

# HOUSE BILL No. 4600

May 15, 2019, Introduced by Reps. Alexander and LaGrand and referred to the Committee on Transportation.

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

1 that child in a child restraint system that meets the standards  
2 prescribed in 49 CFR 571.213.

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

12 (A) **IN A REAR-FACING CHILD SEAT, IF THE CHILD WEIGHS LESS THAN**  
13 **30 POUNDS OR IS LESS THAN 2 YEARS OF AGE.**

14 (B) **UNLESS SUBDIVISION (A) APPLIES, IN A FORWARD-FACING CHILD**  
15 **SEAT WITH A HARNESS OR A REAR-FACING CHILD SEAT, IF THE CHILD**  
16 **WEIGHS 30 POUNDS OR MORE BUT LESS THAN 50 POUNDS, OR IS 2 YEARS OF**  
17 **AGE OR OLDER BUT LESS THAN 5 YEARS OF AGE.**

18 (C) **UNLESS SUBDIVISION (A) OR (B) APPLIES, IN A BOOSTER SEAT**  
19 **OR AS REQUIRED IN SUBDIVISION (B), IF THE CHILD IS LESS THAN 57**  
20 **INCHES TALL AND WEIGHS 50 POUNDS OR MORE, OR IS LESS THAN 11 YEARS**  
21 **OF AGE.**

22 (D) **THE SIZE OF THE CHILD MUST BE IN ACCORDANCE WITH THE CHILD**  
23 **RESTRAINT SEAT MANUFACTURER'S STANDARDS.**

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

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

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

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

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

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

18 (b) A bus.

19 (c) A motorcycle.

20 (d) A moped.

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

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

27 (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

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

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

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

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

27 (9) A person who violates this section is responsible for a

1 civil infraction.

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

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

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

16 **(12)** ~~(13)~~ It is the intent of the legislature that the  
17 enforcement of this section be conducted in a manner calculated to  
18 save lives and not in a manner that results in the ~~harassment~~  
19 **INAPPROPRIATE ENFORCEMENT** of **THIS SECTION AGAINST** the citizens of  
20 this state.

21 **(13)** ~~(14)~~ Points shall not be assessed under section 320a for  
22 a violation of this section.

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

27 (2) If a person is determined under sections 741 to 750 to be

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

1 a violation of section 240, the civil fine ordered under this  
2 subsection shall be \$15.00. For a violation of section 252a(1), the  
3 civil fine ordered under this subsection shall be \$50.00. For a  
4 violation of section 676a(3), the civil fine ordered under this  
5 section shall be not more than \$10.00. For a first violation of  
6 section 319f(1), the civil fine ordered under this section shall be  
7 not less than \$2,500.00 or more than \$2,750.00; for a second or  
8 subsequent violation, the civil fine shall be not less than  
9 \$5,000.00 or more than \$5,500.00. For a violation of section  
10 319g(1)(a), the civil fine ordered under this section shall be not  
11 more than \$10,000.00. For a violation of section 319g(1)(g), the  
12 civil fine ordered under this section shall be not less than  
13 \$2,750.00 or more than \$25,000.00. Permission may be granted for  
14 payment of a civil fine and costs to be made within a specified  
15 period of time or in specified installments, but unless permission  
16 is included in the order or judgment, the civil fine and costs  
17 shall be payable immediately.

18 (3) Except as provided in this subsection, if a person is  
19 determined to be responsible or responsible "with explanation" for  
20 a civil infraction under this act or a local ordinance  
21 substantially corresponding to a provision of this act while  
22 driving a commercial motor vehicle, he or she shall be ordered to  
23 pay costs as provided in subsection (4) and a civil fine of not  
24 more than \$250.00.

25 (4) If a civil fine is ordered under subsection (2) or (3),  
26 the judge or district court magistrate shall summarily tax and  
27 determine the costs of the action, which are not limited to the



1 costs taxable in ordinary civil actions, and may include all  
2 expenses, direct and indirect, to which the plaintiff has been put  
3 in connection with the civil infraction, up to the entry of  
4 judgment. Costs shall not be ordered in excess of \$100.00. A civil  
5 fine ordered under subsection (2) or (3) shall not be waived unless  
6 costs ordered under this subsection are waived. Except as otherwise  
7 provided by law, costs are payable to the general fund of the  
8 plaintiff.

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

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

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

1           (8) The state court administrator shall annually publish and  
2 distribute to each district and court a recommended range of civil  
3 fines and costs for first-time civil infractions. This  
4 recommendation is not binding upon the courts having jurisdiction  
5 over civil infractions but is intended to act as a normative guide  
6 for judges and district court magistrates and a basis for public  
7 evaluation of disparities in the imposition of civil fines and  
8 costs throughout the state.

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

15           (10) A default in the payment of a civil fine or costs ordered  
16 under subsection (2), (3), or (4) or a justice system assessment  
17 ordered under subsection (13), or an installment of the fine,  
18 costs, or assessment, may be collected by a means authorized for  
19 the enforcement of a judgment under chapter 40 of the revised  
20 judicature act of 1961, 1961 PA 236, MCL 600.4001 to 600.4065, or  
21 under chapter 60 of the revised judicature act of 1961, 1961 PA  
22 236, MCL 600.6001 to 600.6098.

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

1 under section 908.

2 (12) The court may waive any civil fine, cost, or assessment  
3 against a person who received a civil infraction citation for a  
4 violation of section 710d if the person, before the appearance date  
5 on the citation, supplies the court with evidence of acquisition ~~r~~  
6 ~~purchase, or rental~~ of a child seating system meeting the  
7 requirements of section 710d **AND EVIDENCE THAT THE PERSON HAS**  
8 **RECEIVED EDUCATION FROM A CERTIFIED CHILD PASSENGER SAFETY**  
9 **TECHNICIAN.**

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

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

27 (15) If a person has received a citation for a violation of

1 section 328(1) for failing to produce a certificate of insurance  
2 under section 328(2), the court may waive the fee described in  
3 section 328(3)(c) and shall waive any fine, costs, and any other  
4 fee or assessment otherwise authorized under this act upon receipt  
5 of verification by the court that the person, before the appearance  
6 date on the citation, produced valid proof of insurance that was in  
7 effect at the time the violation of section 328(1) occurred.  
8 Insurance obtained subsequent to the time of the violation does not  
9 make the person eligible for a waiver under this subsection.

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

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

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