

BILL ANALYSIS

Senate Research Center

S.B. 1171
By: Harris
Transportation & Homeland Security
4/16/2007
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Prior to the 79th Regular Session, the Sunset Advisory Commission (commission) recommended transferring the driver's education and safety programs from the Texas Education Agency (TEA) to the Department of Licensing and Regulation (TDLR), as TEA is stretched thin. During that session, the bill enacting the recommendations passed the senate but failed to pass the house.

As proposed, S.B. 1171 transfers the regulation of drivers' education and safety programs from TEA to TDLR as recommended by the commission.

RULEMAKING AUTHORITY

Rulemaking authority is expressly transferred from the Texas Education Agency to the Texas Department of Licensing and Regulation throughout this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1001.001, Education Code, by amending Subdivisions (2), (3), (4), and (5), and adding Subdivision (13-a), as follows:

- (2) Redefines "approved driving safety course" to mean a course approved by the Texas Department of Licensing and Regulation (TDLR).
- (3) Defines "commission," referring to the Texas Commission of Licensing and Regulation (commission), rather than defining "commissioner."
- (4) Makes a conforming change to the definition of "course provider."
- (5) Redefines "department" to refer to the Texas Department of Licensing and Regulation (TDLR).
- (13-a) Defines "executive director" to be the executive director of the department (director).

SECTION 2. Amends Section 1001.002(c), Education Code, to make a conforming change.

SECTION 3. Amends Sections 1001.003 and 1001.004, Education Code, to make conforming changes.

SECTION 4. Amends Sections 1001.051 through 1001.055, Education Code, as follows:

Sec. 1001.051. JURISDICTION OVER SCHOOLS. Provides that TDLR, rather than the Texas Education Agency (TEA), has jurisdiction over and control of driver training schools regulated under this chapter (Driver and Traffic Safety Education).

Sec. 1001.052. RULES. Requires the commission, rather than TEA, to adopt rules governing driving safety courses, including rules ensuring the integrity of approved drivers safety courses and enhancing program quality.

Sec. 1001.053. New heading: POWERS AND DUTIES OF DEPARTMENT. Transfers the powers and duties previously required of the commissioner of education

(commissioner) to TDLR. Deletes existing text requiring the commissioner to visit a driver training school to ensure compliance with this chapter. Deletes Subsection (b), which authorized the commissioner to designate a person knowledgeable in the administration of regulating driver training schools to administer this chapter. Deletes Subsection (c), which authorized the commissioner to adopt rules ensuring the integrity of approved drivers safety courses and enhancing program quality.

Sec. 1001.054. New heading: RULES RESTRICTING ADVERTISING. Deletes Subsection (a), which prohibited the commissioner from adopting a rule restricting the advertising or competitive bidding by a driver training school. Deletes Subsection (b), which prohibited the commissioner from including in the rules prohibiting deceptive practices rules that restricted certain advertisements set forth in this subsection. Makes a conforming change.

Sec. 1001.055. DRIVER EDUCATION CERTIFICATES. Makes conforming changes.

SECTION 5. Amends Sections 1001.056(b), (c), (e), and (g), Education Code, to make conforming and nonsubstantive changes.

SECTION 6. Amends Section 1001.057, Education Code, to make a conforming change.

SECTION 7. Amends Subchapter B, Chapter 1001, Education Code, by adding Section 1001.058, as follows:

Sec. 1001.058. DESIGNATION OF PERSON TO ADMINISTER CHAPTER. Authorizes the director to designate a person knowledgeable in the administration of regulating driver training schools to administer this chapter for TDLR.

SECTION 8. Amends Sections 1001.101 and 1001.102, Education Code, to make conforming changes.

SECTION 9. Amends Sections 1001.103(b), (d), and (e), Education Code, as follows:

(b) Makes conforming changes.

(d) Requires TDLR to enter into a memorandum of understanding with the Department of State Health Services (DSHS), rather than the now-defunct Texas Commission on Alcohol and Drug Abuse. Makes conforming changes.

(e) Authorizes the commission, rather than the commissioner, to establish fees in connection with programs under this section. Makes conforming and nonsubstantive changes.

SECTION 10. Amends Sections 1001.104 and 1001.105, Education Code, to require TDLR to enter into a memorandum of understanding with the Department of Assistive and Rehabilitative Services (DARS), rather than the Texas Rehabilitation Commission. Makes conforming changes.

SECTION 11. Amends Sections 1001.106(b), (c), and (d), Education Code, as follows:

(b) Makes a conforming change.

(c) Provides that Subchapter F (Administrative Penalty), Chapter 51, Occupations Code, and Section 51.353 (Administrative Sanctions), Occupations Code, in addition to Section 1001.156 of this code, do not apply to a violation of or rule adopted under this section. Makes conforming deletions.

(d) Provides that Section 51.352 (Injunctive Relief; Civil Penalty), Occupations Code, in addition to other statutes set forth in this subsection, does not apply to a violation of this section. Makes conforming deletions.

SECTION 12. Amends Section 1001.107, Education Code, to make conforming changes.

SECTION 13. Amends Sections 1001.108(a) and (c), Education Code, to make conforming changes.

SECTION 14. Amends Section 1001.151, Education Code, as follows:

Sec. 1001.151. APPLICATION, LICENSE, AND REGISTRATION FEES. (a) Makes a conforming change.

(b) Makes no changes to this subsection.

(c) Makes no changes to this subsection.

(d) Makes a conforming change.

(e) Makes conforming changes.

(f) Makes no changes to this subsection.

(g) Makes no changes to this subsection.

(h) Makes no changes to this subsection.

(i) Makes no changes to this subsection.

(j) Requires each application for approval to teach an approved driving safety course by an alternative delivery method, in addition to an application that has not been reviewed by TDLR, to be accompanied by a nonrefundable \$9,000 fee.

(k) Makes a conforming change.

(l) Makes a conforming change.

SECTION 15. Amends Section 1001.153, Education Code, to make conforming changes.

SECTION 16. Amends Section 1001.202(b), Education Code, to make a conforming change.

SECTION 17. Amends Sections 1001.203 through 1001.206, Education Code, as follows:

Sec. 1001.203. APPLICATION. Makes conforming changes.

Sec. 1001.204. REQUIREMENTS FOR DRIVER EDUCATION SCHOOL LICENSE. Requires TDLR to approve an application for a driver education school license if TDLR determines that the school provides each student with TDLR's Internet website address, in addition to other contact information, before enrollment. Makes conforming changes.

Sec. 1001.205. REQUIREMENTS FOR DRIVER SAFETY SCHOOL LICENSE. Makes conforming and nonsubstantive changes.

Sec. 1001.206. REQUIREMENTS FOR A COURSE PROVIDER LICENSE. Requires TDLR to approve an application for a course provider license if TDLR determines that the course provider provides each student with TDLR's Internet website address, in addition to other contact information, before enrollment, and determines that the course provider issues and sends by United States mail or commercial delivery a uniform certificate of course completion to a person successfully completing the course not later than the 15th working day after completion. Makes conforming changes.

SECTION 18. Amends Sections 1001.207(a) and (b), Education Code, to make conforming changes.

SECTION 19. Amends Section 1001.209(b), Education Code, to make a conforming change.

SECTION 20. Amends Section 1001.210, Education Code, to make conforming changes.

SECTION 21. Amends Sections 1001.211(a) and (b), Education Code, to make conforming changes.

SECTION 22. Amends Section 1001.212, Education Code, to make a conforming change.

SECTION 23. Amends Sections 1001.213(c) and (d), Education Code, as follows:

(c) Authorizes the commission to establish fees for a new driver education school or course provider license that are different from the amounts established under Section 1001.151 (Application, License, and Registration Fees) if certain conditions set forth in this subsection are met. Deletes the existing fee requirement of \$500, plus \$200 for each branch location of a new school or provider.

(d) Makes a conforming change.

SECTION 24. Amends Section 1001.214, Education Code, to make a conforming change.

SECTION 25. Amends Sections 1001.251, 1001.252, and 1001.253, Education Code, as follows:

Sec. 1001.251. LICENSE REQUIRED FOR INSTRUCTOR. Makes conforming changes

Sec. 1001.252. SIGNATURE AND SEAL ON LICENSE REQUIRED. Makes a conforming change.

Sec. 1001.253. DRIVER EDUCATION INSTRUCTOR TRAINING. (a) Makes a conforming change.

(b) Makes a conforming change.

(c) Prohibits a person holding a driver education instruction license authorizing behind-the-wheel training from being approved to provide instruction in the classroom phase of driver education, rather than from assisting a classroom instructor, unless the person has successfully completed the three additional hours or training required of a classroom instructor. Makes a conforming change.

(d) Makes a conforming change.

(e) Authorizes the supervising instructor of an instructor class to authorize driver education teachers and teaching assistants to provide training in the areas appropriate for their level of certification or licensure. Makes a conforming change.

(f) Makes a conforming change.

SECTION 26. Amends Section 1001.254(a), Education Code, to make a conforming change.

SECTION 27. Amends Sections 1001.255(a), (b), and (c), Education Code, to make conforming changes.

SECTION 28. Amends Section 1001.256, Education Code, to make a conforming change.

SECTION 29. Amends the heading of Subchapter G, Chapter 1001, Education Code, to read as follows:

SUBCHAPTER G. LICENSE EXPIRATION

SECTION 30. Amends Section 1001.351(b), Education Code, to make a conforming change.

SECTION 31. Amends Sections 1001.352, Education Code, as follows:

Sec. 1001.352. FEES FOR DRIVING SAFETY COURSE. (a) Creates this subsection from existing text. Raises a required fee that is to be retained by the course provider solely for course materials and supervising and administering the course as required by this chapter and commission rules from \$3 to \$4.

(b) Requires TDLR to periodically audit course providers to verify compliance with this subsection. Requires a provider to make its books and records available to TDLR as needed for that purpose and provides that failure to do so may be enforced pursuant to Subchapter J (Prohibited Practices and Disciplinary Actions).

SECTION 32. Amends Sections 1001.354(a) and (b), Education Code, to make conforming changes.

SECTION 33. Amends Sections 1001.404(b) and (c), Education Code, to make conforming changes.

SECTION 34. Amends Sections 1001.451 and 1001.452, Education Code, as follows:

Sec. 1001.451. PROHIBITED PRACTICES. Makes conforming changes.

Sec. 1001.452. COURSE OF INSTRUCTION. Prohibits a driver education school from enrolling a student before TDLR inspects and approves the school's facilities and equipment. Deletes existing text prohibiting a school from maintaining, advertising or soliciting for a course of instruction in this state and from enrolling students before the 30th day after the date the school applies for a license. Makes conforming and nonsubstantive changes.

SECTION 35. Amends Sections 1001.453(d) and (e), Education Code, as follows:

(d) Provides that Subchapter F (Administrative Penalty), Chapter 51, Occupations Code, and Section 51.353 (Administrative Sanctions), Occupations Code, in addition to Section 1001.456(a) of this code do not apply to a violation of or rule adopted under this section. Makes conforming deletions.

(e) Provides that Section 51.352 (Injunctive Relief; Civil Penalty), Occupations Code, in addition to other statutes set forth in this subsection, does not apply to a violation of this section. Makes conforming deletions.

SECTION 36. Amends Section 1001.456, Education Code, to make conforming and nonsubstantive changes.

SECTION 37. Amends the heading to Subchapter L, Chapter 1001, Education Code, to read as follows:

SUBCHAPTER L. PENALTIES

SECTION 38. Amends Section 1001.555(b), Education Code, to make a conforming change.

SECTION 39. Amends Article 45.0511(b), Code of Criminal Procedure, to make a conforming change.

SECTION 40. Amends Section 51.308, Education Code, to make a conforming change.

SECTION 41. Amends Section 521.1655(a), Transportation Code, to authorize a driver education school licensed under Chapter 1001, Education Code, rather than the Texas Driver and

Traffic Safety Education Act (Article 4413(29c), V.T.C.S., now codified as Chapter 1001, Education Code), to administer to a student of the school the vision, highway sign, and traffic law parts of the examination required by Section 521.161 (Examination of License Applicants).

SECTION 42. Amends Section 521.203, Transportation Code, to make a conforming change.

SECTION 43. Amends Section 521.204, Transportation Code, to make a conforming changes.

SECTION 44. Amends Sections 521.205(b) and (d), Transportation Code, to make conforming changes.

SECTION 45. Amends Section 521.222(a) and (c), Transportation Code, make conforming changes.

SECTION 46. (a) Repealer: Subdivision (1), Section 1001.001 (definition of “agency”); Section 1001.152 (Duty to Review and Recommend Adjustments in Fee Amounts); Section 1001.303 (Renewal of School or Course Provider License); Section 1001.304 (Renewal of Instructor License); Section 1001.454 (Revocation of or Placement of Conditions on School or Course Provider License); Section 1001.455 (Denial, Suspension, or Revocation of Instructor License); Section 1001.457 (Term of License Suspension); Section 1001.458 (Surrender of License); Section 1001.459 (Appeal and Request for Hearing); Section 1001.460 (Hearing); Section 1001.461 (Judicial Review); Section 1001.551 (Injunction in General); Section 1001.552 (Injunction Against School); and Section 1001.553 (Administrative Penalty), Education Code.

(b) Repealer: Subchapter B (Creation and Administration of Transit Department), Chapter 453, Transportation Code.

SECTION 47. (a) Requires TEA and TDLR to develop a transition plan for transferring the functions performed by TEA under Chapter 1001, Education Code, to TDLR as soon as practicable after the effective date of this Act. Requires the plan to include a timetable with specific steps and deadlines needed to complete the transfer.

(b) Sets forth the functions and activities; rules or forms; references in law or administrative rule; complaints, investigations, or other proceedings; employee positions; money, contracts, leases, property, and obligations; property in TEA’s custody; and unexpended and unobligated balance of any money appropriated that are to be transferred to TDLR on January 1, 2008, in accordance with the transition plan under Subsection (a).

(c) Authorizes TEA to agree with TDLR to transfer any property of TEA to the department in order to implement the transfer required by this Act before January 1, 2008.

(d) Requires TEA to continue to perform the functions and activities under Chapter 1001, Education Code, as if it had not been amended by this Act, in the period beginning with the effective date of this Act and ending January 1, 2008. Continues the former law in effect for that purpose.

SECTION 48. Makes application of this Act prospective to January 1, 2008, regarding licenses.

SECTION 49. Effective date: upon passage or November 1, 2007.