



HOUSE BILL No. 5022

September 12, 1995, Introduced by Rep. Jamian and referred to the Committee on Judiciary and Civil Rights.

A bill to prescribe the powers and duties of certain state and local agencies and departments; and to provide for the development and certification of emergency vehicle operation policies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as "the
2 model emergency vehicle operation policy act".

3 Sec. 2. As used in this act:

4 (a) "Council" means the Michigan law enforcement officers
5 training council created by section 3 of the Michigan law
6 enforcement officers training council act of 1965, Act No. 203 of
7 the Public Acts of 1965, being section 28.603 of the Michigan
8 Compiled Laws.

9 (b) "Department" means the department of management and
10 budget.

1 (c) "Emergency operation" means the operation of an
2 emergency vehicle in a manner described in or authorized by sec-
3 tion 603 or 632 of the Michigan vehicle code, Act No. 300 of the
4 Public Acts of 1949, being sections 257.603 and 257.632 of the
5 Michigan Compiled Laws.

6 (d) "Emergency vehicle" means:

7 (i) A motor vehicle owned or operated by a law enforcement
8 agency.

9 (ii) A motor vehicle owned or operated by a volunteer
10 employee or paid employee of an entity described in subparagraph
11 (i) while the motor vehicle is being used to provide emergency
12 services for that entity.

13 (e) "Governmental agency" means that term as defined in sec-
14 tion 1 of Act No. 170 of the Public Acts of 1964, being section
15 691.1401 of the Michigan Compiled Laws, and includes a combina-
16 tion of 1 or more governmental agencies.

17 (f) "Law enforcement agency" means a police agency of the
18 city, village, or township; a sheriff's department; the depart-
19 ment of state police, including, but not limited to, the motor
20 carrier division of the department of state police; the law
21 enforcement division of the department of natural resources; a
22 police agency of a county or regional park whose officers are
23 appointed pursuant to section 14 of Act No. 261 of the Public
24 Acts of 1965, being section 46.364 of the Michigan Compiled Laws;
25 or a public safety department of a community college or a 4-year
26 institution of higher education whose officers are granted the
27 powers and authority of peace and police officers pursuant to

1 section 1 of Act No. 120 of the Public Acts of 1990, being
2 section 390.1511 of the Michigan Compiled Laws, or section 5a of
3 Act No. 278 of the Public Acts of 1965, being section 390.715a of
4 the Michigan Compiled Laws.

5 (g) "Motor vehicle" means that term as defined in section 33
6 of Act No. 300 of the Public Acts of 1949, being section 257.33
7 of the Michigan Compiled Laws.

8 Sec. 3. A writing prepared, owned, used, in the possession
9 of, or retained by the council in the performance of an official
10 function is exempt from disclosure under the freedom of informa-
11 tion act, Act No. 442 of the Public Acts of 1976, being sections
12 15.231 to 15.246 of the Michigan Compiled Laws.

13 Sec. 4. Within 1 year after its first meeting, the council
14 shall develop a model emergency vehicle operation policy govern-
15 ing emergency operation of emergency vehicles by a governmental
16 agency. A model emergency vehicle operation policy developed
17 under this section shall be administered by the council and shall
18 do all of the following:

19 (a) Define the model policy's coverage.

20 (b) Recognize that emergency operation may involve the use
21 of potentially deadly force.

22 (c) Identify the circumstances warranting initiation, main-
23 tenance, or termination of an emergency operation, based on the
24 following criteria:

25 (i) The risks to the physical safety of employees and the
26 public, including innocent bystanders, of initiating or
27 maintaining an emergency operation.

1 (ii) For emergency operations involving the pursuit of a
2 person charged with or suspected of a violation of law, the
3 danger to society of not effecting immediate apprehension,
4 including consideration of the seriousness and immediacy of the
5 threat posed by a pursued person and the adequacy of alternative
6 apprehension methods.

7 (d) Identify procedures for a governmental agency's initia-
8 tion, maintenance, and termination of an emergency operation and
9 include all of the following:

10 (i) Authorization for an employee other than an employee
11 actively engaged in the emergency operation to prohibit, modify,
12 or terminate the emergency operation.

13 (ii) Specific rules governing emergency operations that
14 cross jurisdictional boundaries.

15 (iii) Specific rules governing permissible emergency opera-
16 tion methods and tactics.

17 (e) Establish guidelines requiring a governmental agency to
18 internally monitor the effects of its emergency operation
19 policy.

20 (f) Establish minimum requirements for emergency vehicle
21 operators to be certified by a governmental agency and provide
22 guidelines for training employees to comply with an adopted emer-
23 gency vehicle operation policy.

24 (g) Establish the criteria by which a governmental agency
25 may certify the operator of an emergency service vehicle as meet-
26 ing the minimum requirements for emergency vehicle operators.

1 (h) Establish that a governmental agency's certification of
2 an emergency vehicle operator is effective for not more than 2
3 years.

4 (i) Include any other provision the council considers neces-
5 sary for a model emergency vehicle operation policy.

6 Sec. 5. The council shall provide a copy of the model emer-
7 gency vehicle operation policy developed under section 4 to all
8 of the following:

9 (a) Each house of the legislature.

10 (b) Each law enforcement agency in this state.

11 Sec. 6. (1) A governmental agency may adopt all or a por-
12 tion of the model emergency vehicle operation policy developed
13 under section 4, or may develop and adopt its own emergency vehi-
14 cle operation policy, and apply to the council for certification
15 of that adopted policy or policy portion.

16 (2) Upon receipt and review of a certification application
17 described in subsection (1), the council shall do all of the
18 following:

19 (a) Certify a policy developed under section 4 that is
20 adopted in total and meets the standards established by the coun-
21 cil for emergency operations.

22 (b) If the policy developed under section 4 is adopted in
23 part, provide certification of that part only after determining
24 both of the following:

25 (i) That the governmental agency does not engage in an emer-
26 gency operation that exceeds the scope of the adopted part
27 developed under section 4.

1 (ii) That the adopted part meets the standards established
2 by the council for the type of emergency operations in which the
3 governmental agency engages.

4 (c) If the governmental agency develops and adopts its own
5 emergency vehicle operation policy, provide certification of that
6 policy only after determining that the policy complies with sec-
7 tion 4 and meets the standards established by the council for
8 emergency operations.

9 (d) Deny certification of an adopted policy or policy part
10 that does not comply with section 4 or meet the standards estab-
11 lished by the council for emergency operations, and provide the
12 applicant with written notice specifying the basis of the
13 denial.

14 (3) If the council does not comply with subsection (2)
15 within 180 days after receiving an application for certification,
16 the emergency vehicle operation policy or policy portion that is
17 the subject of the application is presumed certified under this
18 act. The presumption created under this subsection may be
19 rebutted by evidence establishing that the policy or policy por-
20 tion does not comply with section 4 or meet the standards estab-
21 lished by the council for emergency operations.

22 (4) If a governmental agency discontinues all or a portion
23 of an emergency vehicle operation policy certified under this
24 act, the governmental agency shall immediately inform the council
25 in writing of the date on which the certified emergency vehicle
26 operation policy was discontinued.

1 Sec. 7. (1) The council may promulgate rules to implement
2 this act. Rules promulgated under this section shall be
3 promulgated pursuant to the administrative procedures act of
4 1969, Act No. 306 of the Public Acts of 1969, being
5 sections 24.201 to 24.328 of the Michigan Compiled Laws.

6 (2) The council shall meet at least once annually to review
7 the emergency vehicle operation policy developed under section 4
8 and the rules promulgated under this act.

9 Sec. 8. This act shall not take effect unless all of the
10 following bills of the 88th Legislature are enacted into law:

11 (a) Senate Bill No. _____ or House Bill No. 5023
12 (request no. 02189'95 a).

13 (b) Senate Bill No. _____ or House Bill No. 5026 (request
14 no. 02189'95 d).