

HOUSE BILL NO. 5272

August 18, 2021, Introduced by Reps. Eisen, Bellino, Markkanen, Martin, Frederick, Bezotte, Outman, Griffin, LaGrand and Brixie 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 2020 PA 382,
and by adding sections 2c and 627c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 **Sec. 2c. "Automated speed enforcement system" means an**
2 **electronic traffic sensor system that meets all of the following**
3 **conditions:**
4 **(a) Automatically detects a vehicle exceeding the posted speed**

1 limit with a type of speed timing device.

2 (b) Is interoperable with the department of state police
3 license plate data management systems.

4 (c) Produces a recorded image of the vehicle described in
5 subdivision (a) that shows all of the following:

6 (i) A clear and legible identification of the vehicle's license
7 plate.

8 (ii) The location where the image was taken.

9 (iii) The date and time when the image was taken.

10 Sec. 627c. (1) The department of state police or the state
11 transportation department; a county board of commissioners, board
12 of county road commissioners, or county sheriff; or other local
13 authority having jurisdiction over a highway or street may
14 authorize the installation and use of an automated speed
15 enforcement system in a work zone on a highway or street under
16 their respective jurisdictions. A sign must be placed at the
17 approach to the work zone indicating that the work zone is
18 monitored by an automated speed enforcement system.

19 (2) If an individual violates an applicable speed limit
20 described in section 627 in a work zone while workers are present,
21 on the basis of a recorded image produced by an automated speed
22 enforcement system, all of the following apply:

23 (a) For a first violation as described in this subsection, the
24 individual may be issued a written warning only or may be
25 responsible for a civil infraction and must be ordered to pay a
26 civil fine of not more than \$100.00.

27 (b) For a second violation as described in this subsection,
28 the individual is responsible for a civil infraction and must be
29 ordered to pay a civil fine of not more than \$100.00.

1 (c) For a third or subsequent violation as described in this
2 subsection, the individual is responsible for a civil infraction
3 and must be ordered to pay a civil fine of not more than \$250.00.

4 (3) A sworn statement of a police officer from this state or
5 local authority having jurisdiction over the highway or street upon
6 which the work zone described in subsection (1) is located, based
7 on inspecting a recorded image produced by an automated speed
8 enforcement system, is prima facie evidence of the facts contained
9 in the recorded image. A recorded image indicating a violation must
10 be available for inspection in any proceeding to adjudicate the
11 responsibility for a violation of this section. A recorded image
12 indicating a violation must be destroyed 90 days after final
13 disposition of the citation.

14 (4) In a prosecution for a violation of this section, prima
15 facie evidence that the vehicle described in the citation issued
16 was operated in violation of this section, together with proof that
17 the defendant was at the time of the violation the registered owner
18 of the vehicle, creates a rebuttable presumption that the
19 registered owner of the vehicle was the individual who committed
20 the violation. The presumption is rebutted if the registered owner
21 of the vehicle files an affidavit by regular mail with the clerk of
22 the court that he or she was not the operator of the vehicle at the
23 time of the alleged violation or testifies in open court under oath
24 that he or she was not the operator of the vehicle at the time of
25 the alleged violation. The presumption also is rebutted if a
26 certified copy of a police report, showing that the vehicle had
27 been reported to the police as stolen before the time of the
28 alleged violation of this section, is presented before the
29 appearance date established on the citation. For purposes of this

1 subsection, the owner of a leased or rented vehicle shall provide
2 the name and address of the individual to whom the vehicle was
3 leased or rented at the time of the violation.

4 (5) Notwithstanding section 742, a citation for a violation of
5 this section may be executed by mailing by first-class mail a copy
6 to the address of the registered owner of the vehicle as shown on
7 the records of the secretary of state. If the summoned individual
8 fails to appear on the date of return set out in the citation
9 previously mailed by first-class mail under this subsection, a copy
10 must be sent by certified mail-return receipt requested. If the
11 summoned individual fails to appear on either of the dates of
12 return set out in the copies of the citation mailed under this
13 subsection, the citation must be executed in the manner provided by
14 law for personal service. The court may issue a warrant for the
15 arrest of an individual who fails to appear within the time limit
16 established on the citation if a sworn complaint is filed with the
17 court for that purpose.

18 Sec. 907. (1) A violation of this act, or a local ordinance
19 that substantially corresponds to a provision of this act, that is
20 designated a civil infraction must not be considered a lesser
21 included offense of a criminal offense.

22 (2) Permission may be granted for payment of a civil fine and
23 costs to be made within a specified period of time or in specified
24 installments but, unless permission is included in the order or
25 judgment, the civil fine and costs must be payable immediately.
26 Except as otherwise provided, a person found responsible or
27 responsible "with explanation" for a civil infraction must pay
28 costs as provided in subsection (4) and 1 or more of the following
29 civil fines, as applicable:

1 (a) Except as otherwise provided, for a civil infraction under
2 this act or a local ordinance that substantially corresponds to a
3 provision of this act, the person ~~shall~~**must** be ordered to pay a
4 civil fine of not more than \$100.00.

5 (b) If the civil infraction was a moving violation that
6 resulted in an at-fault collision with another vehicle, ~~a person,~~
7 **an individual**, or any other object, the civil fine ordered under
8 this section is increased by \$25.00 but the total civil fine must
9 not be more than \$100.00.

10 (c) For a violation of section 240, the civil fine ordered
11 under this subsection is \$15.00.

12 (d) For a violation of section 312a(4) (a), the civil fine
13 ordered under this section must not be more than \$250.00.

14 (e) For a first violation of section 319f(1), the civil fine
15 ordered under this section must not be less than \$2,500.00 or more
16 than \$2,750.00; for a second or subsequent violation, the civil
17 fine must not be less than \$5,000.00 or more than \$5,500.00.

18 (f) For a violation of section 319g(1) (a), the civil fine
19 ordered under this section must not be more than \$10,000.00.

20 (g) For a violation of section 319g(1) (g), the civil fine
21 ordered under this section must not be less than \$2,750.00 or more
22 than \$25,000.00.

23 (h) For a violation of section 602b, the civil fine ordered
24 under this section must not be more than \$100.00 for a first
25 offense and \$200.00 for a second or subsequent offense.

26 **(i) For a violation of 627c, the civil fine ordered under this**
27 **section must not be more than \$100.00 for a first or second offense**
28 **and \$250.00 for a third or subsequent offense.**

29 (j) ~~(i)~~For a violation of section 674(1) (s) or a local

1 ordinance that substantially corresponds to section 674(1)(s), the
 2 civil fine ordered under this section must not be less than \$100.00
 3 or more than \$250.00.

4 (k) ~~(j)~~—For a violation of section 676a(3), the civil fine
 5 ordered under this section must not be more than \$10.00.

6 (l) ~~(k)~~—For a violation of section 676c, the civil fine ordered
 7 under this section is \$1,000.00.

8 (m) ~~(l)~~—For a violation of section 682 or a local ordinance
 9 that substantially corresponds to section 682, the civil fine
 10 ordered under this section must not be less than \$100.00 or more
 11 than \$500.00.

12 (n) ~~(m)~~—For a violation of section 710d, the civil fine
 13 ordered under this section must not be more than \$10.00, subject to
 14 subsection (11).

15 (o) ~~(n)~~—For a violation of section 710e, the civil fine and
 16 court costs ordered under this subsection must be \$25.00.

17 (3) Except as provided in this section, if ~~a person~~ **an**
 18 **individual** is determined to be responsible or responsible "with
 19 explanation" for a civil infraction under this act or a local
 20 ordinance that substantially corresponds to a provision of this act
 21 while driving a commercial motor vehicle, he or she must be ordered
 22 to pay costs as provided in subsection (4) and a civil fine of not
 23 more than \$250.00.

24 (4) If a civil fine is ordered under subsection (2) or (3),
 25 the judge or district court magistrate shall summarily tax and
 26 determine the costs of the action, which are not limited to the
 27 costs taxable in ordinary civil actions, and may include all
 28 expenses, direct and indirect, to which the plaintiff has been put
 29 in connection with the civil infraction, up to the entry of

1 judgment. Costs must not be ordered in excess of \$100.00. A civil
2 fine ordered under subsection (2) or (3) must not be waived unless
3 costs ordered under this subsection are waived. Except as otherwise
4 provided by law, costs are payable to the general fund of the
5 plaintiff.

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

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

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

25 (8) The state court administrator shall annually publish and
26 distribute to each district and court a recommended range of civil
27 fines and costs for first-time civil infractions. This
28 recommendation is not binding on the courts having jurisdiction
29 over civil infractions but is intended to act as a normative guide

1 for judges and district court magistrates and a basis for public
2 evaluation of disparities in the imposition of civil fines and
3 costs throughout this state.

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

10 (10) A default in the payment of a civil fine or costs ordered
11 under subsection (2), (3), or (4) or a justice system assessment
12 ordered under subsection (12), or an installment of the fine,
13 costs, or assessment, may be collected by a means authorized for
14 the enforcement of a judgment under chapter 40 of the revised
15 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or
16 under chapter 60 of the revised judicature act of 1961, 1961 PA
17 236, MCL 600.6001 to 600.6098.

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

24 (12) In addition to any civil fines or costs ordered to be
25 paid under this section, the judge or district court magistrate
26 shall order the defendant to pay a justice system assessment of
27 \$40.00 for each civil infraction determination, except for a
28 parking violation or a violation for which the total fine and costs
29 imposed are \$10.00 or less. On payment of the assessment, the clerk

1 of the court shall transmit the assessment collected to the state
2 treasury to be deposited into the justice system fund created in
3 section 181 of the revised judicature act of 1961, 1961 PA 236, MCL
4 600.181. An assessment levied under this subsection is not a civil
5 fine for purposes of section 909.

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

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

24 (15) If a person is determined to be responsible or
25 responsible "with explanation" for a civil infraction under this
26 act or a local ordinance that substantially corresponds to a
27 provision of this act and the civil infraction arises out of the
28 ownership or operation of a commercial quadricycle, he or she must
29 be ordered to pay costs as provided in subsection (4) and a civil

1 fine of not more than \$500.00.

2 (16) As used in this section, "moving violation" means an act
3 or omission prohibited under this act or a local ordinance that
4 substantially corresponds to this act that involves the operation
5 of a motor vehicle and for which a fine may be assessed.