

By: Uresti

H.B. No. 2852

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation and use of certain certificates issued for
3 completion of approved driver safety courses.

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

5 SECTION 1. Section 1001.002(b), Education Code, is amended
6 to read as follows:

7 (b) A driving safety course is exempt from this chapter if
8 the course is taught without providing a [~~uniform~~] certificate of
9 course completion to a person who successfully completes the
10 course.

11 SECTION 2. Section 1001.056, Education Code, is amended by
12 amending Subsections (b), (c), (e), and (f) and adding Subsection
13 (b-1) to read as follows:

14 (b) The agency shall:

15 (1) print and supply to each licensed course provider
16 uniform certificates of course completion; or

17 (2) provide a licensed course provider with course
18 completion certificate numbers to enable the provider to print and
19 supply or provide for the ability to print agency-approved
20 certificates of course completion.

21 (b-1) Certificate numbering under Subsection (b) [The
22 certificates] must be serial, regardless of whether the agency
23 provides certificates or certificate numbers to a licensed course
24 provider [numbered serially].

1 (c) The agency by rule shall provide for the design and
2 distribution of the certificates or the distribution of certificate
3 numbers in a manner that, to the greatest extent possible, prevents
4 the unauthorized production or the misuse of the certificates or
5 certificate numbers.

6 (e) The agency may charge a fee of not more than \$4 for each
7 certificate or course completion certificate number. A course
8 provider shall charge an operator a fee equal to the amount of the
9 fee paid to the agency for a certificate or certificate number.

10 (f) A course provider license entitles a course provider to
11 purchase certificates or certificate numbers for only one approved
12 driving safety course.

13 SECTION 3. Section 1001.151(e), Education Code, is amended
14 to read as follows:

15 (e) The annual renewal fee for a course provider, driving
16 safety school, driver education school, or branch location is an
17 appropriate amount established by the commissioner not to exceed
18 \$200, except that the agency may waive the fee if revenue generated
19 by the issuance of uniform certificates of course completion,
20 course completion certificate numbers, and driver education
21 certificates is sufficient to cover the cost of administering this
22 chapter and Article 45.0511, Code of Criminal Procedure.

23 SECTION 4. Section 1001.206, Education Code, is amended to
24 read as follows:

25 Sec. 1001.206. REQUIREMENTS FOR COURSE PROVIDER LICENSE.
26 The commissioner shall approve an application for a course provider
27 license if on investigation the agency determines that:

1 (1) the course provider has an approved course that at
2 least one licensed driving safety school is willing to offer;

3 (2) the course provider has adequate educational
4 qualifications and experience;

5 (3) the course provider will:

6 (A) develop and provide to each driving safety
7 school that offers the approved course a copy of:

8 (i) the refund policy; and

9 (ii) the regulations relating to absence,
10 grading policy, and rules of operation and conduct; and

11 (B) provide to the driving safety school the
12 name, mailing address, and telephone number of the agency for the
13 purpose of directing complaints to the agency;

14 (4) a copy of the information provided to each driving
15 safety school under Subdivision (3) will be provided to each
16 student by the school before enrollment;

17 (5) ~~[not later than the 15th working day after the date~~
18 ~~the person successfully completes the course,]~~ the course provider
19 will provide to the student in a manner described by Section
20 1001.351 ~~[mail]~~ a ~~[uniform]~~ certificate of course completion ~~[to~~
21 ~~the person]~~ indicating the course name and successful completion of
22 the course;

23 (6) the course provider maintains adequate records as
24 prescribed by the commissioner to show attendance and progress or
25 grades and enforces satisfactory standards relating to attendance,
26 progress, and conduct;

27 (7) the course provider complies with all county,

1 municipal, state, and federal laws, including assumed name
2 registration and other applicable requirements;

3 (8) the course provider is financially sound and
4 capable of fulfilling its commitments for training;

5 (9) the course provider is of good reputation and
6 character;

7 (10) the course provider maintains and publishes as a
8 part of its student enrollment contract the proper policy for the
9 refund of the unused portion of tuition, fees, and other charges if
10 a student fails to take the course or withdraws or is discontinued
11 from the school at any time before completion;

12 (11) the course provider does not use erroneous or
13 misleading advertising, either by actual statement, omission, or
14 intimation, as determined by the commissioner;

15 (12) the course provider does not use a name similar to
16 the name of another existing school or tax-supported educational
17 institution in this state, unless specifically approved in writing
18 by the commissioner;

19 (13) the course provider does not owe an
20 administrative penalty under this chapter; and

21 (14) the course provider meets additional criteria
22 required by the commissioner.

23 SECTION 5. Section 1001.209(b), Education Code, is amended
24 to read as follows:

25 (b) A bond issued under Subsection (a) must be:

26 (1) issued by a company authorized to do business in
27 this state;

1 (2) payable to the state to be used:

2 (A) for payment of a refund due a student of the
3 course provider's approved course;

4 (B) to cover the payment of unpaid fees or
5 penalties assessed by the agency; or

6 (C) to recover any ~~[the]~~ cost associated with
7 printing and supplying ~~[of]~~ uniform certificates of course
8 completion or providing course completion certificate numbers,
9 including the return of certificates or the cancellation of
10 certificate numbers ~~[the agency demands be returned or any cost~~
11 ~~associated with the certificates];~~

12 (3) conditioned on the compliance of the course
13 provider and its officers, agents, and employees with this chapter
14 and rules adopted under this chapter; and

15 (4) issued for a period corresponding to the term of
16 the license.

17 SECTION 6. Section 1001.251(b), Education Code, is amended
18 to read as follows:

19 (b) A person may not teach or provide driving safety
20 training, either as an individual or in a driving safety school, or
21 conduct any phase of driving safety education, unless the person
22 holds a driving safety instructor license issued by the agency.
23 This subsection does not apply to an instructor of a driving safety
24 course that does not provide a ~~[uniform]~~ certificate of course
25 completion to its graduates.

26 SECTION 7. Section 1001.351, Education Code, is amended by
27 amending Subsections (a) and (b) and adding Subsection (a-1) to

1 read as follows:

2 (a) Except as provided by Subsection (a-1), not [Not] later
3 than the 15th working day after the course completion date, a course
4 provider or a person at the course provider's facilities shall mail
5 a uniform certificate of course completion or another certificate
6 of completion having a course completion certificate number
7 provided by the agency to a person who successfully completes an
8 approved driving safety course.

9 (a-1) A course provider shall provide a procedure for a
10 person who successfully completes an approved driving safety course
11 at a location other than the principal location of the course,
12 including completion of the course through the Internet, to
13 immediately print an agency-approved certificate of course
14 completion that includes a course completion certificate number.

15 (b) A course provider shall electronically submit to the
16 agency in the manner established by the agency data identified by
17 the agency relating to uniform certificates of course completion
18 and all assigned course completion certificate numbers used or
19 forwarded to a student by the course provider.

20 SECTION 8. Section 1001.451, Education Code, is amended to
21 read as follows:

22 Sec. 1001.451. PROHIBITED PRACTICES. A person may not:

23 (1) use advertising designed to mislead or deceive a
24 prospective student;

25 (2) fail to notify the commissioner of the
26 discontinuance of the operation of a driver training school before
27 the fourth working day after the date of cessation of classes and

1 make available accurate records as required by this chapter;

2 (3) issue, sell, trade, or transfer:

3 (A) a [~~uniform~~] certificate of course
4 completion, course completion certificate number, or driver
5 education certificate to a person or driver training school not
6 authorized to possess the certificate or number;

7 (B) a [~~uniform~~] certificate of course completion
8 or course completion certificate number to a person who has not
9 successfully completed an approved, six-hour driving safety
10 course; or

11 (C) a driver education certificate to a person
12 who has not successfully completed a commissioner-approved driver
13 education course;

14 (4) negotiate a promissory instrument received as
15 payment of tuition or another charge before the student completes
16 75 percent of the course, except that before that time the
17 instrument may be assigned to a purchaser who becomes subject to any
18 defense available against the school named as payee; or

19 (5) conduct any part of an approved driver education
20 course or driving safety course without having an instructor
21 physically present in appropriate proximity to the student for the
22 type of instruction being given.

23 SECTION 9. Section 1001.456(b), Education Code, is amended
24 to read as follows:

25 (b) If the agency believes that a course provider, driving
26 safety school, or driving safety instructor has violated this
27 chapter or a rule adopted under this chapter, the agency may,

1 without notice:

2 (1) order a peer review of the course provider,
3 driving safety school, or driving safety instructor;

4 (2) suspend the enrollment of students in the school
5 or the offering of instruction by the instructor; or

6 (3) suspend the right to purchase uniform certificates
7 of course completion or course completion certificate numbers.

8 SECTION 10. Sections 1001.555(a) and (c), Education Code,
9 are amended to read as follows:

10 (a) A person commits an offense if the person knowingly
11 sells, trades, issues, or otherwise transfers, or possesses with
12 intent to sell, trade, issue, or otherwise transfer, a [~~uniform~~]
13 certificate of course completion, course completion certificate
14 number, or a driver education certificate to an individual, firm,
15 or corporation not authorized to possess the certificate or number.

16 (c) A person commits an offense if the person knowingly
17 possesses a [~~uniform~~] certificate of course completion or a driver
18 education certificate and is not authorized to possess the
19 certificate.

20 SECTION 11. Articles 45.0511(c) and (k), Code of Criminal
21 Procedure, are amended to read as follows:

22 (c) The court shall enter judgment on the defendant's plea
23 of no contest or guilty at the time the plea is made, defer
24 imposition of the judgment, and allow the defendant 90 days to
25 successfully complete the approved driving safety course or
26 motorcycle operator training course and present to the court:

27 (1) a [~~uniform~~] certificate of course completion

1 approved by the Texas Education Agency for ~~[of]~~ the driving safety
2 course or a verification of completion of the motorcycle operator
3 training course;

4 (2) the defendant's driving record as maintained by
5 the Department of Public Safety showing that the defendant had not
6 completed an approved driving safety course or motorcycle operator
7 training course, as applicable, within the 12 months preceding the
8 date of the offense; and

9 (3) an affidavit stating that the defendant was not
10 taking a driving safety course or motorcycle operator training
11 course, as applicable, under this article on the date the request to
12 take the course was made and had not completed such a course that is
13 not shown on the defendant's driving record within the 12 months
14 preceding the date of the offense.

15 (k) On a defendant's showing of good cause for failure to
16 furnish evidence to the court, the court may allow an extension of
17 time during which the defendant may present:

18 (1) a ~~[uniform]~~ certificate of course completion
19 approved by the Texas Education Agency as evidence that the
20 defendant successfully completed the driving safety course; or

21 (2) a verification of course completion as evidence
22 that the defendant successfully completed the motorcycle operator
23 training course.

24 SECTION 12. Section 543.112, Transportation Code, is
25 amended to read as follows:

26 Sec. 543.112. STANDARDS FOR ~~[UNIFORM]~~ CERTIFICATE OF COURSE
27 COMPLETION. (a) The Texas Education Agency by rule shall provide

1 for the design and distribution of [~~uniform~~] certificates of course
2 completion so as to prevent to the greatest extent possible the
3 unauthorized production or the misuse of the certificates.

4 (b) The [~~uniform~~] certificate of course completion must
5 include an identifying number by which the Texas Education Agency,
6 the court, or the department may verify its authenticity with the
7 course provider and must be in a form adopted by the Texas Education
8 Agency.

9 (c) The Texas Education Agency shall issue duplicate
10 uniform certificates of course completion or course completion
11 numbers. The State Board of Education by rule shall determine the
12 amount of the fee to be charged for issuance of a duplicate
13 certificate or number.

14 (d) A driving safety course provider shall electronically
15 submit data identified by the Texas Education Agency pertaining to
16 issued uniform certificates of course completion or course
17 completion numbers to the agency as directed by the agency.

18 SECTION 13. Section 543.116(a), Transportation Code, is
19 amended to read as follows:

20 (a) A driving safety course provider shall mail an issued
21 [~~uniform~~] certificate of course completion to a person who
22 successfully completes the course.

23 SECTION 14. This Act takes effect immediately if it
24 receives a vote of two-thirds of all the members elected to each
25 house, as provided by Section 39, Article III, Texas Constitution.
26 If this Act does not receive the vote necessary for immediate
27 effect, this Act takes effect September 1, 2005.