

# SENATE BILL No. 491

May 11, 2005, Introduced by Senators KUIPERS, McMANUS, ALLEN, HAMMERSTROM, BIRKHOLZ and GEORGE 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 2005 PA 1.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

1 more than \$100.00 and costs as provided in subsection (4). However,  
2 for a violation of section 674(1)(s) or a local ordinance  
3 substantially corresponding to section 674(1)(s), the person shall  
4 be ordered to pay costs as provided in subsection (4) and a civil  
5 fine of not less than \$100.00 or more than \$250.00. For a violation  
6 of section 328, the civil fine ordered under this subsection shall  
7 be not more than \$50.00. For a violation of section 710d, the civil  
8 fine ordered under this subsection shall not exceed \$10.00 **FOR A**  
9 **FIRST VIOLATION AND SHALL BE \$100.00 FOR A SECOND OR SUBSEQUENT**  
10 **VIOLATION. FOR A VIOLATION OF SECTION 710E(3)(B) OR (5), THE CIVIL**  
11 **FINE ORDERED UNDER THIS SUBSECTION SHALL BE NOT MORE THAN \$10.00**  
12 **FOR A FIRST OFFENSE AND SHALL BE \$100.00 FOR A SECOND OR SUBSEQUENT**  
13 **OFFENSE.** For a violation of section 710e **OTHER THAN 710E(3)(B) OR**  
14 **(5),** the civil fine and court costs ordered under this subsection  
15 shall be \$25.00. For a violation of section 682 or a local  
16 ordinance substantially corresponding to section 682, the person  
17 shall be ordered to pay costs as provided in subsection (4) and a  
18 civil fine of not less than \$100.00 or more than \$500.00. For a  
19 violation of section 240, the civil fine ordered under this  
20 subsection shall be \$15.00. For a violation of section 252a(1), the  
21 civil fine ordered under this subsection shall be \$50.00. For a  
22 violation of section 676a(3), the civil fine ordered under this  
23 section shall be not more than \$10.00. Permission may be granted  
24 for payment of a civil fine and costs to be made within a specified  
25 period of time or in specified installments, but unless permission  
26 is included in the order or judgment, the civil fine and costs  
27 shall be payable immediately.

1           (3) Except as provided in this subsection, if a person is  
2 determined to be responsible or responsible "with explanation" for  
3 a civil infraction under this act or a local ordinance  
4 substantially corresponding to a provision of this act while  
5 driving a commercial motor vehicle, he or she shall be ordered to  
6 pay costs as provided in subsection (4) and a civil fine of not  
7 more than \$250.00. If a person is determined to be responsible or  
8 responsible "with explanation" for a civil infraction under section  
9 319g or a local ordinance substantially corresponding to section  
10 319g, that person shall be ordered to pay costs as provided in  
11 subsection (4) and a civil fine of not more than \$10,000.00.

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

23           (5) In addition to a civil fine and costs ordered under  
24 subsection (2) or (3) and subsection (4) and the justice system  
25 assessment ordered under subsection (14), the judge or district  
26 court magistrate may order the person to attend and complete a  
27 program of treatment, education, or rehabilitation.

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

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

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

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

1 citation.

2 (10) A default in the payment of a civil fine or costs ordered  
3 under subsection (2), (3), or (4) or a justice system assessment  
4 ordered under subsection (14), or an installment of the fine,  
5 costs, or assessment, may be collected by a means authorized for  
6 the enforcement of a judgment under chapter 40 of the revised  
7 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or  
8 under chapter 60 of the revised judicature act of 1961, 1961 PA  
9 236, MCL 600.6001 to 600.6098.

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

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

22 (13) Until October 1, 2003, in addition to any civil fines and  
23 costs ordered to be paid under this section, the judge or district  
24 court magistrate shall levy an assessment of \$5.00 for each civil  
25 infraction determination, except for a parking violation or a  
26 violation for which the total fine and costs imposed are \$10.00 or  
27 less. An assessment paid before October 1, 2003 shall be

1 transmitted by the clerk of the court to the state treasurer to be  
2 deposited into the Michigan justice training fund. An assessment  
3 ordered before October 1, 2003 but collected on or after October 1,  
4 2003 shall be transmitted by the clerk of the court to the state  
5 treasurer for deposit in the justice system fund created in section  
6 181 of the revised judicature act of 1961, 1961 PA 236, MCL  
7 600.181. An assessment levied under this subsection is not a civil  
8 fine for purposes of section 909.

9 (14) Effective October 1, 2003, in addition to any civil fines  
10 or costs ordered to be paid under this section, the judge or  
11 district court magistrate shall order the defendant to pay a  
12 justice system assessment of \$40.00 for each civil infraction  
13 determination, except for a parking violation or a violation for  
14 which the total fine and costs imposed are \$10.00 or less. Upon  
15 payment of the assessment, the clerk of the court shall transmit  
16 the assessment collected to the state treasury to be deposited into  
17 the justice system fund created in section 181 of the revised  
18 judicature act of 1961, 1961 PA 236, MCL 600.181. An assessment  
19 levied under this subsection is not a civil fine for purposes of  
20 section 909.

21 (15) If a person has received a citation for a violation of  
22 section 223, the court shall waive any civil fine, costs, and  
23 assessment, upon receipt of certification by a law enforcement  
24 agency that the person, before the appearance date on the citation,  
25 produced a valid registration certificate that was valid on the  
26 date the violation of section 223 occurred.

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

1 section 328(1) for failing to produce a certificate of insurance  
2 pursuant to section 328(2), the court may waive the fee described  
3 in section 328(3)(c) and shall waive any fine, costs, and any other  
4 fee or assessment otherwise authorized under this act upon receipt  
5 of verification by the court that the person, before the appearance  
6 date on the citation, produced valid proof of insurance that was in  
7 effect at the time the violation of section 328(1) occurred.  
8 Insurance obtained subsequent to the time of the violation does not  
9 make the person eligible for a waiver under this subsection.

10 **(17) FINES COLLECTED FOR EACH CITATION FOR A SECOND OR**  
11 **SUBSEQUENT VIOLATION OF SECTIONS 710D AND 710E(3)(B) AND (5) SHALL**  
12 **BE TRANSMITTED TO THE STATE TREASURER FOR DEPOSIT IN THE CHILD**  
13 **SAFETY EDUCATION FUND CREATED UNDER SECTION 710H.**

14 Enacting section 1. This amendatory act does not take effect  
15 before October 1, 2005.

16 Enacting section 2. This amendatory act does not take effect  
17 unless House Bill No. 4787  
18 of the 93rd Legislature is enacted into law.