

MICHIGAN VEHICLE CODE – FINES FOR OVERSIZE/OVERWEIGHT VEHICLES

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House Bill 5453 (Substitute S-2)

Sponsor: Rep. Robert L. Kosowski

House Committee: Transportation and Infrastructure

Senate Committee: Infrastructure Modernization

Complete to 12-1-14

A REVISED SUMMARY OF HOUSE BILL 5453 (S-2) AS PASSED BY THE SENATE

House Bill 5453 (S-2) would amend five sections of the Michigan Vehicle Code (PA 300 of 1949) – Section 719, which governs the maximum length and height of vehicles; Section 722, which governs maximum vehicle load/weight; Section 724, which provides for enforcement of vehicle load/weight limits, and Sections 907 and 909 which govern the assessment and distribution of civil fines under the Michigan Vehicle Code.

(MCL 257.719, 257.722, 257.724, 257.907, and 257.909.)

The principal difference between the Senate-passed and the House-passed versions of the bill appears to be the inclusion in the Senate-passed bill of provisions in Section 722 dealing with vehicles transporting solid waste.

The sections amended by the bill are not necessarily related. Our analysis will review the sections in logical, rather than numerical, sequence.

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 (length and height of vehicles)

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 (S-2) 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. These provisions appear to be identical in both the House-passed and Senate-passed version of this bill.

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

It is our understanding that the recommended civil fine for first time offenders of Section 719 is \$35.00. As noted, House Bill 5453 (S-2) would set a civil fine maximum of \$500.00 for violations of Section 719. Since the SCAO recommended civil fine of \$35.00 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 or under similar local ordinances; or how much fine revenue is collected.

Provisions Affecting Section 722 (vehicle weight or load limits)

With one exception, Michigan does not have a fixed gross vehicle weight (GVW) limit. Instead, Michigan regulates vehicle weight or load through maximum allowable axle loads at various axle configurations. Provisions governing vehicle weight/load by axle are established in Section 722.¹

There are three primary loading standards under Section 722; there are seasonal reductions to those primary loading maximums; and there are exceptions to the primary and seasonal standards for specific industry groups. Subsection 13 provides for those specific industry exemptions. Specifically, Subsection 13 increases axle loading maximums established in subsections 1, 2, 3, and 4 by 10% for vehicles transporting agricultural commodities or raw timber, excluding farm equipment and fuel, *"from the place of harvest or farm storage to the first point of delivery on a road in this state."* House Bill 5453 (S-2) would add "vehicles transporting solid waste" to the vehicles allowed a 10% increase in legal loading maximums. [It is not clear if, or how, the *"place of harvest or farm storage to the first point of delivery"* language applies to the *vehicles transporting solid waste* provision.

The bill would define "solid waste" to mean as that term is defined in Section 11506 of the Michigan Natural Resources and Environmental Protection Act (MNREPA). (MCL 324.11506). Specifically, Section 11506 of MNREPA defines "Solid waste" to mean "garbage, rubbish, ashes, incinerator ash, incinerator residue, street cleanings, municipal

¹ The one specific instance where the Michigan Vehicle Code does establish a fixed GVW limit is in Section 719, which establishes a 164,000 pound GVW limit for certain log transport vehicles. Section 719 also limits the maximum number of axles on a motor vehicle to 11.

and industrial sludges, solid commercial waste, solid industrial waste, and animal waste."
See: <http://legislature.mi.gov/doc.aspx?mcl-324-11506>

Provisions Affecting Section 724 (weight limit enforcement)

Section 724 establishes provisions for the enforcement of 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 (S-2) 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(S-2)
1,000 pounds	2,000 pounds	3 cents per pound	6 cents per pound
2,000 pounds	3,000 pounds	6 cents per pound	12 cents per pound
3,000 pounds	4,000 pounds	9 cents per pound	18 cents per pound
4,000 pounds	5,000 pounds	12 cents per pound	24 cents per pound
5,000 pounds	10,000 pounds	15 cents per pound	30 cents per pound
10,000 pounds		20 cents per pound	40 cents per pound

[This proposed changes to these civil fines in the S-2 substitute is the same as 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 (S-2) 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 (S-2) 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 currently 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 if the court determines that the vehicle would have been in compliance with the provisions of the permit had the load been properly distributed and that one or more of the axles exceeded permitted weight by 1,000 pounds or less.

House Bill 5453 (S-2) 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 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.

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 (S-2) 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 changes in overweight fines as was 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 below.

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.]

House Bill 5453 (S-2) would add a new subsection, Section 909(3), to direct that 50% of the civil fine revenue ordered under Section 719(7) [over-length and over-height vehicles] and 724(3) [axle overloads] be distributed to the Michigan Transportation Fund (MTF) created in Section 10 of 1951 PA 51 (Act 51). Section 10 of Act 51 effectively distributes MTF revenue as follows:

- 10.0% to the Comprehensive Transportation Fund (CTF) for public transportation.

Of the MTF balance (after the CTF distribution):

- 39.1% to the State Trunkline Fund (STF) for preservation of the state trunkline highway system and administration of the Michigan Department of Transportation.
- 39.1% to county road commissions for preservation of county road systems.
- 21.8% to city and villages for city and village street preservation programs

FISCAL IMPACT:

The impact on state and local revenue from the changes proposed in the bill cannot be readily determined at this time.

The proposed amendment to Section 719 and Section 907, limiting civil fines for over length and over-height vehicles to not more than \$500.00, would appear to have little or no impact since the SCAO recommended civil fine for first time violations is currently \$35.00.

We cannot readily determine the impact of the proposed amendment to Section 722, which would authorize *vehicles transporting solid waste* to exceed maximum vehicle axle loadings by 10%.

The proposed amendment to Section 724 would double the schedule of fines for vehicles in excess of maximum axle load limits. However, we do not know how many annual violations there are of Section 724, how many are charged under the Michigan Vehicle Code and how many under a 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), or how much fine revenue is collected. As a result, we cannot develop a reasonable estimate of how much additional revenue the increase in the schedule of civil fines would produce.

The proposed amendment to Section 909 would direct 50% of the civil fine revenue ordered under Section 719(7) and 724(3) to the MTF. Vehicles violating Section 719(7) [over-length and over-height vehicles] and Section 724(3) [axle over-loads], are generally commercial vehicles and under current law, civil fine revenue from infractions of Section

719((7) and 724(3) by *commercial motor vehicles* are directed 70% to the local authority in which the citation was issued, and 30% "for library purposes as provided by law."

The impact of the proposed change to Section 909 on local revenue and on library programs would depend primarily on how much additional revenue is raised from proposed changes in the schedule of overload fines in Section 724(3). If doubling the schedule of civil fines for axle overloads also doubled fine revenue, the proposed MTF earmark would not affect revenue directed to local authorities and library programs. However, if there were anything less than a doubling of civil fine revenue, the new MTF earmark would result in a reduction in local authority revenue and in revenue dedicated to library purposes.

Doubling the schedule of fines for violation of maximum axle loadings might not double fine revenue if the increase in fines also increased compliance and reduced the number of violators. In addition, the impact may vary by municipality.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.