

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4545**

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 618a and 907 (MCL 257.618a and 257.907),
section 618a as added by 2010 PA 10 and section 907 as amended by
2013 PA 35, and by adding sections 676c and 676d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 618a. (1) Unless the operator of a motor vehicle involved
2 in an accident knows or reasonably should know that serious
3 impairment of a bodily function or death has resulted from the
4 accident, the operator or any other occupant of the motor vehicle
5 who possesses a valid driver license shall remove the motor vehicle
6 from the main traveled portion of the roadway into a safe refuge on
7 the shoulder, emergency lane, or median or to a place otherwise

1 removed from the roadway if both of the following apply:

2 (a) Moving the motor vehicle may be done safely.

3 (b) The motor vehicle is capable of being normally and safely
4 operated and can be operated under its own power in its customary
5 manner without further damage or hazard to the traffic elements or
6 to the roadway.

7 **(2) A PERSON WHO VIOLATES SUBSECTION (1) IS RESPONSIBLE FOR A**
8 **CIVIL INFRACTION.**

9 (3) ~~(2)~~—The operator or any other person who removes a motor
10 vehicle from the main traveled portion of the roadway as provided
11 in this section before the arrival of a police officer is not prima
12 facie at fault regarding the cause of the traffic accident solely
13 by reason of moving the motor vehicle as provided in this section.

14 (4) ~~(3)~~—The decision of the operator or any other person to
15 remove or not to remove a motor vehicle from the main traveled
16 portion of the roadway as provided in this section is not
17 admissible in a civil action as evidence that a serious impairment
18 of bodily function has or has not resulted from the accident.

19 ~~—(4) A person who violates this section is responsible for a~~
20 ~~civil infraction.~~

21 **(5) A LAW ENFORCEMENT AGENCY MAY, WITHOUT THE CONSENT OF THE**
22 **OWNER OR OPERATOR AND WITH THE ASSISTANCE OF THE STATE**
23 **TRANSPORTATION DEPARTMENT, OTHER ROAD AGENCIES, FIRE DEPARTMENT,**
24 **EMERGENCY MANAGEMENT, OTHER LOCAL PUBLIC SAFETY AGENCIES, OR TOWING**
25 **OR RECOVERY COMPANIES UNDER THE DIRECTION OF ANY OF THOSE ENTITIES**
26 **REMOVE AND DISPOSE OF MOTOR VEHICLES AND CARGOES OF VEHICLES**
27 **INVOLVED IN ACCIDENTS, INCLUDING ANY PERSONAL PROPERTY, FROM THE**

House Bill No. 4545 (S-3) as amended October 2, 2014

1 MAIN TRAVELED PORTION OF A ROADWAY AND THE RIGHT-OF-WAY IF THE
2 VEHICLE, CARGO, OR PERSONAL PROPERTY IS BLOCKING THE ROADWAY OR
3 RIGHT-OF-WAY OR MAY OTHERWISE ENDANGER PUBLIC SAFETY.

4 (6) [EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A] PUBLIC
5 AGENCY OR DEPARTMENT THAT MOVES A MOTOR VEHICLE,
6 CARGO, OR PERSONAL PROPERTY AS DESCRIBED IN SUBSECTION (5), AND ANY
7 OF THEIR OFFICERS, EMPLOYEES, OR AGENTS, OR ANYONE ACTING IN GOOD
8 FAITH UNDER, AND WITHIN THE SCOPE OF, THE AUTHORITY CONFERRED UNDER
9 SUBSECTION (5), IS NOT LIABLE FOR ANY DAMAGES OR CLAIMS THAT MAY
10 ARISE FROM THE EXERCISE OR THE FAILURE TO EXERCISE ANY AUTHORITY
11 GRANTED UNDER SUBSECTION (5). [THIS SUBSECTION DOES NOT APPLY TO THE
12 TRANSPORT OF A MOTOR VEHICLE FROM THE SCENE OF AN ACCIDENT, OR IF THE
13 CONDUCT OF THE INDIVIDUAL ACTING UNDER THE AUTHORITY CONFERRED UNDER
14 SUBSECTION (5) CONSTITUTES GROSS NEGLIGENCE. AS USED IN THIS SUBSECTION,
15 "GROSS NEGLIGENCE" MEANS THAT TERM AS DEFINED IN SECTION 606A.]

16 (7) THE OWNER OR CARRIER, IF ANY, OF A MOTOR VEHICLE, CARGO,
17 OR PERSONAL PROPERTY REMOVED OR DISPOSED OF UNDER SUBSECTION (5)
18 SHALL REIMBURSE THE PUBLIC AGENCY, DEPARTMENTS, AND TOWING
19 COMPANIES, IF ANY, FOR ALL DOCUMENTED REASONABLE COSTS INCURRED IN
20 THAT REMOVAL AND DISPOSAL.

21 SEC. 676C. (1) EXCEPT AS PROVIDED IN SUBSECTION (2), A PERSON
22 SHALL NOT TRAVEL TO THE SCENE OF A MOTOR VEHICLE ACCIDENT OR A
23 DISABLED VEHICLE LOCATED ON PUBLIC PROPERTY, PROPERTY OPEN TO THE
24 PUBLIC, OR A STATE TRUNK LINE HIGHWAY AND SOLICIT BUSINESS FOR A
25 WRECKER, RECOVERY, OR TOWING SERVICE. A PERSON WHO VIOLATES THIS
26 SUBSECTION IS RESPONSIBLE FOR A CIVIL INFRACTION AND SHALL BE
27 ORDERED TO PAY A CIVIL FINE OF \$1,000.00.

(2) SUBSECTION (1) DOES NOT APPLY IF ANY OF THE FOLLOWING
CONDITIONS APPLY:

(A) A LAW ENFORCEMENT AGENCY HAVING JURISDICTION OVER THE
SCENE OF THE ACCIDENT OR DISABLED VEHICLE, OR AN INDIVIDUAL
INVOLVED IN THAT ACCIDENT OR DISABLED VEHICLE, REQUESTS THE OWNER

1 OR OPERATOR OF A WRECKER OR TOWING SERVICE TO COME TO THE SCENE.

2 (B) A WRECKER, RECOVERY TRUCK, OR TOW TRUCK OPERATOR, WHO DOES
3 NOT TRAVEL TO THE SCENE OF A MOTOR VEHICLE ACCIDENT OR DISABLED
4 VEHICLE AS DESCRIBED IN SUBSECTION (1) FOR THE PURPOSE OF
5 SOLICITING BUSINESS FOR A WRECKER, RECOVERY, OR TOWING SERVICE,
6 OFFERS ASSISTANCE TO A STRANDED MOTORIST WITHOUT CREATING A
7 NUISANCE OR INTERFERING WITH MANAGEMENT OF A MOTOR VEHICLE ACCIDENT
8 BY LAW ENFORCEMENT.

9 (3) SUBJECT TO SECTION 252D, THE LAW ENFORCEMENT AGENCY AT THE
10 SCENE SHALL PERMIT AN OWNER OR OPERATOR OF A MOTOR VEHICLE TO
11 REQUEST THE TOWING, WRECKER, OR RECOVERY SERVICE OR ROADSIDE
12 ASSISTANCE SERVICE OF HIS OR HER CHOICE UNLESS THE VEHICLE IS
13 INVOLVED IN A SUSPECTED CRIMINAL ACTIVITY, FATALITY, OR LAW
14 ENFORCEMENT INVESTIGATION, IF THE VEHICLE IS BEING IMPOUNDED, OR IF
15 THE REQUESTED PREFERENCE WRECKER SERVICE IS UNAVAILABLE OR CANNOT
16 RESPOND WITHIN A TIMELY MANNER AND THE VEHICLE IS CREATING A ROAD
17 OR SAFETY HAZARD AS DETERMINED BY LAW ENFORCEMENT AT THE SCENE.

18 SEC. 676D. A LOCAL UNIT OF GOVERNMENT SHALL NOT REQUIRE AS A
19 TERM OF A CONTRACT WITH A WRECKER, RECOVERY, OR TOWING SERVICE THAT
20 THE WRECKER, RECOVERY, OR TOWING SERVICE PAY A FEE TO THAT LOCAL
21 UNIT OF GOVERNMENT FOR RESPONDING TO THE SCENE OF AN IMPOUND,
22 ACCIDENT, DISABLED VEHICLE, OR ABANDONED VEHICLE AND PROVIDING
23 WRECKER, RECOVERY, OR TOWING SERVICES. THIS SECTION ONLY APPLIES TO
24 A CONTRACT BETWEEN A LOCAL UNIT OF GOVERNMENT AND A WRECKER,
25 RECOVERY, OR TOWING SERVICE THAT IS ENTERED INTO OR RENEWED AFTER
26 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION.

27 Sec. 907. (1) A violation of this act, or a local ordinance

1 substantially corresponding to a provision of this act, that is
2 designated a civil infraction shall not be considered a lesser
3 included offense of a criminal offense.

4 (2) If a person is determined under sections 741 to 750 to be
5 responsible or responsible "with explanation" for a civil
6 infraction under this act or a local ordinance substantially
7 corresponding to a provision of this act, the judge or district
8 court magistrate may order the person to pay a civil fine of not
9 more than \$100.00 and costs as provided in subsection (4). However,
10 beginning October 31, 2010, if the civil infraction was a moving
11 violation that resulted in an at-fault collision with another
12 vehicle, a person, or any other object, the civil fine ordered
13 under this section shall be increased by \$25.00 but the total civil
14 fine shall not exceed \$100.00. However, for a violation of section
15 602b, the person shall be ordered to pay costs as provided in
16 subsection (4) and a civil fine of \$100.00 for a first offense and
17 \$200.00 for a second or subsequent offense. For a violation of
18 section 674(1)(s) or a local ordinance substantially corresponding
19 to section 674(1)(s), the person shall be ordered to pay costs as
20 provided in subsection (4) and a civil fine of not less than
21 \$100.00 or more than \$250.00. **FOR A VIOLATION OF 676C, THE PERSON**
22 **SHALL BE ORDERED TO PAY COSTS AS PROVIDED IN SUBSECTION (4) AND A**
23 **CIVIL FINE OF \$1,000.00.** For a violation of section 328, the civil
24 fine ordered under this subsection shall be not more than \$50.00.
25 For a violation of section 710d, the civil fine ordered under this
26 subsection shall not exceed \$10.00, **SUBJECT TO SUBSECTION (12).** For
27 a violation of section 710e, the civil fine and court costs ordered

1 under this subsection shall be \$25.00. For a violation of section
2 682 or a local ordinance substantially corresponding to section
3 682, the person shall be ordered to pay costs as provided in
4 subsection (4) and a civil fine of not less than \$100.00 or more
5 than \$500.00. For a violation of section 240, the civil fine
6 ordered under this subsection shall be \$15.00. For a violation of
7 section 252a(1), the civil fine ordered under this subsection shall
8 be \$50.00. For a violation of section 676a(3), the civil fine
9 ordered under this section shall be not more than \$10.00. For a
10 first violation of section 319f(1), the civil fine ordered under
11 this section shall be not less than \$2,500.00 or more than
12 \$2,750.00; for a second or subsequent violation, the civil fine
13 shall be not less than \$5,000.00 or more than \$5,500.00. For a
14 violation of section 319g(1)(a), the civil fine ordered under this
15 section shall be not more than \$10,000.00. For a violation of
16 section 319g(1)(g), the civil fine ordered under this section shall
17 be not less than \$2,750.00 or more than \$25,000.00. Permission may
18 be granted for payment of a civil fine and costs to be made within
19 a specified period of time or in specified installments, but unless
20 permission is included in the order or judgment, the civil fine and
21 costs shall be payable immediately.

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

1 more than \$250.00.

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

13 (5) In addition to a civil fine and costs ordered under
14 subsection (2) or (3) and subsection (4) and the justice system
15 assessment ordered under subsection (13), the judge or district
16 court magistrate may order the person to attend and complete a
17 program of treatment, education, or rehabilitation.

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

22 (7) Each district of the district court and each municipal
23 court may establish a schedule of civil fines, costs, and
24 assessments to be imposed for civil infractions that occur within
25 the respective district or city. If a schedule is established, it
26 shall be prominently posted and readily available for public
27 inspection. A schedule need not include all violations that are

1 designated by law or ordinance as civil infractions. A schedule may
2 exclude cases on the basis of a defendant's prior record of civil
3 infractions or traffic offenses, or a combination of civil
4 infractions and traffic offenses.

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

13 (9) If a person has received a civil infraction citation for
14 defective safety equipment on a vehicle under section 683, the
15 court shall waive a civil fine, costs, and assessments upon receipt
16 of certification by a law enforcement agency that repair of the
17 defective equipment was made before the appearance date on the
18 citation.

19 (10) A default in the payment of a civil fine or costs ordered
20 under subsection (2), (3), or (4) or a justice system assessment
21 ordered under subsection (13), or an installment of the fine,
22 costs, or assessment, may be collected by a means authorized for
23 the enforcement of a judgment under chapter 40 of the revised
24 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or
25 under chapter 60 of the revised judicature act of 1961, 1961 PA
26 236, MCL 600.6001 to 600.6098.

27 (11) If a person fails to comply with an order or judgment

1 issued under this section within the time prescribed by the court,
2 the driver's license of that person shall be suspended under
3 section 321a until full compliance with that order or judgment
4 occurs. In addition to this suspension, the court may also proceed
5 under section 908.

6 (12) The court may waive any civil fine, cost, or assessment
7 against a person who received a civil infraction citation for a
8 violation of section 710d if the person, before the appearance date
9 on the citation, supplies the court with evidence of acquisition,
10 purchase, or rental of a child seating system meeting the
11 requirements of section 710d.

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

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

1 date the violation of section 223 occurred.

2 (15) If a person has received a citation for a violation of
3 section 328(1) for failing to produce a certificate of insurance
4 under section 328(2), the court may waive the fee described in
5 section 328(3)(c) and shall waive any fine, costs, and any other
6 fee or assessment otherwise authorized under this act upon receipt
7 of verification by the court that the person, before the appearance
8 date on the citation, produced valid proof of insurance that was in
9 effect at the time the violation of section 328(1) occurred.

10 Insurance obtained subsequent to the time of the violation does not
11 make the person eligible for a waiver under this subsection.

12 (16) As used in this section, "moving violation" means an act
13 or omission prohibited under this act or a local ordinance
14 substantially corresponding to this act that involves the operation
15 of a motor vehicle and for which a fine may be assessed.

16 Enacting section 1. This amendatory act takes effect 90 days
17 after it is enacted into law.