



HOUSE BILL No. 4921

June 1, 1995, Introduced by Reps. Murphy, Curtis, Freeman, Cherry, Clack and Leland and referred to the Committee on Transportation.

A bill to amend sections 320a, 629c, 901, and 907 of Act No. 300 of the Public Acts of 1949, entitled as amended "Michigan vehicle code," section 320a as amended by Act No. 211 of the Public Acts of 1994, section 629c as added by Act No. 154 of the Public Acts of 1987, and section 907 as amended by Act No. 89 of the Public Acts of 1989, being sections 257.320a, 257.629c, 257.901, and 257.907 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 320a, 629c, 901, and 907 of Act No. 300
2 of the Public Acts of 1949, section 320a as amended by Act
3 No. 211 of the Public Acts of 1994, section 629c as added by Act
4 No. 154 of the Public Acts of 1987, and section 907 as amended by
5 Act No. 89 of the Public Acts of 1989, being sections 257.320a,

1 257.629c, 257.901, and 257.907 of the Michigan Compiled Laws, are
2 amended to read as follows:

3 Sec. 320a. (1) ~~The secretary of state, within~~ WITHIN 10
4 days after the receipt of a properly prepared abstract from this
5 or another state, THE SECRETARY OF STATE shall record the date of
6 conviction, civil infraction determination, or probate court dis-
7 position, and the number of points for each, based on the follow-
8 ing formula, except as otherwise provided in this section and
9 section 629c:

- 10 (a) Manslaughter, negligent homicide, or a felony
11 resulting from the operation of a motor vehicle..... 6 points
- 12 (b) A violation of section 625(1) or a law or
13 ordinance substantially corresponding to section 625(1) 6 points
- 14 (c) A violation or attempted violation of section
15 625(4) or (5)..... 6 points
- 16 (d) Failing to stop and disclose identity at the
17 scene of an accident when required by law..... 6 points
- 18 (e) Operating a motor vehicle in a reckless manner 6 points
- 19 (f) Violation of any law or ordinance pertaining
20 to speed by exceeding the lawful maximum by more than
21 15 miles per hour..... 4 points
- 22 (g) Violation of section 625(3) or (6) or a law or
23 ordinance substantially corresponding to section 625(3)
24 or (6)..... 4 points
- 25 (h) Fleeing or eluding an officer..... 6 points
- 26 (i) Violation of section 626a or a law or
27 ordinance substantially corresponding to section 626a.. 4 points

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

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

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

11 (m) Violation of section 624a or a law or ordi-
 12 nance substantially corresponding to section 624a..... 2 points

13 (n) All other moving violations pertaining to the
 14 operation of motor vehicles reported under this section 2 points

15 (o) A refusal by a person less than 21 years of
 16 age to submit to a preliminary breath test required by
 17 a peace officer under section 625a..... 2 points

18 (2) Points shall not be entered for a violation of section
 19 311, 625m, 658, 717, 719, 719a, or 723.

20 (3) ~~Points shall not be entered~~ THE SECRETARY OF STATE
 21 SHALL NOT ENTER POINTS for bond forfeitures.

22 (4) ~~Points shall not be entered~~ THE SECRETARY OF STATE
 23 SHALL NOT ENTER POINTS for overweight loads or for defective
 24 equipment.

25 (5) THE SECRETARY OF STATE SHALL NOT ENTER POINTS AGAINST
 26 THE DRIVING RECORD OF A PERSON FOR AN OFFENSE DESCRIBED IN

1 SUBSECTION (1)(E), (F), (J), (K), (L), OR (N) IF BOTH OF THE
2 FOLLOWING CONDITIONS WERE MET AT THE TIME OF THE OFFENSE:

3 (A) THE PERSON WAS OPERATING A MOTOR VEHICLE WITHIN THE
4 SCOPE OF HIS OR HER EMPLOYMENT AS AN EMPLOYEE OF THIS STATE OR OF
5 A COUNTY, TOWNSHIP, CITY, OR VILLAGE.

6 (B) THE OFFENSE WAS NOT WILLFUL.

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

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

17 (8) ~~-(7)-~~ If a person is determined to be responsible for a
18 civil infraction for a violation of a law or ordinance pertaining
19 to speed by exceeding the lawful maximum on a street or highway
20 as that maximum was reduced by Act No. 28 of the Public Acts of
21 1974, then points shall be entered as follows:

22 (a) Sixty miles per hour to the lawful maximum in
23 effect before being reduced by Act No. 28 of the Public
24 Acts of 1974..... 1 point

25 (b) Exceeding the lawful maximum in effect before
26 being reduced by Act No. 28 of the Public Acts of 1974,
27 by 10 miles per hour or less..... 2 points

1 (c) Exceeding the lawful maximum in effect before
 2 being reduced by Act No. 28 of the Public Acts of 1974,
 3 by more than 10 but not more than 15 miles per hour.... 3 points

4 (d) Exceeding the lawful maximum in effect before
 5 being reduced by Act No. 28 of the Public Acts of 1974,
 6 by more than 15 miles per hour..... 4 points

7 (9) ~~(8)~~ Notwithstanding subsection ~~(7)~~ (8), if a person
 8 violates a speed restriction established by an executive order
 9 issued during a state of energy emergency as provided by Act
 10 No. 191 of the Public Acts of 1982, being sections 10.81 to 10.89
 11 of the Michigan Compiled Laws, the secretary of state shall enter
 12 points for the violation pursuant to subsection (1).

13 (10) ~~(9)~~ The secretary of state shall enter 6 points upon
 14 the record of a person whose license is suspended or denied pur-
 15 suant to section 625f. However, if a conviction, civil infrac-
 16 tion determination, or probate court disposition results from the
 17 same incident, additional points for that offense shall not be
 18 entered.

19 (11) ~~(10)~~ If a Michigan driver commits a violation in
 20 another state that would be a civil infraction if committed in
 21 Michigan, and a conviction results solely because of the failure
 22 of the Michigan driver to appear in that state to contest the
 23 violation, upon receipt of the abstract of conviction by the sec-
 24 retary of state, the violation shall be noted on the driver's
 25 record, but no points shall be assessed against his or her
 26 ~~driver's~~ DRIVER license.

1 Sec. 629c. (1) Notwithstanding sections 320a and 907, a
 2 person who is determined responsible or responsible "with
 3 explanation" for a civil infraction for violating the maximum
 4 speed limit on a limited access freeway or part of a limited
 5 access freeway upon which the maximum speed limit is 55 miles per
 6 hour or more shall be ordered by the court to pay a minimum fine
 7 and shall have points entered on his or her driving record by the
 8 secretary of state only according to the following schedule,
 9 except as otherwise provided in ~~subsection (2)~~ SUBSECTIONS (2)
 10 AND (3):

11 <u>Speed of the vehicle at the time of</u>	<u>Points</u>	<u>Minimum</u>
12 <u>the violation, in miles per hour</u>		<u>Fine</u>
13 56 to 60	0	\$10.00
14 61 to 70	1	\$20.00
15 71 to 80	2	\$30.00
16 81 to 85	3	\$40.00
17 86 or over	4	\$50.00

18 (2) Subsection (1) does not apply to EITHER OF THE

19 FOLLOWING:

20 (A) A PERSON OPERATING a vehicle or vehicle combination for
 21 which the maximum rate of speed is established pursuant to
 22 section 627(5) to (7).

23 (B) AN EMPLOYEE OF THIS STATE OR OF A COUNTY, TOWNSHIP,
 24 CITY, OR VILLAGE, IF ALL CONDITIONS DESCRIBED IN SECTION 320A(5)
 25 WERE MET AT THE TIME OF THE VIOLATION.

26 (3) For a violation of a maximum speed limit on a limited
 27 access freeway by a person operating ~~such~~ a vehicle or vehicle
 28 combination DESCRIBED IN SUBSECTION (2)(A), points ~~and fines~~
 29 shall be assessed under ~~sections~~ SECTION 320a and FINES SHALL
 30 BE ASSESSED UNDER SECTION 907.

1 Sec. 901. (1) ~~It is a misdemeanor for a person to violate~~
2 A VIOLATION OF this act ~~—~~ IS A MISDEMEANOR unless that
3 violation is ~~by this act or other law of this state declared to~~
4 ~~be~~ DESIGNATED a felony or a civil infraction UNDER ANY OTHER LAW
5 OF THIS STATE.

6 (2) ~~Unless~~ SUBJECT TO SUBSECTION (3), UNLESS another pen-
7 alty is ~~provided in~~ AUTHORIZED UNDER this act or by ~~the laws~~
8 ~~of this~~ OTHER state LAW, a person convicted of a misdemeanor for
9 ~~the~~ A violation of this act shall be punished by a fine of not
10 more than \$100.00, or by imprisonment for not more than 90 days,
11 or both.

12 (3) THE COURT SHALL WAIVE THE PENALTIES AUTHORIZED UNDER
13 THIS SECTION IF THE VIOLATOR IS AN EMPLOYEE OF THIS STATE OR OF A
14 COUNTY, TOWNSHIP, CITY, OR VILLAGE, AND ALL OF THE CONDITIONS
15 DESCRIBED IN SECTION 320A(5) ARE MET.

16 Sec. 907. (1) A violation of this act ~~—~~ or a local ordi-
17 nance substantially corresponding to a provision of this act ~~—~~
18 ~~which~~ is ~~designated~~ a civil infraction ~~shall not be~~
19 ~~considered~~ AND IS NOT a lesser included offense of a criminal
20 offense.

21 (2) ~~If~~ UNLESS A CIVIL FINE IS WAIVED PURSUANT TO
22 SUBSECTION (9), (10), (13), (15), OR (16), IF a person is deter-
23 mined ~~pursuant to sections 741 to 750~~ to be responsible or
24 responsible "with explanation" for a civil infraction under this
25 act or a local ordinance substantially corresponding to a provi-
26 sion of this act, the judge, district court referee, or district
27 court magistrate may order the person to pay a civil fine of not

1 more than \$100.00 and costs as provided in subsection (4).
2 However, for a violation of section 674(1)(s) or a local ordi-
3 nance substantially corresponding to section 674(1)(s), the
4 person shall be ordered to pay costs as provided in subsection
5 (4) and a civil fine of not less than \$50.00 ~~nor~~ OR more than
6 \$100.00. For a violation of section 710d, the civil fine ordered
7 under this subsection shall not exceed \$10.00. For a violation
8 of section 710e, the civil fine and court costs ordered under
9 this subsection shall be \$25.00. Permission may be granted for
10 payment of a civil fine and costs to be made within a specified
11 period of time or in specified installments, but unless permis-
12 sion is included in the order or judgment, the civil fine and
13 costs shall be payable immediately.

14 (3) ~~If~~ EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (16), IF
15 a person is determined to be responsible or responsible "with
16 explanation" for a civil infraction under this act or a local
17 ordinance substantially corresponding to a provision of this act
18 while driving a commercial ~~motor~~ vehicle, he or she shall be
19 ordered to pay costs as provided in subsection (4) and a civil
20 fine of not more than \$250.00.

21 (4) If a civil fine is ordered to be paid under
22 subsection (2) or (3), the judge, district court referee, or dis-
23 trict court magistrate shall summarily tax and determine the
24 costs of the action, which shall not be limited to the costs tax-
25 able in ordinary civil actions, and may include all expenses,
26 direct and indirect, to which the plaintiff has been put in
27 connection with the civil infraction, up to the entry of

1 judgment. Except in a civil infraction for a parking violation,
2 costs of not less than \$5.00 shall be ordered. Costs shall not
3 be ordered in excess of \$100.00. Except as otherwise provided by
4 law, costs shall be payable to the general fund of the
5 plaintiff.

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

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

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

25 (8) The state court administrator shall annually publish and
26 distribute to each district and court a recommended range of
27 civil fines and costs for first-time civil infractions. This

1 recommendation shall not be binding upon the courts having
2 jurisdiction over civil infractions but is intended to act as a
3 normative guide for judges, district court referees, and district
4 court magistrates and a basis for public evaluation of dispari-
5 ties in the imposition of civil fines and costs throughout the
6 state.

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

12 (10) If a person has received a civil infraction citation
13 under section 328 for failure to produce evidence that a motor
14 vehicle is insured under chapter 31 of the insurance code of
15 1956, Act No. 218 of the Public Acts of 1956, as amended, being
16 sections 500.3101 to 500.3179 of the Michigan Compiled Laws, the
17 court shall waive a civil fine and costs upon receipt of certifi-
18 cation by a law enforcement agency that the defendant, before the
19 appearance date on the citation, has produced evidence that the
20 vehicle was insured on the date of issuance of the citation as
21 required.

22 (11) A default in the payment of a civil fine or costs
23 ordered under subsection (2), (3), or (4) or an installment of
24 the fine or costs may be collected by a means authorized for the
25 enforcement of a judgment under chapter 40 OR 60 of the revised
26 judicature act of 1961, Act No. 236 of the Public Acts of 1961,
27 as amended, being sections 600.4001 to 600.4065 ~~of the Michigan~~

1 ~~Compiled Laws, or under chapter 60 of Act No. 236 of the Public~~
2 ~~Acts of 1961, as amended, being~~ AND sections 600.6001 to
3 600.6098 of the Michigan Compiled Laws.

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

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

16 (14) In addition to any fines and costs ordered to be paid
17 under this section, the judge, district court referee, or dis-
18 trict court magistrate shall levy an assessment of \$5.00 for each
19 civil infraction determination, except for a parking violation or
20 a violation for which the total fine and costs imposed are \$10.00
21 or less. Upon payment of the assessment, the clerk of the court
22 shall transmit the assessment levied to the state treasury to be
23 deposited into the Michigan justice training fund. An assessment
24 levied under this subsection shall not be considered a civil fine
25 for purposes of section 909.

26 (15) If a person has received a citation for a violation of
27 section 223, the court shall waive any fine and costs, upon

1 receipt of certification by a law enforcement agency that the
2 person, before the appearance date on the citation, produced a
3 valid registration certificate that was valid on the date the
4 violation of section 223 occurred.

5 (16) THE COURT SHALL WAIVE ANY FINES AND COSTS AUTHORIZED
6 UNDER THIS SECTION IF THE VIOLATOR IS AN EMPLOYEE OF THIS STATE
7 OR OF A COUNTY, TOWNSHIP, CITY, OR VILLAGE, AND ALL OF THE CONDI-
8 TIONS DESCRIBED IN SECTION 320A(5) ARE MET.