

# SENATE BILL NO. 89

February 06, 2019, Introduced by Senators SANTANA, HOLLIER, WOJNO, BAYER, MCMORROW, CHANG, ALEXANDER and BULLOCK and referred to the Committee on Families, Seniors and Veterans.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 710d, 710e, and 907 (MCL 257.710d, 257.710e, and 257.907), section 710d as amended by 2009 PA 57, section 710e as amended by 2016 PA 460, and section 907 as amended by 2015 PA 126.

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

**1** Sec. 710d. (1) Except as provided in this section, or as

1 otherwise provided by law, a rule promulgated under the  
2 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
3 24.328, or federal regulation, each driver transporting a child  
4 ~~less than 4 years of age~~ in a motor vehicle shall properly secure  
5 that child in a child restraint system that meets the standards  
6 prescribed in 49 CFR 571.213.

7 (2) A driver transporting a child as required under subsection  
8 (1) shall position the child in the child restraint system in a  
9 rear seat, if the vehicle is equipped with a rear seat. If all  
10 available rear seats are occupied by children, ~~less than 4 years of~~  
11 ~~age,~~ then a child ~~less than 4 years of age~~ may be positioned in the  
12 child restraint system in the front seat. A child in a rear-facing  
13 child restraint system may be placed in the front seat only if the  
14 front passenger air bag is deactivated. **In addition, a child shall**  
15 **be seated and positioned as follows:**

16 (a) **If the child weighs less than 30 pounds or is less than 2**  
17 **years of age, in a rear-facing child seat.**

18 (b) **If the child weighs 30 pounds or more but less than 50**  
19 **pounds, or is 2 years of age or older but less than 5 years of age,**  
20 **in a forward-facing child seat.**

21 (c) **If the child is not more than 57 inches tall and weighs 50**  
22 **pounds or more, or is 5 years of age or older but less than 8 years**  
23 **of age, in a booster seat.**

24 (3) This section does not apply if the motor vehicle being  
25 driven is a bus, school bus, taxicab, moped, motorcycle, or other  
26 motor vehicle not required to be equipped with safety belts under  
27 federal law or regulations.

28 (4) A person who violates this section is responsible for a  
29 civil infraction.

1 (5) Points shall not be assessed under section 320a for a  
2 violation of this section. An abstract required under section 732  
3 shall not be submitted to the secretary of state regarding a  
4 violation of this section.

5 (6) The secretary of state may exempt by rules promulgated  
6 under the administrative procedures act of 1969, 1969 PA 306, MCL  
7 24.201 to 24.328, a class of children from the requirements of this  
8 section, if the secretary of state determines that the use of the  
9 child restraint system required under subsection (1) is impractical  
10 because of physical unfitness, a medical problem, or body size. The  
11 secretary of state may specify alternate means of protection for  
12 children exempted under this subsection.

13 Sec. 710e. (1) This section does not apply to an operator or  
14 passenger of any of the following:

15 (a) A motor vehicle manufactured before January 1, 1965.

16 (b) A bus.

17 (c) A motorcycle.

18 (d) A moped.

19 (e) A motor vehicle if the operator or passenger possesses a  
20 written verification from a physician that the operator or  
21 passenger is unable to wear a safety belt for physical or medical  
22 reasons.

23 (f) A motor vehicle that is not required to be equipped with  
24 safety belts under federal law.

25 (g) A commercial or United States Postal Service vehicle that  
26 makes frequent stops for the purpose of pickup or delivery of goods  
27 or services.

28 (h) A motor vehicle operated by a rural carrier of the United  
29 States Postal Service while serving his or her rural postal route.

1           (2) This section does not apply to a passenger of a school  
2 bus.

3           (3) Each operator and front seat passenger of a motor vehicle  
4 operated on a street or highway in this state shall wear a properly  
5 adjusted and fastened safety belt, except ~~as follows:~~

6           ~~(a) A **that a** child who is less than 4-8 years of age shall be~~  
7 protected as required in section 710d.

8           ~~(b) A child who is 4 years of age or older but less than 8~~  
9 ~~years of age and who is less than 4 feet 9 inches in height shall~~  
10 ~~be properly secured in a child restraint system in accordance with~~  
11 ~~the child restraint manufacturer's and vehicle manufacturer's~~  
12 ~~instructions and the standards prescribed in 49 CFR 571.213.~~

13           (4) If there are more passengers than safety belts available  
14 for use, and all safety belts in the motor vehicle are being  
15 utilized in compliance with this section, the operator of the motor  
16 vehicle is in compliance with this section.

17           (5) Except as otherwise provided in ~~subsection (3)(b),~~ **section**  
18 **710d,** each operator of a motor vehicle transporting a child 4-8  
19 years of age or older but less than 16 years of age in a motor  
20 vehicle shall secure the child in a properly adjusted and fastened  
21 safety belt and seated as required under this section. If the motor  
22 vehicle is transporting more children than there are safety belts  
23 available for use, all safety belts available in the motor vehicle  
24 are being utilized in compliance with this section, and the  
25 operator and all front seat passengers comply with subsection (3),  
26 the operator of a motor vehicle transporting a child 8 years of age  
27 or older but less than 16 years of age for which there is not an  
28 available safety belt is in compliance with this subsection if that  
29 child is seated in other than the front seat of the motor vehicle.

1 However, if that motor vehicle is a pickup truck without an  
2 extended cab or jump seats, and all safety belts in the front seat  
3 are being used, the operator may transport the child in the front  
4 seat without a safety belt.

5 (6) The operator of a motor vehicle shall wear a lap belt, but  
6 is not required to wear a shoulder harness, if the operator is  
7 operating the vehicle for the purpose of performing road  
8 construction or maintenance in a work zone.

9 (7) If ~~after December 31, 2005~~ the office of highway safety  
10 planning certifies that there has been less than 80% compliance  
11 with the safety belt requirements of this section during the  
12 preceding year, enforcement of this section by state or local law  
13 enforcement agencies shall be accomplished only as a secondary  
14 action when an operator of a motor vehicle has been detained for a  
15 suspected violation of another section of this act.

16 (8) Failure to wear a safety belt in violation of this section  
17 may be considered evidence of negligence and may reduce the  
18 recovery for damages arising out of the ownership, maintenance, or  
19 operation of a motor vehicle. However, that negligence shall not  
20 reduce the recovery for damages by more than 5%.

21 (9) A person who violates this section is responsible for a  
22 civil infraction.

23 (10) A law enforcement agency shall conduct an investigation  
24 for all reports of ~~police harassment~~ **inappropriate enforcement** that  
25 result from the enforcement of this section.

26 ~~(11) The secretary of state shall engage an independent~~  
27 ~~organization to conduct a 3-year study to determine the effect that~~  
28 ~~the primary enforcement of this section has on the number of~~  
29 ~~incidents of police harassment of motor vehicle operators. The~~

1 ~~organization that conducts the study shall submit a report to the~~  
 2 ~~legislature not later than June 30, 2001 and an annual report not~~  
 3 ~~later than June 30 each year thereafter.~~

4 (11) ~~(12)~~ The secretary of state shall promote compliance with  
 5 the safety belt requirements of this section at the branch offices  
 6 and through any print or visual media determined appropriate by the  
 7 secretary of state.

8 (12) ~~(13)~~ It is the intent of the legislature that the  
 9 enforcement of this section be conducted in a manner calculated to  
 10 save lives and not in a manner that results in the ~~harassment~~  
 11 **inappropriate enforcement of this section against** the citizens of  
 12 this state.

13 (13) ~~(14)~~ Points shall not be assessed under section 320a for  
 14 a violation of this section.

15 Sec. 907. (1) A violation of this act, or a local ordinance  
 16 substantially corresponding to a provision of this act, that is  
 17 designated a civil infraction shall not be considered a lesser  
 18 included offense of a criminal offense.

19 (2) If a person is determined under sections 741 to 750 to be  
 20 responsible or responsible "with explanation" for a civil  
 21 infraction under this act or a local ordinance substantially  
 22 corresponding to a provision of this act, the judge or district  
 23 court magistrate may order the person to pay a civil fine of not  
 24 more than \$100.00 and costs as provided in subsection (4). However,  
 25 if the civil infraction was a moving violation that resulted in an  
 26 at-fault collision with another vehicle, a person, or any other  
 27 object, the civil fine ordered under this section shall be  
 28 increased by \$25.00 but the total civil fine shall not exceed  
 29 \$100.00. However, for a violation of section 602b, the person shall

1 be ordered to pay costs as provided in subsection (4) and a civil  
2 fine of \$100.00 for a first offense and \$200.00 for a second or  
3 subsequent offense. For a violation of section 674(1)(s) or a local  
4 ordinance substantially corresponding to section 674(1)(s), the  
5 person shall be ordered to pay costs as provided in subsection (4)  
6 and a civil fine of not less than \$100.00 or more than \$250.00. For  
7 a violation of section 676c, the person shall be ordered to pay  
8 costs as provided in subsection (4) and a civil fine of \$1,000.00.  
9 For a violation of section 328, the civil fine ordered under this  
10 subsection shall be not more than \$50.00. For a violation of  
11 section 710d, the civil fine ordered under this subsection shall  
12 not exceed \$10.00, subject to subsection (12). For a violation of  
13 section 710e, the civil fine and court costs ordered under this  
14 subsection shall be \$25.00. For a violation of section 682 or a  
15 local ordinance substantially corresponding to section 682, the  
16 person shall be ordered to pay costs as provided in subsection (4)  
17 and a civil fine of not less than \$100.00 or more than \$500.00. For  
18 a violation of section 240, the civil fine ordered under this  
19 subsection shall be \$15.00. For a violation of section 252a(1), the  
20 civil fine ordered under this subsection shall be \$50.00. For a  
21 violation of section 676a(3), the civil fine ordered under this  
22 section shall be not more than \$10.00. For a first violation of  
23 section 319f(1), the civil fine ordered under this section shall be  
24 not less than \$2,500.00 or more than \$2,750.00; for a second or  
25 subsequent violation, the civil fine shall be not less than  
26 \$5,000.00 or more than \$5,500.00. For a violation of section  
27 319g(1)(a), the civil fine ordered under this section shall be not  
28 more than \$10,000.00. For a violation of section 319g(1)(g), the  
29 civil fine ordered under this section shall be not less than

1 \$2,750.00 or more than \$25,000.00. Permission may be granted for  
2 payment of a civil fine and costs to be made within a specified  
3 period of time or in specified installments, but unless permission  
4 is included in the order or judgment, the civil fine and costs  
5 shall be payable immediately.

6 (3) Except as provided in this subsection, if a person is  
7 determined to be responsible or responsible "with explanation" for  
8 a civil infraction under this act or a local ordinance  
9 substantially corresponding to a provision of this act while  
10 driving a commercial motor vehicle, he or she shall be ordered to  
11 pay costs as provided in subsection (4) and a civil fine of not  
12 more than \$250.00.

13 (4) If a civil fine is ordered under subsection (2) or (3),  
14 the judge or district court magistrate shall summarily tax and  
15 determine the costs of the action, which are not limited to the  
16 costs taxable in ordinary civil actions, and may include all  
17 expenses, direct and indirect, to which the plaintiff has been put  
18 in connection with the civil infraction, up to the entry of  
19 judgment. Costs shall not be ordered in excess of \$100.00. A civil  
20 fine ordered under subsection (2) or (3) shall not be waived unless  
21 costs ordered under this subsection are waived. Except as otherwise  
22 provided by law, costs are payable to the general fund of the  
23 plaintiff.

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

29 (6) A district court magistrate shall impose the sanctions



1 permitted under subsections (2), (3), and (5) only to the extent  
2 expressly authorized by the chief judge or only judge of the  
3 district court district.

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

14 (8) The state court administrator shall annually publish and  
15 distribute to each district and court a recommended range of civil  
16 fines and costs for first-time civil infractions. This  
17 recommendation is not binding upon the courts having jurisdiction  
18 over civil infractions but is intended to act as a normative guide  
19 for judges and district court magistrates and a basis for public  
20 evaluation of disparities in the imposition of civil fines and  
21 costs throughout the state.

22 (9) If a person has received a civil infraction citation for  
23 defective safety equipment on a vehicle under section 683, the  
24 court shall waive a civil fine, costs, and assessments upon receipt  
25 of certification by a law enforcement agency that repair of the  
26 defective equipment was made before the appearance date on the  
27 citation.

28 (10) A default in the payment of a civil fine or costs ordered  
29 under subsection (2), (3), or (4) or a justice system assessment

1 ordered under subsection (13), or an installment of the fine,  
2 costs, or assessment, may be collected by a means authorized for  
3 the enforcement of a judgment under chapter 40 of the revised  
4 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or  
5 under chapter 60 of the revised judicature act of 1961, 1961 PA  
6 236, MCL 600.6001 to 600.6098.

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

13 (12) The court may waive any civil fine, cost, or assessment  
14 against a person who received a civil infraction citation for a  
15 violation of section 710d if the person, before the appearance date  
16 on the citation, supplies the court with evidence of acquisition ~~7~~  
17 ~~purchase, or rental~~ of a child seating system meeting the  
18 requirements of section 710d **and evidence that the person has**  
19 **received education from a certified child passenger safety**  
20 **technician.**

21 (13) In addition to any civil fines or costs ordered to be  
22 paid under this section, the judge or district court magistrate  
23 shall order the defendant to pay a justice system assessment of  
24 \$40.00 for each civil infraction determination, except for a  
25 parking violation or a violation for which the total fine and costs  
26 imposed are \$10.00 or less. Upon payment of the assessment, the  
27 clerk of the court shall transmit the assessment collected to the  
28 state treasury to be deposited into the justice system fund created  
29 in section 181 of the revised judicature act of 1961, 1961 PA 236,

1 MCL 600.181. An assessment levied under this subsection is not a  
2 civil fine for purposes of section 909.

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

9 (15) If a person has received a citation for a violation of  
10 section 328(1) for failing to produce a certificate of insurance  
11 under section 328(2), the court may waive the fee described in  
12 section 328(3)(c) and shall waive any fine, costs, and any other  
13 fee or assessment otherwise authorized under this act upon receipt  
14 of verification by the court that the person, before the appearance  
15 date on the citation, produced valid proof of insurance that was in  
16 effect at the time the violation of section 328(1) occurred.  
17 Insurance obtained subsequent to the time of the violation does not  
18 make the person eligible for a waiver under this subsection.

19 (16) If a person is determined to be responsible or  
20 responsible "with explanation" for a civil infraction under this  
21 act or a local ordinance substantially corresponding to a provision  
22 of this act and the civil infraction arises out of the ownership or  
23 operation of a commercial quadricycle, he or she shall be ordered  
24 to pay costs as provided in subsection (4) and a civil fine of not  
25 more than \$500.00.

26 (17) As used in this section, "moving violation" means an act  
27 or omission prohibited under this act or a local ordinance  
28 substantially corresponding to this act that involves the operation  
29 of a motor vehicle and for which a fine may be assessed.

1           Enacting section 1. This amendatory act takes effect 180 days  
2 after the date it is enacted into law.