

SUBSTITUTE FOR
HOUSE BILL NO. 4749

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 312a, 658, and 907 (MCL 257.312a, 257.658, and
257.907), section 658 as amended by 2002 PA 494 and section 907 as
amended by 2006 PA 298, and by adding sections 658c and 658d; and
to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 312a. (1) A person, before operating a motorcycle upon a
2 public street or highway in this state, shall procure a motorcycle
3 indorsement on the operator's or chauffeur's license. The license
4 shall be issued, suspended, revoked, canceled, or renewed in
5 accordance with and governed by this act. **BEFORE JANUARY 1, 2013, A**
6 **PERSON WHO VIOLATES THIS SUBSECTION IS RESPONSIBLE FOR A CIVIL**

1 INFRACTION AND MAY BE FINED NOT MORE THAN \$200.00. ON AND AFTER
2 JANUARY 1, 2013, A PERSON WHO VIOLATES THIS SUBSECTION IS
3 RESPONSIBLE FOR A CIVIL INFRACTION AND MAY BE FINED NOT MORE THAN
4 \$100.00.

5 (2) A person, before operating a moped upon a highway shall
6 procure a special restricted license to operate a moped unless the
7 person has a valid operator's or chauffeur's license. A special
8 restricted license to operate a moped may be issued to a person 15
9 years of age or older if the person satisfies the secretary of
10 state that he **OR SHE** is competent to operate a moped with safety.
11 The secretary of state shall not require a road test before
12 ~~issuance of~~ **ISSUING** a special restricted license to operate a
13 moped.

14 (3) A special restricted license to operate a moped ~~shall~~
15 ~~expire~~ **EXPIRES** on the birthday of the person to whom it is issued
16 in the fourth year following the date ~~of issuance~~ **IT IS ISSUED**. A
17 license shall not be issued for a period longer than 4 years. A
18 person issued a license to operate a moped shall pay \$7.50 for an
19 original license and \$6.00 for a renewal license. The money
20 received and collected under this subsection shall be deposited in
21 the state treasury to the credit of the general fund. The secretary
22 of state shall refund out of the fees collected to each county or
23 municipality, acting as an examining officer, \$2.50 for each
24 applicant examined for an original license and \$1.00 for a renewal
25 license.

26 Sec. 658. (1) A person propelling a bicycle or operating a
27 motorcycle or moped shall not ride other than upon and astride a

1 permanent and regular seat attached to that vehicle.

2 (2) A bicycle or motorcycle shall not be used to carry more
3 persons at 1 time than the number for which it is designed and
4 equipped.

5 (3) A moped or an electric personal assistive mobility device
6 shall not be used to carry more than 1 person at a time.

7 (4) ~~A-EXCEPT AS PROVIDED IN SECTION 658C, A~~ person operating
8 or riding on a motorcycle ~~—~~and any person less than 19 years of
9 age operating a moped on a public thoroughfare shall wear a crash
10 helmet on his or her head. Crash helmets shall be approved by the
11 department of state police. The department of state police shall
12 promulgate rules ~~for the implementation of~~ **TO IMPLEMENT** this
13 section ~~pursuant to~~ **UNDER** the administrative procedures act of
14 1969, 1969 PA 306, MCL 24.201 to 24.328. Rules in effect on June 1,
15 1970, ~~shall~~ apply to helmets required by this act. This subsection
16 does not apply to a person operating or riding in an autocyple if
17 the vehicle is equipped with a roof ~~which~~ **THAT** meets or exceeds
18 standards for a crash helmet. **A PERSON WHO OPERATES OR RIDES ON A**
19 **MOTORCYCLE IN VIOLATION OF THIS SUBSECTION IS RESPONSIBLE FOR A**
20 **CIVIL INFRACTION AND MAY BE FINED NOT MORE THAN \$300.00.**

21 (5) A person operating or riding in an autocyple shall wear
22 seat belts when on a public highway in this state.

23 **SEC. 658C. (1) THE HELMET REQUIREMENTS UNDER SECTION 658(4) DO**
24 **NOT APPLY TO A MOTORCYCLE OPERATOR IF THE MOTORCYCLE OPERATOR IS**
25 **EXEMPT UNDER SUBSECTION (6) OR IF ALL OF THE FOLLOWING CONDITIONS**
26 **ARE SATISFIED:**

27 (A) HE OR SHE IS 21 YEARS OF AGE OR OLDER.

1 (B) HE OR SHE HAS BEEN LICENSED UNDER THIS ACT TO OPERATE A
2 MOTORCYCLE FOR NOT LESS THAN 2 YEARS OR HAS SUCCESSFULLY COMPLETED
3 A MOTORCYCLE SAFETY COURSE UNDER SECTION 811A OR 811B.

4 (C) HE OR SHE HAS IN EFFECT SECURITY IN THE AMOUNT OF
5 \$20,000.00 FOR THE PAYMENT OF FIRST-PARTY MEDICAL BENEFITS PAYABLE
6 IF HE OR SHE IS INVOLVED IN A MOTORCYCLE ACCIDENT AS PROVIDED IN
7 SECTION 3103 OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL
8 500.3103.

9 (D) HE OR SHE CARRIES A VALID PERMIT OBTAINED UNDER SUBSECTION
10 (3).

11 (2) THE HELMET REQUIREMENTS UNDER SECTION 658(4) DO NOT APPLY
12 TO A PASSENGER ON A MOTORCYCLE IF BOTH OF THE FOLLOWING CONDITIONS
13 ARE SATISFIED:

14 (A) THE MOTORCYCLE OPERATOR HAS SATISFIED ALL OF THE
15 REQUIREMENTS LISTED UNDER SUBSECTION (1) OR IS EXEMPT UNDER
16 SUBSECTION (6).

17 (B) THE PASSENGER IS 21 YEARS OF AGE OR OLDER.

18 (3) A PERSON SHALL OBTAIN A PERMIT UNDER THIS SUBSECTION FROM
19 THE SECRETARY OF STATE BEFORE OPERATING A MOTORCYCLE ON A PUBLIC
20 STREET OR HIGHWAY IN THIS STATE WITHOUT WEARING A CRASH HELMET UPON
21 HIS OR HER HEAD. THE SECRETARY OF STATE SHALL ISSUE A PERMIT UNDER
22 THIS SUBSECTION IF THE PERSON HAS SATISFIED ALL OF THE REQUIREMENTS
23 UNDER SUBSECTION (1) AND PAYS 1 OF THE FOLLOWING FEES:

24 (A) \$100.00 ANNUALLY FOR A PERMIT THAT IS VALID FOR A PERIOD
25 OF 1 YEAR.

26 (B) \$200.00 FOR A PERMIT THAT IS VALID FOR 3 YEARS.

27 (4) A PERMIT ISSUED UNDER SUBSECTION (3) SHALL CONTAIN ALL OF

1 THE FOLLOWING:

2 (A) THE PERSON'S NAME, ADDRESS, AND DATE OF BIRTH.

3 (B) THE DATE WHEN THE PERMIT EXPIRES.

4 (C) THE FOLLOWING STATEMENT: "A PERSON WHO OPERATES A
5 MOTORCYCLE ON A PUBLIC STREET OR HIGHWAY IN THIS STATE WITHOUT
6 WEARING A CRASH HELMET WHO FAILS TO PRODUCE A VALID PERMIT ISSUED
7 UNDER MCL 257.658C UPON THE REQUEST OF A PEACE OFFICER IS IN
8 VIOLATION OF MCL 257.658(4), A CIVIL INFRACTION FOR WHICH THE
9 PERSON MAY BE FINED NOT MORE THAN \$300.00."

10 (D) ANY OTHER INFORMATION REQUIRED BY THE SECRETARY OF STATE.

11 (5) UPON REQUEST, THE SECRETARY OF STATE SHALL ISSUE A PERMIT
12 STICKER TO THE REGISTERED OWNER OF A MOTORCYCLE FOR APPLICATION ON
13 THE REGISTRATION PLATE OF THE MOTORCYCLE IF THE REGISTERED OWNER OF
14 THE MOTORCYCLE SATISFIES ALL OF THE REQUIREMENTS UNDER SUBSECTION
15 (1) AND PRESENTS A VALID PERMIT ISSUED UNDER SUBSECTION (3). A
16 PERMIT STICKER ISSUED UNDER THIS SUBSECTION SHALL BEAR THE
17 EXPIRATION DATE OF THE PERMIT.

18 (6) THE HELMET REQUIREMENTS UNDER SECTION 658(4) DO NOT APPLY
19 TO A MOTORCYCLE OPERATOR WHO IS NOT A RESIDENT OF THIS STATE AND
20 WHO IS THE OWNER OF THE MOTORCYCLE HE OR SHE IS OPERATING.

21 (7) THE SECRETARY OF STATE SHALL DEPOSIT THE MONEY COLLECTED
22 FROM FEES PAID FOR PERMITS UNDER SUBSECTION (3) TO THE MOTORCYCLE
23 CRASH HELMET PERMIT FEE FUND CREATED UNDER SECTION 658D.

24 SEC. 658D. THE MOTORCYCLE CRASH HELMET PERMIT FEE FUND IS
25 CREATED WITHIN THE STATE TREASURY. THE STATE TREASURER MAY RECEIVE
26 MONEY OR OTHER ASSETS FROM ANY SOURCE FOR DEPOSIT INTO THE FUND AND
27 SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL

1 CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.
2 MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN
3 THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND. THE SECRETARY OF
4 STATE SHALL BE THE ADMINISTRATOR OF THE FUND FOR AUDITING PURPOSES.
5 THE SECRETARY OF STATE SHALL EXPEND MONEY FROM THE FUND, UPON
6 APPROPRIATION, ONLY AS FOLLOWS:

7 (A) THE FIRST \$5,000,000.00 DEPOSITED INTO THE FUND SHALL BE
8 PAID TO THE COMMISSION ON LAW ENFORCEMENT STANDARDS CREATED UNDER
9 THE COMMISSION ON LAW ENFORCEMENT STANDARDS ACT, 1965 PA 203, MCL
10 28.601 TO 28.616, TO DEFRAY THE COST OF DEVELOPING AND IMPLEMENTING
11 MINIMUM TRAINING STANDARDS CONCERNING THE ENFORCEMENT OF SECTION
12 658C.

13 (B) AFTER THE MONEY DESCRIBED IN SUBDIVISION (A) IS PAID AS
14 PRESCRIBED UNDER THAT SECTION, THE REMAINDER OF ALL MONEY DEPOSITED
15 INTO THE FUND SHALL BE PAID TO FUND THE AT-POST TROOPER LINE ITEM
16 IN THE DEPARTMENT OF STATE POLICE BUDGET IN SENATE BILL NO. 238 FOR
17 THE 2007-2008 FISCAL YEAR, AND TO A COMMENSURATE LINE ITEM IN THE
18 DEPARTMENT OF STATE POLICE BUDGET FOR EACH SUBSEQUENT FISCAL YEAR.

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

23 (2) If a person is determined pursuant to sections 741 to 750
24 to be responsible or responsible "with explanation" for a civil
25 infraction under this act or a local ordinance substantially
26 corresponding to a provision of this act, the judge or district
27 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. **UNTIL JANUARY**
6 **1, 2013, FOR A VIOLATION OF SECTION 312A(1), THE CIVIL FINE ORDERED**
7 **UNDER THIS SECTION SHALL BE NOT MORE THAN \$200.00; ON AND AFTER**
8 **JANUARY 1, 2013, NOT MORE THAN \$100.00.** For a violation of section
9 328, the civil fine ordered under this subsection shall be not more
10 than \$50.00. For a violation of section 710d, the civil fine
11 ordered under this subsection shall not exceed \$10.00. For a
12 violation of section 710e, the civil fine and court costs ordered
13 under this subsection shall be \$25.00. **FOR A VIOLATION OF SECTION**
14 **658(4) INVOLVING AN OPERATOR OF OR A PASSENGER ON A MOTORCYCLE, THE**
15 **CIVIL FINE ORDERED UNDER THIS SUBSECTION SHALL BE NOT MORE THAN**
16 **\$300.00.** 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 fine
19 of not less than \$100.00 or more than \$500.00. For a violation of
20 section 240, the civil fine ordered under this subsection shall be
21 \$15.00. For a violation of section 252a(1), the civil fine ordered
22 under this subsection shall be \$50.00. For a violation of section
23 676a(3), the civil fine ordered under this ~~section~~**SUBSECTION** shall
24 be not more than \$10.00. For a violation of section 319f(1), the
25 civil fine ordered under this section shall be not less than
26 \$1,100.00 or more than \$2,750.00. For a violation of section
27 319g(1)(a), the civil fine ordered under this section shall be not

1 more than \$10,000.00. For a violation of section ~~319g(1)(b)~~
2 **319G(1)(G)**, the civil fine ordered under this section shall be not
3 less than \$2,750.00 or more than \$11,000.00. Permission may be
4 granted for payment of a civil fine and costs to be made within a
5 specified period of time or in specified installments, but unless
6 permission is included in the order or judgment, the civil fine and
7 costs shall be payable immediately.

8 (3) Except as provided in this subsection, if a person is
9 determined to be responsible or responsible "with explanation" for
10 a civil infraction under this act or a local ordinance
11 substantially corresponding to a provision of this act while
12 driving a commercial motor vehicle, he or she shall be ordered to
13 pay costs as provided in subsection (4) and a civil fine of not
14 more than \$250.00. ~~If a person is determined to be responsible or~~
15 ~~responsible "with explanation" for a civil infraction under section~~
16 ~~319g or a local ordinance substantially corresponding to section~~
17 ~~319g, that person shall be ordered to pay costs as provided in~~
18 ~~subsection (4) and a civil fine of not more than \$10,000.00.~~

19 (4) If a civil fine is ordered under subsection (2) or (3),
20 the judge or district court magistrate shall summarily tax and
21 determine the costs of the action, which are not limited to the
22 costs taxable in ordinary civil actions, and may include all
23 expenses, direct and indirect, to which the plaintiff has been put
24 in connection with the civil infraction, up to the entry of
25 judgment. Costs shall not be ordered in excess of \$100.00. A civil
26 fine ordered under subsection (2) or (3) shall not be waived unless
27 costs ordered under this subsection are waived. Except as otherwise

1 provided by law, costs are payable to the general fund of the
2 plaintiff.

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

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

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

22 (8) The state court administrator shall annually publish and
23 distribute to each district and court a recommended range of civil
24 fines and costs for first-time civil infractions. This
25 recommendation is not binding upon the courts having jurisdiction
26 over civil infractions but is intended to act as a normative guide
27 for judges and district court magistrates and a basis for public

1 evaluation of disparities in the imposition of civil fines and
2 costs throughout the state.

3 (9) If a person has received a civil infraction citation for
4 defective safety equipment on a vehicle under section 683, the
5 court shall waive a civil fine, costs, and assessments upon receipt
6 of certification by a law enforcement agency that repair of the
7 defective equipment was made before the appearance date on the
8 citation.

9 (10) A default in the payment of a civil fine or costs ordered
10 under subsection (2), (3), or (4) or a justice system assessment
11 ordered under subsection (14), or an installment of the fine,
12 costs, or assessment, may be collected by a means authorized for
13 the enforcement of a judgment under chapter 40 of the revised
14 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or
15 under chapter 60 of the revised judicature act of 1961, 1961 PA
16 236, MCL 600.6001 to 600.6098.

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

23 (12) The court shall waive any civil fine, cost, or assessment
24 against a person who received a civil infraction citation for a
25 violation of section 710d if the person, before the appearance date
26 on the citation, supplies the court with evidence of acquisition,
27 purchase, or rental of a child seating system meeting the

1 requirements of section 710d.

2 (13) Until October 1, 2003, in addition to any civil fines and
3 costs ordered to be paid under this section, the judge or district
4 court magistrate shall levy an assessment of \$5.00 for each civil
5 infraction determination, except for a parking violation or a
6 violation for which the total fine and costs imposed are \$10.00 or
7 less. An assessment paid before October 1, 2003 shall be
8 transmitted by the clerk of the court to the state treasurer to be
9 deposited into the Michigan justice training fund. An assessment
10 ordered before October 1, 2003 but collected on or after October 1,
11 2003 shall be transmitted by the clerk of the court to the state
12 treasurer for deposit in the justice system fund created in section
13 181 of the revised judicature act of 1961, 1961 PA 236, MCL
14 600.181. An assessment levied under this subsection is not a civil
15 fine for purposes of section 909.

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

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

7 (16) If a person has received a citation for a violation of
8 section 328(1) for failing to produce a certificate of insurance
9 pursuant to section 328(2), the court may waive the fee described
10 in section 328(3)(c) and shall waive any fine, costs, and any other
11 fee or assessment otherwise authorized under this act upon receipt
12 of verification by the court that the person, before the appearance
13 date on the citation, produced valid proof of insurance that was in
14 effect at the time the violation of section 328(1) occurred.

15 Insurance obtained subsequent to the time of the violation does not
16 make the person eligible for a waiver under this subsection.

17 Enacting section 1. Sections 658c and 658d of the Michigan
18 vehicle code, 1949 PA 300, MCL 257.658c and 257.658d, are repealed
19 effective January 1, 2013.