

## **BILL ANALYSIS**

Senate Research Center  
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C.S.S.B. 1114  
By: Wentworth  
Transportation & Homeland Security  
4/28/2011  
Committee Report (Substituted)

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

C.S.S.B. 1114 amends current law relating to the regulation of driver training schools and instructors.

### **RULEMAKING AUTHORITY**

Rulemaking authority previously granted to the Texas Education Agency is modified in SECTION 3 (Section 1001.055, Education Code) of this bill.

Rulemaking authority is expressly granted to the commissioner of education in SECTION 4 (Sections 1001.2511 and 1001.2512, Education Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 1001.001, Education Code, by adding Subdivision (14-a) to define "national criminal history record information."

SECTION 2. Amends Subchapter A, Chapter 1001, Education Code, by adding Section 1001.006, as follows:

Sec. 1001.006. REVIEW OF AGENCY JURISDICTION AND CONTROL OVER DRIVER EDUCATION AND DRIVING SAFETY SCHOOLS. Requires the Sunset Advisory Commission (commission), during the commission's review of the Texas Education Agency (TEA) under Section 7.0004 (Sunset Provision) concerning abolition of TEA on September 1, 2013, to review TEA's jurisdiction and control over driver education and driving safety schools and include in its report to the legislature and governor under Section 325.010 (Commission Report), Government Code, a recommendation as to whether another state agency should have jurisdiction and control over those schools. Provides that this section expires January 1, 2014.

SECTION 3. Amends Section 1001.055, Education Code, as follows:

Sec. 1001.055. New heading: DRIVER EDUCATION CERTIFICATES AND CERTIFICATE NUMBERS. (a) Requires TEA to provide, rather than to print and supply, to each licensed or exempt driver education school driver education certificates or certificate numbers to enable the school to print and issue TEA-approved driver education certificates with the certificate numbers to be used for certifying completion of an approved driver education course to satisfy the requirements of Sections 521.204(a)(2) (relating to requiring a minor to submit a driver education certificate) and 521.1601 (Driver Education Required), Transportation Code. Deletes existing text requiring that the certificates be numbered serially.

(a-1) Requires that a certificate printed and issued by a driver education school:

(1) be in a form required by TEA; and

(2) include an identifying certificate number provided by TEA that may be used to verify the authenticity of the certificate with the driver education school.

(a-2) Requires a driver education school that purchases driver education certificate numbers to provide for the printing and issuance of original and duplicate certificates in a manner that, to the greatest extent possible, prevents the unauthorized production or the misuse of the certificates. Requires the driver education school to electronically submit to TEA in the manner established by TEA data identified by TEA relating to issuance of TEA-approved driver education certificates with the certificate numbers.

(a-3) Requires that certificate numbers be in serial order so that the number on each issued certificate is unique.

(b) Requires TEA by rule to provide for the design and distribution of the certificates and certificate numbers in a manner that, to the greatest extent possible, prevents the unauthorized reproduction or misuse of the certificates or certificate numbers.

(c) Authorizes TEA to charge a fee of not more than \$4 for each certificate or certificate number.

SECTION 4. Amends Subchapter F, Chapter 1001, Education Code, by adding Sections 1001.2511, 1001.2512, 1001.2513, and 1001.2514, as follows:

Sec. 1001.2511. NATIONAL CRIMINAL HISTORY RECORD INFORMATION REVIEW. (a) Provides that this section applies to a person who is an applicant for or holder of:

(1) a driver education instructor license; or

(2) a license issued under Section 1001.255 (Regulation of Certain Driver Education Instructors).

(b) Requires TEA to review the national criminal history record information (record information) of a person who holds a license described by Subsection (a) and who has not previously submitted fingerprints to the Department of Public Safety or been subject to a record information review.

(c) Requires TEA to place a license described by Subsection (a) on inactive status for a license holder's failure to comply with a deadline for submitting information required under this section.

(d) Authorizes TEA to allow a person who is applying for a license described by Subsection (a) and who currently resides in another state to submit the person's fingerprints and other required information in a manner that does not impose an undue hardship on the person.

(e) Authorizes the commissioner of education (commissioner) to adopt rules to administer this section, including rules establishing:

(1) deadlines for a person to submit fingerprints and photographs in compliance with this section;

(2) sanctions for a person's failure to comply with the requirements of this section, including suspension or revocation of or refusal to issue a license described by Subsection (a); and

(3) notification to a driver education school of relevant information obtained by TEA under this section.

(f) Provides that TEA is not civilly or criminally liable for an action taken in compliance with this section.

(g) Requires the commissioner by rule to establish a schedule for obtaining and reviewing the information a person must provide TEA under this section. Requires TEA, not later than September 1, 2013, to obtain all record information on all holders of licenses described by Subsection (a). Provides that this subsection expires October 1, 2013.

Sec. 1001.2512. FEES FOR CRIMINAL HISTORY RECORD INFORMATION REVIEW. Requires the commissioner by rule to require a person submitting to a record information review under Section 1001.2511 or the driver education school employing the person, as determined by TEA, to pay a fee for the review in an amount not to exceed the amount of any fee imposed on an application for certification under Subchapter B (Certification of Educators), Chapter 21 (Educators), for a record information review under Section 22.0837 (Fee for National Criminal History Record Information).

Sec. 1001.2513. CONFIDENTIALITY OF INFORMATION. Provides that information collected about a person to comply with Section 1001.2511, including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records:

(1) may not be released except:

(A) to provide relevant information to driver education schools or otherwise comply with Section 1001.2511;

(B) by court order; or

(C) with the consent of the person who is the subject of the information;

(2) is not subject to disclosure as provided by Chapter 552 (Public Information), Government Code; and

(3) shall be destroyed by the requestor or any subsequent holder of the information not later than the first anniversary of the date the information is received.

Sec. 1001.2514. LICENSE HOLDERS AND APPLICANTS CONVICTED OF CERTAIN OFFENSES. (a) Requires a driver education school to discharge or refuse to hire as an instructor an employee or applicant for employment if TEA obtains information through a record information review that:

(1) the employee or applicant has been convicted of:

(A) a felony offense under Title 5 (Offenses Against the Person), Penal Code;

(B) an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure; or

(C) an offense under the laws of another state or federal law that is equivalent to an offense under Paragraph (A) or (B); and

(2) at the time the offense occurred, the victim of the offense described by Subdivision (1) was under 18 years of age or was enrolled in a public school.

(b) Requires TEA to suspend or revoke a license described by Section 1001.2511(a) held by a person under this subchapter and to refuse to issue or renew a license described by Section 1001.2511(a) to a person under this subchapter if the person has been convicted of an offense described by Subsection (a) of this section.

(c) Provides that Subsections (a) and (b) do not apply to an offense under Title 5, Penal Code, if:

(1) more than 30 years have elapsed since the offense was committed; and

(2) the person convicted has satisfied all terms of the court order entered on conviction.

(d) Authorizes a driver education school to discharge an employee who serves as an instructor if the school obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to the school or TEA. Provides that an employee discharged under this subsection is considered to have been discharged for misconduct for purposes of Section 207.044 (Discharge for Misconduct), Labor Code.

SECTION 5. Requires TEA, as soon as practicable after the effective date of this Act, to begin obtaining national criminal history record information for persons subject to a national criminal record review under Section 1001.2511, Education Code, as added by this Act.

SECTION 6. Effective date: September 1, 2011.