

# Legislative Analysis



## MICHIGAN VEHICLE CODE – FINES FOR OVERSIZE/OVERWEIGHT VEHICLES

Mary Ann Cleary, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 5453 (Substitute H-3)**

**Sponsor: Rep. Robert L. Kosowski**

**Committee: Transportation and Infrastructure**

**Complete to 5-11-14**

### **A SUMMARY OF HOUSE BILL 5453 (H-3) AS PASSED BY THE HOUSE 5-8-14**

House Bill 5453 (H-3) would amend two unrelated sections of the Michigan Vehicle Code (PA 300 of 1949) – Section 719, which governs the maximum length and height of vehicles; and Section 724, which enforces vehicle weight limits. (MCL 257.719 and 257.724) In addition, the H-3 substitute would also amend Sections 907 and 909 which govern the assessment and distribution of civil fines under the act. (MCL 257.907 and 257.909).

The bill would change civil fines established under Sections 719 and 724, and related civil fine revenue, by an indeterminate amount. The bill would also change the distribution of civil fine revenue assessed under Sections 719 and 724. The impact of the bill is discussed in the section below.

#### **DETAILED ANALYSIS:**

##### ***Provisions Affecting Section 719 and 909***

Section 719 of the Michigan Vehicle Code governs the maximum length and height of vehicles operating on Michigan highways. Subsection 719(7) indicates that a person who violates the section "is responsible for a civil infraction." House Bill 5453 (H-3) would add the phrase "and shall pay a civil fine of not more than \$500.00." The bill would also amend Section 907 to indicate the civil fine under Section 719(7) is not more than \$500.00.

Although Section 719 does not currently provide a specific civil infraction penalty, the associated penalty provisions are established separately in Section 907 of the Michigan Vehicle Code. Section 907(7) directs each district court and each municipal court to establish civil fines, costs, and assessments for civil infractions that occur within the respective district or city.

Section 907(8) directs the State Court Administrator Office (SCAO) to publish and distribute a recommended range of civil fines and costs for first-time civil infractions. A copy of the most recent SCAO recommendations is found on the SCAO website at:  
[http://courts.mi.gov/Administration/SCAO/Resources/Documents/other/fc\\_ci.pdf](http://courts.mi.gov/Administration/SCAO/Resources/Documents/other/fc_ci.pdf)

It is our understanding that the recommended civil fine for first time offenders of Section 719 is \$35.00. As noted, House Bill 5453 (H-3) would set a civil fine maximum of \$500.00 for violations of Section 719. Since the SCAO recommended civil fine of \$35 for first time offenders is well below the proposed \$500.00 statutory limit, it is not clear if the bill would have any impact on fine revenue.

Violations of the Michigan Vehicle Code and similar local ordinances are adjudicated by district and municipal courts. We do not have a practical way to determine: how many citations are written annually for violations of Section 719; how many citations are written under the Michigan Vehicle Code and how many under similar local ordinance; or how much fine revenue is collected.

#### ***Provisions Affecting Section 724***

Section 724 establishes provisions for the enforcement vehicle weight limits established separately in Section 722. Section 724(3) indicates that a person who violates the load limits established in Section 722 of the Michigan Vehicle Code is responsible for a civil infraction. Section 724(3) goes on to provide a schedule of civil fines based on the number of pounds the vehicle was in excess of the legal limits. House Bill 5453 (H-3) would increase this schedule of civil fines as shown below:

excess load over	but not over	For each pound in excess	
		Current Law	HB 5453( H-3)
1,000 pounds	2,000 pounds	<del>3 cents per pound</del>	<b>6 cents per pound</b>
2,000 pounds	3,000 pounds	<del>6 cents per pound</del>	<b>12 cents per pound</b>
3,000 pounds	4,000 pounds	<del>9 cents per pound</del>	<b>18 cents per pound</b>
4,000 pounds	5,000 pounds	<del>12 cents per pound</del>	<b>24 cents per pound</b>
5,000 pounds	10,000 pounds	<del>15 cents per pound</del>	<b>30 cents per pound</b>
10,000 pounds		<del>20 cents per pound</del>	<b>40 cents per pound</b>

[This proposed changes to these civil fines are the same in both the H-3 substitute and the bill as introduced.]

Unlike some other states, Michigan does not have a specific stated gross vehicle weight limit. Instead, the Michigan Vehicle Code, specifically, Section 722, establishes normal weight limits by vehicle axle. It is our understanding that the civil fines established in Section 724(3) apply to each axle in excess of maximum weights established in Section 722. A truck with an 11 axle configuration – 3 axles on the power unit and 8 trailer axles (13,000 pound normal load limit on each trailer axle) could be within legal limits with respect to some axles but in excess of legal limits with respect to other axles.

Note that under both current law and the provisions of House Bill 5453 (H-3) the fines would be assessed on "each pound of excess load" and not on the total load weight of the vehicle. For example, if a vehicle were 4,500 pounds over normal loading limits on three axles, the fine under provisions of House Bill 5453 (H-3) would be \$3,240 (4,500 x 3 x .24) – assuming the vehicle did not meet the "misload" criteria discussed below.

Although Section 724(3) established a schedule of overweight fines, application of the schedule is subject to the provisions of Section 724(4) which provides alternative fines: (1) where the court determines that that vehicle would have been in compliance with the provisions of Section 722 if the load had been properly distributed, and (2) where the vehicle exceeded the maximum allowable axle weight by more than 1,000 pounds but not more than 4,000 pounds. In those cases, Section 724(4) establishes a "misload" fine of \$200.00 per axle with not more than 3 axles used in the fine calculation. In effect, the maximum penalty under this provision would be \$600.00.

Section 724(4)(c) also limits overweight fines to \$200.00 per axle and \$600.00 in total for vehicles exceeding axle weight established under an overweight permit authorized under Section 725. This provision would apply only when vehicle would have been in compliance with the provisions of the permit had the load been properly distributed and the one or more of the axles exceeded permitted weight by 1,000 pounds or less.

House Bill 5453 (H-3) would amend this subdivision to indicate that if one or more of a vehicle's axles exceeded permitted weight by more than 1,000 pounds, the court would be required to impose the fine established in the schedule of civil fines under subsection (3).

Section 724(4)(b) currently indicates that the misload fine provisions of do not apply when a vehicle axle weight exceeds legal limits by more than 4,000 pounds or when a vehicle exceeds the loading limits of Section 722(12), known as the federal bridge formula.

House Bill 5453 (H-3) would amend Section 724(4)(d) to create a new category of misload fines where the court determines that that vehicle would have been in compliance with the provisions of Section 722 if the load had been properly distributed, and the vehicle exceeded the maximum allowable axle weight by at least 4,000 pounds but not more than 8,000 pounds. The misload fine under this new subdivision would be a maximum of \$500.00 per axle, with not more than 3 axles used in the fine calculation. In effect, the maximum penalty under this provision would be \$1,500.00.

The amended subsection would indicate that if one or more of a vehicle's axles exceeded permitted weight by more than 8,000 pounds, the court would be required to impose the fine established in the schedule of civil fines under subsection (3).

Section 724 (4) currently states "*if the court determines that the motor vehicle or the combination of vehicles was operated in violation of **this section**, the court **shall** impose a fine as follows:*" We believe the reference should be to Section 722 and not "*this section*." In addition, while the opening sentence and subdivisions *a*, *c*, and *d* are prescriptive ("the court shall"), subdivision *b* is permissive ("the court *may*").

House Bill 5453 (H-3) eliminates this anomaly by making subdivision *b* prescriptive as well, i.e., to indicate that if a court determines a motor vehicle meets the misload criteria, the court *shall* impose a misload fine of \$200.00 per axle, not to exceed 3 axles in calculating the fine.

The same problem obtains in trying to estimate the fiscal impact of the proposed overweight fine increase as noted in the above discussion of Section 719: There is no practical way to determine how many annual violations there are of Section 722, how many are charged under the Michigan Vehicle Code and how many under similar local ordinance, how many vehicles are charged under the overweight fine provisions of Section 724(3) and how many under the misload provisions of Section 724(4), and how much fine revenue is collected.

It is our understanding that the fines established in Section 724 are civil fines and would be distributed according to the provisions of Section 909 as described above.

### ***Provisions Affecting Section 909***

Section 909 of the Michigan Vehicle Code directs revenue from civil fines ordered under Section 907 for violations of the Michigan Vehicle Code or similar local ordinance to be "exclusively applied to the support of public libraries and county law libraries in the same manner as is provided by law for penal fines..." The section also directs that civil fines ordered for the violation of the Michigan Vehicle Code or similar local ordinance regulating the operation of *commercial motor vehicles* be paid to the county treasurer and allocated as follows: 70% to the local authority in which the citation was issued, and 30% "for library purposes as provided by law."

[The reference to *commercial motor vehicle*, a defined term in Section 7a of the Michigan Vehicle Code may be an anachronism; the intended term may be *commercial vehicle*, a defined term in Section 7 of the Michigan Vehicle Code.]

The bill would add a new subsection, Section 909(3), to indicate that 50% of the civil fine revenue ordered under Section 719(7) and 724(3) be distributed to the state trunkline fund, county road commissions, and cities and villages according the distribution formula in Section 10(1)(j) of 1951 PA 51, and for purposes provided in 1951 PA 51. [The new section references all the sections of 1951 PA 51, including those sections not applicable to the state trunkline fund, county road commissions, and cities and villages.]

Fiscal Analyst: William E. Hamilton

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