

Act No. 108
Public Acts of 2006
Approved by the Governor
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**STATE OF MICHIGAN
93RD LEGISLATURE
REGULAR SESSION OF 2006**

Introduced by Senators Allen and Goschka

ENROLLED SENATE BILL No. 932

AN ACT to amend 1990 PA 187, entitled "An act to regulate the equipment, maintenance, operation, and use of school buses and pupil transportation vehicles; to prescribe the qualifications of school bus and pupil transportation vehicle drivers; to prescribe the powers and duties of certain state and local governmental agencies; to create an advisory committee and to prescribe its powers and duties; and to prescribe remedies and penalties," by amending sections 41, 43, 49, 51, 53, 55, 57, 61, 67, 69, 70, and 73 (MCL 257.1841, 257.1843, 257.1849, 257.1851, 257.1853, 257.1855, 257.1857, 257.1861, 257.1867, 257.1869, 257.1870, and 257.1873), section 49 as amended by 1994 PA 309, section 53 as amended by 2004 PA 131, section 55 as amended by 2004 PA 231, and section 57 as amended by 1996 PA 170.

The People of the State of Michigan enact:

Sec. 41. (1) A school bus may be rejected by the inspecting state official for use in transporting passengers if it does not meet the requirements of this act and the rules promulgated pursuant to this act.

(2) A vehicle that is determined by a state police official to be unsafe for further operation as a school bus shall not be used. An unsafe vehicle shall have affixed to its windshield, by the state police official, a red sticker which shall read as follows: "This vehicle may not be driven. Utilization of this vehicle is in violation of law. {reverse side} Do not remove without State Police authorization." The sticker shall remain until the condition is corrected. A school bus may be transported to a maintenance facility for repair if the school bus driver provides written proof of destination to a state police official upon request.

(3) A school bus that is considered to be in unsatisfactory condition, but that is safe for operation, shall have affixed to its windshield by the state police official a yellow sticker which shall read as follows: "This vehicle has equipment defects. {reverse side} Repairs and reinspection shall be obtained on or before _____. Do not remove without State Police authorization." If, upon reinspection, the vehicle defect has not been repaired, replaced, or corrected, the state police official shall remove the yellow sticker and affix a red sticker to the vehicle. Exceptions may be made when the necessary parts or equipment has been ordered but not received at the time of reinspection. Reinspection may take place within 60 days after the original inspection.

(4) A school bus that is considered to be in satisfactory condition after inspection by a state police official shall have a Michigan vehicle inspection passing sticker affixed to its windshield. The owner of a school bus shall remove or destroy the pass sticker before selling the school bus. The display of a pass sticker on a vehicle other than a school bus is a state civil infraction. All stickers are the property of the department of state police.

Sec. 43. The department of state police shall inspect a new school bus before a school accepts delivery. The department of state police shall determine whether the new vehicle is acceptable for delivery. The department of state

police may delegate the inspection of new school buses to publicly employed inspectors if the inspection complies with this subsection. A school shall not accept delivery of a new school bus unless the new vehicle has been inspected and passed by the department of state police under this subsection and title to the school bus has been obtained by the school in compliance with this act.

Sec. 49. (1) A person, whether or not licensed under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, who is 17 years of age or less shall not drive a school bus.

(2) A person shall not operate a school bus unless that person possesses a valid chauffeur's license, the appropriate vehicle group designation, a passenger vehicle indorsement, and a school bus indorsement as required under section 312e of the Michigan vehicle code, 1949 PA 300, MCL 257.312e. A person with a commercial driver license shall not operate a school bus, and a school, school bus owner, or lessee shall not allow a person with a commercial driver license to operate a school bus, unless the operation is in compliance with the drug and alcohol testing regulations under 49 CFR parts 40 and 382.

(3) A person shall not operate a school bus or a school administrator or a person or entity under contract with a school to provide pupil transportation services shall not knowingly permit a person to operate a school bus for the transportation of pupils to and from school or school-related events if that person has 7 or more penalty points for moving violations on his or her driving record under section 320a of the Michigan vehicle code, 1949 PA 300, MCL 257.320a, or if the person has a restricted license due to a conviction for a violation of section 625 of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(4) A commercial driver license skills test shall be administered by a state authorized commercial driver license examiner to a school bus driver who has had 1 or more of the following:

(a) Had his or her driver license or commercial driver license suspended, canceled, or denied under section 303 or 319 of the Michigan vehicle code, 1949 PA 300, MCL 257.303 and 257.319.

(b) Has been disqualified from operating a commercial motor vehicle.

(c) Has been convicted of any of the disqualifying offenses in 49 CFR 383.51(b) while operating a commercial motor vehicle or any offense in a noncommercial motor vehicle that would be a disqualifying condition under 49 CFR 383.51(b) if committed in a commercial motor vehicle.

(d) Has more than 1 conviction of any of the serious traffic violations defined in 49 CFR 383.5, while operating a commercial motor vehicle within the last 3 years.

(e) Has been convicted of any motor vehicle traffic violation that resulted in an accident while operating a commercial motor vehicle.

(f) Has been disqualified from operating a school bus under section 49(3).

(g) A driver who is required to take a test under this subsection shall not operate a school bus until the driver has passed the test. The commercial driver license skills test shall be conducted by an examiner not employed or under contract with the same agency or school of the driver being tested.

Sec. 51. (1) A driver of a school bus transporting passengers shall have in his or her possession a certificate stating that he or she has enrolled in the entry level school bus safety education course or has successfully completed a course in school bus safety education within the immediately preceding 2 years. The entry level course shall be available to the school bus driver within 90 days of enrollment. Enrollment certificates shall expire 10 days after the end of the entry level course in which the driver is enrolled. A second enrollment certificate shall not be issued. The entry level course and subsequent 6-hour continuing education course shall be approved by the superintendent of public instruction and shall be provided by an approved educational agency. The certificate of successful completion of each course shall be prescribed by the superintendent of public instruction and successfully completed by an instructor of the course. Failure to successfully complete the entry level course or to complete the 6-hour continuing education course within 2 years after certification of successful completion of a prior course shall be reported by the instructional agency to the department of education and to the school which employs the driver. A driver who fails to successfully complete the entry level course within 90 days after enrollment or to meet the continuing education requirements shall not be permitted to drive a school bus transporting passengers.

(2) The person or persons in charge of school bus operations at a school shall have, at a minimum, successfully completed the beginning school bus driver training program in his or her first year serving as the person or persons in charge of the operation. The person or persons in charge of school bus operations at a school shall successfully complete 6 hours of supervisory continuing education every 2 years after the successful completion of the beginning school bus driver training program. The continuing education course or courses shall be approved by the superintendent of public instruction and shall be provided by an approved educational agency.

(3) The cost of any course instruction and the base rate of compensation of the driver shall be reimbursed by the state on an equal basis for public and nonpublic schools as provided for by the department of education. Attendance by a person at an entry level course, a continuing education course, or an on-road driver skills test as required by this section or section 52 shall be considered compensable work time by the school and the person shall be paid at not less

than their base rate as determined by their individual contract of employment or their contractual rate as negotiated between the school and the person's collective bargaining representative.

(4) The legislature shall appropriate the funds necessary to implement this section.

Sec. 53. (1) A driver of a school bus shall, at a minimum, meet the following qualifications:

(a) The requirements of sections 49 and 51.

(b) For a school bus operating in intrastate transportation, the annual physical requirements for school bus drivers as authorized by the superintendent of public instruction. In meeting these physical requirements, the driver shall be examined by a licensed physician, physicians' assistant, or certified nurse practitioner and shall present the medical certificate to the employer.

(c) An employer who has reason to believe that a driver is not physically qualified to drive may require a physical examination for that driver in accordance with subdivision (b) at more frequent intervals. If an employer requests a physical examination under this subdivision, the employer shall indicate in writing what physical impairment covered under the requirements of subdivision (b) the driver is to be examined for and shall only be entitled to that portion of the examination results that pertain to that impairment. An examination requested by the employer under this subdivision shall be paid for by the employer.

(d) A copy of the medical certificate for a driver shall be carried by that driver while he or she is operating a school bus.

(2) A record of each employed school bus driver, including a copy of his or her medical certificate, department of education certification, driver license, certificate of road test application for employment, and any other information that relates to driver qualification or ability to safely drive a school bus, shall be maintained in the employer's administrative office.

(3) A school shall submit transportation safety related documents, such as driver qualification records, and vehicle maintenance records upon request for inspection and copying to motor carrier officers or vehicle safety inspectors of the department of state police.

(4) Upon receipt of an application from a person for the position of school bus driver, a school shall request from the department of state police a background check to determine whether the person was convicted of any of the following offenses:

(a) Criminal sexual conduct in any degree.

(b) Assault with intent to commit criminal sexual conduct.

(c) An attempt to commit criminal sexual conduct in any degree.

(d) Felonious assault on a child, child abuse, or cruelty, torture, or indecent exposure involving a child.

(e) A violation of section 145c of the Michigan penal code, 1931 PA 328, MCL 750.145c.

(5) A person shall not smoke on a school bus.

(6) A person shall not possess or consume alcoholic liquor or a controlled substance on a school bus.

(7) This section does not require new or additional third party reimbursement or worker's compensation benefits for services rendered.

Sec. 55. (1) A school bus driver shall actuate alternately flashing lights only when the school bus is stopped or stopping on a highway or private road for the purpose of receiving or discharging pupils in the manner provided in this act. A school bus driver shall not actuate the alternately flashing lights when operating on a public highway or private road and transporting passengers primarily other than school pupils.

(2) The driver of a school bus while operating upon the public highways or private roadways open to the public shall receive or discharge pupils from the bus in the following manner:

(a) If pupils are required to cross the roadway, the driver of a school bus equipped with only the alternately flashing overhead red lights in accordance with section 17 shall activate the alternately flashing overhead red lights not less than 200 feet before the stop, stop the school bus on the roadway or private road to provide for the safety of the pupils being boarded or discharged, and continue to activate the alternately flashing overhead red lights while receiving or discharging pupils. The bus shall stop in the extreme right-hand lane when boarding or discharging pupils. Before resuming motion, the driver shall deactivate these lights and allow congested traffic to disperse where practicable. The deactivation of these lights is the signal for stopped traffic to proceed.

(b) If the pupils are required to cross the roadway, the driver of a school bus equipped with red and amber alternately flashing overhead lights in accordance with section 19 shall activate the alternately flashing overhead amber lights not less than 200 feet before the stop, stop the bus on the roadway or private road to provide for the safety of the pupils being boarded or discharged, deactivate the alternately flashing overhead amber lights, and activate the alternately flashing overhead red lights while receiving or discharging pupils. The bus shall stop in the extreme right-hand lane for the purpose of boarding or discharging pupils. Before resuming motion, the driver shall deactivate

these lights and allow congested traffic to disperse where practicable. The deactivation of these lights is the signal for stopped traffic to proceed.

(c) If the pupils are not required to cross the roadway, the driver of a school bus equipped with only the alternately flashing overhead red lights in accordance with section 17 shall activate the alternately flashing overhead red lights not less than 200 feet before the stop, stop the bus as far off the roadway or private road as practicable to provide for the safety of the pupils being boarded or discharged, and continue to activate the alternately flashing overhead red lights while receiving or discharging pupils. Before resuming motion, the driver shall deactivate these lights and allow congested traffic to disperse where practicable. The deactivation of these lights is the signal for stopped traffic to proceed.

(d) If the pupils are not required to cross the roadway, the driver of a school bus equipped with red and amber alternately flashing overhead lights in accordance with section 19 shall activate the alternately flashing overhead amber lights not less than 200 feet before the stop, stop the bus as far off the roadway or private road as practicable to provide for the safety of the pupils being boarded or discharged, deactivate the alternately flashing overhead amber lights, and activate the alternately flashing overhead red lights while receiving or discharging pupils. Before resuming motion, the driver shall deactivate these lights and allow congested traffic to disperse where practicable. The deactivation of these lights is the signal for stopped traffic to proceed.

(e) If the pupils are not required to cross the roadway and where the road has adequate width for the school bus to be pulled to the far right of or off the roadway or private road allowing traffic to flow and to provide for the safety of pupils being boarded or discharged, the driver shall activate the hazard warning lights before the stop and continue to display the lights until the process of receiving or discharging passengers has been completed if the lawful speed limit is 45 miles per hour or less. Before resuming motion, the driver shall deactivate these lights. The driver of a school bus shall only use this procedure at stops where the school administrator or person or entity under contract with a school to provide pupil transportation services has approved its use. If this hazard warning light option is not used, the driver shall use the appropriate procedure in subdivision (a), (b), (c), or (d) as if pupils were not required to cross the roadway.

(f) Except as provided in subdivision (e), if the pupils are not required to cross the roadway and where the school bus may be pulled off the roadway or private road or where the road has adequate width for the school bus to be pulled off to the far right of the roadway or private road leaving the normal traffic flow unobstructed and to provide for the safety of pupils being boarded or discharged, the driver shall activate the hazard warning lights before the stop and continue to display the lights until the process of receiving or discharging passengers has been completed. Before resuming motion, the driver shall deactivate these lights. The driver of a school bus shall only use this procedure at stops where the school administrator or entity under contract with a school to provide pupil transportation services has approved its use. If this hazard warning light option is not used, the driver shall use the appropriate procedure in subdivision (a), (b), (c), or (d) as if pupils were not required to cross the roadway.

(g) The distance of not less than 200 feet required for light activation by this subsection shall be measured on the roadway or private road on which the stop is made for receiving or discharging pupils.

(3) Pupils crossing the roadway upon being discharged from a school bus shall cross in front of the stopped school bus. If a school district authorizes its school bus drivers to signal pupils to cross in front of the stopped school bus, the signal shall be uniform throughout the school district.

(4) The driver of a school bus shall not stop the bus for the purpose of receiving or discharging pupils in the following instances:

(a) Within 200 feet of a public or private roadway intersection unless the stop is approved by the school administrator or entity under contract with a school to provide pupil transportation services.

(b) Upon a limited access highway or freeway, or upon any other highway or roadway that has been divided into 2 roadways by leaving an intervening space, a physical barrier, or clearly divided sections so constructed as to impede vehicular traffic if the pupils are required to cross the roadway.

(c) Upon a roadway constructed or marked to permit 3 or more separate lanes of vehicular traffic in either direction if the pupils are required to cross the roadway.

(5) The driver of a school bus when using the alternately flashing overhead red lights shall not stop the bus on any highway or roadway for the purpose of receiving or discharging pupils under the following conditions:

(a) If the lawful speed limit is more than 35 miles per hour and the stopped bus is not clearly and continuously visible to approaching vehicles on that highway or roadway for at least 400 feet. When the distance from the stopped bus to the end of the highway or roadway is less than 400 feet, clear and continuous visibility must be available from the bus to the end of the highway or roadway.

(b) If the lawful speed limit is 35 miles per hour or less and the stopped bus is not clearly and continuously visible to approaching vehicles on that highway or roadway, for at least 200 feet. When the distance from the stopped bus to the end of the highway or roadway is less than 200 feet, clear and continuous visibility must be available from the bus to the end of the highway or roadway.

(c) Within 50 feet of an intersection if the intersection is controlled by a traffic control signal.

(6) A school may provide instruction on proper school bus etiquette which may include, but not be limited to, boarding and leaving the bus, evacuation of the bus in an emergency, and road crossing procedures and the correct hand signal in the district, if any. If a school uses school bus drivers for this instruction, the state board may reimburse the school for this training.

(7) For the purpose of this section, “required to cross the roadway” does not include crossing the roadway with the assistance of a traffic control signal, or with the assistance of a school crossing guard as defined in section 57b of the Michigan vehicle code, 1949 PA 300, MCL 257.57b, and applies only to the roadway on which the stop is being made.

(8) For purposes of this section, a school bus is clearly and continuously visible if approaching traffic is able to see the entire width of the front and back of a school bus from a horizontal line tangent with the top of the vehicle’s front and rear bumpers to a horizontal line tangent with the vehicle’s most forward and rearward roofline for the entire 400-foot sight line to the school bus with no obstruction of the area for the entire 400-foot sight line to the school bus in its stopped position.

Sec. 57. (1) Except as provided in subsections (2), (3), and (4), the driver of a school bus, before crossing a railroad track at grade, shall stop the vehicle within 50 feet but not less than 15 feet from the nearest rail, activate hazard warning lights, turn off all interior switches including fans, heaters, and radios, open the passenger door and driver-side window, and while stopped shall listen and look in both directions along the track for an approaching train and for signals indicating the approach of a train, and shall not proceed until the driver can do so safely. After stopping as required in this subsection, and upon proceeding when it is safe to do so, the driver of the vehicle shall cross only in a gear of the vehicle that does not require changing gears while traversing the crossing. The driver shall not shift gears while crossing the track or tracks.

(2) A stop need not be made at a railroad track grade crossing where a uniformed police officer or a traffic-control signal directs traffic to proceed.

(3) A stop need not be made at an abandoned railroad track grade crossing. As used in this subsection, “abandoned railroad track” means a railroad track which meets both of the following requirements:

(a) The track has been completely paved over or removed.

(b) All signs, signals, and other warning devices are removed.

(4) A stop shall not be made at a railroad track grade crossing on a freeway or limited access highway where the crossing is protected by a clearly visible signal, crossing gate, or barrier at a time when the signal, crossing gate, or barrier is not activated.

(5) A person who violates this section is responsible for a civil infraction and may be ordered to pay a civil fine of not more than \$100.00. A civil infraction under this subsection shall be processed in the same manner as a civil infraction under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

Sec. 61. A person operating a school bus shall not exceed the speed limits established for this type of vehicle under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923. A person who violates this section is subject to the penalty assessed for violation of section 627 of the Michigan vehicle code, 1949 PA 300, MCL 257.627.

Sec. 67. (1) In compliance with section 65(8), if a determination is made that economically feasible private transportation does not exist, a school may contract with a federal, state, or local unit of government, or a subcontractor of these units, for the use of a school bus to transport persons to or from an activity or function sponsored or operated by the unit of government. The governmental agency, or subcontractors of the governmental agency, shall pay the full costs incurred in the use of a school bus. A school bus may be contracted out only in compliance with the provisions of the school insurance policy and any joint stipulations of the school and the school bus drivers including, but not limited to, any collective bargaining agreements in force or if no collective bargaining agreement exists, agreement with the bargaining agent if it has been designated. A school shall not purchase additional school buses for the sole purpose of implementing this provision of law.

(2) The provision of school buses for the purpose provided in subsection (1) shall not be made if bus service for pupils of the school would be compromised.

Sec. 69. The cost of purchasing school buses and the rehabilitation of school buses to extend the period of usefulness shall conform with the rules promulgated by the department of education to provide state aid to eligible school districts for the purchase of school buses and the cost of rehabilitation of school buses to extend the period of usefulness.

Sec. 70. (1) The department of education shall establish an advisory committee to advise the department on issues and topics concerning school buses and school bus safety. The advisory committee shall consist of a member from each of the following departments or organizations:

(a) The department.

(b) The department of state police.

- (c) The state transportation department.
- (d) The department of state.
- (e) The Michigan association for pupil transportation.
- (f) The Michigan association of school business officials.
- (g) The Michigan association of school administrators.
- (h) The training agency association of Michigan.
- (i) A member representing nonpublic schools.
- (j) The Michigan education association.
- (k) The Michigan association of school boards.
- (l) Other organizations representing school bus drivers as the department considers appropriate.
- (m) Any other organizations or groups the department considers necessary.

(2) The advisory committee shall include members representing bus drivers and supervisors in rural areas, suburban areas, and cities in the Lower and Upper Peninsula.

(3) The advisory committee shall assist the department in the development of continuing education courses for school bus drivers and supervisors, any modifications to the introductory school bus safety course, the program to evaluate driving skills and on-road procedural performance skills of each school bus driver, and the minimum threshold for a required safety evaluation, which may include, but is not limited to, number of points on a driving record, operating impaired or under the influence of alcohol, at-fault accidents, or violations of safety procedures, for requiring drivers to take the on-road driver skills test.

(4) The advisory committee shall assist the department in updating physical examination requirements as necessary to comply with changes in federal and state law or rules.

Sec. 73. (1) A person who violates this act is responsible for a state civil infraction and shall be assessed a fine of not more than \$500.00, unless that violation is by this act or other law of this state declared to be a felony or a civil infraction.

(2) Motor carrier officers appointed by the director of the department of state police shall have all the powers conferred upon peace officers by the general laws of this state to enforce this act and the rules promulgated pursuant to this act.

Enacting section 1. This amendatory act does not take effect unless House Bill No. 5494 of the 93rd Legislature is enacted into law.

Enacting section 2. This amendatory act takes effect August 15, 2006.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Jay E. Randall

Clerk of the House of Representatives

Approved

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Governor