

SENATE BILL No. 97

January 29, 2013, Introduced by Senators PROOS, PAPPAGEORGE, BOOHER, BRANDENBURG and ANDERSON 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 2011 PA 159.

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~~ **UNDER** sections 741
6 to 750 to be responsible or responsible "with explanation" for a
7 civil 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
10 more than \$100.00 and costs as provided in subsection (4). However,
11 beginning October 31, 2010, if the civil infraction was a moving

1 violation that resulted in an at-fault collision with another
2 vehicle, a person, or any other object, the civil fine ordered
3 under this section shall be increased by \$25.00 but the total civil
4 fine shall not exceed \$100.00. However, for a violation of section
5 602b, the person shall be ordered to pay costs as provided in
6 subsection (4) and a civil fine of \$100.00 for a first offense and
7 \$200.00 for a second or subsequent offense. For a violation of
8 section 674(1)(s) or a local ordinance substantially corresponding
9 to 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 first violation of
25 section 319f(1), the civil fine ordered under this section shall be
26 not less than \$2,500.00 or more than \$2,750.00; for a second or
27 subsequent violation, the civil fine shall be not less than

1 \$5,000.00 or more than \$5,500.00. For a violation of section
2 319g(1)(a), the civil fine ordered under this section shall be not
3 more than \$10,000.00. For a violation of section 319g(1)(g), the
4 civil fine ordered under this section shall be not less than
5 \$2,750.00 or more than \$25,000.00. Permission may be granted for
6 payment of a civil fine and costs to be made within a specified
7 period of time or in specified installments, but unless permission
8 is included in the order or judgment, the civil fine and costs
9 shall be payable immediately.

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

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

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

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

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

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

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

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

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

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

27 ~~— (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.~~

~~(12)~~ ~~(14)~~ Effective October 1, 2003, ~~in~~ **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.

~~(13)~~ ~~(15)~~ If a person has received a citation for a violation of section 223, the court shall waive any civil fine, costs, and

1 assessment, upon receipt of certification by a law enforcement
2 agency that the person, before the appearance date on the citation,
3 produced a valid registration certificate that was valid on the
4 date the violation of section 223 occurred.

5 (14) ~~(16)~~—If a person has received a citation for a violation
6 of section 328(1) for failing to produce a certificate of insurance
7 ~~pursuant to~~ **UNDER** section 328(2), the court may waive the fee
8 described in section 328(3)(c) and shall waive any fine, costs, and
9 any other fee or assessment otherwise authorized under this act
10 upon receipt of verification by the court that the person, before
11 the appearance date on the citation, produced valid proof of
12 insurance that was in effect at the time the violation of section
13 328(1) occurred. Insurance obtained subsequent to the time of the
14 violation does not make the person eligible for a waiver under this
15 subsection.

16 (15) ~~(17)~~—As used in this section, "moving violation" means an
17 act or omission prohibited under this act or a local ordinance
18 substantially corresponding to this act that involves the operation
19 of a motor vehicle and for which a fine may be assessed.