



HOUSE BILL No. 5567

April 11, 2000, Introduced by Rep. Patterson and referred to the Committee on Family and Civil Law.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 320a and 907 (MCL 257.320a and 257.907),
section 320a as amended by 1999 PA 40 and section 907 as amended
by 1998 PA 105.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 320a. (1) The secretary of state, within 10 days after
2 the receipt of a properly prepared abstract from this or another
3 state, shall record the date of conviction, civil infraction
4 determination, or probate court disposition, and the number of
5 points for each, based on the following formula, except as other-
6 wise provided in this section and section 629c:

7 (a) Manslaughter, negligent homicide, or a felony
8 resulting from the operation of a motor vehicle, ORV,
9 or snowmobile..... 6 points

- 1 (b) A violation of section 625(1), (4), (5), or
 2 (7), beginning October 1, 2000, section 81134 or
 3 82127(1) of the natural resources and environmental
 4 protection act, 1994 PA 451, MCL 324.81134 and
 5 324.82127, or a law or ordinance substantially corre-
 6 sponding to section 625(1), (4), (5), or (7) or, begin-
 7 ning October 1, 2000, section 81134 or 82127(1) of the
 8 natural resources and environmental protection act,
 9 1994 PA 451, MCL 324.81134 and 324.82127..... 6 points
- 10 (c) Failing to stop and disclose identity at the
 11 scene of an accident when required by law..... 6 points
- 12 (d) Operating a motor vehicle in a reckless manner 6 points
- 13 (e) Violation of any law or ordinance pertaining
 14 to speed by exceeding the lawful maximum by more than
 15 15 miles per hour..... 4 points
- 16 (f) Violation of section 625(3) or (6), beginning
 17 October 1, 2000, section 81135 or 82127(3) of the natu-
 18 ral resources and environmental protection act, 1994 PA
 19 451, MCL 324.81135 and 324.82127, or a law or ordinance
 20 substantially corresponding to section 625(3) or (6)
 21 or, beginning October 1, 2000, section 81135 or
 22 82127(3) of the natural resources and environmental
 23 protection act, 1994 PA 451, MCL 324.81135 and
 24 324.82127..... 4 points
- 25 (g) Fleeing or eluding an officer..... 6 points
- 26 (h) Violation of section 626a or a law or
 27 ordinance substantially corresponding to section 626a.. 4 points

- 1 (i) 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 (j) 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 (k) Disobeying a traffic signal or stop sign, or
 10 improper passing..... 3 points
- 11 (l) Violation of section 624a, 624b, or a law or
 12 ordinance substantially corresponding to section 624a
 13 or 624b..... 2 points
- 14 (m) Violation of section 310e(4) or (6) or a law
 15 or ordinance substantially corresponding to section
 16 310e(4) or (6)..... 2 points
- 17 (n) All other moving violations pertaining to the
 18 operation of motor vehicles reported under this section 2 points
- 19 (o) A refusal by a person less than 21 years of
 20 age to submit to a preliminary breath test required by
 21 a peace officer under section 625a..... 2 points
- 22 (2) THE SECRETARY OF STATE SHALL ADD 1 POINT TO EACH CONVIC-
 23 TION, CIVIL INFRACTION DETERMINATION, OR PROBATE COURT DISPOSI-
 24 TION IF THE CITATION INDICATES THAT THE USE OF A CELLULAR TELE-
 25 PHONE CONTRIBUTED TO THE CAUSE OF THE VIOLATION.
- 26 (3) ~~-(2)-~~ Points shall not be entered for a violation of
 27 section 310e(14), 311, 625m, 658, 717, 719, 719a, or 723.

(4) ~~-(3)-~~ Points shall not be entered for bond forfeitures.

(5) ~~-(4)-~~ Points shall not be entered for overweight loads or for defective equipment.

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

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

(8) ~~-(7)-~~ If a person violates a speed restriction established by an executive order issued during a state of emergency as provided by 1982 PA 191, MCL 10.81 to 10.89, the secretary of state shall enter points for the violation pursuant to subsection (1).

(9) ~~-(8)-~~ The secretary of state shall enter 6 points upon the record of a person whose license is suspended or denied pursuant to section 625f. However, if a conviction, civil infraction determination, or probate court disposition results from the same incident, additional points for that offense shall not be entered.

(10) ~~-(9)-~~ If a Michigan driver commits a violation in another state that would be a civil infraction if committed in Michigan, and a conviction results solely because of the failure

1 of the Michigan driver to appear in that state to contest the
2 violation, upon receipt of the abstract of conviction by the sec-
3 retary of state, the violation shall be noted on the driver's
4 record, but no points shall be assessed against his or her
5 driver's license.

6 Sec. 907. (1) A violation of this act, or a local ordinance
7 substantially corresponding to a provision of this act, which is
8 designated a civil infraction shall not be considered a lesser
9 included offense of a criminal offense.

10 (2) If a person is determined pursuant to sections 741 to
11 750 to be responsible or responsible "with explanation" for a
12 civil infraction under this act or a local ordinance substan-
13 tially corresponding to a provision of this act, the judge, dis-
14 trict court referee, or district court magistrate may order the
15 person to pay a civil fine of not more than \$100.00 and costs as
16 provided in subsection (4). HOWEVER, IF IT IS DETERMINED THAT
17 THE USE OF A CELLULAR TELEPHONE CONTRIBUTED TO THE CAUSE OF THE
18 VIOLATION, THE CIVIL FINE ORDERED UNDER THIS SUBSECTION SHALL BE
19 INCREASED BY \$25.00. However, for a violation of
20 section 674(1)(s) or a local ordinance substantially correspond-
21 ing to section 674(1)(s), the person shall be ordered to pay
22 costs as provided in subsection (4) and a civil fine of not less
23 than \$50.00 or more than \$100.00. For a violation of section 328
24 or 710d, the civil fine ordered under this subsection shall not
25 exceed \$10.00. For a violation of section 710e, the civil fine
26 and court costs ordered under this subsection shall be \$25.00.
27 For a violation of section 682 or a local ordinance substantially

1 corresponding to section 682, the person shall be ordered to pay
2 costs as provided in subsection (4) and a civil fine of not less
3 than \$100.00 or more than \$500.00. Permission may be granted for
4 payment of a civil fine and costs to be made within a specified
5 period of time or in specified installments, but unless permis-
6 sion is included in the order or judgment, the civil fine and
7 costs shall be payable immediately.

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

14 (4) If a civil fine is ordered to be paid under
15 subsection (2) or (3), the judge, district court referee, or dis-
16 trict court magistrate shall summarily tax and determine the
17 costs of the action, which shall not be limited to the costs tax-
18 able in ordinary civil actions, and may include all expenses,
19 direct and indirect, to which the plaintiff has been put in con-
20 nection with the civil infraction, up to the entry of judgment.
21 Except in a civil infraction for a parking violation, costs of
22 not less than \$5.00 shall be ordered. Costs shall not be ordered
23 in excess of \$100.00. Except as otherwise provided by law, costs
24 shall be payable to the general fund of the plaintiff.

25 (5) In addition to a civil fine and costs ordered under
26 subsection (2) or (3) and subsection (4), the judge, district
27 court referee, or district court magistrate may order the person

1 to attend and complete a program of treatment, education, or
2 rehabilitation.

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

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

17 (8) The state court administrator shall annually publish and
18 distribute to each district and court a recommended range of
19 civil fines and costs for first-time civil infractions. This
20 recommendation shall not be binding upon the courts having juris-
21 diction over civil infractions but is intended to act as a norma-
22 tive guide for judges, district court referees, and district
23 court magistrates and a basis for public evaluation of dispari-
24 ties in the imposition of civil fines and costs throughout the
25 state.

26 (9) If a person has received a civil infraction citation for
27 defective safety equipment on a vehicle under section 683, the

1 court shall waive a civil fine and costs, upon receipt of
2 certification by a law enforcement agency that repair of the
3 defective equipment was made before the appearance date on the
4 citation.

5 (10) A default in the payment of a civil fine or costs
6 ordered under subsection (2), (3), or (4) or an installment of
7 the fine or costs may be collected by a means authorized for the
8 enforcement of a judgment under chapter 40 of the revised judica-
9 ture act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or under
10 chapter 60 of the revised judicature act of 1961, 1961 PA 236,
11 MCL 600.6001 to 600.6098.

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

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

24 (13) In addition to any fines and costs ordered to be paid
25 under this section, the judge, district court referee, or dis-
26 trict court magistrate shall levy an assessment of \$5.00 for each
27 civil infraction determination, except for a parking violation or

1 a violation for which the total fine and costs imposed are \$10.00
2 or less. Upon payment of the assessment, the clerk of the court
3 shall transmit the assessment levied to the state treasury to be
4 deposited into the Michigan justice training fund. An assessment
5 levied under this subsection shall not be considered a civil fine
6 for purposes of section 909.

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

13 (15) THE SECRETARY OF STATE, IN CONJUNCTION WITH THE DEPART-
14 MENT OF STATE POLICE, SHALL REPORT TO THE SENATE AND HOUSE STAND-
15 ING COMMITTEES ON TRANSPORTATION 2 YEARS AFTER THE EFFECTIVE DATE
16 OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION ON THE NUMBER OF
17 CASES IN WHICH A CELLULAR TELEPHONE CONTRIBUTED TO A VIOLATION OF
18 THIS ACT FOR WHICH A FINE WAS IMPOSED UNDER THIS SECTION.