

HOUSE BILL No. 4400

February 24, 2009, Introduced by Reps. Kandrevas, Durhal, Slezak, Nathan, Tlaib and Clemente 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 2008 PA 463.

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 not be considered a lesser
4 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

1 court magistrate may order the person to pay a civil fine of not
2 more than \$100.00 and costs as provided in subsection (4). However,
3 **BEGINNING OCTOBER 31, 2010**, if the civil infraction was a moving
4 violation that resulted in an at-fault collision with another
5 vehicle, a person, or any other object, the civil fine ordered
6 under this section shall be increased by \$25.00 but the total civil
7 fine shall not exceed \$100.00. However, for a violation of section
8 674(1)(s) or a local ordinance substantially corresponding to
9 section 674(1)(s), the person shall be ordered to pay costs as
10 provided in subsection (4) and a civil fine of not less than
11 \$100.00 or more than \$250.00. For a violation of section 328, the
12 civil fine ordered under this subsection shall be not more than
13 \$50.00. For a violation of section 710d, the civil fine ordered
14 under this subsection shall not exceed \$10.00. For a violation of
15 section 710e, the civil fine and court costs ordered under this
16 subsection shall be \$25.00. For a violation of section 682 or a
17 local ordinance substantially corresponding to section 682, the
18 person shall be ordered to pay costs as provided in subsection (4)
19 and a civil fine of not less than \$100.00 or more than \$500.00. For
20 a violation of section 240, the civil fine ordered under this
21 subsection shall be \$15.00. For a violation of section 252a(1), the
22 civil fine ordered under this subsection shall be \$50.00. For a
23 violation of section 676a(3), the civil fine ordered under this
24 section shall be not more than \$10.00. For a violation of section
25 319f(1), the civil fine ordered under this section shall be not
26 less than \$1,100.00 or more than \$2,750.00. For a violation of
27 section 319g(1)(a), the civil fine ordered under this section shall

1 be not more than \$10,000.00. For a violation of section 319g(1) (b),
2 the civil fine ordered under this section shall be not less than
3 \$2,750.00 or more than \$11,000.00. Permission may be granted for
4 payment of a civil fine and costs to be made within a specified
5 period of time or in specified installments, but unless permission
6 is included in the order or judgment, the civil fine and costs
7 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~~ **AN**
5 assessment ordered under subsection (14) **OR (15)**, the judge or
6 district court magistrate may order the person to attend and
7 complete a 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~~ **AN** assessment
11 ordered under subsection (14) **OR (15)**, or an installment of the
12 fine, costs, or assessment, may be collected by a means authorized
13 for 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 IS RESPONSIBLE FOR A CITATION ISSUED FOR A
2 VIOLATION OF SECTION 252A, THE COURT SHALL IMPOSE AN ASSESSMENT OF
3 \$25.00 AS REIMBURSEMENT FOR THE EXPENSES THAT THE LAW ENFORCEMENT
4 AGENCY INCURRED IN THE ENFORCEMENT OF THE VEHICLE ABANDONMENT
5 PROHIBITION, WHICH SHALL BE IN ADDITION TO ANY OTHER CIVIL FINE OR
6 CHARGE ALLOWED BY LAW. THE ASSESSMENT IMPOSED UNDER THIS SUBSECTION
7 SHALL BE REMITTED TO THE TREASURER OF THE LOCAL UNIT OF GOVERNMENT
8 OR THE STATE TREASURER, AS APPLICABLE.

9 (16) ~~(15)~~—If a person has received a citation for a violation
10 of section 223, the court shall waive any civil fine, costs, and
11 assessment, upon receipt of certification by a law enforcement
12 agency that the person, before the appearance date on the citation,
13 produced a valid registration certificate that was valid on the
14 date the violation of section 223 occurred.

15 (17) ~~(16)~~—If a person has received a citation for a violation
16 of section 328(1) for failing to produce a certificate of insurance
17 pursuant to section 328(2), the court may waive the fee described
18 in section 328(3)(c) and shall waive any fine, costs, and any other
19 fee or assessment otherwise authorized under this act upon receipt
20 of verification by the court that the person, before the appearance
21 date on the citation, produced valid proof of insurance that was in
22 effect at the time the violation of section 328(1) occurred.
23 Insurance obtained subsequent to the time of the violation does not
24 make the person eligible for a waiver under this subsection.

25 (18) ~~(17)~~—As used in this section, "moving violation" means an
26 act or omission prohibited under this act or a local ordinance
27 substantially corresponding to this act that involves the operation

1 of a motor vehicle and for which a fine may be assessed.