

HOUSE BILL NO. 4199

February 14, 2019, Introduced by Reps. Sheppard and Cole and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 602b and 907 (MCL 257.602b and 257.907),
section 602b as amended by 2016 PA 332 and section 907 as amended
by 2015 PA 126.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 602b. (1) Except as otherwise provided in this section, a
2 person shall not read, manually type, or send a text message on a
3 wireless 2-way communication device that is located in the person's

1 hand or in the person's lap, including a wireless telephone used in
2 cellular telephone service or personal communication service, while
3 operating a motor vehicle that is moving on a highway or street in
4 this state. As used in this subsection, a wireless 2-way
5 communication device does not include a global positioning or
6 navigation system that is affixed to the motor vehicle. This
7 subsection does not apply to a person operating a commercial
8 vehicle.

9 (2) Except as otherwise provided in this section, a person
10 shall not read, manually type, or send a text message on a wireless
11 2-way communication device that is located in the person's hand or
12 in the person's lap, including a wireless telephone used in
13 cellular telephone service or personal communication service, while
14 operating a commercial motor vehicle or a school bus on a highway
15 or street in this state. As used in this subsection, a wireless 2-
16 way communication device does not include a global positioning or
17 navigation system that is affixed to the commercial motor vehicle
18 or school bus.

19 (3) Except as otherwise provided in this section, a person
20 shall not use a hand-held mobile telephone to conduct a voice
21 communication while operating a commercial motor vehicle or a
22 school bus on a highway, including while temporarily stationary due
23 to traffic, a traffic control device, or other momentary delays.
24 This subsection does not apply if the operator of the commercial
25 vehicle or school bus has moved the vehicle to the side of, or off,
26 a highway and has stopped in a location where the vehicle can
27 safely remain stationary. As used in this subsection, "mobile
28 telephone" does not include a 2-way radio service or citizens band
29 radio service. As used in this subsection, "use a hand-held mobile

1 telephone" means 1 or more of the following:

2 (a) Using at least 1 hand to hold a mobile telephone to
3 conduct a voice communication.

4 (b) Dialing or answering a mobile telephone by pressing more
5 than a single button.

6 (c) Reaching for a mobile telephone in a manner that requires
7 a driver to maneuver so that he or she is no longer in a seated
8 driving position, restrained by a seat belt that is installed as
9 required by 49 CFR 393.93 and adjusted in accordance with the
10 vehicle manufacturer's instructions.

11 (4) Subsections (1), (2), and (3) do not apply to an
12 individual who is using a device described in subsection (1) or (3)
13 to do any of the following:

14 (a) Report a traffic accident, medical emergency, or serious
15 road hazard.

16 (b) Report a situation in which the person believes his or her
17 personal safety is in jeopardy.

18 (c) Report or avert the perpetration or potential perpetration
19 of a criminal act against the individual or another person.

20 (d) Carry out official duties as a police officer, law
21 enforcement official, member of a paid or volunteer fire
22 department, or operator of an emergency vehicle.

23 (e) Operate or program the operation of an automated motor
24 vehicle while testing or operating the automated motor vehicle
25 without a human operator.

26 (5) Subsection (1) does not apply to a person using an on-
27 demand automated motor vehicle network.

28 (6) An individual who violates this section is responsible for
29 a civil infraction and ~~shall~~**must** be ordered to pay a civil fine as

1 follows:

2 (a) For a first violation, ~~\$100.00.~~**\$250.00.**

3 (b) For a second or subsequent violation, ~~\$200.00.~~**\$500.00.**

4 (7) This section supersedes all local ordinances regulating
5 the use of a communications device while operating a motor vehicle
6 in motion on a highway or street, except that a unit of local
7 government may adopt an ordinance or enforce an existing ordinance
8 substantially corresponding to this section.

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

13 (2) If a person is determined under sections 741 to 750 to be
14 responsible or responsible "with explanation" for a civil
15 infraction under this act or a local ordinance substantially
16 corresponding to a provision of this act, the judge or district
17 court magistrate may order the person to pay a civil fine of not
18 more than \$100.00 and costs as provided in subsection (4). However,
19 if the civil infraction was a moving violation that resulted in an
20 at-fault collision with another vehicle, a person, or any other
21 object, the civil fine ordered under this section ~~shall~~**must** be
22 increased by \$25.00 but the total civil fine shall not exceed
23 \$100.00. However, for a violation of section 602b, the person ~~shall~~
24 **must** be ordered to pay costs as provided in subsection (4) and a
25 civil fine of ~~\$100.00.~~**\$250.00** for a first offense and ~~\$200.00~~
26 **\$500.00** for a second or subsequent offense. For a violation of
27 section 674(1)(s) or a local ordinance substantially corresponding
28 to section 674(1)(s), the person ~~shall~~**must** be ordered to pay costs
29 as provided in subsection (4) and a civil fine of not less than

1 \$100.00 or more than \$250.00. For a violation of section 676c, the
2 person ~~shall~~**must** be ordered to pay costs as provided in subsection
3 (4) and a civil fine of \$1,000.00. For a violation of section 328,
4 the civil fine ordered under this subsection ~~shall be~~**must** not **be**
5 more than \$50.00. For a violation of section 710d, the civil fine
6 ordered under this subsection ~~shall~~**must** not exceed \$10.00, subject
7 to subsection (12). For a violation of section 710e, the civil fine
8 and court costs ordered under this subsection ~~shall~~**must** be \$25.00.
9 For a violation of section 682 or a local ordinance substantially
10 corresponding to section 682, the person ~~shall~~**must** be ordered to
11 pay costs as provided in subsection (4) and a civil fine of not
12 less than \$100.00 or more than \$500.00. For a violation of section
13 240, the civil fine ordered under this subsection ~~shall~~**must** be
14 \$15.00. For a violation of section 252a(1), the civil fine ordered
15 under this subsection ~~shall~~**must** be \$50.00. For a violation of
16 section 676a(3), the civil fine ordered under this section ~~shall be~~
17 **must** not **be** more than \$10.00. For a first violation of section
18 319f(1), the civil fine ordered under this section ~~shall be~~**must**
19 not **be** less than \$2,500.00 or more than \$2,750.00; for a second or
20 subsequent violation, the civil fine ~~shall be~~**must** not **be** less than
21 \$5,000.00 or more than \$5,500.00. For a violation of section
22 319g(1)(a), the civil fine ordered under this section ~~shall be~~**must**
23 not **be** more than \$10,000.00. For a violation of section 319g(1)(g),
24 the civil fine ordered under this section ~~shall be~~**must** not **be** less
25 than \$2,750.00 or more than \$25,000.00. Permission may be granted
26 for payment of a civil fine and costs to be made within a specified
27 period of time or in specified installments, but unless permission
28 is included in the order or judgment, the civil fine and costs
29 ~~shall~~**must** be payable immediately.

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

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

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

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

28 (7) Each district of the district court and each municipal
29 court may establish a schedule of civil fines, costs, and

1 assessments to be imposed for civil infractions that occur within
2 the respective district or city. If a schedule is established, it
3 ~~shall~~**must** be prominently posted and readily available for public
4 inspection. A schedule need not include all violations that are
5 designated by law or ordinance as civil infractions. A schedule may
6 exclude cases on the basis of a defendant's prior record of civil
7 infractions or traffic offenses, or a combination of civil
8 infractions and traffic offenses.

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

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

23 (10) A default in the payment of a civil fine or costs ordered
24 under subsection (2), (3), or (4) or a justice system assessment
25 ordered under subsection (13), or an installment of the fine,
26 costs, or assessment, may be collected by a means authorized for
27 the enforcement of a judgment under chapter 40 of the revised
28 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or
29 under chapter 60 of the revised judicature act of 1961, 1961 PA

1 236, MCL 600.6001 to 600.6098.

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

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

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

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

1 date the violation of section 223 occurred.

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

12 (16) If a person is determined to be responsible or
13 responsible "with explanation" for a civil infraction under this
14 act or a local ordinance substantially corresponding to a provision
15 of this act and the civil infraction arises out of the ownership or
16 operation of a commercial quadricycle, he or she ~~shall~~**must** be
17 ordered to pay costs as provided in subsection (4) and a civil fine
18 of not more than \$500.00.

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