

HOUSE BILL No. 4158

February 8, 2001, Introduced by Reps. Patterson, Julian, Lipsey, Richardville, Phillips, Bovin, Garcia, Faunce, Tabor, Plakas and Raczkowski and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 320a and 907 (MCL 257.320a and 257.907), section 320a as amended by 2000 PA 460 and section 907 as amended by 1998 PA 103.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 320a. (1) The secretary of state, within 10 days after
2 the receipt of a properly prepared abstract from this or another
3 state, shall record the date of conviction, civil infraction
4 determination, or probate court disposition, and the number of
5 points for each, based on the following formula, except as other-
6 wise provided in this section and section 629c:

- 7 (a) Manslaughter, negligent homicide, or a felony
- 8 resulting from the operation of a motor vehicle, ORV,
- 9 or snowmobile..... 6 points

- 1 (b) A violation of section 653a(4)..... 6 points
- 2 (c) A violation of section 625(1), (4), (5), or
- 3 (7), section 81134 or 82127(1) of the natural resources
- 4 and environmental protection act, 1994 PA 451,
- 5 MCL 324.81134 and 324.82127, or a law or ordinance sub-
- 6 stantially corresponding to section 625(1), (4), (5),
- 7 or (7) or ~~—~~ section 81134 or 82127(1) of the natural
- 8 resources and environmental protection act, 1994
- 9 PA 451, MCL 324.81134 and 324.82127..... 6 points
- 10 (d) Failing to stop and disclose identity at the
- 11 scene of an accident when required by law..... 6 points
- 12 (e) Operating a motor vehicle in violation of sec-
- 13 tion 626 or section 653a(3)..... 6 points
- 14 (f) Fleeing or eluding an officer..... 6 points
- 15 (g) Violation of any law or ordinance pertaining
- 16 to speed by exceeding the lawful maximum by more than
- 17 15 miles per hour..... 4 points
- 18 (h) Violation of section 625(3) or (6), section
- 19 81135 or 82127(3) of the natural resources and environ-
- 20 mental protection act, 1994 PA 451, MCL 324.81135 and
- 21 324.82127, or a law or ordinance substantially corre-
- 22 sponding to section 625(3) or (6) or ~~—~~ section 81135
- 23 or 82127(3) of the natural resources and environmental
- 24 protection act, 1994 PA 451, MCL 324.81135 and
- 25 324.82127..... 4 points
- 26 (i) Violation of section 626a or a law or
- 27 ordinance substantially corresponding to section 626a.. 4 points

1 (j) Violation of section 653a(2)..... 4 points

2 (k) Violation of any law or ordinance pertaining
3 to speed by exceeding the lawful maximum by more than
4 10 but not more than 15 miles per hour or careless
5 driving in violation of section 626b or a law or ordi-
6 nance substantially corresponding to section 626b..... 3 points

7 (l) Violation of any law or ordinance pertaining
8 to speed by exceeding the lawful maximum by 10 miles
9 per hour or less..... 2 points

10 (m) Disobeying a traffic signal or stop sign, or
11 improper passing..... 3 points

12 (n) Violation of section 624a, 624b, or a law or
13 ordinance substantially corresponding to section 624a
14 or 624b..... 2 points

15 (o) Violation of section 310e(4) or (6) or a law
16 or ordinance substantially corresponding to section
17 310e(4) or (6)..... 2 points

18 (p) All other moving violations pertaining to the
19 operation of motor vehicles reported under this section 2 points

20 (q) A refusal by a person less than 21 years of
21 age to submit to a preliminary breath test required by
22 a peace officer under section 625a..... 2 points

23 (2) THE SECRETARY OF STATE SHALL ADD 1 POINT TO EACH CONVIC-
24 TION, CIVIL INFRACTION DETERMINATION, OR PROBATE COURT DISPOSI-
25 TION IF THE CITATION INDICATES THAT THE USE OF A CELLULAR TELE-
26 PHONE CONTRIBUTED TO THE CAUSE OF THE VIOLATION.

1 (3) ~~-(2)-~~ Points shall not be entered for a violation of
2 section 310e(14), 311, 625m, 658, 717, 719, 719a, or 723.

3 (4) ~~-(3)-~~ Points shall not be entered for bond forfeitures.

4 (5) ~~-(4)-~~ Points shall not be entered for overweight loads
5 or for defective equipment.

6 (6) ~~-(5)-~~ If more than 1 conviction, civil infraction deter-
7 mination, or probate court disposition results from the same
8 incident, points shall be entered only for the violation that
9 receives the highest number of points under this section.

10 (7) ~~-(6)-~~ If a person has accumulated 9 points as provided
11 in this section, the secretary of state may call the person in
12 for an interview as to the person's driving ability and record
13 after due notice as to time and place of the interview. If the
14 person fails to appear as provided in this subsection, the secre-
15 tary of state shall add 3 points to the person's record.

16 (8) ~~-(7)-~~ If a person violates a speed restriction estab-
17 lished by an executive order issued during a state of emergency
18 emergency as provided by 1982 PA 191, MCL 10.81 to 10.89, the
19 secretary of state shall enter points for the violation pursuant
20 to subsection (1).

21 (9) ~~-(8)-~~ The secretary of state shall enter 6 points upon
22 the record of a person whose license is suspended or denied pur-
23 suant to section 625f. However, if a conviction, civil infrac-
24 tion determination, or probate court disposition results from the
25 same incident, additional points for that offense shall not be
26 entered.

1 (10) ~~(9)~~ If a Michigan driver commits a violation in
2 another state that would be a civil infraction if committed in
3 Michigan, and a conviction results solely because of the failure
4 of the Michigan driver to appear in that state to contest the
5 violation, upon receipt of the abstract of conviction by the sec-
6 retary of state, the violation shall be noted on the driver's
7 record, but no points shall be assessed against his or her
8 driver's license.

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

13 (2) If a person is determined pursuant to sections 741 to
14 750 to be responsible or responsible "with explanation" for a
15 civil infraction under this act or a local ordinance substan-
16 tially corresponding to a provision of this act, the judge, dis-
17 trict court referee, or district court magistrate may order the
18 person to pay a civil fine of not more than \$100.00 and costs as
19 provided in subsection (4). HOWEVER, IF IT IS DETERMINED THAT
20 THE USE OF A CELLULAR TELEPHONE CONTRIBUTED TO THE CAUSE OF THE
21 VIOLATION, THE CIVIL FINE ORDERED UNDER THIS SUBSECTION SHALL BE
22 INCREASED BY \$25.00. However, for a violation of
23 section 674(1)(s) or a local ordinance substantially correspond-
24 ing to section 674(1)(s), the person shall be ordered to pay
25 costs as provided in subsection (4) and a civil fine of not less
26 than \$50.00 or more than \$100.00. For a violation of section 328
27 or 710d, the civil fine ordered under this subsection shall not

1 exceed \$10.00. For a violation of section 710e, the civil fine
2 and court costs ordered under this subsection shall be \$25.00.
3 For a violation of section 682 or a local ordinance substantially
4 corresponding to section 682, the person shall be ordered to pay
5 costs as provided in subsection (4) and a civil fine of not less
6 than \$100.00 or more than \$500.00. Permission may be granted for
7 payment of a civil fine and costs to be made within a specified
8 period of time or in specified installments, but unless permis-
9 sion is included in the order or judgment, the civil fine and
10 costs shall be payable immediately.

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

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

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

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

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

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

1 disparities in the imposition of civil fines and costs throughout
2 the state.

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

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

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

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

1 (13) In addition to any fines and costs ordered to be paid
2 under this section, the judge, district court referee, or
3 district court magistrate shall levy an assessment of \$5.00 for
4 each civil infraction determination, except for a parking viola-
5 tion or a violation for which the total fine and costs imposed
6 are \$10.00 or less. Upon payment of the assessment, the clerk of
7 the court shall transmit the assessment levied to the state trea-
8 sury to be deposited into the Michigan justice training fund. An
9 assessment levied under this subsection shall not be considered a
10 civil fine for purposes of section 909.

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

17 (15) THE SECRETARY OF STATE, IN CONJUNCTION WITH THE DEPART-
18 MENT OF STATE POLICE, SHALL REPORT TO THE SENATE AND HOUSE STAND-
19 ING COMMITTEES ON TRANSPORTATION 2 YEARS AFTER THE EFFECTIVE DATE
20 OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION ON THE NUMBER OF
21 CASES IN WHICH A CELLULAR TELEPHONE CONTRIBUTED TO A VIOLATION OF
22 THIS ACT FOR WHICH A FINE WAS IMPOSED UNDER THIS SECTION.