

HOUSE BILL No. 4723

May 14, 2013, Introduced by Reps. Daley, Pettalia, Lane, Victory, Rutledge, Brunner, Smiley, Cotter, Lauwers and Schmidt and referred to the Committee on Transportation and Infrastructure.

A bill to amend 1949 PA 300, entitled
"Michigan vehicle code,"
by amending section 320d (MCL 257.320d), as amended by 2012 PA 498.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 320d. (1) Notwithstanding section 320a, the secretary of
2 state shall not enter the points corresponding to a moving
3 violation committed in this state by an individual the secretary of
4 state determines to be eligible under this section on the
5 individual's driving record or make information concerning that
6 violation available to any insurance company if the individual
7 attends and successfully completes a basic driver improvement
8 course under this section and an approved sponsor provides a
9 certificate of successful completion of that course to the
10 secretary of state not more than 60 days after the date on which

1 the secretary of state notified the individual that he or she was
2 eligible to take a basic driver improvement course.

3 (2) The secretary of state shall determine if an individual is
4 eligible under subsection (3) to attend a basic driver improvement
5 course upon receipt of an abstract of a moving violation. If the
6 secretary of state determines that an individual is eligible to
7 attend a basic driver improvement course, the secretary of state
8 shall do all of the following:

9 (a) Notify the individual of his or her eligibility by first-
10 class mail at the individual's last known address as indicated on
11 the individual's operator's or chauffeur's license and inform the
12 individual of the manner and time within which the individual is
13 required to attend and complete a basic driver improvement course.

14 (b) Provide all eligible participants with information on how
15 to access a list of approved sponsors and basic driver improvement
16 course locations, including the secretary of state's website
17 address and telephone number to call for more information.

18 (c) If an approved sponsor does not provide notice of
19 successful completion of the course by the individual within the
20 time prescribed in subsection (1), the secretary of state shall
21 enter the points required under section 320a.

22 (3) An individual is ineligible to take a basic driver
23 improvement course if any of the following apply:

24 (a) The violation occurred while the individual was operating
25 a commercial motor vehicle or was licensed as a commercial driver
26 while operating a noncommercial motor vehicle.

27 (b) The violation is a criminal offense.

1 (c) The violation is a violation for which 4 or more points
2 may be assessed under section 320a.

3 (d) The violation is a violation of section 626b, 627(9),
4 627a, or 682.

5 (e) The individual was cited for more than 1 moving violation
6 arising from the same incident.

7 (f) The individual's license was suspended under section
8 321a(2) in connection with the violation.

9 (g) The individual ~~previously~~ successfully completed a basic
10 driver improvement course **WITHIN THE 3 YEARS IMMEDIATELY PRECEDING**
11 **THE DATE THE MOVING VIOLATION OCCURRED.**

12 ~~— (h) The individual has 3 or more points on his or her driving~~
13 ~~record.~~

14 **(H)** ~~(i)~~ The individual's operator's or chauffeur's license is
15 restricted, suspended, or revoked, or the individual was not issued
16 an operator's or chauffeur's license.

17 (4) The individual is not eligible to take a driver
18 improvement course for a second or subsequent violation an
19 individual receives within the time allowed under subsection (1).

20 (5) The secretary of state shall maintain a computerized
21 database of the following:

22 (a) Individuals who have attended a basic driver improvement
23 course.

24 (b) Individuals who have successfully completed a basic driver
25 improvement course.

26 (6) The database maintained under subsection (5) shall only be
27 used for determining eligibility under subsections (3) and (4). The

1 secretary of state shall only make the information contained in the
2 database available to approved sponsors under subsection (10).
3 Information in this database concerning an individual shall be
4 maintained for the life of that individual.

5 (7) An individual shall be charged a fee of not more than
6 \$100.00 by an approved sponsor to participate in a basic driver
7 improvement course and, if applicable, to obtain a certificate in a
8 form as approved by the secretary of state demonstrating that he or
9 she successfully completed the course. An approved sponsor shall
10 remit a portion of the fee, as determined annually by the secretary
11 of state, to cover the costs of implementing and administering this
12 course program.

13 (8) Fees remitted to the department under subsection (7) by an
14 approved sponsor shall be credited to the basic driver improvement
15 course fund created under subsection (9).

16 (9) The basic driver improvement course fund is created within
17 the state treasury. The state treasurer may receive money or other
18 assets from any source for deposit into the fund. The state
19 treasurer shall direct the investment of the fund. Money in the
20 fund at the close of the fiscal year shall remain in the fund and
21 shall not lapse to the general fund. The secretary of state shall
22 be the administrator of the fund for auditing purposes. The
23 secretary of state shall expend money from the fund, upon
24 appropriation, only to pay the costs of administering this section.

25 (10) An approved sponsor shall conduct a study of the effect,
26 if any, that the successful completion of its basic driver
27 improvement course has on reducing collisions, moving violations,

1 or both for students completing its course in this state. An
2 approved sponsor shall conduct this study every 5 years on each of
3 the course delivery modalities employed by the approved sponsor.
4 The secretary of state shall make all of the following information
5 available to the approved sponsor for that purpose, subject to
6 applicable state and federal laws governing the release of
7 information:

8 (a) The number of individuals who successfully complete a
9 basic driver improvement course under this section.

10 (b) The number of individuals who are eligible to take a basic
11 driver improvement course under this section but who do not
12 successfully complete that course.

13 (c) The number and type of moving violations committed by
14 individuals after successfully completing a basic driver
15 improvement course under this section in comparison to the number
16 and type of moving violations committed by individuals who have not
17 taken a basic driver improvement course.

18 (11) The secretary of state shall report on the findings of
19 all studies conducted under subsection (10) to the standing
20 committees of the house of representatives and senate on
21 transportation issues.

22 (12) The secretary of state shall approve basic driver
23 improvement course sponsors, and enter into an agreement with
24 approved sponsors, if the basic driver improvement course offered
25 by that sponsor satisfies the requirements listed in section 3a.

26 (13) A sponsor seeking to be an approved sponsor shall submit
27 to the secretary of state an application on a form prescribed by

1 the secretary of state along with a properly executed security bond
2 in the principal sum of \$20,000.00 with good and sufficient surety.
3 Every sponsor that is an approved sponsor on the effective date of
4 the amendatory act that added this subsection also shall submit to
5 the secretary of state a security bond described in this
6 subsection. The bond shall indemnify or reimburse the secretary of
7 state or an individual taking the sponsor's basic driver
8 improvement course for monetary loss caused through fraud,
9 cheating, or misrepresentation in the conduct of the sponsor's
10 business where the fraud, cheating, or misrepresentation was made
11 by the sponsor or by an employee, agent, instructor, or salesperson
12 of the sponsor. The surety shall make indemnification or
13 reimbursement for a monetary loss only after judgment based on
14 fraud, cheating, or misrepresentation has been entered in a court
15 of record against the sponsor. The aggregate liability of the
16 surety shall not exceed the sum of the bond. The surety on the bond
17 may cancel the bond by giving 30 days' written or electronic notice
18 to the secretary of state and after giving notice is not liable for
19 a breach of condition occurring after the effective date of the
20 cancellation.

21 (14) An approved sponsor shall not engage in a deceptive or
22 unconscionable method, act, or practice, including, but not limited
23 to, all of the following:

24 (a) Using, adopting, or conducting business under a name that
25 is the same as, like, or deceptively similar to the name of another
26 approved sponsor.

27 (b) Except as otherwise provided in this subsection, using the

1 words "state", "government", "municipal", "city", or "county" as
2 part of the name of the approved sponsor.

3 (c) Advertising, representing, or implying that an approved
4 sponsor is supervised, recommended, or endorsed by, or affiliated
5 or associated with, or employed by, or an agent or representative
6 of this state, the secretary of state, or a bureau of the secretary
7 of state.

8 (d) Advertising or publicizing under a name other than the
9 approved sponsor's full business name as identified on the
10 sponsor's application to be an approved sponsor.

11 (e) Advertising that the sponsor is open for business before
12 the sponsor becomes an approved sponsor.

13 (f) Soliciting business on the premises of any facility
14 rented, leased, owned, or used by the secretary of state.

15 (g) Misrepresenting the quantity or quality of the instruction
16 provided by, or the requirements for, a basic driver improvement
17 course.

18 (h) Failing to promptly restore any deposit, down payment, or
19 other payment that a person is entitled to after an agreement is
20 rescinded, canceled, or otherwise terminated as required under the
21 agreement or applicable law.

22 (i) Taking advantage of a student's or potential student's
23 inability to reasonably protect his or her interest because of a
24 disability, illiteracy, or inability to understand the language of
25 an agreement, if the sponsor knows or reasonably should have known
26 of the student's or potential student's inability.

27 (j) Failing to honor a term of an agreement.

1 (k) Falsifying a document, agreement, record, report, or
2 certificate associated with a basic driver improvement course.

3 (15) Except as otherwise provided in this act, the secretary
4 of state may impose 1 or more of the sanctions listed under
5 subsection (16) if the secretary of state determines that an
6 approved sponsor did 1 or more of the following:

7 (a) Failed to meet a requirement under this act or an
8 agreement established under this act.

9 (b) Violated this act or an agreement established under this
10 act.

11 (c) Made an untrue or misleading statement of a material fact
12 to the secretary of state or concealed a material fact in
13 connection with an application or record under this act.

14 (d) Permitted fraud or engaged in a fraudulent method, act, or
15 practice in connection with a basic driver improvement course, or
16 induced or countenanced fraud or a fraudulent method, act, or
17 practice in connection with a basic driver improvement course.

18 (e) Engaged in an unfair or deceptive method, act, or practice
19 or made an untrue statement of a material fact.

20 (f) Violated a suspension or an order issued under this act.

21 (g) Failed to maintain good moral character as defined and
22 determined under 1974 PA 381, MCL 338.41 to 338.47, in connection
23 with its business operations.

24 (16) After the secretary of state determines that an approved
25 sponsor committed a violation listed in subsection (15), the
26 secretary of state may impose upon the approved sponsor 1 or more
27 of the following sanctions:

1 (a) Denial of an application for approval as a basic driver
2 improvement course sponsor.

3 (b) Suspension or revocation of the approval of an approved
4 sponsor.

5 (c) A requirement to take the affirmative action determined
6 necessary by the secretary of state, including, but not limited to,
7 payment of restitution to a student or to an injured person.

8 (17) As used in this section, "approved sponsor" means a
9 sponsor of a basic driver improvement course that is approved by
10 the secretary of state under subsection (12) and whose approved
11 status is not suspended or revoked under subsection (16).