

REPRINT

**SUBSTITUTE FOR
SENATE BILL NO. 763**

(As Passed the Senate December 10, 1997)

A bill to amend 1974 PA 369, entitled

"An act to regulate the business of conducting a driver training school; to require licenses in relation thereto; to prescribe certain fees; to prescribe the powers and duties of certain persons and state departments; and to prescribe remedies and penalties,"

by amending sections 2, 3, 4, 5, and 6 (MCL 256.602, 256.603, 256.604, 256.605, and 256.606), as amended by 1992 PA 169, and by adding sections 5b and 5c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) The department shall license a driver training
2 school in 1 or both of the following classifications, as
3 appropriate:

4 (a) Noncommercial motor vehicle.

5 (b) Commercial motor vehicle.

6 (2) A person shall not engage or offer to engage in the
7 business of conducting a driver training school without first

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1 obtaining a license in 1 or both of the applicable
2 classifications specified in subsection (1). A driver training
3 school shall not engage in activities of a particular classifica-
4 tion unless the school is licensed in that classification.

5 (3) AFTER DEDUCTION OF THE ACTUAL ADMINISTRATIVE COSTS OF
6 THE DEPARTMENT, THE BALANCE OF THE REVENUE FROM THE FEES COL-
7 LECTED UNDER THIS ACT SHALL BE DEPOSITED IN THE DRIVER EDUCATION
8 FUND CREATED IN SECTION 811 OF THE MICHIGAN VEHICLE CODE, 1949 PA
9 300, MCL 257.811.

10 Sec. 3. In order to qualify to operate a driver training
11 school, a person shall meet all of the following requirements:

12 (a) Maintain an established place of business open to the
13 public.

14 (b) Provide a continuous surety company bond in the princi-
15 pal sum of ~~-\$2,500.00~~ \$10,000.00 for a noncommercial motor vehi-
16 cle driver training school WITH LESS THAN 1,000 STUDENTS IN A
17 CALENDAR YEAR OR \$20,000.00 FOR A NONCOMMERCIAL DRIVER TRAINING
18 SCHOOL WITH 1,000 OR MORE STUDENTS IN A CALENDAR YEAR and the
19 principal sum of \$10,000.00 for a commercial motor vehicle driver
20 training school for the protection of the contractual rights of
21 students in a form that meets the approval of the department and
22 written by a company authorized to do business in this state.
23 The aggregate liability of the surety for all breaches of the
24 condition of the bond shall not exceed the principal sum of the
25 bond. The surety company may cancel the bond upon giving 30
26 days' written notice to the department and shall be relieved of
27 liability for a breach of a condition of the bond that occurs

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1 after the effective date of cancellation. A person shall provide
2 a separate bond for each classification in which the driver
3 training school is licensed.

4 (c) Maintain bodily injury and property damage liability
5 insurance on motor vehicles used in driving instruction, insuring
6 the liability of the driver training school, the driving instruc-
7 tors, and a person taking instruction. The amount of insurance
8 shall be \$100,000.00 for bodily injury to or the death of 1
9 person in 1 accident, and, subject to the limit for 1 person;
10 \$300,000.00 for bodily injury to or the death of 2 or more per-
11 sons in 1 accident; and \$10,000.00 for damage to the property of
12 others in 1 accident. Evidence of insurance coverage in the form
13 of a certificate from the insurance carrier shall be filed with
14 the department. The certificate shall stipulate that the insur-
15 ance shall not be canceled except upon 10 days' prior written
16 notice to the department.

17 (d) Disclose to the department the existence of a concession
18 agreement with another business entity, and disclose the exis-
19 tence of the concession agreement and the limits of responsibil-
20 ity and liability contained in the concession agreement in all
21 advertisements and in all contracts with students. As used in
22 this subdivision, "concession agreement" means a contract, fran-
23 chise, agreement, or the granting of a privilege, written or
24 oral, between 2 business entities permitting 1 of the entities to
25 operate a driver training school under the sponsorship, name,
26 auspices of, or on the premises of, the other entity.

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1 (e) Possess a driver training school license from the state
2 in which a nonresident applicant's principal place of business is
3 located, if that state licenses driver training schools.

4 Sec. 4. (1) An application for a license to engage in the
5 business of conducting a driver training school shall be filed
6 with the department on a form prescribed by the department. THE
7 APPLICATION SHALL INCLUDE [AN AGREEMENT SIGNED BY THE LICENSEE TO
PROVIDE NOT LESS THAN 3 INDIVIDUALS IN A VEHICLE DURING A DRIVER
TRAINING EXERCISE OR TEST ADMINISTERED BY THE LICENSEE OF A DRIVER
TRAINING SCHOOL CUSTOMER WHO IS LESS THAN 18 YEARS OF AGE UNLESS
THEY HAVE OBTAINED A WRITTEN WAIVER SIGNED BY A PARENT OR GUARDIAN
AND] AN AUTHORIZATION TO BE SIGNED BY THE

8 PROSPECTIVE LICENSEE PERMITTING THE DEPARTMENT TO REQUEST A CRIM-
9 INAL HISTORY CHECK FROM THE DEPARTMENT OF STATE POLICE AND THE
10 FEDERAL BUREAU OF INVESTIGATION. THE DEPARTMENT SHALL REQUIRE
11 THE PROSPECTIVE LICENSEE TO SUBMIT HIS OR HER FINGERPRINTS AND
12 THE FINGERPRINTS OF A PROSPECTIVE DRIVING INSTRUCTOR TO THE
13 DEPARTMENT OF STATE POLICE FOR CRIMINAL HISTORY CHECKS ON BOTH
14 STATE AND FEDERAL FINGERPRINT CARDS. THE DEPARTMENT OF STATE
15 POLICE MAY CHARGE A FEE THAT DOES NOT EXCEED THE ACTUAL COST OF
16 CONDUCTING THE CRIMINAL HISTORY CHECKS. A person shall apply for
17 each classification of a driver training school license on a sep-
18 arate application provided by the department.

19 (2) The application shall be accompanied by a fee as
20 follows:

21 (a) ~~-\$75.00-~~ \$125.00 for a noncommercial motor vehicle
22 driver training school.

23 (b) ~~-\$150.00-~~ \$200.00 for a commercial motor vehicle driver
24 training school.

25 (3) The department shall issue a license certificate to each
26 applicant to conduct a driver training school when the department

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1 is satisfied that the person has met the qualifications required
2 under this act.

3 (4) A license issued to a driver training school shall
4 expire on December 31 of the calendar year for which the license
5 was issued. The fee for the renewal of a noncommercial motor
6 vehicle driver training school license is ~~-\$75.00-~~ \$125.00, and
7 the fee for the renewal of a commercial motor vehicle driver
8 training school license is ~~-\$150.00-~~ \$200.00, which shall accom-
9 pany the application for license renewal.

10 Sec. 5. (1) A driver training school licensee shall not
11 employ a person as an instructor unless the person is licensed as
12 an instructor.

13 (2) A driver training school licensee shall annually file an
14 application with the department for licensing of its employees as
15 instructors. For each employee for which licensure as an
16 instructor is sought, the application shall include all of the
17 following:

18 (a) The name and address of the employee.

19 (b) The driver's license number of the employee. An appli-
20 cation for a nonresident employee shall also include a certified
21 copy of his or her driving record from his or her state of
22 residence.

23 (c) A dated medical examination report that is not more than
24 2 years old and is completed by a physician licensed to practice
25 in this state. An application for a nonresident employee ful-
26 fills the requirement of this subdivision if the application

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1 includes a report completed by a physician licensed to practice
2 in the employee's state of residence.

3 (d) A fee of ~~-\$15.00-~~ \$25.00 for each employee seeking
4 licensure as an instructor.

5 (E) EXCEPT AS OTHERWISE PROVIDED IN SECTION 5B, AN AUTHORI-
6 ZATION TO BE SIGNED BY A PROSPECTIVE EMPLOYEE BEFORE HIRING AS A
7 DRIVING INSTRUCTOR PERMITTING THE LICENSEE TO REQUEST A CRIMINAL
8 HISTORY CHECK FROM THE DEPARTMENT OF STATE POLICE AND THE FEDERAL
9 BUREAU OF INVESTIGATION.

10 (3) The department shall issue a license certificate to the
11 driver training school licensee for each of its employees who
12 meet the requirements of this act for licensure as an
13 instructor. A license certificate expires on December 31 of the
14 year for which it is issued.

15 (4) In order to qualify as an instructor a person shall meet
16 all of the following requirements:

17 (a) Be physically able to operate a motor vehicle and to
18 train others in the operation of motor vehicles.

19 (b) Have a driving record that indicates competence to oper-
20 ate a motor vehicle consistent with standards set forth in rules
21 promulgated by the secretary of state.

22 (c) Be 21 years of age or older on the date the person's
23 license application is submitted to the secretary of state.

24 (d) Have a driving record, within the 5 years immediately
25 preceding submission of an instructor license application to the
26 secretary of state, that does not contain a conviction for any
27 violation for which 4 or 6 points are assessed, other than points

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1 assessed for a violation of a speeding law or ordinance, pursuant
2 to section 320a of the Michigan vehicle code, ~~Act No. 300 of the~~
3 ~~Public Acts of 1949, being section 257.320a of the Michigan~~
4 ~~Compiled Laws~~ 1949 PA 300, MCL 257.320A. This subdivision shall
5 only apply to an applicant who is not currently licensed as a
6 driver training school instructor on ~~the effective date of the~~
7 ~~amendatory act that added this subdivision~~ OCTOBER 1, 1992.

8 (E) NOT HAVE A PRIOR FELONY OR MISDEMEANOR CONVICTION FOR
9 CRIMINAL SEXUAL CONDUCT PURSUANT TO SECTIONS 520B TO 520G OF THE
10 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520B TO 750.520G, OR A
11 FELONY CONVICTION FOR A CRIME IN WHICH AN ELEMENT OF THE CRIME IS
12 THE USE OR THREAT OF USE OF PHYSICAL FORCE.

13 SEC. 5B. (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSEC-
14 TION, A DRIVER TRAINING SCHOOL LICENSEE SHALL NOT EMPLOY A PERSON
15 AS AN INSTRUCTOR OR, AFTER THE EFFECTIVE DATE OF THIS SECTION,
16 CONTINUE TO EMPLOY A PERSON AS A DRIVING INSTRUCTOR BEFORE
17 REQUESTING AND RECEIVING NOT LESS THAN ONCE EVERY 2 YEARS FROM
18 THE DEPARTMENT OF STATE POLICE AND THE FEDERAL BUREAU OF INVESTI-
19 GATION A CRIMINAL HISTORY CHECK ON THE PERSON. A PERSON WHO IS
20 CURRENTLY EMPLOYED AS A DRIVER EDUCATION INSTRUCTOR WITH A PUBLIC
21 SCHOOL IN THIS STATE SHALL NOT BE REQUIRED TO SUBMIT TO A CRIMI-
22 NAL HISTORY CHECK UNDER THIS SECTION.

23 (2) A DRIVER TRAINING SCHOOL LICENSEE SHALL MAKE A REQUEST
24 WITH PAYMENT OF THE APPROPRIATE FEE TO THE CRIMINAL RECORDS DIVI-
25 SION OF THE DEPARTMENT OF STATE POLICE FOR A CRIMINAL HISTORY
26 CHECK REQUIRED UNDER THIS SECTION ON A FORM AND IN A MANNER

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Sub. S.B. 763 (S-2) as amended January 28, 1998

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1 PRESCRIBED BY THE CRIMINAL RECORDS DIVISION OF THE DEPARTMENT OF
2 STATE POLICE.

3 (3) WITHIN 45 DAYS AFTER RECEIVING A PROPER REQUEST BY A
4 DRIVER TRAINING SCHOOL LICENSEE FOR A CRIMINAL HISTORY CHECK ON A
5 PERSON UNDER THIS SECTION, THE CRIMINAL RECORDS DIVISION OF THE
6 DEPARTMENT OF STATE POLICE SHALL CONDUCT THE CRIMINAL HISTORY
7 CHECK AND, AFTER CONDUCTING THE CRIMINAL HISTORY CHECK AND WITHIN
8 THAT TIME PERIOD, PROVIDE A REPORT OF THE RESULTS OF THE CRIMINAL
9 HISTORY CHECK TO THE DRIVER TRAINING SCHOOL LICENSEE AND THE
10 DEPARTMENT. THE REPORT SHALL CONTAIN ANY CRIMINAL HISTORY RECORD
11 INFORMATION ON THE PERSON MAINTAINED BY THE CRIMINAL RECORDS
12 DIVISION OF THE DEPARTMENT OF STATE POLICE.

13 (4) CRIMINAL HISTORY RECORD INFORMATION RECEIVED FROM THE
14 CRIMINAL RECORDS DIVISION OF THE DEPARTMENT OF STATE POLICE UNDER
15 SUBSECTION (3) SHALL BE USED BY A DRIVER TRAINING SCHOOL LICENSEE
16 ONLY FOR THE PURPOSE OF EVALUATING A PERSON'S QUALIFICATIONS FOR
17 EMPLOYMENT AS A DRIVER TRAINING INSTRUCTOR. [A DRIVER TRAINING
18 SCHOOL LICENSEE OR THE DEPARTMENT SHALL ONLY DISCLOSE THE REPORT OR
19 ITS CONTENTS TO A PERSON WHO IS DIRECTLY INVOLVED IN EVALUATING THE
20 APPLICANT'S QUALIFICATIONS FOR EMPLOYMENT, AND SHALL ONLY DISCLOSE
21 TO THAT PERSON THOSE CRIMES DESCRIBED IN SECTION 5(4)(E).

22] A PERSON WHO VIOLATES THIS SUBSECTION IS
23 GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN
24 \$10,000.00.

25 (5) AS USED IN THIS SECTION, "CRIMINAL HISTORY RECORD
26 INFORMATION" MEANS THAT TERM AS DEFINED IN SECTION 1A OF 1925 PA
27 289, MCL 28.241A.

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1 SEC. 5C. (1) THE DEPARTMENT SHALL NOT LICENSE A PERSON TO
2 OPERATE A DRIVER TRAINING SCHOOL OR, AFTER THE EFFECTIVE DATE OF
3 THIS SECTION, RENEW THE LICENSE OF A PERSON TO OPERATE A DRIVER
4 TRAINING SCHOOL BEFORE REQUESTING AND RECEIVING NOT LESS THAN
5 ONCE EVERY 2 YEARS FROM THE DEPARTMENT OF STATE POLICE AND THE
6 FEDERAL BUREAU OF INVESTIGATION A CRIMINAL HISTORY CHECK ON THE
7 PERSON.

8 (2) WITHIN 45 DAYS AFTER RECEIVING A REQUEST FROM THE
9 DEPARTMENT FOR A CRIMINAL HISTORY CHECK ON A PERSON UNDER THIS
10 SECTION, THE CRIMINAL RECORDS DIVISION OF THE DEPARTMENT OF STATE
11 POLICE SHALL CONDUCT THE CRIMINAL HISTORY CHECK AND, AFTER CON-
12 DUCTING THE CRIMINAL HISTORY CHECK AND WITHIN THAT TIME PERIOD,
13 PROVIDE A REPORT OF THE RESULTS OF THE CRIMINAL HISTORY CHECK TO
14 THE DEPARTMENT. THE REPORT SHALL CONTAIN ANY CRIMINAL HISTORY
15 RECORD INFORMATION ON THE PERSON MAINTAINED BY THE CRIMINAL
16 RECORDS DIVISION OF THE DEPARTMENT OF STATE POLICE.

17 (3) CRIMINAL HISTORY RECORD INFORMATION RECEIVED FROM THE
18 CRIMINAL RECORDS DIVISION OF THE DEPARTMENT OF STATE POLICE UNDER
19 SUBSECTION (2) SHALL BE USED BY THE DEPARTMENT ONLY FOR THE PUR-
20 POSE OF EVALUATING A PERSON'S QUALIFICATIONS FOR LICENSURE AS A
21 DRIVER TRAINING SCHOOL. [THE DEPARTMENT SHALL ONLY DISCLOSE THE
22 REPORT OR ITS CONTENTS TO A PERSON WHO IS DIRECTLY INVOLVED IN
23 EVALUATING THE APPLICANT'S QUALIFICATIONS FOR EMPLOYMENT, AND SHALL
24 ONLY DISCLOSE TO THAT PERSON THOSE CRIMES DESCRIBED IN SECTION 5(4)(E).
25] A PERSON WHO VIOLATES THIS SUBSEC-
26 TION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE
27 THAN \$10,000.00.

[(4) THE DEPARTMENT SHALL NOT LICENSE A PERSON TO OPERATE A
DRIVER TRAINING SCHOOL IF THE PERSON HAS A PRIOR FELONY OR MISDEMEANOR
CONVICTION FOR CRIMINAL SEXUAL CONDUCT PURSUANT TO SECTIONS 520B TO 520G
OF THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520B TO 750.520G, OR A FELONY
CONVICTION FOR A CRIME IN WHICH AN ELEMENT OF THE CRIME IS THE USE OR
THREAT OF USE OF PHYSICAL FORCE.]

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1 Sec. 6. (1) The department may do 1 or more of the
2 following:

3 (a) On its own initiative or in response to a complaint,
4 make reasonable and necessary investigations within or outside of
5 this state and gather evidence against a person that is believed
6 to have violated or is about to violate this act or a rule
7 promulgated under this act.

8 (b) Require or permit a person to file a statement in writ-
9 ing or otherwise as the department determines as to all of the
10 facts and circumstances concerning a matter that may or will be
11 investigated.

12 (c) Mediate disputes between parties when those disputes
13 arise from a violation of this act or a rule promulgated under
14 this act.

15 (d) Develop conditions of probation or operation for a
16 driver training school or instructor. These conditions shall be
17 mutually agreed upon by the driver training school or instructor
18 and the department and shall be set forth in a written letter of
19 understanding. Conditions of probation may be agreed to instead
20 of further disciplinary proceedings.

21 (e) On its own initiative, conduct a spot check investiga-
22 tion of a driver training school that is licensed or required to
23 be licensed in this state to determine whether the driver train-
24 ing school is in compliance with this act or a rule promulgated
25 under this act.

26 (2) The department may deny, suspend, or revoke, or place
27 probationary conditions on, a driver training school license or a

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1 driver training instructor license after notice and opportunity
2 for a hearing upon a finding that the applicant or the licensee
3 or an employee of the applicant or the licensee has done 1 or
4 more of the following:

5 (a) Failed to meet the requirements to receive or maintain a
6 license under this act.

7 (b) Failed to receive or maintain a license if the applicant
8 or licensee is licensed as a driver training school in a state
9 other than this state and the person's license in the other state
10 has expired or been denied, canceled, suspended, or revoked.

11 (c) Violated this act or a rule promulgated under this act.

12 (d) Made an untrue or misleading statement of a material
13 fact to the department or concealed a material fact in connection
14 with an application to the department.

15 (e) Permitted fraud or engaged in a fraudulent practice with
16 reference to a driver's license or permit application to the
17 department, or induced or countenanced fraud or a fraudulent
18 practice on the part of an applicant for a driver's license or
19 permit.

20 (f) Represented himself or herself as an agent or employee
21 of the state or used advertising designed to lead, or that would
22 reasonably have the effect of leading, a person to believe that
23 the licensee or employee is an employee or representative of the
24 state.

25 (g) Advertised or implied to a customer that a driver's
26 license is guaranteed upon completion of the course of
27 instruction.

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1 (h) Engaged in a fraudulent, deceptive, or unconscionable
2 practice relative to the operation of a driver training school or
3 the provision of driver training instruction.

4 (i) Operated a driver training school or provided driver
5 training instruction without being licensed under this act.

6 (j) Failed to comply with the terms of a probation or sus-
7 pension agreement or the terms of a final cease and desist order
8 issued under this act.

9 (k) Failed to establish or maintain good moral character in
10 connection with business operations.

11 (3) THE DEPARTMENT MAY DENY AN APPLICATION FOR A LICENSE FOR
12 A DRIVER TRAINING SCHOOL OR A DRIVER TRAINING INSTRUCTOR IF UPON
13 INVESTIGATION AND UPON REVIEW OF THE CRIMINAL HISTORY RECORD
14 INFORMATION RECEIVED UNDER SECTION 5B OR 5C THE DEPARTMENT DETER-
15 MINES THAT THE APPLICANT HAS A PRIOR CONVICTION FOR A FRAUDULENT
16 OR DECEPTIVE PRACTICE IN ANOTHER BUSINESS OR IN A PRIVATE TRANS-
17 ACTION WITH ANOTHER PERSON.

18 (4) ~~-(3)-~~ A suspended or revoked license shall be returned
19 immediately to the department by the licensee.

[Enacting section 1. This amendatory act takes effect June 1, 1998.]