

SENATE BILL No. 399

May 23, 2017, Introduced by Senators PROOS, CASPERSON, STAMAS, HORN and HANSEN and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending section 724 (MCL 257.724), as amended by 2016 PA 450.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 724. (1) A police officer, a peace officer, or an
2 authorized agent of the state transportation department or a county
3 road commission having reason to believe that the weight of a
4 vehicle and load is unlawful may require the driver to stop and
5 submit to a weighing of the vehicle by either portable or
6 stationary scales approved and sealed as a legal weighing device by
7 a qualified person using testing equipment certified or approved by
8 the department of agriculture and rural development as a legal
9 weighing device and may require that the vehicle be driven to the
10 nearest weigh station of the state transportation department for

1 the purpose of allowing a police officer, peace officer, or agent
2 of the state transportation department or county road commission to
3 determine whether the vehicle is loaded in conformity with this
4 chapter.

5 (2) When the officer or agent, upon weighing a vehicle and
6 load, determines that the weight is unlawful, the officer or agent
7 may require the driver to stop the vehicle in a suitable place and
8 remain standing until that portion of the load is shifted or
9 removed as necessary to reduce the gross axle load weight of the
10 vehicle to the limit permitted under this chapter. All material
11 unloaded as provided under this subsection ~~shall~~**MUST** be cared for
12 by the owner or operator of the vehicle at the risk of the owner or
13 operator. A judge or magistrate imposing a civil fine and costs
14 under this section that are not paid in full immediately or for
15 which a bond is not immediately posted in the amount of the civil
16 fine and costs shall order the driver or owner to move the vehicle
17 at the driver's own risk to a place of safekeeping within the
18 jurisdiction of the judge or magistrate, inform the judge or
19 magistrate in writing of the place of safekeeping, and keep the
20 vehicle until the fine and costs are paid or sufficient bond is
21 furnished or until the judge or magistrate is satisfied that the
22 fine and costs will be paid. The officer or agent who has
23 determined, after weighing a vehicle and load, that the weight is
24 unlawful, may require the driver to proceed to a judge or
25 magistrate within the county. If the judge or magistrate is
26 satisfied that the probable civil fine and costs will be paid by
27 the owner or lessee, the judge or magistrate may allow the driver

1 to proceed, after the load is made legal. If the judge or
2 magistrate is not satisfied that the owner or lessee, after a
3 notice and a right to be heard on the merits is given, will pay the
4 amount of the probable civil fine and costs, the judge or
5 magistrate may order the vehicle to be impounded until trial on the
6 merits is completed under conditions set forth in this section for
7 the impounding of vehicles after the civil fine and costs have been
8 imposed. Removal of the vehicle, and forwarding, care, or
9 preservation of the load ~~shall be~~ **IS** under the control of and at
10 the risk of the owner or driver. Vehicles impounded ~~shall be~~ **ARE**
11 subject to a lien, subject to a prior valid bona fide lien of prior
12 record, in the amount of the civil fine and costs and if the civil
13 fine and costs are not paid within 90 days after the seizure, the
14 judge or magistrate shall certify the unpaid judgment to the
15 prosecuting attorney of the county in which the violation occurred,
16 who shall proceed to enforce the lien by foreclosure sale in
17 accordance with procedure authorized in the case of chattel
18 mortgage foreclosures. When the duly authorized agent of the state
19 transportation department or county road commission is performing
20 duties under this chapter, the agent has all the powers conferred
21 upon peace officers by the general laws of this state.

22 (3) Subject to subsection (4), an owner of a vehicle or a
23 lessee of the vehicle of an owner-operator, or other person, who
24 causes or allows a vehicle to be loaded and driven or moved on a
25 highway when the weight of that vehicle violates section 722 is
26 responsible for a civil infraction and ~~shall~~ **MAY BE ORDERED TO** pay
27 a civil fine ~~in~~ **NOT TO EXCEED** an amount equal to 3 cents per pound

1 for each pound of excess load over 1,000 pounds ~~when~~**IF** the excess
2 is 2,000 pounds or less; 6 cents per pound of excess load ~~when~~**IF**
3 the excess is over 2,000 pounds but not over 3,000 pounds; 9 cents
4 per pound for each pound of excess load ~~when~~**IF** the excess is over
5 3,000 pounds but not over 4,000 pounds; 12 cents per pound for each
6 pound of excess load ~~when~~**IF** the excess is over 4,000 pounds but
7 not over 5,000 pounds; 15 cents per pound for each pound of excess
8 load ~~when~~**IF** the excess is over 5,000 pounds but not over 10,000
9 pounds; and 20 cents per pound for each pound of excess load ~~when~~
10 **IF** the excess is over 10,000 pounds. If a person operates a vehicle
11 in violation of increased axle loading maximums provided for under
12 section 722(13), the owner or lessee of the vehicle is responsible
13 for a civil infraction and ~~shall~~**MAY BE ORDERED TO** pay the civil
14 fine under this subsection that applies to the amount of weight by
15 which the vehicle exceeds the original loading maximum.

16 (4) If the court determines that the motor vehicle or the
17 combination of vehicles was operated in violation of this section,
18 the court ~~shall~~**MAY** impose a **CIVIL** fine as follows:

19 (a) If the court determines that the motor vehicle or the
20 combination of vehicles was operated in such a manner that the
21 gross weight of the vehicle or the combination of vehicles would
22 not be lawful by a proper distribution of the load upon all the
23 axles of the vehicle or the combination of vehicles, the court
24 ~~shall~~**MAY** impose a **CIVIL** fine for the violation **NOT TO EXCEED THE**
25 **AMOUNT DETERMINED** according to the schedule provided for in
26 subsection (3).

27 (b) If the court determines that the motor vehicle or the

1 combination of vehicles would be lawful by a proper distribution of
2 the load upon all of the axles of the vehicle or the combination of
3 vehicles, but that 1 or more axles of the vehicle exceeded the
4 maximum allowable axle weight by more than 1,000 pounds but less
5 than 4,000 pounds, the court ~~shall~~**MAY** impose a misload **CIVIL** fine
6 ~~of~~**NOT TO EXCEED** \$200.00 per axle. Not more than 3 axles shall be
7 used in calculating the fine to be imposed under this subdivision.
8 This subdivision does not apply to a vehicle subject to the maximum
9 loading provisions of section 722(12) or to a vehicle for which a
10 fine as calculated under the schedule in subsection (3) would be
11 less than the fine as calculated under this subsection.

12 (c) If the court determines that the motor vehicle or the
13 combination of vehicles would meet the loading conditions specified
14 in a special permit that was issued under section 725 by a proper
15 distribution of the load upon all of the axles of the vehicle or
16 the combination of vehicles, but that 1 or more axles of the
17 vehicle exceeded the permitted axle weight by 1,000 pounds or less,
18 the court ~~shall~~**MAY** impose a misload **CIVIL** fine ~~of~~**NOT TO EXCEED**
19 \$200.00 per axle. If the court determines that the motor vehicle or
20 the combination of vehicles would meet the loading conditions
21 specified in a special permit that was issued under section 725 by
22 a proper distribution of the load upon all of the axles of the
23 vehicle or the combination of vehicles, but that 1 or more axles of
24 the vehicle exceeded the permitted axle weight by more than 1,000
25 pounds, the court ~~shall~~**MAY** impose a **CIVIL** fine for the violation
26 **NOT TO EXCEED THE AMOUNT DETERMINED** according to the schedule
27 provided in subsection (3) for the amount of pounds exceeding the

1 permitted axle weight. Not more than 3 axles ~~shall~~**MUST** be used in
2 calculating the fine to be imposed under this subdivision. If the
3 court determines that the load was misloaded, the conditions of the
4 special permit remain valid. The imposition of a fine does not void
5 the special permit.

6 (d) If the court determines that the motor vehicle or the
7 combination of vehicles would be lawful by a proper distribution of
8 the load upon all of the axles of the vehicle or the combination of
9 vehicles, but that 1 or more axles of the vehicle exceeded the
10 permitted axle weight by at least 4,000 pounds but no more than
11 8,000 pounds, the court ~~shall~~**MAY** impose a misload **CIVIL** fine ~~of~~
12 **NOT TO EXCEED** \$400.00 per axle. Not more than 3 axles ~~shall~~**MUST** be
13 used in calculating the fine to be imposed under this subdivision.

14 (e) If the court determines that the motor vehicle or the
15 combination of vehicles would be lawful by a proper distribution of
16 the load upon all of the axles of the vehicle or the combination of
17 vehicles, but that 1 or more axles of the vehicle exceeded the
18 permitted axle weight by more than 8,000 pounds, the court ~~shall~~
19 **MAY** impose a **CIVIL** fine for the violation **NOT TO EXCEED THE AMOUNT**
20 **DETERMINED** according to the schedule provided in subsection (3).

21 (5) A driver or owner of a commercial vehicle with other
22 vehicles or trailers in combination, a truck or truck tractor, a
23 truck or truck tractor with other vehicles in combination, or any
24 special mobile equipment who fails to stop at or bypasses any
25 scales or weighing station is guilty of a misdemeanor.

26 (6) An agent or authorized representative of the state
27 transportation department or a county road commission shall not

1 stop a truck or vehicle in movement upon a road or highway within
2 the state for any purpose, unless the agent or authorized
3 representative is driving a duly marked vehicle, clearly showing
4 and denoting the branch of government represented.

5 (7) A driver or owner of a vehicle who knowingly fails to stop
6 when requested or ordered to do so and submit to a weighing by a
7 police officer, a peace officer, or an authorized agent of the
8 state transportation department, or a representative or agent of a
9 county road commission, authorized to require the driver to stop
10 and submit to a weighing of the vehicle and load by means of a
11 portable scale, is guilty of a misdemeanor punishable by
12 imprisonment for not more than 90 days or a fine of not more than
13 \$100.00, or both. A driver or person who dumps his or her load when
14 ordered to submit to a weigh or who otherwise attempts to commit or
15 commits an act to avoid a vehicle weigh is in violation of this
16 ~~section~~. **SUBSECTION.**

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