

SENATE BILL No. 1528

September 23, 2008, Introduced by Senator THOMAS 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,
and by adding section 602b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 602B. AN INDIVIDUAL SHALL NOT USE A CELLULAR
2 TELECOMMUNICATIONS DEVICE WHILE OPERATING A MOTOR VEHICLE IN A
3 SCHOOL ZONE. A PERSON WHO VIOLATES THIS SECTION IS RESPONSIBLE FOR
4 A CIVIL INFRACTION AND LIABLE FOR A CIVIL FINE OF \$250.00. AS USED
5 IN THIS SECTION:

6 (A) "SCHOOL ZONE" MEANS THAT TERM AS DEFINED IN SECTION 627A.

7 (B) "USE" MEANS TO INITIATE A CALL; ANSWER A CALL; LISTEN TO
8 OR ENGAGE IN VERBAL COMMUNICATION THROUGH THE DEVICE; OR TYPE,
9 SEND, OR RECEIVE A TEXT MESSAGE OR AN INSTANT MESSAGE.

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
10 more than \$100.00 and costs as provided in subsection (4). However,
11 for a violation of section 674(1)(s) or a local ordinance
12 substantially corresponding to section 674(1)(s), the person shall
13 be ordered to pay costs as provided in subsection (4) and a civil
14 fine of not less than \$100.00 or more than \$250.00. For a violation
15 of section 328, the civil fine ordered under this subsection shall
16 be not more than \$50.00. For a violation of section 710d, the civil
17 fine ordered under this subsection shall not exceed \$10.00. For a
18 violation of section 710e, the civil fine and court costs ordered
19 under this subsection shall be \$25.00. For a violation of section
20 682 or a local ordinance substantially corresponding to section
21 682, the person shall be ordered to pay costs as provided in
22 subsection (4) and a civil fine of not less than \$100.00 or more
23 than \$500.00. For a violation of section 240, the civil fine
24 ordered under this subsection shall be \$15.00. For a violation of
25 section 252a(1), the civil fine ordered under this subsection shall
26 be \$50.00. **FOR A VIOLATION OF SECTION 602B, THE CIVIL FINE ORDERED**
27 **UNDER THIS SUBSECTION SHALL BE \$250.00.** For a violation of section

1 676a(3), the civil fine ordered under this section shall be not
2 more than \$10.00. For a violation of section 319f(1), the civil
3 fine ordered under this section shall be not less than \$1,100.00 or
4 more than \$2,750.00. For a violation of section 319g(1)(a), the
5 civil fine ordered under this section shall be not more than
6 \$10,000.00. For a violation of section ~~319g(1)(b)~~ **319G(1)(G)**, the
7 civil fine ordered under this section shall be not less than
8 \$2,750.00 or more than \$11,000.00. Permission may be granted for
9 payment of a civil fine and costs to be made within a specified
10 period of time or in specified installments, but unless permission
11 is included in the order or judgment, the civil fine and costs
12 ~~shall be~~ **ARE** payable immediately.

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

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

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

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

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

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

27 (8) The state court administrator shall annually publish and

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

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

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

22 (11) If a person fails to comply with an order or judgment
23 issued ~~pursuant to~~ **UNDER** this section within the time prescribed by
24 the court, the driver's license of that person shall be suspended
25 ~~pursuant to~~ **UNDER** section 321a until full compliance with that
26 order or judgment occurs. In addition to this suspension, the court
27 may also proceed under section 908.

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

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

21 (14) Effective October 1, 2003, in addition to any civil fines
22 or costs ordered to be paid under this section, the judge or
23 district court magistrate shall order the defendant to pay a
24 justice system assessment of \$40.00 for each civil infraction
25 determination, except for a parking violation or a violation for
26 which the total fine and costs imposed are \$10.00 or less. Upon
27 payment of the assessment, the clerk of the court shall transmit

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

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

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