

By: Harris

S.B. No. 1171

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of drivers education and driving safety programs by the Texas Department of Licensing and Regulation.

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

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

(2) "Approved driving safety course" means a driving safety course approved by the department [~~commissioner~~].

(3) "Commission" [~~"Commissioner"~~] means the Texas Commission of Licensing and Regulation [~~commissioner of education~~].

(4) "Course provider" means an enterprise that:

(A) maintains a place of business or solicits business in this state;

(B) is operated by an individual, association, partnership, or corporation; and

(C) has received an approval for a driving safety course from the department [~~commissioner~~] or has been designated by a person who has received that approval to conduct business and represent the person in this state.

(5) "Department" means the Texas Department of Licensing and Regulation [~~Public Safety~~].

(13-a) "Executive director" means the executive

1 director of the department.

2 SECTION 2. Subsection (c), Section 1001.002, Education
3 Code, is amended to read as follows:

4 (c) A driver education course is exempt from this chapter,
5 other than Section 1001.055, if the course is:

6 (1) conducted by a vocational driver training school
7 operated to train or prepare a person for a field of endeavor in a
8 business, trade, technical, or industrial occupation;

9 (2) conducted by a school or training program that
10 offers only instruction of purely avocational or recreational
11 subjects as determined by the department [~~commissioner~~];

12 (3) sponsored by an employer to train its own
13 employees without charging tuition;

14 (4) sponsored by a recognized trade, business, or
15 professional organization with a closed membership to instruct the
16 members of the organization; or

17 (5) conducted by a school regulated and approved under
18 another law of this state.

19 SECTION 3. Sections 1001.003 and 1001.004, Education Code,
20 are amended to read as follows:

21 Sec. 1001.003. LEGISLATIVE INTENT REGARDING SMALL
22 BUSINESSES. It is the intent of the legislature that commission
23 [~~agency~~] rules that affect driver training schools that qualify as
24 small businesses be adopted and administered so as to have the least
25 possible adverse economic effect on the schools.

26 Sec. 1001.004. COST OF ADMINISTERING CHAPTER. The cost of
27 administering this chapter shall be included in the state budget

1 allowance for the department [~~agency~~].

2 SECTION 4. Sections 1001.051 through 1001.055, Education
3 Code, are amended to read as follows:

4 Sec. 1001.051. JURISDICTION OVER SCHOOLS. The department
5 [~~agency~~] has jurisdiction over and control of driver training
6 schools regulated under this chapter.

7 Sec. 1001.052. RULES. The commission [~~agency~~] shall adopt
8 [~~and administer~~] comprehensive rules governing driving safety
9 courses, including rules to ensure the integrity of approved
10 driving safety courses and enhance program quality.

11 Sec. 1001.053. POWERS AND DUTIES OF DEPARTMENT
12 [~~COMMISSIONER~~]. [~~(a)~~] The department [~~commissioner~~] shall:

- 13 (1) administer [~~the policies of~~] this chapter;
14 (2) enforce minimum standards for driver training
15 schools under this chapter; and
16 (3) [~~adopt and~~] enforce rules adopted by the
17 commission necessary to administer this chapter [~~, and~~

18 [~~(4) visit a driver training school or course provider~~
19 ~~and reexamine the school or course provider for compliance with~~
20 ~~this chapter.~~

21 [~~(b) The commissioner may designate a person knowledgeable~~
22 ~~in the administration of regulating driver training schools to~~
23 ~~administer this chapter.~~

24 [~~(c) The commissioner may adopt rules to ensure the~~
25 ~~integrity of approved driving safety courses and to enhance program~~
26 ~~quality~~].

27 Sec. 1001.054. RULES RESTRICTING ADVERTISING [~~OR~~

1 ~~COMPETITIVE BIDDING]. [(a) The commissioner may not adopt a rule~~
2 ~~restricting advertising or competitive bidding by a driver training~~
3 ~~school except to prohibit a false, misleading, or deceptive~~
4 ~~practice.~~

5 ~~[(b) The commissioner may not include in rules to prohibit~~
6 ~~false, misleading, or deceptive practices by a driver training~~
7 ~~school a rule that restricts:~~

8 ~~[(1) the use of an advertising medium;~~

9 ~~[(2) the outside dimensions of a printed advertisement~~
10 ~~or outdoor display;~~

11 ~~[(3) the duration of an advertisement; or~~

12 ~~[(4) advertisement under a trade name.~~

13 ~~[(c)]~~ The commission ~~[commissioner]~~ by rule may restrict
14 advertising by a branch location of a driver training school so that
15 the location adequately identifies the primary location of the
16 school in a solicitation.

17 Sec. 1001.055. DRIVER EDUCATION CERTIFICATES. (a) The
18 department ~~[agency]~~ shall print and supply to each licensed or
19 exempt driver education school driver education certificates to be
20 used for certifying completion of an approved driver education
21 course to satisfy the requirements of Section 521.204(a)(2),
22 Transportation Code. The certificates must be numbered serially.

23 (b) The commission ~~[agency]~~ by rule shall provide for the
24 design and distribution of the certificates in a manner that, to the
25 greatest extent possible, prevents the unauthorized reproduction
26 or misuse of the certificates.

27 (c) The department ~~[agency]~~ may charge a fee of not more

1 than \$4 for each certificate.

2 SECTION 5. Subsections (b), (c), (e), and (g), Section
3 1001.056, Education Code, are amended to read as follows:

4 (b) The department [~~agency~~] shall provide each licensed
5 course provider with course completion certificate numbers to
6 enable the provider to print and issue [~~agency-approved~~]
7 department-approved uniform certificates of course completion.

8 (c) The department [~~agency~~] by rule shall provide for the
9 design of the certificates and the distribution of certificate
10 numbers in a manner that, to the greatest extent possible, prevents
11 the unauthorized production or the misuse of the certificates or
12 certificate numbers.

13 (e) The department [~~agency~~] may charge a fee of not more
14 than \$4 for each course completion certificate number. A course
15 provider that supplies a certificate to an operator shall collect
16 from the operator a fee equal to the amount of the fee paid to the
17 agency for the certificate number.

18 (g) A course provider shall issue a duplicate certificate by
19 United States mail or commercial delivery. The department
20 [~~commissioner~~] by rule shall determine the amount of the fee for
21 issuance of a duplicate certificate under this subsection.

22 SECTION 6. Section 1001.057, Education Code, is amended to
23 read as follows:

24 Sec. 1001.057. ELECTRONIC TRANSMISSION OF DRIVING SAFETY
25 COURSE INFORMATION. The department [~~agency~~] shall investigate
26 options to develop and implement procedures to electronically
27 transmit information relating to driving safety courses to

1 municipal and justice courts.

2 SECTION 7. Subchapter B, Chapter 1001, Education Code, is
3 amended by adding Section 1001.058 to read as follows:

4 Sec. 1001.058. DESIGNATION OF PERSON TO ADMINISTER CHAPTER.
5 The executive director may designate a person knowledgeable in the
6 administration of regulating driver training schools to administer
7 this chapter for the department.

8 SECTION 8. Sections 1001.101 and 1001.102, Education Code,
9 are amended to read as follows:

10 Sec. 1001.101. DRIVER EDUCATION COURSE CURRICULUM AND
11 TEXTBOOKS. The commission [~~commissioner~~] by rule shall establish
12 the curriculum and designate the textbooks to be used in a driver
13 education course.

14 Sec. 1001.102. ALCOHOL AWARENESS INFORMATION. (a) The
15 commission [~~agency~~] by rule shall require that information relating
16 to alcohol awareness and the effect of alcohol on the effective
17 operation of a motor vehicle be included in the curriculum of any
18 driver education course or driving safety course.

19 (b) In developing rules under this section, the commission
20 [~~agency~~] shall consult with the Department of Public Safety
21 [~~department~~].

22 SECTION 9. Subsections (b), (d), and (e), Section 1001.103,
23 Education Code, are amended to read as follows:

24 (b) The department [~~agency~~] shall develop standards for a
25 separate school certification and approve curricula for drug and
26 alcohol driving awareness programs that include one or more
27 courses. Except as provided by commission [~~agency~~] rule, a program

1 must be offered in the same manner as a driving safety course.

2 (d) In accordance with Section 461.013(b), Health and
3 Safety Code, the department [~~agency~~] and the Department of State
4 Health Services [~~Texas Commission on Alcohol and Drug Abuse~~] shall
5 enter into a memorandum of understanding for the interagency
6 approval of the required curricula.

7 (e) The commission [~~Notwithstanding Section 1001.056,~~
8 ~~Subchapter D, and Sections 1001.213 and 1001.303, the commissioner~~]
9 may establish fees in connection with the programs under this
10 section. The fees must be in amounts reasonable and necessary to
11 administer the department's [~~agency's~~] duties under this section.

12 SECTION 10. Sections 1001.104 and 1001.105, Education Code,
13 are amended to read as follows:

14 Sec. 1001.104. HOSPITAL AND REHABILITATION FACILITIES.

15 (a) The department [~~agency~~] shall enter into a memorandum of
16 understanding with the Department of Assistive and Rehabilitative
17 Services [~~Texas Rehabilitation Commission~~] and the Department of
18 Public Safety [~~department~~] for the interagency development of
19 curricula and licensing criteria for hospital and rehabilitation
20 facilities that teach driver education.

21 (b) The department [~~agency~~] shall administer comprehensive
22 rules governing driver education courses adopted by mutual
23 agreement among the commission [~~agency~~], the Department of
24 Assistive and Rehabilitative Services [~~Texas Rehabilitation~~
25 ~~Commission~~], and the Department of Public Safety [~~department~~].

26 Sec. 1001.105. TEXAS DEPARTMENT OF INSURANCE. The
27 commission [~~agency~~] shall enter into a memorandum of understanding

1 with the Texas Department of Insurance for the interagency
2 development of a curriculum for driving safety courses.

3 SECTION 11. Subsections (b), (c), and (d), Section
4 1001.106, Education Code, are amended to read as follows:

5 (b) The commission [~~commissioner~~] by rule shall provide
6 minimum standards of curriculum relating to operation of vehicles
7 at railroad and highway grade crossings.

8 (c) Subchapter F, Chapter 51, Occupations Code, Section
9 51.353, Occupations Code, and Section [~~Sections 1001.454,~~
10 1001.456 of this code [~~, and 1001.553~~] do not apply to a violation of
11 this section or a rule adopted under this section.

12 (d) Section 51.352, Occupations Code, and Sections
13 [~~1001.455(a)(6),~~] 1001.501 [~~, 1001.551, 1001.552,~~] and 1001.554 of
14 this code do not apply to a violation of this section.

15 SECTION 12. Section 1001.107, Education Code, is amended to
16 read as follows:

17 Sec. 1001.107. INFORMATION RELATING TO LITTER PREVENTION.

18 (a) The commission [~~commissioner~~] by rule shall require that
19 information relating to litter prevention be included in the
20 curriculum of each driver education and driving safety course.

21 (b) In developing rules under this section, the commission
22 [~~commissioner~~] shall consult the Department of Public Safety
23 [~~department~~].

24 SECTION 13. Subsections (a) and (c), Section 1001.108,
25 Education Code, are amended to read as follows:

26 (a) The commission [~~commissioner~~] by rule shall require
27 that information relating to anatomical gifts be included in the

1 curriculum of each driver education course and driving safety
2 course.

3 (c) In developing rules under this section, the commission
4 [~~commissioner~~] shall consult with the Department of Public Safety
5 [~~department~~] and the [~~Texas~~] Department of State Health Services.

6 SECTION 14. Section 1001.151, Education Code, is amended to
7 read as follows:

8 Sec. 1001.151. APPLICATION, LICENSE, AND REGISTRATION
9 FEES. (a) The department [~~commissioner~~] shall collect
10 application, license, and registration fees. The fees must be in
11 amounts sufficient to cover administrative costs and are
12 nonrefundable.

13 (b) The fee for an initial driver education school license
14 is \$1,000 plus \$850 for each branch location.

15 (c) The fee for an initial driving safety school license is
16 an appropriate amount established by the commissioner not to exceed
17 \$200.

18 (d) The fee for an initial course provider license is an
19 appropriate amount established by the commissioner not to exceed
20 \$2,000, except that the commission [~~agency~~] may waive the fee if
21 revenue received from the course provider is sufficient to cover
22 the cost of licensing the course provider.

23 (e) The annual renewal fee for a course provider, driving
24 safety school, driver education school, or branch location is an
25 appropriate amount established by the commission [~~commissioner~~]
26 not to exceed \$200, except that the commission [~~agency~~] may waive
27 the fee if revenue generated by the issuance of course completion

1 certificate numbers and driver education certificates is
2 sufficient to cover the cost of administering this chapter and
3 Article 45.0511, Code of Criminal Procedure.

4 (f) The fee for a change of address of:

5 (1) a driver education school is \$180; and

6 (2) a driving safety school or course provider is \$50.

7 (g) The fee for a change of name of:

8 (1) a driver education school or course provider or an
9 owner of a driver education school or course provider is \$100; and

10 (2) a driving safety school or owner of a driving
11 safety school is \$50.

12 (h) The application fee for each additional driver
13 education or driving safety course at a driver training school is
14 \$25.

15 (i) The application fee for:

16 (1) each director is \$30; and

17 (2) each assistant director or administrative staff
18 member is \$15.

19 (j) Each application for approval of a driving safety course
20 that has not been evaluated by the department and each application
21 for approval to teach an approved driving safety course by an
22 alternative delivery method [~~commissioner~~] must be accompanied by a
23 nonrefundable fee of \$9,000.

24 (k) An application for an original driver education or
25 driving safety instructor license must be accompanied by a
26 processing fee of \$50 and an annual license fee of \$25, except that
27 the department [~~commissioner~~] may not collect the processing fee

1 from an applicant for a driver education instructor license who is
2 currently teaching a driver education course in a public school in
3 this state.

4 (1) The commission [~~commissioner~~] shall establish the
5 amount of the fee for a duplicate license.

6 SECTION 15. Section 1001.153, Education Code, is amended to
7 read as follows:

8 Sec. 1001.153. COMPLAINT INVESTIGATION FEE. (a) The
9 commission [~~commissioner~~] shall establish the amount of the fee to
10 investigate a driver training school or course provider to resolve
11 a complaint against the school or course provider.

12 (b) The fee may be charged only if:

13 (1) the complaint could not have been resolved solely
14 by telephone or in writing;

15 (2) a representative of the department [~~agency~~]
16 visited the school or course provider as a part of the complaint
17 resolution process; and

18 (3) the school or course provider was found to be at
19 fault.

20 SECTION 16. Subsection (b), Section 1001.202, Education
21 Code, is amended to read as follows:

22 (b) A driving safety school may use multiple classroom
23 locations to teach a driving safety course if each location:

24 (1) is approved by the parent school and the
25 department [~~agency~~];

26 (2) has the same name as the parent school; and

27 (3) has the same ownership as the parent school.

1 SECTION 17. Sections 1001.203 through 1001.206, Education
2 Code, are amended to read as follows:

3 Sec. 1001.203. APPLICATION. To operate or do business in
4 this state, a driver training school must apply to the department
5 [~~commissioner~~] for the appropriate license. The application must:

6 (1) be in writing;

7 (2) be in the form prescribed by the department
8 [~~commissioner~~];

9 (3) include all required information; and

10 (4) be verified.

11 Sec. 1001.204. REQUIREMENTS FOR DRIVER EDUCATION SCHOOL
12 LICENSE. The department [~~commissioner~~] shall approve an
13 application for a driver education school license if, on
14 investigation of the premises of the school, it is determined that
15 the school:

16 (1) has courses, curricula, and instruction of a
17 quality, content, and length that reasonably and adequately achieve
18 the stated objective for which the courses, curricula, and
19 instruction are offered;

20 (2) has adequate space, equipment, instructional
21 material, and instructors to provide training of good quality in
22 the classroom and behind the wheel;

23 (3) has directors, instructors, and administrators
24 who have adequate educational qualifications and experience;

25 (4) provides to each student before enrollment:

26 (A) a copy of:

27 (i) the refund policy;

1 (ii) the schedule of tuition, fees, and
2 other charges; and

3 (iii) the regulations relating to absence,
4 grading policy, and rules of operation and conduct; and

5 (B) the department's name, mailing address,
6 [~~and~~] telephone number, and Internet website address [~~of the~~
7 ~~agency~~] for the purpose of directing complaints to the department
8 [~~agency~~];

9 (5) maintains adequate records as prescribed by the
10 department [~~commissioner~~] to show attendance and progress or grades
11 and enforces satisfactory standards relating to attendance,
12 progress, and conduct;

13 (6) on completion of training, issues each student a
14 certificate indicating the course name and satisfactory
15 completion;

16 (7) complies with all county, municipal, state, and
17 federal regulations, including fire, building, and sanitation
18 codes and assumed name registration;

19 (8) is financially sound and capable of fulfilling its
20 commitments for training;

21 (9) has administrators, directors, owners, and
22 instructors who are of good reputation and character;

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

1 (11) does not use erroneous or misleading advertising,
2 either by actual statement, omission, or intimation, as determined
3 by the department [~~commissioner~~];

4 (12) does not use a name similar to the name of another
5 existing school or tax-supported educational institution in this
6 state, unless specifically approved in writing by the executive
7 director [~~commissioner~~];

8 (13) submits to the department [~~agency~~] for approval
9 the applicable course hour lengths and curriculum content for each
10 course offered by the school;

11 (14) does not owe an administrative penalty for a
12 violation of [~~under~~] this chapter; and

13 (15) meets any additional criteria required by the
14 department [~~agency~~].

15 Sec. 1001.205. REQUIREMENTS FOR DRIVING SAFETY SCHOOL
16 LICENSE. The department [~~commissioner~~] shall approve an
17 application for a driving safety school license if on investigation
18 the department [~~agency~~] determines that the school:

19 (1) has driving safety courses, curricula, and
20 instruction of a quality, content, and length that reasonably and
21 adequately achieve the stated objective for which the course,
22 curricula, and instruction are developed by the course provider;

23 (2) has adequate space, equipment, instructional
24 material, and instructors to provide training of good quality;

25 (3) has instructors and administrators who have
26 adequate educational qualifications and experience;

27 (4) maintains adequate records as prescribed by the

1 department [~~commissioner~~] to show attendance and progress or grades
2 and enforces satisfactory standards relating to attendance,
3 progress, and conduct;

4 (5) complies with all county, municipal, state, and
5 federal laws, including fire, building, and sanitation codes and
6 assumed name registration;

7 (6) has administrators, owners, and instructors who
8 are of good reputation and character;

9 (7) does not use erroneous or misleading advertising,
10 either by actual statement, omission, or intimation, as determined
11 by the department [~~commissioner~~];

12 (8) does not use a name similar to the name of another
13 existing school or tax-supported educational establishment in this
14 state, unless specifically approved in writing by the executive
15 director [~~commissioner~~];

16 (9) maintains and uses the approved contract and
17 policies developed by the course provider;

18 (10) does not owe an administrative penalty for a
19 violation of [~~under~~] this chapter;

20 (11) will not provide a driving safety course to a
21 person for less than \$25; and

22 (12) meets additional criteria required by the
23 department [~~commissioner~~].

24 Sec. 1001.206. REQUIREMENTS FOR COURSE PROVIDER LICENSE.
25 The department [~~commissioner~~] shall approve an application for a
26 course provider license if on investigation the department [~~agency~~]
27 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 department's name, mailing address, [and] telephone number, and
13 Internet website address [of the agency] for the purpose of
14 directing complaints to the department [agency];

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

18 (5) not later than the 15th working day after the date
19 the person successfully completes the course, the course provider
20 will issue [mail] a uniform certificate of course completion, and
21 will send it by United States mail or commercial delivery, to the
22 person indicating the course name and successful completion;

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

19 (13) the course provider does not owe an
20 administrative penalty for a violation of [~~under~~] this chapter; and

21 (14) the course provider meets additional criteria
22 required by the department [~~commissioner~~].

23 SECTION 18. Subsections (a) and (b), Section 1001.207,
24 Education Code, are amended to read as follows:

25 (a) Before a driver education school may be issued a
26 license, the school must file a corporate surety bond with the
27 department [~~commissioner~~] in the amount of:

1 (1) \$10,000 for the primary location of the school;
2 and

3 (2) \$5,000 for each branch location.

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

5 (1) issued in a form approved by the department
6 [~~commissioner~~];

7 (2) issued by a company authorized to do business in
8 this state;

9 (3) payable to the state to be used only for payment of
10 a refund due to a student or potential student;

11 (4) conditioned on the compliance of the school and
12 its officers, agents, and employees with this chapter and rules
13 adopted under this chapter; and

14 (5) issued for a period corresponding to the term of
15 the license.

16 SECTION 19. Subsection (b), Section 1001.209, Education
17 Code, is amended to read as follows:

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

19 (1) issued by a company authorized to do business in
20 this state;

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

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

24 (B) to cover the payment of unpaid fees or
25 penalties assessed by the department [~~agency~~]; or

26 (C) to recover any cost associated with providing
27 course completion certificate numbers, including the cancellation

1 of certificate numbers;

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

5 (4) issued for a period corresponding to the term of
6 the license.

7 SECTION 20. Section 1001.210, Education Code, is amended to
8 read as follows:

9 Sec. 1001.210. ALTERNATE FORM OF SECURITY. Instead of the
10 bond required by Section 1001.207 or 1001.209, a driver education
11 school or course provider may provide another form of security that
12 is:

13 (1) ~~[(A)]~~ approved by the department ~~[commissioner]~~;

14 and

15 (2) ~~[(B)]~~ in the amount required for a comparable bond
16 under Section 1001.207 or 1001.209.

17 SECTION 21. Subsections (a) and (b), Section 1001.211,
18 Education Code, are amended to read as follows:

19 (a) The department ~~[commissioner]~~ shall issue a license to
20 an applicant for a license under this subchapter if:

21 (1) the application is submitted in accordance with
22 this subchapter; and

23 (2) the applicant meets the requirements of this
24 chapter.

25 (b) A license must be in a form determined by the department
26 ~~[commissioner]~~ and must show in a clear and conspicuous manner:

27 (1) the date of issuance, effective date, and term of

1 the license;

2 (2) the name and address of the driver training school
3 or course provider;

4 (3) the authority for and conditions of approval;

5 (4) the executive director's [~~commissioner's~~]
6 signature; and

7 (5) any other fair and reasonable representation that
8 is consistent with this chapter and that the department
9 [~~commissioner~~] considers necessary.

10 SECTION 22. Section 1001.212, Education Code, is amended to
11 read as follows:

12 Sec. 1001.212. NOTICE OF DENIAL OF LICENSE. The department
13 [~~commissioner~~] shall provide a person whose application for a
14 license under this subchapter is denied a written statement of the
15 reasons for the denial.

16 SECTION 23. Subsections (c) and (d), Section 1001.213,
17 Education Code, are amended to read as follows:

18 (c) The commission may establish [~~Instead of the~~] fees
19 [~~required by Section 1001.151, the fee~~] for a new driver education
20 school or course provider license under Subsection (b) and [~~is~~
21 ~~\$500, plus \$200~~] for each branch location that are different from
22 the amounts established under Section 1001.151[7] if:

23 (1) the new owner is substantially similar to the
24 previous owner; and

25 (2) there is no significant change in the management
26 or control of the driver education school or course provider.

27 (d) The department [~~commissioner~~] is not required to

1 reinspect a school or a branch location after a change of ownership.

2 SECTION 24. Section 1001.214, Education Code, is amended to
3 read as follows:

4 Sec. 1001.214. DUPLICATE LICENSE. A duplicate license may
5 be issued to a driver training school or course provider if:

6 (1) the original license is lost or destroyed; and

7 (2) an affidavit of that fact is filed with the
8 department [~~agency~~].

9 SECTION 25. Sections 1001.251, 1001.252, and 1001.253,
10 Education Code, are amended to read as follows:

11 Sec. 1001.251. LICENSE REQUIRED FOR INSTRUCTOR. (a) A
12 person may not teach or provide driver education, either as an
13 individual or in a driver education school, or conduct any phase of
14 driver education, unless the person holds a driver education
15 instructor license issued by the department [~~agency~~].

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

23 Sec. 1001.252. SIGNATURE AND SEAL ON LICENSE REQUIRED. A
24 license under this subchapter must be signed by the executive
25 director [~~commissioner~~].

26 Sec. 1001.253. DRIVER EDUCATION INSTRUCTOR TRAINING.

27 (a) The department [~~commissioner~~] shall establish standards for

1 certification of professional and paraprofessional personnel who
2 conduct driver education programs in driver education schools.

3 (b) A driver education instructor license authorizing a
4 person to teach or provide behind-the-wheel training may not be
5 issued unless the person has successfully completed six semester
6 hours of driver and traffic safety education or a program of study
7 in driver education approved by the department [~~commissioner~~] from
8 an approved driver education school.

9 (c) A person who holds a driver education instructor license
10 authorizing behind-the-wheel training may not be approved to
11 provide instruction [~~assist a classroom instructor~~] in the
12 classroom phase of driver education, under the certification of a
13 classroom instructor, unless the person has successfully completed
14 the three additional semester hours of training required for a
15 classroom instructor or a program of study in driver education
16 approved by the department [~~commissioner~~].

17 (d) Except as provided by Section 1001.254, a driver
18 education instructor license authorizing a person to teach or
19 provide classroom training may not be issued unless the person:

20 (1) has completed nine semester hours of driver and
21 traffic safety education or a program of study in driver education
22 approved by the department [~~commissioner~~] from an approved driver
23 education school; and

24 (2) holds a teaching certificate and any additional
25 certification required to teach driver education.

26 (e) A driver education instructor who has completed the
27 educational requirements prescribed by Subsection (d)(1) may not

1 teach instructor training classes unless the instructor has
2 successfully completed a supervising instructor development
3 program consisting of at least six additional semester hours or a
4 program of study in driver education approved by the department
5 [~~commissioner~~] that includes administering driver education
6 programs and supervising and administering traffic safety
7 education, except that the supervising teacher may allow driver
8 education teachers and teaching assistants to provide training in
9 areas appropriate for their level of certification or licensure.

10 (f) A driver education school may submit for department
11 [~~agency~~] approval a curriculum for an instructor development
12 program for driver education instructors. The program must:

13 (1) be taught by a person who has completed a
14 supervising instructor development program under Subsection (e);
15 and

16 (2) satisfy the requirements of this section for the
17 particular program or type of training to be provided.

18 SECTION 26. Subsection (a), Section 1001.254, Education
19 Code, is amended to read as follows:

20 (a) A temporary driver education instructor license may be
21 issued authorizing a person to teach or provide classroom driver
22 education training if the person:

23 (1) has completed the educational requirements
24 prescribed by Section 1001.253(d)(1);

25 (2) holds a Texas teaching certificate with an
26 effective date before February 1, 1986;

27 (3) meets all license requirements, other than

1 successful completion of the examination required under rules
2 adopted by the State Board for Educator Certification to revalidate
3 the teaching certificate; and

4 (4) demonstrates, in a manner prescribed by the
5 department [~~commissioner~~], the intention to comply with the
6 examination requirement at the first available opportunity.

7 SECTION 27. Subsections (a), (b), and (c), Section
8 1001.255, Education Code, are amended to read as follows:

9 (a) The department [~~agency~~] shall regulate as a driver
10 education school a driver education instructor who:

11 (1) teaches driver education courses in a county
12 having a population of 50,000 or less; and

13 (2) does not teach more than 200 students annually.

14 (b) An instructor described by Subsection (a) must submit to
15 the department [~~agency~~] an application for an initial or renewal
16 driver education school license, together with all required
17 documentation and information.

18 (c) The department [~~commissioner~~] may waive initial or
19 renewal driver education school license fees or the fee for a
20 director or administrative staff member.

21 SECTION 28. Section 1001.256, Education Code, is amended to
22 read as follows:

23 Sec. 1001.256. DUPLICATE LICENSE. A duplicate license may
24 be issued to a driver education instructor or driving safety
25 instructor if:

26 (1) the original license is lost or destroyed; and

27 (2) an affidavit of that fact is filed with the

1 department [~~agency~~].

2 SECTION 29. The heading to Subchapter G, Chapter 1001,
3 Education Code, is amended to read as follows:

4 SUBCHAPTER G. LICENSE EXPIRATION [~~AND RENEWAL~~]

5 SECTION 30. Subsection (b), Section 1001.351, Education
6 Code, is amended to read as follows:

7 (b) A course provider shall electronically submit to the
8 department [~~agency~~] in the manner established by the department
9 [~~agency~~] data identified by the department [~~agency~~] relating to
10 uniform certificates of course completion issued by the course
11 provider.

12 SECTION 31. Section 1001.352, Education Code, is amended to
13 read as follows:

14 Sec. 1001.352. FEES FOR DRIVING SAFETY COURSE. (a) A
15 course provider shall charge each student:

16 (1) at least \$25 for a driving safety course; and

17 (2) a fee of at least \$4, which shall be retained by
18 the course provider to be used solely [~~\$3~~] for course materials and
19 for supervising and administering the course as required by this
20 chapter and the rules of the commission.

21 (b) The department shall periodically audit course
22 providers to verify compliance with this subsection. A course
23 provider shall make its books and records available to the
24 department as needed to verify compliance with this section and
25 failure to do so may be enforced pursuant to Subchapter J.

26 SECTION 32. Subsections (a) and (b), Section 1001.354,
27 Education Code, are amended to read as follows:

1 (a) A driving safety course may be taught at a driving
2 safety school if the school is approved by the department [~~agency~~].

3 (b) A driving safety school may teach an approved driving
4 safety course by an alternative method that does not require
5 students to be present in a classroom if the department
6 [~~commissioner~~] approves the alternative method. The department
7 [~~commissioner~~] may approve the alternative method if:

8 (1) the department [~~commissioner~~] determines that the
9 approved driving safety course can be taught by the alternative
10 method; and

11 (2) the alternative method includes testing and
12 security measures that are at least as secure as the measures
13 available in the usual classroom setting.

14 SECTION 33. Subsections (b) and (c), Section 1001.404,
15 Education Code, are amended to read as follows:

16 (b) The department [~~commissioner~~] shall establish annually
17 the rate of interest for a refund at a rate sufficient to provide a
18 deterrent to the retention of student money.

19 (c) The department [~~agency~~] may except a driver education
20 school or course provider from the payment of interest if the school
21 or course provider makes a good-faith effort to refund tuition,
22 fees, and other charges but is unable to locate the student to whom
23 the refund is owed. On request of the department [~~agency~~], the
24 school or course provider shall document the effort to locate a
25 student.

26 SECTION 34. Sections 1001.451 and 1001.452, Education Code,
27 are amended to read as follows:

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

2 (1) use advertising designed to mislead or deceive a
3 prospective student;

4 (2) fail to notify the department [~~commissioner~~] of
5 the discontinuance of the operation of a driver training school
6 before the fourth working day after the date of cessation of classes
7 and make available accurate records as required by this chapter;

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

9 (A) a uniform certificate of course completion or
10 driver education certificate to a person or driver training school
11 not authorized to possess the certificate;

12 (B) a uniform certificate of course completion to
13 a person who has not successfully completed an approved, six-hour
14 driving safety course; or

15 (C) a driver education certificate to a person
16 who has not successfully completed a department-approved
17 [~~commissioner-approved~~] driver education course;

18 (4) negotiate a promissory instrument received as
19 payment of tuition or another charge before the student completes
20 75 percent of the course, except that before that time the
21 instrument may be assigned to a purchaser who becomes subject to any
22 defense available against the school named as payee; or

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

27 Sec. 1001.452. COURSE OF INSTRUCTION. A driver education

1 ~~[training]~~ school shall ~~[may]~~ not enroll a student ~~[maintain,~~
2 ~~advertise, solicit for,~~] or conduct a course of instruction in this
3 state before ~~[the later of]~~:

4 (1) ~~[the 30th day after the date the school applies for~~
5 ~~a driver training school license, or~~

6 ~~[(2)]~~ the date the school receives a driver education
7 ~~[training]~~ school license from the department; and

8 (2) the facilities and equipment are inspected and
9 approved by the department ~~[commissioner]~~.

10 SECTION 35. Subsections (d) and (e), Section 1001.453,
11 Education Code, are amended to read as follows:

12 (d) Subchapter F, Chapter 51, Occupations Code, Section
13 51.353, Occupations Code, and Section ~~[Sections 1001.454,~~
14 1001.456(a) of this code ~~[, and 1001.553]~~ do not apply to a violation
15 of this section or a rule adopted under this section.

16 (e) Section 51.352, Occupations Code, and Sections
17 ~~[1001.455(a)(6),]~~ 1001.501 ~~[, 1001.551, 1001.552,]~~ and 1001.554 of
18 this code do not apply to a violation of this section.

19 SECTION 36. Section 1001.456, Education Code, is amended to
20 read as follows:

21 Sec. 1001.456. OTHER DISCIPLINARY ACTIONS. (a) If the
22 department ~~[agency]~~ believes that a driver education school or
23 instructor has violated this chapter or a rule or order of the
24 commission or executive director ~~[adopted under this chapter]~~, the
25 department ~~[agency]~~ may, without notice:

26 (1) order a peer review;

27 (2) suspend the enrollment of students in the school

1 or the offering of instruction by the instructor; or

2 (3) suspend the right to purchase driver education
3 certificates.

4 (b) If the department [~~agency~~] believes that a course
5 provider, driving safety school, or driving safety instructor has
6 violated this chapter or a rule or order of the commission or
7 executive director [~~adopted under this chapter~~], the department
8 [~~agency~~] may, without notice:

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

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

13 (3) suspend the right to purchase course completion
14 certificate numbers.

15 (c) A peer review ordered under this section must be
16 conducted by a team of knowledgeable persons selected by the
17 department [~~agency~~]. The team shall provide the department
18 [~~agency~~] with an objective assessment of the content of the
19 school's or course provider's curriculum and its application. The
20 school or course provider shall pay the costs of the peer review.

21 (d) A suspension of enrollment under Subsection (a)(2) or
22 (b)(2) means a ruling by the executive director [~~commissioner~~] that
23 restricts a school from:

24 (1) accepting enrollments or reenrollments;

25 (2) advertising;

26 (3) soliciting; or

27 (4) directly or indirectly advising prospective

1 students of its program or course offerings.

2 SECTION 37. The heading to Subchapter L, Chapter 1001,
3 Education Code, is amended to read as follows:

4 SUBCHAPTER L. PENALTIES [~~AND ENFORCEMENT PROVISIONS~~]

5 SECTION 38. Subsection (b), Section 1001.555, Education
6 Code, is amended to read as follows:

7 (b) The department [~~agency~~] shall contract with the
8 Department of Public Safety [~~department~~] to provide undercover and
9 investigative assistance in the enforcement of Subsection (a).

10 SECTION 39. Subsection (b), Article 45.0511, Code of
11 Criminal Procedure, is amended to read as follows:

12 (b) The judge shall require the defendant to successfully
13 complete a driving safety course approved by the Texas Department
14 of Licensing and Regulation [~~Education Agency~~] or a course under
15 the motorcycle operator training and safety program approved by the
16 designated state agency under Chapter 662, Transportation Code, if:

17 (1) the defendant elects driving safety course or
18 motorcycle operator training course dismissal under this article;

19 (2) the defendant:

20 (A) has not completed an approved driving safety
21 course or motorcycle operator training course, as appropriate,
22 within the 12 months preceding the date of the offense; or

23 (B) does not have a valid Texas driver's license
24 or permit, is a member of the United States military forces serving
25 on active duty, and has not completed a driving safety course or
26 motorcycle operator training course, as appropriate, in another
27 state within the 12 months preceding the date of the offense;

1 (3) the defendant enters a plea under Article 45.021
2 in person or in writing of no contest or guilty on or before the
3 answer date on the notice to appear and:

4 (A) presents in person or by counsel to the court
5 a request to take a course; or

6 (B) sends to the court by certified mail, return
7 receipt requested, postmarked on or before the answer date on the
8 notice to appear, a written request to take a course;

9 (4) the defendant:

10 (A) has a valid Texas driver's license or permit;
11 or

12 (B) is a member of the United States military
13 forces serving on active duty;

14 (5) the defendant is charged with an offense to which
15 this article applies, other than speeding 25 miles per hour or more
16 over the posted speed limit; and

17 (6) the defendant provides evidence of financial
18 responsibility as required by Chapter 601, Transportation Code.

19 SECTION 40. Section 51.308, Education Code, is amended to
20 read as follows:

21 Sec. 51.308. DRIVER EDUCATION. A driver education course
22 for the purpose of preparing students to obtain a driver's license
23 may be offered by an institution of higher education, as defined by
24 Section 61.003, with the approval of the Texas Department of
25 Licensing and Regulation [~~Central Education Agency~~].

26 SECTION 41. Subsection (a), Section 521.1655,
27 Transportation Code, is amended to read as follows:

1 (a) A driver education school licensed under Chapter 1001,
2 Education Code, [~~the Texas Driver and Traffic Safety Education Act~~
3 ~~(Article 4413(29c), Vernon's Texas Civil Statutes)~~] may administer
4 to a student of that school the vision, highway sign, and traffic
5 law parts of the examination required by Section 521.161.

6 SECTION 42. Section 521.203, Transportation Code, is
7 amended to read as follows:

8 Sec. 521.203. RESTRICTIONS ON CLASS A AND B LICENSES. The
9 department may not issue a Class A or Class B driver's license to a
10 person who:

11 (1) is under 17 years of age;

12 (2) is under 18 years of age unless the person has
13 completed a driver training course approved by the Texas Department
14 of Licensing and Regulation [~~Central Education Agency~~]; or

15 (3) has not provided the department with an affidavit,
16 on a form prescribed by the department, that states that no vehicle
17 that the person will drive that requires a Class A or Class B
18 license is a commercial motor vehicle as defined by Section
19 522.003.

20 SECTION 43. Subsection (a), Section 521.204,
21 Transportation Code, is amended to read as follows:

22 (a) The department may issue a Class C driver's license to
23 an applicant under 18 years of age only if the applicant:

24 (1) is 16 years of age or older;

25 (2) has submitted to the department a driver education
26 certificate issued under Section 1001.055, Education Code [~~Section~~
27 ~~9A, Texas Driver and Traffic Safety Education Act (Article~~

1 ~~4413(29c), Vernon's Texas Civil Statutes~~], that states that the
2 person has completed and passed a driver education course approved
3 by the department under Section 521.205 or by the Texas Department
4 of Licensing and Regulation [~~Education Agency~~];

5 (3) has obtained a high school diploma or its
6 equivalent or is a student:

7 (A) enrolled in a public school, home school, or
8 private school who attended school for at least 80 days in the fall
9 or spring semester preceding the date of the driver's license
10 application; or

11 (B) who has been enrolled for at least 45 days,
12 and is enrolled as of the date of the application, in a program to
13 prepare persons to pass the high school equivalency exam; and

14 (4) has passed the examination required by Section
15 521.161.

16 SECTION 44. Subsections (b) and (d), Section 521.205,
17 Transportation Code, are amended to read as follows:

18 (b) The department may not approve a course unless it
19 determines that the course materials are at least equal to those
20 required in a course approved by the Texas Department of Licensing
21 and Regulation [~~Education Agency~~], except that the department may
22 not require that:

23 (1) the classroom instruction be provided in a room
24 with particular characteristics or equipment; or

25 (2) the vehicle used for the behind-the-wheel
26 instruction have equipment other than the equipment otherwise
27 required by law for operation of the vehicle on a highway while the

1 vehicle is not being used for driver training.

2 (d) Completion of a driver education course approved under
3 this section has the same effect under this chapter as completion of
4 a driver education course approved by the Texas Department of
5 Licensing and Regulation [~~Education Agency~~].

6 SECTION 45. Subsections (a) and (c), Section 521.222,
7 Transportation Code, are amended to read as follows:

8 (a) The department or a driver education school licensed
9 under Chapter 1001, Education Code, [~~the Texas Driver and Traffic~~
10 ~~Safety Education Act (Article 4413(29c), Vernon's Texas Civil~~
11 ~~Statutes)~~] may issue an instruction permit, including a Class A or
12 Class B driver's license instruction permit, to a person who:

13 (1) is 15 years of age or older but under 18 years of
14 age;

15 (2) has satisfactorily completed and passed the
16 classroom phase of an approved driver education course, which may
17 be a course approved under Section 521.205;

18 (3) meets the requirements imposed under Section
19 521.204(3); and

20 (4) has passed each examination required under Section
21 521.161 other than the driving test.

22 (c) A driver education school may issue an instruction
23 permit to a person 18 years of age or older who has successfully
24 passed:

25 (1) a six-hour adult classroom driver education course
26 approved by the Texas Department of Licensing and Regulation
27 [~~Education Agency~~]; and

1 (2) each part of the driver's examination required by
2 Section 521.161 other than the driving test.

3 SECTION 46. (a) The following provisions of the Education
4 Code are repealed:

5 (1) Subdivision (1), Section 1001.001;

6 (2) Section 1001.152;

7 (3) Sections 1001.303 and 1001.304;

8 (4) Sections 1001.454 and 1001.455;

9 (5) Sections 1001.457 through 1001.461; and

10 (6) Sections 1001.551, 1001.552, and 1001.553.

11 (b) Subchapter B, Chapter 453, Transportation Code, is
12 repealed.

13 SECTION 47. (a) As soon as practicable after the effective
14 date of this Act, the Texas Education Agency and the Texas
15 Department of Licensing and Regulation shall develop a transition
16 plan for transferring the functions performed by the Texas
17 Education Agency under Chapter 1001, Education Code, to the Texas
18 Department of Licensing and Regulation. The transition plan must
19 include a timetable with specific steps and deadlines needed to
20 complete the transfer.

21 (b) In accordance with the transition plan developed by the
22 Texas Education Agency and the Texas Department of Licensing and
23 Regulation under Subsection (a) of this section, on January 1,
24 2008:

25 (1) all functions and activities relating to Chapter
26 1001, Education Code, performed by the Texas Education Agency
27 immediately before that date are transferred to the Texas

1 Department of Licensing and Regulation;

2 (2) a rule or form adopted by the commissioner of
3 education that relates to Chapter 1001, Education Code, is a rule or
4 form of the Texas Commission of Licensing and Regulation or the
5 Texas Department of Licensing and Regulation, as applicable, and
6 remains in effect until amended or replaced by that commission or
7 department;

8 (3) a reference in law to or an administrative rule of
9 the Texas Education Agency that relates to Chapter 1001, Education
10 Code, means the Texas Commission of Licensing and Regulation or the
11 Texas Department of Licensing and Regulation, as applicable;

12 (4) a complaint, investigation, or other proceeding
13 before the Texas Education Agency that is related to Chapter 1001,
14 Education Code, is transferred without change in status to the
15 Texas Department of Licensing and Regulation, and the Texas
16 Department of Licensing and Regulation assumes, as appropriate and
17 without a change in status, the position of the Texas Education
18 Agency in an action or proceeding to which the Texas Education
19 Agency is a party;

20 (5) all full-time equivalent employee positions at the
21 Texas Education Agency that primarily concern the administration of
22 Chapter 1001, Education Code, become positions at the Texas
23 Department of Licensing and Regulation and, when filling the
24 positions, the Texas Department of Licensing and Regulation shall
25 give first consideration to an applicant who, as of December 31,
26 2007, was a full-time employee at the Texas Education Agency
27 primarily involved in administering Chapter 1001, Education Code;

1 (6) all money, contracts, leases, property, and
2 obligations of the Texas Education Agency related to Chapter 1001,
3 Education Code, are transferred to the Texas Department of
4 Licensing and Regulation;

5 (7) all property in the custody of the Texas Education
6 Agency related to Chapter 1001, Education Code, is transferred to
7 the Texas Department of Licensing and Regulation; and

8 (8) the unexpended and unobligated balance of any
9 money appropriated by the legislature for the Texas Education
10 Agency related to Chapter 1001, Education Code, is transferred to
11 the Texas Department of Licensing and Regulation.

12 (c) Before January 1, 2008, the Texas Education Agency may
13 agree with the Texas Department of Licensing and Regulation to
14 transfer any property of the Texas Education Agency to the Texas
15 Department of Licensing and Regulation to implement the transfer
16 required by this Act.

17 (d) In the period beginning with the effective date of this
18 Act and ending on January 1, 2008, the Texas Education Agency shall
19 continue to perform functions and activities under Chapter 1001,
20 Education Code, as if that chapter had not been amended by this Act,
21 and the former law is continued in effect for that purpose.

22 SECTION 48. Except as otherwise provided by this Act, the
23 changes in law made by this Act apply only to a license issued or
24 renewed on or after January 1, 2008. An issuance or renewal that
25 occurs before January 1, 2008, is governed by the law in effect
26 immediately before that date, and the former law is continued in
27 effect for that purpose.

1 SECTION 49. This Act takes effect immediately if it
2 receives a vote of two-thirds of all the members elected to each
3 house, as provided by Section 39, Article III, Texas Constitution.
4 If this Act does not receive the vote necessary for immediate
5 effect, this Act takes effect November 1, 2007.