

HOUSE BILL NO. 5662

December 29, 2021, Introduced by Reps. O'Malley and Sneller and referred to the Committee on Transportation.

A bill to amend 2006 PA 384, entitled
"Driver education provider and instructor act,"
by amending sections 3, 5, 7, 9, 11, 13, 17, 23, 25, 43, 45, 55,
61, and 65 (MCL 256.623, 256.625, 256.627, 256.629, 256.631,
256.633, 256.637, 256.643, 256.645, 256.663, 256.665, 256.675,
256.681, and 256.685), section 55 as amended by 2016 PA 322.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 3. As used in this act:
- 2 (a) "Adult driver training" means instruction that is provided

1 to ~~a person~~ **an individual** 18 years of age or older in the operation
 2 of a motor vehicle, other than a commercial motor vehicle as
 3 defined in section 7a of the Michigan vehicle code, 1949 PA 300,
 4 MCL 257.7a.

5 (b) "Behind-the-wheel instruction" means instruction in which
 6 a student is in control of a motor vehicle on a public street or
 7 highway in real and varied traffic situations and a driver
 8 education instructor is the only other occupant in the front
 9 passenger seating area with the student.

10 (c) "Classroom instruction" means that part of a driver
 11 education course that occurs in a classroom environment that
 12 enables a student to learn through varied instructional methods,
 13 under the direct guidance of a driver education instructor.

14 (d) **"Commercial vehicle driver training" means instruction**
 15 **equivalent to or exceeding entry-level driver training in 49 CFR**
 16 **part 380 that is provided to operate a commercial motor vehicle as**
 17 **that term is defined in section 7a of the Michigan vehicle code,**
 18 **1949 PA 300, MCL 257.7a.**

19 (e) ~~(d)~~ "Conviction" means a conviction for a crime or
 20 attempted crime whether under a law of this state, a local
 21 ordinance substantially corresponding to a law of this state, or a
 22 law of another state substantially corresponding to a law of this
 23 state.

24 (f) ~~(e)~~ "Coordinated segment 1 driver education course" means
 25 a segment 1 course provided by 2 or more certified driver education
 26 providers in the use of auxiliary aids and services as that term is
 27 defined in ~~the Americans with disabilities act of 1990, 42 USCA~~
 28 ~~12102.42~~ **USC 12103.**

29 (g) ~~(f)~~ "Curriculum" means a written plan that guides the

1 instruction given in a driver education course and includes
 2 performance objectives, a content outline, detailed learning
 3 activities, and assessment tools.

4 (h) ~~(g)~~—"Designated representative or coordinator" means the
 5 individual that a driver education provider employs, enlists, or
 6 appoints, or contracts with to supervise, manage, and administer
 7 the day-to-day responsibilities of the provider's driver education
 8 school operation. Often this individual is an owner, partner,
 9 officer, or director of the driver education provider.

10 (i) ~~(h)~~—"Driver education course" means a program of study
 11 offered by a certified driver education provider, ~~which—that~~
 12 enables a student to acquire the basic knowledge, skill, and
 13 attitude necessary to operate a motor vehicle upon a highway
 14 transportation system.

15 (j) ~~(i)~~—"Driver education course certificate of completion"
 16 means a written or electronic authorization issued by a certified
 17 driver education provider to a student who has successfully
 18 completed segment 1, ~~or~~ segment 2, **or entry-level driver training**
 19 of a driver education course offered by the provider.

20 (k) ~~(j)~~—"Driver education instructor" means a person who the
 21 secretary of state certifies has met the instructor qualifications
 22 of this act to instruct a student in a driver education course.

23 (l) ~~(k)~~—"Driver education instructor certificate" means a
 24 written or electronic authorization issued by the secretary of
 25 state to indicate that a person has met the instructor
 26 qualifications of this act to instruct a student in a driver
 27 education course.

28 Sec. 5. As used in this act:

29 (a) "Driver education instructor preparation program" means a

1 program of driver education instructor preparation courses offered
2 by a college or university or by a person approved by the secretary
3 of state.

4 (b) Except as otherwise provided in this act, "driver
5 education instructor preparation courses" means the courses that
6 are required to obtain a driver education instructor certificate.

7 (c) "Driver education provider" or "provider" means a person
8 ~~who~~**that** meets the requirements in subparagraph (i), if not excluded
9 under subparagraph (ii), as follows:

10 (i) Maintains or obtains the facilities and certified
11 instructors to give instruction in the driving of a motor vehicle
12 or maintains or obtains the facilities and certified instructors to
13 prepare an applicant for an exam given by the secretary of state
14 for a license as defined in section 25 of the Michigan vehicle
15 code, 1949 PA 300, MCL 257.25, or a vehicle indorsement issued
16 under ~~former~~ section 312e of the Michigan vehicle code, 1949 PA
17 300, **MCL 257.312e**.

18 (ii) Driver education provider does not include a person ~~who~~
19 **that** provides instruction as follows:

20 (A) Only for the benefit of its employees if that instruction
21 is not open to the public.

22 (B) In the driving or operating of a motorcycle as defined in
23 section 31 of the Michigan vehicle code, 1949 PA 300, MCL 257.31,
24 or the preparing of an applicant for an exam given by the secretary
25 of state for a motorcycle indorsement issued under section 312a of
26 the Michigan vehicle code, 1949 PA 300, MCL 257.312a.

27 (C) On an unpaid, casual basis to a relative or friend, **that**
28 **excludes commercial vehicle use or instruction**.

29 (d) "Driver education provider certificate" means a written or

1 electronic authorization issued by the secretary of state to
2 indicate that a person has met the driver education provider
3 qualifications of this act.

4 (e) "Educational institution" means a public school, nonpublic
5 school, or public school academy as those terms are defined in
6 section 5 of the revised school code, 1976 PA 451, MCL 380.5; a
7 consortium that is defined to mean a partnership, association, or
8 alliance of 2 or more school districts in a common venture; a
9 community college, a 4-year college, a university, or any other
10 body of higher education.

11 (f) "Established office location" means a building that meets
12 all of the following requirements:

13 (i) Is of a permanent nature where the provider's
14 communications and notices are received.

15 (ii) Is heated, lighted, and ventilated and contains
16 appropriate space to properly store and preserve the information,
17 records, or other documents required to be maintained under this
18 act.

19 (iii) Complies with applicable zoning and municipal
20 requirements.

21 (g) "Governmental agency" means an agency of the federal
22 government, a state government, a county, city, village, or
23 township, or a combination of any of these entities.

24 (h) "Graduated driver license" means a license issued by the
25 secretary of state under section 310e of the Michigan vehicle code,
26 1949 PA 300, MCL 257.310e.

27 (i) "Multiple vehicle driving facility" means that part of a
28 driver education course that enables the driver education
29 instructor, from a position outside the vehicle, and using

1 electronic or oral communication, to teach and supervise several
2 students simultaneously, each of whom is operating a vehicle at an
3 off-street facility specifically designed for that type of
4 instruction.

5 Sec. 7. As used in this act:

6 (a) "Performance objective" means a certain level of knowledge
7 and skill a student is expected to acquire to successfully complete
8 a driver education course.

9 (b) "Person" means an individual, partnership, corporation,
10 association, limited liability company, educational institution,
11 governmental agency or other legal or commercial entity, and their
12 legal successors.

13 (c) "Practicum" means classroom and behind-the-wheel
14 instruction in a driver education course under the direction of an
15 instructor employed, enlisted, or appointed by a college or
16 university or by a person approved by the secretary of state and a
17 cooperating instructor, providing practical application of theory
18 and experience for a student in an approved driver education
19 instructor preparation program. As used in this subdivision,
20 "cooperating instructor" means a driver education instructor
21 approved by the secretary of state to participate in a practicum
22 course to mentor an uncertified driver education instructor in the
23 practicum.

24 (d) "Professional development requirements" means training
25 prescribed by the secretary of state to update the instructional
26 knowledge and skill of a driver education instructor.

27 (e) "Revocation" means the termination of a driver education
28 provider's certification or a driver education instructor's
29 certification.

(f) "Segment 1" means a teen driver education course that meets the requirements in section 37. ~~of this act.~~

(g) "Segment 2" means a teen driver education course that meets the requirements in section 39. ~~of this act.~~

(h) "Simulator device training" means that part of a driver education course where a driver education instructor uses interactive simulator units and programs to reproduce driving situations likely to occur in actual driving on a street and the student is required to evaluate risk, make decisions, and respond to the situations presented.

(i) "Suspension" means the temporary withdrawal of a person's certification to engage or offer to engage in activities as a driver education provider or a driver education instructor during the period of suspension.

(j) "Teen driver training" means driver training instruction provided through a segment 1 or segment 2 driver education course that allows ~~a person~~ **an individual** 17 years of age or less to apply for a level 1 or level 2 graduated driver license.

~~(k) "Truck driver training" means instruction that is provided to operate a commercial motor vehicle as that term is defined in section 7a of the Michigan vehicle code, 1949 PA 300, MCL 257.7a.~~

(k) "Theory instruction" means that term as defined in 49 CFR 380.605.

Sec. 9. (1) A person may apply to the secretary of state for a driver education provider certificate in 1 or more of the following classifications:

(a) Adult driver training.

(b) Teen driver training.

(c) ~~Truck~~ **Commercial vehicle** driver training.

1 (2) The secretary of state shall not grant an original driver
2 education provider certificate under this act until an
3 investigation is made of the applicant's qualification.

4 (3) Except as provided in this act, an applicant must do or
5 submit evidence that he or she has done or will do, as applicable,
6 all of the following to be eligible to receive a driver education
7 provider certificate:

8 (a) Submit a properly completed application signed by the
9 applicant.

10 (b) Maintain an established office location.

11 (c) Maintain classroom facilities in a public or commercial
12 setting.

13 (d) Maintain the surety bond required under this section.

14 (e) Require each of their designated representatives or
15 coordinators to complete a criminal history check as described in
16 section 29.

17 (f) Provide the name and address of each designated
18 representative or coordinator of the applicant, if applicable.

19 (g) Provide the name, address, date of birth, and ~~social~~
20 ~~security~~ **Social Security** number of each owner or partner and, if a
21 corporation, of each of the principal officers.

22 (h) Provide a statement of the previous history, record, and
23 associations of the applicant and of each owner, partner, officer,
24 director, and designated representative or coordinator. The
25 statement ~~shall~~ **must** be sufficient to establish to the satisfaction
26 of the secretary of state the business reputation and character of
27 the applicant.

28 (i) Provide a statement indicating whether the applicant or
29 its designated representative or coordinator has ever applied for a

1 driver education provider certificate in this state or any other
2 state, and the result of that application.

3 (j) Provide a statement indicating whether the applicant or
4 its designated representative or coordinator has ever been denied a
5 driver education provider certificate or has ever been the holder
6 of a certificate that was suspended or revoked.

7 (k) If the applicant is a corporation or partnership, provide
8 a statement indicating whether a partner, employee, officer,
9 director, or its designated representative or coordinator has ever
10 been denied a driver education provider certificate or has ever
11 been the holder of a certificate that was suspended or revoked.

12 (l) Certify that the applicant or another person named on the
13 application is not acting as the alter ego of any other person or
14 persons in seeking the certificate. For the purpose of this
15 subdivision, "alter ego" means a person ~~who~~**that** acts for and on
16 behalf of, or in the place of, another person for purposes of
17 obtaining a driver education provider certificate.

18 (m) Affirm that the established office location meets all
19 applicable zoning and municipal requirements.

20 (n) Obtain written or electronic verification from the state
21 fire marshal or his or her representative that the proposed
22 classroom facilities have been inspected and approved by the state
23 fire marshal or his or her representative according to state and
24 local building code and public occupancy requirements.

25 (o) Obtain written or electronic verification from an insurer
26 that the applicant maintains or will maintain bodily injury and
27 property damage liability insurance on each motor vehicle used in a
28 driver education course.

29 (p) Except as otherwise provided in this subdivision, submit a

1 nonrefundable application processing fee with each application for
 2 a separate established place of business where records will be
 3 maintained as follows:

4 (i) \$225.00 for a driver education provider ~~who~~**that** offers
 5 adult or teen driver training.

6 (ii) \$360.00 for a driver education provider ~~who~~**that** offers
 7 ~~truck~~**commercial vehicle** driver training.

8 (iii) A fee is not required for an additional location that is
 9 used for the sole purpose of conducting classroom instruction and
 10 at which records are not maintained, enrollments are not made, and
 11 staff is not ordinarily assigned, except for the purpose of
 12 conducting classroom instruction.

13 (q) Provide a statement indicating whether the applicant will
 14 use a multiple vehicle driving facility in a driver education
 15 course. If a facility will be used, ~~both~~**all** of the following
 16 apply, **as applicable**:

17 (i) The statement ~~shall~~**must** include a detailed description of
 18 the facility as determined necessary by the secretary of state and
 19 its address.

20 (ii) **The facility range must be large enough to accommodate all**
 21 **driver skills testing maneuvers as required by 49 CFR part 380.**

22 (iii) ~~(ii)~~A multiple vehicle driving facility review and
 23 approval fee of \$125.00 ~~shall~~**must** accompany the applicant's
 24 application for a driver education provider certificate.

25 (r) Provide other information and documents as prescribed by
 26 the secretary of state necessary to determine whether the applicant
 27 meets the requirements of this act.

28 (4) An application for an original driver education provider
 29 certificate ~~shall~~**must** include a properly executed surety bond or

1 renewal certificate with the application. If a renewal certificate
2 is used, the bond is considered renewed for each succeeding year in
3 the same amount and with the same effect as an original bond. The
4 bond or certificate ~~shall~~**must** be maintained continuously without
5 interruption to protect the contractual rights of students. The
6 bond or certificate of an adult or teen driver education provider
7 with 999 or fewer students in a calendar year ~~shall~~**must** be in the
8 principal sum of \$20,000.00 with good and sufficient surety to be
9 approved by the secretary of state. The bond or certificate of an
10 adult or teen driver education provider with 1,000 or more students
11 in a calendar year ~~shall~~**must** be in the principal sum of \$40,000.00
12 with good and sufficient surety to be approved by the secretary of
13 state. The bond or certificate of a ~~truck~~**commercial vehicle** driver
14 education provider ~~shall~~**must** be in the principal sum of \$50,000.00
15 with good and sufficient surety to be approved by the secretary of
16 state. The bond ~~shall~~**must** indemnify or reimburse a student,
17 financing agency, or governmental agency for monetary loss caused
18 through fraud, cheating, or misrepresentation in the conduct of the
19 driver education provider's business where the fraud, cheating, or
20 misrepresentation was made by the provider or by an employee,
21 agent, instructor, or salesperson of the provider. The surety shall
22 make indemnification or reimbursement for a monetary loss only
23 after judgment based on fraud, cheating, or misrepresentation has
24 been entered in a court of record against the provider. The
25 aggregate liability of the surety ~~shall~~**must** not exceed the sum of
26 the bond. The surety on the bond may cancel the bond by giving 30
27 days' written or electronic notice to the secretary of state and
28 after giving notice is not liable for a breach of condition
29 occurring after the effective date of the cancellation.

1 (5) A driver education provider ~~who~~**that** offers adult driver
2 training, teen driver training, and ~~truck~~**commercial vehicle** driver
3 training shall furnish a separate bond for each driver education
4 provider certificate issued by the secretary of state to the
5 applicant. When the secretary of state receives written or
6 electronic notice that a driver education provider's surety bond
7 required under subsection (4) or insurance coverage required under
8 subsection (10) has been canceled, the secretary of state shall
9 notify the provider that the provider's certificate ~~shall~~**will** be
10 automatically canceled unless the secretary of state receives a new
11 surety bond or a new insurance certificate within 30 days or less.
12 If the provider fails to submit a new surety bond or insurance
13 certificate to the secretary of state within 30 days or less, the
14 secretary of state may automatically cancel the provider's
15 certificate. A driver education provider ~~who~~**that** changes or
16 terminates the provider's surety bond or the insurance coverage
17 before the expiration date of the bond or insurance coverage shall
18 immediately furnish the secretary of state with written or
19 electronic notice as prescribed by the secretary of state of that
20 change or termination and proof of a new bond or insurance
21 coverage.

22 (6) As a condition precedent to the granting of a certificate,
23 an applicant ~~shall~~**must** file with the secretary of state, on a form
24 prescribed by the secretary of state, an irrevocable written or
25 electronic stipulation. The stipulation ~~shall~~**must** be signed by the
26 applicant and state that the applicant agrees that legal process
27 affecting the applicant, served on the secretary of state against
28 the applicant or the applicant's successor in interest for a
29 violation of this act, a rule promulgated under this act, or an

1 order issued under this act, has the same effect as if personally
2 served on the applicant. This appointment remains in force as long
3 as the provider has any outstanding liability within this state
4 under this act.

5 (7) Subsections (3)(d), (g), and (p) and (4) do not apply to
6 an educational institution or a governmental agency.

7 (8) Subsection (3)(c) does not apply to a classroom location
8 currently in use that was approved by the secretary of state in
9 writing before ~~the effective date of this act.~~**October 1, 2006.**

10 (9) A classroom facility may not be located in a person's
11 residence or a structure attached or adjacent to the person's
12 residence unless the classroom facility was used and approved by
13 the secretary of state in writing before ~~the effective date of this~~
14 ~~act.~~**October 1, 2006.**

15 (10) A driver education provider shall maintain bodily injury
16 and property damage liability insurance on a motor vehicle used in
17 driver education course instruction. The insurance ~~shall~~**must**
18 insure the liability of the driver education provider, the driver
19 education instructors, and a person taking instruction in the
20 amount of \$100,000.00 for bodily injury to or the death of 1 person
21 in 1 accident, and, subject to the limit for 1 person; \$300,000.00
22 for bodily injury to or the death of 2 or more persons in 1
23 accident; and \$50,000.00 for damage to the property of others in 1
24 accident. The insurer shall be authorized to do insurance business
25 in this state. The insurer shall not cancel the insurance before
26 its expiration date unless it gives the secretary of state written
27 or electronic notice as prescribed by the secretary of state of the
28 insurer's intent to cancel the insurance at least 30 days before
29 the cancellation.

(11) The secretary of state shall review and, in writing, approve or deny the use of a multiple vehicle driving facility under this act as determined necessary by the secretary of state. The secretary of state shall **only** approve a facility ~~only~~ if it meets criteria prescribed by the secretary of state. The secretary of state shall perform an on-site inspection of a multiple vehicle driving facility as determined necessary by the secretary of state.

(12) The secretary of state may develop and prescribe an orientation and education program that a person must complete before the secretary of state issues that person an original driver education provider certificate under section 13.

(13) Nonrefundable application processing and multiple vehicle driving facility review and approval fees collected under this section ~~shall~~**must** be deposited into the driver education provider and instructor fund created in section 83.

Sec. 11. (1) A certified driver education provider may apply for the renewal of a driver education provider certificate. The renewal application ~~shall~~**must** be submitted to the secretary of state every other year in a format and as prescribed by the secretary of state. A renewal application ~~shall~~**must** include all of the following:

(a) A properly completed application signed by the applicant.

(b) A nonrefundable application processing fee as follows:

(i) \$225.00 for a driver education provider ~~who~~**that** offers adult or teen driver training.

(ii) \$360.00 for a driver education provider ~~who~~**that** offers ~~truck~~**commercial vehicle** driver training.

(c) If applicable, either of the following:

(i) A certification that the applicant has used a multiple

1 vehicle driving facility in a driver education course and that the
2 facility has not been altered or changed since the secretary of
3 state inspected that facility after ~~the effective date of this act.~~
4 **October 1, 2006.** A nonrefundable multiple vehicle driving facility
5 review and approval fee of \$75.00 ~~shall~~**must** accompany the
6 applicant's application for a renewal of its driver education
7 provider certificate.

8 (ii) A statement that the applicant will use a multiple vehicle
9 driving facility in a driver education course, a detailed
10 description of the facility as determined necessary by the
11 secretary of state, and its address. A multiple vehicle driving
12 facility review and approval fee of \$125.00 ~~shall~~**must** accompany
13 the applicant's application for a renewal of its driver education
14 provider certificate.

15 (d) Other information and documents prescribed by the
16 secretary of state as needed to determine whether the applicant
17 meets the requirements of this act.

18 (2) The designated representative or coordinator of a
19 certified driver education provider shall complete a criminal
20 history check as described in section 29 to the satisfaction of the
21 secretary of state every 4 years on an application to renew the
22 driver education provider's certificate.

23 (3) If the secretary of state receives a properly completed
24 renewal application before the applicant's driver education
25 provider's current certificate expires, the certificate continues
26 in full force and effect until the secretary of state either
27 approves or denies the renewal application. If the secretary of
28 state does not receive a properly completed renewal application
29 before the driver education provider certificate expires, the

1 driver education provider shall not offer to engage or engage in
2 the activity of a driver education provider until the secretary of
3 state issues the holder of the expired certificate an original or
4 renewal driver education provider certificate as provided in this
5 act.

6 (4) The secretary of state shall not issue a renewal
7 certificate more than 30 days after a driver education provider
8 certificate expires unless the provider has submitted a properly
9 completed renewal application within 30 days after the
10 certificate's expiration date. A provider that applies for a
11 certificate renewal later than 30 days after the certificate
12 expires shall apply to the secretary of state for an original
13 driver education provider certificate.

14 (5) The secretary of state shall review and, in writing,
15 approve or deny the use of a multiple vehicle driving facility
16 under this act as determined necessary by the secretary of state.
17 The secretary of state may only approve a facility that meets
18 criteria prescribed by the secretary of state. The secretary of
19 state shall perform an on-site inspection of a multiple vehicle
20 driving facility as determined necessary by the secretary of state.

21 (6) Subsection (1)(b) does not apply to an educational
22 institution or a governmental agency.

23 (7) Nonrefundable application processing and multiple vehicle
24 driving facility review and approval fees collected under this
25 section ~~shall~~**must** be deposited into the driver education provider
26 and instructor fund created under section 83.

27 Sec. 13. (1) The secretary of state may issue an original or
28 renewal driver education provider certificate if the secretary of
29 state is satisfied the applicant meets the requirements for that

1 certificate under this act. **A driver education provider that**
2 **conducts commercial vehicle driver training must be registered with**
3 **the Federal Motor Carrier Safety Administration through the**
4 **training provider registry.** The secretary of state may assign an
5 identifying number to a driver education provider and put that
6 number on the provider's certificate. The secretary of state may
7 indicate the adult, teen, or ~~truck~~**commercial vehicle** driver
8 training classification applicable on the driver education
9 provider's certificate.

10 (2) A driver education provider certificate issued under this
11 act is valid for 2 years. The original expiration date is exactly 2
12 years from the date the secretary of state issues the provider an
13 original certificate. A provider's renewal certificate expires 2
14 years after its issuance on the same day and month that the
15 original certificate expired.

16 ~~(3) A person licensed as a driver training school by the~~
17 ~~secretary of state under former 1974 PA 369 or who has been~~
18 ~~approved for segment 1 and segment 2 driver education course~~
19 ~~performance objectives under former 1974 PA 369, and who submits an~~
20 ~~original driver education provider certificate application in~~
21 ~~accordance with this act to the secretary of state on or before~~
22 ~~June 1, 2007, may provide driver education instruction in~~
23 ~~accordance with this act while the secretary of state processes the~~
24 ~~application. If an application is received after June 1, 2007, the~~
25 ~~driver education provider shall not provide instruction until the~~
26 ~~secretary of state processes the application and issues the~~
27 ~~certificate. The certificate expires exactly 2 years from the date~~
28 ~~of issuance.~~

29 (3) ~~(4)~~ A person shall not transfer or assign a driver

1 education provider certificate to another person, and any purported
2 transfer or assignment is not effective.

3 Sec. 17. (1) A person may apply to the secretary of state for
4 a driver education instructor certificate in 1 or more of the
5 following classifications:

6 (a) Adult driver training.

7 (b) Teen driver training.

8 (c) ~~Truck~~ **Commercial vehicle** driver training.

9 (2) The secretary of state shall not issue an original driver
10 education instructor certificate under this act until an
11 investigation is made of the applicant's qualification under this
12 act.

13 (3) The secretary of state may issue a person ~~a~~ **an adult or**
14 **teen** driver education instructor certificate if the person presents
15 satisfactory evidence to the secretary of state in a format and as
16 prescribed by the secretary of state that the person meets all of
17 the following requirements:

18 (a) Submits a properly completed application signed by the
19 applicant.

20 (b) Is not less than 21 years of age on the date of
21 application.

22 (c) Provides the applicant's driver license number.

23 (d) Possesses a valid driver license that has been in
24 continuous effect for not less than 5 years immediately preceding
25 the application.

26 (e) Provides a statement indicating whether the applicant has
27 ever applied for a driver education instructor certificate in this
28 state or any other state, and the result of that application.

29 (f) Provides a statement indicating whether the applicant has

1 ever been the holder of a driver education instructor certificate
2 that was revoked or suspended, in this state or any other state.

3 (g) Completes a criminal history check as described in section
4 29 to the satisfaction of the secretary of state.

5 (h) Certifies that the applicant does not have a pending
6 criminal matter or an outstanding arrest, warrant, or conviction
7 since submitting a request for a criminal history check under
8 section 29.

9 (i) Submits a nonrefundable application processing fee of
10 \$45.00.

11 (j) Submits a certified medical examination report that is not
12 older than 90 days and that is prepared by a physician, a
13 physician's assistant, or a certified nurse practitioner licensed
14 to practice in this state or in the applicant's state of residence.
15 The report ~~shall~~**must** include a statement by the person that
16 certified the report that the applicant is medically qualified to
17 operate a motor vehicle and to train others to operate a motor
18 vehicle.

19 (k) Until December 31, 2007, for an original application for a
20 driver education instructor certificate for teen driver training,
21 submits an official transcript from an approved college or
22 university that currently offers driver education instructor
23 preparation programs. Beginning January 1, 2008, for an original
24 application for a driver education instructor certificate for teen
25 or adult driver training, submits an official transcript from an
26 approved college, university, or person to verify the completion of
27 the driver education instructor preparation courses required under
28 the driver education instructor preparation program described in
29 section 23. Except for a driver education instructor issued a

1 temporary approval under ~~the driver education and training schools~~
2 ~~act, former~~ 1974 PA 369, ~~MCL 256.601 to 256.612,~~ an applicant
3 approved as a driver education instructor by the secretary of state
4 before December 31, 2007 is considered to have complied with this
5 transcript requirement.

6 (l) An applicant who is not a resident of this state shall
7 submit an up-to-date certified driving record from the applicant's
8 state of residence to the secretary of state. The applicant shall
9 agree in writing or electronically as prescribed by the secretary
10 of state to submit an up-to-date certified driving record every 60
11 days for as long as the applicant is not a resident of this state.

12 (m) Other information and documents prescribed by the
13 secretary of state to determine an applicant's qualifications for
14 certification under this section.

15 (4) As a condition precedent to the granting of a certificate,
16 an applicant shall file with the secretary of state, on a form
17 prescribed by the secretary of state, an irrevocable written or
18 electronic stipulation. The stipulation ~~shall~~ **must** be signed by the
19 applicant and state the applicant agrees that legal process
20 affecting the applicant, served on the secretary of state against
21 the applicant or the applicant's successor in interest for a
22 violation of this act, a rule promulgated under this act, or an
23 order issued under this act, has the same effect as if personally
24 served on the applicant. This appointment remains in force as long
25 as the applicant has any outstanding liability within this state
26 under this act.

27 (5) The secretary of state may require an applicant to submit
28 a photograph of the applicant, may prescribe the size and format of
29 the photograph, and may include a reproduction of the photograph on

1 the driver education instructor certificate. The secretary of state
2 may receive the applicant's written or electronic permission to use
3 the image of the applicant captured and retained under section 307
4 of the Michigan vehicle code, 1949 PA 300, MCL 257.307, on the
5 driver education instructor certificate.

6 ~~(6) A person licensed as a driver training school instructor~~
7 ~~by the secretary of state or who has been approved as an instructor~~
8 ~~for segment 1 and segment 2 driver education performance objectives~~
9 ~~under former 1974 PA 369, and who submits an original driver~~
10 ~~education instructor certificate application in accordance with~~
11 ~~this act to the secretary of state on or before June 1, 2007, may~~
12 ~~provide driver education instruction in accordance with this act~~
13 ~~while the secretary of state processes the application. If an~~
14 ~~application is received after June 1, 2007, the driver education~~
15 ~~provider shall not provide instruction until the secretary of state~~
16 ~~processes the application and issues the certificate. The~~
17 ~~certificate expires exactly 2 years from the date of issuance.~~

18 (6) ~~(7)~~ A person who engages or offers to engage in activity
19 as a driver education instructor before being certified by the
20 secretary of state is guilty of a misdemeanor punishable by
21 imprisonment for not more than 93 days or a fine of not more than
22 \$2,000.00, or both.

23 (7) ~~(8)~~ The secretary of state may develop and prescribe an
24 orientation and education program that a person must complete
25 before receiving an original driver education instructor
26 certificate issued under this act.

27 (8) ~~(9)~~ Beginning December 31, 2007, an applicant for an
28 original driver education instructor certificate is required to
29 complete the driver education instructor preparation courses

1 described in section 23. This subsection does not apply to an
2 applicant for a driver education instructor certificate to conduct
3 ~~truck-commercial vehicle~~ driver training.

4 (9) The secretary of state may issue a person a behind-the-
5 wheel commercial vehicle driver instructor certificate for behind-
6 the-wheel instruction if, as prescribed by the secretary of state,
7 the person presents satisfactory evidence that the person meets the
8 requirements of a behind-the-wheel instructor as defined in 49 CFR
9 380.605.

10 (10) The secretary of state may issue a person a theory
11 commercial vehicle driver instructor certificate for theory
12 instruction if, as prescribed by the secretary of state, the person
13 presents satisfactory evidence that the person meets the
14 requirements of a theory instructor as defined in 49 CFR 380.605.

15 Sec. 23. (1) A college or university or a person approved by
16 the secretary of state may present a driver education instructor
17 preparation program. A college, university, or person shall not
18 offer to engage or engage in the activity of presenting a driver
19 education instructor preparation program without the prior approval
20 of the secretary of state.

21 (2) A college, university, or person may apply to the
22 secretary of state for approval to conduct a driver education
23 instructor preparation program. A college, university, or person
24 seeking approval shall present satisfactory evidence to the
25 secretary of state as prescribed by the secretary of state that the
26 college's, university's, or person's proposed program meets the
27 requirements of this section.

28 (3) The secretary of state shall review and approve a driver
29 education instructor preparation program that meets the

1 requirements of this section. The secretary of state shall give the
2 college, university, or person requesting approval a written notice
3 of the secretary of state's approval or denial, including the
4 reason for any denial.

5 (4) The secretary of state shall prepare a driver education
6 instructor preparation program guide as a model for how to conduct
7 a driver education instructor preparation program. The model
8 program guide ~~shall~~**must** identify the content of each course
9 identified in subsection (7).

10 (5) Beginning September 1, 2007, a driver education instructor
11 preparation program ~~shall~~**must** consist of not less than 4 driver
12 education preparation courses.

13 (6) A college, university, or person seeking approval of a
14 driver education instructor preparation course shall present
15 evidence satisfactory to the secretary of state that the proposed
16 course meets the requirements of this section. The secretary of
17 state shall review a driver education instructor preparation course
18 and determine whether that course meets the requirements of this
19 act. The secretary of state shall prescribe the administration and
20 curriculum of a driver education instructor preparation course. The
21 secretary of state shall give the college, university, or person
22 requesting approval written notice of the secretary of state's
23 approval or denial, including the reason for any denial.

24 (7) A driver education instructor preparation program ~~shall~~
25 **must** consist of not less than 4 driver education instructor
26 preparation courses. The 4 required courses ~~shall~~**must** each
27 concentrate on only 1 of the following concepts, and all of the
28 following concepts ~~shall~~**must** be covered in the minimum 4 courses
29 required:

1 (a) Driver task analysis.

2 (b) Developing classroom and program knowledge.

3 (c) Developing vehicle operation skills.

4 (d) Practicum.

5 (8) A driver education instructor preparation course ~~shall~~
6 **must** consist of not less than 2 semester hours per course or the
7 equivalent of not less than 2 semester hours per course as approved
8 by the secretary of state. A driver education instructor
9 preparation course ~~shall~~**must** extend for not less than 3 weeks.

10 (9) An instructor who teaches a driver education instructor
11 preparation course shall meet the following requirements:

12 (a) Have a master's degree in education from an accredited
13 college or university.

14 (b) Hold a valid driver education instructor certificate
15 issued by the secretary of state.

16 (c) Any other requirement the secretary of state determines is
17 necessary to determine instructor qualifications.

18 (10) A college, university, or person approved by the
19 secretary of state that offers a driver education instructor
20 preparation course shall include in the course registration
21 material information explaining the driver education instructor
22 qualifications required under this act.

23 (11) The secretary of state shall review each driver education
24 instructor preparation program approved under this section at least
25 once every 3 years.

26 (12) A driver education preparation course credit earned
27 through a college, university, or another entity in another state
28 may be accepted on the same basis as the equivalent credit earned
29 through a driver education instructor preparation program conducted

1 by a college or university or by a person approved by the secretary
2 of state, if approved by the secretary of state. A person seeking
3 approval of a driver education course credit earned in another
4 state shall present satisfactory evidence to the secretary of state
5 that the other state's course substantially meets the requirements
6 of this state. The secretary of state shall review a driver
7 education preparation course credit earned in another state and
8 determine whether that course content meets the requirements of
9 this act. The secretary of state shall give the person a written
10 notice of the secretary of state's approval or denial, including
11 the reason for any denial.

12 (13) This section does not apply to an applicant for a driver
13 education instructor certificate that is limited to the ~~truck~~
14 **commercial vehicle** driver training classification.

15 Sec. 25. (1) A person shall not participate in a practicum
16 course conducted by a college or university or by a person approved
17 by the secretary of state unless the person possesses a conditional
18 driver education instructor certificate.

19 (2) A person shall apply to the secretary of state for a
20 conditional driver education instructor certificate. The secretary
21 of state may issue a person a conditional driver education
22 instructor certificate after the person presents satisfactory
23 evidence to the secretary of state that the applicant complies with
24 both of the following:

25 (a) Meets all of the driver education instructor application
26 requirements under section 17 except for completion of a practicum
27 course.

28 (b) Is enrolled in a practicum course conducted by a college
29 or university or by a person approved by the secretary of state.

1 (3) This section does not apply to an applicant for a driver
2 education instructor certificate that is limited to the ~~truck~~
3 **commercial vehicle** driver training classification.

4 Sec. 43. (1) A driver education provider classified to provide
5 teen driver training shall issue a driver education course
6 certificate of completion to a student who successfully passes a
7 written knowledge test prescribed by the secretary of state for
8 that segment and successfully completes the other course work for
9 that segment. The secretary of state shall prescribe the knowledge
10 test administered to a teen student, including establishing a
11 passing score and the maximum number of times a student may take
12 the test.

13 (2) A driver education provider shall not issue a driver
14 education course certificate of completion for segment 1 if the
15 student is not eligible for a graduated driver license.

16 (3) A driver education provider shall not issue a driver
17 education course certificate of completion for segment 2 to a
18 student unless the student has been issued a graduated driver
19 license.

20 (4) **A driver education provider classified to provide entry-**
21 **level driver training shall issue a driver education course**
22 **certificate of completion to a student who successfully passes**
23 **theory or behind-the-wheel training prescribed in 49 CFR part 380,**
24 **appendices A to F. A certificate of completion issued to an entry-**
25 **level driver training student must contain the information outlined**
26 **in 49 CFR 380.513 and 380.717.**

27 Sec. 45. (1) Before holding a class, a driver education
28 provider shall file a projected driver education course schedule
29 report with and as prescribed by the secretary of state. The course

1 schedule report ~~shall~~**must** contain:

2 (a) The name of the school.

3 (b) The dates and times of the class.

4 (c) The classroom location.

5 (d) The names of the instructors.

6 (e) Any other information the secretary of state determines is
7 needed to administer this act or ensure the health, safety, and
8 welfare of a student or the public.

9 (2) If a change occurs in the information contained in a
10 report filed under subsection (1), the driver education provider
11 shall immediately file an updated projected driver education course
12 report with the secretary of state or later if authorized by the
13 secretary of state.

14 (3) Upon completion of a class, a driver education provider
15 shall file a course completion report with and as prescribed by the
16 secretary of state. The course completion report ~~shall~~**must**
17 contain:

18 (a) The name of the school.

19 (b) The dates the class was held.

20 (c) The name, address, and birth date of each student issued a
21 certificate of completion.

22 (d) The inventory control number of each certificate of
23 completion issued to a student.

24 (e) Any other information the secretary of state determines is
25 needed to administer this act or ensure the health, safety, and
26 welfare of a student or the public.

27 (4) A driver education provider classified for ~~truck~~
28 **commercial vehicle** driver training shall file a report with and as
29 prescribed by the secretary of state on April 15 and October 15 of

1 each year. Each report ~~shall~~**must** contain:

2 (a) The name, address, and driver license number of each
3 student enrolled since the provider's last report under this
4 subsection.

5 (b) The name of each student who completed a training program.

6 (c) Any other information the secretary of state determines is
7 needed to administer this act or ensure the health, safety, and
8 welfare of a student or the public.

9 (5) A driver education provider shall file a year-end report
10 with and as prescribed by the secretary of state on or before
11 January 31 of each year. The year-end report ~~shall~~**must** contain all
12 of the following:

13 (a) The name of the school.

14 (b) The number of students who passed and failed each type of
15 instruction given.

16 (c) A list of the instructors who taught during the year.

17 (d) A list of classroom locations utilized during the year.

18 (e) The tuition charged for each type of instruction.

19 (f) Any other information the secretary of state determines is
20 needed to administer this act or ensure the health, safety, and
21 welfare of a student or the public.

22 (6) A driver education provider shall maintain a record of the
23 instruction given to a student as prescribed by the secretary of
24 state. A student instruction record ~~shall~~**must** contain all of the
25 following:

26 (a) The dates and number of hours of classroom and behind-the-
27 wheel instruction given the student, signed by the instructors that
28 gave the instruction.

29 (b) Complete registration and achievement records for the

1 student.

2 (c) A list of the student's payments for tuition, fees, and
3 purchase or rental of supplies or equipment.

4 (d) A copy of the signed contract between the school and the
5 student.

6 (e) The information contained on a course completion report
7 for the student.

8 (f) Any other information the secretary of state determines is
9 needed to administer this act or ensure the health, safety, and
10 welfare of a student or the public.

11 (7) The secretary of state shall prescribe the manner and
12 method that any information, forms, reports, and other documents
13 required in this act are submitted to the secretary of state,
14 including electronic submission.

15 Sec. 55. (1) Before a driver education provider provides
16 behind-the-wheel driver education course instruction to an adult or
17 ~~truck~~**commercial vehicle** driver training student, the provider
18 shall verify that the student has a valid temporary instruction
19 permit issued by the secretary of state under section 306 of the
20 Michigan vehicle code, 1949 PA 300, MCL 257.306, or that the
21 student has a valid commercial learner's permit issued by ~~a state~~
22 ~~other than this~~**another** state.

23 (2) The secretary of state may prescribe the method and manner
24 that a driver education provider uses to verify a student's
25 temporary instruction permit under this section.

26 Sec. 61. (1) Except as otherwise provided in this section, the
27 secretary of state shall automatically deny a driver education
28 ~~provider~~**provider's** or ~~instructor~~**instructor's** application or
29 revoke a provider's or instructor's certificate without notice and

1 an opportunity for a hearing **if for any reason a driver education**
 2 **provider or instructor is removed from the Federal Motor Carrier**
 3 **Safety Administration training provider registry under 49 CFR**
 4 **380.721 and 380.723.** The denial or revocation ~~shall remain~~ **remains**
 5 in effect until the applicant, instructor, provider, or the
 6 designated representative or coordinator of the applicant or
 7 provider completes 5 consecutive years without a conviction for a
 8 violation or attempted violation for which 4 or more points are
 9 assessed under section 320a of the Michigan vehicle code, 1949 PA
 10 300, MCL 257.320a.

11 (2) The secretary of state shall automatically deny a driver
 12 education ~~provider~~ **provider's** or ~~instructor~~ **instructor's**
 13 application or revoke a provider's or instructor's certificate
 14 without notice and an opportunity for a hearing until the driving
 15 record of the applicant, instructor, provider, or the designated
 16 representative or coordinator of the applicant or provider does not
 17 have within the prior 2 years 1 or more of the following:

18 (a) Three or more driver license denials, suspensions, or
 19 revocations, or any combination of 3 or more denials, suspensions,
 20 or revocations, imposed by the secretary of state for the failure
 21 to appear in court or a failure to comply with a court judgment
 22 under section 321a of the Michigan vehicle code, 1949 PA 300, MCL
 23 257.321a.

24 (b) A conviction or finding of responsibility for a traffic
 25 violation in connection with 2 or more motor vehicle accidents.

26 (c) An accumulation of 6 or more points under section ~~320(a)~~
 27 **320a** of the Michigan vehicle code, 1949 PA 300, MCL
 28 ~~257.320.~~ **257.320a.**

29 (d) A conviction 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 (3) When the driving record of an applicant's or provider's
4 designated representative or coordinator is the cause for the
5 secretary of state to deny an application or revoke a certificate
6 under this section, the secretary of state shall automatically deny
7 an original or renewal application for a driver education provider
8 certificate or automatically revoke a provider's certificate under
9 this section if the applicant or provider fails to immediately
10 terminate the designated representative's or coordinator's
11 designation or employment as the provider's designated
12 representative or coordinator.

13 Sec. 65. (1) The secretary of state may make, on its own
14 initiative or in response to a complaint, a reasonable and
15 necessary investigation within or outside this state and gather
16 evidence against a person that violated, allegedly violated, or is
17 about to violate this act, a rule promulgated under this act, or an
18 order issued under this act, concerning whether a person, an
19 applicant, a driver education provider, or a driver education
20 instructor is in compliance with this act or a rule promulgated
21 under this act.

22 (2) A person may file a complaint against a person, an
23 applicant, a driver education provider, or a driver education
24 instructor with the secretary of state. A complaint ~~shall~~**must** be
25 made in a format as prescribed by the secretary of state. The
26 complaint ~~shall~~**must** be based upon a violation or attempted
27 violation of this act or a rule promulgated under this act and
28 ~~shall~~**must** contain all of the following information:

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

1 (b) A complete statement describing the basis for the
2 complaint.

3 (c) A copy of any record, report, or document that is the
4 basis for the complaint, including a copy of the student contract,
5 driver education course certificate of completion issued, or other
6 documents.

7 (d) The complainant's signature and the date the complaint was
8 signed.

9 (e) Other information as prescribed by the secretary of state.

10 (3) The secretary of state may mediate a dispute between a
11 driver education provider or driver education instructor and a
12 student or the student's parent or legal guardian when a dispute
13 arises from a violation or attempted violation of this act or a
14 rule promulgated under this act.

15 (4) The secretary of state may develop conditions of probation
16 for the operation of a driver education provider or the training
17 conducted by a driver education instructor. Conditions ~~shall~~**must**
18 be set forth in a written agreement and signed by the driver
19 education provider or driver education instructor and the secretary
20 of state. Conditions of probation may be agreed to in place of
21 further disciplinary proceedings.

22 **(5) If an investigation by the secretary of state finds reason**
23 **to believe that a written knowledge test or entry-level driver**
24 **training was not administered in accordance with the standards**
25 **prescribed in 49 CFR part 380, the secretary of state shall cancel**
26 **the course completion reported by the provider and any license**
27 **subsequently issued unless the student retakes and passes the test**
28 **within 30 days.**