

# HOUSE BILL No. 4858

June 2, 2005, Introduced by Reps. Anderson, LaJoy, Moore, Wenke, Nitz, Casperson, Gosselin, David Law, Pavlov, Clack, Plakas, Murphy, Hood, Byrnes, Gleason, Leland and Pearce and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 683, 723, and 724 (MCL 257.683, 257.723, and 257.724), section 683 as amended by 2000 PA 97, section 723 as amended by 2003 PA 152, and section 724 as amended by 2004 PA 420, and by adding section 312g; and to repeal acts and parts of acts.

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

1           SEC. 312G. A PERSON SHALL NOT TRANSPORT OR REQUIRE, PERMIT, OR  
2 ALLOW TO BE TRANSPORTED A HAZARDOUS MATERIAL FOR WHICH A PLACARD IS  
3 REQUIRED UNDER 49 CFR PARTS 100 TO 199 IN A COMMERCIAL MOTOR

1 VEHICLE IF THE OPERATOR OF THE VEHICLE DOES NOT HAVE A HAZARDOUS  
2 MATERIAL ENDORSEMENT ON HIS OR HER OPERATOR'S OR CHAUFFEUR'S  
3 LICENSE. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A  
4 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR  
5 A FINE OF NOT MORE THAN \$500.00, OR BOTH.

6 Sec. 683. (1) A person shall not drive or move or the owner  
7 shall not cause or knowingly permit to be driven or moved on a  
8 highway a vehicle or combination of vehicles which is in such an  
9 unsafe condition as to endanger a person, or which does not contain  
10 those parts or is not at all times equipped with lamps and other  
11 equipment in proper condition and adjustment as required in  
12 sections 683 to ~~714a~~ 714, or which is equipped in a manner in  
13 violation of sections 683 to ~~714a~~ 714. A person shall not do an  
14 act forbidden or fail to perform an act required under sections 683  
15 to ~~714a~~ 714.

16 (2) A police officer on reasonable grounds shown may stop a  
17 motor vehicle and inspect the motor vehicle, and if a defect in  
18 equipment is found, the officer may issue the driver a citation for  
19 a violation of a provision of sections 683 to ~~714a~~ 714.

20 (3) In order to be classified as a motor carrier enforcement  
21 officer, a police officer must have training equal to the minimum  
22 training requirements, including any annual training updates,  
23 established by the department of state police for an officer of the  
24 motor carrier division of the department of state police. A police  
25 officer who has received training equal to these minimum training  
26 requirements before the effective date of this section is  
27 considered a motor carrier enforcement officer for purposes of this

1 act.

2 (4) Sections 683 to ~~714a~~ **714** shall not prohibit the use of  
3 additional parts and accessories on a vehicle which are not  
4 inconsistent with those sections.

5 (5) The provisions of sections 683 to ~~714a~~ **714** with respect  
6 to equipment on vehicles shall not apply to implements of  
7 husbandry, road machinery, road rollers, or farm tractors, except  
8 as specifically provided in sections 683 to ~~714a~~ **714**.

9 (6) Except as otherwise provided in section 698 or 707d, a  
10 person who violates a provision of sections 683 to ~~714a~~ **714** with  
11 respect to equipment on vehicles is responsible for a civil  
12 infraction.

13 Sec. 723. (1) All ~~motor trucks or truck tractors, except as~~  
14 ~~provided in subsection (4), of more than 5,000 pounds registered~~  
15 ~~weight and all~~ towing or platform bed wrecker road service  
16 vehicles in operation upon the public highways of this state shall  
17 have the name, city, and state or the registered logo or emblem of  
18 the registered owner of the vehicle, and lessee of the vehicle if  
19 the vehicle is being operated under lease, painted or permanently  
20 attached on each side of the ~~cab on a motor truck or truck tractor~~  
21 **VEHICLE** in letters of not less than 3 inches in height, not lower  
22 than the bottom edge of the door. ~~—, except that motor trucks with~~  
23 ~~closed van bodies may place the information on each side of the van~~  
24 ~~body not lower than the bottom edge of the cab door.—~~ This  
25 information shall be in sharp color contrast to the background.

26 (2) ~~Except for towing or platform bed wrecker road service~~  
27 ~~vehicles, the identification requirements of subsection (1) may be~~

1 ~~met through the use of removable devices which meet the~~  
 2 ~~requirements of subsection (1). These devices shall be of durable~~  
 3 ~~construction and securely attached to each side of the motor truck~~  
 4 ~~or truck tractor. The removable devices shall be attached so that~~  
 5 ~~the identification is in a horizontal position.~~ **A WRECKER IN**  
 6 **COMPLIANCE WITH THE IDENTIFICATION REQUIREMENTS OF THE FEDERAL**  
 7 **MOTOR CARRIER SAFETY REGULATIONS, 49 CFR PARTS 390-399, IS**  
 8 **CONSIDERED TO BE IN COMPLIANCE WITH THIS SECTION.**

9 ~~— (3) Motor vehicles subject to this section shall have 2 years~~  
 10 ~~after the effective date of this subsection to be in compliance~~  
 11 ~~with the marking location as required in subsection (1).~~

12 ~~— (4) This section shall not apply to a truck eligible for and~~  
 13 ~~registered under a farm or manufacturer license plate.~~

14 **(3) —(5)** A person who violates this section is responsible  
 15 for a civil infraction.

16 Sec. 724. (1) A police officer, **A PEACE OFFICER**, or a duly  
 17 authorized agent of ~~the state transportation department or~~ a  
 18 county road commission having reason to believe that the weight of  
 19 a vehicle and load is unlawful may require the driver to stop and  
 20 submit to a weighing of the vehicle by either portable or  
 21 stationary scales approved and sealed by the department of  
 22 agriculture as a legal weighing device ~~—~~ and may require that the  
 23 vehicle be driven to the nearest ~~weighing~~ **WEIGH** station of the  
 24 state transportation department for the purpose of allowing ~~an~~ **A**  
 25 **POLICE** officer, **PEACE OFFICER**, or agent of the ~~state~~  
 26 ~~transportation department or~~ county road commission to determine  
 27 whether the ~~conveyance~~ **VEHICLE** is loaded in conformity with this

1 chapter.

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

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

19 (3) Subject to subsection (4), an owner of a vehicle or a  
20 lessee of the vehicle of an owner-operator, or other person, who  
21 causes or allows a vehicle to be loaded and driven or moved on a  
22 highway, when the weight of that vehicle violates section 722 is  
23 responsible for a civil infraction and shall pay a civil fine in an  
24 amount equal to 3 cents per pound for each pound of excess load  
25 over 1,000 pounds when the excess is 2,000 pounds or less; 6 cents  
26 per pound of excess load when the excess is over 2,000 pounds but  
27 not over 3,000 pounds; 9 cents per pound for each pound of excess

1 load when the excess is over 3,000 pounds but not over 4,000  
2 pounds; 12 cents per pound for each pound of excess load when the  
3 excess is over 4,000 pounds but not over 5,000 pounds; 15 cents per  
4 pound for each pound of excess load when the excess is over 5,000  
5 pounds but not over 10,000 pounds; and 20 cents per pound for each  
6 pound of excess load when the excess is over 10,000 pounds.

7 (4) If the court determines that the motor vehicle or the  
8 combination of vehicles was operated in violation of this section,  
9 the court shall impose a fine as follows:

10 (a) If the court determines that the motor vehicle or the  
11 combination of vehicles was operated in such a manner that the  
12 gross weight of the vehicle or the combination of vehicles would  
13 not be lawful by a proper distribution of the load upon all the  
14 axles of the vehicle or the combination of vehicles, the court  
15 shall impose a fine for the violation according to the schedule  
16 provided for in subsection (3).

17 (b) If the court determines that the motor vehicle or the  
18 combination of vehicles would be lawful by a proper distribution of  
19 the load upon all of the axles of the vehicle or the combination of  
20 vehicles, but that 1 or more axles of the vehicle exceeded the  
21 maximum allowable axle weight by 4,000 pounds or less, the court  
22 shall impose a misload fine of \$200.00 per axle. Not more than 3  
23 axles shall be used in calculating the fine to be imposed under  
24 this subdivision. This subdivision does not apply to a vehicle  
25 subject to the maximum loading provisions of section 722(11) or to  
26 a vehicle found to be in violation of a special permit issued under  
27 section 725.

1 (c) If the court determines that the motor vehicle or the  
2 combination of vehicles would be lawful by a proper distribution of  
3 the load upon all of the axles of the vehicle or the combination of  
4 vehicles, but that 1 or more axles of the vehicle exceeded the  
5 maximum allowable axle weight by more than 4,000 pounds, the court  
6 shall impose a fine for the violation according to the schedule  
7 provided for in subsection (3).

8 (5) A driver or owner of a ~~vehicle~~ **PICKUP TRUCK WITH OTHER**  
9 **VEHICLES OR TRAILERS IN COMBINATION, A** truck or truck tractor, **A**  
10 truck or truck tractor with other vehicles in combination, or **ANY**  
11 special mobile equipment who ~~knowingly~~ fails to stop at or ~~who~~  
12 ~~knowingly~~ bypasses any scales or weighing station is guilty of a  
13 misdemeanor. **THIS SUBSECTION ONLY APPLIES TO VEHICLES BEING USED IN**  
14 **A PROFIT-MAKING VENTURE OR BUSINESS AND APPLIES REGARDLESS OF**  
15 **WHETHER THE VEHICLE IS EMPTY OR LOADED.**

16 (6) An agent ~~or authorized representative of the state~~  
17 ~~transportation department or~~ **OF** a county road commission shall not  
18 stop a truck or vehicle in movement upon a road or highway within  
19 the state for any purpose, unless the agent ~~or authorized~~  
20 ~~representative~~ is driving a duly marked vehicle, clearly showing  
21 and denoting the ~~branch of government~~ **COUNTY** represented.

22 (7) A driver or owner of a vehicle who knowingly fails to stop  
23 when requested or ordered to do so **AND SUBMIT TO A WEIGHING** by a  
24 police officer, **A PEACE OFFICER,** or a duly authorized agent of ~~the~~  
25 ~~state transportation department, or a representative or agent of~~ a  
26 county road commission, authorized to require the driver to stop  
27 and submit to a weighing of the vehicle and load by means of a



1 portable scale, is guilty of a misdemeanor **PUNISHABLE BY**  
2 **IMPRISONMENT FOR NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN**  
3 **\$100.00, OR BOTH. A DRIVER OR PERSON WHO DUMPS HIS OR HER LOAD WHEN**  
4 **ORDERED TO SUBMIT TO A WEIGH OR WHO OTHERWISE ATTEMPTS TO COMMIT OR**  
5 **COMMITTS AN ACT TO AVOID A VEHICLE WEIGH IS IN VIOLATION OF THIS**  
6 **SECTION.**

7 Enacting section 1. Sections 714a and 714b of the Michigan  
8 vehicle code, 1949 PA 300, MCL 257.714a and 257.714b, are repealed.

9 Enacting section 2. This amendatory act does not take effect  
10 unless Senate Bill No.\_\_\_\_ or House Bill No. 4852(request no.  
11 02888'05) of the 93rd Legislature is enacted into law.