

Act No. 303
Public Acts of 2014
Approved by the Governor
October 9, 2014
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**STATE OF MICHIGAN
97TH LEGISLATURE
REGULAR SESSION OF 2014**

Introduced by Reps. Zorn, Goike, LaVoy and Lori

ENROLLED HOUSE BILL No. 4545

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds; to provide penalties and sanctions for a violation of this act; to provide for civil liability of manufacturers, the manufacturers of automated technology, upfitters, owners, and operators of vehicles and service of process on residents and nonresidents; to regulate the introduction and use of certain evidence; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to impose liability upon the state or local agencies; to provide appropriations for certain purposes; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," 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:

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

- (a) Moving the motor vehicle may be done safely.
- (b) The motor vehicle is capable of being normally and safely operated and can be operated under its own power in its customary manner without further damage or hazard to the traffic elements or to the roadway.
- (2) A person who violates subsection (1) is responsible for a civil infraction.
- (3) The operator or any other person who removes a motor vehicle from the main traveled portion of the roadway as provided in this section before the arrival of a police officer is not prima facie at fault regarding the cause of the traffic accident solely by reason of moving the motor vehicle as provided in this section.
- (4) The decision of the operator or any other person to remove or not to remove a motor vehicle from the main traveled portion of the roadway as provided in this section is not admissible in a civil action as evidence that a serious impairment of bodily function has or has not resulted from the accident.

(5) A law enforcement agency may, without the consent of the owner or operator and with the assistance of the state transportation department, other road agencies, fire department, emergency management, other local public safety agencies, or towing or recovery companies under the direction of any of those entities remove and dispose of motor vehicles and cargoes of vehicles involved in accidents, including any personal property, from the main traveled portion of a roadway and the right-of-way if the vehicle, cargo, or personal property is blocking the roadway or right-of-way or may otherwise endanger public safety.

(6) Except as otherwise provided in this subsection, a public agency or department that moves a motor vehicle, cargo, or personal property as described in subsection (5), and any of their officers, employees, or agents, or anyone acting in good faith under, and within the scope of, the authority conferred under subsection (5), is not liable for any damages or claims that may arise from the exercise or the failure to exercise any authority granted under subsection (5). This subsection does not apply to the transport of a motor vehicle from the scene of an accident, or if the conduct of the individual acting under the authority conferred under subsection (5) constitutes gross negligence. As used in this subsection, "gross negligence" means that term as defined in section 606a.

(7) The owner or carrier, if any, of a motor vehicle, cargo, or personal property removed or disposed of under subsection (5) shall reimburse the public agency, departments, and towing companies, if any, for all documented reasonable costs incurred in that removal and disposal.

Sec. 676c. (1) Except as provided in subsection (2), a person shall not travel to the scene of a motor vehicle accident or a disabled vehicle located on public property, property open to the public, or a state trunk line highway and solicit business for a wrecker, recovery, or towing service. A person who violates this subsection is responsible for a civil infraction and shall be 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 or operator of a wrecker or towing service to come to the scene.

(b) A wrecker, recovery truck, or tow truck operator, who does not travel to the scene of a motor vehicle accident or disabled vehicle as described in subsection (1) for the purpose of soliciting business for a wrecker, recovery, or towing service, offers assistance to a stranded motorist without creating a nuisance or interfering with management of a motor vehicle accident by law enforcement.

(3) Subject to section 252d, the law enforcement agency at the scene shall permit an owner or operator of a motor vehicle to request the towing, wrecker, or recovery service or roadside assistance service of his or her choice unless the vehicle is involved in a suspected criminal activity, fatality, or law enforcement investigation, if the vehicle is being impounded, or if the requested preference wrecker service is unavailable or cannot respond within a timely manner and the vehicle is creating a road or safety hazard as determined by law enforcement at the scene.

Sec. 676d. A local unit of government shall not require as a term of a contract with a wrecker, recovery, or towing service that the wrecker, recovery, or towing service pay a fee to that local unit of government for responding to the scene of an impound, accident, disabled vehicle, or abandoned vehicle and providing wrecker, recovery, or towing services. This section only applies to a contract between a local unit of government and a wrecker, recovery, or towing service that is entered into or renewed after the effective date of the amendatory act that added this section.

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

(2) If a person is determined under sections 741 to 750 to be responsible or responsible "with explanation" for a civil infraction under this act or a local ordinance substantially corresponding to a provision of this act, the judge or district court magistrate may order the person to pay a civil fine of not more than \$100.00 and costs as provided in subsection (4). However, beginning October 31, 2010, if the civil infraction was a moving violation that resulted in an at-fault collision with another vehicle, a person, or any other object, the civil fine ordered under this section shall be increased by \$25.00 but the total civil fine shall not exceed \$100.00. However, for a violation of section 602b, the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of \$100.00 for a first offense and \$200.00 for a second or subsequent offense. For a violation of section 674(1)(s) or a local ordinance substantially corresponding to section 674(1)(s), the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not less than \$100.00 or more than \$250.00. For a violation of section 676c, the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of \$1,000.00. For a violation of section 328, the civil fine ordered under this subsection shall be not more than \$50.00. For a violation of section 710d, the civil fine ordered under this subsection shall not exceed \$10.00, subject to subsection (12). For a violation of section 710e, the civil fine and court costs ordered under this subsection shall be \$25.00. For a violation of section 682 or a local ordinance substantially corresponding to section 682, the person shall be ordered to pay costs as provided in subsection (4) and a civil fine of not less than \$100.00 or more than \$500.00. For a violation of section 240, the civil fine ordered under this subsection shall be \$15.00. For a violation of section 252a(1), the

civil fine ordered under this subsection shall be \$50.00. For a violation of section 676a(3), the civil fine ordered under this section shall be not more than \$10.00. For a first violation of section 319f(1), the civil fine ordered under this section shall be not less than \$2,500.00 or more than \$2,750.00; for a second or subsequent violation, the civil fine shall be not less than \$5,000.00 or more than \$5,500.00. For a violation of section 319g(1)(a), the civil fine ordered under this section shall be not more than \$10,000.00. For a violation of section 319g(1)(g), the civil fine ordered under this section shall be not less than \$2,750.00 or more than \$25,000.00. Permission may be granted for payment of a civil fine and costs to be made within a specified period of time or in specified installments, but unless permission is included in the order or judgment, the civil fine and costs shall be payable immediately.

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

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

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

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

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

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

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

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

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

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

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

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

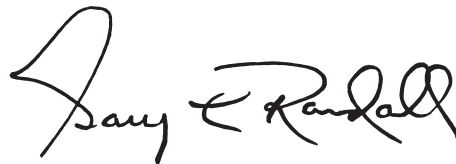
(15) If a person has received a citation for a violation of section 328(1) for failing to produce a certificate of insurance under section 328(2), the court may waive the fee described in section 328(3)(c) and shall waive any fine, costs, and any other fee or assessment otherwise authorized under this act upon receipt of verification by the court that the person,

before the appearance date on the citation, produced valid proof of insurance that was in effect at the time the violation of section 328(1) occurred. Insurance obtained subsequent to the time of the violation does not make the person eligible for a waiver under this subsection.

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

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor