

HOUSE BILL No. 5364

December 10, 2003, Introduced by Reps. Daniels, Richardville, Zelenko, Woodward, Reeves, Waters, Stallworth, Phillips, Hood, Hunter, Accavitti, Smith, Cheeks, Paletko, Murphy, Hopgood, Elkins, Lipsey, Bieda, LaSata, Gillard, Meisner, Gleason, Woronchak, Tobocman, Gielegem, Farrah, Hardman and McConico and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending sections 252g and 907 (MCL 257.252g and 257.907), section 252g as added by 1981 PA 104 and section 907 as amended by 2003 PA 73, and by adding sections 252h, 252i, 252j, 252k, 252l, 252m, 252n, 252o, 252p, 252q, and 252r; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 252g. (1) A public sale for a vehicle which has been
2 deemed abandoned under section ~~252a~~ **252h** or ~~252e~~ **252i** or
3 removed under section ~~252d~~ **252j** shall be conducted in the
4 following manner:

5 (a) It shall be under the control of the police agency or
6 agent of the police agency.

7 (b) It shall be open to the public and consist of open

1 auction bidding or bidding by sealed bids. If sealed bids are
2 received, the person submitting the bid shall receive a receipt
3 for the bid from the police agency or agent of the police
4 agency.

5 (c) ~~Except as provided by sections 252a(9) and 252d(7), it~~
6 It shall be held not less than 5 days after public notice of the
7 sale has been published.

8 (d) The public notice shall be published at least once in a
9 newspaper having a general circulation within the county in which
10 the vehicle was abandoned. The public notice shall give a
11 description of the vehicle for sale and shall state the time,
12 date, and location of the sale.

13 (2) The money received from the public sale of the vehicle
14 shall be applied in the following order of priority:

15 (a) Towing and storage charges, **and costs of advertising and**
16 **of publication of legal notices.**

17 (b) Expenses incurred by the police agency.

18 (c) To the secured party, if any, in the amount of the debt
19 outstanding on the vehicle.

20 (d) Remainder to the owner. A reasonable attempt shall be
21 made to mail the remainder to the registered owner. If delivery
22 of the remainder cannot be accomplished, the remainder shall
23 become the property of the unit of government that the police
24 agency represents.

25 (3) If there are no bidders on the vehicle, the police agency
26 may do 1 of the following:

27 (a) Turn the vehicle over to the towing firm to satisfy

1 charges against the vehicle.

2 (b) Obtain title to the vehicle for the police agency or the
3 unit of government the police agency represents, by doing the
4 following:

5 (i) Paying the towing and storage charges.

6 (ii) Applying for title to the vehicle.

7 (c) Hold another public sale pursuant to subsection (1).

8 (4) A person who acquires ownership of a vehicle under
9 subsection (1) or (3), which vehicle has been designated as a
10 distressed vehicle, shall make application for a salvage
11 certificate of title within 15 days after obtaining the vehicle.

12 (5) Upon disposition of the vehicle, the police agency shall
13 cancel ~~the~~ any entry into the law enforcement information
14 network concerning that vehicle.

15 (6) The surrender of a vehicle to a towing firm under this
16 section is not a bar to the recovery of actual costs by the
17 towing firm.

18 Sec. 252h. (1) A person shall not abandon a vehicle in any
19 of the following locations in this state:

20 (a) On a highway.

21 (b) On private or public property in general view of the
22 public.

23 (2) A person who violates subsection (1) is responsible for a
24 civil infraction.

25 (3) As used in this section and sections 252g through 252s:

26 (a) "Abandon a vehicle" or "abandoned vehicle" means to allow
27 a vehicle to remain, or a vehicle that has remained, on public

1 property or private property or a highway for a period of 48
2 hours after a law enforcement agency or other governmental agency
3 designated by the law enforcement agency has affixed a written
4 notice to the vehicle indicating that the vehicle is considered
5 abandoned and may be towed at owner's expense.

6 (b) "Highway" means a state trunk line highway as described
7 in section 1 of 1951 PA 51, MCL 247.651.

8 (c) "Vehicle" means all or any part of a motor vehicle.

9 Sec. 252i. (1) A law enforcement agency may immediately
10 remove a vehicle abandoned in violation of subsection (1) if the
11 vehicle is hazardous and dilapidated.

12 (2) This section does not apply to a vehicle located on
13 property that belongs to the owner of the abandoned vehicle.

14 Sec. 252j. The owner or lessor of privately owned real
15 property or his or her agent, or a law enforcement agency in the
16 case of public property, may cause an abandoned vehicle that is
17 left upon the property without permission to be towed or removed
18 by a towing service. The owner, lessor, agent, or law
19 enforcement agency shall not be liable for the cost of that
20 towing or removal, or for transportation and storage of the
21 abandoned vehicle, or for damage caused by removing the abandoned
22 motor vehicle without the permission of the owner of the
23 abandoned vehicle if all of the following conditions are met:

24 (a) The towing service stores the vehicle at the site of the
25 towing service's place of business, which site is open for the
26 purpose of redemption of vehicles during the same hours that the
27 towing service is open for towing services.

1 (b) Not more than 30 minutes after completing the towing or
2 removal, the towing service notifies the law enforcement agency
3 having jurisdiction over the location where the towing or removal
4 occurred of the year, make, model, color, VIN number, and license
5 plate number of the vehicle and obtains and records the name of
6 the person at the law enforcement agency to whom that information
7 was reported.

8 (c) If the owner or lessor or other legally authorized person
9 entitled to possession of the vehicle arrives at the location
10 prior to the actual towing or removal of the vehicle, the vehicle
11 shall be disconnected from the tow truck and that person may
12 remove the vehicle without interference upon the payment of a
13 reasonable service fee, for which a receipt shall be given.

14 Sec. 252k. (1) It is presumed that the last registered
15 owner of the vehicle is responsible for abandoning the vehicle
16 and is liable for all towing or removal, storage, and processing
17 charges and collection costs, less any amounts realized in the
18 disposal of the vehicle. The last registered owner's liability
19 for storage fees shall not exceed 90 days' storage fees. The
20 presumption under this subsection may be rebutted by a showing
21 that, prior to the time the vehicle was towed or removed, the
22 last registered owner provided the towing service with a copy of
23 the reassigned title and a photocopy of the operator's license of
24 the purchaser or transferee of that vehicle.

25 (2) If the presumption established under this section is
26 rebutted, the person to whom the vehicle was sold or transferred
27 is liable for all towing or removal, transportation, storage, and

1 processing charges and collection costs.

2 Sec. 252/. Except as provided in section 252m, a property
3 owner or lessor of privately owned real property shall post a
4 notice that meets all of the following requirements before towing
5 or removing a vehicle from that private property without the
6 consent of the owner or other legally authorized person in
7 control of the vehicle:

8 (a) The notice shall be prominently displayed at a point of
9 entry for the vehicular access to the property. If there are no
10 curbs or access barriers, not less than 1 notice shall be posted
11 for each 100 feet of lot frontage.

12 (b) The notice clearly indicates in reflective letters not
13 less than 2 inches high on a contrasting background that
14 unauthorized vehicles will be towed away at the owner's expense.

15 (c) The notice provides the name and current telephone number
16 of the towing service that would tow or remove the vehicle.

17 (d) The notice is permanently installed with the bottom of
18 the notice not less than 4 feet above the ground and is
19 continuously maintained on the property for not less than 24
20 hours before any vehicle is towed or removed.

21 Sec. 252m. Section 252/ does not apply to either of the
22 following:

23 (a) Real property that is appurtenant to and obviously a part
24 of a single-family residence.

25 (b) Instances where notice is personally given to the owner
26 or other legally authorized person in control of the vehicle that
27 the area in which that vehicle is parked is reserved or otherwise

1 unavailable to unauthorized vehicles and that the vehicle is
2 subject to towing or removal from the privately owned property
3 without the consent of the owner or other legally authorized
4 person in control of the vehicle.

5 Sec. 252n. Except upon the express written instruction of
6 the owner or person in charge of privately owned real property
7 upon which a vehicle is alleged to be trespassing, a vehicle
8 shall not be towed or removed from privately owned real property.

9 Sec. 252o. A law enforcement agency that has jurisdiction
10 over the location of a vehicle may authorize the towing or
11 removal and impoundment of the vehicle by a towing service if the
12 vehicle is hazardous and dilapidated.

13 Sec. 252p. The owner of a vehicle is liable for the costs
14 associated with the towing or removal of, transportation and
15 storage of, and damage to a vehicle that is towed or removed from
16 any property, if the conditions set forth in sections 252j, 252l,
17 and 252m are satisfied.

18 Sec. 252q. Any time before a vehicle is sold at public sale
19 or disposed of as provided in section 252g, the owner,
20 lienholder, or other person legally entitled to the possession of
21 the vehicle may reclaim the vehicle by presenting to the law
22 enforcement agency having custody of the vehicle proof of
23 ownership or proof of the right to possession of the vehicle.
24 However, a vehicle shall not be released to the owner,
25 lienholder, or other person under this section until all towing
26 or removal, transportation, storage, and processing charges have
27 been paid.

1 **Sec. 252r. In an action to collect towing or removal,**
2 **storage, and processing charges that remain unpaid after**
3 **disposition of a vehicle towed or removed under sections 252i and**
4 **252j, the towing service may recover reasonable collection costs**
5 **from the owner or lessor of the vehicle.**

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 750
11 to be responsible or responsible "with explanation" for a civil
12 infraction under this act or a local ordinance substantially
13 corresponding to a provision of this act, the judge or district
14 court magistrate may order the person to pay a civil fine of not
15 more than \$100.00 and costs as provided in subsection (4).
16 However, for a violation of section 674(1)(s) or a local
17 ordinance substantially corresponding to section 674(1)(s), the
18 person shall be ordered to pay costs as provided in subsection
19 (4) and a civil fine of not less than \$100.00 or more than
20 \$250.00. **For a violation of section 252i, or a local ordinance**
21 **substantially corresponding to section 252i, the civil fine**
22 **ordered under this subsection shall be \$300.00.** For a violation
23 of section 328 or 710d, the civil fine ordered under this
24 subsection shall not exceed \$10.00. For a violation of section
25 710e, the civil fine and court costs ordered under this
26 subsection shall be \$25.00. For a violation of section 682 or a
27 local ordinance substantially corresponding to section 682, the

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

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

20 (4) If a civil fine is ordered under subsection (2) or (3),
21 the judge or district court magistrate shall summarily tax and
22 determine the costs of the action, which are not limited to the
23 costs taxable in ordinary civil actions, and may include all
24 expenses, direct and indirect, to which the plaintiff has been
25 put in connection with the civil infraction, up to the entry of
26 judgment. Costs shall not be ordered in excess of \$100.00. A
27 civil fine ordered under subsection (2) or (3) shall not be

1 waived unless costs ordered under this subsection are waived.
2 Except as otherwise provided by law, costs are payable to the
3 general fund of the plaintiff.

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

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

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

24 (8) The state court administrator shall annually publish and
25 distribute to each district and court a recommended range of
26 civil fines and costs for first-time civil infractions. This
27 recommendation is not binding upon the courts having jurisdiction

1 over civil infractions but is intended to act as a normative
2 guide for judges and district court magistrates and a basis for
3 public evaluation of disparities in the imposition of civil fines
4 and costs throughout the state.

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

11 (10) A default in the payment of a civil fine or costs
12 ordered under subsection (2), (3), or (4) or a justice system
13 assessment ordered under subsection (14), or an installment of
14 the fine, costs, or assessment, may be collected by a means
15 authorized for the enforcement of a judgment under chapter 40 of
16 the revised judicature act of 1961, 1961 PA 236, MCL 600.4001 to
17 600.4065, or under chapter 60 of the revised judicature act of
18 1961, 1961 PA 236, MCL 600.6001 to 600.6098.

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

25 (12) The court shall waive any civil fine, cost, or
26 assessment against a person who received a civil infraction
27 citation for a violation of section 710d if the person, before

1 the appearance date on the citation, supplies the court with
2 evidence of acquisition, purchase, or rental of a child seating
3 system meeting the requirements of section 710d.

4 (13) Until October 1, 2003, in addition to any civil fines
5 and costs ordered to be paid under this section, the judge or
6 district court magistrate shall levy an assessment of \$5.00 for
7 each civil infraction determination, except for a parking
8 violation or a violation for which the total fine and costs
9 imposed are \$10.00 or less. An assessment paid before October 1,
10 2003 shall be transmitted by the clerk of the court to the state
11 treasurer to be deposited into the Michigan justice training
12 fund. An assessment ordered before October 1, 2003 but collected
13 on or after October 1, 2003 shall be transmitted by the clerk of
14 the court to the state treasurer for deposit in the justice
15 system fund created in section 181 of the revised judicature act
16 of 1961, 1961 PA 236, MCL 600.181. An assessment levied under
17 this subsection is not a civil fine for purposes of section 909.

18 (14) Effective October 1, 2003, in addition to any civil
19 fines and costs ordered to be paid under this section, the judge
20 or district court magistrate shall order the defendant to pay a
21 justice system assessment of \$40.00 for each civil infraction
22 determination, except for a parking violation or a violation for
23 which the total fine and costs imposed are \$10.00 or less. Upon
24 payment of the assessment, the clerk of the court shall transmit
25 the assessment collected to the state treasury to be deposited
26 into the justice system fund created in section 181 of the
27 revised judicature act of 1961, 1961 PA 236, MCL 600.181. An

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

3 (15) 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
7 citation, produced a valid registration certificate that was
8 valid on the date the violation of section 223 occurred.

9 Enacting section 1. Sections 252a, 252b, 252c, 252d, 252e,
10 and 252f of the Michigan vehicle code, 1949 PA 300, MCL 257.252a,
11 257.252b, 257.252c, 257.252d, 257.252e, and 257.252f, are
12 repealed.