

HOUSE BILL No. 4951

September 13, 2017, Introduced by Reps. Cox, Lucido, Bizon, Santana, Durhal, Canfield, Yaroach, Yanez, Marino, Noble, Allor, Hughes, VerHeulen, Ellison and Love and referred to the Committee on Appropriations.

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

8 (2) A driver transporting a child as required under subsection

1 (1) shall position the child in the child restraint system in a
2 rear seat, if the vehicle is equipped with a rear seat. If all
3 available rear seats are occupied by children, ~~less than 4 years of~~
4 ~~age,~~ then a child ~~less than 4 years of age~~ may be positioned in the
5 child restraint system in the front seat. A child in a rear-facing
6 child restraint system may be placed in the front seat only if the
7 front passenger air bag is deactivated. **IN ADDITION, A CHILD SHALL**
8 **BE SEATED AND POSITIONED AS FOLLOWS:**

9 (A) IF THE CHILD WEIGHS NOT MORE THAN 30 POUNDS OR IS LESS
10 THAN 2 YEARS OF AGE, IN A REAR-FACING CHILD SEAT.

11 (B) IF THE CHILD WEIGHS NOT LESS THAN 30 POUNDS BUT LESS THAN
12 50 POUNDS, OR IS 2 YEARS OF AGE OR OLDER BUT LESS THAN 5 YEARS OF
13 AGE, IN A FORWARD-FACING CHILD SEAT.

14 (C) IF THE CHILD IS NOT MORE THAN 57 INCHES TALL AND WEIGHS 50
15 POUNDS OR MORE, OR IS 5 YEARS OF AGE OR OLDER BUT LESS THAN 8 YEARS
16 OF AGE, IN A BOOSTER SEAT.

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

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

23 (5) Points shall not be assessed under section 320a for a
24 violation of this section. An abstract required under section 732
25 shall not be submitted to the secretary of state regarding a
26 violation of this section.

27 (6) The secretary of state may exempt by rules promulgated

1 under the administrative procedures act of 1969, 1969 PA 306, MCL
2 24.201 to 24.328, a class of children from the requirements of this
3 section, if the secretary of state determines that the use of the
4 child restraint system required under subsection (1) is impractical
5 because of physical unfitness, a medical problem, or body size. The
6 secretary of state may specify alternate means of protection for
7 children exempted under this subsection.

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

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

11 (b) A bus.

12 (c) A motorcycle.

13 (d) A moped.

14 (e) A motor vehicle if the operator or passenger possesses a
15 written verification from a physician that the operator or
16 passenger is unable to wear a safety belt for physical or medical
17 reasons.

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

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

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

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

27 (3) Each operator and front seat passenger of a motor vehicle

1 operated on a street or highway in this state shall wear a properly
2 adjusted and fastened safety belt, except ~~as follows:~~

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

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

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

14 (5) Except as otherwise provided in ~~subsection (3) (b),~~ **SECTION**
15 **710D**, each operator of a motor vehicle transporting a child 4 years
16 of age or older but less than 16 years of age in a motor vehicle
17 shall secure the child in a properly adjusted and fastened safety
18 belt and seated as required under this section. If the motor
19 vehicle is transporting more children than there are safety belts
20 available for use, all safety belts available in the motor vehicle
21 are being utilized in compliance with this section, and the
22 operator and all front seat passengers comply with subsection (3),
23 the operator of a motor vehicle transporting a child 8 years of age
24 or older but less than 16 years of age for which there is not an
25 available safety belt is in compliance with this subsection if that
26 child is seated in other than the front seat of the motor vehicle.
27 However, if that motor vehicle is a pickup truck without an

1 extended cab or jump seats, and all safety belts in the front seat
2 are being used, the operator may transport the child in the front
3 seat without a safety belt.

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

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

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

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

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

25 ~~— (11) The secretary of state shall engage an independent~~
26 ~~organization to conduct a 3-year study to determine the effect that~~
27 ~~the primary enforcement of this section has on the number of~~

1 ~~incidents of police harassment of motor vehicle operators. The~~
2 ~~organization that conducts the study shall submit a report to the~~
3 ~~legislature not later than June 30, 2001 and an annual report not~~
4 ~~later than June 30 each year thereafter.~~

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

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

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

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

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

1 object, the civil fine ordered under this section shall be
2 increased by \$25.00 but the total civil fine shall not exceed
3 \$100.00. However, for a violation of section 602b, the person shall
4 be ordered to pay costs as provided in subsection (4) and a civil
5 fine of \$100.00 for a first offense and \$200.00 for a second or
6 subsequent offense. For a violation of section 674(1)(s) or a local
7 ordinance substantially corresponding to section 674(1)(s), the
8 person shall be ordered to pay costs as provided in subsection (4)
9 and a civil fine of not less than \$100.00 or more than \$250.00. For
10 a violation of section 676c, the person shall be ordered to pay
11 costs as provided in subsection (4) and a civil fine of \$1,000.00.
12 For a violation of section 328, the civil fine ordered under this
13 subsection shall be not more than \$50.00. For a violation of
14 section 710d, the civil fine ordered under this subsection shall
15 not exceed \$10.00, subject to subsection (12). For a violation of
16 section 710e, the civil fine and court costs ordered under this
17 subsection shall be \$25.00. For a violation of section 682 or a
18 local ordinance substantially corresponding to section 682, the
19 person shall be ordered to pay costs as provided in subsection (4)
20 and a civil fine of not less than \$100.00 or more than \$500.00. For
21 a violation of section 240, the civil fine ordered under this
22 subsection shall be \$15.00. For a violation of section 252a(1), the
23 civil fine ordered under this subsection shall be \$50.00. For a
24 violation of section 676a(3), the civil fine ordered under this
25 section shall be not more than \$10.00. For a first violation of
26 section 319f(1), the civil fine ordered under this section shall be
27 not less than \$2,500.00 or more than \$2,750.00; for a second or

1 subsequent violation, the civil fine shall be not less than
2 \$5,000.00 or more than \$5,500.00. For a violation of section
3 319g(1)(a), the civil fine ordered under this section shall be not
4 more than \$10,000.00. For a violation of section 319g(1)(g), the
5 civil fine ordered under this section shall be not less than
6 \$2,750.00 or more than \$25,000.00. Permission may be granted for
7 payment of a civil fine and costs to be made within a specified
8 period of time or in specified installments, but unless permission
9 is included in the order or judgment, the civil fine and costs
10 shall be payable immediately.

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

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

1 plaintiff.

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

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

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

21 (8) The state court administrator shall annually publish and
22 distribute to each district and court a recommended range of civil
23 fines and costs for first-time civil infractions. This
24 recommendation is not binding upon the courts having jurisdiction
25 over civil infractions but is intended to act as a normative guide
26 for judges and district court magistrates and a basis for public
27 evaluation of disparities in the imposition of civil fines and

1 costs throughout the state.

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

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

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

22 (12) The court may waive any civil fine, cost, or assessment
23 against a person who received a civil infraction citation for a
24 violation of section 710d if the person, before the appearance date
25 on the citation, supplies the court with evidence of acquisition ~~7~~
26 ~~purchase, or rental~~ of a child seating system meeting the
27 requirements of section 710d **AND EVIDENCE THAT THE PERSON HAS**

1 **RECEIVED EDUCATION FROM A CERTIFIED CHILD PASSENGER SAFETY**
2 **TECHNICIAN.**

3 (13) In addition to any civil fines or costs ordered to be
4 paid under this section, the judge or district court magistrate
5 shall order the defendant to pay a justice system assessment of
6 \$40.00 for each civil infraction determination, except for a
7 parking violation or a violation for which the total fine and costs
8 imposed are \$10.00 or less. Upon payment of the assessment, the
9 clerk of the court shall transmit the assessment collected to the
10 state treasury to be deposited into the justice system fund created
11 in section 181 of the revised judicature act of 1961, 1961 PA 236,
12 MCL 600.181. An assessment levied under this subsection is not a
13 civil fine for purposes of section 909.

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

20 (15) If a person has received a citation for a violation of
21 section 328(1) for failing to produce a certificate of insurance
22 under section 328(2), the court may waive the fee described in
23 section 328(3)(c) and shall waive any fine, costs, and any other
24 fee or assessment otherwise authorized under this act upon receipt
25 of verification by the court that the person, before the appearance
26 date on the citation, produced valid proof of insurance that was in
27 effect at the time the violation of section 328(1) occurred.

1 Insurance obtained subsequent to the time of the violation does not
2 make the person eligible for a waiver under this subsection.

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

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

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