

HOUSE BILL No. 5053

June 9, 2009, Introduced by Rep. LeBlanc and referred to the Committee on Transportation.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending sections 306, 309, and 312b (MCL 257.306, 257.309, and
257.312b), section 306 as amended by 2006 PA 298 and sections 309
and 312b as amended by 2004 PA 362.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 306. (1) The secretary of state, upon receiving an
2 application for a temporary instruction permit from a person who is
3 18 years of age or older, may issue that permit entitling the
4 applicant, while carrying the permit, to drive a motor vehicle
5 other than a motor vehicle requiring an indorsement under section
6 312a or a vehicle group designation under section 312e upon the
7 highways for a period of 180 days when accompanied by a licensed
8 adult operator or chauffeur who is actually occupying a seat beside

1 the driver.

2 (2) The secretary of state may issue an original operator's
3 license and designate level 1, 2, or 3 graduated licensing
4 provisions to a person who is less than 18 years of age, has been
5 licensed in another state or country, and has satisfied the
6 applicable requirements of section 310e.

7 (3) A student enrolled in a driver education course as that
8 term is defined in section ~~1-3~~ of the driver education ~~and training~~
9 ~~schools act, 1974 PA 369, MCL 256.601~~ **PROVIDER AND INSTRUCTOR ACT,**
10 **2006 PA 384, MCL 256.623**, or a motorcycle safety course approved by
11 the department of state may operate a motor vehicle without holding
12 an operator's license or permit while under the direct supervision
13 of the program instructor.

14 (4) A student enrolled in a driver education course as that
15 term is defined in section ~~1-3~~ of the driver education ~~and training~~
16 ~~schools act, 1974 PA 369, MCL 256.601~~ **PROVIDER AND INSTRUCTOR ACT,**
17 **2006 PA 384, MCL 256.623**, and who has successfully completed 10
18 hours of classroom instruction and the equivalent of 2 hours of
19 behind-the-wheel training may be issued a temporary driver
20 education certificate furnished by the department of state that
21 authorizes a student to drive a motor vehicle, other than a motor
22 vehicle requiring an indorsement ~~pursuant to~~ **UNDER** section 312a or
23 a vehicle group designation ~~pursuant to~~ **UNDER** section 312e, when
24 accompanied by a licensed parent or guardian, or when accompanied
25 by a nonlicensed parent or guardian and a licensed adult for the
26 purpose of receiving additional instruction until the end of the
27 student's driver education course.

1 (5) The secretary of state, upon receiving proper application
2 from a person 16 or 17 years of age who is enrolled in or has
3 successfully completed an approved motorcycle safety course under
4 section 811a, or a person who is 18 years of age or older and who
5 holds a valid operator's or chauffeur's license, may issue a
6 motorcycle temporary instruction permit entitling the applicant,
7 while carrying the permit, to operate a motorcycle upon the public
8 streets and highways for a period of 180 days, but only when under
9 the constant visual supervision of a licensed motorcycle operator
10 at least 18 years of age. **THE SECRETARY OF STATE SHALL NOT ISSUE**
11 **MORE THAN 2 MOTORCYCLE TEMPORARY INSTRUCTION PERMITS TO AN**
12 **APPLICANT DURING A 3-YEAR PERIOD.** The applicant shall not operate
13 the motorcycle at night or with a passenger.

14 (6) Except as prohibited under federal law, the secretary of
15 state, upon receiving proper application from a person who is 18
16 years of age or older, who holds a valid operator's or chauffeur's
17 license other than a restricted license, and who has passed the
18 knowledge test for an original vehicle group designation or
19 indorsement, may issue a temporary instruction permit entitling the
20 person, while carrying the permit, to drive a vehicle requiring a
21 vehicle group designation or vehicle group indorsement under
22 section 312e upon the streets and highways for a period of 180
23 days, but only when accompanied by a licensed adult operator or
24 chauffeur who is licensed with the appropriate vehicle group
25 designation and indorsement for the vehicle group being driven and
26 who is actually occupying a seat beside the driver, or behind the
27 driver if the permittee is driving a bus or school bus. In

1 addition, if a permittee is enrolled in a driver training program
2 for drivers of motor vehicles requiring a vehicle group designation
3 or vehicle group indorsement under section 312e, which program is
4 conducted by a college, a university, a school licensed by the
5 department under the driver education ~~and training schools act,~~
6 ~~1974 PA 369, MCL 256.601 to 256.612~~ **PROVIDER AND INSTRUCTOR ACT,**
7 **2006 PA 384, MCL 256.621 TO 256.705,** or a local or intermediate
8 school district, the permittee may drive a vehicle requiring a
9 vehicle group designation or vehicle group indorsement on the
10 streets and highways of this state for a period of 180 days when
11 accompanied by an instructor licensed with the appropriate vehicle
12 group designation and indorsement for the vehicle being driven who
13 is either occupying the seat beside the driver or in direct visual
14 and audio communication with the permittee. A person issued a
15 temporary instruction permit under this section shall not operate a
16 vehicle designed to carry 16 or more passengers that is
17 transporting passengers except with an instructor licensed with the
18 appropriate vehicle group designation and indorsement for the
19 vehicle being driven or a driver skills test examiner.

20 Sec. 309. (1) Before issuing a license, the secretary of state
21 shall examine each applicant for an operator's or chauffeur's
22 license who at the time of the application is not the holder of a
23 valid, unrevoked operator's or chauffeur's license under a law of
24 this state providing for the licensing of drivers. In all other
25 cases, the secretary of state may waive the examination, except
26 that an examination shall not be waived if it appears from the
27 application, from the apparent physical or mental condition of the

1 applicant, or from any other information which has come to the
2 secretary of state from another source, that the applicant does not
3 possess the physical, mental, or other qualifications necessary to
4 operate a motor vehicle in a manner as not to jeopardize the safety
5 of persons or property; or that the applicant is not entitled to a
6 license under section 303. A licensee who applies for the renewal
7 of his or her license by mail pursuant to section 307 shall certify
8 to his or her physical capability to operate a motor vehicle. The
9 secretary of state may check the applicant's driving record through
10 the national driver register and the commercial driver license
11 information system before issuing a license under this section.

12 (2) The secretary of state may appoint sheriffs, their
13 deputies, the chiefs of police of cities and villages having
14 organized police departments within this state, their duly
15 authorized representatives, or employees of the secretary of state
16 as examining officers for the purpose of examining applicants for
17 operator's and chauffeur's licenses. An examining officer shall
18 conduct examinations of applicants for operator's and chauffeur's
19 licenses in accordance with this chapter and the rules promulgated
20 by the secretary of state under subsection (3). After conducting an
21 examination an examining officer shall make a written report of his
22 or her findings and recommendations to the secretary of state.

23 (3) The secretary of state shall promulgate rules ~~pursuant to~~
24 **UNDER** the administrative procedures act of 1969, 1969 PA 306, MCL
25 24.201 to 24.328, for the examination of the applicant's physical
26 and mental qualifications to operate a motor vehicle in a manner as
27 not to jeopardize the safety of persons or property, and shall

1 ascertain whether facts exist that would bar the issuance of a
2 license under section 303. The secretary of state shall also
3 ascertain whether the applicant has sufficient knowledge of the
4 English language to understand highway warnings or direction signs
5 written in that language. The examination shall not include
6 investigation of facts other than those facts directly pertaining
7 to the ability of the applicant to operate a motor vehicle with
8 safety or facts declared to be prerequisite to the issuance of a
9 license under this act.

10 (4) The secretary of state shall not issue an original
11 operator's or chauffeur's license without a vehicle group
12 designation or indorsement without an examination that includes a
13 driving skills test conducted by the secretary of state or by a
14 designated examining officer under subsection (2) or section 310e.
15 The secretary of state may enter into an agreement with another
16 public or private corporation or agency to conduct a driving skills
17 test conducted under this section. Before the secretary of state
18 authorizes a person to administer a corporation's or agency's
19 driver skills testing operations or authorizes an examiner to
20 conduct a driving skills test, that person or examiner must
21 complete both a state and federal bureau of investigation
22 fingerprint based criminal history check through the department of
23 state police. In an agreement with another public or private
24 corporation or agency to conduct a driving skills test, the
25 secretary of state shall prescribe the method and examination
26 criteria to be followed by the corporation, agency, or examiner
27 when conducting the driving skills test and the form of the

1 certification to be issued to a person who satisfactorily completes
2 a driving skills test. An original vehicle group designation or
3 indorsement shall not be issued by the secretary of state without a
4 knowledge test conducted by the secretary of state. Except as
5 provided in section 312f(1), an original vehicle group designation
6 or passenger or school bus indorsement shall not be issued by the
7 secretary of state without a driving skills test conducted by an
8 examiner appointed or authorized by the secretary of state.

9 (5) Except as otherwise provided in this act, the secretary of
10 state may waive the requirement of a driving skills test, knowledge
11 test, or road sign test of an applicant for an original operator's
12 or chauffeur's license without a vehicle group designation or
13 indorsement who at the time of the application is the holder of a
14 valid, unrevoked operator's or chauffeur's license issued by
15 another state or country.

16 (6) A driving skills test conducted under this section shall
17 include a behind-the-wheel road test. A behind-the-wheel road test
18 for an original vehicle group designation or passenger indorsement
19 shall not be conducted unless the applicant has been issued a
20 temporary instruction permit.

21 (7) A person who corrupts or attempts to corrupt a designated
22 examining officer appointed or designated by the secretary of state
23 under this section or section 310e by giving, offering, or
24 promising any gift or gratuity with the intent to influence the
25 opinion or decision of the examining officer conducting the test is
26 guilty of a felony.

27 (8) A designated examining officer appointed or designated by

1 the secretary of state who conducts a driving skills test under an
2 agreement entered into under this section or section 310e and who
3 varies from, shortens, or in any other way changes the method or
4 examination criteria prescribed in that agreement in conducting a
5 driving skills test is guilty of a felony.

6 (9) A person who forges, counterfeits, or alters a
7 satisfactorily completed driving skills test certification issued
8 by a designated examining officer appointed or designated by the
9 secretary of state under this section or section 310e is guilty of
10 a felony.

11 (10) **THE SECRETARY OF STATE SHALL WAIVE THE REQUIREMENT OF A**
12 **WRITTEN KNOWLEDGE TEST, ROAD SIGN TEST, AND DRIVING SKILLS TEST OF**
13 **AN APPLICANT FOR AN ORIGINAL MOTORCYCLE ENDORSEMENT IF THE PERSON**
14 **HAS SUCCESSFULLY PASSED A MOTORCYCLE SAFETY COURSE APPROVED BY THE**
15 **DEPARTMENT OF STATE.**

16 Sec. 312b. (1) Before a person who is less than 18 years of
17 age is issued an original motorcycle endorsement on an operator's
18 or chauffeur's license, the person shall pass ~~an examination as~~
19 ~~required by this section and a motorcycle safety course as provided~~
20 ~~in section 811a or 811b~~ **APPROVED BY THE DEPARTMENT OF STATE.**

21 (2) Before a person who is 18 years of age or older is issued
22 an original motorcycle endorsement on an operator's or chauffeur's
23 license, the person shall pass an examination as required by this
24 section. A person who fails this examination 2 or more times is
25 required to successfully complete a motorcycle safety course ~~as~~
26 ~~provided in section 811a or 811b~~ **APPROVED BY THE DEPARTMENT OF**
27 **STATE.** Each written examination given an applicant for a motorcycle

1 endorsement on an operator's or chauffeur's license as provided in
2 section 309 shall also include subjects designed to cover a
3 motorcycle. A person shall pass an examination that shall include a
4 driving test designed to test the competency of the applicant for
5 the first motorcycle endorsement on an operator's or chauffeur's
6 license to operate a motorcycle upon the roads and highways of this
7 state with safety to himself or herself and other persons and
8 property. All examinations shall be administered as provided in
9 this act. The requirement of a **WRITTEN KNOWLEDGE TEST, ROAD SIGN**
10 **TEST, AND** motorcycle driving skills test shall be waived for an
11 applicant who has successfully completed a motorcycle safety course
12 ~~conducted by a school or business enterprise as provided in section~~
13 ~~811a or 811b~~ **APPROVED BY THE DEPARTMENT OF STATE**. The motorcycle
14 safety course skills test shall meet or exceed the motorcycle
15 skills test from the secretary of state. The requirement of a
16 motorcycle driving skills test may be waived if the applicant has a
17 valid license or endorsement to operate a motorcycle from another
18 state.

19 (3) A motorcycle endorsement issued to a person who operates a
20 3-wheeled motorcycle or an autocycle shall be restricted to
21 operation of that type of motorcycle and does not permit operation
22 of a 2-wheeled motorcycle. The secretary of state shall develop a
23 driving test specifically pertaining to an autocycle or a 3-wheeled
24 motorcycle.

25 (4) The secretary of state is responsible for establishing and
26 conducting the motorcycle operator driving skills test and shall
27 promulgate rules under the administrative procedures act of 1969,

1 1969 PA 306, MCL 24.201 to 24.328, for purposes of this subsection.
2 An audit of the motorcycle safety fund shall be conducted by the
3 office of the auditor general to determine compliance with the
4 requirement that funds are being withdrawn only in relation to this
5 act. A copy of the audit shall be transmitted to the legislature
6 upon completion.

7 (5) The secretary of state may enter into an agreement with
8 another public or private corporation or agency to conduct a
9 driving skills test required under this section. Before the
10 secretary of state authorizes a person to administer a
11 corporation's or agency's driver skills testing operations or
12 authorizes an examiner to conduct a driving skills test, that
13 person or examiner must complete both a state and federal bureau of
14 investigation fingerprint based criminal history check through the
15 department of state police. In an agreement with another public or
16 private corporation or agency to conduct a driving skills test
17 under this section, the secretary of state shall prescribe the
18 method and examination criteria to be followed by the corporation,
19 agency, or examiner when conducting the driving skills test and the
20 form of the certification to be issued to a person who
21 satisfactorily completes a driving skills test. For administering
22 and overseeing a third party motorcycle testing program, the
23 secretary of state shall be reimbursed from the motorcycle safety
24 fund a total amount that does not exceed 50% of the department's
25 1995-1996 fiscal year appropriation for motorcycle testing under
26 this section.

27 (6) A person who corrupts or attempts to corrupt a

1 corporation, agency, or examiner that conducts a driving skills
2 test under an agreement entered into with the secretary of state
3 under this section by giving, offering, or promising any gift or
4 gratuity with the intent to influence the opinion or decision of
5 the corporation, agency, or examiner conducting the driving skills
6 test is guilty of a felony.

7 (7) A designated examining officer appointed or designated by
8 the secretary of state who conducts a driving skills test under an
9 agreement entered into under this section and who varies from,
10 shortens, or in any other way changes the method or examination
11 criteria prescribed to be followed under that agreement in
12 conducting a driving skills test under this section is guilty of a
13 felony.

14 (8) A person who forges, counterfeits, or alters a
15 satisfactorily completed driving skills test certification issued
16 by a designated examining officer appointed or designated by the
17 secretary of state under this section is guilty of a felony.

18 Enacting section 1. Sections 811a and 811b of the Michigan
19 vehicle code, 1949 PA 300, MCL 257.811a and 257.811b, are repealed.

20 Enacting section 2. This amendatory act takes effect January
21 1, 2010.

22 Enacting section 3. This amendatory act does not take effect
23 unless Senate Bill No. ____ or House Bill No. 5054(request no.
24 02982'09) of the 95th Legislature is enacted into law.