

SENATE BILL No. 492

May 9, 2007, Introduced by Senators SANBORN and GILBERT and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 724 (MCL 257.724), as amended by 2005 PA 179.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 724. (1) A police officer, a peace officer, or an
2 authorized agent of the state transportation department or a county
3 road commission having reason to believe that the weight of a
4 vehicle and load is unlawful may require the driver to stop and
5 submit to a weighing of the vehicle by either portable or
6 stationary scales approved and sealed by the department of
7 agriculture as a legal weighing device and may require that the
8 vehicle be driven to the nearest weigh station of the state
9 transportation department for the purpose of allowing a police

1 officer, peace officer, or agent of the state transportation
2 department or county road commission to determine whether the
3 vehicle is loaded in conformity with this chapter.

4 (2) When the officer or agent, upon weighing a vehicle and
5 load, determines that the weight is unlawful, the officer or agent
6 may require the driver to stop the vehicle in a suitable place and
7 remain standing until that portion of the load is shifted or
8 removed as necessary to reduce the gross axle load weight of the
9 vehicle to the limit permitted under this chapter. All material
10 unloaded as provided under this subsection shall be cared for by
11 the owner or operator of the vehicle at the risk of the owner or
12 operator. A judge or magistrate imposing a civil fine and costs
13 under this section that are not paid in full immediately or for
14 which a bond is not immediately posted in ~~double~~ the amount of the
15 civil fine and costs shall order the driver or owner to move the
16 vehicle at the driver's own risk to a place of safekeeping within
17 the jurisdiction of the judge or magistrate, inform the judge or
18 magistrate in writing of the place of safekeeping, and keep the
19 vehicle until the fine and costs are paid or sufficient bond is
20 furnished or until the judge or magistrate is satisfied that the
21 fine and costs will be paid. The officer or agent who has
22 determined, after weighing a vehicle and load, that the weight is
23 unlawful, may require the driver to proceed to a judge or
24 magistrate within the county. If the judge or magistrate is
25 satisfied that the probable civil fine and costs will be paid by
26 the owner or lessee, the judge or magistrate may allow the driver
27 to proceed, after the load is made legal. If the judge or

1 magistrate is not satisfied that the owner or lessee, after a
2 notice and a right to be heard on the merits is given, will pay the
3 amount of the probable civil fine and costs, the judge or
4 magistrate may order the vehicle to be impounded until trial on the
5 merits is completed under conditions set forth in this section for
6 the impounding of vehicles after the civil fine and costs have been
7 imposed. Removal of the vehicle, and forwarding, care, or
8 preservation of the load shall be under the control of and at the
9 risk of the owner or driver. Vehicles impounded shall be subject to
10 a lien, subject to a prior valid bona fide lien of prior record, in
11 the amount of the civil fine and costs and if the civil fine and
12 costs are not paid within 90 days after the seizure, the judge or
13 magistrate shall certify the unpaid judgment to the prosecuting
14 attorney of the county in which the violation occurred, who shall
15 proceed to enforce the lien by foreclosure sale in accordance with
16 procedure authorized in the case of chattel mortgage foreclosures.
17 When the duly authorized agent of the state transportation
18 department or county road commission is performing duties under
19 this chapter, the agent has all the powers conferred upon peace
20 officers by the general laws of this state.

21 (3) Subject to subsection (4), an owner of a vehicle or a
22 lessee of the vehicle of an owner-operator, or other person, who
23 causes or allows a vehicle to be loaded and driven or moved on a
24 highway, when the weight of that vehicle violates section 722 is
25 responsible for a civil infraction and shall pay a civil fine in an
26 amount equal to 3 cents per pound for each pound of excess load
27 over 1,000 pounds when the excess is 2,000 pounds or less; 6 cents

1 per pound of excess load when the excess is over 2,000 pounds but
2 not over 3,000 pounds; 9 cents per pound for each pound of excess
3 load when the excess is over 3,000 pounds but not over 4,000
4 pounds; 12 cents per pound for each pound of excess load when the
5 excess is over 4,000 pounds but not over 5,000 pounds; 15 cents per
6 pound for each pound of excess load when the excess is over 5,000
7 pounds but not over 10,000 pounds; and 20 cents per pound for each
8 pound of excess load when the excess is over 10,000 pounds.

9 (4) Beginning January 1, 2006, if the court determines that
10 the motor vehicle or the combination of vehicles was operated in
11 violation of this section, the court shall impose a fine as
12 follows:

13 (a) If the court determines that the motor vehicle or the
14 combination of vehicles was operated in such a manner that the
15 gross weight of the vehicle or the combination of vehicles would
16 not be lawful by a proper distribution of the load upon all the
17 axles of the vehicle or the combination of vehicles, the court
18 shall impose a fine for the violation according to the schedule
19 provided for in subsection (3).

20 (b) If the court determines that the motor vehicle or the
21 combination of vehicles would be lawful by a proper distribution of
22 the load upon all of the axles of the vehicle or the combination of
23 vehicles, but that 1 or more axles of the vehicle exceeded the
24 maximum allowable axle weight by 4,000 pounds or less, the court
25 shall impose a misload fine of \$200.00 per axle. Not more than 3
26 axles shall be used in calculating the fine to be imposed under
27 this subdivision. This subdivision does not apply to a vehicle

1 subject to the maximum loading provisions of section ~~722(11)~~
2 **722(12)** or to a vehicle found to be in violation of a special
3 permit issued under section 725.

4 (c) If the court determines that the motor vehicle or the
5 combination of vehicles would be lawful by a proper distribution of
6 the load upon all of the axles of the vehicle or the combination of
7 vehicles, but that 1 or more axles of the vehicle exceeded the
8 maximum allowable axle weight by more than 4,000 pounds, the court
9 shall impose a fine for the violation according to the schedule
10 provided in subsection (3).

11 (5) A driver or owner of a commercial vehicle with other
12 vehicles or trailers in combination, a truck or truck tractor, a
13 truck or truck tractor with other vehicles in combination, or any
14 special mobile equipment who fails to stop at or bypasses any
15 scales or weighing station is guilty of a misdemeanor.

16 (6) An agent or authorized representative of the state
17 transportation department or a county road commission shall not
18 stop a truck or vehicle in movement upon a road or highway within
19 the state for any purpose, unless the agent or authorized
20 representative is driving a duly marked vehicle, clearly showing
21 and denoting the branch of government represented.

22 (7) A driver or owner of a vehicle who knowingly fails to stop
23 when requested or ordered to do so and submit to a weighing by a
24 police officer, a peace officer, or an authorized agent of the
25 state transportation department, or a representative or agent of a
26 county road commission, authorized to require the driver to stop
27 and submit to a weighing of the vehicle and load by means of a

1 portable scale, is guilty of a misdemeanor punishable by
2 imprisonment for not more than 90 days or a fine of not more than
3 \$100.00, or both. A driver or person who dumps his or her load when
4 ordered to submit to a weigh or who otherwise attempts to commit or
5 commits an act to avoid a vehicle weigh is in violation of this
6 section.