

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1290

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 approved by the secretary
25 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) Maintains or obtains the facilities and certified
6 instructors to give instruction in the driving of a motor vehicle
7 or maintains or obtains the facilities and certified instructors to
8 prepare an applicant for an exam given by the secretary of state
9 for a license as defined in section 25 of the Michigan vehicle
10 code, 1949 PA 300, MCL 257.25, or a vehicle indorsement issued
11 under former section 312e of the Michigan vehicle code, 1949 PA
12 300.

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

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

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

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

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

27 (e) "Educational institution" means a public school, nonpublic

1 school, or public school academy as those terms are defined in
2 section 5 of the revised school code, 1976 PA 451, MCL 380.5; a
3 consortium that is defined to mean a partnership, association, or
4 alliance of 2 or more school districts in a common venture; a
5 community college, a 4-year college, a university, or any other
6 body of higher education.

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

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

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

15 (iii) Complies with applicable zoning and municipal
16 requirements.

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

20 (h) "Graduated driver license" means a license issued by the
21 secretary of state under section 310e of the Michigan vehicle code,
22 1949 PA 300, MCL 257.310e.

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

1 off-street facility specifically designed for that type of
2 instruction.

3 Sec. 7. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

25 (a) Adult driver training.

26 (b) Teen driver training.

27 (c) Truck driver training.

1 (2) The secretary of state shall not grant an original driver
2 education provider certificate under this act until an
3 investigation is made of the applicant's qualification.

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

8 (a) Submit a properly completed application signed by the
9 applicant.

10 (b) Maintain an established office location.

11 (c) Maintain classroom facilities in a public or commercial
12 setting.

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

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

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

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

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

1 (i) Provide a statement indicating whether the applicant or
2 its designated representative or coordinator has ever applied for a
3 driver education provider certificate in this state or any other
4 state, and the result of that application.

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

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

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

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

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

27 (o) Obtain written or electronic verification from an insurer

1 that the applicant maintains or will maintain bodily injury and
2 property damage liability insurance on each motor vehicle used in a
3 driver education course.

4 (p) Except as otherwise provided in this subdivision, submit a
5 nonrefundable application processing fee with each application for
6 a separate established place of business where records will be
7 maintained as follows:

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

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

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

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

20 (i) The statement shall include a detailed description of the
21 facility as determined necessary by the secretary of state and its
22 address.

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

26 (r) Provide other information and documents as prescribed by
27 the secretary of state necessary to determine whether the applicant

1 meets the requirements of this act.

2 (4) An application for an original driver education provider
3 certificate shall include a properly executed surety bond or
4 renewal certificate with the application. If a renewal certificate
5 is used, the bond is considered renewed for each succeeding year in
6 the same amount and with the same effect as an original bond. The
7 bond or certificate shall be maintained continuously without
8 interruption to protect the contractual rights of students. The
9 bond or certificate of an adult or teen driver education provider
10 with 999 or fewer students in a calendar year shall be in the
11 principal sum of \$20,000.00 with good and sufficient surety to be
12 approved by the secretary of state. The bond or certificate of an
13 adult or teen driver education provider with 1,000 or more students
14 in a calendar year shall be in the principal sum of \$40,000.00 with
15 good and sufficient surety to be approved by the secretary of
16 state. The bond or certificate of a truck driver education provider
17 shall be in the principal sum of \$50,000.00 with good and
18 sufficient surety to be approved by the secretary of state. The
19 bond shall indemnify or reimburse a student, financing agency, or
20 governmental agency for monetary loss caused through fraud,
21 cheating, or misrepresentation in the conduct of the driver
22 education provider's business where the fraud, cheating, or
23 misrepresentation was made by the provider or by an employee,
24 agent, instructor, or salesperson of the provider. The surety shall
25 make indemnification or reimbursement for a monetary loss only
26 after judgment based on fraud, cheating, or misrepresentation has
27 been entered in a court of record against the provider. The

1 aggregate liability of the surety shall not exceed the sum of the
2 bond. The surety on the bond may cancel the bond by giving 30 days'
3 written or electronic notice to the secretary of state and after
4 giving notice is not liable for a breach of condition occurring
5 after the effective date of the cancellation.

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

26 (6) As a condition precedent to the granting of a certificate,
27 an applicant shall file with the secretary of state, on a form

1 prescribed by the secretary of state, an irrevocable written or
2 electronic stipulation. The stipulation shall be signed by the
3 applicant and state that the applicant agrees that legal process
4 affecting the applicant, served on the secretary of state against
5 the applicant or the applicant's successor in interest for a
6 violation of this act, a rule promulgated under this act, or an
7 order issued under this act, has the same effect as if personally
8 served on the applicant. This appointment remains in force as long
9 as the provider has any outstanding liability within this state
10 under this act.

11 (7) Subsections (3)(d), (g), and (p) and (4) do not apply to
12 an educational institution or a governmental agency.

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

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

21 (10) A driver education provider shall maintain bodily injury
22 and property damage liability insurance on a motor vehicle used in
23 driver education course instruction. The insurance shall insure the
24 liability of the driver education provider, the driver education
25 instructors, and a person taking instruction in the amount of
26 \$100,000.00 for bodily injury to or the death of 1 person in 1
27 accident, and, subject to the limit for 1 person; \$300,000.00 for

1 bodily injury to or the death of 2 or more persons in 1 accident;
2 and \$50,000.00 for damage to the property of others in 1 accident.
3 The insurer shall be authorized to do insurance business in this
4 state. The insurer shall not cancel the insurance before its
5 expiration date unless it gives the secretary of state written or
6 electronic notice as prescribed by the secretary of state of the
7 insurer's intent to cancel the insurance at least 30 days before
8 the cancellation.

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

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

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

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

1 state. A renewal application shall include all of the following:

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

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

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

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

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

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

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

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

26 (2) The designated representative or coordinator of a
27 certified driver education provider shall complete a criminal

1 history check as described in section 29 to the satisfaction of the
2 secretary of state every 4 years on an application to renew the
3 driver education provider's certificate.

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

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

24 (5) The secretary of state shall review and, in writing,
25 approve or deny the use of a multiple vehicle driving facility
26 under this act as determined necessary by the secretary of state.
27 The secretary of state may only approve a facility that meets

1 criteria prescribed by the secretary of state. The secretary of
2 state shall perform an on-site inspection of a multiple vehicle
3 driving facility as determined necessary by the secretary of state.

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

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

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

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

24 (3) A person licensed as a driver training school by the
25 secretary of state under former 1974 PA 369 or who has been
26 approved for segment 1 and segment 2 driver education course
27 performance objectives under former 1974 PA 369, and who submits an

1 original driver education provider certificate application in
2 accordance with this act to the secretary of state on or before
3 June 1, 2007, may provide driver education instruction in
4 accordance with this act while the secretary of state processes the
5 application. If an application is received after June 1, 2007, the
6 driver education provider shall not provide instruction until the
7 secretary of state processes the application and issues the
8 certificate. The certificate expires exactly 2 years from the date
9 of issuance.

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

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

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

1 state or required under this act.

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

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

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

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

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

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

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

26 (a) Adult driver training.

27 (b) Teen driver training.

1 (c) Truck driver training.

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

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

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

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

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

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

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

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

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

27 (h) Certifies that the applicant does not have a pending

1 criminal matter or an outstanding arrest, warrant, or conviction
2 since submitting a request for a criminal history check under
3 section 29.

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

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

13 (k) Until December 31, 2007, for an original application for a
14 driver education instructor certificate for teen driver training,
15 submits an official transcript from an approved college or
16 university that currently offers driver education instructor
17 preparation programs. Beginning January 1, 2008, for an original
18 application for a driver education instructor certificate for teen
19 or adult driver training, submits an official transcript from an
20 approved college, university, or person to verify the completion of
21 the driver education instructor preparation courses required under
22 the driver education instructor preparation program described in
23 section 23. Except for a driver education instructor issued a
24 temporary approval under the driver education and training schools
25 act, 1974 PA 369, MCL 256.601 to 256.612, an applicant approved as
26 a driver education instructor by the secretary of state before
27 December 31, 2007 is considered to have complied with this

1 transcript requirement.

2 (l) An applicant who is not a resident of this state shall
3 submit an up-to-date certified driving record from the applicant's
4 state of residence to the secretary of state. The applicant shall
5 agree in writing or electronically as prescribed by the secretary
6 of state to submit an up-to-date certified driving record every 60
7 days for as long as the applicant is not a resident of this state.

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

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

23 (5) The secretary of state may require an applicant to submit
24 a photograph of the applicant, may prescribe the size and format of
25 the photograph, and may include a reproduction of the photograph on
26 the driver education instructor certificate. The secretary of state
27 may receive the applicant's written or electronic permission to use

1 the image of the applicant captured and retained under section 307
2 of the Michigan vehicle code, 1949 PA 300, MCL 257.307, on the
3 driver education instructor certificate.

4 (6) A person licensed as a driver training school instructor
5 by the secretary of state or who has been approved as an instructor
6 for segment 1 and segment 2 driver education performance objectives
7 under former 1974 PA 369, and who submits an original driver
8 education instructor certificate application in accordance with
9 this act to the secretary of state on or before June 1, 2007, may
10 provide driver education instruction in accordance with this act
11 while the secretary of state processes the application. If an
12 application is received after June 1, 2007, the driver education
13 provider shall not provide instruction until the secretary of state
14 processes the application and issues the certificate. The
15 certificate expires exactly 2 years from the date of issuance.

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

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

25 (9) Beginning December 31, 2007, an applicant for an original
26 driver education instructor certificate is required to complete the
27 driver education instructor preparation courses described in

1 section 23. This subsection does not apply to an applicant for a
2 driver education instructor certificate to conduct truck driver
3 training.

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

9 (a) The name of the instructor.

10 (b) An image of the instructor.

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

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

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

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

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

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

27 (b) A certification that the applicant complies with the

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

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

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

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

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

27 (3) The secretary of state shall not issue a renewal

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

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

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

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

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

27 (2) A college, university, or person may apply to the

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

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

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

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

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

1 curriculum of a driver education instructor preparation course. The
2 secretary of state shall give the college, university, or person
3 requesting approval written notice of the secretary of state's
4 approval or denial, including the reason for any denial.

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

10 (a) Driver task analysis.

11 (b) Developing classroom and program knowledge.

12 (c) Developing vehicle operation skills.

13 (d) Practicum.

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

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

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

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

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

27 (10) A college, university, or person approved by the

1 secretary of state that offers a driver education instructor
2 preparation course shall include in the course registration
3 material information explaining the driver education instructor
4 qualifications required under this act.

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

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

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

26 Sec. 25. (1) A person shall not participate in a practicum
27 course conducted by a college or university or by a person approved

1 by the secretary of state unless the person possesses a conditional
2 driver education instructor certificate.

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

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

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

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

17 Sec. 27. Beginning January 1, 2008, the secretary of state
18 shall establish professional development requirements for a
19 certified driver education instructor. The secretary of state shall
20 publish the requirements in a format and manner prescribed by the
21 secretary of state. Professional development requirements shall
22 provide the following:

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

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

1 Sec. 29. (1) A criminal history check required under this act
2 shall be performed by the department of state police and the
3 federal bureau of investigation.

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

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

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

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

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

9 (6) As used in this section, "criminal history record
10 information" means that term as defined in section 1a of 1925 PA
11 289, MCL 28.241a.

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

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

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

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

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

27 (3) A passenger motor vehicle used by a driver education

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

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

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

11 (i) Is 14 years, 8 months of age or older before beginning a
12 segment 1 curriculum. A student's initial attendance or
13 participation in a class shall not begin or commence on a date
14 after the first day of that scheduled class without good cause.
15 Except as otherwise provided in this subsection, the student being
16 less than 14 years and 8 months on the first day of class is not
17 good cause.

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

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

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

27 (c) Administer a knowledge test approved by the secretary of

1 state under this act to each student at the completion of a driver
2 education course in accordance with the standards prescribed by the
3 secretary of state under this act.

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

12 Sec. 35. (1) The secretary of state shall prescribe a model
13 curriculum for teen driver training under this act. After September
14 1, 2007, a driver education provider classified for teen driver
15 training shall use the secretary of state's prescribed model
16 curriculum or may use an alternative curriculum only after it has
17 been reviewed and approved by the secretary of state. The secretary
18 of state may approve an alternative curriculum if it substantially
19 meets or exceeds the standards of the secretary of state's
20 prescribed model curriculum.

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

25 Sec. 37. (1) A segment 1 curriculum shall include both
26 classroom and behind-the-wheel driver education course experience.
27 The classroom instruction and behind-the-wheel instruction shall be

1 integrated, relate to each other, and meet the following
2 requirements:

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

6 (i) Classroom instruction shall occur not more than 2 hours per
7 day.

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

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

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

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

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

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

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

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

27 (v) Except as otherwise provided in this section, a student

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

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

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

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

17 (4) As used in this section:

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

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

27 Sec. 39. A segment 2 curriculum course provided under this act

Senate Bill No. 1290 (H-3) as amended September 19, 2006
1 shall meet [both] of the following requirements:

2 (a) Be offered only to a student who has done all of the
3 following:

4 (i) Successfully completed a segment 1 curriculum driver
5 education course.

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

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

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

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

24 (2) A segment 2 class size may exceed 36 students with the
25 prior approval of the secretary of state. The secretary of state
26 may approve a segment 2 class size to exceed 36 students for up to
27 60 minutes per day when justified by a special presentation.

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

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

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

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

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

23 (a) The name of the school.

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

25 (c) The classroom location.

26 (d) The names of the instructors.

27 (e) Any other information the secretary of state determines is

1 needed to administer this act or ensure the health, safety, and
2 welfare of a student or the public.

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

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

11 (a) The name of the school.

12 (b) The dates the class was held.

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

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

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

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

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

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

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

4 (5) A driver education provider shall file a year-end report
5 with and as prescribed by the secretary of state on or before
6 January 31 of each year. The year-end report shall contain all of
7 the following:

8 (a) The name of the school.

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

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

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

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

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

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

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

24 (b) Complete registration and achievement records for the
25 student.

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

1 (d) A copy of the signed contract between the school and the
2 student.

3 (e) The information contained on a course completion report
4 for the student.

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

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

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

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

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

24 (c) A description of the instruction to be given by that
25 provider.

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

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

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

3 (2) Before instruction begins, the driver education provider
4 shall give the student a signed copy of the agreement, accompanied
5 by a copy of all of the provider's applicable policies.

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

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

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

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

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

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

2 (d) A description of the instruction that each provider will
3 give.

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

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

8 (g) The name of the provider responsible for issuing a segment
9 1 driver education course certificate of completion.

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

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

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

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

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

22 (2) The secretary of state may prescribe the format, manner,
23 and deadline for filing a report with the secretary of state under
24 this act. Except as otherwise provided in this act, the secretary
25 of state shall notify a person required to file a report with the
26 secretary of state of the applicable filing deadline. The secretary
27 of state shall provide that notice not less than 15 days before the

1 report is due, unless the secretary of state has reason to believe
2 the report is needed more quickly to protect the health, safety,
3 and welfare of a student or the public or to properly administer
4 this act.

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

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

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

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

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

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

1 instructor for a driver education course.

2 (2) The secretary of state may prescribe the method and manner
3 that a driver education provider shall use to verify an
4 instructor's certificate status.

5 Sec. 55. (1) Before a driver education provider shall provide
6 behind-the-wheel driver education course instruction to an adult or
7 truck driver training student, the provider shall verify that the
8 student has a valid temporary instruction permit issued by the
9 secretary of state under section 306 of the Michigan vehicle code,
10 1949 PA 300, MCL 257.306.

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

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

23 (a) Identify the conviction.

24 (b) Identify the date of the conviction.

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

26 (d) Contain other information as prescribed by the secretary
27 of state.

1 Sec. 59. (1) Except as otherwise provided in this section, the
2 secretary of state shall automatically deny an original or renewal
3 application for a driver education provider or instructor
4 certificate and shall automatically immediately revoke a
5 certificate issued to a person as a driver education provider or
6 driver education instructor without the necessity for notice and an
7 opportunity for a hearing if a criminal history check indicates
8 that the applicant, instructor, provider, or the designated
9 representative or coordinator of the applicant or provider has been
10 convicted of a violation or attempted violation, or the secretary
11 of state receives reliable notice under this section or section 57
12 of a conviction for a violation or attempted violation of any of
13 the following:

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

18 (b) A felony involving a criminal assault or battery on an
19 individual.

20 (c) A crime involving felonious assault on a child, child
21 abuse in the first degree, cruelty, torture, or indecent exposure
22 involving a child.

23 (d) A felony involving the manufacture, distribution, or
24 dispensing of a controlled substance or possession with intent to
25 manufacture, distribute, or dispense a controlled substance.

26 (e) A felony conviction involving fraud as an element of the
27 crime.

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

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

26 (4) When the secretary of state receives reliable notice of a
27 conviction for a violation or attempted violation under this

1 section or section 57 by an applicant's or provider's designated
2 representative or coordinator, the secretary of state shall
3 automatically deny an original or renewal application for a driver
4 education provider certificate or automatically immediately revoke
5 a provider's certificate under this section if the applicant or
6 provider fails to immediately terminate the designated
7 representative's or coordinator's designation or employment as the
8 provider's designated representative or coordinator.

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

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

26 (a) Three or more driver license denials, suspensions, or
27 revocations, or any combination of 3 or more denials, suspensions,

1 or revocations, imposed by the secretary of state for the failure
2 to appear in court or a failure to comply with a court judgment
3 under section 321a of the Michigan vehicle code, 1949 PA 300, MCL
4 257.321a.

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

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

9 (d) A conviction under section 624a, 625(6), or 626b of the
10 Michigan vehicle code, 1949 PA 300, MCL 257.624a, 257.625, and
11 257.626b.

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

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

1 another state shall immediately return his or her instructor's
2 certificate to the secretary of state.

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

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

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

24 (2) A person may file a complaint against a person, an
25 applicant, a driver education provider, or a driver education
26 instructor with the secretary of state. A complaint shall be made
27 in a format as prescribed by the secretary of state. The complaint

1 shall be based upon a violation or attempted violation of this act
2 or a rule promulgated under this act and shall contain all of the
3 following information:

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

5 (b) A complete statement describing the basis for the
6 complaint.

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

11 (d) The complainant's signature and the date the complaint was
12 signed.

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

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

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

26 Sec. 67. A driver education provider or instructor shall not
27 engage in a deceptive or unconscionable method, act, or practice.

1 The following are deceptive or unconscionable methods, acts, or
2 practices:

3 (a) Using, adopting, or conducting business under a name that
4 is the same as, like, or deceptively similar to, the name of
5 another driver education provider.

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

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

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

19 (e) Advertising that the provider is open for business before
20 the secretary of state issues a driver education provider
21 certificate to the provider.

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

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

1 (h) Failing to promptly restore any deposit, down payment, or
2 other payment that a person is entitled to after an agreement is
3 rescinded, canceled, or otherwise terminated as required under the
4 agreement or applicable law.

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

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

13 (k) Falsifying a document, agreement, record, report, or
14 certificate required under this act or a rule promulgated under
15 this act.

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

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

25 (a) Failed to meet a requirement under this act or a rule
26 promulgated under this act.

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

1 (c) Made an untrue or misleading statement of a material fact
2 to the secretary of state or concealed a material fact in
3 connection with an application for a provider or instructor
4 certificate.

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

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

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

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

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

23 (a) Denial of an application for a driver education provider
24 certificate or a driver education instructor certificate.

25 (b) Suspension or revocation of a driver education provider
26 certificate or a driver education instructor certificate.

27 (c) An administrative fine paid to the secretary of state in

1 an amount not to exceed \$1,000.00 for each violation.

2 (d) A requirement to take the affirmative action determined
3 necessary by the secretary of state, including payment of
4 restitution to a student or to an injured person.

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

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

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

1 become permanent.

2 Sec. 75. (1) The secretary of state may order a summary
3 suspension of a driver education provider or driver education
4 instructor certificate pursuant to the administrative procedures
5 act of 1969, 1969 PA 306, MCL 24.201 to 24.328, upon an affidavit
6 by a person familiar with the facts set forth in the affidavit
7 alleging a violation or attempted violation of this act, a rule
8 promulgated under this act, or a deceptive or unconscionable
9 method, act, or practice.

10 (2) The driver education provider or driver education
11 instructor to whom the order is directed may apply to the secretary
12 of state and shall be granted a hearing within 30 days of
13 application pursuant to the administrative procedures act of 1969,
14 1969 PA 306, MCL 24.201 to 24.328.

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

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

25 Sec. 77. The expiration or absence of a driver education
26 provider certificate or a driver education instructor certificate
27 does not prevent the secretary of state from proceeding with an

1 investigation, disciplinary proceeding, or other action authorized
2 by this act against a person, a driver education provider, or a
3 driver education instructor.

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

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

22 Sec. 83. (1) The driver education provider and instructor fund
23 is created as a separate fund in the department of treasury. The
24 fund shall be expended only as provided in this section. The state
25 treasurer may receive money or other assets from any source for
26 deposit into the fund. The state treasurer shall direct the
27 investment of the fund. The state treasurer shall annually present

1 to the secretary of state an accounting of the amount of money in
2 the fund. Any unexpended and unencumbered money in the fund at the
3 close of a fiscal year shall remain in the fund and shall not lapse
4 or be transferred to the general fund.

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

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

17 Sec. 84. After deducting the actual administrative costs of
18 the department, the balance of the revenue from the fees collected
19 under this act, up to an annual total of \$15,000.00, shall be
20 deposited in the traffic law enforcement and safety fund created in
21 section 819a of the Michigan vehicle code, 1949 PA 300, MCL
22 257.819a.

23 Sec. 85. The secretary of state may promulgate rules pursuant
24 to the administrative procedures act of 1969, 1969 PA 306, MCL
25 24.201 to 24.328, to carry out this act.

26 Enacting section 1. The driver training schools rules, R
27 388.351 to R 388.362, and the driver education rules, R 388.302 to

- 1 R 388.338, of the Michigan administrative code are rescinded.
- 2 Enacting section 2. This act takes effect October 1, 2006.