

# HOUSE BILL No. 4308

February 27, 2003, Introduced by Reps. Garfield, Casperson, Drolet, Pastor, Shaffer, Rocca, Ward, Acciavatti, Nofs, Farhat, Stakoe, Brandenburg, Voorhees, Amos, Bradstreet, Milosch and LaJoy and referred to the Committee on Judiciary.

A bill to amend 1949 PA 300, entitled  
"Michigan vehicle code,"  
by amending sections 328 and 907 (MCL 257.328 and 257.907),  
section 328 as amended by 1995 PA 287 and section 907 as amended  
by 2002 PA 534.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 328. (1) ~~The~~ **Subject to section 907(15),** the owner  
2 of a motor vehicle who operates or permits the operation of the  
3 motor vehicle upon the highways of this state or the operator of  
4 the motor vehicle shall produce, pursuant to subsection (2), upon  
5 the request of a police officer, evidence that the motor vehicle  
6 is insured under chapter 31 of the insurance code of 1956, ~~Act~~  
7 ~~No. 218 of the Public Acts of 1956, being sections 500.3101 to~~  
8 ~~500.3179 of the Michigan Compiled Laws~~ **1956 PA 218, MCL 500.3101**  
9 **to 500.3179.** An owner or operator of a motor vehicle who fails

1 to produce evidence of insurance under this subsection when  
2 requested to produce that evidence or who fails to have motor  
3 vehicle insurance for the vehicle as required under chapter 31 of  
4 ~~Act No. 218 of the Public Acts of 1956~~ **the insurance code of**  
5 **1956, 1956 PA 218, MCL 500.3101 to 500.3179**, is responsible for a  
6 civil infraction.

7 (2) A certificate of insurance, ~~if~~ issued by an insurance  
8 company, ~~which certificate states~~ **that certifies** that **the**  
9 security ~~which~~ **that** meets the requirements of sections 3101 and  
10 3102 of ~~Act No. 218 of the Public Acts of 1956, being sections~~  
11 ~~500.3101 and 500.3102 of the Michigan Compiled Laws~~ **the**  
12 **insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3102**, is  
13 in force shall be accepted as prima facie evidence that insurance  
14 is in force for the motor vehicle described in the certificate of  
15 insurance until the expiration date shown on the certificate.  
16 The certificate, in addition to describing the motor vehicles for  
17 which insurance is in effect, shall state the name of each person  
18 named on the policy, policy declaration, or a declaration  
19 certificate whose operation of the vehicle would cause the  
20 liability coverage of that insurance to become void.

21 (3) If an owner or operator of a motor vehicle is determined  
22 to be responsible for a violation of subsection (1), the court in  
23 which the civil infraction determination is entered may require  
24 the person to surrender his or her operator's or chauffeur's  
25 license unless proof that the vehicle has insurance meeting the  
26 requirements of sections 3101 and 3102 of ~~Act No. 218 of the~~  
27 ~~Public Acts of 1956~~ **the insurance code of 1956, 1956 PA 218, MCL**

1 **500.3101 and 500.3102**, is submitted to the court. If the person  
2 submits proof to the court that the vehicle has insurance meeting  
3 the requirements of sections 3101 and 3102 of ~~Act No. 218 of the~~  
4 ~~Public Acts of 1956~~ **the insurance code of 1956, 1956 PA 218, MCL**  
5 **500.3101 and 500.3102**, in addition to the civil fine and costs  
6 provided by section 907, the court shall assess a fee of \$25.00.  
7 If the court requires the license to be surrendered, the court  
8 shall order the secretary of state to suspend the person's  
9 license. The court shall immediately destroy the license and  
10 shall forward to the secretary of state an abstract of the court  
11 record as required by section 732. Upon receipt of the abstract,  
12 the secretary of state shall suspend the person's license  
13 beginning with the date on which a person is determined to be  
14 responsible for the civil infraction for a period of 30 days or  
15 until proof of insurance ~~which meets~~ **meeting** the requirements  
16 of sections 3101 and 3102 of ~~Act No. 218 of the Public Acts of~~  
17 ~~1956~~ **the insurance code of 1956, 1956 PA 218, MCL 500.3101 and**  
18 **500.3102**, is submitted to the secretary of state, whichever  
19 occurs later. A person who submits proof of insurance to the  
20 secretary of state under this subsection shall pay a service fee  
21 of \$25.00 to the secretary of state. The person shall not be  
22 required to be examined as set forth in section 320c and shall  
23 not be required to pay a replacement license fee.

24 (4) If an owner or operator of a motor vehicle is determined  
25 to be responsible for a violation of subsection (1), the court in  
26 which the civil infraction determination is entered shall notify  
27 the secretary of state of the vehicle registration number and the

1 year and make of the motor vehicle being operated at the time of  
2 the violation. This notification shall be made on the abstract  
3 or on a form approved by the supreme court administrator. Upon  
4 receipt, the secretary of state shall immediately enter this  
5 information in the records of the department. The secretary of  
6 state shall not renew, transfer, or replace the registration  
7 plate of the vehicle involved in the violation or allow the  
8 purchase of a new registration plate for the vehicle involved in  
9 the violation until the owner meets the requirements of section  
10 227a or unless the vehicle involved in the violation is  
11 transferred or sold to a person other than the owner's spouse,  
12 mother, father, sister, brother, or child.

13 (5) An owner or operator of a motor vehicle who knowingly  
14 produces false evidence under this section is guilty of a  
15 misdemeanor, punishable by imprisonment for not more than 1 year,  
16 or a fine of not more than \$1,000.00, or both.

17 (6) Points shall not be entered on a driver's record pursuant  
18 to section 320a for a violation of this section.

19 (7) This section does not apply to the owner or operator of a  
20 motor vehicle that is registered in a state other than this state  
21 or a foreign country or province.

22 Sec. 907. (1) A violation of this act, or a local ordinance  
23 substantially corresponding to a provision of this act, which is  
24 designated a civil infraction shall not be considered a lesser  
25 included offense of a criminal offense.

26 (2) If a person is determined pursuant to sections 741 to 750  
27 to be responsible or responsible "with explanation" for a civil

1 infraction under this act or a local ordinance substantially  
2 corresponding to a provision of this act, the judge, district  
3 court referee, or district court magistrate may order the person  
4 to pay a civil fine of not more than \$100.00 and costs as  
5 provided in subsection (4). However, for a violation of  
6 section 674(1)(s) or a local ordinance substantially  
7 corresponding to section 674(1)(s), the person shall be ordered  
8 to pay costs as provided in subsection (4) and a civil fine of  
9 not less than \$50.00 or more than \$100.00. For a violation of  
10 section 328 or 710d, the civil fine ordered under this subsection  
11 shall not exceed \$10.00. For a violation of section 710e, the  
12 civil fine and court costs ordered under this subsection shall be  
13 \$25.00. For a violation of section 682 or a local ordinance  
14 substantially corresponding to section 682, the person shall be  
15 ordered to pay costs as provided in subsection (4) and a civil  
16 fine of not less than \$100.00 or more than \$500.00. Permission  
17 may be granted for payment of a civil fine and costs to be made  
18 within a specified period of time or in specified installments,  
19 but unless permission is included in the order or judgment, the  
20 civil fine and costs shall be payable immediately.

21 (3) Except as provided in this subsection, if a person is  
22 determined to be responsible or responsible "with explanation"  
23 for a civil infraction under this act or a local ordinance  
24 substantially corresponding to a provision of this act while  
25 driving a commercial motor vehicle, he or she shall be ordered to  
26 pay costs as provided in subsection (4) and a civil fine of not  
27 more than \$250.00. If a person is determined to be responsible

1 or responsible "with explanation" for a civil infraction under  
2 section 319g or a local ordinance substantially corresponding to  
3 section 319g, that person shall be ordered to pay costs as  
4 provided in subsection (4) and a civil fine of not more than  
5 \$10,000.00.

6 (4) If a civil fine is ordered under subsection (2) or (3),  
7 the judge, district court referee, or district court magistrate  
8 shall summarily tax and determine the costs of the action, which  
9 are not limited to the costs taxable in ordinary civil actions,  
10 and may include all expenses, direct and indirect, to which the  
11 plaintiff has been put in connection with the civil infraction,  
12 up to the entry of judgment. Except in a civil infraction for a  
13 parking violation, costs of not less than \$5.00 shall be  
14 ordered. Costs shall not be ordered in excess of \$100.00. A  
15 civil fine ordered under subsection (2) or (3) shall not be  
16 waived unless costs ordered under this subsection are waived.  
17 Except as otherwise provided by law, costs are payable to the  
18 general fund of the plaintiff.

19 (5) In addition to a civil fine and costs ordered under  
20 subsection (2) or (3) and subsection (4), the judge, district  
21 court referee, or district court magistrate may order the person  
22 to attend and complete a program of treatment, education, or  
23 rehabilitation.

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

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

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

19           (9) If a person has received a civil infraction citation for  
20 defective safety equipment on a vehicle under section 683, the  
21 court shall waive a civil fine and costs, upon receipt of  
22 certification by a law enforcement agency that repair of the  
23 defective equipment was made before the appearance date on the  
24 citation.

25           (10) A default in the payment of a civil fine or costs  
26 ordered under subsection (2), (3), or (4) or an installment of  
27 the fine or costs may be collected by a means authorized for the

1 enforcement of a judgment under chapter 40 of the revised  
2 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or  
3 under chapter 60 of the revised judicature act of 1961, 1961  
4 PA 236, MCL 600.6001 to 600.6098.

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

11       (12) The court shall waive any civil fine or cost against a  
12 person who received a civil infraction citation for a violation  
13 of section 710d if the person, before the appearance date on the  
14 citation, supplies the court with evidence of acquisition,  
15 purchase, or rental of a child seating system meeting the  
16 requirements of section 710d.

17       (13) In addition to any fines and costs ordered to be paid  
18 under this section, the judge, district court referee, or  
19 district court magistrate shall levy an assessment of \$5.00 for  
20 each civil infraction determination, except for a parking  
21 violation or a violation for which the total fine and costs  
22 imposed are \$10.00 or less. Upon payment of the assessment, the  
23 clerk of the court shall transmit the assessment levied to the  
24 state treasury to be deposited into the Michigan justice training  
25 fund. An assessment levied under this subsection is not a civil  
26 fine for purposes of section 909.

27       (14) If a person has received a citation for a violation of

1 section 223, the court shall waive any fine and costs, upon  
2 receipt of certification by a law enforcement agency that the  
3 person, before the appearance date on the citation, produced a  
4 valid registration certificate that was valid on the date the  
5 violation of section 223 occurred.

6 (15) If a person has received a citation for a violation of  
7 section 328(1) for failing to produce a certificate of insurance  
8 pursuant to section 328(2), the court shall waive any fine and  
9 costs upon receipt of a certification by a law enforcement agency  
10 that the person, before the appearance date on the citation,  
11 produced valid proof of insurance that was valid on the date the  
12 violation of section 328(1) occurred.