

SENATE BILL No. 234

February 22, 2005, Introduced by Senator GILBERT and referred to the Committee on Transportation.

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

1 responsible for a civil infraction.

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

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

22 (4) ~~—(2)—~~ This section does not interfere with a permanently
23 established business that, as of September 27, 1957, was located on
24 or partially on private property or grant to the owner of that
25 business additional rights or authority that the owner did not
26 possess on September 27, 1957, or diminish the legal rights or
27 duties of the authority having jurisdiction of the right-of-way.

1 (5) ~~—(3)—~~ In conjunction with the exemption granted by federal
2 law from the restrictions contained in ~~section 111 of title 23 of~~
3 ~~the United States Code, 23 U.S.C. USC~~ 111, and described in the
4 "manual on uniform traffic control devices for streets and
5 highways", U.S. department of transportation and federal highway
6 administration, part 2g (LOGOS), this section does not prohibit the
7 use of a facility located in part on the right-of-way of I-94 in
8 the vicinity of the interchange of I-94 and I-69 business loop/I-94
9 business loop for the sale of only those articles which are for
10 export and consumption outside the United States.

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

21 Sec. 907. (1) A violation of this act, or a local ordinance
22 substantially corresponding to a provision of this act, that 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 or district
2 court magistrate may order the person to pay a civil fine of not
3 more than \$100.00 and costs as provided in subsection (4). However,
4 for a violation of section 674(1)(s) or a local ordinance
5 substantially corresponding to section 674(1)(s), the person shall
6 be ordered to pay costs as provided in subsection (4) and a civil
7 fine of not less than \$100.00 or more than \$250.00. For a violation
8 of section 328, the civil fine ordered under this subsection shall
9 be not more than \$50.00. For a violation of section 710d, the civil
10 fine ordered under this subsection shall not exceed \$10.00. For a
11 violation of section 710e, the civil fine and court costs ordered
12 under this subsection shall be \$25.00. For a violation of section
13 682 or a local ordinance substantially corresponding to section
14 682, the person shall be ordered to pay costs as provided in
15 subsection (4) and a civil fine of not less than \$100.00 or more
16 than \$500.00. For a violation of section 240, the civil fine
17 ordered under this subsection shall be \$15.00. For a violation of
18 section 252a(1), the civil fine ordered under this subsection shall
19 be \$50.00. **FOR A VIOLATION OF SECTION 676A(3), THE CIVIL FINE**
20 **ORDERED UNDER THIS SECTION SHALL BE NOT MORE THAN \$10.00.**

21 Permission may be granted for payment of a civil fine and costs to
22 be made within a specified period of time or in specified
23 installments, but unless permission is included in the order or
24 judgment, the civil fine and costs shall be payable immediately.

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

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

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

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

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

1 district court district.

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

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

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

26 (10) A default in the payment of a civil fine or costs ordered
27 under subsection (2), (3), or (4) or a justice system assessment

1 ordered under subsection (14), or an installment of the fine,
2 costs, or assessment, may be collected by a means authorized for
3 the 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 PA
6 236, 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 the
9 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 also
12 proceed under section 908.

13 (12) The court shall waive any civil fine, cost, or assessment
14 against a person who received a civil infraction citation for a
15 violation of section 710d if the person, before the appearance date
16 on the 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) Until October 1, 2003, in addition to any civil fines and
20 costs ordered to be paid under this section, the judge or district
21 court magistrate shall levy an assessment of \$5.00 for each civil
22 infraction determination, except for a parking violation or a
23 violation for which the total fine and costs imposed are \$10.00 or
24 less. An assessment paid before October 1, 2003 shall be
25 transmitted by the clerk of the court to the state treasurer to be
26 deposited into the Michigan justice training fund. An assessment
27 ordered before October 1, 2003 but collected on or after October 1,

1 2003 shall be transmitted by the clerk of the court to the state
2 treasurer for deposit in the justice system fund created in section
3 181 of the revised judicature act of 1961, 1961 PA 236, MCL
4 600.181. An assessment levied under this subsection is not a civil
5 fine for purposes of section 909.

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

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

24 (16) If a person has received a citation for a violation of
25 section 328(1) for failing to produce a certificate of insurance
26 pursuant to section 328(2), the court may waive the fee described
27 in section 328(3)(c) and shall waive any fine, costs, and any other

1 fee or assessment otherwise authorized under this act upon receipt
2 of verification by the court that the person, before the appearance
3 date on the citation, produced valid proof of insurance that was in
4 effect at the time the violation of section 328(1) occurred.
5 Insurance obtained subsequent to the time of the violation does not
6 make the person eligible for a waiver under this subsection.