 miles per hour or less..... 3 points
20 (o) Violation of any law other than the law described
21 in subdivision (n) or ordinance pertaining to speed by
22 exceeding the lawful maximum by 10 miles per hour or
23 less..... 2 points
24 (p) Disobeying a traffic signal or stop sign, or
25 improper passing..... 3 points
26 (q) Violation of section 624a, 624b, or a law or
27 ordinance substantially corresponding to section 624a

1 or 624b..... 2 points

2 (r) Violation of section 310e(4) or (6) or a law or
3 ordinance substantially corresponding to section
4 310e(4) or (6)..... 2 points

5 (s) All other moving violations pertaining to the
6 operation of motor vehicles reported under this section 2 points

7 (t) A refusal by a person less than 21 years of age
8 to submit to a preliminary breath test required by a
9 peace officer under section 625a..... 2 points

10 **(2) The secretary of state shall add 1 point to each**
11 **conviction, civil infraction determination, or probate court**
12 **disposition if the citation indicates that the use of a cellular**
13 **telephone contributed to the cause of the violation.**

14 **(3) ~~-(2)-~~** Points shall not be entered for a violation of
15 section 310e(14), 311, 625m, 658, 717, 719, 719a, or 723.

16 **(4) ~~-(3)-~~** Points shall not be entered for bond forfeitures.

17 **(5) ~~-(4)-~~** Points shall not be entered for overweight loads or
18 for defective equipment.

19 **(6) ~~-(5)-~~** If more than 1 conviction, civil infraction
20 determination, or probate court disposition results from the same
21 incident, points shall be entered only for the violation that
22 receives the highest number of points under this section.

23 **(7) ~~-(6)-~~** If a person has accumulated 9 points as provided in
24 this section, the secretary of state may call the person in for
25 an interview as to the person's driving ability and record after
26 due notice as to time and place of the interview. If the person
27 fails to appear as provided in this subsection, the secretary of

1 state shall add 3 points to the person's record.

2 **(8)** ~~-(7)-~~ If a person violates a speed restriction
3 established by an executive order issued during a state of energy
4 emergency as provided by 1982 PA 191, MCL 10.81 to 10.89, the
5 secretary of state shall enter points for the violation pursuant
6 to subsection (1).

7 **(9)** ~~-(8)-~~ The secretary of state shall enter 6 points upon
8 the record of a person whose license is suspended or denied
9 pursuant to section 625f. However, if a conviction, civil
10 infraction determination, or probate court disposition results
11 from the same incident, additional points for that offense shall
12 not be entered.

13 **(10)** ~~-(9)-~~ If a Michigan driver commits a violation in
14 another state that would be a civil infraction if committed in
15 Michigan, and a conviction results solely because of the failure
16 of the Michigan driver to appear in that state to contest the
17 violation, upon receipt of the abstract of conviction by the
18 secretary of state, the violation shall be noted on the driver's
19 record, but no points shall be assessed against his or her
20 driver's license.

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

25 (2) If a person is determined pursuant to sections 741 to 750
26 to be responsible or responsible "with explanation" for a civil
27 infraction under this act or a local ordinance substantially

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

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

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

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

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

26 (6) A district court referee or district court magistrate
27 shall impose the sanctions permitted under subsections (2), (3),

1 and (5) only to the extent expressly authorized by the chief
2 judge or only judge of the district court district.

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

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

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

27 (10) A default in the payment of a civil fine or costs

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

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

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

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

1 fine for purposes of section 909.

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

8 (15) The secretary of state, in conjunction with the
9 department of state police, shall report to the senate and house
10 standing committees on transportation 2 years after the effective
11 date of the amendatory act that added this subsection on the
12 number of cases in which a cellular telephone contributed to a
13 violation of this act for which a fine was imposed under this
14 section.