



HOUSE BILL No. 5355

February 15, 2000, Introduced by Reps. Schermesser, Scranton, DeHart, Rivet, Julian, Bogardus, Hale and Scott and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 328 and 907 (MCL 257.328 and 257.907), section 328 as amended by 1995 PA 287 and section 907 as amended by 1998 PA 103.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 328. (1) The owner of a motor vehicle who operates or
2 permits the operation of the motor vehicle upon the highways of
3 this state or the operator of the motor vehicle shall produce,
4 pursuant to subsection (2), upon the request of a police officer,
5 evidence that the motor vehicle is insured under chapter 31 of
6 the insurance code of 1956, ~~Act No. 218 of the Public Acts of~~
7 ~~1956, being sections 500.3101 to 500.3179 of the Michigan~~
8 ~~Compiled Laws~~ 1956 PA 218, MCL 500.3101 TO 500.3179. An owner
9 or operator of a motor vehicle who fails to produce evidence of

1 insurance under this subsection when requested to produce that
2 evidence or who fails to have motor vehicle insurance for the
3 vehicle as required under chapter 31 of ~~Act No. 218 of the~~
4 ~~Public Acts of 1956~~ THE INSURANCE CODE OF 1956, 1956 PA 218, MCL
5 500.3101 TO 500.3179, is responsible for a civil infraction.

6 (2) A certificate of insurance, if issued by an insurance
7 company, ~~which certificate~~ THAT states ~~that~~ THE security
8 ~~which meets~~ MEETING the requirements of sections 3101 and 3102
9 of ~~Act No. 218 of the Public Acts of 1956, being sections~~
10 ~~500.3101 and 500.3102 of the Michigan Compiled Laws~~ THE INSUR-
11 ANCE CODE OF 1956, 1956 PA 218, MCL 500.3101 AND 500.3102, is in
12 force shall be accepted as prima facie evidence that insurance is
13 in force for the motor vehicle described in the certificate of
14 insurance until the expiration date shown on the certificate.
15 The certificate, in addition to describing the motor vehicles for
16 which insurance is in effect, shall state the name of each person
17 named on the policy, policy declaration, or a declaration certif-
18 icate whose operation of the vehicle would cause the liability
19 coverage of that insurance to become void.

20 (3) If an owner or operator of a motor vehicle is determined
21 to be responsible for a violation of subsection (1) OR A LOCAL
22 ORDINANCE SUBSTANTIALLY CORRESPONDING TO SUBSECTION (1), the
23 court in which the civil infraction determination is entered may
24 require the person to surrender his or her operator's or
25 chauffeur's license unless proof that the vehicle has insurance
26 meeting the requirements of sections 3101 and 3102 of ~~Act~~
27 ~~No. 218 of the Public Acts of 1956~~ THE INSURANCE CODE OF 1956,

1 1956 PA 218, MCL 500.3101 AND 500.3102, is submitted to the
2 court. ~~If~~ EXCEPT AS OTHERWISE PROVIDED IN SECTION 907(15), IF
3 the person submits proof to the court that the vehicle has insur-
4 ance meeting the requirements of sections 3101 and 3102 of ~~Act~~
5 ~~No. 218 of the Public Acts of 1956~~ THE INSURANCE CODE OF 1956,
6 1956 PA 218, MCL 500.3101 AND 500.3102, in addition to the civil
7 fine and costs provided by section 907, the court shall assess a
8 fee of \$25.00 WHICH SHALL BE CREDITED TO THE GENERAL FUND OF THE
9 LOCAL FUNDING UNIT OR TO THE GENERAL FUND OF THE CITY FUNDING A
10 MUNICIPAL COURT. If the court requires the license to be surren-
11 dered, the court shall order the secretary of state to suspend
12 the person's license. The court shall immediately destroy the
13 license and shall forward to the secretary of state an abstract
14 of the court record as required by section 732. Upon receipt of
15 the abstract, the secretary of state shall suspend the person's
16 license beginning with the date on which a person is determined
17 to be responsible for the civil infraction for a period of 30
18 days or until proof of insurance which meets the requirements of
19 sections 3101 and 3102 of ~~Act No. 218 of the Public Acts of~~
20 ~~1956~~ THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.3101 AND
21 500.3102, is submitted to the secretary of state, whichever
22 occurs later. A person who submits proof of insurance to the
23 secretary of state under this subsection shall pay a service fee
24 of \$25.00 to the secretary of state. The person shall not be
25 required to be examined as set forth in section 320c and shall
26 not be required to pay a replacement license fee.

1 (4) If an owner or operator of a motor vehicle is determined
2 to be responsible for a violation of subsection (1) OR A LOCAL
3 ORDINANCE SUBSTANTIALLY CORRESPONDING TO SUBSECTION (1), the
4 court in which the civil infraction determination is entered
5 shall notify the secretary of state of the vehicle registration
6 number and the year and make of the motor vehicle being operated
7 at the time of the violation UNLESS THE CIVIL FINE AND COSTS ARE
8 WAIVED BY THE COURT BECAUSE THE PERSON, BEFORE THE APPEARANCE
9 DATE ON THE CITATION, PRESENTED TO THE COURT A CERTIFICATE OF
10 INSURANCE MEETING THE REQUIREMENTS OF SECTIONS 3101 AND 3102 OF
11 THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.3101 AND
12 500.3102, SHOWING THAT INSURANCE WAS IN FORCE AT THE TIME OF THE
13 CITATION AS PERMITTED UNDER SECTION 907(15). This notification
14 shall be made on the abstract or on a form approved by the
15 supreme court administrator. Upon receipt, the secretary of
16 state shall immediately enter this information in the records of
17 the department. The secretary of state shall not renew, trans-
18 fer, or replace the registration plate of the vehicle involved in
19 the violation or allow the purchase of a new registration plate
20 for the vehicle involved in the violation until the owner meets
21 the requirements of section 227a or unless the vehicle involved
22 in the violation is transferred or sold to a person other than
23 the owner's spouse, mother, father, sister, brother, or child.

24 (5) An owner or operator of a motor vehicle who knowingly
25 produces false evidence under this section is guilty of a misde-
26 meanor, punishable by imprisonment for not more than 1 year, or a
27 fine of not more than \$1,000.00, or both.

1 (6) Points shall not be entered on a driver's record
2 pursuant to section 320a for a violation of this section.

3 (7) This section does not apply to the owner or operator of
4 a motor vehicle that is registered in a state other than this
5 state or a foreign country or province.

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

10 (2) If a person is determined pursuant to sections 741 to
11 750 to be responsible or responsible "with explanation" for a
12 civil infraction under this act or a local ordinance substan-
13 tially corresponding to a provision of this act, the judge, dis-
14 trict court referee, or district court magistrate may order the
15 person to pay a civil fine of not more than \$100.00 and costs as
16 provided in subsection (4). However, for a violation of
17 section 674(1)(s) or a local ordinance substantially correspond-
18 ing to section 674(1)(s), the person shall be ordered to pay
19 costs as provided in subsection (4) and a civil fine of not less
20 than \$50.00 or more than \$100.00. For a violation of section
21 ~~328 or~~ 710d, the civil fine ordered under this subsection shall
22 not exceed \$10.00. For a violation of section 710e, the civil
23 fine and court costs ordered under this subsection shall be
24 \$25.00. For a violation of section 682 or a local ordinance sub-
25 stantially corresponding to section 682, the person shall be
26 ordered to pay costs as provided in subsection (4) and a civil
27 fine of not less than \$100.00 or more than \$500.00. Permission

1 may be granted for payment of a civil fine and costs to be made
2 within a specified period of time or in specified installments,
3 but unless permission is included in the order or judgment, the
4 civil fine and costs shall be payable immediately.

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

11 (4) If a civil fine is ordered to be paid under
12 subsection (2) or (3), the judge, district court referee, or dis-
13 trict court magistrate shall summarily tax and determine the
14 costs of the action, which shall not be limited to the costs tax-
15 able in ordinary civil actions, and may include all expenses,
16 direct and indirect, to which the plaintiff has been put in con-
17 nection with the civil infraction, up to the entry of judgment.
18 Except in a civil infraction for a parking violation, costs of
19 not less than \$5.00 shall be ordered. Costs shall not be ordered
20 in excess of \$100.00. Except as otherwise provided by law, costs
21 shall be payable to the general fund of the plaintiff.

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

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

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

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

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

1 defective equipment was made before the appearance date on the
2 citation.

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

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

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

22 (13) In addition to any fines and costs ordered to be paid
23 under this section, the judge, district court referee, or dis-
24 trict court magistrate shall levy an assessment of \$5.00 for each
25 civil infraction determination, except for a parking violation or
26 a violation for which the total fine and costs imposed are \$10.00
27 or less. Upon payment of the assessment, the clerk of the court

1 shall transmit the assessment levied to the state treasury to be
2 deposited into the Michigan justice training fund. An assessment
3 levied under this subsection shall not be considered a civil fine
4 for purposes of section 909.

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

11 (15) IF A PERSON HAS RECEIVED A CITATION UNDER SECTION 328
12 OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING TO SECTION 328
13 FOR FAILURE TO PRODUCE EVIDENCE THAT A MOTOR VEHICLE IS INSURED
14 UNDER CHAPTER 31 OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL
15 500.3101 TO 500.3179, THE COURT SHALL WAIVE ANY CIVIL FINE OR
16 COSTS IMPOSED UNDER THIS SECTION OR FEES IMPOSED UNDER SECTION
17 328 IF THE PERSON, BEFORE THE APPEARANCE DATE ON THE CITATION,
18 PRESENTS TO THE COURT A CERTIFICATE OF INSURANCE MEETING THE
19 REQUIREMENTS OF SECTIONS 3101 AND 3102 OF THE INSURANCE CODE OF
20 1956, 1956 PA 218, MCL 500.3101 AND 500.3102, SHOWING THAT THE
21 INSURANCE WAS IN FORCE AT THE TIME OF THE CITATION.

22 Enacting section 1. This amendatory act shall apply to all
23 violations occurring on or after July 1, 2000.