

HOUSE BILL No. 4907

May 12, 2009, Introduced by Reps. LeBlanc, Mayes, Gonzales, Espinoza, Sheltroun, Leland, Miller, Dean, Byrum and Genetski and referred to the Committee on Regulatory Reform.

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 2008 PA 463, 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

1 accordance with and governed by this act. **BEFORE JANUARY 1, 2013, A**
2 **PERSON WHO VIOLATES THIS SUBSECTION IS RESPONSIBLE FOR A CIVIL**
3 **INFRACTION AND MAY BE FINED NOT MORE THAN \$200.00. ON AND AFTER**
4 **JANUARY 1, 2013, A PERSON WHO VIOLATES THIS SUBSECTION IS**
5 **RESPONSIBLE FOR A CIVIL INFRACTION AND MAY BE FINED NOT MORE THAN**
6 **\$100.00.**

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

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

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

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

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

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

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

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

1 ARE SATISFIED:

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

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

6 (C) HE OR SHE HAS IN EFFECT SECURITY IN THE AMOUNT OF
7 \$20,000.00 FOR THE PAYMENT OF FIRST-PARTY MEDICAL BENEFITS PAYABLE
8 IF HE OR SHE IS INVOLVED IN A MOTORCYCLE ACCIDENT AS PROVIDED IN
9 SECTION 3103 OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL
10 500.3103.

11 (D) HE OR SHE CARRIES A VALID PERMIT OBTAINED UNDER SUBSECTION
12 (3).

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

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

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

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

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

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

2 (4) A PERMIT ISSUED UNDER SUBSECTION (3) SHALL CONTAIN ALL OF
3 THE FOLLOWING:

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

5 (B) THE DATE WHEN THE PERMIT EXPIRES.

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

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

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

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

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

26 SEC. 658D. THE MOTORCYCLE CRASH HELMET PERMIT FEE FUND IS
27 CREATED WITHIN THE STATE TREASURY. THE STATE TREASURER MAY RECEIVE

1 MONEY OR OTHER ASSETS FROM ANY SOURCE FOR DEPOSIT INTO THE FUND AND
2 SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL
3 CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.
4 MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN
5 THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND. THE SECRETARY OF
6 STATE SHALL BE THE ADMINISTRATOR OF THE FUND FOR AUDITING PURPOSES.
7 THE SECRETARY OF STATE SHALL ANNUALLY EXPEND MONEY FROM THE FUND,
8 UPON APPROPRIATION, ONLY AS FOLLOWS:

9 (A) THE FIRST \$5,000,000.00 DEPOSITED INTO THE FUND SHALL BE
10 PAID TO THE COMMISSION ON LAW ENFORCEMENT STANDARDS CREATED UNDER
11 THE COMMISSION ON LAW ENFORCEMENT STANDARDS ACT, 1965 PA 203, MCL
12 28.601 TO 28.616, TO DEFRAY THE COST OF DEVELOPING AND IMPLEMENTING
13 MINIMUM TRAINING STANDARDS CONCERNING THE ENFORCEMENT OF SECTION
14 658C.

15 (B) AFTER THE MONEY DESCRIBED IN SUBDIVISION (A) IS PAID AS
16 PRESCRIBED UNDER THAT SUBDIVISION, THE NEXT \$1,000,000.00 SHALL BE
17 PAID TO THE SECONDARY ROAD PATROL AND TRAINING FUND CREATED IN
18 SECTION 629E.

19 (C) AFTER THE MONEY DESCRIBED IN SUBDIVISIONS (A) AND (B) IS
20 PAID AS PRESCRIBED UNDER THOSE SUBDIVISIONS, THE REMAINDER OF THE
21 MONEY DEPOSITED INTO THE FUND SHALL BE PAID TO THE TRAFFIC LAW
22 ENFORCEMENT AND SAFETY FUND CREATED IN SECTION 819A.

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

27 (2) If a person is determined pursuant to sections 741 to 750

1 to be responsible or responsible "with explanation" for a civil
2 infraction under this act or a local ordinance substantially
3 corresponding to a provision of this act, the judge or district
4 court magistrate may order the person to pay a civil fine of not
5 more than \$100.00 and costs as provided in subsection (4). However,
6 **BEGINNING ON AND AFTER OCTOBER 31, 2010,** if the civil infraction
7 was a moving violation that resulted in an at-fault collision with
8 another vehicle, a person, or any other object, the civil fine
9 ordered under this section shall be increased by \$25.00 but the
10 total civil fine shall not exceed \$100.00. However, for a violation
11 of section 674(1)(s) or a local ordinance substantially
12 corresponding to section 674(1)(s), the person shall be ordered to
13 pay costs as provided in subsection (4) and a civil fine of not
14 less than \$100.00 or more than \$250.00. **BEFORE JANUARY 1, 2013, FOR**
15 **A VIOLATION OF SECTION 312A(1), THE CIVIL FINE ORDERED UNDER THIS**
16 **SECTION SHALL BE NOT MORE THAN \$200.00; BEGINNING ON AND AFTER**
17 **JANUARY 1, 2013, NOT MORE THAN \$100.00.** For a violation of section
18 328, the civil fine ordered under this subsection shall be not more
19 than \$50.00. For a violation of section 710d, the civil fine
20 ordered under this subsection shall not exceed \$10.00. For a
21 violation of section 710e, the civil fine and court costs ordered
22 under this subsection shall be \$25.00. **FOR A VIOLATION OF SECTION**
23 **658(4) INVOLVING AN OPERATOR OF OR A PASSENGER ON A MOTORCYCLE, THE**
24 **CIVIL FINE ORDERED UNDER THIS SUBSECTION SHALL BE NOT MORE THAN**
25 **\$300.00.** For a violation of section 682 or a local ordinance
26 substantially corresponding to section 682, the person shall be
27 ordered to pay costs as provided in subsection (4) and a civil fine

1 of not less than \$100.00 or more than \$500.00. For a violation of
2 section 240, the civil fine ordered under this subsection shall be
3 \$15.00. For a violation of section 252a(1), the civil fine ordered
4 under this subsection shall be \$50.00. For a violation of section
5 676a(3), the civil fine ordered under this section shall be not
6 more than \$10.00. For a violation of section 319f(1), the civil
7 fine ordered under this section shall be not less than \$1,100.00 or
8 more than \$2,750.00. For a violation of section 319g(1)(a), the
9 civil fine ordered under this section shall be not more than
10 \$10,000.00. For a violation of section ~~319g(1)(b)~~ **319G(1)(G)**, the
11 civil fine ordered under this section shall be not less than
12 \$2,750.00 or more than \$11,000.00. Permission may be granted for
13 payment of a civil fine and costs to be made within a specified
14 period of time or in specified installments, but unless permission
15 is included in the order or judgment, the civil fine and costs
16 shall be payable immediately.

17 (3) Except as provided in this subsection, if a person is
18 determined to be responsible or responsible "with explanation" for
19 a civil infraction under this act or a local ordinance
20 substantially corresponding to a provision of this act while
21 driving a commercial motor vehicle, he or she shall be ordered to
22 pay costs as provided in subsection (4) and a civil fine of not
23 more than \$250.00. If a person is determined to be responsible or
24 responsible "with explanation" for a civil infraction under section
25 319g or a local ordinance substantially corresponding to section
26 319g, that person shall be ordered to pay costs as provided in
27 subsection (4) and a civil fine of not more than \$10,000.00.

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

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

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

21 (7) Each district of the district court and each municipal
22 court may establish a schedule of civil fines, costs, and
23 assessments to be imposed for civil infractions that occur within
24 the respective district or city. If a schedule is established, it
25 shall be prominently posted and readily available for public
26 inspection. A schedule need not include all violations that are
27 designated by law or ordinance as civil infractions. A schedule may

1 exclude cases on the basis of a defendant's prior record of civil
2 infractions or traffic offenses, or a combination of civil
3 infractions and traffic offenses.

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

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

18 (10) A default in the payment of a civil fine or costs ordered
19 under subsection (2), (3), or (4) or a justice system assessment
20 ordered under subsection (14), or an installment of the fine,
21 costs, or assessment, may be collected by a means authorized for
22 the enforcement of a judgment under chapter 40 of the revised
23 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or
24 under chapter 60 of the revised judicature act of 1961, 1961 PA
25 236, MCL 600.6001 to 600.6098.

26 (11) If a person fails to comply with an order or judgment
27 issued pursuant to ~~UNDER~~ this section within the time prescribed by

1 the court, the driver's license of that person shall be suspended
2 pursuant to section 321a until full compliance with that order or
3 judgment occurs. In addition to this suspension, the court may also
4 proceed under section 908.

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

11 (13) Until October 1, 2003, in addition to any civil fines and
12 costs ordered to be paid under this section, the judge or district
13 court magistrate shall levy an assessment of \$5.00 for each civil
14 infraction determination, except for a parking violation or a
15 violation for which the total fine and costs imposed are \$10.00 or
16 less. An assessment paid before October 1, 2003 shall be
17 transmitted by the clerk of the court to the state treasurer to be
18 deposited into the Michigan justice training fund. An assessment
19 ordered before October 1, 2003 but collected on or after October 1,
20 2003 shall be transmitted by the clerk of the court to the state
21 treasurer for deposit in the justice system fund created in section
22 181 of the revised judicature act of 1961, 1961 PA 236, MCL
23 600.181. An assessment levied under this subsection is not a civil
24 fine for purposes of section 909.

25 (14) Effective October 1, 2003, in addition to any civil fines
26 or costs ordered to be paid under this section, the judge or
27 district court magistrate shall order the defendant to pay a

1 justice system assessment of \$40.00 for each civil infraction
2 determination, except for a parking violation or a violation for
3 which the total fine and costs imposed are \$10.00 or less. Upon
4 payment of the assessment, the clerk of the court shall transmit
5 the assessment collected to the state treasury to be deposited into
6 the justice system fund created in section 181 of the revised
7 judicature act of 1961, 1961 PA 236, MCL 600.181. An assessment
8 levied under this subsection is not a civil fine for purposes of
9 section 909.

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

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

26 (17) As used in this section, "moving violation" means an act
27 or omission prohibited under this act or a local ordinance

1 substantially corresponding to this act that involves the operation
2 of a motor vehicle and for which a fine may be assessed.

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