

SENATE BILL No. 968

February 15, 2012, Introduced by Senator PROOS 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 2009 PA 169.

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 as a legal weighing device by
7 a qualified person using testing equipment certified or approved by
8 the department of agriculture as a legal weighing device and may
9 require that the vehicle be driven to the nearest weigh station of

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

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

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

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

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

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

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

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

1 this subdivision. This subdivision does not apply to a vehicle
2 subject to the maximum loading provisions of section 722(12) or to
3 a vehicle found to be in violation of a special permit issued under
4 section 725.

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

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

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

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

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