

HOUSE BILL NO. 5402

January 23, 2020, Introduced by Rep. Eisen and referred to the Committee on Natural Resources and Outdoor Recreation.

A bill to amend 1961 PA 236, entitled "Revised judicature act of 1961," by amending sections 113, 8701, and 8703 (MCL 600.113, 600.8701, and 600.8703), section 113 as amended by 1996 PA 79, section 8701 as added by 1994 PA 12, and section 8703 as amended by 1996 PA 388.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 113. (1) As used in this act:
- 2 (a) "Civil infraction" means an act or omission that is
- 3 prohibited by a law and is not a crime under that law or that is



1 prohibited by an ordinance, **as defined in section 8701**, and is not
2 a crime under that ordinance, and for which civil sanctions may be
3 ordered. Civil infraction includes, but is not limited to, the
4 following:

5 (i) A violation of the Michigan vehicle code, ~~Act No. 300 of~~
6 ~~the Public Acts of 1949, being sections~~ **1949 PA 300, MCL 257.1 to**
7 **257.923**, ~~of the Michigan Compiled Laws,~~ designated as a civil
8 infraction.

9 (ii) A violation of a city, township, or village ordinance
10 substantially corresponding to a provision of ~~Act No. 300 of the~~
11 ~~Public Acts of 1949,~~ **the Michigan vehicle code, 1949 PA 300, MCL**
12 **257.1 to 257.923**, if the ordinance designates the violation as a
13 civil infraction.

14 (iii) A violation of an ordinance adopted ~~pursuant to Act No.~~
15 ~~235 of the Public Acts of 1969, being sections~~ **under 1969 PA 235,**
16 **MCL 257.941 to 257.943.** ~~of the Michigan Compiled Laws.~~

17 (iv) A violation of a city, township, or village ordinance
18 adopting the uniform traffic code promulgated under ~~Act No. 62 of~~
19 ~~the Public Acts of 1956, being sections~~ **257.951 to 257.954 of the**
20 ~~Michigan Compiled Laws,~~ **1956 PA 62, MCL 257.951 to 257.955**, if the
21 uniform traffic code designates the violation as a civil
22 infraction.

23 (v) A violation of an ordinance adopted by the governing board
24 of a state university or college ~~pursuant to Act No. 291 of the~~
25 ~~Public Acts of 1967, being sections~~ **390.891 to 390.893 of the**
26 ~~Michigan Compiled Laws,~~ **under 1967 PA 291, MCL 390.891 to 390.893**,
27 if the ordinance designates the violation as a civil infraction.

28 (vi) A violation of regulations adopted by a county board of
29 commissioners ~~pursuant to Act No. 58 of the Public Acts of 1945,~~



1 ~~being section 46.201 of the Michigan Compiled Laws under 1945 PA~~
 2 ~~58, MCL 46.201.~~

3 (vii) A municipal civil infraction.

4 (viii) A state civil infraction.

5 (ix) A violation of the pupil transportation act, ~~Act No. 187~~
 6 ~~of the Public Acts of 1990, being sections 1990 PA 187, MCL~~
 7 ~~257.1801 to 257.1877, of the Michigan Compiled Laws,~~ designated as
 8 a civil infraction.

9 (b) "Civil infraction action" means a civil action in which
 10 the defendant is alleged to be responsible for a civil infraction.

11 (c) "Municipal civil infraction" means a civil infraction
 12 involving a violation of an ordinance, **as defined in section 8701.**
 13 Municipal civil infraction includes, but is not limited to, a
 14 railway municipal civil infraction. Municipal civil infraction
 15 does not include a violation described in subdivision (a) (i) to (vi)
 16 or (ix) or any act or omission that constitutes a crime under any of
 17 the following:

18 (i) ~~Article 7 or section 17766a of the public health code, Act~~
 19 ~~No. 368 of the Public Acts of 1978, being sections 1978 PA 368, MCL~~
 20 ~~333.7101 to 333.7545. and 333.17766a of the Michigan Compiled Laws.~~

21 (ii) ~~The Michigan penal code, Act No. 328 of the Public Acts of~~
 22 ~~1931, being sections 1931 PA 328, MCL 750.1 to 750.568. of the~~
 23 ~~Michigan Compiled Laws.~~

24 (iii) ~~Act No. 300 of the Public Acts of 1949, being sections~~ **The**
 25 **Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.** ~~of the~~
 26 ~~Michigan Compiled Laws.~~

27 (iv) ~~The Michigan liquor control act, Act No. 8 of the Public~~
 28 ~~Acts of the Extra Session of 1933, being sections 436.1 to 436.58~~



1 ~~of the Michigan Compiled Laws.~~**code of 1998, 1998 PA 58, MCL**
 2 **436.1101 to 436.2303.**

3 (v) Part 801 ~~(marine safety)~~ of the natural resources and
 4 environmental protection act, ~~Act No. 451 of the Public Acts of~~
 5 ~~1994, being sections~~**1994 PA 451, MCL** 324.80101 to 324.80199. ~~of~~
 6 ~~the Michigan Compiled Laws.~~

7 (vi) The aeronautics code of the state of Michigan, ~~Act No. 327~~
 8 ~~of the Public Acts of 1945, being sections~~**1945 PA 327, MCL** 259.1
 9 to 259.208. ~~of the Michigan Compiled Laws.~~

10 (vii) Part 821 ~~(snowmobiles)~~ of ~~Act No. 451 of the Public Acts~~
 11 ~~of 1994, being sections~~ 324.82101 to 324.82159 of the Michigan
 12 ~~Compiled Laws.~~**of the natural resources and environmental protection**
 13 **act, 1994 PA 451, MCL 324.82101 to 324.82161.**

14 (viii) Part 811 ~~(off-road recreation vehicles)~~ of ~~Act No. 451 of~~
 15 ~~the Public Acts of 1994, being sections~~ 324.81101 to 324.81150 of
 16 ~~the Michigan Compiled Laws.~~**of the natural resources and**
 17 **environmental protection act, 1994 PA 451, MCL 324.81101 to**
 18 **324.81151.**

19 (ix) The railroad code of 1993, ~~Act No. 354 of the Public Acts~~
 20 ~~of 1993, being sections~~**1993 PA 354, MCL** 462.101 to 462.451. ~~of the~~
 21 ~~Michigan Compiled Laws.~~

22 (x) Any law of this state under which the act or omission is
 23 punishable by imprisonment for more than 90 days.

24 (d) "Municipal civil infraction action" means a civil action
 25 in which the defendant is alleged to be responsible for a municipal
 26 civil infraction. Municipal civil infraction action includes, but
 27 is not limited to, a trailway municipal civil infraction action.

28 (e) "State civil infraction" means a civil infraction
 29 involving either of the following:



1 (i) A violation of state law that is designated by statute as a
2 state civil infraction.

3 (ii) A violation of a city, township, village, or county
4 ordinance that is designated by statute as a state civil
5 infraction.

6 (f) "State civil infraction action" means a civil action in
7 which the defendant is alleged to be responsible for a state civil
8 infraction.

9 (g) "Trailway municipal civil infraction" means a municipal
10 civil infraction involving the operation of a vehicle on a
11 recreational trailway at a time, in a place, or in a manner
12 prohibited by ordinance.

13 (h) "Trailway municipal civil infraction action" means a civil
14 infraction action in which the defendant is alleged to be
15 responsible for a trailway municipal civil infraction.

16 (2) Except as otherwise provided in this act:

17 (a) A civil infraction action involving a traffic or parking
18 violation is governed by ~~Act No. 300 of the Public Acts of 1949.~~
19 **the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.**

20 (b) A municipal civil infraction action is governed by chapter
21 87.

22 (c) A state civil infraction action is governed by chapter 88.

23 (3) A determination that a defendant is responsible for a
24 civil infraction and thus subject to civil sanctions shall be by a
25 preponderance of the evidence.

26 Sec. 8701. As used in this chapter:

27 (a) "Authorized local official" means a police officer or
28 other personnel of a county, city, village, township, or regional
29 parks and recreation commission created under section 2 of ~~Act No.~~



1 ~~265 of the Public Acts of 1961, being section 46.352 of the~~
2 ~~Michigan Compiled Laws, 1965 PA 261, MCL 46.352,~~ legally authorized
3 to issue municipal civil infraction citations.

4 (b) "Citation" means a written complaint or notice to appear
5 in court upon which an authorized local official records the
6 occurrence or existence of 1 or more municipal civil infractions by
7 the person cited.

8 (c) "Municipal civil infraction determination" means a
9 determination that a defendant is responsible for a municipal civil
10 infraction by 1 of the following:

11 (i) An admission of responsibility for the municipal civil
12 infraction.

13 (ii) An admission of responsibility for the municipal civil
14 infraction, "with explanation".

15 (iii) A preponderance of the evidence at an informal hearing or
16 formal hearing on the question under section 8719 or 8721,
17 respectively.

18 (iv) A default judgment for failing to appear as directed by a
19 citation or other notice ~~at~~ at a scheduled appearance under section
20 8715(3)(b) or (4), at an informal hearing under section 8719, or at
21 a formal hearing under section 8721.

22 (d) **"Ordinance" includes an order of a county sheriff under**
23 **section 80146 of the natural resources and environmental protection**
24 **act, 1994 PA 451, MCL 324.80146.**

25 Sec. 8703. (1) A municipal civil infraction action is
26 commenced upon the issuance of a citation as provided in section
27 8707. The plaintiff in a municipal civil infraction action is the
28 political subdivision whose ordinance has been violated. **If the**
29 **ordinance is an order of the county sheriff under section 80146 of**



1 the natural resources and environmental protection act, 1994 PA
2 451, MCL 324.80146, the political subdivision whose ordinance has
3 been violated is considered to be the county or municipality that
4 requested the order.

5 (2) The district court and any municipal court have
6 jurisdiction over municipal civil infraction actions.

7 (3) The time specified in a citation for appearance shall be
8 within a reasonable time after the citation is issued.

9 (4) The place specified in the citation for appearance shall
10 be the court referred to in subsection (2) that has territorial
11 jurisdiction of the place where the municipal civil infraction
12 occurred. Venue in the district court is governed by section 8312.

13 Enacting section 1. This amendatory act does not take effect
14 unless Senate Bill No. ____ or House Bill No. 5401 (request no.
15 05434'19) of the 100th Legislature is enacted into law.

