

BILL ANALYSIS

C.S.H.B. 2751
By: Hegar
Law Enforcement
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current law, a driving safety course that has been approved to be taught by an alternative method, including Internet instruction, is subject to the same civil penalties and sanctions as any other driving safety course. The law provides that if the Texas Education Agency (TEA) believes that a driver education school or instructor has violated a rule adopted under the Texas Driver and Traffic Safety Education Act or the Uniform Act Regulating Traffic on Highways, it is authorized to order a peer review of the course at the expense of the course provider, suspend the enrollment of students, or suspend the right to purchase certificates of completion. The agency may take these actions, which have the ability to shut down a driving safety course, without giving notice to the provider. This presents a special problem for Internet courses which, because they are still in a relatively early stage of development, are in the process of determining how to fully comply with regulations originally promulgated for traditional courses. C.S.H.B. 2751 addresses this issue by allowing providers to make changes without prior approval, by providing a procedure by which an Internet driving safety course providers may ask TEA whether a change complies with the rules, and requiring TEA to provide an Internet driving safety course provider with notice of a violation before imposing a civil penalty or sanction.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2751 adds Section 11A, "Course Change by Internet Course Provider," to the Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes), as follows:

- (a) This section would apply only to a course provider who offers a driving safety course that has been approved to be taught through the Internet.
- (b) A course provider may make a change to a driving safety course, including a change in the technology, without the prior approval of the commissioner of the Texas Education Agency.
- (c) Except as otherwise provided by Subsections (d) and (e), the provider is liable for any penalty or sanction as permitted by Sections 24 and 25 of the Texas Driver and Traffic Safety Education Act, which permit civil penalties for violations of rules promulgated under the Act and provide sanctions, including peer review and suspension of enrollment, to be assessed against a driver education school or instructor in violation of the rules.
- (d) The course provider may submit to the commissioner, by certified mail, a written notification and description of the change when a change is made; the commissioner must then approve or disapprove of the change and notify the provider within 30 business days.
- (e) If the commissioner disapproves a change, the commissioner must include an explanation of how the change violates the Texas Driver and Traffic Safety Education Act or a rule adopted under it and grant the course provider five business days from the date the provider receives notice to cure the violation without penalty or sanction. If the provider does not cure the violation, the commissioner may impose a civil penalty or sanction.

(f) If the commissioner provides written notice to the provider that a change violates the Texas Driver and Traffic Safety Education Act or a rule adopted under it, and the provider subsequently makes that change despite such notice, the commissioner is not required to give the provider time to cure the violation and may impose a penalty or sanction as permitted.

EFFECTIVE DATE

This Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 2751 amends the original bill by providing a system by which a course provider may obtain from the commissioner written approval or disapproval of changes.

The substitute amends the original by removing the provision that the commissioner may impose a penalty or sanction without providing the course provider with notice and time to cure in cases of intentional fraud and instead provides that the commissioner may impose immediate penalties and sanctions when a course provider makes a change for which the commissioner has previously provided written notice to the course provider stating that the change violates the rules.

