

By: Watson

S.B. No. 1272

A BILL TO BE ENTITLED

AN ACT

relating to the transfer of the motorcycle and off-highway vehicle operator training programs to the Texas Department of Licensing and Regulation; authorizing fees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 662, Transportation Code, is amended by adding Section 662.0005 to read as follows:

Sec. 662.0005. DEFINITIONS. In this chapter:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(2) "Department" means the Texas Department of Licensing and Regulation.

(3) "Instructor" means an individual who holds a license issued under this chapter that entitles the individual to provide instruction on motorcycle operation and safety as an employee of a motorcycle school.

(4) "Motorcycle school" means a person who holds a license issued under this chapter that entitles the person to offer and conduct courses on motorcycle operation and safety for consideration as part of the motorcycle operator training and safety program.

SECTION 2. Section 662.001, Transportation Code, is amended to read as follows:

Sec. 662.001. ADMINISTRATION OF PROGRAM [~~DESIGNATED STATE~~

1 AGENCY]. The department [~~governor~~] shall [~~designate a state agency~~
2 ~~to establish and~~] administer a motorcycle operator training and
3 safety program and enforce the laws governing the program.

4 SECTION 3. The heading to Section 662.002, Transportation
5 Code, is amended to read as follows:

6 Sec. 662.002. PURPOSE OF PROGRAM [~~, CURRICULUM~~].

7 SECTION 4. Section 662.003, Transportation Code, is amended
8 to read as follows:

9 Sec. 662.003. PROGRAM DIRECTOR. The department [~~designated~~
10 ~~state agency~~] shall employ as program director a person who is
11 certified as a chief instructor by the Motorcycle Safety
12 Foundation.

13 SECTION 5. Chapter 662, Transportation Code, is amended by
14 adding Sections 662.0033, 662.0035, and 662.0037 to read as
15 follows:

16 Sec. 662.0033. MINIMUM CURRICULUM STANDARDS. (a) The
17 commission by rule shall establish minimum curriculum standards for
18 courses provided under the motorcycle operator training and safety
19 program.

20 (b) The department shall approve all courses that meet the
21 curriculum standards established under Subsection (a).

22 (c) In establishing the minimum curriculum standards for
23 entry-level courses, the commission shall consider the standards
24 for motorcycle operator training and safety courses adopted by the
25 National Highway Traffic Safety Administration.

26 Sec. 662.0035. FEES. (a) The commission may set fees in
27 amounts reasonable and necessary to cover the costs of

1 administering this chapter.

2 (b) The renewal fee for a motorcycle school license may not
3 exceed \$100.

4 (c) The renewal fee for an instructor license may not exceed
5 \$50.

6 Sec. 662.0037. MOTORCYCLE SAFETY ADVISORY BOARD. (a) The
7 commission shall establish an advisory board to advise the
8 department on matters related to the motorcycle operator training
9 and safety program established under this chapter.

10 (b) The advisory board must consist of nine members
11 appointed by the presiding officer of the commission, on approval
12 of the commission, as follows:

13 (1) three members:

14 (A) each of whom must be a licensed instructor or
15 represent a licensed motorcycle school; and

16 (B) who must collectively represent the
17 diversity in size and type of the motorcycle schools licensed under
18 this chapter;

19 (2) one member who represents the motorcycle dealer
20 retail industry;

21 (3) one representative of a law enforcement agency;

22 (4) one representative of the Texas A&M Transportation
23 Institute;

24 (5) one representative of the Texas A&M Engineering
25 Extension Service; and

26 (6) two public members who hold a valid Class M
27 driver's license issued under Chapter 521.

1 (c) The advisory board members serve staggered six-year
2 terms.

3 (d) Chapter 2110, Government Code, does not apply to the
4 advisory board.

5 (e) The department may call a joint meeting of the advisory
6 board and the advisory committee established under Section
7 1001.058, Education Code, for the committees to collaborate on
8 matters determined by the department.

9 SECTION 6. Section 662.005, Transportation Code, is amended
10 to read as follows:

11 Sec. 662.005. CONTRACTS. (a) The department ~~[designated~~
12 ~~state agency]~~ may ~~[license or]~~ contract with a motorcycle school
13 for the school ~~[qualified persons]~~ to:

14 (1) offer and conduct motorcycle operator training and
15 safety courses under the ~~[administer or operate the motorcycle~~
16 ~~operator training and safety]~~ program; or

17 (2) research motorcycle safety in this state.

18 (b) The department may only execute a contract under this
19 section after consulting with the motorcycle safety advisory board
20 regarding the contract.

21 SECTION 7. Section 662.006(a), Transportation Code, is
22 amended to read as follows:

23 (a) A person may not offer or conduct training in motorcycle
24 operation for consideration unless the person:

25 (1) is licensed as a motorcycle school under this
26 chapter;

27 (2) offers and conducts training in accordance with a

1 motorcycle operator training curriculum approved by the
2 department; and

3 (3) employs an instructor licensed under this chapter
4 to conduct the training [~~by or contracts with the designated state~~
5 ~~agency~~].

6 SECTION 8. Chapter 662, Transportation Code, is amended by
7 adding Sections 662.0062, 662.0064, 662.0066, and 662.0068 to read
8 as follows:

9 Sec. 662.0062. ELIGIBILITY; APPLICATION. (a) To be eligible
10 for an instructor license, an applicant must:

11 (1) have completed a commission-approved training
12 program on motorcycle operator training and safety instruction
13 administered by the Texas A&M Engineering Extension Service;

14 (2) have held for the two years preceding the date of
15 submitting the application a valid driver's license that entitles
16 the applicant to operate a motorcycle on a public road; and

17 (3) have accumulated less than 10 points under the
18 driver responsibility program established by Chapter 708.

19 (b) The commission by rule may adopt additional
20 requirements for issuance of an instructor license.

21 (c) To be eligible for a motorcycle school license, an
22 applicant must meet the minimum standards established by commission
23 rule for:

24 (1) health and safety;

25 (2) the school's facility; and

26 (3) consumer protection.

27 (d) The department shall issue a license to an applicant who

1 meets the eligibility requirements established under this chapter
2 and department rule.

3 (e) The department may prescribe an application form for
4 applicants to submit when applying for a license under this
5 section.

6 Sec. 662.0064. INSTRUCTOR TRAINING; ADMINISTRATOR. The
7 Texas A&M Engineering Extension Service, in consultation with the
8 department, shall administer the training program required by
9 Section 662.0062(a)(1).

10 Sec. 662.0066. ALTERNATIVE QUALIFICATIONS. The department
11 shall issue a license to an applicant who holds a similar license
12 issued by another jurisdiction with licensing requirements
13 substantially equivalent to the requirements of this state. The
14 commission may adopt rules to implement this section.

15 Sec. 662.0068. PROGRAM CERTIFICATES. The department shall
16 issue a certificate of completion to a person who completes a
17 department-approved motorcycle operator training and safety course
18 conducted by a motorcycle school on receipt of notice from the
19 motorcycle school that conducted the course.

20 SECTION 9. Section 662.008, Transportation Code, is amended
21 to read as follows:

22 Sec. 662.008. DENIAL, SUSPENSION, OR REVOCATION
23 [CANCELLATION] OF INSTRUCTOR OR MOTORCYCLE SCHOOL LICENSE
24 [APPROVAL]. (a) The department [~~designated state agency~~] may deny
25 an application for, suspend, or revoke a license issued [~~cancel its~~
26 approval for a program sponsor to conduct or for an instructor to
27 teach a course offered] under this chapter if the applicant,

1 instructor, or motorcycle school [~~sponsor~~]:

2 (1) does not satisfy the requirements established
3 under this chapter to receive or retain the license [~~approval~~];

4 (2) permits fraud or engages in a fraudulent practice
5 with reference to an application for [~~to~~] the license [~~agency~~];

6 (3) induces or countenances fraud or a fraudulent
7 practice by a person applying for a driver's license or permit;

8 (4) permits fraud or engages in a fraudulent practice
9 in an action between the applicant or license holder and the public;

10 or

11 (5) fails to comply with this chapter or rules adopted
12 under this chapter [~~of the state agency~~].

13 (b) Following denial of an application for a license or the
14 [~~7~~] suspension [~~7~~] or revocation of a license issued under this
15 chapter [~~cancellation of the approval of a program sponsor or an~~
16 ~~instructor~~], notice and opportunity for a hearing must be given as
17 provided by:

18 (1) Chapter 2001, Government Code; and

19 (2) Chapter 53, Occupations Code.

20 SECTION 10. Section 662.009, Transportation Code, is
21 amended to read as follows:

22 Sec. 662.009. RULES. The commission [~~designated state~~
23 ~~agency~~] may adopt rules to administer this chapter.

24 SECTION 11. Section 662.010, Transportation Code, is
25 amended to read as follows:

26 Sec. 662.010. NONAPPLICABILITY OF CERTAIN OTHER LAW.

27 Chapter 1001, Education Code [~~332, Acts of the 60th Legislature,~~

1 ~~Regular Session, 1967 (Article 4413(29c), Vernon's Texas Civil~~
2 ~~Statutes)]~~, does not apply to training offered or conducted under
3 this chapter.

4 SECTION 12. Section 662.011, Transportation Code, is
5 amended by amending Subsection (b) and adding Subsection (d) to
6 read as follows:

7 (b) Money deposited to the credit of the motorcycle
8 education fund account may be used only to defray the cost of:

9 (1) administering the motorcycle operator training
10 and safety program; ~~and~~

11 (2) conducting the motorcyclist safety and share the
12 road campaign described by Section 201.621; and

13 (3) administering the grant program under Section
14 662.0115.

15 (d) The department may apply for and accept gifts, grants,
16 and donations from any organization to be deposited in the
17 motorcycle education fund account for the purpose of improving
18 motorcycle safety in this state.

19 SECTION 13. Chapter 662, Transportation Code, is amended by
20 adding Section 662.0115 to read as follows:

21 Sec. 662.0115. MOTORCYCLE SAFETY GRANT PROGRAM. (a) Using
22 money from the motorcycle education fund account, the department
23 may establish and administer a grant program to improve motorcycle
24 safety in this state.

25 (b) The department may award a person a grant to:

26 (1) promote the motorcycle operator training and
27 safety program or any other motorcycle safety program in this

1 state;

2 (2) increase the number of individuals seeking
3 motorcycle operator training or licensure as an instructor to
4 conduct motorcycle operator training; or

5 (3) support any other goal reasonably likely to
6 improve motorcycle safety in this state.

7 (c) To administer the grant program, the department shall
8 prescribe:

9 (1) grant application procedures;

10 (2) guidelines relating to grant amounts; and

11 (3) criteria for evaluating grant applications.

12 (d) The department may only award a grant after consulting
13 with the motorcycle safety advisory board regarding the grant
14 application.

15 SECTION 14. Section 662.012, Transportation Code, is
16 amended to read as follows:

17 Sec. 662.012. REPORTS. (a) The department [~~designated~~
18 ~~state agency~~] shall require each motorcycle school [~~provider of a~~
19 ~~motorcycle operator training and safety program~~] to compile and
20 forward to the department [~~agency~~] each month a report on the
21 school's [~~provider's~~] programs. The report must include:

22 (1) the number and types of courses provided in the
23 reporting period;

24 (2) the number of persons who took each course in the
25 reporting period;

26 (3) the number of instructors available to provide
27 training under the school's [~~provider's~~] program in the reporting

1 period;

2 (4) information collected by surveying persons taking
3 each course as to the length of any waiting period the person
4 experienced before being able to enroll in the course;

5 (5) the number of persons on a waiting list for a
6 course at the end of the reporting period; and

7 (6) any other information the department [~~agency~~]
8 reasonably requires.

9 (b) The department [~~designated state agency~~] shall maintain
10 a compilation of the reports submitted under Subsection (a) on a
11 by-site basis. The department [~~agency~~] shall update the
12 compilation as soon as practicable after the beginning of each
13 month.

14 (c) The department [~~designated state agency~~] shall provide
15 without charge a copy of the most recent compilation under
16 Subsection (b) to any member of the legislature on request.

17 SECTION 15. Chapter 662, Transportation Code, is amended by
18 adding Section 662.013 to read as follows:

19 Sec. 662.013. RESEARCH, ADVOCACY, AND EDUCATION. The Texas
20 A&M Transportation Institute, in consultation with the department,
21 shall:

22 (1) research motorcycle safety in this state;

23 (2) provide advocacy on motorcycle safety issues in
24 this state; and

25 (3) provide education to the public on motorcycle
26 safety issues in this state.

27 SECTION 16. Section 663.001, Transportation Code, is

1 amended by amending Subdivision (1-b) and adding Subdivisions (1-c)
2 and (1-d) to read as follows:

3 (1-b) "Commission" means the Texas Commission of
4 Licensing and Regulation.

5 (1-c) "Department" means the Texas Department of
6 Licensing and Regulation.

7 (1-d) "Off-highway vehicle" means:

8 (A) an all-terrain vehicle or recreational
9 off-highway vehicle, as those terms are defined by Section 502.001;
10 or

11 (B) a utility vehicle.

12 SECTION 17. Section 663.011, Transportation Code, is
13 amended to read as follows:

14 Sec. 663.011. ADMINISTRATION OF PROGRAM [~~DESIGNATED~~
15 ~~DIVISION OR STATE AGENCY~~]. The department [~~governor~~] shall
16 [~~designate a division of the governor's office or a state agency to~~
17 ~~establish and~~] administer an off-highway vehicle operator
18 education and certification program and enforce the laws governing
19 the program.

20 SECTION 18. Section 663.013, Transportation Code, is
21 amended to read as follows:

22 Sec. 663.013. PROGRAM STANDARDS [~~OFF-HIGHWAY VEHICLE~~
23 ~~SAFETY COORDINATOR~~]. (a) The department [~~designated division or~~
24 ~~state agency shall employ an off-highway vehicle safety~~
25 ~~coordinator.~~

26 [(~~b~~) ~~The coordinator~~] shall supervise the off-highway
27 vehicle operator education and certification program and shall

1 determine:

- 2 (1) locations at which courses will be offered;
- 3 (2) fees for the courses;
- 4 (3) qualifications of instructors;
- 5 (4) course curriculum; and
- 6 (5) standards for operator safety certification.

7 (b) [~~(c)~~] In establishing standards for instructors,
8 curriculum, and operator certification, the department
9 [~~coordinator~~] shall consult and be guided by standards established
10 by recognized off-highway vehicle safety organizations.

11 SECTION 19. Section 663.014, Transportation Code, is
12 amended to read as follows:

13 Sec. 663.014. CONTRACTS. To administer the education
14 program and certify off-highway vehicle operators, the department
15 [~~designated division or state agency~~] may contract with nonprofit
16 safety organizations, nonprofit educational organizations, or
17 agencies of local governments.

18 SECTION 20. Section 663.015(a), Transportation Code, is
19 amended to read as follows:

20 (a) If the department [~~off-highway vehicle safety~~
21 ~~coordinator~~] determines that vehicle operation is not feasible in a
22 program component or at a particular program location, the operator
23 education and certification program for persons who are at least 14
24 years of age may use teaching or testing methods that do not involve
25 the actual operation of an off-highway vehicle.

26 SECTION 21. Section 663.017, Transportation Code, is
27 amended to read as follows:

1 Sec. 663.017. DENIAL, SUSPENSION, OR CANCELLATION OF
2 APPROVAL. (a) The department [~~designated division or state~~
3 ~~agency~~] may deny, suspend, or cancel its approval for a program
4 sponsor to conduct or for an instructor to teach a course offered
5 under this chapter if the applicant, sponsor, or instructor:

6 (1) does not satisfy the requirements established
7 under this chapter to receive or retain approval;

8 (2) permits fraud or engages in fraudulent practices
9 with reference to an application to the department [~~division or~~
10 ~~agency~~];

11 (3) induces or countenances fraud or fraudulent
12 practices by a person applying for a driver's license or permit;

13 (4) permits or engages in a fraudulent practice in an
14 action between the applicant or license holder and the public; or

15 (5) fails to comply with rules of the department
16 [~~division or agency~~].

17 (b) Before the department [~~designated division or agency~~]
18 may deny, suspend, or cancel the approval of a program sponsor or an
19 instructor, notice and opportunity for a hearing must be given as
20 provided by:

21 (1) Chapter 2001, Government Code; and

22 (2) Chapter 53, Occupations Code.

23 SECTION 22. Section 663.018, Transportation Code, is
24 amended to read as follows:

25 Sec. 663.018. RULES. The commission [~~designated division~~
26 ~~or state agency~~] may adopt rules to administer this chapter.

27 SECTION 23. Section 663.019, Transportation Code, is

1 amended to read as follows:

2 Sec. 663.019. EXEMPTIONS. The commission [~~designated~~
3 ~~division or state agency~~] by rule may temporarily exempt the
4 residents of any county from Section 663.015 or from Section
5 663.031(a)(1) until the appropriate education and certification
6 program is established at a location that is reasonably accessible
7 to the residents of that county.

8 SECTION 24. Section 663.033(d), Transportation Code, is
9 amended to read as follows:

10 (d) The department [~~coordinator~~] may exempt off-highway
11 vehicles that are participating in certain competitive events from
12 the requirements of this section.

13 SECTION 25. Section 663.037(e), Transportation Code, is
14 amended to read as follows:

15 (e) The executive director of the department [~~Department of~~
16 ~~Public Safety~~] shall adopt standards and specifications that apply
17 to the color, size, and mounting position of the flag required under
18 Subsections (d)(2) and (g)(2).

19 SECTION 26. Sections 662.002(b), 662.004, and 662.007,
20 Transportation Code, are repealed.

21 SECTION 27. (a) In this section:

22 (1) "Department" means the Department of Public
23 Safety.

24 (2) "Program" means the motorcycle operator training
25 and safety program established under Chapter 662, Transportation
26 Code, as that chapter existed before the effective date of this Act.

27 (b) As soon as practicable after the effective date of this

1 Act and not later than August 31, 2019, the department shall dispose
2 of motorcycles and other equipment related to the program that the
3 department possesses or has leased to entities offering training
4 under the program. The plan must conform with the requirements of
5 Subsection (c) of this section.

6 (c) The department shall dispose of the motorcycles and
7 other equipment related to the program in the following manner:

8 (1) the department shall provide to any entity to whom
9 the department leased a motorcycle or other equipment related to
10 the program a reasonable period determined by the department to
11 purchase from the department or return the motorcycle or other
12 equipment;

13 (2) after the expiration of the period described by
14 Subdivision (1) of this subsection, the department shall:

15 (A) determine the need of the Texas Department of
16 Licensing and Regulation, the Texas A&M Transportation Institute,
17 and the Texas A&M Engineering Extension Service for motorcycles and
18 other equipment necessary to provide motorcycle operator training
19 for the instructors under the program; and

20 (B) subject to the need determined under
21 Paragraph (A) of this subdivision and the availability of
22 motorcycles and other equipment related to the program, transfer
23 the motorcycles and equipment to the Texas Department of Licensing
24 and Regulation, institute, or service under that paragraph, as
25 applicable; and

26 (3) after the determination and any transfer under
27 Subdivision (2) of this subsection, sell any remaining motorcycles

1 and related equipment of the program in accordance with Chapter
2 [2175](#), Government Code.

3 (d) All revenue generated by the disposition of motorcycles
4 and other equipment related to the program under this section shall
5 be deposited in the motorcycle education fund account established
6 under Section [662.011](#), Transportation Code.

7 (e) Not later than August 31, 2019, the department and the
8 Texas Department of Licensing and Regulation shall enter into a
9 memorandum of understanding regarding any property acquired by the
10 department by lease or purchase using money from the motorcycle
11 education fund account established under Section [662.011](#),
12 Transportation Code, to ensure that the Department of Public Safety
13 appropriately compensates the fund for those assets.

14 SECTION 28. (a) In this section:

15 (1) "Former administrator" means the Texas Department
16 of Public Safety.

17 (2) "Licensing commission" means the Texas Commission
18 of Licensing and Regulation.

19 (3) "Licensing department" means the Texas Department
20 of Licensing and Regulation.

21 (4) "Program" means the:

22 (A) motorcycle operator training and safety
23 program under Chapter [662](#), Transportation Code; and

24 (B) off-highway vehicle operator education and
25 certification program under Chapter [663](#), Transportation Code.

26 (b) On September 1, 2019:

27 (1) all functions and activities related to the

1 program performed by the former administrator immediately before
2 that date are transferred to the licensing department;

3 (2) all rules, fees, policies, procedures, decisions,
4 and forms related to the program adopted by the former
5 administrator are continued in effect as rules, fees, policies,
6 procedures, decisions, and forms of the licensing commission or the
7 licensing department, as applicable, and remain in effect until
8 amended or replaced by the licensing commission or licensing
9 department;

10 (3) a complaint, investigation, contested case, or
11 other proceeding related to the program before the former
12 administrator that is pending on September 1, 2019, is transferred
13 without change in status to the licensing department or the
14 licensing commission, as appropriate;

15 (4) all money, contracts, leases, property, and
16 obligations related to the program of the former administrator are
17 transferred to the licensing department;

18 (5) all property related to the program in the custody
19 of the former administrator is transferred to the licensing
20 department; and

21 (6) the unexpended and unobligated balance of any
22 money appropriated by the legislature for the former administrator
23 for the purpose of administering the program is transferred to the
24 licensing department.

25 (c) The former administrator shall provide the licensing
26 department with access to any systems or information necessary for
27 the department to accept the program transferred under this Act.

1 (d) A license or certificate issued by the former
2 administrator is continued in effect as a license or certificate of
3 the licensing department.

4 (e) On September 1, 2019, all full-time equivalent employee
5 positions at the former administrator that primarily concern the
6 administration or enforcement of the program become positions at
7 the licensing department.

8 SECTION 29. (a) Except as provided by Subsection (b) of
9 this section, this Act takes effect September 1, 2019.

10 (b) Section 27 of this Act takes effect immediately if this
11 Act receives a vote of two-thirds of all the members elected to each
12 house, as provided by Section 39, Article III, Texas Constitution.
13 If this Act does not receive the vote necessary for immediate
14 effect, Section 27 takes effect on the 91st day after the last day
15 of the legislative session.