

# SENATE BILL No. 1290

June 7, 2006, Introduced by Senator GILBERT and referred to the Committee on Transportation.

A bill to provide for the certification of driver education providers; to prescribe certain record-keeping and program requirements for driver education providers; to provide for the certification of driver education instructors; to prescribe the powers and duties of certain persons and departments; to prescribe certain fees; to establish a fund in the state treasury; to prescribe remedies, sanctions, and penalties; and to repeal acts, administrative rules, and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the  
2 "driver education provider and instructor act".

3           Sec. 3. As used in this act:

4           (a) "Adult driver training" means instruction that is provided

1 to a person 18 years of age or older in the operation of a motor  
2 vehicle, other than a commercial motor vehicle as defined in  
3 section 7a of the Michigan vehicle code, 1949 PA 300, MCL 257.7a.

4 (b) "Behind-the-wheel instruction" means instruction in which  
5 a student is in control of a motor vehicle on a public street or  
6 highway in real and varied traffic situations and a driver  
7 education instructor is the only other occupant in the front  
8 passenger seating area with the student.

9 (c) "Classroom instruction" means that part of a driver  
10 education course that occurs in a classroom environment that  
11 enables a student to learn through varied instructional methods,  
12 under the direct guidance of a driver education instructor.

13 (d) "Conviction" means a conviction for a crime or attempted  
14 crime whether under a law of this state, a local ordinance  
15 substantially corresponding to a law of this state, or a law of  
16 another state substantially corresponding to a law of this state.

17 (e) "Coordinated segment 1 driver education course" means a  
18 segment 1 course provided by 2 or more certified driver education  
19 providers in the use of auxiliary aids and services as that term is  
20 defined in the Americans with disabilities act of 1990, 42 USCA  
21 12102.

22 (f) "Curriculum" means a written plan that guides the  
23 instruction given in a driver education course and includes  
24 performance objectives, a content outline, detailed learning  
25 activities, and assessment tools.

26 (g) "Designated representative or coordinator" means the  
27 individual that a driver education provider employs, enlists, or

1 appoints, or contracts with to supervise, manage, and administer  
2 the day-to-day responsibilities of the provider's driver education  
3 school operation. Often this individual is an owner, partner,  
4 officer, or director of the driver education provider.

5 (h) "Driver education course" means a program of study offered  
6 by a certified driver education provider, which enables a student  
7 to acquire the basic knowledge, skill, and attitude necessary to  
8 operate a motor vehicle upon a highway transportation system.

9 (i) "Driver education course certificate of completion" means  
10 a written or electronic authorization issued by a certified driver  
11 education provider to a student who has successfully completed  
12 segment 1 or segment 2 of a driver education course offered by the  
13 provider.

14 (j) "Driver education instructor" means a person who the  
15 secretary of state certifies has met the instructor qualifications  
16 of this act to instruct a student in a driver education course.

17 (k) "Driver education instructor certificate" means a written  
18 or electronic authorization issued by the secretary of state to  
19 indicate that a person has met the instructor qualifications of  
20 this act to instruct a student in a driver education course.

21 Sec. 5. As used in this act:

22 (a) "Driver education instructor preparation program" means a  
23 program of driver education instructor preparation courses offered  
24 by a college or university or by a person required to be approved  
25 by the secretary of state.

26 (b) Except as otherwise provided in this act, "driver  
27 education instructor preparation courses" means the courses that

1 are required to obtain a driver education instructor certificate.

2 (c) "Driver education provider" or "provider" means a person  
3 who meets the requirements in subparagraph (i), if not excluded  
4 under subparagraph (ii), as follows:

5 (i) Gives instruction in the driving of a motor vehicle or  
6 prepares an applicant for an exam given by the secretary of state  
7 for a license as defined in section 25 of the Michigan vehicle  
8 code, 1949 PA 300, MCL 257.25, or a vehicle indorsement issued  
9 under former section 312e of the Michigan vehicle code, 1949 PA  
10 300.

11 (ii) Driver education provider does not include a person who  
12 provides instruction as follows:

13 (A) Only for the benefit of its employees if that instruction  
14 is not open to the public.

15 (B) In the driving or operating of a motorcycle as defined in  
16 section 31 of the Michigan vehicle code, 1949 PA 300, MCL 257.31,  
17 or the preparing of an applicant for an exam given by the secretary  
18 of state for a motorcycle indorsement issued under section 312a of  
19 the Michigan vehicle code, 1949 PA 300, MCL 257.312a.

20 (C) On an unpaid, casual basis to a relative or friend.

21 (d) "Driver education provider certificate" means a written or  
22 electronic authorization issued by the secretary of state to  
23 indicate that a person has met the driver education provider  
24 qualifications of this act.

25 (e) "Educational institution" means a public school, nonpublic  
26 school, or public school academy as those terms are defined in  
27 section 5 of the revised school code, 1976 PA 451, MCL 380.5; a

1 consortium that is defined to mean a partnership, association, or  
2 alliance of 2 or more school districts in a common venture; a  
3 community college, a 4-year college, a university, or any other  
4 body of higher education.

5 (f) "Established office location" means a building that meets  
6 all of the following requirements:

7 (i) Is of a permanent nature where the provider's  
8 communications and notices are received.

9 (ii) Is heated, lighted, and ventilated and contains  
10 appropriate space to properly store and preserve the information,  
11 records, or other documents required to be maintained under this  
12 act.

13 (iii) Complies with applicable zoning and municipal  
14 requirements.

15 (g) "Governmental agency" means an agency of the federal  
16 government, a state government, a county, city, village, or  
17 township, or a combination of any of these entities.

18 (h) "Graduated driver license" means a license issued by the  
19 secretary of state under section 310e of the Michigan vehicle code,  
20 1949 PA 300, MCL 257.310e.

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

1           Sec. 7. As used in this act:

2           (a) "Performance objective" means a certain level of knowledge  
3 and skill a student is expected to acquire to successfully complete  
4 a driver education course.

5           (b) "Person" means an individual, partnership, corporation,  
6 association, limited liability company, educational institution,  
7 governmental agency or other legal or commercial entity, and their  
8 legal successors.

9           (c) "Practicum" means classroom and behind-the-wheel  
10 instruction in a driver education course under the direction of an  
11 instructor employed, enlisted, or appointed by a college or  
12 university or by a person approved by the secretary of state and a  
13 cooperating instructor, providing practical application of theory  
14 and experience for a student in an approved driver education  
15 instructor preparation program. As used in this subdivision,  
16 "cooperating instructor" means a driver education instructor  
17 approved by the secretary of state to participate in a practicum  
18 course to mentor an uncertified driver education instructor in the  
19 practicum.

20           (d) "Professional development requirements" means training  
21 prescribed by the secretary of state to update the instructional  
22 knowledge and skill of a driver education instructor.

23           (e) "Revocation" means the termination of a driver education  
24 provider's certification or a driver education instructor's  
25 certification.

26           (f) "Segment 1" means a teen driver education course that  
27 meets the requirements in section 37 of this act.

1 (g) "Segment 2" means a teen driver education course that  
2 meets the requirements in section 39 of this act.

3 (h) "Simulator device training" means that part of a driver  
4 education course where a driver education instructor uses  
5 interactive simulator units and programs to reproduce driving  
6 situations likely to occur in actual driving on a street and the  
7 student is required to evaluate risk, make decisions, and respond  
8 to the situations presented.

9 (i) "Suspension" means the temporary withdrawal of a person's  
10 certification to engage or offer to engage in activities as a  
11 driver education provider or a driver education instructor during  
12 the period of suspension.

13 (j) "Teen driver training" means driver training instruction  
14 provided through a segment 1 or segment 2 driver education course  
15 that allows a person 17 years of age or less to apply for a level 1  
16 or level 2 graduated driver license.

17 (k) "Truck driver training" means instruction that is provided  
18 to operate a commercial motor vehicle as that term is defined in  
19 section 7a of the Michigan vehicle code, 1949 PA 300, MCL 257.7a.

20 Sec. 9. (1) A person may apply to the secretary of state for a  
21 driver education provider certificate in 1 or more of the following  
22 classifications:

23 (a) Adult driver training.

24 (b) Teen driver training.

25 (c) Truck driver training.

26 (2) The secretary of state shall not grant an original driver  
27 education provider certificate under this act until an

1 investigation is made of the applicant's qualification.

2 (3) Except as provided in this act, an applicant must do or  
3 submit evidence that he or she has done or will do, as applicable,  
4 all of the following to be eligible to receive a driver education  
5 provider certificate:

6 (a) Submit a properly completed application signed by the  
7 applicant.

8 (b) Maintain an established office location.

9 (c) Maintain classroom facilities in a public or commercial  
10 setting.

11 (d) Maintain the surety bond required under this section.

12 (e) Require each of their designated representatives or  
13 coordinators to complete a criminal history check as described in  
14 section 29.

15 (f) Provide the name and address of each designated  
16 representative or coordinator of the applicant, if applicable.

17 (g) Provide the name, address, date of birth, and social  
18 security number of each owner or partner and, if a corporation, of  
19 each of the principal officers.

20 (h) Provide a statement of the previous history, record, and  
21 associations of the applicant and of each owner, partner, officer,  
22 director, and designated representative or coordinator. The  
23 statement shall be sufficient to establish to the satisfaction of  
24 the secretary of state the business reputation and character of the  
25 applicant.

26 (i) Provide a statement indicating whether the applicant or  
27 its designated representative or coordinator has ever applied for a

1 driver education provider certificate in this state or any other  
2 state, and the result of that application.

3 (j) Provide a statement indicating whether the applicant or  
4 its designated representative or coordinator has ever been denied a  
5 driver education provider certificate or has ever been the holder  
6 of a certificate that was suspended or revoked.

7 (k) If the applicant is a corporation or partnership, provide  
8 a statement indicating whether a partner, employee, officer,  
9 director, or its designated representative or coordinator has ever  
10 been denied a driver education provider certificate or has ever  
11 been the holder of a certificate that was suspended or revoked.

12 (l) Certify that the applicant or another person named on the  
13 application is not acting as the alter ego of any other person or  
14 persons in seeking the certificate. For the purpose of this  
15 subdivision, "alter ego" means a person who acts for and on behalf  
16 of, or in the place of, another person for purposes of obtaining a  
17 driver education provider certificate.

18 (m) Affirm that the established office location meets all  
19 applicable zoning and municipal requirements.

20 (n) Obtain written or electronic verification from the state  
21 fire marshal or his or her representative that the proposed  
22 classroom facilities have been inspected and approved by the state  
23 fire marshal or his or her representative according to state and  
24 local building code and public occupancy requirements.

25 (o) Obtain written or electronic verification from an insurer  
26 that the applicant maintains or will maintain bodily injury and  
27 property damage liability insurance on each motor vehicle used in a

1 driver education course.

2 (p) Except as otherwise provided in this subdivision, submit a  
3 nonrefundable application processing fee with the application as  
4 follows:

5 (i) \$225.00 for a driver education provider who offers adult or  
6 teen driver training.

7 (ii) \$360.00 for a driver education provider who offers truck  
8 driver training.

9 (iii) A fee is not required for an additional location that is  
10 used for the sole purpose of conducting classroom instruction and  
11 at which records are not maintained, enrollments are not made, and  
12 staff is not ordinarily assigned, except for the purpose of  
13 conducting classroom instruction.

14 (q) Provide a statement indicating whether the applicant will  
15 use a multiple vehicle driving facility in a driver education  
16 course. If a facility will be used, both of the following apply:

17 (i) The statement shall include a detailed description of the  
18 facility as determined necessary by the secretary of state and its  
19 address.

20 (ii) A multiple vehicle driving facility review and approval  
21 fee of \$125.00 shall accompany the applicant's application for a  
22 driver education provider certificate.

23 (r) Provide other information and documents as prescribed by  
24 the secretary of state necessary to determine whether the applicant  
25 meets the requirements of this act.

26 (4) An application for an original driver education provider  
27 certificate shall include a properly executed surety bond or

1 renewal certificate with the application. If a renewal certificate  
2 is used, the bond is considered renewed for each succeeding year in  
3 the same amount and with the same effect as an original bond. The  
4 bond or certificate shall be maintained continuously without  
5 interruption to protect the contractual rights of students. The  
6 bond or certificate of an adult or teen driver education provider  
7 with 999 or fewer students in a calendar year shall be in the  
8 principal sum of \$20,000.00 with good and sufficient surety to be  
9 approved by the secretary of state. The bond or certificate of an  
10 adult or teen driver education provider with 1,000 or more students  
11 in a calendar year shall be in the principal sum of \$40,000.00 with  
12 good and sufficient surety to be approved by the secretary of  
13 state. The bond or certificate of a truck driver education provider  
14 shall be in the principal sum of \$50,000.00 with good and  
15 sufficient surety to be approved by the secretary of state. The  
16 bond shall indemnify or reimburse a student, financing agency, or  
17 governmental agency for monetary loss caused through fraud,  
18 cheating, or misrepresentation in the conduct of the driver  
19 education provider's business where the fraud, cheating, or  
20 misrepresentation was made by the provider or by an employee,  
21 agent, instructor, or salesperson of the provider. The surety shall  
22 make indemnification or reimbursement for a monetary loss only  
23 after judgment based on fraud, cheating, or misrepresentation has  
24 been entered in a court of record against the provider. The  
25 aggregate liability of the surety shall not exceed the sum of the  
26 bond. The surety on the bond may cancel the bond by giving 30 days'  
27 written or electronic notice to the secretary of state and after

1 giving notice is not liable for a breach of condition occurring  
2 after the effective date of the cancellation.

3 (5) A driver education provider who offers adult driver  
4 training, teen driver training, and truck driver training shall  
5 furnish a separate bond for each driver education provider  
6 certificate issued by the secretary of state to the applicant. When  
7 the secretary of state receives written or electronic notice that a  
8 driver education provider's surety bond required under subsection  
9 (4) or insurance coverage required under subsection (10) has been  
10 canceled, the secretary of state shall notify the provider that the  
11 provider's certificate shall be automatically canceled unless the  
12 secretary of state receives a new surety bond or a new insurance  
13 certificate within 30 days or less. If the provider fails to submit  
14 a new surety bond or insurance certificate to the secretary of  
15 state within 30 days or less, the secretary of state may  
16 automatically cancel the provider's certificate. A driver education  
17 provider who changes or terminates the provider's surety bond or  
18 the insurance coverage before the expiration date of the bond or  
19 insurance coverage shall immediately furnish the secretary of state  
20 with written or electronic notice as prescribed by the secretary of  
21 state of that change or termination and proof of a new bond or  
22 insurance coverage.

23 (6) As a condition precedent to the granting of a certificate,  
24 an applicant shall file with the secretary of state, on a form  
25 prescribed by the secretary of state, an irrevocable written or  
26 electronic stipulation. The stipulation shall be signed by the  
27 applicant and state that the applicant agrees that legal process

1 affecting the applicant, served on the secretary of state against  
2 the applicant or the applicant's successor in interest for a  
3 violation of this act, a rule promulgated under this act, or an  
4 order issued under this act, has the same effect as if personally  
5 served on the applicant. This appointment remains in force as long  
6 as the provider has any outstanding liability within this state  
7 under this act.

8 (7) Subsections (3)(d) and (g) and (4) do not apply to an  
9 educational institution or a governmental agency.

10 (8) Subsection (3)(c) does not apply to a classroom location  
11 currently in use that was approved by the secretary of state in  
12 writing before the effective date of this act.

13 (9) A classroom facility may not be located in a person's  
14 residence or a structure attached or adjacent to the person's  
15 residence unless the classroom facility was used and approved by  
16 the secretary of state in writing before the effective date of this  
17 act.

18 (10) A driver education provider shall maintain bodily injury  
19 and property damage liability insurance on a motor vehicle used in  
20 driver education course instruction. The insurance shall insure the  
21 liability of the driver education provider, the driver education  
22 instructors, and a person taking instruction in the amount of  
23 \$100,000.00 for bodily injury to or the death of 1 person in 1  
24 accident, and, subject to the limit for 1 person; \$300,000.00 for  
25 bodily injury to or the death of 2 or more persons in 1 accident;  
26 and \$50,000.00 for damage to the property of others in 1 accident.  
27 The insurer shall be authorized to do insurance business in this

1 state. The insurer shall not cancel the insurance before its  
2 expiration date unless it gives the secretary of state written or  
3 electronic notice as prescribed by the secretary of state of the  
4 insurer's intent to cancel the insurance at least 30 days before  
5 the cancellation.

6 (11) The secretary of state shall review and, in writing,  
7 approve or deny the use of a multiple vehicle driving facility  
8 under this act as determined necessary by the secretary of state.  
9 The secretary of state shall approve a facility only if it meets  
10 criteria prescribed by the secretary of state. The secretary of  
11 state shall perform an on-site inspection of a multiple vehicle  
12 driving facility as determined necessary by the secretary of state.

13 (12) The secretary of state may develop and prescribe an  
14 orientation and education program that a person must complete  
15 before the secretary of state issues that person an original driver  
16 education provider certificate under section 13.

17 (13) Nonrefundable application processing and multiple vehicle  
18 driving facility review and approval fees collected under this  
19 section shall be deposited into the driver education provider and  
20 instructor fund created in section 83.

21 Sec. 11. (1) A certified driver education provider may apply  
22 for the renewal of a driver education provider certificate. The  
23 renewal application shall be submitted to the secretary of state  
24 every other year in a format and as prescribed by the secretary of  
25 state. A renewal application shall include all of the following:

26 (a) A properly completed application signed by the applicant.

27 (b) A nonrefundable application processing fee as follows:

1           (i) \$225.00 for a driver education provider who offers adult or  
2 teen driver training.

3           (ii) \$360.00 for a driver education provider who offers truck  
4 driver training.

5           (c) If applicable, either of the following:

6           (i) A certification that the applicant has used a multiple  
7 vehicle driving facility in a driver education course and that the  
8 facility has not been altered or changed since the secretary of  
9 state inspected that facility after the effective date of this act.  
10 A nonrefundable multiple vehicle driving facility review and  
11 approval fee of \$75.00 shall accompany the applicant's application  
12 for a renewal of its driver education provider certificate.

13           (ii) A statement that the applicant will use a multiple vehicle  
14 driving facility in a driver education course, a detailed  
15 description of the facility as determined necessary by the  
16 secretary of state, and its address. A multiple vehicle driving  
17 facility review and approval fee of \$125.00 shall accompany the  
18 applicant's application for a renewal of its driver education  
19 provider certificate.

20           (d) Other information and documents prescribed by the  
21 secretary of state as needed to determine whether the applicant  
22 meets the requirements of this act.

23           (2) The designated representative or coordinator of a  
24 certified driver education provider shall complete a criminal  
25 history check as described in section 29 to the satisfaction of the  
26 secretary of state every 4 years on an application to renew the  
27 driver education provider's certificate.

1           (3) If the secretary of state receives a properly completed  
2 renewal application before the applicant's driver education  
3 provider's current certificate expires, the certificate continues  
4 in full force and effect until the secretary of state either  
5 approves or denies the renewal application. If the secretary of  
6 state does not receive a properly completed renewal application  
7 before the driver education provider certificate expires, the  
8 driver education provider shall not offer to engage or engage in  
9 the activity of a driver education provider until the secretary of  
10 state issues the holder of the expired certificate an original or  
11 renewal driver education provider certificate as provided in this  
12 act.

13           (4) The secretary of state shall not issue a renewal  
14 certificate more than 30 days after a driver education provider  
15 certificate expires unless the provider has submitted a properly  
16 completed renewal application within 30 days after the  
17 certificate's expiration date. A provider that applies for a  
18 certificate renewal later than 30 days after the certificate  
19 expires shall apply to the secretary of state for an original  
20 driver education provider certificate.

21           (5) The secretary of state shall review and, in writing,  
22 approve or deny the use of a multiple vehicle driving facility  
23 under this act as determined necessary by the secretary of state.  
24 The secretary of state may only approve a facility that meets  
25 criteria prescribed by the secretary of state. The secretary of  
26 state shall perform an on-site inspection of a multiple vehicle  
27 driving facility as determined necessary by the secretary of state.

1           (6) Subsection (1)(b) does not apply to an educational  
2 institution or a governmental agency.

3           (7) Nonrefundable application processing and multiple vehicle  
4 driving facility review and approval fees collected under this  
5 section shall be deposited into the driver education provider and  
6 instructor fund created under section 83.

7           Sec. 13. (1) The secretary of state may issue an original or  
8 renewal driver education provider certificate if the secretary of  
9 state is satisfied the applicant meets the requirements for that  
10 certificate under this act. The secretary of state may assign an  
11 identifying number to a driver education provider and put that  
12 number on the provider's certificate. The secretary of state may  
13 indicate the adult, teen, or truck driver training classification  
14 applicable on the driver education provider's certificate.

15           (2) A driver education provider certificate issued under this  
16 act is valid for 2 years. The original expiration date is exactly 2  
17 years from the date the secretary of state issues the provider an  
18 original certificate. A provider's renewal certificate expires 2  
19 years after its issuance on the same day and month that the  
20 original certificate expired.

21           (3) A person licensed as a driver training school by the  
22 secretary of state or who has been approved for segment 1 and  
23 segment 2 driver education course performance objectives under  
24 former 1974 PA 369, and has submitted a properly completed renewal  
25 application under former 1974 PA 369, to the secretary of state  
26 before October 1, 2006 may continue to engage in activity for which  
27 the person was licensed or approved while the secretary of state

1 processes the renewal application. If the secretary of state  
2 approves that application and issues a license under former 1974 PA  
3 369, that license or approval shall expire on December 31, 2006. A  
4 person licensed or approved under former 1974 PA 369 to engage in  
5 the activity of a driver education provider must comply with this  
6 act by October 1, 2007. If a person licensed or approved under  
7 former 1974 PA 369 applies to the secretary of state to renew that  
8 license or approval under this act, the secretary of state may  
9 require the applicant to submit either an original or renewal  
10 application as determined necessary by the secretary of state.

11 (4) A person shall not transfer or assign a driver education  
12 provider certificate to another person, and any purported transfer  
13 or assignment is not effective.

14 Sec. 15. (1) A driver education provider shall immediately  
15 notify the secretary of state in a manner prescribed by the  
16 secretary of state of a change in an owner, partner, officer,  
17 director, or the designated representative or coordinator of the  
18 provider. Immediately upon notifying the secretary of state, the  
19 provider shall also submit a request to the department of state  
20 police for a criminal history check as described in section 29 of  
21 the changed owner, partner, officer, director, or the designated  
22 representative or coordinator of the provider.

23 (2) A driver education provider shall immediately notify the  
24 secretary of state in a manner prescribed by the secretary of state  
25 of a change of address for the established office location or the  
26 classroom facilities of the provider. The provider shall also  
27 submit with that address change notification any information,

1 record, report, or other document prescribed by the secretary of  
2 state or required under this act.

3 (3) A person who stops operating as a driver education  
4 provider or no longer qualifies as a certified driver education  
5 provider shall immediately in a format prescribed by the secretary  
6 of state do all of the following:

7 (a) Return the certificate issued under section 13 to the  
8 secretary of state.

9 (b) Prepare a final inventory listing each segment 1 or  
10 segment 2 driver education course certificate of completion that  
11 the secretary of state issued to the provider during the past year.

12 (c) Return to the secretary of state each segment 1 or segment  
13 2 driver education course certificate of completion in the  
14 provider's possession that the provider did not issue to a student.

15 (d) Inform the secretary of state of the location where the  
16 information, records, or other documents that the provider is  
17 required to maintain under this act will be stored for no less than  
18 4 years after the provider stops operating as a driver education  
19 provider or fails to qualify for certification as a provider.

20 (4) A person who fails to immediately comply with subsection  
21 (3)(a), (b), or (c) is guilty of a misdemeanor punishable by  
22 imprisonment for not more than 93 days or a fine of not more than  
23 \$2,000.00, or both.

24 Sec. 17. (1) A person may apply to the secretary of state for  
25 a driver education instructor certificate in 1 or more of the  
26 following classifications:

27 (a) Adult driver training.

1 (b) Teen driver training.

2 (c) Truck driver training.

3 (2) The secretary of state shall not issue an original driver  
4 education instructor certificate under this act until an  
5 investigation is made of the applicant's qualification under this  
6 act.

7 (3) The secretary of state may issue a person a driver  
8 education instructor certificate if the person presents  
9 satisfactory evidence to the secretary of state in a format and as  
10 prescribed by the secretary of state that the person meets all of  
11 the following requirements:

12 (a) Submits a properly completed application signed by the  
13 applicant.

14 (b) Is not less than 21 years of age on the date of  
15 application.

16 (c) Provides the applicant's driver license number.

17 (d) Possesses a valid driver license that has been in  
18 continuous effect for not less than 5 years immediately preceding  
19 the application.

20 (e) Provides a statement indicating whether the applicant has  
21 ever applied for a driver education instructor certificate in this  
22 state or any other state, and the result of that application.

23 (f) Provides a statement indicating whether the applicant has  
24 ever been the holder of a driver education instructor certificate  
25 that was revoked or suspended, in this state or any other state.

26 (g) Completes a criminal history check as described in section  
27 29 to the satisfaction of the secretary of state.

1 (h) Certifies that the applicant does not have a pending  
2 criminal matter or an outstanding arrest, warrant, or conviction  
3 since submitting a request for a criminal history check under  
4 section 29.

5 (i) Submits a nonrefundable application processing fee of  
6 \$45.00.

7 (j) Submits a certified medical examination report that is not  
8 older than 90 days and that is prepared by a physician, a  
9 physician's assistant, or a certified nurse practitioner licensed  
10 to practice in this state or in the applicant's state of residence.  
11 The report shall include a statement by the person that certified  
12 the report that the applicant is medically qualified to operate a  
13 motor vehicle and to train others to operate a motor vehicle.

14 (k) For an original application for a driver education  
15 instructor certificate for adult or teen driver training, submits  
16 an official transcript from a college or university or from a  
17 person approved by the secretary of state to verify the completion  
18 of the driver education instructor preparation courses required  
19 under the driver education instructor preparation program of this  
20 act. Except for a driver education instructor issued a temporary  
21 approval under this act, an applicant approved as a driver  
22 education instructor by the secretary of state before October 1,  
23 2006 has complied with this transcript requirement.

24 (l) An applicant who is not a resident of this state shall  
25 submit an up-to-date certified driving record from the applicant's  
26 state of residence to the secretary of state. The applicant shall  
27 agree in writing or electronically as prescribed by the secretary

1 of state to submit an up-to-date certified driving record every 60  
2 days for as long as the applicant is not a resident of this state.

3 (m) Other information and documents prescribed by the  
4 secretary of state to determine an applicant's qualifications for  
5 certification under this section.

6 (4) As a condition precedent to the granting of a certificate,  
7 an applicant shall file with the secretary of state, on a form  
8 prescribed by the secretary of state, an irrevocable written or  
9 electronic stipulation. The stipulation shall be signed by the  
10 applicant and state the applicant agrees that legal process  
11 affecting the applicant, served on the secretary of state against  
12 the applicant or the applicant's successor in interest for a  
13 violation of this act, a rule promulgated under this act, or an  
14 order issued under this act, has the same effect as if personally  
15 served on the applicant. This appointment remains in force as long  
16 as the applicant has any outstanding liability within this state  
17 under this act.

18 (5) The secretary of state may require an applicant to submit  
19 a photograph of the applicant, may prescribe the size and format of  
20 the photograph, and may include a reproduction of the photograph on  
21 the driver education instructor certificate. The secretary of state  
22 may receive the applicant's written or electronic permission to use  
23 the image of the applicant captured and retained under section 307  
24 of the Michigan vehicle code, 1949 PA 300, MCL 257.307, on the  
25 driver education instructor certificate.

26 (6) A person licensed as a driver training school instructor  
27 by the secretary of state or who has been approved as an instructor

1 for segment 1 and segment 2 driver education course performance  
2 objectives under former 1974 PA 369, and has submitted a properly  
3 completed renewal application under former 1974 PA 369, to the  
4 secretary of state before October 1, 2006 may continue to engage in  
5 activity for which the person was licensed or approved while the  
6 secretary of state processes the renewal application. If the  
7 secretary of state approves that application and issues a license  
8 under former 1974 PA 369, that license or approval shall expire on  
9 December 31, 2006. A person engaging in the activity of a driver  
10 education instructor must comply with this act by October 1, 2007.  
11 When a person licensed or approved under former 1974 PA 369 applies  
12 to the secretary of state to renew that license or approval under  
13 this act, the secretary of state may require the applicant to  
14 submit either an original or renewal application.

15 (7) A person who engages or offers to engage in activity as a  
16 driver education instructor before being certified by the secretary  
17 of state is guilty of a misdemeanor punishable by imprisonment for  
18 not more than 93 days or a fine of not more than \$2,000.00, or  
19 both.

20 (8) The secretary of state may develop and prescribe an  
21 orientation and education program that a person must complete  
22 before receiving an original driver education instructor  
23 certificate issued under this act.

24 (9) Beginning April 1, 2008, an applicant for an original  
25 driver education instructor certificate is required to complete the  
26 driver education instructor preparation courses described in  
27 section 23. This subsection does not apply to an applicant for a

1 driver education instructor certificate to conduct truck driver  
2 training.

3 Sec. 19. (1) The secretary of state may issue a person an  
4 original or renewal driver education instructor certificate if the  
5 secretary of state is satisfied that the person meets the  
6 requirements for that certificate under this act. A certificate may  
7 include the following:

8 (a) The name of the instructor.

9 (b) An image of the instructor.

10 (c) An identification number assigned to the instructor.

11 (d) One or more driver education training classifications.

12 (e) Other information determined necessary by the secretary of  
13 state.

14 (2) A driver education instructor shall display the driver  
15 education instructor certificate card issued by the secretary of  
16 state to that instructor at all times while providing instruction  
17 to a student. A driver education instructor shall provide a copy of  
18 his or her certificate to a driver education provider who utilizes  
19 the instructor's services.

20 Sec. 21. (1) A certified driver education instructor may apply  
21 to the secretary of state for renewal of his or her driver  
22 education instructor certificate. The application shall be in a  
23 format as prescribed by the secretary of state and shall include  
24 all of the following:

25 (a) A properly completed application signed by the applicant.

26 (b) A certification that the applicant complies with the  
27 professional development requirements of this act and any

1 additional verification regarding compliance with the professional  
2 development requirements of this act as prescribed by the secretary  
3 of state.

4 (c) A nonrefundable application processing fee of \$45.00.

5 (d) Every 2 years, a new certified medical examination report  
6 that is not older than 90 days and that is prepared by a physician,  
7 a physician's assistant, or a certified nurse practitioner licensed  
8 to practice in this state or in the applicant's state of residence.  
9 The report shall include a statement by the person that certified  
10 the report that the applicant is medically qualified to operate a  
11 motor vehicle and to train others to operate a motor vehicle.

12 (e) Other information and documents prescribed by the  
13 secretary of state.

14 (2) If the secretary of state receives a properly completed  
15 renewal application before the applicant's driver education  
16 instructor's current certificate expires, the certificate continues  
17 in full force and effect until the secretary of state either  
18 approves or denies the renewal application. If the secretary of  
19 state does not receive a properly completed renewal application  
20 before the driver education instructor certificate expires, the  
21 driver education instructor shall not offer to engage or engage in  
22 the activity of a driver education instructor until the secretary  
23 of state issues the holder of the expired certificate an original  
24 or renewal driver education instructor certificate as provided in  
25 this act.

26 (3) The secretary of state shall not issue a renewal  
27 certificate more than 30 days after a driver education instructor

1 certificate expires unless the instructor has submitted a properly  
2 completed renewal application within 30 days after the  
3 certificate's expiration date. An instructor that applies for a  
4 certificate renewal later than 30 days after the certificate  
5 expires shall apply to the secretary of state for an original  
6 driver education instructor certificate.

7 (4) A certified driver education instructor shall complete a  
8 criminal history check as described in section 29 to the  
9 satisfaction of the secretary of state every 4 years on a renewal  
10 application for a driver education instructor certificate.

11 (5) A driver education instructor certificate issued under  
12 this act is valid for 2 years. The original expiration date is  
13 exactly 2 years from the date the secretary of state issues the  
14 instructor an original certificate. An instructor's renewal  
15 certificate expires 2 years after its issuance on the same day and  
16 month that the original certificate expired.

17 (6) A nonrefundable application processing fee collected under  
18 this section shall be deposited into the driver education provider  
19 and instructor fund created under section 83.

20 Sec. 23. (1) A college or university or a person approved by  
21 the secretary of state may present a driver education instructor  
22 preparation program. A college, university, or person shall not  
23 offer to engage or engage in the activity of presenting a driver  
24 education instructor preparation program without the prior approval  
25 of the secretary of state.

26 (2) A college, university, or person may apply to the  
27 secretary of state for approval to conduct a driver education

1 instructor preparation program. A college, university, or person  
2 seeking approval shall present satisfactory evidence to the  
3 secretary of state as prescribed by the secretary of state that the  
4 college's, university's, or person's proposed program meets the  
5 requirements of this section.

6 (3) The secretary of state shall review and approve a driver  
7 education instructor preparation program that meets the  
8 requirements of this section. The secretary of state shall give the  
9 college, university, or person requesting approval a written notice  
10 of the secretary of state's approval or denial, including the  
11 reason for any denial.

12 (4) The secretary of state shall prepare a driver education  
13 instructor preparation program guide as a model for how to conduct  
14 a driver education instructor preparation program. The model  
15 program guide shall identify the content of each course identified  
16 in subsection (7).

17 (5) Beginning October 1, 2007, a driver education instructor  
18 preparation program shall consist of not less than 4 driver  
19 education preparation courses.

20 (6) A college, university, or person seeking approval of a  
21 driver education instructor preparation course shall present  
22 evidence satisfactory to the secretary of state that the proposed  
23 course meets the requirements of this section. The secretary of  
24 state shall review a driver education instructor preparation course  
25 and determine whether that course meets the requirements of this  
26 act. The secretary of state shall prescribe the administration and  
27 curriculum of a driver education instructor preparation course. The

1 secretary of state shall give the college, university, or person  
2 requesting approval written notice of the secretary of state's  
3 approval or denial, including the reason for any denial.

4 (7) A driver education instructor preparation program shall  
5 consist of not less than 4 driver education instructor preparation  
6 courses. The 4 required courses shall each concentrate on only 1 of  
7 the following concepts, and all of the following concepts shall be  
8 covered in the minimum 4 courses required:

9 (a) Driver task analysis.

10 (b) Developing classroom and program knowledge.

11 (c) Developing vehicle operation skills.

12 (d) Practicum.

13 (8) A driver education instructor preparation course shall  
14 consist of not less than 2 semester hours per course or the  
15 equivalent of not less than 2 semester hours per course as approved  
16 by the secretary of state. A driver education instructor  
17 preparation course shall extend for not less than 3 weeks.

18 (9) An instructor who teaches a driver education instructor  
19 preparation course shall meet the following requirements:

20 (a) Have a master's degree in education from an accredited  
21 college or university.

22 (b) Hold a valid driver education instructor certificate  
23 issued by the secretary of state.

24 (c) Any other requirement the secretary of state determines is  
25 necessary to determine instructor qualifications.

26 (10) A college, university, or person approved by the  
27 secretary of state that offers a driver education instructor

1 preparation course shall include in the course registration  
2 material information explaining the driver education instructor  
3 qualifications required under this act.

4 (11) The secretary of state shall review each driver education  
5 instructor preparation program approved under this section at least  
6 once every 3 years.

7 (12) A driver education preparation course credit earned  
8 through a college, university, or another entity in another state  
9 may be accepted on the same basis as the equivalent credit earned  
10 through a driver education instructor preparation program conducted  
11 by a college or university or by a person approved by the secretary  
12 of state, if approved by the secretary of state. A person seeking  
13 approval of a driver education course credit earned in another  
14 state shall present satisfactory evidence to the secretary of state  
15 that the other state's course substantially meets the requirements  
16 of this state. The secretary of state shall review a driver  
17 education preparation course credit earned in another state and  
18 determine whether that course content meets the requirements of  
19 this act. The secretary of state shall give the person a written  
20 notice of the secretary of state's approval or denial, including  
21 the reason for any denial.

22 (13) This section does not apply to an applicant for a driver  
23 education instructor certificate that is limited to the truck  
24 driver training classification.

25 Sec. 25. (1) A person shall not enroll in a practicum course  
26 conducted by a college or university or by a person approved by the  
27 secretary of state unless the person possesses a conditional driver

1 education instructor certificate.

2 (2) A person shall apply to the secretary of state for a  
3 conditional driver education instructor certificate. The secretary  
4 of state may issue a person a conditional driver education  
5 instructor certificate after the person presents satisfactory  
6 evidence to the secretary of state that the applicant complies with  
7 both of the following:

8 (a) Meets all of the driver education instructor application  
9 requirements under section 17 except for completion of a practicum  
10 course.

11 (b) Is enrolled in a practicum course conducted by a college  
12 or university or by a person approved by the secretary of state.

13 (3) This section does not apply to an applicant for a driver  
14 education instructor certificate that is limited to the truck  
15 driver training classification.

16 Sec. 27. Beginning October 1, 2007, the secretary of state  
17 shall establish professional development requirements for a  
18 certified driver education instructor. The secretary of state shall  
19 publish the requirements in a format and manner prescribed by the  
20 secretary of state. Professional development requirements shall  
21 provide the following:

22 (a) The criteria a driver education instructor shall follow to  
23 select an activity to meet the professional development  
24 requirements.

25 (b) The date by which an instructor shall complete the  
26 professional development requirements.

27 Sec. 29. (1) A criminal history check required under this act

1 shall be performed by the department of state police and the  
2 federal bureau of investigation.

3 (2) A person required to have a criminal history check shall  
4 send a request for a criminal history check to the department of  
5 state police in a format and as prescribed by the department of  
6 state police. The fees required by the department of state police  
7 and the federal bureau of investigation to conduct the criminal  
8 history check shall accompany a request for a criminal history  
9 check.

10 (3) The department of state police shall conduct a criminal  
11 history check within 45 days after receiving a proper request and  
12 the required fee for a criminal history check under this section.  
13 After conducting the criminal history check and within that same 45  
14 days, the department of state police shall provide the secretary of  
15 state with a report of the criminal history check. The report shall  
16 contain any criminal history record information on the person  
17 maintained by the department of state police.

18 (4) Except as otherwise provided in this act, the secretary of  
19 state shall not approve an original or renewal driver education  
20 provider or driver education instructor certificate before  
21 receiving and reviewing the applicable criminal history checks from  
22 the department of state police and the federal bureau of  
23 investigation.

24 (5) The secretary of state shall use criminal history record  
25 information received under this section only for evaluating an  
26 applicant's qualifications to receive a driver education provider  
27 or driver education instructor certificate under this act. The

1 secretary of state shall discuss the report or its contents only  
2 with staff of the department of state police or a person who was  
3 involved in the prosecution of a criminal matter noted in a report  
4 for purposes of clarifying whether an offense meets 1 of the crimes  
5 described in section 59. A person who uses criminal history record  
6 information in violation of this subsection is guilty of a  
7 misdemeanor punishable by a fine of not more than \$10,000.00.

8 (6) As used in this section, "criminal history record  
9 information" means that term as defined in section 1a of 1925 PA  
10 289, MCL 28.241a.

11 Sec. 31. (1) A motor vehicle used by a driver education  
12 provider shall:

13 (a) Comply with the motor vehicle safety standards required  
14 under both federal law and the laws of this state when used as a  
15 driver education vehicle.

16 (b) Display an identity, in a size and design prescribed by  
17 the secretary of state, that the vehicle is used in a driver  
18 education course.

19 (c) Display a driver education provider's identity, in a size  
20 and design prescribed by the secretary of state, that uses the  
21 vehicle in a driver education course.

22 (2) A driver education provider shall not allow a driver  
23 education instructor to use a motor vehicle in a driver education  
24 course with more occupants than the number of safety belts  
25 installed in the vehicle.

26 (3) A passenger motor vehicle used by a driver education  
27 provider in a driver education course shall be a dual-controlled

1 vehicle. For the purpose of this subsection, a "dual-controlled  
2 vehicle" means a motor vehicle that is equipped with a duplicate  
3 brake or, if applicable, a duplicate brake and clutch pedal that is  
4 positioned on the right front floorboard of the vehicle.

5 Sec. 33. A driver education provider issued a driver education  
6 provider certificate that is classified for teen driver training  
7 under this act shall comply with all of the following:

8 (a) Verify that a person enrolled in a driver education course  
9 complies with the following:

10 (i) Is 14 years, 8 months of age or older before beginning a  
11 segment 1 curriculum. A student's initial attendance or  
12 participation in a class shall not begin or commence on a date  
13 after the first day of that scheduled class without good cause.

14 Except as otherwise provided in this subsection, the student being  
15 less than 14 years and 8 months on the first day of class is not  
16 good cause.

17 (ii) If less than 14 years, 8 months of age, that the secretary  
18 of state has issued the person an approval, as prescribed by the  
19 secretary of state, for a minor restricted driver license under  
20 section 312 of the Michigan vehicle code, 1949 PA 300, MCL 257.312.

21 (iii) Meets the physical or mental requirements for a motor  
22 vehicle operator's license under section 309 of the Michigan  
23 vehicle code, 1949 PA 300, MCL 257.309.

24 (b) Provide a driver education course that has been approved  
25 by the secretary of state under this act.

26 (c) Administer a knowledge test approved by the secretary of  
27 state under this act to each student at the completion of a driver

1 education course in accordance with the standards prescribed by the  
2 secretary of state under this act.

3 (d) For a student or customer who is less than 18 years of  
4 age, sign a written agreement with the student or customer or the  
5 student's or customer's parent or legal guardian. The agreement  
6 shall provide that the driver education provider shall have not  
7 less than 2 students in the vehicle used by the student or customer  
8 during behind-the-wheel instruction. A student's or customer's  
9 parent or legal guardian may waive this requirement only in  
10 writing.

11 Sec. 35. (1) The secretary of state shall prescribe a model  
12 curriculum for teen driver training under this act. A driver  
13 education provider classified for teen driver training shall use  
14 the secretary of state's prescribed model curriculum or may use an  
15 alternative curriculum only after it has been reviewed and approved  
16 by the secretary of state. The secretary of state may approve an  
17 alternative curriculum if it substantially meets or exceeds the  
18 standards of the secretary of state's prescribed model curriculum.

19 (2) Under a segment 1 curriculum and segment 2 curriculum  
20 combined, each student shall receive no less than 30 hours of  
21 classroom instruction and 7 hours of behind-the-wheel driver  
22 education course experience.

23 Sec. 37. (1) A segment 1 curriculum shall include both  
24 classroom and behind-the-wheel driver education course experience.  
25 The classroom instruction and behind-the-wheel instruction shall be  
26 integrated, relate to each other, and meet the following  
27 requirements:

1 (a) Each student shall receive not less than 24 hours of  
2 classroom instruction. Classroom instruction shall be scheduled to  
3 occur as follows:

4 (i) Classroom instruction shall occur not more than 2 hours per  
5 day.

6 (ii) Classroom instruction shall occur over the course of 3 or  
7 more weeks.

8 (iii) Classroom instruction of 4 or more hours shall be received  
9 before the student begins to receive behind-the-wheel instruction.

10 (iv) Behind-the-wheel instruction of 3 or more hours shall be  
11 completed before classroom instruction terminates.

12 (b) Each student shall receive not less than 6 hours of  
13 behind-the-wheel instruction or substitute hours permitted under  
14 this subsection. Behind-the-wheel instruction shall be scheduled to  
15 occur as follows:

16 (i) A student shall receive not more than 1 hour of behind-the-  
17 wheel instruction per day.

18 (ii) Not more than 1 student shall occupy the front seat of the  
19 vehicle with the instructor.

20 (iii) A driver education motor vehicle shall contain not more  
21 than 4 students during behind-the-wheel instruction.

22 (iv) Not later than 3 weeks after the last classroom  
23 instruction has been completed, a student shall complete any  
24 remaining required behind-the-wheel instruction.

25 (v) Except as otherwise provided in this section, a student  
26 may receive behind-the-wheel instruction at a multiple vehicle  
27 driving facility. One hour of instruction received at a multiple

1 vehicle driving facility may substitute as credit for 1 hour of  
2 behind-the-wheel experience. A maximum of 2 hours of behind-the-  
3 wheel experience can be substituted with instruction received at a  
4 multiple vehicle driving facility.

5 (c) A student shall receive 4 or more hours of behind-the-  
6 wheel observation time.

7 (2) A driver education provider classified for teen driver  
8 training shall not substitute behind-the-wheel instruction with  
9 multiple vehicle driving facility experience until the secretary of  
10 state gives the provider written approval for that substitution as  
11 provided in this act.

12 (3) A driver education provider classified for teen driver  
13 training shall not substitute behind-the-wheel driving experience  
14 with simulator device training.

15 (4) As used in this section:

16 (a) "Integrated" means classroom and behind-the-wheel  
17 instruction scheduled to include a mix of classroom and behind-the-  
18 wheel instruction throughout the duration of the driver education  
19 course, except as otherwise provided in this section.

20 (b) "Observation time" means the time a student in a driver  
21 education course sits in the rear seat of a vehicle and observes  
22 another student in the front seat behind the wheel operating the  
23 controls of the vehicle, responding to driving situations, and with  
24 an instructor sitting in the front seat.

25 Sec. 39. A segment 2 curriculum course provided under this act  
26 shall meet all of the following requirements:

27 (a) Be offered only to a student who has done all of the

1 following:

2 (i) Successfully completed a segment 1 curriculum driver  
3 education course.

4 (ii) Held a valid level 1 graduated driver license for not less  
5 than 3 continuous months.

6 (iii) Acquired 30 or more hours driving experience on a level 1  
7 graduated driver license that includes not less than 2 hours of  
8 night driving with a licensed parent or legal guardian, or with the  
9 permission of a parent or legal guardian, with any licensed driver  
10 who is 21 years of age or older.

11 (b) Contain 6 or more hours of classroom instruction that is  
12 scheduled so the student receives not more than 2 hours of  
13 classroom instruction per day.

14 (c) Contain 1 or more hours of behind-the-wheel instruction  
15 and assessment with the student behind the wheel under the guidance  
16 of a driver education instructor. Driving experience using a  
17 multiple vehicle driving facility or a simulator device does not  
18 satisfy this requirement.

19 Sec. 41. (1) Except as otherwise provided in this section, a  
20 segment 1 or segment 2 classroom shall not contain more than 36  
21 students when classroom instruction is given.

22 (2) A segment 2 class size may exceed 36 students with the  
23 prior approval of the secretary of state. The secretary of state  
24 may approve a segment 2 class size to exceed 36 students for up to  
25 60 minutes per day when justified by a special presentation.

26 (3) The number of students in a class shall not exceed the  
27 number of students allowed by the fire marshal.

1           Sec. 43. (1) A driver education provider classified to provide  
2 teen driver training shall issue a driver education course  
3 certificate of completion to a student who successfully passes a  
4 written knowledge test prescribed by the secretary of state for  
5 that segment and successfully completes the other course work for  
6 that segment. The secretary of state shall prescribe the knowledge  
7 test administered to a teen student, including establishing a  
8 passing score and the maximum number of times a student may take  
9 the test.

10           (2) A driver education provider shall not issue a driver  
11 education course certificate of completion for segment 1 if the  
12 student is not eligible for a graduated driver license.

13           (3) A driver education provider shall not issue a driver  
14 education course certificate of completion for segment 2 to a  
15 student unless the student has been issued a graduated driver  
16 license.

17           Sec. 45. (1) Before holding a class, a driver education  
18 provider shall file a projected driver education course schedule  
19 report with and as prescribed by the secretary of state. The course  
20 schedule report shall contain:

21           (a) The name of the school.

22           (b) The dates and times of the class.

23           (c) The classroom location.

24           (d) The names of the instructors.

25           (e) Any other information the secretary of state determines is  
26 needed to administer this act or ensure the health, safety, and  
27 welfare of a student or the public.

1           (2) If a change occurs in the information contained in a  
2 report filed under subsection (1), the driver education provider  
3 shall immediately file an updated projected driver education course  
4 report with the secretary of state or later if authorized by the  
5 secretary of state.

6           (3) Upon completion of a class, a driver education provider  
7 shall file a course completion report with and as prescribed by the  
8 secretary of state. The course completion report shall contain:

9           (a) The name of the school.

10          (b) The dates the class was held.

11          (c) The name, address, and birth date of each student issued a  
12 certificate of completion.

13          (d) The inventory control number of each certificate of  
14 completion issued to a student.

15          (e) Any other information the secretary of state determines is  
16 needed to administer this act or ensure the health, safety, and  
17 welfare of a student or the public.

18           (4) A driver education provider classified for truck driver  
19 training shall file a report with and as prescribed by the  
20 secretary of state on April 15 and October 15 of each year. Each  
21 report shall contain:

22          (a) The name, address, and driver license number of each  
23 student enrolled since the provider's last report under this  
24 subsection.

25          (b) The name of each student who completed a training program.

26          (c) Any other information the secretary of state determines is  
27 needed to administer this act or ensure the health, safety, and

1 welfare of a student or the public.

2 (5) A driver education provider shall file a year-end report  
3 with and as prescribed by the secretary of state. The year-end  
4 report shall contain all of the following:

5 (a) The name of the school.

6 (b) The number of students who passed and failed each type of  
7 instruction given.

8 (c) A list of the instructors who taught during the year.

9 (d) A list of classroom locations utilized during the year.

10 (e) The tuition charged for each type of instruction.

11 (f) Any other information the secretary of state determines is  
12 needed to administer this act or ensure the health, safety, and  
13 welfare of a student or the public.

14 (6) A driver education provider shall maintain a record of the  
15 instruction given to a student as prescribed by the secretary of  
16 state. A student instruction record shall contain all of the  
17 following:

18 (a) The dates and number of hours of classroom and behind-the-  
19 wheel instruction given the student, signed by the instructors that  
20 gave the instruction.

21 (b) Complete registration and achievement records for the  
22 student.

23 (c) A list of the student's payments for tuition, fees, and  
24 purchase or rental of supplies or equipment.

25 (d) A copy of the signed contract between the school and the  
26 student.

27 (e) The information contained on a course completion report

1 for the student.

2 (f) Any other information the secretary of state determines is  
3 needed to administer this act or ensure the health, safety, and  
4 welfare of a student or the public.

5 (7) The secretary of state shall prescribe the manner and  
6 method that any information, forms, reports, and other documents  
7 required in this act are submitted to the secretary of state,  
8 including electronic submission.

9 Sec. 47. (1) A driver education provider shall have a written  
10 agreement with each of its students. A driver education provider  
11 shall not give instruction to a student until after the provider  
12 and the student have entered into the written agreement. The  
13 agreement shall be dated and signed by both the provider and the  
14 student. The agreement shall contain all the terms of the agreement  
15 between the provider and the student and include all of the  
16 following:

17 (a) The student's name, address, birth date, and telephone  
18 number.

19 (b) If the student is a minor, the parent's or legal  
20 guardian's name, address, and telephone number.

21 (c) A description of the instruction to be given by that  
22 provider.

23 (d) The amount of the fee or tuition charged and paid for the  
24 instruction.

25 (e) A notice statement prescribed by the secretary of state.

26 (f) Other information prescribed by the secretary of state.

27 (2) Before instruction begins, the driver education provider

1 shall give the student a signed copy of the agreement, accompanied  
2 by a copy of all of the provider's applicable policies.

3 (3) This section does not apply to an educational institution  
4 or a governmental agency that does not charge a student a fee for  
5 driver education instruction.

6 Sec. 49. (1) The secretary of state may approve the giving of  
7 a coordinated segment 1 driver education course. A driver education  
8 provider shall not give a coordinated segment 1 driver education  
9 course without the prior written approval of the secretary of  
10 state. The provider shall file a request for approval with the  
11 secretary of state in a format as prescribed by the secretary of  
12 state. The secretary of state may review a request on a case-by-  
13 case basis.

14 (2) A driver education provider shall not give instruction  
15 under this section until after the provider and the student have  
16 entered into a written agreement as provided in this subsection.  
17 The agreement shall be dated and signed by both the provider and  
18 the student. The agreement shall contain all the terms of agreement  
19 between the provider and the student and include all of the  
20 following:

21 (a) The student's name, address, birth date, and telephone  
22 number.

23 (b) If the student is a minor, the parent's or legal  
24 guardian's name, address, and telephone number.

25 (c) The name of each provider that will give instruction.

26 (d) A description of the instruction that each provider will  
27 give.

1 (e) A description of the assessment or test to be administered  
2 by each provider.

3 (f) The amount of the fee or tuition charged and paid for the  
4 instruction.

5 (g) The name of the provider responsible for issuing a segment  
6 1 driver education course certificate of completion.

7 (h) A statement of who is responsible for maintaining each  
8 part of the student's records as required under this act.

9 (i) Other information prescribed by the secretary of state.

10 (3) Before instruction begins, the driver education provider  
11 shall give the student a signed copy of the agreement.

12 (4) This section does not apply to an educational institution  
13 or a governmental agency that does not charge a student a fee for  
14 driver education instruction.

15 Sec. 51. (1) The secretary of state may require that  
16 information, a record, or any document required to be maintained  
17 under this act be maintained in a format and manner prescribed by  
18 the secretary of state.

19 (2) The secretary of state may prescribe the format, manner,  
20 and deadline for filing a report with the secretary of state under  
21 this act. Except as otherwise provided in this act, the secretary  
22 of state shall notify a person required to file a report with the  
23 secretary of state of the applicable filing deadline. The secretary  
24 of state shall provide that notice not less than 15 days before the  
25 report is due, unless the secretary of state has reason to believe  
26 the report is needed more quickly to protect the health, safety,  
27 and welfare of a student or the public or to properly administer

1 this act.

2 (3) The secretary of state may require information, a record,  
3 or other document that is required to be maintained or filed under  
4 this act to be maintained or filed electronically or as prescribed  
5 by the secretary of state.

6 (4) A driver education provider shall maintain information, a  
7 record, a report, or other document required under this act at its  
8 established office location.

9 (5) A driver education provider shall make information, a  
10 record, or other document maintained under this act available for  
11 inspection by the secretary of state or his or her authorized  
12 representative at reasonable times.

13 (6) If a driver education provider fails to make information,  
14 a record, or other document required under this act available for  
15 inspection at reasonable times, the secretary of state may suspend  
16 the driver education provider's certificate after notice and  
17 opportunity for a hearing.

18 (7) A driver education provider shall maintain a record  
19 required under this act for not less than 4 calendar years after  
20 the student has ceased receiving instruction from the provider.

21 Sec. 53. (1) A driver education provider shall verify that a  
22 driver education instructor possesses a valid driver education  
23 instructor certificate issued under this act, before employing,  
24 hiring, contracting, or otherwise engaging the person as an  
25 instructor for a driver education course.

26 (2) The secretary of state may prescribe the method and manner  
27 that a driver education provider shall use to verify an

1 instructor's certificate status.

2       Sec. 55. (1) Before a driver education provider shall provide  
3 behind-the-wheel driver education course instruction to an adult or  
4 truck driver training student, the provider shall verify that the  
5 student has a valid temporary instruction permit issued by the  
6 secretary of state under section 306 of the Michigan vehicle code,  
7 1949 PA 300, MCL 257.306.

8       (2) The secretary of state may prescribe the method and manner  
9 that a driver education provider shall use to verify a student's  
10 temporary instruction permit under this section.

11       Sec. 57. A certified driver education provider or instructor  
12 or a provider's designated representative or coordinator shall  
13 immediately notify the secretary of state if convicted of a  
14 violation or attempted violation listed in section 59. A certified  
15 driver education instructor or designated representative or  
16 coordinator of a provider shall also notify his or her driver  
17 education provider employer. A notice required under this section  
18 shall be in a format as prescribed by the secretary of state and  
19 comply with all of the following:

20       (a) Identify the conviction.

21       (b) Identify the date of the conviction.

22       (c) Identify the court that imposed the conviction.

23       (d) Contain other information as prescribed by the secretary  
24 of state.

25       Sec. 59. (1) Except as otherwise provided in this section, the  
26 secretary of state shall automatically deny an original or renewal  
27 application for a driver education provider or instructor

1 certificate and shall automatically immediately revoke a  
2 certificate issued to a person as a driver education provider or  
3 driver education instructor without the necessity for notice and an  
4 opportunity for a hearing if a criminal history check indicates  
5 that the applicant, instructor, provider, or the designated  
6 representative or coordinator of the applicant or provider has been  
7 convicted of a violation or attempted violation, or the secretary  
8 of state receives reliable notice under this section or section 57  
9 of a conviction for a violation or attempted violation of any of  
10 the following:

11 (a) Criminal sexual conduct, assault with intent to commit  
12 criminal sexual conduct, or an attempt to commit criminal sexual  
13 conduct, in any degree under sections 520b to 520g of the Michigan  
14 penal code, 1931 PA 328, MCL 750.520b to 750.520g.

15 (b) A felony involving a criminal assault or battery on an  
16 individual.

17 (c) A crime involving felonious assault on a child, child  
18 abuse in the first degree, cruelty, torture, or indecent exposure  
19 involving a child.

20 (d) A felony involving the manufacture, distribution, or  
21 dispensing of a controlled substance or possession with intent to  
22 manufacture, distribute, or dispense a controlled substance.

23 (e) A felony conviction involving fraud as an element of the  
24 crime.

25 (2) A denial or revocation imposed under this section shall  
26 continue for not less than 10 years from the date of the  
27 conviction.

1           (3) The department of information technology shall work with  
2 the secretary of state and the department of state police to  
3 develop and implement an automated program that does an annual  
4 comparison of the conviction information received by the department  
5 of state police with a secretary of state list of persons holding a  
6 driver education provider or instructor certificate and the persons  
7 designated as a representative or coordinator of a provider. This  
8 comparison shall only include persons who are actually certified as  
9 a driver education provider or instructor or who are the designated  
10 representative or coordinator of an actually certified provider at  
11 the time of the comparison. Unless otherwise prohibited by law,  
12 this comparison shall include convictions contained in a nonpublic  
13 record. The department of state police shall take all reasonable  
14 and necessary measures using the available technology to ensure the  
15 accuracy of this comparison before transmitting the information  
16 under this subsection to the secretary of state. The secretary of  
17 state shall take all reasonable and necessary measures using the  
18 available technology to ensure the accuracy of this comparison  
19 before notifying a provider, a provider's designated representative  
20 or coordinator, or an instructor of a conviction that results in an  
21 automatic and immediate revocation of a provider or instructor  
22 certificate under this section.

23           (4) When the secretary of state receives reliable notice of a  
24 conviction for a violation or attempted violation under this  
25 section or section 57 by an applicant's or provider's designated  
26 representative or coordinator, the secretary of state shall  
27 automatically deny an original or renewal application for a driver

1 education provider certificate or automatically immediately revoke  
2 a provider's certificate under this section if the applicant or  
3 provider fails to immediately terminate the designated  
4 representative's or coordinator's designation or employment as the  
5 provider's designated representative or coordinator.

6       Sec. 61. (1) Except as otherwise provided in this section, the  
7 secretary of state shall automatically deny a driver education  
8 provider or instructor application or revoke a provider's or  
9 instructor's certificate without notice and an opportunity for a  
10 hearing. The denial or revocation shall remain in effect until the  
11 applicant, instructor, provider, or the designated representative  
12 or coordinator of the applicant or provider completes 5 consecutive  
13 years without a conviction for a violation or attempted violation  
14 for which 4 or more points are assessed under section 320a of the  
15 Michigan vehicle code, 1949 PA 300, MCL 257.320a.

16       (2) The secretary of state shall automatically deny a driver  
17 education provider or instructor application or revoke a provider's  
18 or instructor's certificate without notice and an opportunity for a  
19 hearing until the driving record of the applicant, instructor,  
20 provider, or the designated representative or coordinator of the  
21 applicant or provider does not have within the prior 2 years 1 or  
22 more of the following:

23       (a) Three or more driver license denials, suspensions, or  
24 revocations, or any combination of 3 or more denials, suspensions,  
25 or revocations, imposed by the secretary of state for the failure  
26 to appear in court or a failure to comply with a court judgment  
27 under section 321a of the Michigan vehicle code, 1949 PA 300, MCL

1 257.321a.

2 (b) A conviction or finding of responsibility for a traffic  
3 violation in connection with 2 or more motor vehicle accidents.

4 (c) An accumulation of 6 or more points under section 320(a)  
5 of the Michigan vehicle code, 1949 PA 300, MCL 257.320.

6 (d) A conviction under section 624a, 625(6), or 626b of the  
7 Michigan vehicle code, 1949 PA 300, MCL 257.624a, 257.625, and  
8 257.626b.

9 (3) When the driving record of an applicant's or provider's  
10 designated representative or coordinator is the cause for the  
11 secretary of state to deny an application or revoke a certificate  
12 under this section, the secretary of state shall automatically deny  
13 an original or renewal application for a driver education provider  
14 certificate or automatically revoke a provider's certificate under  
15 this section if the applicant or provider fails to immediately  
16 terminate the designated representative's or coordinator's  
17 designation or employment as the provider's designated  
18 representative or coordinator.

19 Sec. 63. (1) The secretary of state shall automatically  
20 suspend or revoke a driver education instructor's certificate  
21 without notice and an opportunity for a hearing if the instructor's  
22 driver license is denied, suspended, revoked, or canceled by this  
23 state or another state. A driver education instructor whose driver  
24 license is denied, suspended, revoked, or canceled by this state or  
25 another state shall immediately return his or her instructor's  
26 certificate to the secretary of state.

27 (2) The secretary of state may reinstate a driver education

1 instructor's certificate suspended under this section if the  
2 instructor's driver license denial, suspension, revocation, or  
3 cancellation terminates before the instructor's certificate expires  
4 and the instructor submits a written request to the secretary of  
5 state, as prescribed by the secretary of state, for that  
6 reinstatement.

7 (3) The secretary of state shall not reinstate a driver  
8 education instructor certificate that is revoked under this  
9 section. A driver education instructor whose certificate is revoked  
10 may apply to the secretary of state for an original driver  
11 education instructor certificate.

12 Sec. 65. (1) The secretary of state may make, on its own  
13 initiative or in response to a complaint, a reasonable and  
14 necessary investigation within or outside this state and gather  
15 evidence against a person that violated, allegedly violated, or is  
16 about to violate this act, a rule promulgated under this act, or an  
17 order issued under this act, concerning whether a person, an  
18 applicant, a driver education provider, or a driver education  
19 instructor is in compliance with this act or a rule promulgated  
20 under this act.

21 (2) A person may file a complaint against a person, an  
22 applicant, a driver education provider, or a driver education  
23 instructor with the secretary of state. A complaint shall be made  
24 in a format as prescribed by the secretary of state. The complaint  
25 shall be based upon a violation or attempted violation of this act  
26 or a rule promulgated under this act and shall contain all of the  
27 following information:

1 (a) The complainant's name, address, and telephone number.

2 (b) A complete statement describing the basis for the  
3 complaint.

4 (c) A copy of any record, report, or document that is the  
5 basis for the complaint, including a copy of the student contract,  
6 driver education course certificate of completion issued, or other  
7 documents.

8 (d) The complainant's signature and the date the complaint was  
9 signed.

10 (e) Other information as prescribed by the secretary of state.

11 (3) The secretary of state may mediate a dispute between a  
12 driver education provider or driver education instructor and a  
13 student or the student's parent or legal guardian when a dispute  
14 arises from a violation or attempted violation of this act or a  
15 rule promulgated under this act.

16 (4) The secretary of state may develop conditions of probation  
17 for the operation of a driver education provider or the training  
18 conducted by a driver education instructor. Conditions shall be set  
19 forth in a written agreement and signed by the driver education  
20 provider or driver education instructor and the secretary of state.  
21 Conditions of probation may be agreed to in place of further  
22 disciplinary proceedings.

23 Sec. 67. A driver education provider or instructor shall not  
24 engage in a deceptive or unconscionable method, act, or practice.  
25 The following are deceptive or unconscionable methods, acts, or  
26 practices:

27 (a) Using, adopting, or conducting business under a name that

1 is the same as, like, or deceptively similar to, the name of  
2 another driver education provider.

3 (b) Except as otherwise provided in this subsection, using the  
4 word "state", "government", "municipal", "city", or "county" as  
5 part of the name of the driver education provider. This provision  
6 does not apply to an educational institution or a governmental  
7 agency.

8 (c) Advertising, representing, or implying that a driver  
9 education provider is supervised, recommended, or endorsed by, or  
10 affiliated or associated with, or employed by, or an agent or  
11 representative of this state, the secretary of state, or a bureau  
12 of the secretary of state.

13 (d) Advertising or publicizing under a name other than the  
14 provider's full business name as identified on the provider's  
15 application for a driver education provider certificate.

16 (e) Advertising that the provider is open for business before  
17 the secretary of state issues a driver education provider  
18 certificate to the provider.

19 (f) Soliciting business on the premises of any facility  
20 rented, leased, owned, or used by the secretary of state.

21 (g) Misrepresenting the quantity or quality of the instruction  
22 provided or the requirements for a driver license, endorsement,  
23 minor restricted or temporary permit, or driver education  
24 certificate.

25 (h) Failing to promptly restore any deposit, down payment, or  
26 other payment that a person is entitled to after an agreement is  
27 rescinded, canceled, or otherwise terminated as required under the

1 agreement or applicable law.

2 (i) Taking advantage of a student's or potential student's  
3 inability to reasonably protect his or her interest because of a  
4 disability, illiteracy, or inability to understand the language of  
5 an agreement, if the driver education provider knows or reasonably  
6 should have known of the student's or potential student's  
7 inability.

8 (j) Failing to honor a term of a student's, parent's, or legal  
9 guardian's agreement.

10 (k) Falsifying a document, agreement, record, report, or  
11 certificate required under this act or a rule promulgated under  
12 this act.

13 (l) Causing or allowing a student, parent, or legal guardian to  
14 sign a document in blank.

15 Sec. 69. (1) Except as otherwise provided in this act, the  
16 secretary of state may impose 1 or more of the sanctions in  
17 subsection (2) after notice and opportunity for a hearing if the  
18 secretary of state determines that a person, a driver education  
19 provider, a driver education instructor, or an applicant for either  
20 a provider or instructor certificate did 1 or more of the  
21 following:

22 (a) Failed to meet a requirement under this act or a rule  
23 promulgated under this act.

24 (b) Violated this act or a rule promulgated under this act.

25 (c) Made an untrue or misleading statement of a material fact  
26 to the secretary of state or concealed a material fact in  
27 connection with an application for a provider or instructor

1 certificate.

2 (d) Permitted fraud or engaged in a fraudulent method, act, or  
3 practice in connection with a driver license or temporary driving  
4 permit application submitted to the secretary of state, or induced  
5 or countenanced fraud or a fraudulent method, act, or practice on  
6 the part of an applicant for a driver license or permit.

7 (e) Engaged in an unfair or deceptive method, act, or practice  
8 or made an untrue statement of a material fact.

9 (f) Violated a condition of probation or suspension or an  
10 order issued under this act.

11 (g) Failed to maintain good moral character as defined and  
12 determined under 1974 PA 381, MCL 338.41 to 338.47, in connection  
13 with business operations.

14 (2) After the secretary of state determines that a person, a  
15 driver education provider, a driver education instructor, or an  
16 applicant for a provider or instructor certificate committed a  
17 violation listed in subsection (1), the secretary of state may  
18 impose upon the person, provider, instructor, or applicant 1 or  
19 more of the following sanctions:

20 (a) Denial of an application for a driver education provider  
21 certificate or a driver education instructor certificate.

22 (b) Suspension or revocation of a driver education provider  
23 certificate or a driver education instructor certificate.

24 (c) An administrative fine paid to the secretary of state in  
25 an amount not to exceed \$1,000.00 for each violation.

26 (d) A requirement to take the affirmative action determined  
27 necessary by the secretary of state, including payment of

1 restitution to a student or to an injured person.

2 (3) A sanction may be imposed under subsection (2) in addition  
3 to criminal penalties otherwise imposed for the same violation  
4 under this act or by law. The remedies and sanctions under this act  
5 are independent and cumulative.

6 Sec. 71. (1) If the secretary of state determines after notice  
7 and opportunity for a hearing that a person has committed a  
8 violation listed in section 69(1), the secretary of state may issue  
9 an order requiring the person to cease and desist from the unlawful  
10 method, act, or practice or to take an affirmative action that in  
11 the judgment of the secretary of state will carry out the purposes  
12 of this act, including, but not limited to, payment of restitution  
13 to a customer.

14 (2) If the secretary of state makes a finding of fact in  
15 writing that the public interest will be irreparably harmed by a  
16 delay in issuing an order, the secretary of state may issue a  
17 temporary cease and desist order. Before issuing a temporary cease  
18 and desist order, the secretary of state, when possible by  
19 telephone or otherwise, shall notify the person, the driver  
20 education provider, or the driver education instructor of the  
21 secretary of state's intention to issue a temporary cease and  
22 desist order. A temporary cease and desist order shall include in  
23 its terms a provision stating that upon request a hearing shall be  
24 held within 30 days to determine whether or not the order shall  
25 become permanent.

26 Sec. 75. (1) The secretary of state may order a summary  
27 suspension of a driver education provider or driver education

1 instructor certificate pursuant to the administrative procedures  
2 act of 1969, 1969 PA 306, MCL 24.201 to 24.328, upon an affidavit  
3 by a person familiar with the facts set forth in the affidavit  
4 alleging a violation or attempted violation of this act, a rule  
5 promulgated under this act, or a deceptive or unconscionable  
6 method, act, or practice.

7 (2) The driver education provider or driver education  
8 instructor to whom the order is directed may apply to the secretary  
9 of state and shall be granted a hearing within 30 days of  
10 application pursuant to the administrative procedures act of 1969,  
11 1969 PA 306, MCL 24.201 to 24.328.

12 (3) At the hearing, the order of summary suspension shall be  
13 set aside, continued, or modified by the secretary of state.

14 (4) If the order of summary suspension concerns the issuance  
15 or authorization of driver education course certificates of  
16 completion, the secretary of state may discontinue accepting  
17 certificates of completion issued or authorized by the provider for  
18 students receiving or completing instruction after the effective  
19 date of the order. The secretary of state may decide to resolve the  
20 summary suspension matter before determining a driver license issue  
21 that involves 1 or more of the certificates of completion.

22 Sec. 77. The expiration or absence of a driver education  
23 provider certificate or a driver education instructor certificate  
24 does not prevent the secretary of state from proceeding with an  
25 investigation, disciplinary proceeding, or other action authorized  
26 by this act against a person, a driver education provider, or a  
27 driver education instructor.

1           Sec. 79. A person shall not engage in or offer to engage in  
2 activity as a driver education provider or a driver education  
3 instructor unless the person holds a valid certificate under this  
4 act. A person who violates this section is guilty of a misdemeanor  
5 punishable by imprisonment for not more than 93 days or a fine of  
6 not more than \$2,000.00, or both. In addition to any other remedies  
7 provided by law, the secretary of state may impose an  
8 administrative fine of \$100.00 for each day the person is found to  
9 have engaged in activity as a driver education provider or a driver  
10 education instructor without being certified under this act.

11           Sec. 81. In a court proceeding involving a violation of this  
12 act, the court may order the person found guilty of violating this  
13 act to reimburse the secretary of state for the reasonable costs of  
14 the secretary of state's investigation that resulted in the  
15 conviction in addition to any other civil or criminal penalties  
16 allowed by law. Any costs collected under this section shall be  
17 deposited into the driver education provider and instructor fund  
18 created under section 83.

19           Sec. 83. (1) The driver education provider and instructor fund  
20 is created as a separate fund in the department of treasury. The  
21 fund shall be expended only as provided in this section. The state  
22 treasurer may receive money or other assets from any source for  
23 deposit into the fund. The state treasurer shall direct the  
24 investment of the fund. The state treasurer shall annually present  
25 to the secretary of state an accounting of the amount of money in  
26 the fund. Any unexpended and unencumbered money in the fund at the  
27 close of a fiscal year shall remain in the fund and shall not lapse

1 or be transferred to the general fund.

2 (2) A nonrefundable application processing fee, a multiple  
3 vehicle driving facility review and approval fee, and an  
4 administrative fine collected under this act shall be transferred  
5 by the secretary of state to the state treasurer, who shall credit  
6 the money to the fund created under this section.

7 (3) The secretary of state shall expend money in the fund to  
8 administer this act. The secretary of state may deduct money from  
9 the fund to develop a driver education provider and instructor  
10 program. The secretary of state may deduct from the fund the actual  
11 administrative costs to administer this act, including any  
12 administrative costs to perform inspections, conduct  
13 investigations, or hold administrative hearings.

14 Sec. 85. The secretary of state may promulgate rules pursuant  
15 to the administrative procedures act of 1969, 1969 PA 306, MCL  
16 24.201 to 24.328, to carry out this act.

17 Enacting section 1. The driver training schools rules, R  
18 388.351 to R 388.362, and the driver education rules, R 388.302 to  
19 R 388.338, of the Michigan administrative code are rescinded.

20 Enacting section 2. This act takes effect October 1, 2006.