

## **BILL ANALYSIS**

Senate Research Center

H.B. 2678  
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Engrossed

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

Interested parties identify certain problems for driver education training providers in Texas, including inflexibility regarding the use of technology by online adult driver education course providers to produce certificates of completion, as is allowed for driving safety course vendors. These interested parties also note concerns that some driver training instructors have not been certified as educators, nor subject to an attendant background check, despite having direct, unsupervised time with driver education students. H.B. 2678 seeks to remedy these problems by modifying the regulation of driver training schools and instruction.

H.B. 2678 amends current law relating to driver training and education.

### **RULEMAKING AUTHORITY**

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

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

### **SECTION BY SECTION ANALYSIS**

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

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

Sec. 1001.006. REVIEW OF AGENCY JURISDICTION AND CONTROL OVER DRIVER EDUCATION AND DRIVING SAFETY SCHOOLS. Requires the Sunset Advisory Commission (commission), during the commission's review of the Texas Education Agency (TEA) under Section 7.004 (Sunset Provision) concerning abolition of TEA on September 1, 2013, to review TEA's jurisdiction and control over driver education and driving safety schools and include in its report to the legislature and governor under Section 325.010 (Commission Report), Government Code, a recommendation as to whether another state agency should have jurisdiction and control over those schools. Provides that this section expires January 1, 2014.

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

Sec. 1001.055. New heading: DRIVER EDUCATION CERTIFICATES AND CERTIFICATE NUMBERS. (a) Requires TEA to provide, rather than requiring TEA to print and supply, to each licensed or exempt driver education school driver education certificates or certificate numbers to enable the school and each approved parent-taught course provider (approved by the Texas Department of Public Safety (DPS) under Section 521.205 (Department-Approved Courses) of the Transportation Code) to print and issue TEA-approved driver education certificates with the certificate numbers to be used for certifying completion of an approved driver education course to satisfy the

requirements of Sections 521.204(a)(2) and 521.1601, Transportation Code. Deletes existing text requiring that the certificates be numbered serially.

(a-1) Requires that a certificate printed and issued by a driver education school or DPS approved course provider be in a form required by TEA, and include an identifying certificate number provided by TEA that may be used to verify the authenticity of the certificate with the driver education school or DPS approved course provider.

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

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

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

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

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

Sec. 1001.2511. NATIONAL CRIMINAL HISTORY RECORD INFORMATION REVIEW FOR DRIVER EDUCATION INSTRUCTORS. (a) Provides that this section applies to a person who is an applicant for or holder of a driver education instructor license, or a license issued under Section 1001.255.

(b) Requires TEA to review the national criminal history record information of a person who holds a license described by Subsection (a).

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

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

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

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

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

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

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

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

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

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

(1) may not be released except to provide relevant information to driver education schools or otherwise to comply with Section 1001.2511; by court order; or with the consent of the person who is the subject of the information;

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

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

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

(1) the employee or applicant has been convicted of a felony offense under Title 5 (Offenses Against the Person), Penal Code, an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62 (Sex Offender Registration Program), Code of Criminal Procedure; or an offense under the laws of another state or federal law that is equivalent to an offense under Paragraph (A) or (B); and

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

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

(c) Provides that Subsections (a) and (b) do not apply to an offense under Title 5, Penal Code, if more than 30 years have elapsed since the offense was committed,

and the person convicted has satisfied all terms of the court order entered on conviction.

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

SECTION 5. Amends Section 1001.253, Education Code, by amending Subsection (d) and adding Subsection (g), as follows:

(d) Prohibits a driver education instructor license authorizing a person to teach or provide classroom training, except as provided by Subsection (g) or Section 1001.254, from being issued unless the person has completed nine semester hours of driver and traffic safety education or a program of study in driver education approved by the commissioner from an approved driver education school, and holds a teaching certificate and any additional certification required to teach driver education.

(g) Authorizes a driver education instructor license authorizing a person to teach or provide classroom training to be issued to a person who satisfies the requirements of Subsection (d)(1) but does not satisfy the requirements of Subsection (d)(2), except that such a license may authorize the license holder to teach or provide classroom training only for a driver education school that is located in a county that has a population of at least 275,000 but not more than 285,000 and is operated by a private primary or secondary school or open-enrollment charter school. Provides that this section does not affect any law or school policy that requires a review of criminal history record information.

SECTION 6. Requires the TEA, as soon as practicable after the effective date of this Act, to begin obtaining national criminal history record information for persons subject to a national criminal history record review under Section 1001.2511, Education Code, as added by this Act.

SECTION 7. Effective date: September 1, 2011.