

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Reps. Farrah, Acciavatti, Byrum, Johnson, LeBlanc, Hune, Accavitti, Hildenbrand, Rick Jones, Hopgood, Pastor, LaJoy, Marleau, DeRoche, Stakoe, Sheltroun, Miller, Simpson, Lemmons, Bennett, Espinoza, Gonzales, Spade, Leland, Ward, Calley, Agema, Constan, Melton, Hammel, Clack, Brown, Condino, Gillard, Donigan, Cheeks, Cushingberry, Jackson, Stahl, Mayes, Virgil Smith, Wojno, Emmons, Garfield, Steil, Elsenheimer, Kathleen Law, Palsrok, Meltzer, Meekhof, McDowell, Nitz, Pavlov, Shaffer, Caul, Moore, Huizenga, Sheen and Casperson

ENROLLED HOUSE BILL No. 4749

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," 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:

Sec. 312a. (1) A person, before operating a motorcycle upon a public street or highway in this state, shall procure a motorcycle indorsement on the operator's or chauffeur's license. The license shall be issued, suspended, revoked, canceled, or renewed in accordance with and governed by this act. Before January 1, 2013, a person who violates this subsection is responsible for a civil infraction and may be fined not more than \$200.00. On and after January 1, 2013, a person who violates this subsection is responsible for a civil infraction and may be fined not more than \$100.00.

(2) A person, before operating a moped upon a highway shall procure a special restricted license to operate a moped unless the person has a valid operator's or chauffeur's license. A special restricted license to operate a moped may be issued to a person 15 years of age or older if the person satisfies the secretary of state that he or she is competent to operate a moped with safety. The secretary of state shall not require a road test before issuing a special restricted license to operate a moped.

(3) A special restricted license to operate a moped expires on the birthday of the person to whom it is issued in the fourth year following the date it is issued. A license shall not be issued for a period longer than 4 years. A person issued a license to operate a moped shall pay \$7.50 for an original license and \$6.00 for a renewal license. The money received and collected under this subsection shall be deposited in the state treasury to the credit of the general fund. The

secretary of state shall refund out of the fees collected to each county or municipality, acting as an examining officer, \$2.50 for each applicant examined for an original license and \$1.00 for a renewal license.

Sec. 658. (1) A person propelling a bicycle or operating a motorcycle or moped shall not ride other than upon and astride a permanent and regular seat attached to that vehicle.

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

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

(4) Except as provided in section 658c, a person operating or riding on a motorcycle and any person less than 19 years of age operating a moped on a public thoroughfare shall wear a crash helmet on his or her head. Crash helmets shall be approved by the department of state police. The department of state police shall promulgate rules to implement this section under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Rules in effect on June 1, 1970, apply to helmets required by this act. This subsection does not apply to a person operating or riding in an autocycle if the vehicle is equipped with a roof that meets or exceeds standards for a crash helmet. A person who operates or rides on a motorcycle in violation of this subsection is responsible for a civil infraction and may be fined not more than \$300.00.

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

Sec. 658c. (1) The helmet requirements under section 658(4) do not apply to a motorcycle operator if the motorcycle operator is exempt under subsection (6) or if all of the following conditions are satisfied:

(a) He or she is 21 years of age or older.

(b) He or she has been licensed under this act to operate a motorcycle for not less than 2 years or has successfully completed a motorcycle safety course under section 811a or 811b.

(c) He or she has in effect security in the amount of \$20,000.00 for the payment of first-party medical benefits payable if he or she is involved in a motorcycle accident as provided in section 3103 of the insurance code of 1956, 1956 PA 218, MCL 500.3103.

(d) He or she carries a valid permit obtained under subsection (3).

(2) The helmet requirements under section 658(4) do not apply to a passenger on a motorcycle if both of the following conditions are satisfied:

(a) The motorcycle operator has satisfied all of the requirements listed under subsection (1) or is exempt under subsection (6).

(b) The passenger is 21 years of age or older.

(3) A person shall obtain a permit under this subsection from the secretary of state before operating a motorcycle on a public street or highway in this state without wearing a crash helmet upon his or her head. The secretary of state shall issue a permit under this subsection if the person has satisfied all of the requirements under subsection (1) and pays 1 of the following fees:

(a) \$100.00 annually for a permit that is valid for a period of 1 year.

(b) \$200.00 for a permit that is valid for 3 years.

(4) A permit issued under subsection (3) shall contain all of the following:

(a) The person's name, address, and date of birth.

(b) The date when the permit expires.

(c) The following statement: "A person who operates a motorcycle on a public street or highway in this state without wearing a crash helmet who fails to produce a valid permit issued under MCL 257.658c upon the request of a peace officer is in violation of MCL 257.658(4), a civil infraction for which the person may be fined not more than \$300.00."

(d) Any other information required by the secretary of state.

(5) Upon request, the secretary of state shall issue a permit sticker to the registered owner of a motorcycle for application on the registration plate of the motorcycle if the registered owner of the motorcycle satisfies all of the requirements under subsection (1) and presents a valid permit issued under subsection (3). A permit sticker issued under this subsection shall bear the expiration date of the permit.

(6) The helmet requirements under section 658(4) do not apply to a motorcycle operator who is not a resident of this state and who is the owner of the motorcycle he or she is operating.

(7) The secretary of state shall deposit the money collected from fees paid for permits under subsection (3) to the motorcycle crash helmet permit fee fund created under section 658d.

Sec. 658d. The motorcycle crash helmet permit fee fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund and shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The secretary of state shall be the

administrator of the fund for auditing purposes. The secretary of state shall annually expend money from the fund, upon appropriation, only as follows:

(a) The first \$5,000,000.00 deposited into the fund shall be paid to the commission on law enforcement standards created under the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616, to defray the cost of developing and implementing minimum training standards concerning the enforcement of section 658c.

(b) After the money described in subdivision (a) is paid as prescribed under that subdivision, the next \$1,000,000.00 shall be paid to the secondary road patrol and training fund created in section 629e.

(c) After the money described in subdivisions (a) and (b) is paid as prescribed under those subdivisions, the remainder of the money deposited into the fund shall be paid to the traffic law enforcement and safety fund created in section 819a.

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

(2) If a person is determined pursuant to sections 741 to 750 to be responsible or responsible "with explanation" for a civil infraction under this act or a local ordinance substantially corresponding to a provision of this act, the judge or district court magistrate may order the person to pay a civil fine of not more than \$100.00 and costs as provided in subsection (4). However, for a violation of section 674(1)(s) or a local ordinance substantially corresponding to section 674(1)(s), the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not less than \$100.00 or more than \$250.00. Until January 1, 2013, for a violation of section 312a(1), the civil fine ordered under this section shall be not more than \$200.00; on and after January 1, 2013, not more than \$100.00. For a violation of section 328, the civil fine ordered under this subsection shall be not more than \$50.00. For a violation of section 710d, the civil fine ordered under this subsection shall not exceed \$10.00. For a violation of section 710e, the civil fine and court costs ordered under this subsection shall be \$25.00. For a violation of section 658(4) involving an operator of or a passenger on a motorcycle, the civil fine ordered under this subsection shall be not more than \$300.00. For a violation of section 682 or a local ordinance substantially corresponding to section 682, the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not less than \$100.00 or more than \$500.00. For a violation of section 240, the civil fine ordered under this subsection shall be \$15.00. For a violation of section 252a(1), the civil fine ordered under this subsection shall be \$50.00. For a violation of section 676a(3), the civil fine ordered under this subsection shall be not more than \$10.00. For a violation of section 319f(1), the civil fine ordered under this section shall be not less than \$1,100.00 or more than \$2,750.00. For a violation of section 319g(1)(a), the civil fine ordered under this section shall be not more than \$10,000.00. For a violation of section 319g(1)(g), the civil fine ordered under this section shall be not less than \$2,750.00 or more than \$11,000.00. Permission may be granted for payment of a civil fine and costs to be made within a specified period of time or in specified installments, but unless permission is included in the order or judgment, the civil fine and costs shall be payable immediately.

(3) Except as provided in this subsection, if a person is determined to be responsible or responsible "with explanation" for a civil infraction under this act or a local ordinance substantially corresponding to a provision of this act while driving a commercial motor vehicle, he or she shall be ordered to pay costs as provided in subsection (4) and a civil fine of not more than \$250.00.

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

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

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

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

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

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

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

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

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

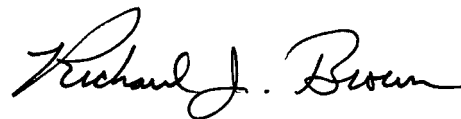
(13) Until October 1, 2003, in addition to any civil fines and costs ordered to be paid under this section, the judge or district court magistrate shall levy an assessment of \$5.00 for each civil infraction determination, except for a parking violation or a violation for which the total fine and costs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

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

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

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

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



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor