

SENATE BILL No. 262

March 1, 2005, Introduced by Senators GEORGE, GOSCHKA, BASHAM, LELAND, McMANUS, BARCIA, GARCIA and BIRKHOLZ and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending section 907 (MCL 257.907), as amended by 2004 PA 493.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 907. (1) A violation of this act, or a local ordinance
2 substantially corresponding to a provision of this act, that is
3 designated a civil infraction ~~shall~~ **IS** not ~~be considered~~ a
4 lesser included offense of a criminal offense.

5 (2) If a person is determined pursuant to sections 741 to 750
6 to be responsible or responsible "with explanation" for a civil
7 infraction under this act or a local ordinance substantially
8 corresponding to a provision of this act, the judge or district
9 court magistrate may order the person to pay a civil fine of not

1 more than \$100.00 and costs as provided in subsection (4). However,
2 for a violation of section 674(1)(s) or a local ordinance
3 substantially corresponding to section 674(1)(s), the person shall
4 be ordered to pay costs as provided in subsection (4) and a civil
5 fine of not less than \$100.00 or more than \$250.00. For a violation
6 of section 328, the civil fine ordered under this subsection shall
7 be not more than \$50.00. For a violation of section 710d, the civil
8 fine ordered under this subsection shall not exceed \$10.00. For a
9 violation of section 710e, the civil fine and court costs ordered
10 under this subsection shall be \$25.00. For a violation of section
11 682 or a local ordinance substantially corresponding to section
12 682, the person shall be ordered to pay costs as provided in
13 subsection (4) and a civil fine of not less than \$100.00 or more
14 than \$500.00. For a violation of section 240, the civil fine
15 ordered under this subsection shall be \$15.00. For a violation of
16 section 252a(1), the civil fine ordered under this subsection shall
17 be \$50.00. Permission may be granted for payment of a civil fine
18 and costs to be made within a specified period of time or in
19 specified installments, but unless permission is included in the
20 order or judgment, the civil fine and costs shall be payable
21 immediately.

22 (3) Except as provided in this subsection, if a person is
23 determined to be responsible or responsible "with explanation" for
24 a civil infraction under this act or a local ordinance
25 substantially corresponding to a provision of this act while
26 driving a commercial motor vehicle, he or she shall be ordered to
27 pay costs as provided in subsection (4) and a civil fine of not

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

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

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

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

26 (7) Each district of the district court and each municipal
27 court may establish a schedule of civil fines, costs, and

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

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

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

23 (10) A default in the payment of a civil fine or costs ordered
24 under subsection (2), (3), or (4) or a justice system assessment
25 ordered under subsection (14), or an installment of the fine,
26 costs, or assessment, may be collected by a means authorized for
27 the enforcement of a judgment under chapter 40 of the revised

1 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or
2 under chapter 60 of the revised judicature act of 1961, 1961 PA
3 236, MCL 600.6001 to 600.6098.

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

10 (12) The court shall waive any civil fine, cost, or assessment
11 against a person who received a civil infraction citation for a
12 violation of section 710d **OR 710E(3)** if the person, before the
13 appearance date on the citation, supplies the court with evidence
14 of acquisition, purchase, or rental of a child seating system
15 meeting the requirements of section 710d.

16 (13) Until October 1, 2003, in addition to any civil fines and
17 costs ordered to be paid under this section, the judge or district
18 court magistrate shall levy an assessment of \$5.00 for each civil
19 infraction determination, except for a parking violation or a
20 violation for which the total fine and costs imposed are \$10.00 or
21 less. An assessment paid before October 1, 2003 shall be
22 transmitted by the clerk of the court to the state treasurer to be
23 deposited into the Michigan justice training fund **CREATED IN**
24 **SECTION 5 OF 1982 PA 302, MCL 18.425**. An assessment ordered before
25 October 1, 2003 but collected on or after October 1, 2003 shall be
26 transmitted by the clerk of the court to the state treasurer for
27 deposit in the justice system fund created in section 181 of the

1 revised judicature act of 1961, 1961 PA 236, MCL 600.181. An
2 assessment levied under this subsection is not a civil fine for
3 purposes of section 909.

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

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

22 (16) If a person has received a citation for a violation of
23 section 328(1) for failing to produce a certificate of insurance
24 pursuant to section 328(2), the court may waive the fee described
25 in section 328(3)(c) and shall waive any fine, costs, and any other
26 fee or assessment otherwise authorized under this act upon receipt
27 of verification by the court that the person, before the appearance

1 date on the citation, produced valid proof of insurance that was in
2 effect at the time the violation of section 328(1) occurred.
3 Insurance obtained subsequent to the time of the violation does not
4 make the person eligible for a waiver under this subsection.