

HOUSE BILL No. 5845

July 28, 1988, Introduced by Reps. Johnson, Emerson, Gilmer and Browne
and referred to the Committee on Transportation.

A bill to amend sections 1, 3, 5, and 6 of Act No. 369 of
the Public Acts of 1974, entitled

"An act to regulate the business of conducting a driver training
school; to require licenses; to prescribe the powers and duties
of the department of state; and to prescribe penalties for viola-
tions of this act,"

section 3 as amended by Act No. 109 of the Public Acts of 1981
and section 6 as amended by Act No. 391 of the Public Acts of
1984, being sections 256.601, 256.603, 256.605, and 256.606 of
the Michigan Compiled Laws; and to add section 6c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 1, 3, 5, and 6 of Act No. 369 of the
2 Public Acts of 1974, section 3 as amended by Act No. 109 of the
3 Public Acts of 1981 and section 6 as amended by Act No. 391 of
4 the Public Acts of 1984, being sections 256.601, 256.603,

1 256.605, and 256.606 of the Michigan Compiled Laws, are amended
2 and section 6c is added to read as follows:

3 Sec. 1. As used in this act:

4 (a) "Department" means the department of state.

5 (b) "Driver training school" means a person ~~, firm, part-~~
6 ~~nership, association, or corporation~~ that engages in the busi-
7 ness of giving instructions, for hire or for a fee or tuition,
8 WHETHER BY MEANS OF LIVE PRESENTATIONS, VIDEOTAPES, PRINTED MATE-
9 RIALS, OR OTHERWISE, in the driving of motor vehicles or in the
10 preparation of an applicant for AN examination given by the
11 department ~~of state~~ for a license to operate a motor vehicle.
12 Driver training school does not apply to public or parochial
13 schools, educational institutions in which driving instruction is
14 part of the curriculum and ~~while~~ provided by the institution
15 only for regularly enrolled, full-time students under the age of
16 19, or as a part of an adult education program sponsored by a
17 school district. An instructor employed by such a school or
18 institution is exempt FROM THIS ACT only to the extent THAT his
19 OR HER activities are as an agent of the school, school district,
20 or institution. DRIVER TRAINING SCHOOL INCLUDES A TRUCK DRIVER
21 TRAINING SCHOOL WHICH PREPARES AN APPLICANT FOR AN EXAMINATION
22 GIVEN BY THE DEPARTMENT FOR A LICENSE INDORSEMENT ISSUED UNDER
23 SECTION 312E OF THE MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE
24 PUBLIC ACTS OF 1949, BEING SECTION 257.312E OF THE MICHIGAN
25 COMPILED LAWS, OR FOR A COMMERCIAL DRIVER'S LICENSE WHICH MEETS
26 THE REQUIREMENTS OF THE COMMERCIAL MOTOR VEHICLE SAFETY ACT OF
27 1986, TITLE XII OF PUBLIC LAW 99-570, 49 U.S.C. 2701 TO 2716.

1 (C) "NONRESIDENT" MEANS A PERSON WHO IS NOT A RESIDENT OF
2 THIS STATE. IN THE CASE OF A PERSON OTHER THAN AN INDIVIDUAL, A
3 PARTNERSHIP, CORPORATION, OR OTHER LEGAL ENTITY SHALL BE CONSID-
4 ERED AS A NONRESIDENT IF IT HAS ITS PRINCIPAL PLACE OF BUSINESS
5 IN A STATE OTHER THAN THIS STATE.

6 (D) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
7 OR OTHER LEGAL ENTITY.

8 Sec. 3. A person, ~~firm, partnership, association, or~~
9 ~~corporation~~ in order to qualify to operate a driver training
10 school, shall meet ALL OF the following requirements:

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

13 (b) Provide a continuous surety company bond in the princi-
14 pal sum of \$2,500.00, EXCEPT THAT A TRUCK DRIVER TRAINING SCHOOL
15 SHALL REQUIRE THE PRINCIPAL SUM OF \$10,000.00, for the protection
16 of the contractual rights of students in a form that meets the
17 approval of the department and written by a company authorized to
18 do business in this state. The aggregate liability of the surety
19 for all breaches of the condition of the bond ~~in any event~~
20 shall not exceed the principal sum of ~~\$2,500.00~~ THE BOND. The
21 surety company may cancel the bond upon giving 30 days' written
22 notice to the department ~~of state~~ and shall be relieved of
23 liability for a breach of ~~any~~ A condition of the bond which
24 occurs after the effective date of cancellation.

25 (c) Maintain bodily injury and property damage liability
26 insurance on motor vehicles while used in driving instruction,
27 insuring the liability of the driver training school, the driving

1 instructors, and a person taking instruction. The amount of
2 insurance shall be \$100,000.00 for bodily injury to or death of 1
3 person in ~~any~~ 1 accident, and, subject to the limit for 1
4 person; \$300,000.00 for bodily injury to or death of 2 or more
5 persons in ~~any~~ 1 accident; and \$10,000.00 for damage to prop-
6 erty of others in ~~any~~ 1 accident. Evidence of insurance cover-
7 age in the form of a certificate from the insurance carrier shall
8 be filed with the department. ~~which~~ THE certificate shall
9 stipulate that the insurance shall not be canceled except upon 10
10 days' prior written notice to the department.

11 (d) Disclose to the department the existence of a concession
12 agreement with another business entity, and disclose the exis-
13 tence of the concession agreement and the limits of responsibil-
14 ity and liability contained in ~~any such~~ THE concession agree-
15 ment in all advertisements and in all contracts with students.
16 As used in this subdivision, "concession agreement" means a con-
17 tract, franchise, agreement, or the granting of a privilege,
18 written or oral, between 2 business entities permitting 1 of the
19 entities to operate a driver training school under the sponsor-
20 ship, name, auspices of, or on the premises of, the other
21 entity.

22 (E) IF A NONRESIDENT APPLICANT'S PRINCIPAL PLACE OF BUSINESS
23 IS IN A STATE WHICH LICENSES DRIVER TRAINING SCHOOLS, POSSESS A
24 DRIVER TRAINING SCHOOL LICENSE FROM THAT STATE.

25 Sec. 5. (1) A driver training school licensee shall not
26 employ a person as an instructor unless the person is licensed as
27 an instructor.

1 (2) A driver training school licensee shall annually file an
2 application with the department for licensing of its employees as
3 instructors. The application shall include ALL OF THE FOLLOWING
4 FOR EACH EMPLOYEE FOR WHICH LICENSURE AS AN INSTRUCTOR IS
5 SOUGHT:

6 (a) The name and address of the ~~instructor~~ EMPLOYEE.

7 (b) The driver's license number of the ~~instructor~~
8 EMPLOYEE. AN APPLICATION FOR A NONRESIDENT EMPLOYEE SHALL ALSO
9 INCLUDE A CERTIFIED COPY OF HIS OR HER DRIVING RECORD FROM THE
10 STATE OF RESIDENCE.

11 (c) A medical examination report completed by a physician
12 licensed to practice ~~within the~~ IN THIS state. AN APPLICATION
13 FOR A NONRESIDENT EMPLOYEE SHALL FULFILL THE REQUIREMENT OF THIS
14 SUBDIVISION, IF IT INCLUDES A REPORT COMPLETED BY A PHYSICIAN
15 LICENSED TO PRACTICE IN THE EMPLOYEE'S STATE OF RESIDENCE.

16 (3) A fee of \$2.00 shall be assessed for each EMPLOYEE SEEK-
17 ING LICENSURE AS AN instructor. ~~licensed.~~

18 (4) The department shall issue a license certificate to the
19 driver training school licensee for ~~the instructors~~ EACH OF ITS
20 EMPLOYEES who meet the requirements of this act FOR LICENSURE AS
21 AN INSTRUCTOR. A license certificate shall expire on December 31
22 of the year for which it is issued.

23 (5) In order to qualify as an instructor a person ~~must~~
24 SHALL MEET BOTH OF THE FOLLOWING REQUIREMENTS:

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

1 (b) Have a driving record which indicates competence to
2 operate a motor vehicle consistent with standards set forth in
3 rules promulgated by the secretary of state.

4 Sec. 6. (1) The department may deny, suspend, or revoke, OR
5 PLACE PROBATIONARY CONDITIONS ON a driver training school license
6 or a driver training instructor license after notice and opportu-
7 nity for a hearing upon ~~a~~ finding that the applicant or the
8 licensee or an employee of the applicant or the licensee HAS DONE
9 1 OR MORE OF THE FOLLOWING:

10 (a) Failed to meet the requirements to receive or ~~hold~~
11 MAINTAIN a license under this act.

12 (B) IF THE APPLICANT OR LICENSEE IS LICENSED AS A DRIVER
13 TRAINING SCHOOL IN A STATE OTHER THAN THE STATE OF MICHIGAN,
14 FAILED TO RECEIVE OR MAINTAIN A LICENSE IN THAT STATE.

15 (C) ~~(b)~~ Violated this act or a rule promulgated under this
16 act.

17 (D) ~~(c)~~ Made an untrue or misleading statement of a mate-
18 rial fact or concealed a material fact in connection with an
19 application TO THE DEPARTMENT.

20 (E) ~~(d)~~ Permitted fraud or engaged in fraudulent practices
21 with reference to a driver's license or permit application to the
22 department, or induced, or countenanced fraud or fraudulent prac-
23 tices on the part of an applicant for a driver's license or
24 permit.

25 (F) ~~(e)~~ Represented himself or herself as an agent or
26 employee of the state or used advertising designed to lead, or
27 which would reasonably have the effect of leading, persons to

1 believe that the licensee or employee is in fact an employee or
2 representative of the state.

3 (G) ~~-(f)-~~ Advertised or implied to a customer that a
4 driver's license is guaranteed upon completion of the course of
5 instruction.

6 (H) ~~-(g)-~~ Engaged in A fraudulent, deceptive, or unconscio-
7 nable ~~-practices-~~ PRACTICE relative to the operation of a driver
8 training school or IN the provision of driver training
9 instruction.

10 (I) ~~-(h)-~~ Operated a driver training school or provided
11 driver training instruction without being licensed ~~-as required~~
12 ~~by~~ UNDER this act.

13 (J) ~~-(i)-~~ Failed to comply with the terms of a probation or
14 suspension agreement or the terms of a final cease and desist
15 order ISSUED UNDER THIS ACT.

16 (K) ~~-(j)-~~ Failed to establish or maintain ~~his or her~~ good
17 moral character in connection with business operations.

18 (2) THE DEPARTMENT MAY INVESTIGATE A DRIVER TRAINING SCHOOL
19 IN RESPONSE TO A COMPLAINT MADE BY A CUSTOMER, THE DEPARTMENT, OR
20 ANY OTHER PERSON.

21 (3) THE DEPARTMENT MAY DEVELOP PROCEDURES FOR THE MEDIATION
22 OF ANY DISPUTES BETWEEN A CUSTOMER AND A DRIVER TRAINING SCHOOL
23 THAT ARISE DUE TO A VIOLATION OF THIS ACT OR A RULE PROMULGATED
24 UNDER THIS ACT.

25 (4) ~~-(2)-~~ A suspended or revoked license shall be returned
26 immediately to the department by the licensee.

1 SEC. 6C. (1) A NONRESIDENT PERSON APPLYING FOR A LICENSE
2 UNDER THIS ACT SHALL FILE WITH THE DEPARTMENT, ON A FORM
3 PRESCRIBED BY THE DEPARTMENT, AN IRREVOCABLE CONSENT APPOINTING
4 THE SECRETARY OF STATE TO BE THE PERSON'S ATTORNEY TO RECEIVE
5 SERVICE OF PROCESS IN ANY NONCRIMINAL PROCEEDING AGAINST THAT
6 PERSON, OR THAT PERSON'S SUCCESSOR IN INTEREST, FOR A VIOLATION
7 OF THIS ACT, A RULE PROMULGATED UNDER THIS ACT, OR AN ORDER
8 ISSUED UNDER THIS ACT AFTER THE CONSENT IS FILED. THE CONSENT
9 SHALL HAVE THE SAME FORCE AND VALIDITY AS PERSONAL SERVICE.

10 (2) IF A PERSON ENGAGES IN CONDUCT PROHIBITED BY THIS ACT, A
11 RULE PROMULGATED UNDER THIS ACT, OR AN ORDER ISSUED UNDER THIS
12 ACT, AND PERSONAL JURISDICTION CANNOT BE OBTAINED AND A CONSENT
13 PURSUANT TO SUBSECTION (1) HAS NOT BEEN FILED, THAT CONDUCT SHALL
14 BE CONSIDERED THE EQUIVALENT OF APPOINTING THE SECRETARY OF STATE
15 TO BE THAT PERSON'S ATTORNEY TO RECEIVE SERVICE OF PROCESS IN A
16 NONCRIMINAL PROCEEDING AGAINST THAT PERSON, OR THAT PERSON'S SUC-
17 CESSOR IN INTEREST, INVOLVING THAT CONDUCT.

18 (3) SERVICE UNDER SUBSECTION (1) OR (2) SHALL BE MADE BY
19 LEAVING A COPY OF THE PROCESS WITH THE SECRETARY OF STATE OR HIS
20 OR HER DEPUTY. THE SERVICE SHALL NOT BE EFFECTIVE UNLESS THE
21 PARTY INITIATING THE PROCEEDING IMMEDIATELY SENDS A COPY OF THE
22 PROCESS BY REGISTERED OR CERTIFIED MAIL TO THE PERSON LICENSED AS
23 A DRIVER TRAINING SCHOOL AT THAT PERSON'S LAST KNOWN ADDRESS AND
24 TAKES OTHER STEPS WHICH ARE REASONABLY CALCULATED TO GIVE ACTUAL
25 NOTICE OF THE PROCEEDINGS. THE PARTY INITIATING THE PROCEEDING
26 SHALL FILE AN AFFIDAVIT OF COMPLIANCE WITH THE AGENCY OR COURT
27 HEARING THE PROCEEDING.