

HOUSE BILL No. 4039

January 8, 1997, Introduced by Rep. Profit and referred to the Committee on Judiciary.

A bill to create the model emergency vehicle operation policy commission; to prescribe its membership, powers, and duties; to prescribe the powers and duties of certain state and local agencies and departments; to provide for the development and certification of emergency vehicle operation policies; and to repeal acts 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 "model emergency vehicle operation policy act".

3 Sec. 2. As used in this act:

4 (a) "Commission" means the model emergency vehicle operation
5 policy commission created in section 3.

6 (b) "Council" means the law enforcement council created by
7 section 3 of the Michigan law enforcement officers training
8 council act of 1965, 1965 PA 203, MCL 28.603.

1 (c) "Department" means the department of management and
2 budget.

3 (d) "Emergency operation" means the operation of an emer-
4 gency vehicle in a manner described in or authorized by section
5 603 or 632 of the Michigan vehicle code, 1949 PA 300, MCL 257.603
6 and 257.632.

7 (e) "Emergency vehicle" means any of the following:

8 (i) A motor vehicle owned or operated by a law enforcement
9 agency.

10 (ii) A motor vehicle owned or operated by a volunteer
11 employee or paid employee of an entity described in subparagraph
12 (i) while the motor vehicle is being used to provide emergency
13 services for that entity.

14 (f) "Governmental agency" means that term as defined in
15 section 1 of 1964 PA 170, MCL 691.1401, and includes a combina-
16 tion of 1 or more governmental agencies.

17 (g) "Law enforcement agency" means a police agency of a
18 city, village, or township; a sheriff's department; the depart-
19 ment of state police, including, but not limited to, the motor
20 carrier division of the department of state police; the law
21 enforcement division of the department of natural resources; a
22 police agency of a county or regional park whose officers are
23 appointed pursuant to section 14 of 1965 PA 261, MCL 46.364; or a
24 public safety department of a community college or a 4-year
25 institution of higher education whose officers are granted the
26 powers and authority of peace and police officers pursuant to

1 section 1 of 1990 PA 120, MCL 390.1511, or section 5a of 1965
2 PA 278, MCL 390.715a.

3 (h) "Motor vehicle" means that term as defined in section 33
4 of the Michigan vehicle code, 1949 PA 300, MCL 257.33.

5 Sec. 3. (1) The model emergency vehicle operation policy
6 commission is created in the department.

7 (2) The commission shall consist of the following members:

8 (a) The attorney general or his or her designee.

9 (b) The director of the department of state police or his or
10 her designee.

11 (c) One individual appointed as a member and 1 individual
12 appointed as an alternate member from each of the following
13 groups, and selected from a list of individuals provided by each
14 of the following groups:

15 (i) Michigan association of chiefs of police.

16 (ii) Michigan sheriffs' association.

17 (iii) Michigan association of counties.

18 (iv) Prosecuting attorneys association of Michigan.

19 (v) Michigan municipal league.

20 (vi) Michigan townships association.

21 (vii) An organization of police officers who regularly per-
22 form law enforcement duties upon urban streets or roads.

23 (viii) An organization of police officers who regularly per-
24 form law enforcement duties upon suburban streets or roads.

25 (ix) An organization of police officers who regularly per-
26 form law enforcement duties upon rural streets or roads.

1 (x) An organization of police officers who regularly perform
2 law enforcement duties upon limited access roadways.

3 (3) Each entity that provides a list of individuals under
4 subsection (2)(c) shall specifically state which individuals are
5 being nominated for appointment as a member and which individuals
6 are being nominated for appointment as an alternate member. The
7 governor shall only appoint an individual as a member if the
8 individual was nominated for appointment as a member and shall
9 only appoint an individual as an alternate member if the individ-
10 ual was nominated for appointment as an alternate member.

11 (4) Except for initial members, a member of the commission
12 appointed under subsection (2)(c) shall serve for a term of 2
13 years or until a successor is appointed. Of the members ini-
14 tially appointed under subsection (2)(c), 3 of the members shall
15 be appointed for a term of 4 years, 3 of the members shall be
16 appointed for a term of 3 years, and 4 of the members shall be
17 appointed for a term of 2 years.

18 (5) A vacancy on the commission shall be filled in the same
19 manner as the original appointment.

20 (6) If a member of the commission is absent from a commis-
21 sion meeting, the individual serving as the alternate member for
22 that member shall act as a member of the commission at that
23 meeting.

24 (7) The members of the commission shall be appointed within
25 90 days after the effective date of this act.

26 Sec. 4. (1) Within 90 days after appointment and
27 confirmation of all members, the commission shall adopt bylaws

1 for the operation of the commission. At a minimum, the bylaws
2 shall include voting procedures and minimum requirements for
3 attendance at meetings.

4 (2) The commission shall hold a regular annual meeting at a
5 place and on a date fixed by the commission. Special meetings
6 may be called by the chairperson or by not less than 7 commission
7 members on at least 3 business days' actual notice.

8 (3) A majority of the commission members appointed and serv-
9 ing constitutes a quorum. Final action by the commission shall
10 be only by affirmative vote of a majority of the commission mem-
11 bers appointed and serving. A commission member shall not vote
12 by proxy.

13 (4) The members of the commission shall serve without
14 compensation. Expenses of members incurred in the performance of
15 official duties shall be reimbursed as provided by law for state
16 employees.

17 (5) The council shall assist the commission in performing
18 its duties. The department shall provide facilities for commis-
19 sion meetings and necessary office and clerical assistance.

20 Sec. 5. A writing prepared, owned, used, in the possession
21 of, or retained by the commission in the performance of an offi-
22 cial function is exempt from disclosure under the freedom of
23 information act, 1976 PA 442, MCL 15.231 to 15.246.

24 Sec. 6. Within 1 year after its first meeting, the commis-
25 sion shall develop a model emergency vehicle operation policy
26 governing emergency operation of emergency vehicles by a

1 governmental agency. A model emergency vehicle operation policy
2 developed under this section shall do all of the following:

3 (a) Define the model policy's coverage.

4 (b) Recognize that emergency operation may involve the use
5 of potentially deadly force.

6 (c) Identify the circumstances warranting initiation, main-
7 tenance, or termination of an emergency operation, based on the
8 following criteria:

9 (i) The risks to the physical safety of employees and the
10 public, including innocent bystanders, of initiating or maintain-
11 ing an emergency operation.

12 (ii) For emergency operations involving the pursuit of a
13 person charged with or suspected of a violation of law, the
14 danger to society of not effecting immediate apprehension,
15 including consideration of the seriousness and immediacy of the
16 threat posed by a pursued person and the adequacy of alternative
17 apprehension methods.

18 (d) Identify procedures for a governmental agency's initia-
19 tion, maintenance, and termination of an emergency operation and
20 include all of the following:

21 (i) Authorization for an employee other than an employee
22 actively engaged in the emergency operation to prohibit, modify,
23 or terminate the emergency operation.

24 (ii) Specific rules governing emergency operations that
25 cross jurisdictional boundaries.

26 (iii) Specific rules governing permissible emergency
27 operation methods and tactics.

1 (e) Establish guidelines requiring a governmental agency to
2 internally monitor the effects of its emergency operation
3 policy.

4 (f) Establish minimum requirements for emergency vehicle
5 operators to be certified by a governmental agency and provide
6 guidelines for training employees to comply with an adopted emer-
7 gency vehicle operation policy.

8 (g) Establish the criteria by which a governmental agency
9 may certify the operator of an emergency service vehicle as meet-
10 ing the minimum requirements for emergency vehicle operators.

11 (h) Establish that a governmental agency's certification of
12 an emergency vehicle operator is effective for not more than 2
13 years.

14 (i) Include any other provision the commission considers
15 necessary for a model emergency vehicle operation policy.

16 Sec. 7. The commission shall report the model emergency
17 vehicle operation policy developed under section 6 to all of the
18 following:

19 (a) Each house of the legislature.

20 (b) Each law enforcement agency in this state.

21 Sec. 8. (1) A governmental agency may adopt all or a por-
22 tion of the model emergency vehicle operation policy developed
23 under section 6, or may develop and adopt its own emergency vehi-
24 cle operation policy, and apply to the commission for certifica-
25 tion of that adopted policy or policy portion.

1 (2) Upon receipt and review of a certification application
2 described in subsection (1), the commission shall do all of the
3 following:

4 (a) Certify a policy developed under section 6 that is
5 adopted in total and meets the standards established by the com-
6 mission for emergency operations.

7 (b) If the policy developed under section 6 is adopted in
8 part, provide certification of that part only after determining
9 both of the following:

10 (i) That the governmental agency does not engage in an emer-
11 gency operation that exceeds the scope of the adopted part devel-
12 oped under section 6.

13 (ii) That the adopted part meets the standards established
14 by the commission for the type of emergency operations in which
15 the governmental agency engages.

16 (c) If the governmental agency develops and adopts its own
17 emergency vehicle operation policy, provide certification of that
18 policy only after determining that the policy complies with
19 section 6 and meets the standards established by the commission
20 for emergency operations.

21 (d) Deny certification of an adopted policy or policy part
22 that does not comply with section 6 or meet the standards estab-
23 lished by the commission for emergency operations, and provide
24 the applicant with written notice specifying the basis of the
25 denial.

26 (3) If the commission does not comply with subsection (2)
27 within 180 days after receiving an application for certification,

1 the emergency vehicle operation policy or policy portion that is
2 the subject of the application is presumed certified under this
3 act. The presumption created under this subsection may be
4 rebutted by evidence establishing that the policy or policy por-
5 tion does not comply with section 6 or meet the standards estab-
6 lished by the commission for emergency operations.

7 (4) If a governmental agency discontinues all or a portion
8 of an emergency vehicle operation policy certified under this
9 act, the governmental agency shall immediately inform the commis-
10 sion in writing of the date on which the certified emergency
11 vehicle operation policy was discontinued.

12 Sec. 9. The commission shall meet at least once annually to
13 review the emergency vehicle operation policy developed under
14 section 6.

15 Sec. 10. This act is repealed 5 years after its effective
16 date.