

HOUSE BILL No. 5054

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

A bill to create the motorcycle safety and training act; to provide for the approval and certification of motorcycle training programs and instructors; to establish training requirements and standards; to prescribe the powers and duties of certain state departments and agencies and other persons; to provide funding for program grants; to provide for distribution from certain funds; and to provide sanctions, remedies, and penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "motorcycle safety and training act".

3 Sec. 2. As used in this act:

4 (a) "Certificate of completion" means a written or electronic
5 authorization that a sponsor may issue to a student to fulfill the
6 waiver requirements for purposes of section 312b of the Michigan

1 vehicle code, 1949 PA 300, MCL 257.312b.

2 (b) "Completed application" means an application complete on
3 its face, signed by the person, and submitted with any other
4 information, records, approval, insurance, surety, or similar item
5 required by law or rule from a local unit of government, a federal
6 agency, another department or state agency, or a private entity.

7 (c) "Conviction" means a conviction for a crime or attempted
8 crime whether under a law of this state, a local ordinance
9 substantially corresponding to a law of this state, or a law of
10 another state substantially corresponding to a law of this state.
11 The department shall consider a conviction for an attempted
12 violation in the same manner as if the offense had been completed
13 when determining the applicability of the criteria listed in this
14 act.

15 (d) "Criminal history record information" means that term as
16 defined in section 1a of 1925 PA 289, MCL 28.241a.

17 (e) "Department" means the department of state.

18 (f) "Educational institution or governmental agency" means a
19 public school, nonpublic school, or public school academy as those
20 terms are defined in section 5 of the revised school code, 1976 PA
21 451, MCL 380.5; a community college, a 4-year college, or a
22 university; any other body of higher education; a law enforcement
23 agency; a local unit of government, a federal agency, or another
24 department or state agency; or a combination of any of these
25 entities.

26 (g) "Instructor" means a person whom the department approves
27 as having met the requirements under this act to instruct a student

1 in a motorcycle safety course.

2 (h) "Motorcycle" means that term as defined in section 31 of
3 the Michigan vehicle code, 1949 PA 300, MCL 257.31.

4 (i) "Motorcycle safety course" or "course" means a program of
5 study offered by a sponsor that enables a student to acquire the
6 basic knowledge and skill necessary to operate a motorcycle.

7 (j) "Motorcycle safety fund" means the fund established in the
8 department of treasury under sections 312b, 312c, and 801 of the
9 Michigan vehicle code, 1949 PA 300, MCL 257.312b, 257.312c, and
10 257.801, used to fund the motorcycle safety education course as
11 provided by section 312b of the Michigan vehicle code, 1949 PA 300,
12 MCL 257.312b, and this act.

13 (k) "Motorcycle safety instructor preparation course" means a
14 course offered by the motorcycle safety foundation or by a
15 nationally recognized motorcycle safety and training organization
16 that a person must complete before obtaining approval as an
17 instructor.

18 (l) "Person" means an individual, partnership, corporation,
19 association, limited liability company, educational institution,
20 governmental agency, or other legal or commercial entity, or their
21 successors.

22 (m) "Sponsor" means a person whom the department approves as
23 having met the requirements under this act to offer a motorcycle
24 safety course. Sponsor does not include a person who provides a
25 motorcycle safety course that is not available to the public.

26 Sec. 4. (1) The department may perform all of the following
27 duties:

1 (a) Establish the standards for a motorcycle safety course
2 that may include adopting by reference the standards of the
3 motorcycle safety foundation or a nationally recognized motorcycle
4 safety and training organization.

5 (b) Administer a grant program that allows an educational
6 institution or governmental agency to submit an application to
7 receive money from the motorcycle safety fund. The educational
8 institution and governmental agency may use money from the
9 motorcycle safety fund for, but not limited to, the following:

10 (i) Expenses to provide a motorcycle safety course approved
11 under this act.

12 (ii) Purchasing of motorcycles, training equipment, and
13 supplies.

14 (iii) Conducting training workshops and seminars.

15 (c) Designate a person to be the state coordinator for the
16 motorcycle safety and training program. The state coordinator may
17 provide the day-to-day management and oversight of the program.

18 (d) Designate a person to perform or assist in performing a
19 duty for the program, including, but not limited to:

20 (i) Developing or conducting training.

21 (ii) Inspecting a motorcycle safety course.

22 (iii) Performing a quality assurance visit.

23 (iv) Performing a curriculum review.

24 (v) Evaluating and approving a request for a minor curriculum
25 deviation.

26 (vi) Other duties determined necessary by the department.

27 (e) Contract with a person to perform a duty listed in this

1 section.

2 (2) The department shall determine the qualifications a person
3 shall have to perform the duties under this section. A person
4 designated to perform a duty under subsection (1)(c) and (d)(i) to
5 (iii) shall complete an instructor preparation course before the
6 effective date of his or her designation and shall maintain
7 instructor certification through the motorcycle safety foundation
8 or a nationally recognized motorcycle safety and training
9 organization.

10 (3) The department may expend money in the motorcycle safety
11 fund to administer this act.

12 (4) Except for an educational institution or governmental
13 agency, a sponsor or instructor shall reimburse the department for
14 the cost of the sponsor or instructor to attend a workshop,
15 seminar, or training program that is provided by the department
16 using money from the motorcycle safety fund if the workshop,
17 seminar, and training program is required to meet a requirement
18 under this act. If an instructor is engaged in activity as an
19 instructor for 2 or more sponsors, the cost shall be prorated among
20 the sponsors.

21 (5) Money received by the department under this section shall
22 be deposited in the motorcycle safety fund.

23 Sec. 5. (1) A person seeking approval as a sponsor shall
24 submit the following to the department in a format and as
25 prescribed by the department:

26 (a) A properly completed application as prescribed under this
27 section.

1 (b) Except as provided in subsection (3), written or
2 electronic verification that the person maintains or will maintain
3 the surety bond required under section 6.

4 (c) Except as provided in subsection (3), written or
5 electronic verification that the person maintains or will maintain
6 the premises liability insurance required under section 6.

7 (2) An application for approval as a sponsor shall include the
8 following:

9 (a) The name of the agency, address, and telephone number of
10 the person.

11 (b) The name of the owner, project manager, or authorized
12 representative of the person.

13 (c) The location where a record, report, or other
14 documentation required under this act shall be maintained and
15 available for inspection by the department or an authorized
16 representative.

17 (d) A written description of the facilities for classroom
18 instruction and range instruction, including photographs and
19 diagrams.

20 (e) A description of the course location for classroom
21 instruction and range instruction.

22 (f) A list of the names of instructors.

23 (g) A proposed course schedule for an initial distribution of
24 certificates of completion.

25 (h) An affirmation that the location for classroom instruction
26 and range instruction and the location where records shall be
27 maintained meet all applicable zoning requirements and municipal

1 requirements.

2 (i) An affirmation that the sponsor shall provide a motorcycle
3 safety course that is certified or approved by the motorcycle
4 safety foundation or another nationally recognized motorcycle
5 safety and training organization, or a course the department has
6 reviewed and approved as substantially meeting or exceeding the
7 department's established standards.

8 (j) An affirmation that a preliminary inspection of the
9 location for classroom instruction and range instruction, if
10 required, has been conducted and submitted to the motorcycle safety
11 foundation or a nationally recognized motorcycle safety and
12 training program.

13 (k) Other information and documentation required by the
14 department.

15 (3) The surety bond and premises liability insurance
16 requirements in subsection (1)(b) and (c) do not apply to an
17 educational institution or governmental agency.

18 (4) A college, university, intermediate school district, local
19 school district, law enforcement agency, other governmental agency
20 located in the state, or private business enterprise, which was
21 approved as a sponsor prior to the effective date of this act, may
22 continue as a sponsor under this act.

23 Sec. 6. (1) A surety bond required under this act shall be
24 maintained without interruption to protect the contractual rights
25 of students. The bond of a sponsor with 499 or fewer students in a
26 calendar year shall be in the principal sum of \$10,000.00 with good
27 and sufficient surety to be approved by the department. The bond of

1 a sponsor with 500 or more students in a calendar year shall be in
2 the principal sum of \$20,000.00 with good and sufficient surety to
3 be approved by the department. The aggregate liability of the
4 surety shall not exceed the sum of the bond. The surety on the bond
5 may cancel the bond by giving 30 days' written or electronic notice
6 to the department. After giving notice, the surety is not liable
7 for a breach of condition occurring as of the effective date of the
8 cancellation.

9 (2) Premises liability insurance required under this act shall
10 insure premises liability on the classroom and range facilities
11 used in a motorcycle safety course in an amount that meets or
12 exceeds the requirements by the motorcycle safety foundation or a
13 nationally recognized motorcycle safety and training organization.
14 The insurer shall be authorized to do business in Michigan. The
15 insurer may cancel the insurance before its expiration date by
16 giving the department written or electronic notice as determined by
17 the department of the insurer's intent to cancel the insurance at
18 least 30 days before cancellation.

19 (3) If the department receives written or electronic notice to
20 cancel a sponsor's surety bond required under subsection (1) or
21 premises liability insurance coverage required under subsection
22 (2), the department shall notify the sponsor that the sponsor's
23 approval shall be automatically withdrawn unless the department
24 receives a new surety bond or a new insurance certificate within 30
25 days. A sponsor that cancels the surety bond or the insurance
26 before the expiration date of the bond or insurance shall furnish
27 the department with written or electronic notice as determined by

1 the department of that change or termination and submit proof of a
2 new or renewal surety bond or premises liability insurance
3 coverage. If the sponsor fails to submit a new or renewal surety
4 bond or proof of premises liability insurance to the department
5 within 30 days, the department may automatically withdraw the
6 sponsor's approval on the effective date of the cancellation or
7 expiration.

8 (4) The department may reinstate the approval for a sponsor
9 under this section if the sponsor submits written or electronic
10 verification that the person will maintain the surety bond or
11 premises liability insurance required under this act and the person
12 otherwise meets the requirements for approval as a sponsor.

13 Sec. 7. (1) The department may approve a person as a sponsor
14 when the department is satisfied that the person meets the
15 requirements under this act.

16 (2) The department shall assign an identifying number to a
17 sponsor and may require the sponsor to include the identifying
18 number in a report or document submitted to the department or
19 issued to a student.

20 (3) A person shall not transfer the approval of a sponsor to
21 another person.

22 Sec. 8. (1) A sponsor shall comply with all of the following:

23 (a) Verify that an instructor is approved by the department
24 before employing, hiring, contracting, or otherwise engaging the
25 person as an instructor for a motorcycle safety course. The
26 department may prescribe the method and manner that a sponsor uses
27 to verify an instructor's approval.

1 (b) Certify annually that the sponsor has submitted to the
2 department all information, reports, records, or other
3 documentation or information required each year by November 15.

4 (c) Provide a motorcycle safety course that meets or exceeds
5 the department's established standards.

6 (d) Administer a knowledge test and a skills test to each
7 student at the completion of his or her motorcycle safety course.
8 The knowledge and skills tests shall be administered according to
9 the standards established by the department, including a passing
10 score and the number of times a student may take the test.

11 (e) Verify that each student enrolled in a motorcycle safety
12 course is 15 years of age or older.

13 (f) Obtain the consent from a parent or the legal guardian for
14 each student who is less than 18 years of age.

15 (g) Issue a certificate of completion to each student who has
16 successfully completed a motorcycle safety course. The certificate
17 shall be issued in a format and manner, including electronic
18 submission, determined by the department.

19 (2) A sponsor shall allow an employee or authorized
20 representative of the department to inspect the location for
21 classroom instruction or range instruction as determined necessary
22 by the department.

23 (3) Except for an educational institution or governmental
24 agency, a sponsor shall pay a person designated under section
25 4(1)(d) a cost as determined by the person to:

26 (a) Conduct an inspection under section 4(1)(d)(ii).

27 (b) Perform a curriculum review under section 4(1)(d)(iv).

1 Sec. 9. (1) A sponsor shall notify the department not more
2 than 14 days after a change in any of the following:

3 (a) The status of an individual as an officer, member,
4 partner, manager, or authorized official of the sponsor.

5 (b) The location of classroom instruction or range
6 instruction.

7 (c) The location where a record, report, or other
8 documentation required by this act is maintained.

9 (d) The status of an individual as an instructor for a
10 motorcycle safety course.

11 (e) The residency of an instructor. If an instructor is no
12 longer a Michigan resident, the sponsor shall sign a statement as
13 required under section 10 that the sponsor agrees to submit, in a
14 format established by the department, a certified driving record on
15 an annual basis to the department. The certified driving record
16 from the instructor's state of residence shall be prepared no more
17 than 60 days before its submission to the department.

18 (2) A sponsor shall notify the department not more than 14
19 days after a lapse in the certification or the decertification of
20 the sponsor's motorcycle safety course by the motorcycle safety
21 foundation or a nationally recognized motorcycle safety and
22 training organization.

23 (3) A person who ceases operations as a sponsor or who no
24 longer qualifies as a sponsor shall do all of the following within
25 14 days, as applicable:

26 (a) Prepare and submit a final inventory listing each
27 certificate of completion that the department issued to the sponsor

1 during the past year.

2 (b) Return all certificates of completion in the sponsor's
3 possession that the sponsor has not issued to a student.

4 (c) Prepare and submit a written explanation for any
5 certificate of completion that was not issued to a student and is
6 not returned to the department.

7 (d) Identify the location where the information, records, or
8 other documents that the sponsor is required to maintain under this
9 act will be stored for 4 years after the sponsor stops operating or
10 fails to qualify as a sponsor.

11 (e) Prepare and submit any final grant report required under
12 section 17.

13 (f) Prepare and submit a final inventory listing each
14 motorcycle and all equipment or other supplies that were purchased
15 with money from the motorcycle safety fund.

16 (g) Assist the department in the transfer of a motorcycle or
17 any equipment to another grant eligible sponsor if the motorcycle
18 or equipment was purchased with grant funds.

19 Sec. 10. (1) A sponsor may submit a properly completed
20 application for the approval of a person as an instructor. The
21 completed application shall include the following information and
22 other documentation:

23 (a) The person's complete name, address, and telephone number.

24 (b) The person's date of birth.

25 (c) The person's Michigan driver license number or the driver
26 license number from the person's state of residence. If the person
27 is not a Michigan resident, the application shall include:

1 (i) A certified driving record from the person's state of
2 residence that was prepared no more than 60 days before its
3 submission to the department.

4 (ii) A statement signed by the sponsor that he or she agrees to
5 submit a certified driving record on an annual basis to the
6 department.

7 (d) Criminal history check as prescribed under section 11.

8 (e) An affirmation signed by the person that he or she does
9 not have a pending criminal matter or an outstanding arrest,
10 warrant, or conviction since submitting a request for a criminal
11 history check under section 11.

12 (f) The date and location of the motorcycle safety instructor
13 preparation course the person successfully completed or is
14 scheduled to attend.

15 (g) Other information and documentation required by the
16 department.

17 (2) The department may approve a person as an instructor for a
18 sponsor when the department is satisfied that the person meets the
19 following requirements:

20 (a) Is at least 18 years old on the date of the application.

21 (b) Possesses a valid driver license, including a motorcycle
22 endorsement that has been in continuous effect for not less than 1
23 year immediately preceding the application.

24 (c) Has successfully completed a criminal history check as
25 prescribed under section 11 that complies with the criminal history
26 requirements as prescribed under section 18.

27 (d) Driving record that complies with the driving record

1 requirements as prescribed under section 19.

2 (e) Successfully completed a motorcycle safety instructor
3 preparation course conducted by the motorcycle safety foundation or
4 a nationally recognized motorcycle safety and training
5 organization.

6 (f) Other information and documentation required by the
7 department.

8 (3) If the department receives an instructor application for a
9 person who meets all the requirements under this section except for
10 the requirement in subsection (2)(e), the department may approve
11 the person for the limited purpose of participating in a motorcycle
12 safety instructor preparation course. A person approved for the
13 limited purpose of participating in a motorcycle safety instructor
14 preparation course shall not provide instruction for a motorcycle
15 safety course until the person successfully completes the
16 instructor preparation course and the person has been approved by
17 the department as an instructor under this section. The department
18 shall approve the person as an instructor if the department
19 receives evidence that the person has successfully completed the
20 motorcycle safety instructor preparation course required under
21 subsection (2)(e) and is otherwise qualified under this act to be
22 an instructor. If the person fails to successfully complete a
23 motorcycle safety instructor preparation course within a calendar
24 year from the date the department received the instructor
25 application, the sponsor shall submit a new instructor application
26 and other documentation for the person as required under this
27 section.

1 (4) A person who was approved as an instructor prior to the
2 effective date of this act may continue as an instructor under this
3 act.

4 (5) The department shall assign an identifying number to an
5 instructor who has been approved under this section and shall
6 require a sponsor and the instructor to list the identifying number
7 in a certificate of completion, a report, and other documentation.

8 Sec. 11. (1) If a criminal history check is required under
9 this act, it shall be performed by the department of state police
10 and the federal bureau of investigation.

11 (2) An applicant seeking approval as an instructor shall
12 provide the department of state police with a set of fingerprints.
13 The request and required fees shall be made in a manner prescribed
14 by the department of state police. The department of state police
15 shall conduct a criminal history check on the applicant in the
16 automated fingerprint identification system database and forward
17 the applicant's fingerprints to the federal bureau of
18 investigation. The department of state police shall request the
19 federal bureau of investigation to make a determination of the
20 existence of any national criminal history pertaining to the
21 applicant.

22 (3) The department of state police shall conduct a criminal
23 history check after receiving a proper request and the required fee
24 from the person for a criminal history check under this section.
25 After conducting the criminal history check, the department of
26 state police shall furnish the department with a report of the
27 criminal history check. The report shall contain any criminal

1 history record information on the person maintained by the
2 department of state police.

3 (4) Except as otherwise provided in this act, the department
4 shall not approve a person as an instructor before receiving and
5 reviewing the applicable criminal history checks from the
6 department of state police and the federal bureau of investigation.

7 (5) The department shall use criminal history record
8 information received under this section only for evaluating a
9 person's qualifications for approval as an instructor under this
10 act. The department may only discuss the report or its contents
11 with the department of state police or a person who was involved in
12 the prosecution of a criminal matter noted in a report for purposes
13 of clarifying whether an offense is a crime described in this act.

14 (6) The department of state police shall save and maintain in
15 its automated fingerprint identification system (AFIS) database all
16 fingerprints that are submitted to the department of state police
17 under subsection (2). If a criminal arrest fingerprint card is
18 subsequently submitted to the department of state police and
19 matches against a fingerprint that was submitted under subsection
20 (2) and stored in the AFIS database, the department of state police
21 shall notify the department. The department shall review the
22 information in accordance with the criminal history criteria for an
23 instructor under this act. Information in the database established
24 under this subsection is confidential, is not subject to disclosure
25 under the freedom of information act, 1976 PA 442, MCL 15.231 to
26 15.246, and shall not be disclosed to any person except for
27 purposes of this act or for law enforcement purposes.

1 Sec. 12. (1) An instructor shall notify the department not
2 more than 14 days after any of the following occurs:

3 (a) The person has been decertified as an instructor by or has
4 allowed his or her certification to lapse with the motorcycle
5 safety foundation or a nationally recognized motorcycle safety and
6 training program.

7 (b) A conviction for a violation or attempted violation, a
8 finding of responsibility for a civil infraction, or a driving
9 record activity listed in section 18 or 19. A notice required under
10 this subdivision shall do all of the following:

11 (i) Identify the conviction, finding of responsibility, or
12 driving record activity.

13 (ii) Identify the date of the conviction or finding of
14 responsibility or the starting and ending dates for the driving
15 record activity.

16 (iii) Identify the court or agency that imposed the conviction,
17 finding of responsibility, or driving record activity.

18 (iv) Contain other information determined appropriate by the
19 department.

20 (2) An instructor shall notify a sponsor for whom the
21 instructor is currently engaging in activity as an instructor of
22 the information in subsection (1).

23 (3) A notice required under this section shall be in a format
24 and method, including electronic submission, determined by the
25 department.

26 Sec. 13. (1) The department shall establish the standards for
27 a motorcycle safety course that will give a student the basic

1 knowledge and skill needed to fulfill the waiver requirements for
2 purposes of section 312b of the Michigan vehicle code, 1949 PA 300,
3 MCL 257.312b.

4 (2) The department may adopt the standards for a motorcycle
5 safety course that were established by the motorcycle safety
6 foundation or a nationally recognized motorcycle safety and
7 training organization.

8 (3) The department may approve alternative standards for a
9 motorcycle safety course if the alternative standards substantially
10 meet or exceed the department's established standards.

11 Sec. 14. (1) Except as otherwise provided in this section, a
12 sponsor may establish the course fee for a motorcycle safety course
13 provided by the sponsor.

14 (2) A student enrolled in a motorcycle safety course provided
15 by a sponsor that is an educational institution or a government
16 agency that has received money from the motorcycle safety fund
17 under section 17 may be required to pay a course fee of not more
18 than \$30.00. The course fee may be adjusted every 5 years by the
19 department to reflect the cumulative percentage change in the
20 consumer price index during the most recent 5-year period for which
21 consumer price index statistics are available, rounded to the
22 nearest dollar. A fee adjusted by the department under this
23 subsection shall remain in effect for 5 years. As used in this
24 subsection, "consumer price index" means the most comprehensive
25 index of consumer prices available for this state from the bureau
26 of labor statistics of the United States department of labor. This
27 subsection takes effect for motorcycle courses provided by the

1 sponsor on or after January 1, 2010.

2 (3) A student enrolled in a motorcycle safety course provided
3 by a sponsor that is an educational institution or a governmental
4 agency that has exhausted all grant money it was awarded for the
5 calendar year may be required to pay a course of not more than
6 \$30.00. A course fee under this subsection shall be reasonable and
7 established by the educational institution or the governmental
8 agency.

9 (4) A sponsor may require a registration fee from a
10 prospective student to guarantee that the student will be able to
11 participate in a future motorcycle safety course. The retention or
12 refund of a registration fee by a sponsor shall be in accordance
13 with the sponsor's refund policy, provided that a copy of the
14 policy was available for review at the time the student registered
15 for the course and paid a registration fee. A registration fee
16 retained by a sponsor under this subsection shall only be used by
17 the sponsor for an activity that is listed as a reasonable
18 expenditure under section 17(1).

19 Sec. 15. (1) A sponsor shall file a certificate of completion
20 report and an end-of-year report with the department. The reports
21 shall be in a format determined by the department. The reports
22 shall contain the following information:

23 (a) For a certificate of completion report:

24 (i) The name of the sponsor.

25 (ii) The name, date of birth, and driver license number, if
26 applicable, of each student.

27 (iii) The type of course completed at each location and the

1 course dates.

2 (iv) The motorcycle safety certificate number issued, if
3 applicable.

4 (v) Other information required by the department.

5 (b) For an end-of-year report:

6 (i) The number of students who participated in a course.

7 (ii) The number of students who passed or failed a course.

8 (iii) Other information required by the department.

9 (2) A sponsor shall maintain a record of instruction that was
10 furnished to each student. The record shall be in a format
11 determined or approved by the department and shall contain all of
12 the following:

13 (a) The name of the sponsor.

14 (b) The name, date of birth, and driver license number, if
15 applicable, of each student.

16 (c) A description of the course the student enrolled in with
17 the following information:

18 (i) The type of course completed: basic rider course,
19 experienced rider course, or other.

20 (ii) The dates and number of hours of classroom and range
21 instruction given to a student.

22 (iii) The course completion date and location.

23 (iv) A list of the instructors who taught the course.

24 (v) The student's achievement, by pass or fail.

25 (vi) A motorcycle safety certificate number issued, if
26 applicable.

27 (vii) The written and skills test evaluation score sheets.

1 (viii) The tuition charged for each type of instruction.

2 (ix) Other information required by the department.

3 Sec. 16. (1) The department shall determine the manner and
4 method for submitting a report, record, information, and other
5 documentation required in this act, including electronic
6 submission.

7 (2) A sponsor shall maintain a report, record, information,
8 and other documentation required under this act at the location
9 identified by the sponsor for 4 calendar years after a student has
10 concluded instruction.

11 (3) A sponsor shall make a report, record, information, and
12 other documentation required under this act available for
13 inspection upon demand by an employee or an authorized
14 representative of the department.

15 (4) If a sponsor fails to maintain or to make available for
16 inspection upon demand a report, record, information, or other
17 documentation required under this act, the department may withdraw
18 the sponsor's approval after notice and opportunity for hearing
19 under section 22. During the period the sponsor's approval is
20 withdrawn, the department shall not give or accept a certificate of
21 completion issued to a student of the sponsor or disburse any grant
22 funds to the sponsor.

23 (5) The department may reinstate the approval for a sponsor
24 whose approval was withdrawn under this section if the sponsor
25 submits or makes available for inspection the report, record,
26 information, or other documentation required under this act and the
27 person otherwise meets the requirements for approval as a sponsor.

1 Sec. 17. (1) A sponsor that is an educational institution or
2 governmental agency may submit an annual motorcycle safety fund
3 grant application to the department. If approved, the sponsor may
4 be reimbursed for a reasonable expenditure, including, but not
5 limited to, any of the following:

6 (a) The salary for each instructor.

7 (b) Instructional materials.

8 (c) Equipment.

9 (d) Insurance.

10 (e) Training workshop or seminar.

11 (f) Other reasonable costs.

12 (2) A reasonable expenditure under subsection (1) may include,
13 but is not limited to, the cost of an instructor to attend a
14 training workshop or seminar.

15 (3) An educational institution or governmental agency shall be
16 reimbursed at a rate based upon the availability of funds deposited
17 in the motorcycle safety fund established by sections 312c and 801
18 of the Michigan vehicle code, 1949 PA 300, MCL 257.312c and
19 257.801, and appropriated by the legislature.

20 (4) An educational institution or governmental agency that
21 received grant funds during the calendar year shall submit an end-
22 of-year report in a format determined by the department. The report
23 shall contain the following:

24 (a) Number of students who participated in a course.

25 (b) Number of students who passed or failed a course.

26 (c) Summary of expenditures.

27 (d) Summary of registration fees.

1 (e) Other information required by the department.

2 (5) An educational institution or governmental agency shall
3 not be eligible for reimbursement until all required evidence
4 pertaining to financial expenditures has been presented to the
5 department and approved by the department.

6 Sec. 18. (1) Except as otherwise provided in this act, the
7 secretary of state shall automatically deny a motorcycle safety
8 instructor application or withdraw approval for a motorcycle safety
9 instructor without notice and opportunity for a hearing if a
10 criminal history check indicates that the person has been convicted
11 of a violation or attempted violation, or the secretary of state
12 receives reliable notice under section 11 or 12 of a conviction for
13 a violation or attempted violation, of any of the following:

14 (a) Criminal sexual conduct, assault with intent to commit
15 criminal sexual conduct, or an attempt to commit criminal sexual
16 conduct, in any degree, under sections 520b to 520g of the Michigan
17 penal code, 1931 PA 328, MCL 750.520b to 750.520g.

18 (b) A felony conviction that involved a criminal assault or
19 battery on an individual.

20 (c) A crime involving felonious assault on a child, child
21 abuse in the first degree, cruelty, torture, or indecent exposure
22 involving a child.

23 (d) A felony conviction that involved the manufacture,
24 distribution, or dispensing of a controlled substance or possession
25 with intent to manufacture, distribute, or dispense a controlled
26 substance.

27 (e) A felony conviction that involved fraud as an element of

1 the crime.

2 (2) The department shall deny the approval for an instructor
3 or withdraw the approval for an instructor until the person's
4 criminal history complies with the requirements of subsection (1).

5 (3) When determining the applicability of the criminal history
6 criteria under this section, the department shall only consider a
7 conviction if the underlying violation occurred after the effective
8 date of this act for a person described in section 10(4).

9 Sec. 19. (1) A person seeking approval as an instructor or a
10 person who has been approved as an instructor shall not have a
11 record of any of the following:

12 (a) Within the prior 5 years, a conviction or finding of
13 responsibility for a violation or civil infraction for which 4 or
14 more points are assessed under section 320a of the Michigan vehicle
15 code, 1949 PA 300, MCL 257.320a.

16 (b) Within the prior 2 years, any of the following:

17 (i) Three or more driver license suspensions imposed by the
18 department for the failure to appear in court or a failure to
19 comply with a court judgment under section 321a of the Michigan
20 vehicle code, 1949 PA 300, MCL 257.321a.

21 (ii) A conviction or finding of responsibility for a violation
22 or civil infraction in connection with 2 or more motor vehicle
23 accidents.

24 (iii) An accumulation of 6 or more points under section 320a of
25 the Michigan vehicle code, 1949 PA 300, MCL 257.320a.

26 (iv) A conviction or finding of responsibility for a violation
27 or civil infraction under section 624a, 625(6), or 626b of the

1 Michigan vehicle code, 1949 PA 300, MCL 257.624a, 257.625, and
2 257.626b.

3 (2) The department shall deny the approval for an instructor
4 or withdraw the approval for an instructor until the person's
5 driving record complies with the requirements in subsection (1).

6 (3) When determining the applicability of the driving record
7 criteria under this section, the department shall only consider a
8 conviction, a finding of responsibility, or a driving activity on a
9 person's driving record if the underlying violation, civil
10 infraction, or driving activity occurred after the effective date
11 of this act for a person described in section 10(4).

12 (4) The department shall provide a person with notice and
13 opportunity for hearing under section 22 before denying an
14 application or withdrawing the approval of a person as an
15 instructor under this section.

16 Sec. 20. (1) If the department receives notice that an
17 instructor's driver license is denied, suspended, revoked, or
18 canceled by this state or another state, or if the department
19 receives notice that an instructor's certification with the
20 motorcycle safety foundation or a nationally recognized motorcycle
21 safety and training program has lapsed or the instructor has been
22 decertified, the department shall notify the sponsor that the
23 instructor's approval is automatically withdrawn.

24 (2) The department may reinstate instructor approval under
25 this section if the person's driver license or instructor
26 certification is reinstated and the person otherwise meets the
27 requirements for approval as an instructor.

1 Sec. 21. (1) A person unable to resolve a complaint with a
2 sponsor or an instructor may file a complaint with the department.
3 The complaint shall be made in a format determined by the
4 department. The complaint shall allege a violation or attempted
5 violation of this act and shall contain all of the following
6 information:

7 (a) The complainant's name, address, and telephone number.

8 (b) A complete statement describing the basis for the
9 complaint.

10 (c) A copy of any record, report, or document that is the
11 basis for the complaint, including a copy of a course certificate
12 of completion issued, or other documents.

13 (d) The complainant's signature and the date the complaint was
14 signed by the complainant.

15 (e) Other information or documentation required by the
16 department.

17 (2) The department may mediate a dispute between a sponsor or
18 an instructor and a student or the student's parent or legal
19 guardian when a dispute arises from a violation or attempted
20 violation of this act.

21 Sec. 22. (1) The department may make, on its own initiative or
22 in response to a complaint, a reasonable and necessary
23 investigation within or outside this state and gather evidence
24 against a person who violated, allegedly violated, or is about to
25 violate this act, a rule promulgated under this act, or an order
26 issued under this act, concerning whether a person, an applicant, a
27 sponsor, or an instructor is in compliance with this act or a rule

1 promulgated under this act.

2 (2) The department may develop conditions for the
3 administrative probation of a sponsor or an instructor. The
4 conditions shall be set forth in a written agreement and signed by
5 the sponsor or the instructor and the department. Conditions of
6 administrative probation may be established in lieu of any other
7 disciplinary action.

8 (3) Except as otherwise provided in this act, the department
9 may impose 1 or more of the sanctions in subsection (4) after
10 notice and opportunity for a hearing if the department determines
11 that a person, a sponsor, an instructor, or an applicant for either
12 sponsor or instructor approval did 1 or more of the following:

13 (a) Failed to meet or maintain a requirement under this act.

14 (b) Violated this act.

15 (c) Made an untrue or misleading statement of a material fact
16 to the department or concealed a material fact in connection with
17 an application for a sponsor or instructor.

18 (d) Committed fraud or engaged in a fraudulent method, act, or
19 practice in connection with a motorcycle endorsement on a driver
20 license or a motorcycle temporary driving permit application
21 submitted to the department, or induced or countenanced fraud or a
22 fraudulent method, act, or practice on the part of an applicant for
23 a motorcycle endorsement on a driver license or a motorcycle
24 temporary driving permit.

25 (e) Falsely represented to the department by issuing a
26 certificate of completion or submitting information that a student
27 had successfully completed a motorcycle safety course that would

1 allow the student to fulfill the waiver requirements under section
2 312b of the Michigan vehicle code, 1949 PA 300, MCL 257.312b, when
3 the student had not successfully completed a motorcycle safety
4 course.

5 (f) Falsified a report, record, or other documentation
6 required under this act.

7 (g) Allowed a person who was not approved by the department as
8 an instructor to engage in activity as an instructor for a
9 motorcycle safety course under this act.

10 (h) Failed to notify the department that a motorcycle safety
11 course approved under this act has been decertified or that the
12 motorcycle safety course's certification has lapsed with the
13 motorcycle safety foundation or another nationally recognized
14 motorcycle safety and training organization.

15 (i) Violated a condition of probation agreed to under
16 subsection (2) or failed to comply with the withdrawal of approval
17 as a sponsor under sections 6 and 17.

18 (j) Failed to maintain good moral character as defined and
19 determined under 1974 PA 381, MCL 338.41 to 338.47.

20 (4) If the department determines a person, a sponsor, an
21 instructor, or an applicant for approval as a sponsor or instructor
22 committed a violation listed in subsection (3), the department may
23 impose 1 or more of the following sanctions:

24 (a) Denial of an application for approval as a sponsor or an
25 instructor.

26 (b) Withdrawal of the approval as a sponsor or instructor for
27 a specified period or an indefinite period until the sponsor or

1 instructor complies with a remedial action determination or payment
2 of an administrative fine, or both.

3 (c) A requirement to take remedial action determined necessary
4 by the department, including, but not limited to, payment of
5 restitution to a student or to an injured person.

6 (5) The department shall not disburse grant funds for
7 motorcycle safety courses conducted during a period when the
8 sponsor's approval is withdrawn, nor shall the department accept a
9 certificate of completion from a student who attended a motorcycle
10 safety course during a period when the sponsor's or instructor's
11 approval was withdrawn.

12 Sec. 23. (1) The secretary of state may order a summary
13 suspension of a motorcycle safety sponsor or instructor approval in
14 compliance with the administrative procedures act of 1969, 1969 PA
15 306, MCL 24.201 to 24.328, upon an affidavit by a person familiar
16 with the facts set forth in the affidavit alleging a violation or
17 attempted violation of this act.

18 (2) The motorcycle safety sponsor or instructor to whom the
19 order is directed may apply to the secretary of state and shall be
20 granted a hearing within 30 days of application in compliance with
21 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201
22 to 24.328.

23 (3) At the hearing, the order of summary suspension shall be
24 set aside, continued, or modified by the secretary of state.

25 (4) If the order of summary suspension concerns the issuance
26 or authorization of a certificate of completion, the secretary of
27 state may discontinue accepting certificates of completion issued

1 or authorized by the sponsor for students receiving or completing
2 instruction after the effective date of the order.

3 Sec. 24. The department may promulgate rules under the
4 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
5 MCL 24.328, to administer this act.

6 Enacting section 1. The motorcycle safety education rules, R
7 388.351 to R 388.362 of the Michigan administrative code, are
8 rescinded.

9 Enacting section 2. This act takes effect January 1, 2010.