

# HOUSE BILL No. 4142

February 5, 2015, Introduced by Reps. Goike, Potvin, Lauwers, Victory, Yonker, Cole, Brett Roberts, Dianda and Bumstead and referred to the Committee on Transportation and Infrastructure.

A bill to amend 1949 PA 300, entitled "Michigan vehicle code," by amending section 724 (MCL 257.724), as amended by 2012 PA 498.

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

1           Sec. 724. (1) A police officer, a peace officer, or an  
2 authorized agent of the state transportation department or a county  
3 road commission having reason to believe that the weight of a  
4 vehicle and load is unlawful may require the driver to stop and  
5 submit to a weighing of the vehicle by either portable or  
6 stationary scales approved and sealed as a legal weighing device by  
7 a qualified person using testing equipment certified or approved by  
8 the department of agriculture and rural development as a legal  
9 weighing device and may require that the vehicle be driven to the  
10 nearest weigh station of the state transportation department for  
11 the purpose of allowing a police officer, peace officer, or agent

1 of the state transportation department or county road commission to  
2 determine whether the vehicle is loaded in conformity with this  
3 chapter.

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

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

21 (3) Subject to subsection (4), an owner of a vehicle or a  
22 lessee of the vehicle of an owner-operator, or other person, who  
23 causes or allows a vehicle to be loaded and driven or moved on a  
24 highway when the weight of that vehicle violates section 722 is  
25 responsible for a civil infraction and shall pay a civil fine in an  
26 amount equal to 3 cents per pound for each pound of excess load  
27 over 1,000 pounds when the excess is 2,000 pounds or less; 6 cents

1 per pound of excess load when the excess is over 2,000 pounds but  
2 not over 3,000 pounds; 9 cents per pound for each pound of excess  
3 load when the excess is over 3,000 pounds but not over 4,000  
4 pounds; 12 cents per pound for each pound of excess load when the  
5 excess is over 4,000 pounds but not over 5,000 pounds; 15 cents per  
6 pound for each pound of excess load when the excess is over 5,000  
7 pounds but not over 10,000 pounds; and 20 cents per pound for each  
8 pound of excess load when the excess is over 10,000 pounds. If a  
9 person operates a vehicle in violation of increased axle loading  
10 maximums provided for under section 722(13), the owner or lessee of  
11 the vehicle is responsible for a civil infraction and shall pay the  
12 civil fine under this subsection that applies to the amount of  
13 weight by which the vehicle exceeds the original loading maximum.

14 (4) ~~Beginning January 1, 2006, if~~ **IF** the court determines that  
15 the motor vehicle or the combination of vehicles was operated in  
16 violation of this section, the court shall impose a fine as  
17 follows:

18 (a) If the court determines that the motor vehicle or the  
19 combination of vehicles was operated in such a manner that the  
20 gross weight of the vehicle or the combination of vehicles would  
21 not be lawful by a proper distribution of the load upon all the  
22 axles of the vehicle or the combination of vehicles, the court  
23 shall impose a fine for the violation according to the schedule  
24 provided for in subsection (3).

25 (b) If the court determines that the motor vehicle or the  
26 combination of vehicles would be lawful by a proper distribution of  
27 the load upon all of the axles of the vehicle or the combination of

1 vehicles, but that 1 or more axles of the vehicle exceeded the  
2 maximum allowable axle weight by more than 1,000 pounds but less  
3 than 4,000 pounds, the court ~~may~~**SHALL** impose a misload fine of  
4 \$200.00 per axle. Not more than 3 axles shall be used in  
5 calculating the fine to be imposed under this subdivision. This  
6 subdivision does not apply to a vehicle subject to the maximum  
7 loading provisions of section 722(12) or to a vehicle for which a  
8 fine as calculated under the schedule in subsection (3) would be  
9 less than the fine as calculated under this subsection.

10 (c) If the court determines that the motor vehicle or the  
11 combination of vehicles would meet the loading conditions specified  
12 in a special permit that was issued under section 725 by a proper  
13 distribution of the load upon all of the axles of the vehicle or  
14 the combination of vehicles, but that 1 or more axles of the  
15 vehicle exceeded the permitted axle weight by 1,000 pounds or less,  
16 the court shall impose a misload fine of \$200.00 per axle. **IF THE**  
17 **COURT DETERMINES THAT THE MOTOR VEHICLE OR THE COMBINATION OF**  
18 **VEHICLES WOULD MEET THE LOADING CONDITIONS SPECIFIED IN A SPECIAL**  
19 **PERMIT THAT WAS ISSUED UNDER SECTION 725 BY A PROPER DISTRIBUTION**  
20 **OF THE LOAD UPON ALL OF THE AXLES OF THE VEHICLE OR THE COMBINATION**  
21 **OF VEHICLES, BUT THAT 1 OR MORE AXLES OF THE VEHICLE EXCEEDED THE**  
22 **PERMITTED AXLE WEIGHT BY MORE THAN 1,000 POUNDS, THE COURT SHALL**  
23 **IMPOSE A FINE FOR THE VIOLATION ACCORDING TO THE SCHEDULE PROVIDED**  
24 **IN SUBSECTION (3) FOR THE AMOUNT OF POUNDS EXCEEDING THE PERMITTED**  
25 **AXLE WEIGHT.** Not more than 3 axles shall be used in calculating the  
26 fine to be imposed under this subdivision. If the court determines  
27 that the load was misloaded, the conditions of the special permit

1 remain valid. The imposition of a fine does not void the special  
2 permit.

3 (d) If the court determines that the motor vehicle or the  
4 combination of vehicles would be lawful by a proper distribution of  
5 the load upon all of the axles of the vehicle or the combination of  
6 vehicles, but that 1 or more axles of the vehicle exceeded the  
7 permitted axle weight by ~~more than~~ **AT LEAST 4,000 pounds BUT NO**  
8 **MORE THAN 8,000 POUNDS**, the court shall impose a **MISLOAD** fine ~~for~~  
9 ~~the violation according to the schedule provided in subsection (3).~~  
10 **OF \$400.00 PER AXLE. NOT MORE THAN 3 AXLES SHALL BE USED IN**  
11 **CALCULATING THE FINE TO BE IMPOSED UNDER THIS SUBDIVISION.**

12 (E) IF THE COURT DETERMINES THAT THE MOTOR VEHICLE OR THE  
13 COMBINATION OF VEHICLES WOULD BE LAWFUL BY A PROPER DISTRIBUTION OF  
14 THE LOAD UPON ALL OF THE AXLES OF THE VEHICLE OR THE COMBINATION OF  
15 VEHICLES, BUT THAT 1 OR MORE AXLES OF THE VEHICLE EXCEEDED THE  
16 PERMITTED AXLE WEIGHT BY MORE THAN 8,000 POUNDS, THE COURT SHALL  
17 IMPOSE A FINE FOR THE VIOLATION ACCORDING TO THE SCHEDULE PROVIDED  
18 IN SUBSECTION (3).

19 (5) A driver or owner of a commercial vehicle with other  
20 vehicles or trailers in combination, a truck or truck tractor, a  
21 truck or truck tractor with other vehicles in combination, or any  
22 special mobile equipment who fails to stop at or bypasses any  
23 scales or weighing station is guilty of a misdemeanor.

24 (6) An agent or authorized representative of the state  
25 transportation department or a county road commission shall not  
26 stop a truck or vehicle in movement upon a road or highway within  
27 the state for any purpose, unless the agent or authorized

1 representative is driving a duly marked vehicle, clearly showing  
2 and denoting the branch of government represented.

3 (7) A driver or owner of a vehicle who knowingly fails to stop  
4 when requested or ordered to do so and submit to a weighing by a  
5 police officer, a peace officer, or an authorized agent of the  
6 state transportation department, or a representative or agent of a  
7 county road commission, authorized to require the driver to stop  
8 and submit to a weighing of the vehicle and load by means of a  
9 portable scale, is guilty of a misdemeanor punishable by  
10 imprisonment for not more than 90 days or a fine of not more than  
11 \$100.00, or both. A driver or person who dumps his or her load when  
12 ordered to submit to a weigh or who otherwise attempts to commit or  
13 commits an act to avoid a vehicle weigh is in violation of this  
14 section.

15 Enacting section 1. This amendatory act takes effect 90 days  
16 after the date it is enacted into law.