

HOUSE BILL NO. 4016

January 26, 2021, Introduced by Rep. Lightner and referred to the Committee on Transportation.

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

1 violation available to any insurance company if the individual
2 attends and successfully completes a basic driver improvement
3 course under this section and an approved sponsor provides a
4 certificate of successful completion of that course to the
5 secretary of state not more than 60 days after the date on which
6 the secretary of state notified the individual that he or she was
7 eligible to take a basic driver improvement course.

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

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

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

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

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

29 (a) The violation occurred while the individual was operating

1 a commercial motor vehicle or was licensed as a commercial driver
2 while operating a noncommercial motor vehicle.

3 (b) The violation is a criminal offense.

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

6 (d) The violation is a violation of section 626b, ~~627(9)~~,
7 **627(6)**, 627a, or 682.

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

10 (f) The individual's license was suspended under section
11 321a(2) in connection with the violation.

12 (g) The individual ~~previously~~ successfully completed a basic
13 driver improvement course, **and the date of successful completion**
14 **occurred within the immediately preceding 5 years.**

15 (h) **The individual has successfully completed more than 2**
16 **basic driver improvement courses.**

17 (i) ~~(h)~~ The individual has 3 or more points on his or her
18 driving record.

19 (j) ~~(i)~~ The individual's operator's or chauffeur's license is
20 restricted, suspended, or revoked, or the individual was not issued
21 an operator's or chauffeur's license.

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

25 (5) The secretary of state shall maintain a computerized
26 database of the following:

27 (a) Individuals who have attended a basic driver improvement
28 course.

29 (b) Individuals who have successfully completed a basic driver

1 improvement course.

2 (6) The database maintained under subsection (5) ~~shall~~**must**
3 only be used for determining eligibility under subsections (3) and
4 (4). The secretary of state shall only make the information
5 contained in the database available to approved sponsors under
6 subsection ~~(10).~~**(11)**. Information in this database concerning an
7 individual ~~shall~~**must** be maintained for the life of that
8 individual.

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

17 (8) Fees remitted to the department under subsection (7) by an
18 approved sponsor ~~shall~~**must** be credited to the basic driver
19 improvement course fund created under subsection (9).

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

1 (10) The secretary of state shall conduct a study and prepare
2 a report of the effect, if any, that the successful completion of a
3 basic driver improvement course has on reducing collisions and
4 moving violations for students completing a course. Beginning
5 October 1, 2026, a report must be completed under this subsection
6 at least every 5 years and must be provided to the standing
7 committees on transportation in the senate and house of
8 representatives.

9 (11) ~~(10)~~ An approved sponsor shall ~~conduct a study of the~~
10 ~~effect, if any, that the successful completion of its basic driver~~
11 ~~improvement course has on reducing collisions, moving violations,~~
12 ~~or both for students completing its course in this state. An~~
13 ~~approved sponsor shall conduct this study every 5 years on each of~~
14 ~~the course delivery modalities employed by the approved sponsor.~~
15 ~~The secretary of state shall make all of the following information~~
16 ~~available to the approved sponsor for that purpose, subject to~~
17 ~~applicable state and federal laws governing the release of~~
18 ~~information:~~

19 ~~(a) The number of individuals who successfully complete a~~
20 ~~basic driver improvement course under this section.~~

21 ~~(b) The number of individuals who are eligible to take a basic~~
22 ~~driver improvement course under this section but who do not~~
23 ~~successfully complete that course.~~

24 ~~(c) The number and type of moving violations committed by~~
25 ~~individuals after successfully completing a basic driver~~
26 ~~improvement course under this section in comparison to the number~~
27 ~~and type of moving violations committed by individuals who have not~~
28 ~~taken a basic driver improvement course.~~ **maintain all of the**
29 **following records for each customer:**

1 (a) The student's operator's license number.

2 (b) The amount paid to the sponsor by the student.

3 (c) The first and last dates of the student's course
4 participation.

5 (d) Whether the student passed or failed the course.

6 (12) An approved sponsor shall retain the records described in
7 subsection (11) for 2 years. An approved sponsor shall maintain the
8 records described in subsection (11) and make them available for
9 inspection at its place of business in this state or, if the
10 approved sponsor does not have a place of business in this state,
11 at the secretary of state's office in Lansing. The secretary of
12 state may impose 1 or more of the sanctions described in subsection
13 (18) upon an approved sponsor that does not comply with this
14 subsection.

15 (13) ~~(11) The secretary of state shall report on the findings~~
16 ~~of all studies conducted under subsection (10) to the standing~~
17 ~~committees of the house of representatives and senate on~~
18 ~~transportation issues.~~ **A sponsor shall register with the**
19 **corporations division of the department of licensing and regulatory**
20 **affairs.**

21 (14) ~~(12)~~ The secretary of state shall approve basic driver
22 improvement course sponsors, and enter into an agreement with
23 approved sponsors, if the basic driver improvement course offered
24 by that sponsor satisfies the ~~requirements~~ **conditions** listed in
25 section 3a **and the sponsor registers as required under subsection**
26 **(13).**

27 (15) ~~(13)~~ A sponsor seeking to be an approved sponsor shall
28 submit to the secretary of state an application on a form
29 prescribed by the secretary of state along with a properly executed

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

20 **(16)** ~~(14)~~—An approved sponsor shall not engage in a deceptive
21 or unconscionable method, act, or practice, including, but not
22 limited to, all of the following:

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

26 (b) Except as otherwise provided in this subsection, using the
27 words "state", "government", "municipal", "city", or "county" as
28 part of the name of the approved sponsor.

29 (c) Advertising, representing, or implying that an approved

1 sponsor is supervised, recommended, or endorsed by, or affiliated
2 or associated with, or employed by, or an agent or representative
3 of this state, the secretary of state, or a bureau of the secretary
4 of state.

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

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

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

12 (g) Misrepresenting the quantity or quality of the instruction
13 provided by, or the requirements for, a basic driver improvement
14 course.

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

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

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

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

27 **(17)** ~~(15)~~—Except as otherwise provided in this act, the
28 secretary of state may impose 1 or more of the sanctions listed
29 under subsection ~~(16)~~—**(18)** if the secretary of state determines

1 that an approved sponsor did 1 or more of the following:

2 (a) Failed to meet a requirement under this act or an
3 agreement established under this act.

4 (b) Violated this act or an agreement established under this
5 act.

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

9 (d) Permitted fraud or engaged in a fraudulent method, act, or
10 practice in connection with a basic driver improvement course, or
11 induced or countenanced fraud or a fraudulent method, act, or
12 practice in connection with a basic driver improvement course.

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

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

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

19 **(18)** ~~(16)~~ After the secretary of state determines that an
20 approved sponsor committed a violation listed in subsection ~~(15)~~,
21 **(12) or (17)**, the secretary of state may impose upon the approved
22 sponsor 1 or more of the following sanctions:

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

25 (b) Suspension or revocation of the approval of an approved
26 sponsor.

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

1 **(19)** ~~(17)~~As used in this section, "approved sponsor" means a
2 sponsor of a basic driver improvement course that is approved by
3 the secretary of state under subsection ~~(12)~~**(14)** and whose
4 approved status is not suspended or revoked under subsection
5 ~~(16)~~**(18)** .

6 Enacting section 1. This amendatory act takes effect 1 year
7 after the date it is enacted into law.