

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 234

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 676a and 907 (MCL 257.676a and 257.907),
section 676a as amended by 1999 PA 46 and section 907 as amended by
2004 PA 493.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 676a. (1) Except as otherwise provided in this section, a
2 person, firm, or corporation who sells or offers for sale, or
3 displays or attempts to display for sale, goods, wares, produce,
4 fruit, vegetables, or merchandise within the right-of-way of a
5 highway outside of the corporate limits of a city or village, or
6 within the right-of-way of a state trunk line highway, is
7 responsible for a civil infraction.

1 (2) THE STATE TRANSPORTATION DEPARTMENT MAY ISSUE A PERMIT TO
2 A PERSON, FIRM, OR CORPORATION TO CONDUCT ACTIVITIES DESCRIBED IN
3 SUBSECTION (1) IF THE PERMITTED ACTIVITIES DO NOT CREATE AN UNSAFE
4 SITUATION AND DO NOT INTERFERE WITH TRANSPORTATION ALONG THE STATE
5 TRUNK LINE HIGHWAY. AS A CONDITION OF ISSUING A PERMIT UNDER THIS
6 SUBSECTION, THE STATE TRANSPORTATION DEPARTMENT SHALL REQUIRE THE
7 MUNICIPALITY HAVING JURISDICTION OVER THE SITE TO PASS A RESOLUTION
8 AUTHORIZING THE ACTIVITIES DESCRIBED IN SUBSECTION (1) AND MAY
9 REQUIRE THAT THE MUNICIPALITY HAVING JURISDICTION OVER THE SITE OF
10 THE PERMITTED ACTIVITIES AGREE TO ENFORCE COMPLIANCE WITH THE
11 PERMIT. THE ISSUANCE OF A PERMIT UNDER THIS SUBSECTION DOES NOT
12 CONFER ANY PROPERTY RIGHT. THE STATE TRANSPORTATION DEPARTMENT MAY
13 CHARGE A FEE FOR ISSUING A PERMIT UNDER THIS SUBSECTION IN AN
14 AMOUNT NOT GREATER THAN THE ADMINISTRATIVE COST OF ISSUING THE
15 PERMIT.

16 (3) A HOLDER OF A PERMIT ISSUED UNDER SUBSECTION (2) THAT
17 CONDUCTS ACTIVITIES IN VIOLATION OF THAT PERMIT IS RESPONSIBLE FOR
18 A CIVIL INFRACTION. EACH DAY DURING WHICH THE PERMIT HOLDER
19 CONDUCTS ACTIVITIES IN VIOLATION OF THE PERMIT IS A SEPARATE
20 VIOLATION. THE STATE TRANSPORTATION DEPARTMENT MAY LIMIT OR REVOKE
21 A PERMIT ISSUED UNDER SUBSECTION (2) IF THE PERMIT HOLDER CONDUCTS
22 ACTIVITIES THAT CREATE AN UNSAFE SITUATION OR INTERFERE WITH
23 TRANSPORTATION ALONG THE STATE TRUNK LINE HIGHWAY, OR IF THE PERMIT
24 HOLDER IS IN VIOLATION OF THE CONDITIONS OF THE PERMIT.

25 (4) ~~—(2)—~~ This section does not interfere with a permanently
26 established business that, as of September 27, 1957, was located on
27 or partially on private property or grant to the owner of that

1 business additional rights or authority that the owner did not
2 possess on September 27, 1957, or diminish the legal rights or
3 duties of the authority having jurisdiction of the right-of-way.

4 (5) ~~—(3)—~~ In conjunction with the exemption granted by federal
5 law from the restrictions contained in ~~section 111 of title 23 of~~
6 ~~the United States Code, 23 U.S.C. USC~~ 111, and described in the
7 "manual on uniform traffic control devices for streets and
8 highways", U.S. department of transportation and federal highway
9 administration, part 2g (LOGOS), this section does not prohibit the
10 use of a facility located in part on the right-of-way of I-94 in
11 the vicinity of the interchange of I-94 and I-69 business loop/I-94
12 business loop for the sale of only those articles which are for
13 export and consumption outside the United States.

14 (6) ~~—(4)—~~ This section does not prohibit the use of logo
15 signage within the right-of-way of limited access highways. For
16 purposes of this subsection, "logo signage" means a sign containing
17 the trademark or other symbol that identifies a business in a
18 manner and at locations approved by the state transportation
19 department. The state transportation department may enter into
20 agreements to allow logo signage, and any revenue received by the
21 state transportation department under this subsection shall be
22 deposited into the state trunk line fund established under section
23 11 of 1951 PA 51, MCL 247.661.

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

1 (2) If a person is determined pursuant to sections 741 to 750
2 to be responsible or responsible "with explanation" for a civil
3 infraction under this act or a local ordinance substantially
4 corresponding to a provision of this act, the judge or district
5 court magistrate may order the person to pay a civil fine of not
6 more than \$100.00 and costs as provided in subsection (4). However,
7 for a violation of section 674(1)(s) or a local ordinance
8 substantially corresponding to section 674(1)(s), the person shall
9 be ordered to pay costs as provided in subsection (4) and a civil
10 fine of not less than \$100.00 or more than \$250.00. For a violation
11 of section 328, the civil fine ordered under this subsection shall
12 be not more than \$50.00. For a violation of section 710d, the civil
13 fine ordered under this subsection shall not exceed \$10.00. For a
14 violation of section 710e, the civil fine and court costs ordered
15 under this subsection shall be \$25.00. For a violation of section
16 682 or a local ordinance substantially corresponding to section
17 682, the person shall be ordered to pay costs as provided in
18 subsection (4) and a civil fine of not less than \$100.00 or more
19 than \$500.00. For a violation of section 240, the civil fine
20 ordered under this subsection shall be \$15.00. For a violation of
21 section 252a(1), the civil fine ordered under this subsection shall
22 be \$50.00. **FOR A VIOLATION OF SECTION 676A(3), THE CIVIL FINE**
23 **ORDERED UNDER THIS SECTION SHALL BE NOT MORE THAN \$10.00.**
24 Permission may be granted for payment of a civil fine and costs to
25 be made within a specified period of time or in specified
26 installments, but unless permission is included in the order or
27 judgment, the civil fine and costs shall be payable immediately.

1 (3) Except as provided in this subsection, if a person is
2 determined to be responsible or responsible "with explanation" for
3 a civil infraction under this act or a local ordinance
4 substantially corresponding to a provision of this act while
5 driving a commercial motor vehicle, he or she shall be ordered to
6 pay costs as provided in subsection (4) and a civil fine of not
7 more than \$250.00. If a person is determined to be responsible or
8 responsible "with explanation" for a civil infraction under section
9 319g or a local ordinance substantially corresponding to section
10 319g, that person shall be ordered to pay costs as provided in
11 subsection (4) and a civil fine of not more than \$10,000.00.

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

23 (5) In addition to a civil fine and costs ordered under
24 subsection (2) or (3) and subsection (4) and the justice system
25 assessment ordered under subsection (14), the judge or district
26 court magistrate may order the person to attend and complete a
27 program of treatment, education, or rehabilitation.

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

5 (7) Each district of the district court and each municipal
6 court may establish a schedule of civil fines, costs, and
7 assessments to be imposed for civil infractions that occur within
8 the respective district or city. If a schedule is established, it
9 shall be prominently posted and readily available for public
10 inspection. A schedule need not include all violations that are
11 designated by law or ordinance as civil infractions. A schedule may
12 exclude 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 civil
17 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 guide
20 for judges and district court magistrates and a basis for public
21 evaluation of disparities in the imposition of civil fines and
22 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, costs, and assessments upon receipt
26 of 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 ordered
3 under subsection (2), (3), or (4) or a justice system assessment
4 ordered under subsection (14), or an installment of the fine,
5 costs, or assessment, may be collected by a means authorized for
6 the enforcement of a judgment under chapter 40 of the revised
7 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or
8 under chapter 60 of the revised judicature act of 1961, 1961 PA
9 236, MCL 600.6001 to 600.6098.

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

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

22 (13) Until October 1, 2003, in addition to any civil fines and
23 costs ordered to be paid under this section, the judge or district
24 court magistrate shall levy an assessment of \$5.00 for each civil
25 infraction determination, except for a parking violation or a
26 violation for which the total fine and costs imposed are \$10.00 or
27 less. An assessment paid before October 1, 2003 shall be

1 transmitted by the clerk of the court to the state treasurer to be
2 deposited into the Michigan justice training fund. An assessment
3 ordered before October 1, 2003 but collected on or after October 1,
4 2003 shall be transmitted by the clerk of the court to the state
5 treasurer for deposit in the justice system fund created in section
6 181 of the revised judicature act of 1961, 1961 PA 236, MCL
7 600.181. An assessment levied under this subsection is not a civil
8 fine for purposes of section 909.

9 (14) Effective October 1, 2003, in addition to any civil fines
10 or costs ordered to be paid under this section, the judge or
11 district court magistrate shall order the defendant to pay a
12 justice system assessment of \$40.00 for each civil infraction
13 determination, except for a parking violation or a violation for
14 which the total fine and costs imposed are \$10.00 or less. Upon
15 payment of the assessment, the clerk of the court shall transmit
16 the assessment collected to the state treasury to be deposited into
17 the justice system fund created in section 181 of the revised
18 judicature act of 1961, 1961 PA 236, MCL 600.181. An assessment
19 levied under this subsection is not a civil fine for purposes of
20 section 909.

21 (15) If a person has received a citation for a violation of
22 section 223, the court shall waive any civil fine, costs, and
23 assessment, upon receipt of certification by a law enforcement
24 agency that the person, before the appearance date on the citation,
25 produced a valid registration certificate that was valid on the
26 date the violation of section 223 occurred.

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

1 section 328(1) for failing to produce a certificate of insurance
2 pursuant to section 328(2), the court may waive the fee described
3 in section 328(3)(c) and shall waive any fine, costs, and any other
4 fee or assessment otherwise authorized under this act upon receipt
5 of verification by the court that the person, before the appearance
6 date on the citation, produced valid proof of insurance that was in
7 effect at the time the violation of section 328(1) occurred.
8 Insurance obtained subsequent to the time of the violation does not
9 make the person eligible for a waiver under this subsection.