



HOUSE BILL No. 4536

March 7, 1995, Introduced by Reps. Profit, London, Palamara, Ryan, Law, McBryde, Freeman, Hill, Weeks, Jamian, Oxender, Goschka, Voorhees, DeMars, Perricone, Willard, Brewer, Galloway and Kukuk and referred to the Committee on Judiciary and Civil Rights.

A bill to create the model emergency vehicle operation policy commission; to prescribe its membership, powers, and duties; to prescribe the powers and duties of certain state and local agencies and departments; and to provide for the development and certification of emergency vehicle operation policies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as "the
2 model emergency vehicle operation policy act".

3 Sec. 2. As used in this act:

4 (a) "Commission" means the model emergency vehicle operation
5 policy commission created in section 3.

6 (b) "Council" means the law enforcement council created by
7 section 3 of the Michigan law enforcement officers training
8 council act of 1965, Act No. 203 of the Public Acts of 1965,
9 being section 28.603 of the Michigan Compiled Laws.

1 (c) "Department" means the department of management and
2 budget.

3 (d) "Emergency operation" means the operation of an emer-
4 gency vehicle in a manner described in or authorized by section
5 603 or 632 of the Michigan vehicle code, Act No. 300 of the
6 Public Acts of 1949, being sections 257.603 and 257.632 of the
7 Michigan Compiled Laws.

8 (e) "Emergency vehicle" means any of the following:

9 (i) A motor vehicle owned or operated by a law enforcement
10 agency.

11 (ii) A motor vehicle owned or operated by a fire
12 department.

13 (iii) A motor vehicle owned or operated by a life support
14 agency.

15 (iv) A motor vehicle owned or operated by a volunteer
16 employee or paid employee of an entity described in subparagraphs
17 (i) to (iii) while the motor vehicle is being used to provide
18 emergency services for that entity.

19 (f) "Governmental agency" means that term as defined in
20 section 1 of Act No. 170 of the Public Acts of 1964, being
21 section 691.1401 of the Michigan Compiled Laws, and includes a
22 combination of 1 or more governmental agencies.

23 (g) "Fire department" means an organization or department
24 that provides fire suppression or other fire-related services
25 within a city, village, township, or county.

26 (h) "Law enforcement agency" means a police agency of a
27 city, village, or township; a sheriff's department; the

1 department of state police, including, but not limited to, the
2 motor carrier division of the department of state police; the law
3 enforcement division of the department of natural resources; a
4 police agency of a county or regional park whose officers are
5 appointed pursuant to section 14 of Act No. 261 of the Public
6 Acts of 1965, being section 46.364 of the Michigan Compiled Laws;
7 or a public safety department of a community college or a 4-year
8 institution of higher education whose officers are granted the
9 powers and authority of peace and police officers pursuant to
10 section 1 of Act No. 120 of the Public Acts of 1990, being sec-
11 tion 390.1511 of the Michigan Compiled Laws, or section 5a of Act
12 No. 278 of the Public Acts of 1965, being section 390.715a of the
13 Michigan Compiled Laws.

14 (i) "Life support agency" means that term as defined in
15 section 20906 of the public health code, Act No. 368 of the
16 Public Acts of 1978, being section 333.20906 of the Michigan
17 Compiled Laws.

18 (j) "Motor vehicle" means that term as defined in section 33
19 of Act No. 300 of the Public Acts of 1949, being section 257.33
20 of the Michigan Compiled Laws.

21 Sec. 3. (1) The model emergency vehicle operation policy
22 commission is created in the department.

23 (2) The commission shall consist of the following members:

24 (a) The attorney general or his or her designee.

25 (b) The director of the department of state police or his or
26 her designee.

1 (c) The executive secretary of the council or his or her
2 designee.

3 (d) One individual appointed as a member and 1 individual
4 appointed as an alternate member each selected from a list of
5 individuals provided by each of the following groups:

6 (i) Michigan association of chiefs of police.

7 (ii) Michigan sheriffs' association.

8 (iii) Criminal defense attorneys of Michigan.

9 (iv) Michigan fire chiefs association.

10 (v) Michigan association of counties.

11 (vi) Michigan association of ambulance services.

12 (vii) State bar of Michigan.

13 (viii) Prosecuting attorneys association of Michigan.

14 (ix) Michigan municipal league.

15 (x) Michigan trial lawyers association.

16 (xi) Michigan townships association.

17 (e) One individual appointed as a member and 1 individual
18 appointed as an alternate member to represent the interests of
19 individuals who physically operate emergency vehicles.

20 (f) Two individuals appointed as members and 2 individuals
21 appointed as alternate members to represent the general public.

22 An individual appointed under this subdivision shall not hold an
23 elected or appointed position in state or local government.

24 (3) Each entity that provides a list of individuals under
25 subsection (2)(d) shall specifically state which individuals are
26 being nominated for appointment as a member and which individuals
27 are being nominated for appointment as an alternate member. The

1 governor shall only appoint an individual as a member if the
2 individual was nominated for appointment as a member and shall
3 only appoint an individual as an alternate member if the individ-
4 ual was nominated for appointment as an alternate member.

5 (4) Except for initial members, a member of the commission
6 appointed under subsection (2)(d) to (f) shall serve for a term
7 of 2 years or until a successor is appointed. Of the members
8 initially appointed under subsection (2)(d) to (f), 4 of the mem-
9 bers shall be appointed for a term of 4 years, 5 of the members
10 shall be appointed for a term of 3 years, and 5 of the members
11 shall be appointed for a term of 2 years.

12 (5) A vacancy on the commission shall be filled in the same
13 manner as the original appointment.

14 (6) If a member of the commission is absent from a commis-
15 sion meeting, the individual serving as the alternate member for
16 that member shall act as a member of the commission at that
17 meeting.

18 (7) The members of the commission shall be appointed within
19 90 days after the effective date of this act.

20 Sec. 5. (1) Within 90 days after appointment and confirma-
21 tion of all members, the commission shall adopt bylaws for the
22 operation of the commission. At a minimum, the bylaws shall
23 include voting procedures and minimum requirements for attendance
24 at meetings.

25 (2) The commission shall hold a regular annual meeting at a
26 place and on a date fixed by the commission. Special meetings

1 may be called by the chairperson or by not less than 7 commission
2 members on at least 3 business days' actual notice.

3 (3) A majority of the commission members appointed and serv-
4 ing constitutes a quorum. Final action by the commission shall
5 be only by affirmative vote of a majority of the commission mem-
6 bers appointed and serving. A commission member shall not vote
7 by proxy.

8 (4) The members of the commission shall serve without
9 compensation. Expenses of members incurred in the performance of
10 official duties shall be reimbursed as provided by law for state
11 employees.

12 (5) The council shall assist the commission in performing
13 its duties. The department shall provide facilities for commis-
14 sion meetings and necessary office and clerical assistance.

15 Sec. 7. A writing prepared, owned, used, in the possession
16 of, or retained by the commission in the performance of an offi-
17 cial function is exempt from disclosure under the freedom of
18 information act, Act No. 442 of the Public Acts of 1976, being
19 sections 15.231 to 15.246 of the Michigan Compiled Laws.

20 Sec. 9. Within 1 year after its first meeting, the commis-
21 sion shall develop a model emergency vehicle operation policy
22 governing emergency operation of emergency vehicles by a govern-
23 mental agency. A model emergency vehicle operation policy devel-
24 oped under this section shall do all of the following:

25 (a) Define the model policy's coverage.

26 (b) Recognize that emergency operation may involve the use
27 of potentially deadly force.

1 (c) Identify the circumstances warranting initiation,
2 maintenance, or termination of an emergency operation, based on
3 the following criteria:

4 (i) The risks to the physical safety of employees and the
5 public, including innocent bystanders, of initiating or maintain-
6 ing an emergency operation.

7 (ii) For emergency operations involving the pursuit of a
8 person charged with or suspected of a violation of law, the
9 danger to society of not effecting immediate apprehension,
10 including consideration of the seriousness and immediacy of the
11 threat posed by a pursued person and the adequacy of alternative
12 apprehension methods.

13 (d) Identify procedures for a governmental agency's initia-
14 tion, maintenance, and termination of an emergency operation and
15 include all of the following:

16 (i) Authorization for an employee other than an employee
17 actively engaged in the emergency operation to prohibit, modify,
18 or terminate the emergency operation.

19 (ii) Specific rules governing emergency operations that
20 cross jurisdictional boundaries.

21 (iii) Specific rules governing permissible emergency opera-
22 tion methods and tactics.

23 (e) Establish guidelines requiring a governmental agency to
24 internally monitor the effects of its emergency operation
25 policy.

26 (f) Establish minimum requirements for emergency vehicle
27 operators to be certified by a governmental agency and provide

1 guidelines for training employees to comply with an adopted
2 emergency vehicle operation policy.

3 (g) Establish the criteria by which a governmental agency
4 may certify the operator of an emergency service vehicle as meet-
5 ing the minimum requirements for emergency vehicle operators.

6 (h) Establish that a governmental agency's certification of
7 an emergency vehicle operator is effective for no more than 2
8 years.

9 (i) Include any other provision the commission considers
10 necessary for a model emergency vehicle operation policy.

11 Sec. 11. The commission shall report the model emergency
12 vehicle operation policy developed under section 9 to all of the
13 following:

14 (a) Each house of the legislature.

15 (b) Each law enforcement agency and fire department in this
16 state.

17 (c) Each life support agency that utilizes an emergency
18 vehicle in its operations.

19 Sec. 13. (1) A governmental agency may adopt all or a por-
20 tion of the model emergency vehicle operation policy developed
21 under section 9, or may develop and adopt its own emergency vehi-
22 cle operation policy, and apply to the commission for certifica-
23 tion of that adopted policy or policy portion.

24 (2) Upon receipt and review of a certification application
25 described in subsection (1), the commission shall do all of the
26 following:

1 (a) Certify a policy developed under section 9 that is
2 adopted in total and meets the standards established by the
3 commission for emergency operations.

4 (b) If the policy developed under section 9 is adopted in
5 part, provide certification of that part only after determining
6 both of the following:

7 (i) That the governmental agency does not engage in an emer-
8 gency operation that exceeds the scope of the adopted part devel-
9 oped under section 9.

10 (ii) That the adopted part meets the standards established
11 by the commission for the type of emergency operations in which
12 the governmental agency engages.

13 (c) If the governmental agency develops and adopts its own
14 emergency vehicle operation policy, provide certification of that
15 policy only after determining that the policy complies with
16 section 9 and meets the standards established by the commission
17 for emergency operations.

18 (d) Deny certification of an adopted policy or policy part
19 that does not comply with section 9 or meet the standards estab-
20 lished by the commission for emergency operations, and provide
21 the applicant with written notice specifying the basis of the
22 denial.

23 (3) If the commission does not comply with subsection (2)
24 within 180 days after receiving an application for certification,
25 the emergency vehicle operation policy or policy portion that is
26 the subject of the application is presumed certified under this
27 act. The presumption created under this subsection may be

1 rebutted by evidence establishing that the policy or policy
2 portion does not comply with section 9 or meet the standards
3 established by the commission for emergency operations.

4 (4) If a governmental agency discontinues all or a portion
5 of an emergency vehicle operation policy certified under this
6 act, the governmental agency shall immediately inform the commis-
7 sion in writing of the date on which the certified emergency
8 vehicle operation policy was discontinued.

9 Sec. 15. (1) The commission may promulgate rules to imple-
10 ment this act. Rules promulgated under this section shall be
11 promulgated pursuant to the administrative procedures act of
12 1969, Act No. 306 of the Public Acts of 1969, being
13 sections 24.201 to 24.328 of the Michigan Compiled Laws.

14 (2) The commission shall meet at least once annually to
15 review the emergency vehicle operation policy developed under
16 section 9 and the rules promulgated under this act.

17 Sec. 16. This act shall not take effect unless Senate Bill
18 No. ____ or House Bill No. ____ (request no. 00552'95) of the 88th
19 Legislature is enacted into law.