

SUBSTITUTE FOR  
HOUSE BILL NO. 5133

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
by amending sections 605 and 907 (MCL 257.605 and 257.907), section  
605 as amended by 2000 PA 97 and section 907 as amended by 2005 PA  
1, and by adding section 602b.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           **SEC. 602B. (1) AN INDIVIDUAL WHO IS LESS THAN 18 YEARS OF AGE**  
2           **SHALL NOT OPERATE A MOTOR VEHICLE WHILE USING AN INTERACTIVE**  
3           **WIRELESS COMMUNICATION DEVICE, EXCEPT IN AN EMERGENCY.**

4           **(2) AN INDIVIDUAL WHO VIOLATES THIS SECTION IS RESPONSIBLE FOR**  
5           **A CIVIL INFRACTION.**

6           Sec. 605. (1) This chapter and chapter VIII apply uniformly  
7 throughout this state and in all political subdivisions and  
8 municipalities in the state. A local authority shall not adopt,

1 enact, or enforce a local law that provides lesser penalties, **OR**  
2 **THAT EXPANDS SECTION 602B**, or that is otherwise in conflict with  
3 this chapter or chapter VIII.

4 (2) A local law or portion of a local law that imposes a  
5 criminal penalty for an act or omission that is a civil infraction  
6 under this act, or that imposes a criminal penalty or civil  
7 sanction in excess of that prescribed in this act, is in conflict  
8 with this act and is void to the extent of the conflict.

9 (3) Except for a case in which the citation is dismissed  
10 pursuant to subsection (4), proceeds of a civil fine imposed by a  
11 local authority for violation of a local law regulating the  
12 operation of a commercial motor vehicle and substantially  
13 corresponding to a provision of this act shall be paid to the  
14 county treasurer and allocated as follows:

15 (a) Seventy percent to the local unit of government in which  
16 the citation is issued.

17 (b) Thirty percent for library purposes as provided by law.

18 (4) The owner or operator of a commercial motor vehicle shall  
19 not be issued more than 1 citation for each violation of a code or  
20 ordinance regulating the operation of a commercial motor vehicle  
21 and substantially corresponding to a provision of sections 683 to  
22 725a of the Michigan vehicle code, 1949 PA 300, MCL 257.683 to  
23 257.725a, within a 24-hour period. If the owner or operator of a  
24 commercial motor vehicle is issued a citation for an equipment  
25 violation pursuant to section 683 that does not result in the  
26 vehicle being placed out of service, the court shall dismiss the  
27 citation if the owner or operator of that commercial motor vehicle

1 provides written proof to the court within 14 days after the  
2 citation is issued showing that the defective equipment indicated  
3 in the citation has been repaired.

4 (5) As used in this section:

5 (a) "Local law" includes a local charter provision, ordinance,  
6 rule, or regulation.

7 (b) "Out of service" means that process established under the  
8 motor carrier safety act, 1963 PA 181, MCL 480.11 to 480.22.

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 not be considered a lesser  
12 included offense of a criminal offense.

13 (2) If a person is determined pursuant to sections 741 to 750  
14 to be 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 for a violation of section 674(1)(s) or a local ordinance  
20 substantially corresponding to section 674(1)(s), the person shall  
21 be ordered to pay costs as provided in subsection (4) and a civil  
22 fine of not less than \$100.00 or more than \$250.00. For a violation  
23 of section 328, the civil fine ordered under this subsection shall  
24 be not more than \$50.00. For a violation of section 710d, the civil  
25 fine ordered under this subsection shall not exceed \$10.00. For a  
26 violation of section 710e, the civil fine and court costs ordered  
27 under this subsection shall be \$25.00. For a violation of section

1 682 or a local ordinance substantially corresponding to section  
2 682, the person shall be ordered to pay costs as provided in  
3 subsection (4) and a civil fine of not less than \$100.00 or more  
4 than \$500.00. For a violation of section 240, the civil fine  
5 ordered under this subsection shall be \$15.00. For a violation of  
6 section 252a(1), the civil fine ordered under this subsection shall  
7 be \$50.00. **FOR A VIOLATION OF SECTION 602B, THE CIVIL FINE ORDERED**  
8 **UNDER THIS SUBSECTION SHALL BE \$50.00.** For a violation of section  
9 676a(3), the civil fine ordered under this section shall be not  
10 more than \$10.00. Permission may be granted for payment of a civil  
11 fine and costs to be made within a specified period of time or in  
12 specified installments, but unless permission is included in the  
13 order or judgment, the civil fine and costs shall be payable  
14 immediately.

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

26 (4) If a civil fine is ordered under subsection (2) or (3),  
27 the judge or district court magistrate shall summarily tax and

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

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

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

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

1    infractions and traffic offenses.

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

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

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

24          (11) If a person fails to comply with an order or judgment  
25    issued pursuant to this section within the time prescribed by the  
26    court, the driver's license of that person shall be suspended  
27    pursuant to section 321a until full compliance with that order or

1 judgment occurs. In addition to this suspension, the court may also  
2 proceed under section 908.

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

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

23 (14) Effective October 1, 2003, in addition to any civil fines  
24 or costs ordered to be paid under this section, the judge or  
25 district court magistrate shall order the defendant to pay a  
26 justice system assessment of \$40.00 for each civil infraction  
27 determination, except for a parking violation or a violation for

House Bill No. 5133 (H-2) as amended October 19, 2005

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

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

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

[Enacting section 1. This amendatory act takes effect 90 days after  
the date it is enacted.]