

# SENATE BILL No. 690

January 28, 1992, Introduced by Senators O'BRIEN, HART, PRIDNIA, CARL and MC MANUS and referred to the Committee on Transportation and Tourism.

A bill to amend the title and sections 1, 2, 3, 4, 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 violations 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, 256.602, 256.603, 256.604, 256.605, and 256.606 of the Michigan Compiled Laws; and to add sections 4a, 5a, and 6c.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 256.601, 256.602, 256.603, 256.604, 256.605, and 256.606 of the  
2 Michigan Compiled Laws, are amended and sections 4a, 5a, and 6c  
3 are added to read as follows:

4 TITLE

5 An act to regulate the business of conducting a driver  
6 training school; to require licenses IN RELATION THERETO; TO PRE-  
7 SCRIBE CERTAIN FEES; to prescribe the powers and duties of ~~the~~  
8 ~~department of state~~ CERTAIN PERSONS AND STATE DEPARTMENTS; and  
9 to prescribe REMEDIES AND penalties. ~~for violations of this~~  
10 ~~act.~~

11 Sec. 1. As used in this act:

12 (A) "COMMERCIAL MOTOR VEHICLE" MEANS THAT TERM AS DEFINED IN  
13 SECTION 7A OF THE MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE  
14 PUBLIC ACTS OF 1949, BEING SECTION 257.7A OF THE MICHIGAN  
15 COMPILED LAWS.

16 (B) ~~(a)~~ "Department" means the department of state.

17 (C) ~~(b)~~ "Driver training school" means a person ~~, firm,~~  
18 ~~partnership, association, or corporation~~ that OFFERS TO ENGAGE  
19 IN OR engages in the business of giving ~~instructions~~  
20 INSTRUCTION TO THE PUBLIC, for hire or for a fee or tuition,  
21 WHETHER BY MEANS OF A LIVE PRESENTATION, VIDEOTAPE, PRINTED MATE-  
22 RIAL, OR OTHERWISE, in the driving of motor vehicles or in the  
23 preparation of an applicant for AN examination given by the  
24 department ~~of state~~ for a license to operate a motor vehicle.  
25 DRIVER TRAINING SCHOOL INCLUDES A SCHOOL THAT PREPARES AN APPLI-  
26 CANT FOR AN EXAMINATION GIVEN BY THE DEPARTMENT FOR A LICENSE  
27 INDORSEMENT ISSUED UNDER SECTION 312E OF THE MICHIGAN VEHICLE

1 CODE, ACT NO. 300 OF THE PUBLIC ACTS OF 1949, BEING SECTION  
2 257.312E OF THE MICHIGAN COMPILED LAWS, OR FOR A COMMERCIAL  
3 DRIVER'S LICENSE THAT MEETS THE REQUIREMENTS OF THE COMMERCIAL  
4 MOTOR VEHICLE SAFETY ACT OF 1986, TITLE XII OF PUBLIC LAW 99-570,  
5 49 U.S.C. 2701 TO 2716. Driver training school does not ~~apply~~  
6 ~~to~~ INCLUDE A COMMUNITY COLLEGE, A PROGRAM OWNED AND OPERATED BY  
7 AN EMPLOYER FOR THE BENEFIT OF ITS EMPLOYEES WHICH IS NOT OPEN TO  
8 THE PUBLIC, OR A public or parochial ~~schools,~~ SCHOOL OR AN edu-  
9 cational ~~institutions~~ INSTITUTION in which driving instruction  
10 EITHER is part of the curriculum and ~~while~~ provided by the  
11 institution only for regularly enrolled, full-time students under  
12 the age of 19 ~~—~~ or ~~as~~ IS a part of an adult education program  
13 sponsored by a school district. An instructor employed by such a  
14 school or institution is exempt FROM THIS ACT only to the extent  
15 THAT his OR HER activities are as an agent of the school, school  
16 district, or institution.

17 (D) "NONCOMMERCIAL MOTOR VEHICLE" MEANS A MOTOR VEHICLE THAT  
18 IS NOT A COMMERCIAL VEHICLE.

19 (E) "NONRESIDENT" MEANS A PERSON WHO IS NOT A RESIDENT OF  
20 THIS STATE. IN THE CASE OF A PERSON OTHER THAN AN INDIVIDUAL, A  
21 PARTNERSHIP, CORPORATION, ASSOCIATION, OR OTHER LEGAL ENTITY IS  
22 CONSIDERED A NONRESIDENT IF ITS PRINCIPAL PLACE OF BUSINESS IS  
23 LOCATED IN A STATE OTHER THAN THIS STATE.

24 (F) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,  
25 ASSOCIATION, OR OTHER LEGAL ENTITY.

1       Sec. 2. (1) THE DEPARTMENT SHALL LICENSE A DRIVER TRAINING  
2 SCHOOL IN 1 OR BOTH OF THE FOLLOWING CLASSIFICATIONS, AS  
3 APPROPRIATE:

4       (A) NONCOMMERCIAL MOTOR VEHICLE.

5       (B) COMMERCIAL MOTOR VEHICLE.

6       (2) A person shall not engage OR OFFER TO ENGAGE in the  
7 business of conducting a driver training school without first  
8 obtaining a license IN 1 OR BOTH OF THE APPLICABLE CLASSIFICA-  
9 TIONS SPECIFIED IN SUBSECTION (1). A DRIVER TRAINING SCHOOL  
10 SHALL NOT ENGAGE IN ACTIVITIES OF A PARTICULAR CLASSIFICATION  
11 UNLESS THE SCHOOL IS LICENSED IN THAT CLASSIFICATION..

12       Sec. 3. ~~A person, firm, partnership, association, or cor-~~  
13 ~~poration in~~ IN order to qualify to operate a driver training  
14 school, A PERSON shall meet ALL OF the following requirements:

15       (a) Maintain an established place of business open to the  
16 public.

17       (b) Provide a continuous surety company bond in the princi-  
18 pal sum of ~~-\$2,500.00-~~ \$5,000.00 FOR A NONCOMMERCIAL MOTOR VEHI-  
19 CLE DRIVER TRAINING SCHOOL AND THE PRINCIPAL SUM OF \$10,000.00  
20 FOR A COMMERCIAL MOTOR VEHICLE DRIVER TRAINING SCHOOL for the  
21 protection of the contractual rights of students in a form that  
22 meets the approval of the department and written by a company  
23 authorized to do business in this state. The aggregate liability  
24 of the surety for all breaches of the condition of the bond ~~in~~  
25 ~~any event~~ shall not exceed the principal sum of ~~-\$2,500.00-~~ THE  
26 BOND. The surety company may cancel the bond upon giving 30  
27 days' written notice to the department ~~of state~~ and shall be

1 relieved of liability for a breach of ~~any~~ A condition of the  
2 bond ~~which~~ THAT occurs after the effective date of  
3 cancellation. A PERSON SHALL PROVIDE A SEPARATE BOND FOR EACH  
4 CLASSIFICATION IN WHICH THE DRIVER TRAINING SCHOOL IS LICENSED.

5 (c) Maintain bodily injury and property damage liability  
6 insurance on motor vehicles ~~while~~ used in driving instruction,  
7 insuring the liability of the driver training school, the driving  
8 instructors, and a person taking instruction. The amount of  
9 insurance shall be \$100,000.00 for bodily injury to or THE death  
10 of 1 person in ~~any~~ 1 accident, and, subject to the limit for 1  
11 person; \$300,000.00 for bodily injury to or THE death of 2 or  
12 more persons in ~~any~~ 1 accident; and \$10,000.00 for damage to  
13 THE property of others in ~~any~~ 1 accident. Evidence of insur-  
14 ance coverage in the form of a certificate from the insurance  
15 carrier shall be filed with the department. ~~which~~ THE cer-  
16 tificate shall stipulate that the insurance shall not be canceled  
17 except upon 10 days' prior written notice to the department.

18 (d) Disclose to the department the existence of a concession  
19 agreement with another business entity, and disclose the exis-  
20 tence of the concession agreement and the limits of responsibil-  
21 ity and liability contained in ~~any such~~ THE concession agree-  
22 ment in all advertisements and in all contracts with students.  
23 As used in this subdivision, "concession agreement" means a con-  
24 tract, franchise, agreement, or the granting of a privilege,  
25 written or oral, between 2 business entities permitting 1 of the  
26 entities to operate a driver training school under the

1 sponsorship, name, auspices of, or on the premises of, the other  
2 entity.

3 (E) POSSESS A DRIVER TRAINING SCHOOL LICENSE FROM THE STATE  
4 IN WHICH A NONRESIDENT APPLICANT'S PRINCIPAL PLACE OF BUSINESS IS  
5 LOCATED, IF THAT STATE LICENSES DRIVER TRAINING SCHOOLS.

6 Sec. 4. (1) An application for a license to engage in the  
7 business of conducting a driver training school shall be filed  
8 with the department on a form prescribed by the department. A  
9 PERSON SHALL APPLY FOR EACH CLASSIFICATION OF A DRIVER TRAINING  
10 SCHOOL LICENSE ON A SEPARATE APPLICATION PROVIDED BY THE  
11 DEPARTMENT.

12 (2) The application shall be accompanied by a fee ~~of~~  
13 ~~\$25.00.~~ AS FOLLOWS:

14 (A) \$75.00 FOR A NONCOMMERCIAL MOTOR VEHICLE DRIVER TRAINING  
15 SCHOOL.

16 (B) \$150.00 FOR A COMMERCIAL MOTOR VEHICLE DRIVER TRAINING  
17 SCHOOL.

18 (3) The department shall issue a license certificate to each  
19 applicant to conduct a driver training school when the department  
20 is satisfied that the person has met the qualifications required  
21 under this act.

22 (4) A license issued to a driver training school shall  
23 expire on December 31 of the calendar year for which the license  
24 was issued. The fee for the renewal of a NONCOMMERCIAL MOTOR  
25 VEHICLE DRIVER TRAINING SCHOOL license ~~shall be \$25.00~~ IS  
26 \$75.00, AND THE FEE FOR THE RENEWAL OF A COMMERCIAL MOTOR VEHICLE

1 DRIVER TRAINING SCHOOL LICENSE IS \$150.00, which shall accompany  
2 the application for license renewal.

3 SEC. 4A. (1) A DRIVER TRAINING SCHOOL CONDUCTING A TRAINING  
4 PROGRAM FOR COMMERCIAL MOTOR VEHICLE DRIVERS SHALL SUBMIT TO THE  
5 DEPARTMENT A REPORT ON APRIL 15 AND OCTOBER 15 OF EACH YEAR WHICH  
6 INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING:

7 (A) THE NAMES, ADDRESSES, AND DRIVER LICENSE NUMBERS OF EACH  
8 STUDENT ENROLLED.

9 (B) THE NAMES OF STUDENTS COMPLETING A TRAINING PROGRAM.

10 (C) THE AVERAGE STARTING SALARY OF GRADUATES EMPLOYED AS  
11 COMMERCIAL MOTOR VEHICLE DRIVERS.

12 (D) THE NAMES OF STUDENTS EMPLOYED WITHIN 90 DAYS AFTER COM-  
13 PLETION OF THE PROGRAM.

14 (E) WHETHER THE STUDENT'S TUITION WAS PAID BY AN EMPLOYER,  
15 THE STUDENT, OR THROUGH GOVERNMENT SUBSIDIZED FINANCIAL AID.

16 (2) A COPY OF THE REPORT DESCRIBED IN SUBSECTION (1) SHALL  
17 BE PROVIDED TO EACH STUDENT ENROLLING IN A TRAINING PROGRAM FOR  
18 COMMERCIAL MOTOR VEHICLES.

19 (3) UPON THE CLOSING OF A DRIVER TRAINING SCHOOL THAT OFFERS  
20 A TRAINING PROGRAM FOR COMMERCIAL MOTOR VEHICLES, THE DRIVER  
21 TRAINING SCHOOL SHALL RETURN THE LICENSE ISSUED UNDER THIS ACT  
22 AND NOTIFY THE DEPARTMENT, ON A FORM PROVIDED BY THE DEPARTMENT,  
23 AS TO A SPECIFIC LOCATION WHERE THE RECORDS OF STUDENTS WILL BE  
24 MAINTAINED. THE RECORDS OF STUDENTS SHALL BE MAINTAINED AT THAT  
25 LOCATION FOR AT LEAST 3 YEARS AFTER THE DATE OF CLOSING OF THE  
26 DRIVER TRAINING SCHOOL.

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

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

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

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

14       (c) A medical examination report completed by a physician  
15 licensed to practice ~~within the~~ IN THIS state. AN APPLICATION  
16 FOR A NONRESIDENT EMPLOYEE FULFILLS THE REQUIREMENT OF THIS SUB-  
17 DIVISION IF THE APPLICATION INCLUDES A REPORT COMPLETED BY A PHY-  
18 SICIAN LICENSED TO PRACTICE IN THE EMPLOYEE'S STATE OF RESIDENCE.

19       (D) ~~(3)~~ A fee of ~~-\$2.00 shall be assessed-~~ \$15.00 ~~shall~~  
20 ~~be assessed-~~ for each EMPLOYEE SEEKING LICENSURE AS AN  
21 instructor. ~~licensed.~~

22       (3) ~~(4)~~ The department shall issue a license certificate  
23 to the driver training school licensee for ~~the instructors~~ EACH  
24 OF ITS EMPLOYEES who meet the requirements of this act FOR LICEN-  
25 SURE AS AN INSTRUCTOR. A license certificate ~~shall expire-~~  
26 EXPIRES on December 31 of the year for which it is issued.

1       (4) ~~—(5)—~~ In order to qualify as an instructor a person  
2 ~~—must—~~ SHALL MEET ALL OF THE FOLLOWING REQUIREMENTS:

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

5       (b) Have a driving record ~~—which—~~ THAT indicates competence  
6 to operate a motor vehicle consistent with standards set forth in  
7 rules promulgated by the secretary of state.

8       (c) BE 21 YEARS OF AGE OR OLDER ON THE DATE THE PERSON'S  
9 LICENSE APPLICATION IS SUBMITTED TO THE SECRETARY OF STATE.

10       (d) HAVE A DRIVING RECORD, WITHIN THE 5 YEARS IMMEDIATELY  
11 PRECEDING SUBMISSION OF AN INSTRUCTOR LICENSE APPLICATION TO THE  
12 SECRETARY OF STATE, THAT DOES NOT CONTAIN A CONVICTION FOR ANY  
13 VIOLATION FOR WHICH 4 OR 6 POINTS ARE ASSESSED PURSUANT TO SEC-  
14 TION 320A OF THE MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE PUBLIC  
15 ACTS OF 1949, BEING SECTION 257.320A OF THE MICHIGAN COMPILED  
16 LAWS. THIS SUBDIVISION SHALL ONLY APPLY TO AN APPLICANT WHO IS  
17 NOT CURRENTLY LICENSED AS A DRIVER TRAINING SCHOOL INSTRUCTOR ON  
18 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS  
19 SUBDIVISION.

20       SEC. 5A. (1) A MOTOR VEHICLE SHALL MEET ALL FEDERAL AND  
21 STATE VEHICLE SAFETY STANDARDS WHEN IN USE AS A DRIVER TRAINING  
22 VEHICLE.

23       (2) IN ADDITION TO MEETING THE STANDARDS OF SUBSECTION (1),  
24 A NONCOMMERCIAL MOTOR VEHICLE SHALL, WHEN IN USE AS A DRIVER  
25 TRAINING VEHICLE, MEET THE FOLLOWING SAFETY STANDARDS:

1 (A) BE EQUIPPED WITH A DUPLICATE BRAKE OR, IF APPLICABLE, A  
2 DUPLICATE BRAKE AND CLUTCH PEDAL, WHICH SHALL BE ON THE RIGHT  
3 FRONT FLOORBOARD OF THE VEHICLE.

4 (B) BE LIMITED IN OCCUPANTS EQUAL TO THE NUMBER OF SAFETY  
5 RESTRAINT DEVICES INSTALLED IN THE MOTOR VEHICLE IN COMPLIANCE  
6 WITH FEDERAL AND STATE LAW. THE FRONT SEAT SHALL NOT BE OCCUPIED  
7 BY MORE THAN THE DRIVER AND THE INSTRUCTOR.

8 (C) HAVE ON THE MOTOR VEHICLE AT LEAST 1 SIGN, CLEARLY VISI-  
9 BLE TO THE PASSING PUBLIC, THAT IDENTIFIES THE NAME OF THE DRIVER  
10 TRAINING SCHOOL AND THAT IDENTIFIES THE MOTOR VEHICLE AS BEING  
11 USED FOR DRIVING INSTRUCTION.

12 (3) SUBSECTION (2) DOES NOT APPLY TO A MOTORCYCLE AS DEFINED  
13 IN SECTION 31 OF THE MICHIGAN VEHICLE CODE, ACT NO. 300 OF THE  
14 PUBLIC ACTS OF 1949, BEING SECTION 257.31 OF THE MICHIGAN  
15 COMPILED LAWS.

16 Sec. 6. (1) THE DEPARTMENT MAY DO 1 OR MORE OF THE  
17 FOLLOWING:

18 (A) ON ITS OWN INITIATIVE OR IN RESPONSE TO A COMPLAINT,  
19 MAKE REASONABLE AND NECESSARY INVESTIGATIONS WITHIN OR OUTSIDE OF  
20 THIS STATE AND GATHER EVIDENCE AGAINST A PERSON THAT IS BELIEVED  
21 TO HAVE VIOLATED OR IS ABOUT TO VIOLATE THIS ACT OR A RULE  
22 PROMULGATED UNDER THIS ACT.

23 (B) REQUIRE OR PERMIT A PERSON TO FILE A STATEMENT IN WRIT-  
24 ING OR OTHERWISE AS THE DEPARTMENT DETERMINES AS TO ALL OF THE  
25 FACTS AND CIRCUMSTANCES CONCERNING A MATTER THAT MAY OR WILL BE  
26 INVESTIGATED.

1 (C) MEDIATE DISPUTES BETWEEN PARTIES WHEN THOSE DISPUTES  
2 ARISE FROM A VIOLATION OF THIS ACT OR A RULE PROMULGATED UNDER  
3 THIS ACT.

4 (D) DEVELOP CONDITIONS OF PROBATION OR OPERATION FOR A  
5 DRIVER TRAINING SCHOOL OR INSTRUCTOR. THESE CONDITIONS SHALL BE  
6 MUTUALLY AGREED UPON BY THE DRIVER TRAINING SCHOOL OR INSTRUCTOR  
7 AND THE DEPARTMENT AND SHALL BE SET FORTH IN A WRITTEN LETTER OF  
8 UNDERSTANDING. CONDITIONS OF PROBATION MAY BE AGREED TO INSTEAD  
9 OF FURTHER DISCIPLINARY PROCEEDINGS.

10 (E) ON ITS OWN INITIATIVE, CONDUCT A SPOT CHECK INVESTIGA-  
11 TION OF A DRIVER TRAINING SCHOOL THAT IS LICENSED OR REQUIRED TO  
12 BE LICENSED IN THIS STATE TO DETERMINE WHETHER THE DRIVER TRAIN-  
13 ING SCHOOL IS IN COMPLIANCE WITH THIS ACT OR A RULE PROMULGATED  
14 UNDER THIS ACT.

15 (2) ~~-(1)-~~ The department may deny, suspend, or revoke, OR  
16 PLACE PROBATIONARY CONDITIONS ON, a driver training school  
17 license or a driver training instructor license after notice and  
18 opportunity for a hearing upon a finding that the applicant or  
19 the licensee or an employee of the applicant or the licensee HAS  
20 DONE 1 OR MORE OF THE FOLLOWING:

21 (a) Failed to meet the requirements to receive or ~~held~~  
22 MAINTAIN a license under this act.

23 (B) FAILED TO RECEIVE OR MAINTAIN A LICENSE IF THE APPLICANT  
24 OR LICENSEE IS LICENSED AS A DRIVER TRAINING SCHOOL IN A STATE  
25 OTHER THAN THIS STATE AND THE PERSON'S LICENSE IN THE OTHER STATE  
26 HAS EXPIRED OR BEEN DENIED, CANCELED, SUSPENDED, OR REVOKED.

1 (C) ~~-(b)-~~ Violated this act or a rule promulgated under this  
2 act.

3 (D) ~~-(e)-~~ Made an untrue or misleading statement of a mate-  
4 rial fact TO THE DEPARTMENT or concealed a material fact in con-  
5 nection with an application TO THE DEPARTMENT.

6 (E) ~~-(d)-~~ Permitted fraud or engaged in A fraudulent  
7 ~~-practices-~~ PRACTICE with reference to a driver's license or  
8 permit application to the department, or induced ~~-~~ or counte-  
9 nanced fraud or A fraudulent ~~-practices-~~ PRACTICE on the part of  
10 an applicant for a driver's license or permit.

11 (F) ~~-(e)-~~ Represented himself or herself as an agent or  
12 employee of the state or used advertising designed to lead, or  
13 ~~-which-~~ THAT would reasonably have the effect of leading,  
14 ~~-persons-~~ A PERSON to believe that the licensee or employee is  
15 ~~-in-fact-~~ an employee or representative of the state.

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

19 (H) ~~-(g)-~~ Engaged in A fraudulent, deceptive, or unconscio-  
20 nable ~~-practices-~~ PRACTICE relative to the operation of a driver  
21 training school or the provision of driver training instruction.

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

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

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

3 (3) ~~(2)~~ A suspended or revoked license shall be returned  
4 immediately to the department by the licensee.

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

14 (2) IF A PERSON ENGAGES IN CONDUCT PROHIBITED BY THIS ACT, A  
15 RULE PROMULGATED UNDER THIS ACT, OR AN ORDER ISSUED UNDER THIS  
16 ACT, AND PERSONAL JURISDICTION CANNOT BE OBTAINED AND A CONSENT  
17 PURSUANT TO SUBSECTION (1) HAS NOT BEEN FILED, THAT CONDUCT IS  
18 THE EQUIVALENT OF APPOINTING THE SECRETARY OF STATE TO BE THAT  
19 PERSON'S ATTORNEY TO RECEIVE SERVICE OF PROCESS IN A NONCRIMINAL  
20 PROCEEDING AGAINST THAT PERSON OR THAT PERSON'S SUCCESSOR IN  
21 INTEREST INVOLVING THAT CONDUCT.

22 (3) SERVICE UNDER SUBSECTION (1) OR (2) SHALL BE MADE BY  
23 LEAVING A COPY OF THE PROCESS WITH THE SECRETARY OF STATE OR HIS  
24 OR HER DEPUTY. THE SERVICE SHALL NOT BE EFFECTIVE UNLESS THE  
25 PARTY INITIATING THE PROCEEDING IMMEDIATELY SENDS A COPY OF THE  
26 PROCESS BY REGISTERED OR CERTIFIED MAIL TO THE PERSON'S LAST  
27 KNOWN ADDRESS AND TAKES OTHER STEPS THAT ARE REASONABLY

1 CALCULATED TO GIVE ACTUAL NOTICE OF THE PROCEEDINGS. THE PARTY  
2 INITIATING THE PROCEEDING SHALL FILE AN AFFIDAVIT OF COMPLIANCE  
3 WITH THE AGENCY OR COURT HEARING THE PROCEEDING.