

2000 PUBLIC AND LOCAL ACTS

[No. 285]

(HB 4007)

AN ACT to amend 1974 PA 369, entitled "An act to regulate the business of conducting a driver training school; to require licenses in relation thereto; to prescribe certain fees; to prescribe the powers and duties of certain persons and state departments; and to prescribe remedies and penalties," by amending sections 5 and 5b (MCL 256.605 and 256.605b), section 5 as amended and section 5b as added by 1998 PA 11.

The People of the State of Michigan enact:

256.605 Instructor to be licensed; application for licensing of employees as instructors; fee; issuance and expiration of license certificate; condition for cancellation or revocation of license; notification; qualifications of instructor. [M.S.A. 9.1690(5)]

Sec. 5. (1) A driver training school licensee shall not employ a person as an instructor unless the person is licensed as an instructor.

(2) A driver training school licensee shall annually file an application with the department for licensing of its employees as instructors. For each employee for which licensure as an instructor is sought, the application shall include all of the following:

(a) The name and address of the employee.

(b) The driver's license number of the employee. An application for a nonresident employee shall also include a certified copy of his or her driving record from his or her state of residence.

(c) A dated medical examination report that is not more than 2 years old and is completed by a physician licensed to practice in this state. An application for a nonresident employee fulfills the requirement of this subdivision if the application includes a report completed by a physician licensed to practice in the employee's state of residence.

(d) A fee of \$25.00 for each employee seeking licensure as an instructor.

(e) Except as otherwise provided in section 5b, an authorization to be signed by a prospective employee to be hired as a driving instructor permitting the licensee to request a criminal history check from the department of state police and the federal bureau of investigation.

(3) The department shall issue a license certificate to the driver training school licensee for each of its employees who meet the requirements of this act for licensure as an instructor. A license certificate expires on December 31 of the year for which it is issued.

(4) The department may issue a license certificate to an applicant for a driving instructor's license after the favorable criminal history check from the department of state police, but on the condition that the license shall be canceled or revoked if the criminal history check from the federal bureau of investigation reveals that the applicant does not satisfy the qualifications for a license. The department shall immediately notify the driver training school licensee, which shall require the applicant to surrender the license certificate.

(5) In order to qualify as an instructor, a person shall meet all of the following requirements:

(a) Be physically able to operate a motor vehicle and to train others in the operation of motor vehicles.

(b) Have a driving record that indicates competence to operate a motor vehicle consistent with standards set forth in rules promulgated by the secretary of state.

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(c) Be 21 years of age or older on the date the person's license application is submitted to the secretary of state.

(d) Have a driving record, within the 5 years immediately preceding submission of an instructor license application to the secretary of state, that does not contain a conviction for any violation for which 4 or 6 points are assessed, other than points assessed for a violation of a speeding law or ordinance, pursuant to section 320a of the Michigan vehicle code, 1949 PA 300, MCL 257.320a. This subdivision only applies to an applicant who was not licensed as a driver training school instructor on October 1, 1992.

(e) Not have a prior felony or misdemeanor conviction for criminal sexual conduct pursuant to sections 520b to 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b to 750.520g, or a felony conviction for a crime in which an element of the crime is the use or threat of use of physical force.

256.605b Driver education instructor; criminal history check.
[M.S.A. 9.1690(5a)]

Sec. 5b. (1) Except as otherwise provided in section 5 or this subsection, a driver training school licensee shall not employ a person as an instructor or, after June 1, 1998, continue to employ a person as a driving instructor before requesting and receiving not less than once every 5 years from the department of state police and the federal bureau of investigation a criminal history check on the person. A person who is currently employed as a driver education instructor with a public school in this state shall not be required to submit to a criminal history check under this section.

(2) A driver training school licensee shall make a request with payment of the appropriate fee to the criminal records division of the department of state police for a criminal history check required under this section on a form and in a manner prescribed by the criminal records division of the department of state police.

(3) Within 45 days after receiving a proper request by a driver training school licensee for a criminal history check on a person under this section, the criminal records division of the department of state police shall conduct the criminal history check and, after conducting the criminal history check and within that time period, provide a report of the results of the criminal history check to the driver training school licensee and the department. The report shall contain any criminal history record information on the person maintained by the criminal records division of the department of state police.

(4) Criminal history record information received from the criminal records division of the department of state police under subsection (3) shall be used by a driver training school licensee only for the purpose of evaluating a person's qualifications for employment as a driver training instructor. A driver training school licensee or the department shall only disclose the report or its contents to a person who is directly involved in evaluating the applicant's qualifications for employment, and shall only disclose to that person those crimes described in section 5(5)(e). A person who violates this subsection is guilty of a misdemeanor punishable by a fine of not more than \$10,000.00.

(5) As used in this section, "criminal history record information" means that term as defined in section 1a of 1925 PA 289, MCL 28.241a.

This act is ordered to take immediate effect.

Approved July 7, 2000.

Filed with Secretary of State July 10, 2000.
