

**SUBSTITUTE FOR  
HOUSE BILL NO. 4007**

A bill to amend 1974 PA 369, entitled  
"An act to regulate the business of conducting a driver training  
school; to require licenses in relation thereto; to prescribe  
certain fees; to prescribe the powers and duties of certain per-  
sons and state departments; and to prescribe remedies and  
penalties,"  
by amending sections 5 and 5b (MCL 256.605 and 256.605b),  
section 5 as amended and section 5b as added by 1998 PA 11.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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. For each employee for which licensure as an  
7 instructor is sought, the application shall include all of the  
8 following:

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1 (a) The name and address of the employee.

2 (b) The driver's license number of the employee. An appli-  
3 cation for a nonresident employee shall also include a certified  
4 copy of his or her driving record from his or her state of  
5 residence.

6 (c) A dated medical examination report that is not more than  
7 2 years old and is completed by a physician licensed to practice  
8 in this state. An application for a nonresident employee ful-  
9 fills the requirement of this subdivision if the application  
10 includes a report completed by a physician licensed to practice  
11 in the employee's state of residence.

12 (d) A fee of \$25.00 for each employee seeking licensure as  
13 an instructor.

14 (e) Except as otherwise provided in section 5b, an authori-  
15 zation to be signed by a prospective employee ~~before hiring~~ TO  
16 BE HIRED as a driving instructor permitting the licensee to  
17 request a criminal history check from the department of state  
18 police and the federal bureau of investigation.

19 (3) The department shall issue a license certificate to the  
20 driver training school licensee for each of its employees who  
21 meet the requirements of this act for licensure as an  
22 instructor. A license certificate expires on December 31 of the  
23 year for which it is issued.

24 (4) THE DEPARTMENT MAY ISSUE A LICENSE CERTIFICATE TO AN  
25 APPLICANT FOR A DRIVING INSTRUCTOR'S LICENSE AFTER THE FAVORABLE  
26 CRIMINAL HISTORY CHECK FROM THE DEPARTMENT OF STATE POLICE, BUT  
27 ON THE CONDITION THAT THE LICENSE SHALL BE CANCELED OR REVOKED IF

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1 THE CRIMINAL HISTORY CHECK FROM THE FEDERAL BUREAU OF  
2 INVESTIGATION REVEALS THAT THE APPLICANT DOES NOT SATISFY THE  
3 QUALIFICATIONS FOR A LICENSE. THE DEPARTMENT SHALL IMMEDIATELY  
4 NOTIFY THE DRIVER TRAINING SCHOOL LICENSEE, WHICH SHALL REQUIRE  
5 THE APPLICANT TO SURRENDER THE LICENSE CERTIFICATE.

6 (5) ~~-(4)-~~ In order to qualify as an instructor, a person  
7 shall meet all of the following requirements:

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

10 (b) Have a driving record that indicates competence to oper-  
11 ate a motor vehicle consistent with standards set forth in rules  
12 promulgated by the secretary of state.

13 (c) Be 21 years of age or older on the date the person's  
14 license application is submitted to the secretary of state.

15 (d) Have a driving record, within the 5 years immediately  
16 preceding submission of an instructor license application to the  
17 secretary of state, that does not contain a conviction for any  
18 violation for which 4 or 6 points are assessed, other than points  
19 assessed for a violation of a speeding law or ordinance, pursuant  
20 to section 320a of the Michigan vehicle code, 1949 PA 300,  
21 MCL 257.320a. This subdivision ~~shall~~ only ~~apply~~ APPLIES to  
22 an applicant who ~~is~~ WAS not ~~currently~~ licensed as a driver  
23 training school instructor on October 1, 1992.

24 (e) Not have a prior felony or misdemeanor conviction for  
25 criminal sexual conduct pursuant to sections 520b to 520g of the  
26 Michigan penal code, 1931 PA 328, MCL 750.520b to 750.520g, or a

1 felony conviction for a crime in which an element of the crime is  
2 the use or threat of use of physical force.

3       Sec. 5b. (1) Except as otherwise provided in SECTION 5 OR  
4 this subsection, a driver training school licensee shall not  
5 employ a person as an instructor or, after ~~the effective date of~~  
6 ~~this section~~ JUNE 1, 1998, continue to employ a person as a  
7 driving instructor before requesting and receiving not less than  
8 once every ~~2~~ 5 years from the department of state police and  
9 the federal bureau of investigation a criminal history check on  
10 the person. A person who is currently employed as a driver edu-  
11 cation instructor with a public school in this state shall not be  
12 required to submit to a criminal history check under this  
13 section.

14       (2) A driver training school licensee shall make a request  
15 with payment of the appropriate fee to the criminal records divi-  
16 sion of the department of state police for a criminal history  
17 check required under this section on a form and in a manner pre-  
18 scribed by the criminal records division of the department of  
19 state police.

20       (3) Within 45 days after receiving a proper request by a  
21 driver training school licensee for a criminal history check on a  
22 person under this section, the criminal records division of the  
23 department of state police shall conduct the criminal history  
24 check and, after conducting the criminal history check and within  
25 that time period, provide a report of the results of the criminal  
26 history check to the driver training school licensee and the  
27 department. The report shall contain any criminal history record

1 information on the person maintained by the criminal records  
2 division of the department of state police.

3       (4) Criminal history record information received from the  
4 criminal records division of the department of state police under  
5 subsection (3) shall be used by a driver training school licensee  
6 only for the purpose of evaluating a person's qualifications for  
7 employment as a driver training instructor. A driver training  
8 school licensee or the department shall only disclose the report  
9 or its contents to a person who is directly involved in evaluat-  
10 ing the applicant's qualifications for employment, and shall only  
11 disclose to that person those crimes described in section  
12 ~~5(4)(e)~~ 5(5)(E). A person who violates this subsection is  
13 guilty of a misdemeanor punishable by a fine of not more than  
14 \$10,000.00.

15       (5) As used in this section, "criminal history record  
16 information" means that term as defined in section 1a of 1925  
17 PA 289, MCL 28.241a.