

HOUSE BILL No. 5133

September 7, 2005, Introduced by Reps. David Law, Jones, Hildenbrand and Marleau and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending section 907 (MCL 257.907), 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 ISSUED A TEMPORARY
2 INSTRUCTION PERMIT OR A LEVEL 1 OR 2 GRADUATED LICENSING STATUS TO
3 OPERATE A MOTOR VEHICLE SHALL NOT, WHILE OPERATING A MOTOR VEHICLE,
4 USE A HANDHELD CELLULAR TELEPHONE.

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

7 Sec. 907. (1) A violation of this act, or a local ordinance

1 substantially corresponding to a provision of this act, that is
2 designated a civil infraction shall not be considered a lesser
3 included offense of a criminal offense.

4 (2) If a person is determined pursuant to sections 741 to 750
5 to be responsible or responsible "with explanation" for a civil
6 infraction under this act or a local ordinance substantially
7 corresponding to a provision of this act, the judge or district
8 court magistrate may order the person to pay a civil fine of not
9 more than \$100.00 and costs as provided in subsection (4). However,
10 for a violation of section 674(1)(s) or a local ordinance
11 substantially corresponding to section 674(1)(s), the person shall
12 be ordered to pay costs as provided in subsection (4) and a civil
13 fine of not less than \$100.00 or more than \$250.00. For a violation
14 of section 328, the civil fine ordered under this subsection shall
15 be not more than \$50.00. For a violation of section 710d, the civil
16 fine ordered under this subsection shall not exceed \$10.00. For a
17 violation of section 710e, the civil fine and court costs ordered
18 under this subsection shall be \$25.00. For a violation of section
19 682 or a local ordinance substantially corresponding to section
20 682, the person shall be ordered to pay costs as provided in
21 subsection (4) and a civil fine of not less than \$100.00 or more
22 than \$500.00. For a violation of section 240, the civil fine
23 ordered under this subsection shall be \$15.00. For a violation of
24 section 252a(1), the civil fine ordered under this subsection shall
25 be \$50.00. **FOR A VIOLATION OF SECTION 602B, THE CIVIL FINE ORDERED**
26 **UNDER THIS SUBSECTION SHALL BE \$50.00.** For a violation of section
27 676a(3), the civil fine ordered under this section shall be not

1 more than \$10.00. Permission may be granted for payment of a civil
2 fine and costs to be made within a specified period of time or in
3 specified installments, but unless permission is included in the
4 order or judgment, the civil fine and costs shall be payable
5 immediately.

6 (3) Except as provided in this subsection, if a person is
7 determined to be responsible or responsible "with explanation" for
8 a civil infraction under this act or a local ordinance
9 substantially corresponding to a provision of this act while
10 driving a commercial motor vehicle, he or she shall be ordered to
11 pay costs as provided in subsection (4) and a civil fine of not
12 more than \$250.00. If a person is determined to be responsible or
13 responsible "with explanation" for a civil infraction under section
14 319g or a local ordinance substantially corresponding to section
15 319g, that person shall be ordered to pay costs as provided in
16 subsection (4) and a civil fine of not more than \$10,000.00.

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), the judge or district
4 court magistrate may order the person to attend and complete a
5 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), 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 this section within the time prescribed by the
17 court, the driver's license of that person shall be suspended
18 pursuant to section 321a until full compliance with that order or
19 judgment occurs. In addition to this suspension, the court may also
20 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

1 costs ordered to be paid under this section, the judge or district
2 court magistrate shall levy an assessment of \$5.00 for each civil
3 infraction determination, except for a parking violation or a
4 violation for which the total fine and costs imposed are \$10.00 or
5 less. An assessment paid before October 1, 2003 shall be
6 transmitted by the clerk of the court to the state treasurer to be
7 deposited into the Michigan justice training fund. An assessment
8 ordered before October 1, 2003 but collected on or after October 1,
9 2003 shall be transmitted by the clerk of the court to the state
10 treasurer for deposit in the justice system fund created in section
11 181 of the revised judicature act of 1961, 1961 PA 236, MCL
12 600.181. An assessment levied under this subsection is not a civil
13 fine for purposes of section 909.

14 (14) Effective October 1, 2003, in addition to any civil fines
15 or costs ordered to be paid under this section, the judge or
16 district court magistrate shall order the defendant to pay a
17 justice system assessment of \$40.00 for each civil infraction
18 determination, except for a parking violation or a violation for
19 which the total fine and costs imposed are \$10.00 or less. Upon
20 payment of the assessment, the clerk of the court shall transmit
21 the assessment collected to the state treasury to be deposited into
22 the justice system fund created in section 181 of the revised
23 judicature act of 1961, 1961 PA 236, MCL 600.181. An assessment
24 levied under this subsection is not a civil fine for purposes of
25 section 909.

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