

AND SIX

FURTHER REGULATING DRIVER EDUCATION AND JUNIOR OPERATOR'S LICENSES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to regulate forthwith driver education and junior operator's licenses, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

The first paragraph of section 13D of chapter 71 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the second sentence and inserting in place thereof the following 2 sentences:- The content of driver education courses shall be established by the registrar of motor vehicles. No school committee and no high school, public or private, shall employ a person to conduct a driver education course unless the person is certified by the registrar as a driving instructor.

SECTION 2. The second paragraph of section 8 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out clause (c) and inserting in place thereof the following clause:-

(c) successfully completed a driver education and training course approved by the registrar and presented, in such form as the registrar may require, a certified statement from a parent or guardian, or designee 21 years of age or older if the applicant is an emancipated minor, that in addition to the requirements of the driver education and training course the applicant has completed not less than 40 hours of supervised driving, or 30 hours of supervised driving if the applicant has successfully completed a driver skills development program in a closed, off-road course, as licensed by the registrar pursuant to section 32G 1/2. The registrar shall determine the appropriate method to enforce compliance with the supervised driving requirements provided in this clause. The driver education and training course shall consist of not less than 30 hours of classroom instruction. The driver education and training course shall also consist of not less than 18 hours of on-road instruction conducted by a certified driver education instructor in a motor vehicle. A student shall have not less than 6 hours of observing another student driver and not less than 12 hours of operating a motor vehicle, but no student shall have more than 1 on-road session per day and no session shall be for more than 2 hours in length. The applicant's parent or guardian, or designee where applicable, shall participate in not less than 2 hours of instruction on the content of driver education curriculum. The registrar shall promulgate regulations to establish the appropriate method of providing the instruction and to enforce compliance. The regulations shall exempt a parent or guardian, or designee where appropriate, from receiving the instruction if he has participated within the preceding 5 years.

SECTION 3. Said section 8 of said chapter 90, as so appearing, is hereby further amended by striking out the third and fourth paragraphs and inserting in place thereof the following 2 paragraphs:-

No person holding a junior operator's license shall operate a motor vehicle during the first 6 months of licensure while a person under 18 years of age, other than the operator or an immediate

family member of the operator, is present in the vehicle unless also accompanied by another person, duly licensed by his state of residence, who is at least 21 years of age with at least 1 year of driving experience and who is occupying a seat beside the driver. A junior operator who violates this paragraph shall have his license suspended for 60 days for a first offense, for 180 days for a second offense and for 1 year for a third or subsequent offense. The suspension shall be imposed in addition to any other penalty, fine, suspension, revocation or requirement that may be imposed for such violation. A junior operator whose license is suspended for a second or subsequent violation of this paragraph shall not be eligible for license reinstatement until he also completes a program selected by the registrar that encourages attitudinal changes in young drivers who have committed a violation of the motor vehicle laws. The passenger restriction provided in this paragraph shall be tolled during any suspension or revocation of a person's junior operator's license. The registrar may exempt a junior operator from the passenger restriction if the junior operator is an emancipated minor.

No person holding a junior operator's license shall operate a motor vehicle between the hours of 12:30 a.m. and 5:00 a.m. unless accompanied by a parent or legal guardian. The holder of a junior operator's license shall have the license in his possession at all times when operating a motor vehicle. A junior operator who violates the time restriction provided in this paragraph shall be deemed to be operating a motor vehicle without being duly licensed under this chapter. In addition to the penalty provided in section 10, the license of a junior operator deemed to be operating a motor vehicle without being duly licensed shall be suspended for 60 days for a first offense, for 180 days for a second offense and for 1 year for a third or subsequent offense; provided, however, that for such operation between the hours of 12:30 a.m. and 1:00 a.m. and between 4:00 a.m. and 5:00 a.m., this paragraph shall be enforced by law enforcement agencies only when a junior operator has been lawfully stopped for a violation of the motor vehicles laws or for some other offense. A junior operator whose license is

suspended for a second or subsequent violation of this paragraph shall not be eligible for license reinstatement until he also completes a program selected by the registrar that encourages attitudinal changes in young drivers who have committed a violation of the motor vehicle laws. The registrar may exempt a junior operator from the time restriction if the junior operator is an emancipated minor.

SECTION 4. Said section 8 of said chapter 90, as so appearing, is hereby further amended by inserting after the sixth paragraph the following paragraph:-

The registrar shall send notice of a suspension of a junior operator's license for a violation of this chapter to the junior operator, and to the junior operator's parent or guardian if the junior operator is not an emancipated minor. The registrar shall include in the notice of suspension of a junior operator's license for a first offense violation under section 17 or section 17A, or under a special regulation under section 18, information on the penalties for a second offense violation of said section 17, 17A or 18.

SECTION 5. Said section 8 of said chapter 90 is hereby further amended by inserting after the word "licensee", in line 125, as so appearing, the following words:- without eyeglasses and.

SECTION 6. The first paragraph of section 8B of said chapter 90, as so appearing, is hereby amended by adding the following sentence:- The holder of a learner's permit who operates a motor vehicle without a duly licensed driver, who is 21 years of age or older, who has at least 1 year of driving experience and who is occupying a seat beside the driver shall be deemed to be operating a motor vehicle without being duly licensed and, in addition to any fine or penalty, shall have his learner's permit suspended for 60 days for a first offense, for 180 days for a second offense and for 1

year for a third or subsequent offense and shall be required to reapply for his learner's permit before he may be issued a license to operate a motor vehicle pursuant to section 8. Upon a second offense violation, a holder of a learner's permit shall also be required to complete a program selected by the registrar that encourages attitudinal changes in young drivers who have committed a violation of the motor vehicle laws.

SECTION 7. Said section 8B of said chapter 90, as so appearing, is hereby further amended by striking out the second paragraph and inserting in place thereof the following 2 paragraphs:-

If the applicant is under 18 years of age, the learner's permit shall not entitle him to operate a motor vehicle between the hours of 12 a.m. and 5 a.m., unless accompanied by a parent or legal guardian who holds a valid license and has at least 1 year of driving experience or, in the case of an emancipated minor, unless accompanied by a person who is 21 years of age or older who holds a valid license and has at least 1 year of driving experience, and who occupies the seat beside the driver. The holder of a learner's permit who violates this paragraph shall be deemed to be operating a motor vehicle without being duly licensed and, in addition to any fine or penalty, shall have his learner's permit suspended for 60 days for a first offense, for 180 days for a second offense and for 1 year for a third or subsequent offense and shall be required to reapply for his learner's permit before he may be issued a license to operate a motor vehicle pursuant to section 8. Upon a second offense violation, a holder of a learner's permit shall also be required to complete a program selected by the registrar that encourages attitudinal changes in young drivers who have committed a violation of the motor vehicle laws.

The registrar shall send notice of suspension of a junior operator's learner's permit for a violation of this chapter to the junior operator and to the junior operator's parent or guardian if the junior operator is not an emancipated minor.

SECTION 8. Section 17B of said chapter 90, as so appearing, is hereby amended by adding the following 2 paragraphs:-

Notwithstanding the penalties provided in the first paragraph, a holder of a junior operator's license or learner's permit who commits a violation of this section shall be punished by a fine of not less than \$250 for a first offense and the registrar shall suspend the junior operator's license or learner's permit for 1 year. A subsequent violation shall be punished by a fine of not less than \$500 and the registrar shall suspend the junior operator's license or learner's permit for 3 years. A holder of a junior operator's license or learner's permit who commits a violation under this section shall also be required to complete the state courts against road rage program sponsored by the trial court and the department of state police.

The registrar shall impose a \$500 reinstatement fee upon a junior operator who seeks to have his license or learner's permit reinstated following suspension for a first offense under this section and a \$1,000 reinstatement fee shall be imposed upon a junior operator who seeks to have his license or learner's permit reinstated following suspension for a subsequent violation under this section. A junior operator whose license is suspended under this section shall not be eligible for license reinstatement until he also completes a program selected by the registrar that encourages attitudinal changes in young drivers who have committed a violation of the motor vehicle laws and until he successfully completes a driving test as required by the registrar. A junior operator whose learner's permit is suspended under this section shall be required to complete a program selected by the registrar that encourages attitudinal

changes in young drivers who have committed a violation of the motor vehicle laws and shall be required to reapply for his learner's permit before he may be issued a license to operate a motor vehicle pursuant to section 8.

SECTION 9. Section 20 of said chapter 90, as so appearing, is hereby amended by striking out, in lines 10 and 11, the words "one hundred nor more than two hundred dollars" and inserting in place thereof the following words:- \$100 nor more than \$1000.

SECTION 10. Said section 20 of said chapter 90, as so appearing, is hereby further amended by inserting after the word "however", in line 79, the following words:- that a holder of a learner's permit who is convicted of a violation under section 17 or section 17A, or under a special regulation under section 18, shall, in addition to any other penalty, fine, suspension, revocation or requirement that may be imposed for such violation, have his learner's permit suspended for 90 days for a first offense and for 1 year for a subsequent offense and the person shall be required to reapply for his learner's permit before he may be issued a license to operate a motor vehicle pursuant to section 8; and provided further.

SECTION 11. Said section 20 of said chapter 90, as so appearing, is hereby further amended by striking out, in line 81, the words "or 17B".

SECTION 12. Said section 20 of said chapter 90, as so appearing, is hereby further amended by striking out, in lines 84 and 85, the words "a period of 180 days for a second offense and for a period of one year for a third or subsequent offense" and inserting in place thereof the following

words:- 90 days for a first offense and 1 year for a subsequent offense and the junior operator shall also be required to complete the state courts against road rage program sponsored by the trial court and the department of the state police. The registrar shall impose a \$500 reinstatement fee upon a junior operator who seeks to have his license reinstated following a suspension under this paragraph. A junior operator whose license is suspended pursuant to this paragraph shall not be eligible for license reinstatement until he also completes a program selected by the registrar that encourages attitudinal changes in young drivers who have committed a violation of the motor vehicle laws and until he successfully completes a driving test as required by the registrar.

SECTION 13. Paragraph (c) of subdivision (2) of section 24 of said chapter 90, as so appearing, is hereby amended by inserting after the second sentence the following sentence:-
Notwithstanding the forgoing, a person holding a junior operator's license who is convicted of operating a motor vehicle recklessly or negligently under paragraph (a) shall not be eligible for license reinstatement until 180 days after the date of his original conviction for a first offense or 1 year after the date of revocation following a subsequent conviction within a period of 3 years.

SECTION 14. The first paragraph of section 32G of said chapter 90, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- No person, and no public high school, vocational school, municipal or regional school committee or private high school teaching driver education to students enrolled in its academic school program or in a school under its authority or as a continuing education program, shall engage in the business of giving instruction for hire in the operation of motor vehicles without being licensed for that purpose

and designated by the registrar as a licensed private driver school, which shall include any form of instruction for compensation, for each class of driver's license recognized under law.

SECTION 15. Said section 32 of said chapter 90, as so appearing, is hereby further amended by inserting after the first paragraph the following paragraph:-

A public high school, vocational school or municipal or regional school committee that previously provided a driver education instruction program pursuant to section 13D of chapter 71 or that wishes to establish a driver education program pursuant to this section shall be licensed and only driving instructors certified by the registrar may provide driver education instruction. A public high school teacher or a vocational school teacher, so certified, shall be exempt from the initial certification fee and each renewal fee, as long as the teacher remains employed by the public high school, vocational school or municipal or regional school committee and provided that the instructor only provides driver education pursuant to his employment as a high school teacher. For the purposes of this section, a private high school that provides driver education instruction to its own students through the school's own academic teachers shall be subject to the same requirements as if the driver education instruction were provided by a public high school, vocational school or municipal or regional school committee, and a private academic teacher providing driver education instruction for a private high school shall be subject to the same requirements as a high school teacher providing driver education instruction on behalf of a public high school, vocational school or municipal or regional school committee, but a driver education instructor in a private high school shall not be exempt from the initial certification fee or any renewal fee for the certificate.

SECTION 16. Said section 32G of said chapter 90, as so appearing, is hereby further amended by inserting after the word “thereof”, in line 65, the following words:- or impose a civil administrative penalty.

SECTION 17. Said section 32G of said chapter 90, as so appearing, is hereby further amended by striking out the sixth paragraph and inserting in place thereof the following paragraph:-

Notwithstanding the renewal of a license, the registrar may revoke or suspend a license for causes and violations, as prescribed by this section. The registrar shall establish by regulation the terms and conditions under which a driver education program may operate. The registrar shall require each program to post a bond to ensure that enrolled students shall have their tuition reimbursed if the program is closed for a license suspension or revocation or any other reason prior to the students’ completion of a paid course of study. The registrar may, after an opportunity for a hearing, impose civil administrative penalties not to exceed \$5,000 for the failure of a program to comply with the law or regulations governing driver education programs.

SECTION 18. Said section 32G of said chapter 90, as so appearing, is hereby further amended by inserting after the word “licensee”, in line 107, the words:- or by a public high school, vocational school or municipal or regional school committee, or by a private high school.

SECTION 19. Said section 32G of said chapter 90, as so appearing, is hereby further amended by inserting after the eleventh paragraph the following 2 paragraphs:-

The registrar may deny the application of a person for a certificate as a driving instructor if, in his discretion, he determines that the applicant:

(a) has made a material false statement or concealed a material fact in connection with his application;

(b) is the former holder of driver school instructor certificate which was revoked or suspended by the registrar;

(c) has been convicted of a felony or of a crime involving violence, dishonesty, deceit, indecency or moral turpitude; or

(d) has failed to furnish satisfactory evidence of good character, reputation and fitness.

No public high school, vocational school, municipal or regional school committee or private high school shall continue to employ a driver school or a driving instructor in a driver education program, if the license of the driver education program or the certificate of the instructor has been suspended, revoked or not renewed by the registrar.

SECTION 20. The twelfth paragraph of said section 32G of said chapter 90, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following 2 sentences:- Except where a refusal to issue or renew the certificate of a driving instructor or a revocation or suspension of the certificate is based solely on a court conviction, a driving instructor or applicant shall be entitled to a hearing upon his written request. The hearing shall be held at such time and place as the registrar shall prescribe and due notice of the hearing shall be sent to the driving instructor or applicant at his last known address at least 10 days before the hearing date.

SECTION 21. Said section 32G of said chapter 90, as so appearing, is hereby further amended by striking out the fourteenth paragraph and inserting in place thereof the following paragraph:-

A licensee, a public high school, vocational school, municipal or regional school committee and private high school shall only use a vehicle for road instruction that is equipped with a functional safety belt for each occupant and an air bag for the driver. The student driver and each occupant of the vehicle shall wear the safety belt in a properly secured manner whenever the vehicle is in motion.

SECTION 22. Said section 32G of said chapter 90, as so appearing, is hereby further amended by adding the following paragraph:-

The registrar shall establish, by regulation, a driver education curriculum to be used by all persons and entities licensed under this section and shall have exclusive authority over the licensing and disciplining of those persons and entities required to be licensed under this section. The registrar shall establish and administer a standardized written test to students in licensed driver education programs. The test shall be administered at registry branch offices or as directed by the registrar after the completion of the classroom portion of the driver education course. The registrar may use the results of the tests to measure the degree of compliance with the curriculum in driver education instruction. The registrar may utilize the results of the tests to issue driver education certificates and to evaluate the quality of instruction received in the various licensed programs. The curriculum shall include a requirement that schools licensed under this section have the ability to communicate with the registry of motor vehicles by electronic mail to send and receive official records and other communications as the registrar may require. The registrar shall suspend, revoke or otherwise discipline a school or an instructor licensed or certified under this section who fails to comply with the rules and regulations promulgated by the registrar. The registrar shall inspect the programs for compliance and require licensed schools and certified instructors to provide such information,

documents and records as the registrar deems necessary to enforce the regulations. The registrar may make such rules and regulations as he deems necessary to ensure compliance with this section.

SECTION 23. Section 32G ½ of said chapter 90, inserted by section 36 of chapter 122 of the acts of 2006, is hereby amended by adding the following paragraph:-

A person who holds a valid learner's permit or a valid driver's license issued by the registrar may be enrolled in the programs. A licensed driver or qualified student driver of any age who is a resident of another state may be enrolled in the program if the person has a valid driver's license or learner's permit issued by another state. A program licensed under this section may accept, at its discretion, a driver who is a resident of a state that does not issue a learner's permit document if the program's administrator is satisfied that the student is legally qualified to operate as a student driver on the roadways of his state of residency. Instruction in a driver skills development program shall not be provided to a person under 18 years of age, whether the person holds a junior operator's license or learner's permit unless the person's parent or guardian has provided written consent to the program's administrator, except that an emancipated minor shall not be required to provide such written consent. No person shall be credited with the completion of a driver skills development program unless the program is licensed and a certificate of successful completion of the program has been submitted to the registrar. Motor vehicles used by such programs shall be equipped with safety belts for both the driver and instructor and no student may operate or ride in a vehicle unless the safety belt system is in place and each person is secured. The registrar shall provide for the periodic renewal of licenses issued under this section and for the revocation of those licenses and disciplining of licensees for good cause. The registrar shall assess the same fees for driver skills development programs and for instructors as established for licensed driving schools and instructors certified under section 32G. Licensees under

this section shall issue certificates of completion to successful students so that the students may be eligible for insurance discounts that may be authorized by the commissioner of insurance. The parent or guardian of the student, or the student himself if he is an emancipated minor, may provide the registrar with evidence that the student has completed the program and the registrar shall waive 10 hours of the required 40 hours of parent or adult-supervised driving pursuant to section 8. The registrar may suspend, revoke or otherwise discipline a program or instructor licensed under this section who fails to comply with the rules and regulations promulgated by the registrar. The registrar may inspect the programs for compliance and shall require licensed programs and instructors to provide such information, documents and records as the registrar deems necessary to enforce this section and the regulations promulgated hereunder.

SECTION 24. The registrar, in cooperation with the governor's highway safety bureau, shall develop and implement a public awareness campaign for student drivers and parents which shall include, but not be limited to, information on the requirements to obtain a learner's permit or a license to operate a motor vehicle under section 8 or section 8B of chapter 90 of the General Laws, information on the fines and punishments which may be imposed for violations of said chapter 90 and information on the major causes of accidents among new drivers, including sleep deprivation, illegal use of alcohol or other substances, excessive speed, weather and road conditions and inexperience.

SECTION 25. There shall be a special commission on the identification of vehicles operated by young drivers which shall study the potential benefits and drawbacks of a decal program to be operated by the registry and which is intended to identify vehicles driven by holders of junior operator's licenses and learner's permits.

The commission shall have 13 members, including the following: the registrar of motor vehicles or his designee, who shall serve as chairperson of the commission; the secretary of public safety or his designee; the secretary of transportation or his designee; the secretary of administration and finance or his designee; 3 members of the house of representatives, 1 of whom shall be appointed by the minority leader; 3 members of the senate, 1 of whom shall be appointed by the minority leader; and 3 members to be appointed by the governor, 1 of whom shall represent AAA southern New England, 1 of whom shall be a representative of a municipal police department and 1 of whom shall be an expert in the matter of the safety of young drivers.

The commission shall convene not later than September 1, 2007 and shall file its final report with the governor and the clerks of the senate and house of representatives not later than June 1, 2008. The report shall be limited to the commission's findings on potential cost and the impact on public safety of a decal identification program. If the commission finds that the decal identification program is feasible, it shall include recommendations regarding the transferability of the decal.

SECTION 26. There shall be a special commission to study the impact of drowsy driving on highway safety and the effects of sleep deprivation on drivers while operating on the highways, adjacent parking areas and other areas. The commission shall consist of the following: 3 members of the house of representatives, 1 of whom shall be appointed by the minority leader; 3 members of the senate, 1 of whom shall be appointed by the minority leader; the secretary of transportation or his designee; the registrar of motor vehicles or his designee; the commissioner of state police or his designee; the president of the Massachusetts District Attorneys Association or his designee; the president of the Massachusetts Association of Chiefs of Police or his designee; and 3 persons to be appointed by the governor, 1 of whom shall be a member of the medical or academic community with

expertise in sleep deprivation research, 1 of whom shall be a representative of the Massachusetts Trial Lawyers Association and 1 of whom shall represent victims who have been injured or killed by drowsy drivers. The commission shall study the impact of drowsy driving on highway safety with respect to determining scientific and legal standards or other evidence that could be used by police officers and the courts in determining the effects of sleep deprivation on drivers, the appropriate sanctions for operating while sleep-deprived and the training requirements to be followed by licensed driver education programs and police training programs with respect to recognition of the symptoms and effects of sleep deprivation on drivers. The commission shall submit its final report, including legislative and administrative recommendations, if any, to the clerk of the house of representatives who shall forward the same to the joint committee on health care financing, the joint committee on the judiciary, the joint committee on transportation and the house and senate committees on ways and means, the governor's highway safety bureau and the registrar of motor vehicles not later than December 1, 2007.

SECTION 27. Section 2 shall apply to persons who apply for junior operators' licenses on or after September 1, 2007. Sections 3 and 4, and sections 7 to 14, inclusive, shall apply to violations committed on or after March 31, 2007.