

SENATE BILL NO. 763

October 21, 1997, Introduced by Senators BYRUM, HART, YOUNG, KOIVISTO, DINGELL and CHERRY and referred to the Committee on Transportation and Tourism.

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, 4, and 5 (MCL 256.602, 256.604, and 256.605), as amended by 1992 PA 169, and by adding sections 5a and 5b.

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

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. 4. (1) An application for a license to engage in the
11 business of conducting a driver training school shall be filed
12 with the department on a form prescribed by the department. THE
13 APPLICATION SHALL INCLUDE AN AUTHORIZATION TO BE SIGNED BY THE
14 PROSPECTIVE LICENSEE PERMITTING THE DEPARTMENT TO REQUEST A CRIM-
15 INAL HISTORY CHECK FROM THE DEPARTMENT OF STATE POLICE AND THE
16 FEDERAL BUREAU OF INVESTIGATION. A person shall apply for each
17 classification of a driver training school license on a separate
18 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

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

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) AN AUTHORIZATION TO BE SIGNED BY A PROSPECTIVE EMPLOYEE
6 BEFORE HIRING AS A DRIVING INSTRUCTOR PERMITTING THE LICENSEE TO
7 REQUEST A CRIMINAL HISTORY CHECK FROM THE DEPARTMENT OF STATE
8 POLICE AND THE FEDERAL BUREAU OF INVESTIGATION.

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

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

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

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

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

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

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

8 (E) NOT HAVE A PRIOR FELONY OR MISDEMEANOR CONVICTION
9 INVOLVING SEXUAL OR PHYSICAL ABUSE.

10 SEC. 5A. (1) A DRIVER TRAINING SCHOOL LICENSEE SHALL NOT
11 EMPLOY A PERSON AS AN INSTRUCTOR OR, AFTER THE EFFECTIVE DATE OF
12 THIS SECTION, CONTINUE TO EMPLOY A PERSON AS A DRIVING INSTRUCTOR
13 BEFORE REQUESTING AND RECEIVING FROM THE DEPARTMENT OF STATE
14 POLICE AND THE FEDERAL BUREAU OF INVESTIGATION A CRIMINAL HISTORY
15 CHECK ON THE PERSON.

16 (2) A DRIVER TRAINING SCHOOL LICENSEE SHALL MAKE A REQUEST
17 TO THE CRIMINAL RECORDS DIVISION OF THE DEPARTMENT OF STATE
18 POLICE FOR A CRIMINAL HISTORY CHECK REQUIRED UNDER THIS SECTION
19 ON A FORM AND IN A MANNER PRESCRIBED BY THE CRIMINAL RECORDS
20 DIVISION OF THE DEPARTMENT OF STATE POLICE.

21 (3) WITHIN 30 DAYS AFTER RECEIVING A PROPER REQUEST BY A
22 DRIVER TRAINING SCHOOL LICENSEE FOR A CRIMINAL HISTORY CHECK ON A
23 PERSON UNDER THIS SECTION, THE CRIMINAL RECORDS DIVISION OF THE
24 DEPARTMENT OF STATE POLICE SHALL CONDUCT THE CRIMINAL HISTORY
25 CHECK AND, AFTER CONDUCTING THE CRIMINAL HISTORY CHECK AND WITHIN
26 THAT TIME PERIOD, PROVIDE A REPORT OF THE RESULTS OF THE CRIMINAL
27 HISTORY CHECK TO THE DRIVER TRAINING SCHOOL LICENSEE AND THE

1 DEPARTMENT. THE REPORT SHALL CONTAIN ANY CRIMINAL HISTORY RECORD
2 INFORMATION ON THE PERSON MAINTAINED BY THE CRIMINAL RECORDS
3 DIVISION OF THE DEPARTMENT OF STATE POLICE.

4 (4) CRIMINAL HISTORY RECORD INFORMATION RECEIVED FROM THE
5 CRIMINAL RECORDS DIVISION OF THE DEPARTMENT OF STATE POLICE UNDER
6 SUBSECTION (3) SHALL BE USED BY A DRIVER TRAINING SCHOOL LICENSEE
7 ONLY FOR THE PURPOSE OF EVALUATING A PERSON'S QUALIFICATIONS FOR
8 EMPLOYMENT AS A DRIVER TRAINING INSTRUCTOR. A DRIVER TRAINING
9 SCHOOL LICENSEE OR THE DEPARTMENT SHALL NOT DISCLOSE THE REPORT
10 OR ITS CONTENTS EXCEPT ANY FELONY CONVICTION OR A MISDEMEANOR
11 CONVICTION INVOLVING SEXUAL OR PHYSICAL ABUSE TO ANY PERSON WHO
12 IS NOT DIRECTLY INVOLVED IN EVALUATING THE APPLICANT'S QUALIFICA-
13 TIONS FOR EMPLOYMENT. A PERSON WHO VIOLATES THIS SUBSECTION IS
14 GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN
15 \$10,000.00.

16 (5) AS USED IN THIS SECTION, "CRIMINAL HISTORY RECORD
17 INFORMATION" MEANS THAT TERM AS DEFINED IN SECTION 1A OF 1925 PA
18 289, MCL 28.241A.

19 SEC. 5B. (1) THE DEPARTMENT SHALL NOT LICENSE A PERSON TO
20 OPERATE A DRIVER TRAINING SCHOOL OR, AFTER THE EFFECTIVE DATE OF
21 THIS SECTION, RENEW THE LICENSE OF A PERSON TO OPERATE A DRIVER
22 TRAINING SCHOOL BEFORE REQUESTING AND RECEIVING FROM THE DEPART-
23 MENT OF STATE POLICE AND THE FEDERAL BUREAU OF INVESTIGATION A
24 CRIMINAL HISTORY CHECK ON THE PERSON.

25 (2) WITHIN 30 DAYS AFTER RECEIVING A REQUEST FROM THE
26 DEPARTMENT FOR A CRIMINAL HISTORY CHECK ON A PERSON UNDER THIS
27 SECTION, THE CRIMINAL RECORDS DIVISION OF THE DEPARTMENT OF STATE

1 POLICE SHALL CONDUCT THE CRIMINAL HISTORY CHECK AND, AFTER
2 CONDUCTING THE CRIMINAL HISTORY CHECK AND WITHIN THAT TIME
3 PERIOD, PROVIDE A REPORT OF THE RESULTS OF THE CRIMINAL HISTORY
4 CHECK TO THE DEPARTMENT. THE REPORT SHALL CONTAIN ANY CRIMINAL
5 HISTORY RECORD INFORMATION ON THE PERSON MAINTAINED BY THE CRIMI-
6 NAL RECORDS DIVISION OF THE DEPARTMENT OF STATE POLICE.

7 (3) CRIMINAL HISTORY RECORD INFORMATION RECEIVED FROM THE
8 CRIMINAL RECORDS DIVISION OF THE DEPARTMENT OF STATE POLICE UNDER
9 SUBSECTION (2) SHALL BE USED BY THE DEPARTMENT ONLY FOR THE PUR-
10 POSE OF EVALUATING A PERSON'S QUALIFICATIONS FOR LICENSURE AS A
11 DRIVER TRAINING SCHOOL. THE DEPARTMENT SHALL NOT DISCLOSE THE
12 REPORT OR ITS CONTENTS EXCEPT ANY FELONY CONVICTION OR A MISDE-
13 MEANOR CONVICTION INVOLVING SEXUAL OR PHYSICAL ABUSE TO ANY
14 PERSON WHO IS NOT DIRECTLY INVOLVED IN EVALUATING THE APPLICANT'S
15 QUALIFICATIONS FOR LICENSURE. A PERSON WHO VIOLATES THIS SUBSEC-
16 TION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE
17 THAN \$10,000.00.