

HOUSE BILL No. 4538

March 28, 2007, Introduced by Reps. Byrum, Angerer, Ebli, McDowell, Lahti, Warren, Clemente, Young, Corriveau, Espinoza, Simpson, Leland, Condino, Valentine, Griffin, Virgil Smith, Sak, Gonzales, Meisner, Robert Jones and Clack 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 2006 PA 298.

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 sections 741 to 750
6 to be responsible or responsible "with explanation" for a civil
7 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

1 more than \$100.00 and costs as provided in subsection (4). However,
2 for a violation of section 674(1)(s) or a local ordinance
3 substantially corresponding to section 674(1)(s), the person shall
4 be ordered to pay costs as provided in subsection (4) and a civil
5 fine of not less than \$100.00 or more than \$250.00. For a violation
6 of section 328, the civil fine ordered under this subsection shall
7 be not more than \$50.00. For a violation of section 710d, the civil
8 fine ordered under this subsection shall not exceed \$10.00. For a
9 violation of section 710e, the civil fine and court costs ordered
10 under this subsection shall be \$25.00. For a violation of section
11 682 or a local ordinance substantially corresponding to section
12 682, the person shall be ordered to pay costs as provided in
13 subsection (4) and a civil fine of not less than \$100.00 or more
14 than \$500.00. For a violation of section 240, the civil fine
15 ordered under this subsection shall be \$15.00. For a violation of
16 section 252a(1), the civil fine ordered under this subsection shall
17 be \$50.00. For a violation of section 676a(3), the civil fine
18 ordered under this section shall be not more than \$10.00. For a
19 violation of section 319f(1), the civil fine ordered under this
20 section shall be not less than \$1,100.00 or more than \$2,750.00.
21 For a violation of section 319g(1)(a), the civil fine ordered under
22 this section shall be not more than \$10,000.00. For a violation of
23 section ~~319g(1)(b)~~ **319G(1)(G)**, the civil fine ordered under this
24 section shall be not less than \$2,750.00 or more than \$11,000.00.
25 Permission may be granted for payment of a civil fine and costs to
26 be made within a specified period of time or in specified
27 installments, but unless permission is included in the order or

1 judgment, the civil fine and costs shall be payable immediately.

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

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

24 (5) In addition to a civil fine and costs ordered under
25 subsection (2) or (3) and subsection (4) and the justice system
26 assessment ordered under subsection (14), the judge or district
27 court magistrate may order the person to attend and complete a

1 program of treatment, education, or rehabilitation.

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

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

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

24 (9) If a person has received a civil infraction citation for
25 defective safety equipment on a vehicle under section 683, the
26 court shall waive a civil fine, costs, and assessments upon receipt
27 of certification by a law enforcement agency that repair of the

1 defective equipment was made before the appearance date on the
2 citation.

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

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

17 (12) The court shall waive any civil fine, cost, or assessment
18 against a person who received a civil infraction citation for a
19 violation of section 710d **OR 710E(3)** if the person, before the
20 appearance date on the citation, supplies the court with evidence
21 of acquisition, purchase, or rental of a child seating system
22 meeting the requirements of section 710d **OR 710E(3)**.

23 (13) Until October 1, 2003, in addition to any civil fines and
24 costs ordered to be paid under this section, the judge or district
25 court magistrate shall levy an assessment of \$5.00 for each civil
26 infraction determination, except for a parking violation or a
27 violation for which the total fine and costs imposed are \$10.00 or

1 less. An assessment paid before October 1, 2003 shall be
2 transmitted by the clerk of the court to the state treasurer to be
3 deposited into the Michigan justice training fund **CREATED UNDER**
4 **SECTION 5 OF 1982 PA 302, MCL 18.425**. An assessment ordered before
5 October 1, 2003 but collected on or after October 1, 2003 shall be
6 transmitted by the clerk of the court to the state treasurer for
7 deposit in the justice system fund created in section 181 of the
8 revised judicature act of 1961, 1961 PA 236, MCL 600.181. An
9 assessment levied under this subsection is not a civil fine for
10 purposes of section 909.

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

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

1 date the violation of section 223 occurred.

2 (16) If a person has received a citation for a violation of
3 section 328(1) for failing to produce a certificate of insurance
4 pursuant to section 328(2), the court may waive the fee described
5 in 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 Enacting section 1. This amendatory act takes effect April 1,
13 2008.

14 Enacting section 2. This amendatory act does not take effect
15 unless Senate Bill No. ____ or House Bill No. 4536(request no.
16 01644'07) of the 94th Legislature is enacted into law.