

SENATE BILL NO. 318

May 14, 2019, Introduced by Senator ZORN 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) **In a rear-facing child seat, if the child weighs less than**
17 **30 pounds or is less than 2 years of age.**

18 (b) **Unless subdivision (a) applies, in a forward-facing child**
19 **seat with a harness or a rear-facing child seat, if the child**
20 **weighs 30 pounds or more but less than 50 pounds, or is 2 years of**
21 **age or older but less than 5 years of age.**

22 (c) **Unless subdivision (a) or (b) applies, in a booster seat**
23 **or as required in subdivision (b), if the child is less than 57**
24 **inches tall and weighs 50 pounds or more, or is less than 11 years**
25 **of age.**

26 (d) **The size of the child must be in accordance with the child**
27 **restraint seat manufacturer's standards.**

28 (3) This section does not apply if the motor vehicle being
29 driven is a bus, school bus, taxicab, moped, motorcycle, or other

1 motor vehicle not required to be equipped with safety belts under
2 federal law or regulations.

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

5 (5) Points shall not be assessed under section 320a for a
6 violation of this section. An abstract required under section 732
7 shall not be submitted to the secretary of state regarding a
8 violation of this section.

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

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

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

20 (b) A bus.

21 (c) A motorcycle.

22 (d) A moped.

23 (e) A motor vehicle if the operator or passenger possesses a
24 written verification from a physician that the operator or
25 passenger is unable to wear a safety belt for physical or medical
26 reasons.

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

29 (g) A commercial or United States Postal Service vehicle that

1 makes frequent stops for the purpose of pickup or delivery of goods
2 or services.

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

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

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

10 ~~(a) A **that a** child who is less than 4-11 years of age shall be~~
11 ~~protected as required in section 710d.~~

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

17 (4) If there are more passengers than safety belts available
18 for use, and all safety belts in the motor vehicle are being
19 utilized in compliance with this section, the operator of the motor
20 vehicle is in compliance with this section.

21 (5) Except as otherwise provided in ~~subsection (3) (b),~~ **section**
22 **710d**, each operator of a motor vehicle transporting a child ~~4-11~~
23 years of age or older but less than 16 years of age in a motor
24 vehicle shall secure the child in a properly adjusted and fastened
25 safety belt and seated as required under this section. If the motor
26 vehicle is transporting more children than there are safety belts
27 available for use, all safety belts available in the motor vehicle
28 are being utilized in compliance with this section, and the
29 operator and all front seat passengers comply with subsection (3),

1 the operator of a motor vehicle transporting a child ~~8-11~~ years of
2 age or older but less than 16 years of age for which there is not
3 an available safety belt is in compliance with this subsection if
4 that child is seated in other than the front seat of the motor
5 vehicle. However, if that motor vehicle is a pickup truck without
6 an extended cab or jump seats, and all safety belts in the front
7 seat are being used, the operator may transport the child in the
8 front seat without a safety belt.

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

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

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

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

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

1 ~~(11) The secretary of state shall engage an independent~~
 2 ~~organization to conduct a 3-year study to determine the effect that~~
 3 ~~the primary enforcement of this section has on the number of~~
 4 ~~incidents of police harassment of motor vehicle operators. The~~
 5 ~~organization that conducts the study shall submit a report to the~~
 6 ~~legislature not later than June 30, 2001 and an annual report not~~
 7 ~~later than June 30 each year thereafter.~~

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

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

17 (13) ~~(14)~~ Points shall not be assessed under section 320a for
 18 a violation of this section.

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

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

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

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

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

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

28 (5) In addition to a civil fine and costs ordered under
29 subsection (2) or (3) and subsection (4) and the justice system

1 assessment ordered under subsection (13), the judge or district
2 court magistrate may order the person to attend and complete a
3 program of treatment, education, or rehabilitation.

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

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

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

26 (9) If a person has received a civil infraction citation for
27 defective safety equipment on a vehicle under section 683, the
28 court shall waive a civil fine, costs, and assessments upon receipt
29 of certification by a law enforcement agency that repair of the

1 defective equipment was made before the appearance date on the
2 citation.

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

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

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

25 (13) In addition to any civil fines or costs ordered to be
26 paid under this section, the judge or district court magistrate
27 shall order the defendant to pay a justice system assessment of
28 \$40.00 for each civil infraction determination, except for a
29 parking violation or a violation for which the total fine and costs

1 imposed are \$10.00 or less. Upon payment of the assessment, the
2 clerk of the court shall transmit the assessment collected to the
3 state treasury to be deposited into the justice system fund created
4 in section 181 of the revised judicature act of 1961, 1961 PA 236,
5 MCL 600.181. An assessment levied under this subsection is not a
6 civil fine 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 civil fine, costs, and
9 assessment, upon receipt of certification by a law enforcement
10 agency that the person, before the appearance date on the citation,
11 produced a valid registration certificate that was valid on the
12 date the violation of section 223 occurred.

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

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

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

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