

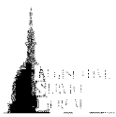
# HOUSE BILL NO. 5845

June 11, 2020, Introduced by Reps. Cole, Sheppard, Kuppa, Rendon, Reilly, Cambensy, Shannon, LaFave, Bollin, Filler, Sneller, Clemente, Eisen and Bellino and referred to the Committee on Government Operations.

A bill to amend 2006 PA 384, entitled  
"Driver education provider and instructor act,"  
by amending sections 3, 7, 9, 35, 37, 39, 41, and 45 (MCL 256.623, 256.627, 256.629, 256.655, 256.657, 256.659, 256.661, and 256.665), section 35 as amended by 2012 PA 258, section 37 as amended by 2018 PA 277, and section 39 as amended by 2019 PA 34.

## 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
- 3   to ~~a person~~ **an individual** 18 years of age or older in the operation



1 of a motor vehicle, other than a commercial motor vehicle as  
2 defined in section 7a of the Michigan vehicle code, 1949 PA 300,  
3 MCL 257.7a.

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

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

13 (d) "Conviction" means a conviction for a crime or attempted  
14 crime whether under a law of this state, a local ordinance  
15 substantially corresponding to a law of this state, or a law of  
16 another state substantially corresponding to a law of this state.

17 (e) "Coordinated segment 1 driver education course" means a  
18 segment 1 course provided by 2 or more certified driver education  
19 providers in the use of auxiliary aids and services as that term is  
20 defined in **section 12103 of** the Americans with disabilities act of  
21 1990, 42 ~~USCA 12102.~~ **USC 12103.**

22 (f) "Curriculum" means a written plan that guides the  
23 instruction given in a driver education course and includes  
24 performance objectives, a content outline, detailed learning  
25 activities, and assessment tools.

26 (g) "Designated representative or coordinator" means the  
27 individual that a driver education provider employs, enlists, or  
28 appoints, or contracts with to supervise, manage, and administer  
29 the day-to-day responsibilities of the provider's driver education



1 school operation. Often this individual is an owner, partner,  
2 officer, or director of the driver education provider.

3 (h) "Driver education course" means a program of study offered  
4 by a certified driver education provider, ~~which~~**that** enables a  
5 student to acquire the basic knowledge, skill, and attitude  
6 necessary to operate a motor vehicle upon a highway transportation  
7 system.

8 (i) "Driver education course certificate of completion" means  
9 a written or electronic authorization issued by a certified driver  
10 education provider to a student who has successfully completed  
11 segment 1 or segment 2 of a driver education course offered by the  
12 provider.

13 (j) "Driver education instructor" **or "instructor"** means a  
14 ~~person~~**an individual** who the secretary of state certifies has met  
15 the instructor qualifications of this act to instruct a student in  
16 a driver education course.

17 (k) "Driver education instructor certificate" means a written  
18 or electronic authorization issued by the secretary of state to  
19 indicate that ~~a person~~**an individual** has met the instructor  
20 qualifications of this act to instruct a student in a driver  
21 education course.

22 Sec. 7. As used in this act:

23 (a) **"Online course" or "online instruction" means that part of**  
24 **a driver education course provided electronically or online that**  
25 **enables a student to learn through varied instructional methods,**  
26 **under the direct guidance of a driver education instructor.**

27 (b) ~~(a)~~**"Performance objective" means a certain level of**  
28 **knowledge and skill a student is expected to acquire to**  
29 **successfully complete a driver education course.**



1       (c) ~~(b)~~ "Person" means an individual, partnership,  
2 corporation, association, limited liability company, educational  
3 institution, governmental agency or other legal or commercial  
4 entity, and their legal successors.

5       (d) ~~(c)~~ "Practicum" means classroom **or online** and behind-the-  
6 wheel instruction in a driver education course under the direction  
7 of an instructor employed, enlisted, or appointed by a college or  
8 university or by a person approved by the secretary of state and a  
9 cooperating instructor, providing practical application of theory  
10 and experience for a student in an approved driver education  
11 instructor preparation program. As used in this subdivision,  
12 "cooperating instructor" means a driver education instructor  
13 approved by the secretary of state to participate in a practicum  
14 course to mentor an uncertified driver education instructor in the  
15 practicum.

16       (e) ~~(d)~~ "Professional development requirements" means training  
17 prescribed by the secretary of state to update the instructional  
18 knowledge and skill of a driver education instructor.

19       (f) ~~(e)~~ "Revocation" means the termination of a driver  
20 education provider's certification or a driver education  
21 instructor's certification.

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

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

26       (i) ~~(h)~~ "Simulator device training" means that part of a  
27 driver education course where a driver education instructor uses  
28 interactive simulator units and programs to reproduce driving  
29 situations likely to occur in actual driving on a street and the



1 student is required to evaluate risk, make decisions, and respond  
2 to the situations presented.

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

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

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

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

18 (a) Adult driver training.

19 (b) Teen driver training.

20 (c) Truck driver training.

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

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

28 (a) Submit a properly completed application signed by the  
29 applicant.



1 (b) Maintain an established office location.

2 (c) ~~Maintain~~ **Except for providers that only offer online**  
3 **instruction, maintain** classroom facilities in a public or  
4 commercial setting.

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

6 (e) Require each of their designated representatives or  
7 coordinators to complete a criminal history check as described in  
8 section 29.

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

11 (g) Provide the name, address, date of birth, and social  
12 security number of each owner or partner and, if a corporation, of  
13 each of the principal officers.

14 (h) Provide a statement of the previous history, record, and  
15 associations of the applicant and of each owner, partner, officer,  
16 director, and designated representative or coordinator. The  
17 statement ~~shall~~ **must** be sufficient to establish to the satisfaction  
18 of the secretary of state the business reputation and character of  
19 the applicant.

20 (i) Provide a statement indicating whether the applicant or  
21 its designated representative or coordinator has ever applied for a  
22 driver education provider certificate in this state or any other  
23 state, and the result of that application.

24 (j) Provide a statement indicating whether the applicant or  
25 its designated representative or coordinator has ever been denied a  
26 driver education provider certificate or has ever been the holder  
27 of a certificate that was suspended or revoked.

28 (k) If the applicant is a corporation or partnership, provide  
29 a statement indicating whether a partner, employee, officer,



1 director, or its designated representative or coordinator has ever  
2 been denied a driver education provider certificate or has ever  
3 been the holder of a certificate that was suspended or revoked.

4 (l) Certify that the applicant or another person named on the  
5 application is not acting as the alter ego of any other person ~~or~~  
6 ~~persons~~ in seeking the certificate. For the purpose of this  
7 subdivision, "alter ego" means a person who acts for and on behalf  
8 of, or in the place of, another person for purposes of obtaining a  
9 driver education provider certificate.

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

12 (n) ~~Obtain~~ **Except for providers that only offer online**  
13 **instruction, obtain** written or electronic verification from the  
14 state fire marshal or his or her representative that the proposed  
15 classroom facilities have been inspected and approved by the state  
16 fire marshal or his or her representative according to state and  
17 local building code and public occupancy requirements.

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

22 (p) Except as otherwise provided in this subdivision, submit a  
23 nonrefundable application processing fee with each application for  
24 a separate established place of business where records will be  
25 maintained as follows:

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

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







1 in a calendar year ~~shall~~**must** be in the principal sum of \$40,000.00  
2 with good and sufficient surety to be approved by the secretary of  
3 state. The bond or certificate of a truck driver education provider  
4 ~~shall~~**must** be in the principal sum of \$50,000.00 with good and  
5 sufficient surety to be approved by the secretary of state. The  
6 bond ~~shall~~**must** indemnify or reimburse a student, financing agency,  
7 or governmental agency for monetary loss caused through fraud,  
8 cheating, or misrepresentation in the conduct of the driver  
9 education provider's business where the fraud, cheating, or  
10 misrepresentation was made by the provider or by an employee,  
11 agent, instructor, or salesperson of the provider. The surety shall  
12 make indemnification or reimbursement for a monetary loss only  
13 after judgment based on fraud, cheating, or misrepresentation has  
14 been entered in a court of record against the provider. The  
15 aggregate liability of the surety ~~shall~~**must** not exceed the sum of  
16 the bond. The surety on the bond may cancel the bond by giving 30  
17 days' written or electronic notice to the secretary of state and  
18 after giving notice is not liable for a breach of condition  
19 occurring after the effective date of the cancellation.

20 (5) A driver education provider ~~who~~**that** offers adult driver  
21 training, teen driver training, and truck driver training shall  
22 furnish a separate bond for each driver education provider  
23 certificate issued by the secretary of state to the applicant. When  
24 the secretary of state receives written or electronic notice that a  
25 driver education provider's surety bond required under subsection  
26 (4) or insurance coverage required under subsection (10) has been  
27 canceled, the secretary of state shall notify the provider that the  
28 provider's certificate shall be automatically canceled unless the  
29 secretary of state receives a new surety bond or a new insurance



1 certificate within 30 days or less. If the provider fails to submit  
2 a new surety bond or insurance certificate to the secretary of  
3 state within 30 days or less, the secretary of state may  
4 automatically cancel the provider's certificate. A driver education  
5 provider who changes or terminates the provider's surety bond or  
6 the insurance coverage before the expiration date of the bond or  
7 insurance coverage shall immediately furnish the secretary of state  
8 with written or electronic notice as prescribed by the secretary of  
9 state of that change or termination and proof of a new bond or  
10 insurance coverage.

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

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

25 (8) Subsection (3)(c) does not apply to a classroom location  
26 currently in use that was approved by the secretary of state in  
27 writing before the effective date of this act.

28 (9) ~~A~~**Except for providers that only offer online instruction,**  
29 a classroom facility may not be located in a person's residence or



1 a structure attached or adjacent to the person's residence unless  
2 the classroom facility was used and approved by the secretary of  
3 state in writing before the effective date of this act.

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

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

26 (12) The secretary of state may develop and prescribe an  
27 orientation and education program that a person must complete  
28 before the secretary of state issues that person an original driver  
29 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. 35. (1) The secretary of state shall prescribe a model curriculum for teen driver training under this act. After September 1, 2007, a driver education provider classified for teen driver training shall use the secretary of state's prescribed model curriculum or may use an alternative curriculum only after it has been reviewed and approved by the secretary of state. The secretary of state may approve an alternative curriculum if it substantially meets or exceeds the standards of the secretary of state's prescribed model curriculum.

(2) Under a segment 1 curriculum and segment 2 curriculum combined, each student shall receive no less than 30 hours of classroom **or online** instruction and 6 hours of behind-the-wheel driver education course experience.

Sec. 37. (1) A segment 1 curriculum ~~shall~~**must** include both classroom **or online instruction** and behind-the-wheel driver education course experience. The classroom **or online** instruction and behind-the-wheel instruction ~~shall~~**must** be integrated, relate to each other, and meet the following requirements:

(a) Each student shall receive not less than 24 hours of classroom instruction. Classroom **or online** instruction ~~shall~~**must** be scheduled to occur as follows:

(i) ~~Classroom instruction shall~~**Instruction must not** occur ~~not~~ more than 2 hours per day.

(ii) ~~Classroom instruction shall~~**Instruction must** occur over the course of 3 or more weeks.



(iii) ~~Classroom instruction shall~~ **Instruction** of 4 or more hours ~~shall~~ **must** be received before the student begins to receive behind-the-wheel instruction.

(iv) ~~Classroom instruction shall~~ **Instruction must** include not less than 1 hour of information concerning the laws pertaining to bicycles, motorcycles, and other vulnerable roadway users, including pedestrians, and ~~shall~~ emphasize awareness of their operation on the streets, roads, and highways of this state. The laws of this state pertaining to awareness of bicycles, motorcycles, and other vulnerable roadway users, including pedestrians, ~~shall~~ **must** also be incorporated into other subject areas of the curriculum where appropriate. The requirements of this subparagraph apply to both the model curriculum and an approved curriculum described in section 35. The information required by this subparagraph may be incorporated into the segment 1 curriculum or the segment 2 classroom **or online** course described in section 39(b).

(v) ~~Classroom instruction shall~~ **Instruction must** include information concerning the proper actions to be taken by a driver during a traffic stop.

(vi) Behind-the-wheel instruction of 3 or more hours ~~shall~~ **must** be completed before classroom instruction terminates.

(b) Each student shall receive not less than 6 hours of behind-the-wheel instruction or substitute hours permitted under this subsection. Behind-the-wheel instruction ~~shall~~ **must** be scheduled to occur as follows:

(i) A student shall receive not more than 1 hour of behind-the-wheel instruction per day.

(ii) Not more than 1 student shall occupy the front seat of the



1 vehicle with the instructor.

2 (iii) A driver education motor vehicle ~~shall~~**must not** contain  
3 ~~not~~ more than 4 students during behind-the-wheel instruction.

4 (iv) Not later than 3 weeks after the last classroom **or online**  
5 instruction has been completed, a student shall complete any  
6 remaining required behind-the-wheel instruction.

7 (v) Except as otherwise provided in this section, a student  
8 may receive instruction while operating a motor vehicle at a  
9 multiple vehicle driving facility. One hour of instruction received  
10 at a multiple vehicle driving facility may substitute as credit for  
11 1 hour of behind-the-wheel experience. A maximum of 2 hours of  
12 behind-the-wheel experience can be substituted with instruction  
13 received at a multiple vehicle driving facility.

14 (c) A student shall receive 4 or more hours of behind-the-  
15 wheel observation time.

16 (2) A driver education provider classified for teen driver  
17 training shall not substitute behind-the-wheel instruction with  
18 multiple vehicle driving facility experience until the secretary of  
19 state gives the provider written approval for that substitution as  
20 provided in this act.

21 (3) A driver education provider classified for teen driver  
22 training shall not substitute behind-the-wheel driving experience  
23 with simulator device training.

24 (4) As used in this section:

25 (a) "Integrated" means classroom and behind-the-wheel  
26 instruction scheduled to include a mix of classroom and behind-the-  
27 wheel instruction throughout the duration of the driver education  
28 course, except as otherwise provided in this section.

29 (b) "Observation time" means the time a student in a driver



1 education course sits in the rear seat of a vehicle and observes  
2 another student in the front seat behind the wheel operating the  
3 controls of the vehicle, responding to driving situations, and with  
4 an instructor sitting in the front seat.

5 (5) This section shall be known and may be cited as the  
6 "Nathan Bower act".

7 Sec. 39. A segment 2 curriculum course provided under this act  
8 must meet all of the following requirements:

9 (a) Be offered only to a student who has done all of the  
10 following:

11 (i) Successfully completed a segment 1 curriculum driver  
12 education course.

13 (ii) Held a valid level 1 graduated driver license for not less  
14 than 3 continuous months.

15 (iii) Acquired 30 or more hours driving experience on a level 1  
16 graduated driver license that includes, except as otherwise  
17 provided in this subparagraph, not less than 2 hours of night  
18 driving with a licensed parent or legal guardian, or with the  
19 permission of a parent or legal guardian, with any licensed driver  
20 who is 21 years of age or older. The nighttime hours requirement  
21 does not apply to ~~a person~~ **an individual** who has been issued a  
22 graduated driver license that permits daylight driving only as  
23 provided in R 257.3 of the Michigan Administrative Code.

24 (b) Contain 6 or more hours of classroom **or online** instruction  
25 that is scheduled so the student receives not more than 2 hours of  
26 classroom **or online** instruction per day.

27 (c) Provide instruction explaining the right to make an  
28 anatomical gift in the event of death under part 101 of the public  
29 health code, 1978 PA 368, MCL 333.10101 to 333.10123. Instructional



materials to effectuate this subdivision must be developed in cooperation with the federally designated organ procurement organization for this state and must include information on how to join the state organ, tissue, and eye donor registry. The following apply to instruction provided under this subdivision:

(i) If instruction material is provided at no cost to the driver education provider in an electronic medium and the provider uses a compatible type of electronic medium in providing instruction under this section, the provider shall show the instruction material to its students.

(ii) If instruction material is provided at no cost to the driver education provider in the form of a brochure or other written material, the provider shall provide the material to its students.

Sec. 41. (1) Except as otherwise provided in this section, a segment 1 or segment 2 classroom ~~shall or~~ **online course must** not contain more than 36 students when classroom **or online** instruction is given.

(2) A segment 2 class size may exceed 36 students with the prior approval of the secretary of state. The secretary of state may approve a segment 2 class size to exceed 36 students for up to 60 minutes per day when justified by a special presentation.

(3) The number of students in a ~~class shall~~ **classroom must** not exceed the number of students allowed by the fire marshal.

Sec. 45. (1) ~~Before~~ **Except for providers of online instruction, before** holding a class, a driver education provider shall file a projected driver education course schedule report with and as prescribed by the secretary of state. The course schedule report ~~shall~~ **must** contain:





1 (a) The name of the school.

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

3 (c) The classroom location.

4 (d) The names of the instructors.

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

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

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

17 (a) The name of the school.

18 (b) The dates the class was held.

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

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

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

26 (4) A driver education provider classified for truck driver  
27 training shall file a report with and as prescribed by the  
28 secretary of state on April 15 and October 15 of each year. Each  
29 report ~~shall~~**must** contain:



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

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

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

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

12 (a) The name of the school.

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

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

16 (d) ~~A-Except for providers that only offer online instruction,~~  
17 **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 **or online** and  
27 behind-the-wheel instruction given the student, signed by the  
28 instructors that 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.

