

# SENATE BILL No. 995

February 17, 2004, Introduced by Senators GEORGE, GARCIA, BIRKHOLZ, McMANUS, KUIPERS and ALLEN and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 907 (MCL 257.907), as amended by 2003 PA 73.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

5       (2) If a person is determined pursuant to sections 741 to 750  
6 to be responsible or responsible "with explanation" for a civil  
7 infraction under this act or a local ordinance substantially  
8 corresponding to a provision of this act, the judge or district  
9 court magistrate may order the person to pay a civil fine of not  
10 more than \$100.00 and costs as provided in subsection (4).  
11 However, for a violation of section 674(1)(s) or a local

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1 ordinance substantially corresponding to section 674(1)(s), the  
2 person shall be ordered to pay costs as provided in subsection  
3 (4) and a civil fine of not less than \$100.00 or more than  
4 \$250.00. For a violation of section 328 or 710d, the civil fine  
5 ordered under this subsection shall not exceed \$10.00. For a  
6 violation of section 710e, the civil fine and court costs ordered  
7 under this subsection shall be \$25.00. For a violation of  
8 section 682 or a local ordinance substantially corresponding to  
9 section 682, the person shall be ordered to pay costs as provided  
10 in subsection (4) and a civil fine of not less than \$100.00 or  
11 more than \$500.00. Permission may be granted for payment of a  
12 civil fine and costs to be made within a specified period of time  
13 or in specified installments, but unless permission is included  
14 in the order or judgment, the civil fine and costs shall be  
15 payable immediately.

16 (3) Except as provided in this subsection, if a person is  
17 determined to be responsible or responsible "with explanation"  
18 for a civil infraction under this act or a local ordinance  
19 substantially corresponding to a provision of this act while  
20 driving a commercial motor vehicle, he or she shall be ordered to  
21 pay costs as provided in subsection (4) and a civil fine of not  
22 more than \$250.00. If a person is determined to be responsible  
23 or responsible "with explanation" for a civil infraction under  
24 section 319g or a local ordinance substantially corresponding to  
25 section 319g, that person shall be ordered to pay costs as  
26 provided in subsection (4) and a civil fine of not more than  
27 \$10,000.00.

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

12 (5) In addition to a civil fine and costs ordered under  
13 subsection (2) or (3) and subsection (4) and the justice system  
14 assessment ordered under subsection (14), the judge or district  
15 court magistrate may order the person to attend and complete a  
16 program of treatment, education, or rehabilitation.

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

21 (7) Each district of the district court and each municipal  
22 court may establish a schedule of civil fines, costs, and  
23 assessments to be imposed for civil infractions ~~which~~ **that**  
24 occur within the respective district or city. If a schedule is  
25 established, it shall be prominently posted and readily available  
26 for public inspection. A schedule need not include all  
27 violations ~~which~~ **that** are designated by law or ordinance as

1 civil infractions. A schedule may exclude cases on the basis of  
2 a defendant's prior record of civil infractions or traffic  
3 offenses, or a combination of civil infractions and traffic  
4 offenses.

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

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

19 (10) A default in the payment of a civil fine or costs  
20 ordered under subsection (2), (3), or (4) or a justice system  
21 assessment ordered under subsection (14), or an installment of  
22 the fine, costs, or assessment, may be collected by a means  
23 authorized for the enforcement of a judgment under chapter 40 of  
24 the revised judicature act of 1961, 1961 PA 236, MCL 600.4001 to  
25 600.4065, or under chapter 60 of the revised judicature act of  
26 1961, 1961 PA 236, MCL 600.6001 to 600.6098.

27 (11) If a person fails to comply with an order or judgment

1 issued pursuant to this section ~~—~~ within the time prescribed by  
2 the court, the driver's license of that person shall be suspended  
3 pursuant to section 321a until full compliance with that order or  
4 judgment occurs. In addition to this suspension, the court may  
5 also proceed under section 908.

6 (12) The court shall waive any civil fine, cost, or  
7 assessment against a person who received a civil infraction  
8 citation for a violation of section 710d **or 710e(3)** if the  
9 person, before the appearance date on the citation, supplies the  
10 court with evidence of acquisition, purchase, or rental of a  
11 child seating system meeting the requirements of section 710d.

12 (13) Until October 1, 2003, in addition to any civil fines  
13 and costs ordered to be paid under this section, the judge or  
14 district court magistrate shall levy an assessment of \$5.00 for  
15 each civil infraction determination, except for a parking  
16 violation or a violation for which the total fine and costs  
17 imposed are \$10.00 or less. An assessment paid before October 1,  
18 2003 shall be transmitted by the clerk of the court to the state  
19 treasurer to be deposited into the Michigan justice training fund  
20 **created in section 5 of 1982 PA 302, MCL 18.425**. An assessment  
21 ordered before October 1, 2003 but collected on or after October  
22 1, 2003 shall be transmitted by the clerk of the court to the  
23 state treasurer for deposit in the justice system fund created in  
24 section 181 of the revised judicature act of 1961, 1961 PA 236,  
25 MCL 600.181. An assessment levied under this subsection is not a  
26 civil fine for purposes of section 909.

27 (14) Effective October 1, 2003, in addition to any civil

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

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