

Act No. 456
Public Acts of 2000
Approved by the Governor
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**STATE OF MICHIGAN
90TH LEGISLATURE
REGULAR SESSION OF 2000**

Introduced by Rep. DeWeese

Reps. Basham, Birkholz, Brewer, Callahan, DeRossett, DeVuyst, Gosselin, Hager, Howell, Jansen, Julian, Kuipers, Law, Lemmons, Pappageorge, Richardville, Rocca, Sanborn, Tabor and Voorhees named co-sponsors

ENROLLED HOUSE BILL No. 4778

AN ACT to amend 1949 PA 300, entitled "An act to provide for the registration, titling, sale, transfer, and regulation of certain vehicles operated upon the public highways of this state or any other place open to the general public or generally accessible to motor vehicles and distressed vehicles; to provide for the licensing of dealers; to provide for the examination, licensing, and control of operators and chauffeurs; to provide for the giving of proof of financial responsibility and security by owners and operators of vehicles; to provide for the imposition, levy, and collection of specific taxes on vehicles, and the levy and collection of sales and use taxes, license fees, and permit fees; to provide for the regulation and use of streets and highways; to create certain funds and grant programs; to provide for the appropriation of money for certain grant programs; to provide penalties and sanctions for a violation of this act; to provide for civil liability of owners and operators of vehicles and service of process on residents and nonresidents; to provide for the levy of certain assessments; to provide for the enforcement of this act; to provide for the creation of and to prescribe the powers and duties of certain state and local agencies; to repeal all other acts or parts of acts inconsistent with this act or contrary to this act; and to repeal certain parts of this act on a specific date," by amending sections 309, 310e, 312, 312b, 323b, 806, and 811 (MCL 257.309, 257.310e, 257.312, 257.312b, 257.323b, 257.806, and 257.811), section 309 as amended by 1996 PA 551, section 310e as amended by 1999 PA 40, section 312b as amended by 1996 PA 345, section 806 as amended by 1995 PA 267, and section 811 as amended by 1996 PA 387.

The People of the State of Michigan enact:

Sec. 309. (1) Before issuing a license, the secretary of state shall examine each applicant for an operator's or chauffeur's license who at the time of the application is not the holder of a valid, unrevoked operator's or chauffeur's license under a law of this state providing for the licensing of drivers. In all other cases, the secretary of state may waive the examination, except that an examination shall not be waived if it appears from the application, from the apparent physical or mental condition of the applicant, or from any other information which has come to the secretary of state from another source, that the applicant does not possess the physical, mental or other qualifications necessary to operate a motor vehicle in a manner as not to jeopardize the safety of persons or property; or that the applicant is not entitled to a license under section 303. A licensee who applies for the renewal of his or her license by mail pursuant to section 307 shall be required to certify to his or her physical capability to operate a motor vehicle.

(2) Sheriffs, their deputies and the chiefs of police of cities and villages having organized police departments within this state and their duly authorized representatives, and employees of the secretary of state may be appointed examining officers for the purpose of examining applicants for operator's and chauffeur's licenses by the secretary of state. An examining officer shall conduct examinations of applicants for operator's and chauffeur's licenses, under this chapter, and in accordance with the rules promulgated by the secretary of state under subsection (3). After conducting an examination an examining officer shall make a written report of his or her findings and recommendations to the secretary of state.

(3) The secretary of state shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for the examination of the applicant's physical and mental qualifications to operate a motor vehicle in a manner as not to jeopardize the safety of persons or property, and shall ascertain whether facts exist that would bar the issuance of a license under section 303. The secretary of state shall also ascertain whether the applicant has sufficient knowledge of the English language to understand highway warnings or direction signs written in that language. The examination shall not include investigation of facts other than those facts directly pertaining to the ability of the applicant to operate a motor vehicle with safety or facts declared to be prerequisite to the issuance of a license under this act.

(4) An original operator's or chauffeur's license without a vehicle group designation or indorsement shall not be issued by the secretary of state without an examination which shall include a behind-the-wheel road test conducted by the secretary of state or by a designated examining officer under subsection (2) or section 310e. The secretary of state may enter into an agreement with another public or private person or agency to conduct a behind-the-wheel road test conducted under this section. In an agreement with another person or agency to conduct a behind-the-wheel road test, the secretary of state may prescribe the method and examination criteria to be followed by the person or agency when conducting the behind-the-wheel road test and the form of the certification to be issued to a person who satisfactorily completes a behind-the-wheel road test. An original vehicle group designation or indorsement shall not be issued by the secretary of state without a knowledge test conducted by the secretary of state. Except as provided in section 312f(1), an original vehicle group designation or passenger indorsement shall not be issued by the secretary of state without a behind-the-wheel road test conducted by an examiner appointed or authorized by the secretary of state. While in the course of taking a behind-the-wheel road test conducted by the examiner who shall occupy a seat beside the applicant, an applicant for an original vehicle group designation or passenger indorsement who has been issued a temporary instruction permit to operate a commercial motor vehicle shall be permitted to operate a vehicle requiring a vehicle group designation or passenger indorsement without a person licensed to operate a commercial motor vehicle occupying a seat beside him or her.

(5) Except as otherwise provided in this act, the secretary of state may waive the requirement of a behind-the-wheel road test, knowledge test, or road sign test of an applicant for an original operator's or chauffeur's license without a vehicle group designation or indorsement who at the time of the application is the holder of a valid, unrevoked operator's or chauffeur's license issued by another state or country.

(6) Beginning April 1, 2001, a person who corrupts or attempts to corrupt a designated examining officer appointed or designated by the secretary of state under this section or section 310e by giving, offering, or promising any gift or gratuity with the intent to influence the opinion or decision of the examining officer conducting the test is guilty of a felony.

(7) Beginning April 1, 2001, a designated examining officer appointed or designated by the secretary of state who conducts a behind-the-wheel road test under an agreement entered into under this section or section 310e and who varies from, shortens, or in any other way changes the method or examination criteria prescribed to be followed under that agreement in conducting a behind-the-wheel road test is guilty of a felony.

(8) Beginning April 1, 2001, a person who forges, counterfeits, or alters a satisfactorily completed behind-the-wheel road test certification issued by a designated examining officer appointed or designated by the secretary of state under this section or section 310e is guilty of a felony.

Sec. 310e. (1) Except as otherwise provided in this act, an operator's or chauffeur's license issued to a person who is 17 years of age or less is valid only upon the issuance of a graduated driver license.

(2) The secretary of state shall designate graduated licensing provisions in a manner that clearly indicates that the person is subject to the appropriate provisions described in this section.

(3) A person who is not less than 14 years and 9 months of age may be issued a level 1 graduated licensing status to operate a motor vehicle if the person has satisfied all of the following conditions:

(a) Passed a vision test and met health standards as prescribed by the secretary of state.

(b) Successfully completed segment 1 of a driver education course approved by the department of education including a minimum of 6 hours of on-the-road driving time with the instructor.

(c) Received written approval of a parent or legal guardian.

(4) A person issued a level 1 graduated licensing status may operate a motor vehicle only when accompanied either by a licensed parent or legal guardian or, with the permission of the parent or legal guardian, a licensed driver 21 years of age or older. Except as otherwise provided in this section, a person is restricted to operating a motor vehicle with a level 1 graduated licensing status for not less than 6 months.

(5) A person may be issued a level 2 graduated licensing status to operate a motor vehicle if the person has satisfied all of the following conditions:

(a) Had a level 1 graduated licensing status for not less than 6 months.

(b) Successfully completed segment 2 of a driver education course approved by the department of education.

(c) Not incurred a moving violation resulting in a conviction or civil infraction determination or been involved in an accident for which the official police report indicates a moving violation on the part of the person during the 90-day period immediately preceding application.

(d) Presented a certification by the parent or guardian that he or she, accompanied by his or her licensed parent or legal guardian or, with the permission of the parent or legal guardian, any licensed driver 21 years of age or older, has accumulated a total of not less than 50 hours of behind-the-wheel experience including not less than 10 nighttime hours.

(e) Successfully completed a secretary of state approved performance road test. The secretary of state may enter into an agreement with another public or private person or agency, including a city, village, or township, to conduct this performance road test. This subdivision applies to a person 16 years of age or over only if the person has satisfied subdivisions (a), (b), (c), and (d).

(6) A person issued a level 2 graduated licensing status under subsection (5) shall remain at level 2 for not less than 6 months and shall not operate a motor vehicle within this state from 12 midnight to 5 a.m. unless accompanied by a parent or legal guardian or a licensed driver over the age of 21 designated by the parent or legal guardian, or except when going to or from employment.

(7) The provisions and provisional period described in subsection (4) or (6) shall be expanded or extended, or both, beyond the periods described in subsection (4) or (6) if any of the following occur and are recorded on the licensee's driving record during the provisional periods described in subsection (4) or (6) or any additional periods imposed under this subsection:

(a) A moving violation resulting in a conviction, civil infraction determination, or probate court disposition.

(b) An accident for which the official police report indicates a moving violation on the part of the licensee.

(c) A license suspension for a reason other than a mental or physical disability.

(d) A violation of subsection (4) or (6).

(8) The provisional period described in subsection (4) shall be extended under subsection (7) until the licensee completes 90 consecutive days without a moving violation, an accident in which a moving violation resulted, accident, suspension, or provisional period violation listed in subsection (7) or until age 18, whichever occurs first. The provisional period described in subsection (6) shall be extended under subsection (7) until the licensee completes 12 consecutive months without a moving violation, accident, suspension, or restricted period violation listed in subsection (7) or until age 18, whichever occurs first.

(9) A person who is not less than 17 years of age may be issued a level 3 graduated licensing status under this subsection if the person has completed 12 consecutive months without a moving violation, an accident in which a moving violation resulted, accident, suspension, or restricted period violation listed in subsection (7) while the person was issued a level 2 graduated licensing status under subsection (5).

(10) Notice shall be given by first-class mail to the last known address of a licensee if the provisions are expanded or extended as described in subsection (7).

(11) A person who violates subsection (4) or (6) is responsible for a civil infraction.

(12) If a person is determined responsible for a violation of subsection (4) or (6), the secretary of state shall send written notification of any conviction or moving violation to a designated parent or guardian of the person.

(13) For purposes of this section:

(a) Upon conviction for a moving violation, the date of the arrest for the violation shall be used in determining whether the conviction occurred within a provisional licensure period under this section.

(b) Upon entry of a civil infraction determination for a moving violation, the date of issuance of a citation for a civil infraction shall be used in determining whether the civil infraction determination occurred within a provisional licensure period under this section.

(c) The date of the official police report shall be used in determining whether a licensee was driving a motor vehicle involved in an accident for which the official police report indicates a moving violation on the part of the licensee or indicates the licensee had been drinking intoxicating liquor.

(14) A person shall have his or her graduated licensing status in his or her immediate possession at all times when operating a motor vehicle, and shall display the card upon demand of a police officer. A person who violates this subsection is responsible for a civil infraction.

(15) This section does not apply to a person 15 years of age or older who is currently enrolled but has not completed a driver education course on April 1, 1997 or who has completed a driver education course but has not acquired his or her driver license on April 1, 1997.

Sec. 312. (1) Upon proper showing of extenuating circumstances and special reasons, or need by an applicant who meets the age qualifications and when accompanied by the fee as provided in this act, the secretary of state may recommend a restricted operator's or chauffeur's license containing conditions and restrictions applicable to the licensee, the type of special mechanical control devices required in a motor vehicle operated by the licensee, and the area, time, or other condition that the secretary of state considers necessary to assure the safe operation of a vehicle

by the licensee and under which the licensee may operate a motor vehicle. A license issued to a person who is at least 14 years of age and under 16 years of age shall contain only the conditions determining the hours during which the licensee may drive a motor vehicle and the purpose for which it is to be driven. A license issued to a minor who is at least 14 years of age and under 16 years of age shall be revoked by the secretary of state on the written request of a parent, guardian, or person standing in loco parentis.

(2) An operator's license issued to a person who is at least 14 years of age and under 16 years of age expires on the birthday following issuance of the license or if that birthday is within 6 months after the date of issuance of the license, then 1 year after the date of that birthday.

(3) Upon receiving satisfactory evidence of a violation of the restrictions of the license, the secretary of state may suspend or revoke the license.

(4) A person who violates a restriction imposed in a restricted license issued to that person is guilty of a misdemeanor. This subsection does not apply to a person who is at least 14 years of age and under 16 years of age.

(5) If a motor vehicle is being driven by a person who is at least 14 years of age and under 16 years of age, and that person is accompanied by a parent, guardian, or person standing in loco parentis, the conditions, limitations, and restrictions set forth in this section do not apply.

Sec. 312b. (1) Before a person who is less than 18 years of age is issued an original motorcycle endorsement on an operator's or chauffeur's license, the person shall pass an examination as required by this section and a motorcycle safety course as provided in section 811a or 811b.

(2) Before a person who is 18 years of age or older is issued an original motorcycle endorsement on an operator's or chauffeur's license, the person shall pass an examination as required by this section. A person who fails this examination 2 or more times is required to successfully complete a motorcycle safety course as provided in section 811a or 811b. Each written examination given an applicant for a motorcycle endorsement on an operator's or chauffeur's license as provided in section 309 shall also include subjects designed to cover a motorcycle. A person shall pass an examination that shall include a driving test designed to test the competency of the applicant for the first motorcycle endorsement on an operator's or chauffeur's license to operate a motorcycle upon the roads and highways of this state with safety to himself or herself and other persons and property. All examinations shall be administered as provided in this act. The requirement of a motorcycle driving test shall be waived for an applicant who has successfully completed a motorcycle safety course conducted by a school or business enterprise as provided in section 811a or 811b. The motorcycle safety course skills test shall meet or exceed the motorcycle skills test from the secretary of state. The requirement of a motorcycle driving test may be waived if the applicant has a valid license or endorsement to operate a motorcycle from another state.

(3) A motorcycle endorsement issued to a person who operates a 3-wheeled motorcycle or an autocycle shall be restricted to operation of that type of motorcycle and does not permit operation of a 2-wheeled motorcycle. The secretary of state shall develop a driving test specifically pertaining to an autocycle or a 3-wheeled motorcycle.

(4) The secretary of state is responsible for establishing and conducting the motorcycle operator driving test and shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, for purposes of this subsection. An audit of the motorcycle safety fund shall be conducted in conjunction with the audit of school management services by the office of the auditor general to determine compliance with the requirement that funds are being withdrawn only in relation to this act and not costs that are already a function or duty of the education act. A copy of this audit shall be transmitted to the legislature upon completion.

(5) Beginning not later than June 1, 1997, the secretary of state may enter into an agreement with another public or private person or agency to conduct a driving test required under this section. In an agreement with another person or agency to conduct a driving test under this section, the secretary of state may prescribe the method and examination criteria to be followed by the person or agency when conducting the driving test and the form of the certification to be issued to a person who satisfactorily completes a driving test. For administering and overseeing a third party motorcycle testing program, the secretary of state shall be reimbursed from the motorcycle safety fund a total amount that does not exceed 50% of the department's 1995-1996 fiscal year appropriation for motorcycle testing under this section.

(6) Beginning April 1, 2001, a person who corrupts or attempts to corrupt a person or agency that conducts a driving test under an agreement entered into with the secretary of state under this section by giving, offering, or promising any gift or gratuity with the intent to influence the opinion or decision of the person or agency conducting the driving test is guilty of a felony.

(7) Beginning April 1, 2001, a designated examining officer appointed or designated by the secretary of state who conducts a driving test under an agreement entered into under this section and who varies from, shortens, or in any other way changes the method or examination criteria prescribed to be followed under that agreement in conducting a driving test under this section is guilty of a felony.

(8) Beginning April 1, 2001, a person who forges, counterfeits, or alters a satisfactorily completed driving test certification issued by a designated examining officer appointed or designated by the secretary of state under this section is guilty of a felony.

Sec. 323b. The license of a minor shall be canceled by the secretary of state upon the written request of the custodial parent or parents or legal guardian of the minor. The secretary of state may reduce the graduated driver license level or delay advancement to the next level of a minor upon the written request of the custodial parent or parents or legal guardian of the minor.

Sec. 806. (1) A fee of \$10.00 shall accompany each application for a certificate of title required by this act or for a duplicate of a certificate of title. An additional fee of \$5.00 shall accompany an application if the applicant requests that the application be given special expeditious treatment.

(2) A fee of \$10.00 shall accompany an application for a special identifying number as provided in section 230.

(3) In addition to paying the fees required by subsection (1), until January 1, 2002, each person who applies for a certificate of title, a salvage vehicle certificate of title, or a scrap certificate of title, under this act shall pay a tire disposal surcharge of 50 cents for each certificate of title or duplicate of a certificate of title that person receives. The secretary of state shall deposit money it receives under this subsection into the scrap tire regulatory fund created in section 16908 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.16908.

Sec. 811. (1) An application for an operator's or chauffeur's license as provided in sections 307 and 312 and an application for a minor's restricted license as provided in section 312 shall be accompanied by the following fees:

Operator's license.....	\$ 12.00
Chauffeur's license.....	20.00
Minor's restricted license.....	5.00

(2) The secretary of state shall deposit the money received and collected under subsection (1) in the state treasury to the credit of the general fund. The secretary of state shall refund out of the fees collected to each county or municipality acting as an examining officer or examining bureau \$2.50 for each applicant examined for an original license, \$1.00 for each applicant examined for an original chauffeur's license, and \$1.00 for every other applicant examined, if the application is not denied and the money refunded is paid to the county or local treasurer and is appropriated to the county, municipality, or officer or bureau receiving the money for the purpose of carrying out this act. The state treasurer shall deposit the sum of \$4.00 in a driver education fund for each person examined for an original license, a renewal operator's license, an original chauffeur's license, or a renewal chauffeur's license, except that the sum deposited for each 2-year operator's or 2-year chauffeur's license shall be \$2.00. The department of education shall use the money in the driver education fund for administration of a driver education program and for distribution to local school districts to be used for driver education programs. Any unexpended and unencumbered balance remaining in the driver education fund at the end of the fiscal year in excess of \$150,000.00 shall revert to the general fund.

(3) From the money credited to the driver education fund, the legislature shall appropriate annually funds to the department of education for state administration of the program. In addition, the department of education shall distribute to local public school districts from the driver education fund a pro rata amount equal to the number of students who have completed segment 1 of an approved driver education course through the local public school districts whether directly from the student's own local school district or by certificate issued from the student's own local school district in the previous fiscal year, or the actual cost per student, whichever is less. Beginning April 1, 1998, a local school district that offers an approved driver education course shall provide an amount equal to the pro rata amount from the driver education fund for each student residing in the district who completes segment 1 of an approved driver education course within that district. The local school district shall provide each student participating in an approved driver education course with a certificate in a form provided by the local school district and approved by the department of education that the student shall use toward the payment of any fee charged for the approved driver education course under the following conditions:

(a) If the student participates in an approved driver education course at a local school district of his or her choice other than his or her local school district.

(b) If the student participates in a driver education course at a licensed driver training school, but only if the following conditions exist:

(i) The student's local school district does not offer an approved driver education course either itself or through a consortium of local school districts of which the student's local school district is a member.

(ii) The student's local school district does not offer an approved driver education course with openings available either itself or through a consortium of local school districts of which the student's local school district is a member at the time the student attains 15 years, 6 months of age.

From the amount distributed, the local school district shall reimburse each licensed driver training school or other local school district or the parent of the student the determined pro rata amount from the driver education fund for each student from that district completing segment 1 of an approved driver education course with the licensed driver training school or other local school district during the fiscal year.

(4) Beginning April 1, 1998, the approved driver education courses may be conducted by the local public school district or a consortium of school districts, by a licensed driver training school either itself or through a contract with a local school district, or by the intermediate district at the request of the local district. If a local school district contracts with a licensed driver training school to conduct an approved driver education course, the contract shall require that the driver education course be conducted in accordance with the requirements set forth in department of education rules under subsection (6) that are applicable to an approved driver education course conducted by a local school district. Enrollment in approved driver education courses shall be open to residents not less than 14 years 8 months of age enrolled in public, nonpublic, and home schools as well as resident out-of-school youth not less than 14 years 8 months of age. Reimbursement to local school districts shall be made on the basis of an application made by the local school district superintendent to the department of education. If money appropriated from the driver education fund is not sufficient to provide for state administration of the driver education program and to reimburse local school districts for each student completing segment 1 of an approved driver education course, then payments made to local school districts shall be prorated to the amount that is appropriated and available in the fund. A local school district or licensed driver training school may use videotapes, computers, telecourses, or other similar technology as part of the classroom instruction portion of its driver education courses. A student may receive and use any of these materials at home.

(5) As used in this section, "driver education courses" include classroom instruction, behind-the-wheel instruction, and observation in an automobile under the supervision of a qualified teacher or licensed instructor. The department of education shall not require that licensed driver training school teachers or instructors be certificated under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(6) The department of education may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to implement this section. The rules shall include, at a minimum, instructional standards, teacher qualifications, and reimbursement procedures.

(7) Notwithstanding sections 306 and 308, an operator's license shall not be issued to a person under 18 years of age unless that person successfully passes a driver education course and examination given by a public school, nonpublic school, or an equivalent course approved by the department of education given by a licensed driver training school. A person who has been a holder of a motor vehicle operator's license issued by any other state, territory, or possession of the United States, or any other sovereignty for 1 year immediately before application for an operator's license under this act is not required to comply with this subsection. Restricted licenses may be issued pursuant to section 312 without compliance with this subsection. A driver education course shall be made available for a person under 18 years of age within a time that will enable that person to qualify for a license before the time that the person is permitted by law to have a license.

(8) Beginning April 1, 1998, a public school system may impose a charge or enrollment fee for a driver education course upon a student desiring to take the course as a duly enrolled student for the course in a school of the public school system. If a charge or enrollment fee is imposed, it shall be the same for all students who reside within the territory of the public school system.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved

Governor.