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BILL ANALYSIS

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Senate Bill 1290 (as introduced 6-7-06)
Sponsor: Senator Jud Gilbert, II
Committee: Transportation

Date Completed: 6-13-06

CONTENT

The bill would create the "Driver Education Provider and Instructor Act" to replace the existing Driver Education and Training Schools Act, which expires on October 1, 2006; rescind administrative rules regarding the regulation of driver training schools and instructors; and codify certain provisions of those rules. Specifically, the bill would do the following:

- Refer to the Secretary of State (SOS), rather than the Department of State and the Department of Education, in driver education regulations.
- Provide for the certification of driver education providers and instructors, rather than the licensure of driver training schools and instructors.
- Create the "Driver Education Provider and Instructor Fund", and require fees and administrative fines collected under the bill to be deposited into the Fund.
- Allow a driver training school or instructor licensed before the bill took effect to continue to operate while the SOS reviewed the school's or instructor's application, until December 31, 2006.
- Require a currently licensed entity or instructor to comply with the proposed Act by October 1, 2007.
- Require an applicant for an instructor certificate to complete driver education instructor preparation courses, beginning April 1, 2008.
- Require a certified instructor and the designated representative or coordinator of a certified driver education provider to complete a criminal history check every four years on a renewal application.
- Allow a college or university, or other SOS-approved person, to present a driver education instructor preparation program.
- Allow a person to apply to the SOS for a conditional driver education instructor certificate, and prohibit a person from enrolling in a practicum course unless he or she possessed such a certificate.
- Require the SOS to establish professional development requirements for a certified instructor, beginning October 1, 2007.
- Require the SOS to prescribe a model curriculum for teen driver training.
- Require a provider to file with the SOS a projected driver education course schedule report, and, upon completion of a class, a course completion report, as well as a year-end report.
- Require a certified provider or instructor, or a provider's designated representative or coordinator, to notify the SOS immediately if convicted of specific crimes, and require an instructor or representative or coordinator also to notify his or her employer.
- Require the SOS to deny an application for a provider or instructor certificate and revoke a certificate for at least 10 years if a criminal history check revealed that he or she had been convicted of any of the specified crimes.

- **Require the Department of Information Technology (DIT) to work with the SOS and the Michigan Department of State Police (MSP) to develop and implement an automated program that annually compared the conviction information received by the MSP with the SOS list of people holding a certificate or designated as a representative or coordinator.**
- **Require the SOS to suspend or revoke an instructor's certificate if his or her driver license were denied, suspended, revoked, or canceled.**
- **Specify that certain methods, acts, or practices by a provider or instructor would be considered deceptive or unconscionable.**
- **Allow the SOS to impose sanctions on a provider, instructor, or applicant for certain actions, in addition to any other criminal penalties that could be imposed by law.**
- **Prescribe a misdemeanor penalty for a person who engaged in activity as a provider or instructor without certification.**
- **Allow a court to order a person who violated the proposed Act to reimburse the SOS for the costs of investigating the violation, and require any costs collected to be deposited into the proposed Fund.**
- **Allow the SOS to promulgate rules to carry out the Act.**

The bill would take effect on October 1, 2006.

Driver Education Provider Certificate Application

Under the bill, a person could apply to the SOS for a driver education provider certificate in one or more of the following classifications: adult driver training, teen driver training, or truck driver training. (Under the existing Act, the Department of State may license a driver training school in either the noncommercial CMV or the CMV classification, or both).

("Driver education provider" would mean a person who gives instruction in the driving of a motor vehicle or prepares an applicant for an exam given by the SOS for a license or a vehicle indorsement. The term would not include a person who provides

instruction only for the benefit of its employees if that instruction is not open to the public, or in the driving or operation of a motorcycle or the preparation of an applicant for an exam given for a motorcycle indorsement.)

Except as provided in the proposed Act, an applicant would have to submit evidence that he or she had done or would do, as applicable, all of the following to be eligible to receive a certificate:

- Require each of its designated representatives or coordinators (i.e., a person a provider employed, enlisted, or appointed, or contracted with to supervise, manage, and administer the day-to-day responsibilities of the provider's operation) to complete a criminal history check as required under the bill.
- Provide a statement of the previous history, record, and associations of the applicant and of each owner, partner, officer, director, and designated representative or coordinator, sufficient to establish to the SOS's satisfaction the applicant's business reputation and character.
- Provide a statement indicating whether the applicant or its designated representative or coordinator had ever applied for a certificate in Michigan or any other state, and the result of that application.
- Provide a statement indicating whether the applicant or its designated representative or coordinator ever had been denied a certificate or been the holder of a certificate that was suspended or revoked.
- If the applicant were a corporation or partnership, provide a statement indicating whether a partner, employee, officer, director, a designated representative or coordinator ever had been denied a certificate or been the holder of a certificate that was suspended or revoked.
- Certify that the applicant or another person named on the application was not acting as the alter ego of any other person or people in seeking the certificate.
- Obtain written or electronic verification from an insurer that the applicant maintained or would maintain bodily injury and property damage liability

insurance on each motor vehicle used in a driver education course.

- Except as otherwise provided, submit a nonrefundable application processing fee of \$225 for a provider who offered adult or teen driver training, and \$360 for a provider who offered truck driver training.
- Provide a statement indicating whether the applicant would use a multiple vehicle driving facility in a driver education course, and, if so, a detailed description of the facility and a facility review and approval fee of \$125.

("Multiple vehicle driving facility" would mean that part of a driver education course that enables the instructor, from a position outside the vehicle, and using electronic or oral communication, to teach and supervise several students simultaneously, each of whom is operating a vehicle at an off-street facility specifically designed for that type of instruction.)

The application and review and approval fees would have to be deposited into the Driver Education Provider and Instructor Fund.

The SOS also could develop and prescribe an orientation and education program that a person would have to complete before the SOS issued the person an original provider or instructor certificate.

Renewal Provider Application

A certified driver education provider could apply for the renewal of a certificate by submitting a renewal application to the SOS every other year. The application would have to include the processing fees described above, and, if applicable, either of the following:

- A certification that the applicant had used a multiple vehicle driving facility in a driver education course and that the facility had not been altered or changed since the SOS inspected the facility after the bill's effective date, along with a \$75 review and approval fee.
- A statement that the applicant would use a multiple vehicle driving facility, a detailed description of the facility, and its address, along with a facility review and approval fee of \$125.

A provider's designated representative or coordinator would have to complete a criminal history check to the satisfaction of the SOS every four years on an application to renew a certificate. A certificate would be valid for two years.

Currently Licensed Driver Training Schools

A person who was licensed as a driver training school by the SOS or who had been approved for segment 1 and segment 2 driver education course performance objectives under the existing Driver Education and Training Schools Act, and who had submitted a properly completed renewal application to the SOS before October 1, 2006, could continue to engage in the activity for which the person was licensed or approved while the SOS processed the renewal application. If the SOS approved the application and issued a license, that license or approval would expire on December 31, 2006. A person licensed or approved under the existing Act to engage in the activity of a driver education provider would have to comply with the proposed Act by October 1, 2007.

Termination of Operation

A person who stopped operating as a driver education provider or no longer qualified as a certified provider immediately would have to do all of the following:

- Return the certificate to the SOS.
- Prepare a final inventory listing each segment 1 or 2 driver education course certificate of completion that the SOS issued to the provider during the past year.
- Return to the SOS each driver education course certificate of completion in the provider's possession that the provider did not issue to a student.
- Inform the SOS of the location where the information, records, or other documents the provider was required to maintain under the proposed Act would be stored for at least four years after the provider stopped operating or failed to qualify as a provider.

A person who failed to comply immediately with the requirements regarding the return of the provider certificate and unissued certificates of completion and the final inventory would be guilty of a misdemeanor

punishable by imprisonment for up to 93 days and/or a maximum fine of \$2,000.

Driver Education Instructor Certificate Application

A person could apply to the SOS for a driver education instructor certificate in one or more of the classifications described above. The SOS could issue a person an instructor certificate if he or she presented satisfactory evidence that he or she met all of the following requirements:

- Was at least 21 years old on the date of application.
- Possessed a valid driver license that had been in continuous effect for at least five years immediately preceding the application.
- Provided a statement indicating whether he or she had ever applied for a certificate in Michigan or any other state, and the result of that application.
- Provided a statement indicating whether he or she had ever been the holder of a certificate that was revoked or suspended in Michigan or any other state.
- Completed a criminal history check to the satisfaction of the SOS.
- Certified that he or she did not have a pending criminal matter or an outstanding arrest, warrant, or conviction since submitting a request for a criminal history check.
- Submitted a nonrefundable application processing fee of \$45.
- Submitted a certified medical examination report that was not more than 90 days old and included a statement by the person who certified the report that the applicant was medically qualified to operate a motor vehicle and to train others to operate a motor vehicle.
- If not a Michigan resident, submitted an up-to-date certified driving record from his or her state of residence to the SOS, and agreed to submit an up-to-date certified driving record every 60 days for as long as he or she was not a Michigan resident.

Also, for an original application for an instructor certificate for adult or teen driver training, the applicant would have to have submitted an official transcript from a college or university or from a person approved by the SOS to verify the

completion of the driver education instructor preparation courses required under the driver education instructor preparation program (both described below). (An applicant approved as a driver education instructor by the SOS before October 1, 2006, would be considered to have complied with this requirement.)

Beginning April 1, 2008, an applicant for an original instructor certificate would have to complete driver education instructor preparation courses (described below). This requirement would not apply to an applicant for an instructor certificate to conduct truck driver training.

Currently Licensed Instructors

A person who was licensed as a driver training school instructor by the SOS or who had been approved as an instructor for segment 1 and 2 driver education course performance objectives and had submitted a properly completed renewal application to the SOS before October 1, 2006, could continue to engage in the activity for which he or she was licensed or approved while the SOS processed the renewal application. If the SOS approved the application and issued a license, that license or approval would expire on December 31, 2006. A person engaging in the activity of a driver education instructor would have to comply with the proposed Act by October 1, 2007.

Renewal Instructor Certificate

A certified driver education instructor could apply to the SOS for renewal of his or her certificate by submitting a properly completed, signed application that included a certification that he or she complied with the proposed Act's professional development requirements, a nonrefundable application fee of \$45, and other information and documents prescribed by the SOS. Additionally, every two years, the applicant would have to include a new certified medical examination report that was less than 90 days old, including a statement that he or she was medically qualified to operate and to train others to operate a motor vehicle.

A certified instructor would have to complete a criminal history check to the satisfaction of the SOS every four years on a renewal application. A driver education instructor

certificate would be valid for two years. The application fees would have to be deposited into the Driver Education Provider and Instructor Fund.

Driver Education Instructor Preparation Program

A college, university, or person approved by the SOS could present a driver education instructor preparation program approved by the SOS. The SOS would have to prepare a driver education instructor preparation program guide as a model for how to conduct a program. The model guide would have to identify the content of each course required under the proposed Act.

Beginning October 1, 2007, a program would have to consist of at least four driver education preparation courses concentrating on driver task analysis, developing classroom and program knowledge, developing vehicle operation skills, and practicum.

("Practicum" would mean classroom and behind-the-wheel instruction in a driver education course under the direction of an instructor employed, enlisted, or appointed by a college or university or by a person approved by the SOS and a cooperating instructor, providing practical application of theory and experience for a student in an approved driver education instructor preparation program.)

A course would have to consist of at least two semester hours or the equivalent as approved by the SOS, and extend for at least three weeks. The SOS would have to review each approved driver education instructor preparation program at least once every three years.

The provisions regarding the preparation program would not apply to an applicant for an instructor certificate that was limited to the truck driver training classification.

Practicum Course

A person could not enroll in a practicum course conducted by a college or university or by a person approved by the SOS unless he or she possessed a conditional driver education instructor certificate. A person would have to apply to the SOS for a conditional instructor certificate. The SOS

could issue the certificate after the person presented satisfactory evidence that he or she met all of the prescribed driver education instructor application requirements except for completion of a practicum course, and was enrolled in a practicum course conducted by a college, university, or person approved by the SOS.

These provisions would not apply to an applicant for certification as a truck driver training instructor.

Professional Development Requirements

Beginning October 1, 2007, the SOS would have to establish professional development requirements for a certified driver education instructor. The requirements would have to provide the criteria an instructor would have to follow to select an activity to meet the professional development requirements, and the date by which an instructor would have to complete the requirements.

Model Curriculum

The SOS would have to prescribe a model curriculum for teen driver training. A provider classified for teen driver training would have to use the model curriculum or could use an alternative curriculum that had been reviewed and approved by the SOS. Under a segment 1 and segment 2 curriculum combined, each student would have to receive at least 30 hours of classroom instruction and seven hours of behind-the-wheel driver education course experience.

Segment 1 & 2 Curriculum

A segment 1 curriculum would have to include both classroom and behind-the-wheel course experience. The classroom instruction and behind-the-wheel instruction would have to be integrated and relate to each other, and each student would have to receive at least 24 hours of classroom instruction, including at least four hours before the student began to receive behind-the-wheel instruction and at least three hours of behind-the-wheel instruction before classroom instruction terminated. Additionally, each student would have to receive at least six hours of behind-the-wheel instruction or permitted substitute hours at a multiple vehicle driving facility,

not to exceed one hour of behind-the-wheel instruction per day.

A segment 2 curriculum course could be offered only to a student who had successfully completed a segment 1 curriculum course, who held a valid Level 1 graduated driver license (GDL) for at least three continuous months, and who had acquired at least 30 hours' driving experience on a Level 1 GDL that included at least two hours of night driving with a licensed parent or legal guardian, or with a parent's or legal guardian's permission, with any licensed driver who was at least 21 years old.

Additionally, a segment 2 curriculum course would have to contain at least six hours of classroom instruction that was scheduled so the student received not more than two hours of classroom instruction per day; and at least one hour of behind-the-wheel instruction and assessment with the student behind the wheel under the guidance of an instructor.

Reports to the SOS

Before holding a class, a provider would have to file a projected driver education course schedule report with the SOS. Upon completion of a class, a provider would have to file with the SOS a completion report including the inventory control number of each issued certificate of completion. A provider also would have to file a year-end report containing the number of students who passed and failed each type of instruction given and the tuition charged for each type of instruction.

Access to Records

A provider would have to make information, a record, a report, or other document maintained under the proposed Act available for inspection by the SOS or his or her authorized representative at reasonable times. If a provider failed to do so, the SOS could suspend the provider's certificate after notice and opportunity for a hearing. A provider would have to maintain a record under the proposed Act for at least four calendar years after a student had ceased receiving instruction from the provider.

Verification of Instructor's Certificate & Student Permit

A provider would have to verify that an instructor possessed a valid driver education instructor certificate before employing, hiring, contracting, or otherwise engaging the person as an instructor for a driver education course. Additionally, before a provider could provide behind-the-wheel education course instruction to an adult or truck driver training student, it would have to verify that the student had a valid temporary instruction permit issued by the SOS.

Criminal History Check

A criminal history check required under the proposed Act would have to be performed by the MSP and the Federal Bureau of Investigation (FBI). A person required to have a criminal history check would have to send to the MSP a request for the check, along with the fees required by the MSP and the FBI to conduct the check.

After conducting the check, the MSP would have to provide the SOS with a report containing any criminal history record information on that person maintained by the MSP. Except as otherwise provided, the SOS could not approve an original or renewal driver education provider or instructor certificate before receiving and reviewing the applicable criminal history checks from the MSP and the FBI. The SOS could use the criminal history information only to evaluate an applicant's qualifications to receive a certificate. The SOS could discuss the report or its contents only with staff of the MSP or a person who was involved in the prosecution of a criminal matter noted in a report for purposes of clarifying whether an offense was one of the crimes specified in the bill. A person who used criminal history information in violation of these provisions would be guilty of a misdemeanor punishable by a maximum fine of \$10,000.

Notification of Convictions & Disciplinary Action

A certified provider or instructor, or a provider's designated representative or coordinator, immediately would have to notify the SOS if convicted of a violation or attempted violation listed in the bill. A

certified instructor or a designated representative or coordinator of a provider also would have to notify his or her provider employer. A notice would have to be in a format as prescribed by the SOS and identify the conviction, the date of the conviction, and the court that imposed the conviction, and contain other information as prescribed by the SOS.

The SOS automatically would have to deny an original or renewal application for a driver education provider or instructor certificate, and automatically would have to revoke immediately a certificate issued to a person as a provider or instructor, without the necessity for notice and an opportunity for a hearing, if a criminal history check indicated that the applicant, instructor, provider, or the designated representative or coordinator of the applicant or provider had been convicted of a violation or attempted violation, or the SOS received reliable notice of a conviction for a violation or attempted violation of any of the following:

- Criminal sexual conduct (CSC), assault with intent to commit CSC, or an attempt to commit CSC in any degree.
- A felony involving a criminal assault or battery on an individual.
- A crime involving felonious assault on a child, first-degree child abuse, cruelty, torture, or indecent exposure involving a child.
- A felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.
- A felony conviction involving fraud as an element of the crime.

A denial or revocation would have to continue for at least 10 years from the date of the conviction.

The Department of Information Technology would have to work with the SOS and the MSP to develop and implement an automated program that did an annual comparison of the conviction information received by the MSP with an SOS list of people holding a provider or instructor certificate and people designated as a provider's representative or coordinator. The comparison would have to include only people who actually were certified as a provider or instructor, or who were the

designated representative or coordinator of a provider of an actually certified provider at the time of the comparison. Unless otherwise prohibited by law, the comparison would have to include convictions contained in a nonpublic record.

When the SOS received reliable notice of a conviction for a violation or attempted violation by an applicant's or provider's designated representative or coordinator, the SOS automatically would have to deny an original or renewal application for a provider certificate or automatically revoke immediately a provider's certificate if the applicant or provider failed to terminate immediately the representative's or coordinator's designation or employment.

Except as otherwise provided, the SOS automatically would have to deny a provider or instructor application, or revoke a provider's or instructor's certificate, without notice and an opportunity for a hearing, until the driving record of the applicant, instructor, provider, or applicant's or provider's designated representative or coordinator did not have within the prior two years any of the following:

- Three or more driver license denials, suspensions, or revocations, or any combination of three or more denials, suspensions, or revocations, imposed by the SOS for the failure to appear in court or a failure to comply with a court judgment for a traffic violation reportable to the SOS.
- A conviction or finding of responsibility for a traffic violation in connection with two or more motor vehicle accidents.
- An accumulation of at least six points on his or her driving record.
- A conviction for transporting or possessing alcohol in an open or uncapped container within a vehicle's passenger compartment, operating a vehicle with any bodily alcohol content while under the age of 21, or operating a vehicle in a negligent manner.

When the driving record of an applicant's or provider's designated representative or coordinator was the cause for the SOS to deny an application or revoke a certificate, the SOS automatically would have to deny an original or renewal application for a driver education provider certificate or automatically revoke a provider's certificate

if the applicant or provider failed to terminate immediately the representative's or coordinator's designation or employment.

The SOS automatically would have to suspend or revoke an instructor's certificate without notice and an opportunity for a hearing if the instructor's driver license were denied, suspended, revoked, or canceled by Michigan or another state. An instructor whose license was denied, suspended, revoked, or canceled immediately would have to return his or her instructor's certificate to the SOS. The SOS could reinstate an instructor's certificate suspended under this provision if the driver license denial, suspension, revocation, or cancellation terminated before the certificate expired and the instructor submitted a written request to the SOS for that reinstatement. The SOS could not reinstate an instructor certificate that was revoked. An instructor whose certificate was revoked under these provisions could apply to the SOS for an original instructor certificate.

Violations of the Act & Dispute Resolution

On his or her own initiative or in response to a complaint, the SOS could make a reasonable and necessary investigation within or outside this State and gather evidence against a person who violated, allegedly violated, or was about to violate the proposed Act, a rule promulgated under it, or an order issued under it, concerning whether a person, an applicant, a provider, or an instructor was in compliance with the Act or a rule promulgated under it.

A person could file a complaint against a person, an applicant, a provider, or an instructor with the SOS. The SOS could mediate a dispute between a provider or instructor and a student or the student's parent or legal guardian when a dispute arose from a violation or attempted violation.

Additionally, the SOS could develop conditions of probation for the operation of a provider or the training conducted by an instructor in place of further disciplinary proceedings.

Deceptive or Unconscionable Methods, Acts, & Practices

A provider or instructor could not engage in a deceptive or unconscionable method, act, or practice. The following would be deceptive or unconscionable methods, acts, and practices:

- Using, adopting, or conducting business under a name that was the same, like, or deceptively similar to, the name of another driver education provider.
- Except as otherwise provided, using the word "state", "government", "municipal", "city", or "county" as part of the provider's name, unless the provider were an educational institution or a governmental agency.
- Advertising, representing, or implying that a provider was supervised, recommended, or endorsed by, or affiliated or associated with, or employed by, or an agent or representative of the State of Michigan, the SOS, or a bureau of the SOS.
- Advertising or publicizing under a name other than the provider's full business name as identified on the provider's application for a certificate.
- Advertising that the provider was open for business before the SOS issued the provider a certificate.
- Soliciting business on the premises of any facility rented, leased, owned, or used by the SOS.
- Misrepresenting the quantity or quality of the instruction provided or the requirements for a driver license, endorsement, minor restricted or temporary permit, or driver education certificate.
- Failing to restore promptly any deposit, down payment, or other payment that a person was entitled to after an agreement was rescinded, canceled, or otherwise terminated as required under the agreement or applicable law.
- Taking advantage of a student's or potential student's inability to protect his or her interest reasonably because of a disability, illiteracy, or inability to understand the language of an agreement, if the provider knew or reasonably should have known of his or her inability.
- Failing to honor a term of a student's, parent's, or legal guardian's agreement.

- Falsifying a document, agreement, record, report, or certificate required under the proposed Act or a rule promulgated under it.
- Causing or allowing a student, parent, or legal guardian to sign a document in blank.

Sanctions

Except as otherwise provided, the SOS could impose one or more sanctions (described below) after notice and opportunity for a hearing if the SOS determined that a person, a provider, an instructor, or an applicant for a provider or instructor certificate did any of the following:

- Failed to meet a requirement under the proposed Act or a rule promulgated under it.
- Violated the Act or a rule promulgated under it.
- Made an untrue or misleading statement of a material fact to the SOS or concealed a material fact in connection with an application for a provider or instructor certificate.
- Permitted fraud or engaged in a fraudulent method, act, or practice in connection with a driver license or temporary driving permit application submitted to the SOS, or induced or countenanced fraud or a fraudulent method, act, or practice on the part of an applicant.
- Engaged in an unfair or deceptive method, act, or practice or made an untrue statement of a material fact.
- Violated a condition of probation or suspension or an order issued under the Act.
- Failed to maintain good moral character in connection with business operations.

After the SOS determined that a person, provider, instructor, or applicant for a provider or instructor certificate committed a violation described above, the SOS could impose upon the violator one or more of the following sanctions:

- Denial of an application for a provider or instructor certificate.
- An administrative fine paid to the SOS of up to \$1,000 for each violation.
- A requirement to take the affirmative action determined necessary by the SOS,

including payment of restitution to a student or injured person.

The bill would reenact provisions of the current Act allowing the SOS to issue an order or a temporary order requiring a person to cease and desist from an unlawful method, act, or practice, or to take affirmative action, including payment of restitution to a customer.

Summary Suspension Order

The SOS could order the summary suspension of a provider or instructor certificate pursuant to the Administrative Procedures Act (APA) upon an affidavit by a person familiar with the facts set forth in it alleging a violation or attempted violation of the proposed Act or a rule promulgated under it, or a deceptive or unconscionable method, act, or practice. The provider or instructor to whom the order was directed could apply to the SOS and would have to be granted a hearing within 30 days after application pursuant to the APA. At the hearing, the SOS would have to set aside, continue, or modify the order of summary suspension.

If the order concerned the issuance or authorization of driver education course certificates of completion, the SOS could discontinue the acceptance of certificates issued or authorized by the provider for students receiving or completing instruction after the effective date of the order. The SOS could decide to resolve the summary suspension matter before determining a driver license issue that involved one or more of the certificates of completion.

Practicing as Provider or Instructor without Certificate

A person could not engage in or offer to engage in activity as a provider or instructor unless the person held a valid certificate under the proposed Act. A person who violated this provision would be guilty of a misdemeanor punishable by imprisonment for up to 93 days and/or a maximum fine of \$2,000. In addition to any other remedies provided by law, the SOS could impose an administrative fine of \$100 for each day the person was found to have violated this provision.

SOS Reimbursement

In a court proceeding involving a violation of the proposed Act, the court could order a person found guilty to reimburse the SOS for the reasonable costs of the investigation that resulted in the conviction, in addition to any other civil or criminal penalties allowed by law. Any costs collected under this provision would have to be deposited in the proposed Driver Education Provider and Instructor Fund.

Driver Education Provider & Instructor Fund

The bill would create the Driver Education Provider and Instructor Fund as a separate fund within the State Treasury. A nonrefundable application processing fee, a multiple vehicle driving facility review and approval fee, and an administrative fine collected under the proposed Act would have to be transferred by the SOS to the State Treasurer, who would have to credit the money to the Fund. The SOS could spend money in the Fund to administer the proposed Act. The SOS could deduct money from the Fund to develop a driver education provider and instructor program, as well as the actual administrative costs to administer the proposed Act, including any administrative costs to perform inspections, conduct investigations, or hold administrative hearings.

Rescission of Administrative Rules

The bill would rescind the Department of State's driver training schools rules, R 388.351 to R 388.362, and the Department of Education's driver education rules, R 388.302 to R 388.338.

Legislative Analyst: Julie Koval

FISCAL IMPACT

Revenue that would be generated to the Driver Education Provider and Instructor Fund is estimated at \$96,250. The current fee structure has generated \$67,800 per fiscal year. According to the Department of State, revenue generated to the Fund, and funding from driver fees (\$528,000), would cover its administrative costs.

Under current law, after the actual administrative costs of the Department of State are deducted, the balance of the

revenue from the fees is deposited in the Traffic Law Enforcement and Safety Fund. The bill instead provides that any unencumbered money in the proposed Fund at the close of the fiscal year would remain in the Driver Education Provider and Instructor Fund.

The bill's criminal penalties would have an indeterminate fiscal impact on local government. There are no data to indicate how many offenders would be convicted of the proposed misdemeanors. Local governments would incur the costs of misdemeanor probation and incarceration in local facilities, which vary by county. Additional penal fine revenue would benefit public libraries.

Fiscal Analyst: Bill Bowerman
Lindsay Hollander

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.