

BILL ANALYSIS

C.S.H.B. 2678
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Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

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. C.S.H.B. 2678 seeks to remedy these problems by modifying the regulation of driver training schools and instruction.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Education Agency in SECTION 3 of this bill and to the commissioner of education in SECTION 4 of this bill.

ANALYSIS

C.S.H.B. 2678 amends the Education Code to add a temporary provision, set to expire January 1, 2014, to require the Sunset Advisory Commission, during its review of the Texas Education Agency (TEA) concerning abolition of the TEA on September 1, 2013, to review the TEA's jurisdiction and control over driver education and driving safety schools and include in its report to the legislature and governor a recommendation as to whether another state agency should have jurisdiction and control over those schools.

C.S.H.B. 2678 requires the TEA to provide, rather than print and supply, to each licensed or exempt driver education school driver education certificates to be used for certifying completion of an approved driver education course. The bill adds as an alternative to these education certificates the option for a driver education school to print and issue TEA-approved driver education certificates with the certificate numbers provided by TEA.

C.S.H.B. 2678 requires a certificate printed and issued by a driver education school to be in a form required by the TEA and to include an identifying certificate number provided by the TEA that may be used to verify the authenticity of the certificate with the driver education school. The bill requires a driver education school 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. The bill requires the driver education school to electronically submit to the TEA in the manner established by the agency data identified by the TEA relating to issuance of agency-approved driver education certificates with the certificate numbers. The bill removes a provision requiring the education certificates to be numbered serially and sets out a provision requiring the certificate numbers to be in serial order so that the number on each issued certificate is unique. The bill requires the TEA, by rule, to provide for the design and distribution of the certificate numbers in a manner that, to the greatest extent possible, prevents the numbers' unauthorized reproduction or misuse of the numbers. The bill authorizes the TEA to charge a fee of not more

than \$4 for each certificate number.

C.S.H.B. 2678 requires the TEA to review the national criminal history record information of a person who holds a driver education instructor license or an initial or renewal driver education school license and who has not previously submitted fingerprints to the Department of Public Safety or been subject to a national criminal history record information review. The bill requires the TEA to place such a license on inactive status for the license holder's failure to comply with a deadline for submitting information required under the review. The bill authorizes the TEA to allow a person who is applying for such a license 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. The bill authorizes the commissioner to adopt rules to administer these provisions, including rules establishing deadlines for a person to submit fingerprints and photograph in compliance with these provisions, sanctions for a person's failure to comply with the requirements of these provisions, and notification to a driver education school of relevant information obtained by the TEA under these provisions. The bill establishes that the TEA is not civilly or criminally liable for an action taken in compliance with these provisions.

C.S.H.B. 2678 adds a temporary provision, set to expire October 1, 2013, to require the commissioner by rule to establish a schedule for obtaining and reviewing the information a person must provide the TEA and to require the TEA, not later than September 1, 2013, to obtain all national criminal history record information on all holders of the applicable licenses.

C.S.H.B. 2678 requires the commissioner by rule to require a person submitting to a national criminal history record information review or the driver education school employing the person, as determined by the TEA, to pay a fee for the review in an amount not to exceed the amount of any fee imposed on an application for educator certification for a national criminal history record information review.

C.S.H.B. 2678 exempts certain specified information collected about a person to comply with the bill's provisions from state public information law and prohibits such information from being released except by court order, with the consent of the person who is the subject of the information, or to provide relevant information to driver education schools or otherwise to comply with the bill's provisions. The bill requires such information to 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.

C.S.H.B. 2678 requires a driver education school to discharge or refuse to hire as an instructor an employee or applicant for employment if the TEA obtains information through a criminal history record information review that the employee or applicant has been convicted of a felony offense against a person, an offense on conviction of which a defendant is required to register as a sex offender, or an offense under the laws of another state or federal law that is equivalent to such an offense, and that, at the time such an offense occurred, the victim of the offense was under 18 years of age or was enrolled in a public school. The bill requires the TEA to suspend or revoke a driver education instructor license or an initial or renewal driver education school license and to refuse to issue or renew the license to a person if the person has been convicted of such an offense. The bill makes these provisions inapplicable to a felony offense against a person 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.

C.S.H.B. 2678 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 the TEA. The bill establishes that an employee discharged in such a way is considered to have been discharged for misconduct for purposes relating to the Texas Unemployment Compensation Act.

C.S.H.B. 2678 requires the TEA, as soon as practicable after the bill's effective date, to begin obtaining national criminal history record information for persons subject to a national criminal history record review under the bill's provisions.

C.S.H.B. 2678 provides for the meaning of "national criminal history record information" by reference and makes conforming and nonsubstantive changes.

EFFECTIVE DATE

September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2678 contains a provision not included in the original providing for the meaning of "national criminal history record information" by reference.

C.S.H.B. 2678 contains a provision not included in the original adding a temporary provision to require the Sunset Advisory Commission, during the commission's review of the Texas Education Agency (TEA) concerning abolition of the TEA on September 1, 2013, to review the TEA's jurisdiction and control over driver education and driving safety schools and include in its report to the legislature and governor a recommendation as to whether another state agency should have jurisdiction and control over those schools.

C.S.H.B. 2678 omits a provision included in the original requiring a submission for approval of a curriculum for a supervising instructor developmental program for supervising instructors that has not been evaluated by the commissioner of education or for an instructor development program for driver education instructors that has not been evaluated by the TEA or that requires reexamination to be accompanied by a nonrefundable fee in an amount the commissioner considers appropriate, capped at the amount sufficient to cover the costs of considering the submission.

C.S.H.B. 2678 omits provisions included in the original prohibiting a person who holds a driver education instructor license authorizing behind-the-wheel training from being approved to teach the classroom phase of driver education unless certain conditions are met and including among those conditions the meeting of all requirements for a driver education instructor license authorizing a person to teach or provide classroom training.

C.S.H.B. 2678 omits a provision included in the original adding as an alternative to the requirement that a person hold a teaching certificate and any additional certification required to teach driver education to be issued a license to teach or provide classroom training that the person has adequate education qualifications and experience to conduct classroom training, as determined by the commissioner.

C.S.H.B. 2678 omits a provision included in the original reducing the minimum number of additional semester hours of a supervising instructor development program that a driver education instructor may be required to complete before being authorized to teach instructor training classes.

C.S.H.B. 2678 omits a provision included in the original authorizing an individual certified under certain standards to assist a supervising instructor in an instructor development program for driver education instructors if the individual meets certain requirements and receives appropriate training.

C.S.H.B. 2678 omits a provision included in the original adding to the requirements for an instructor development program for driver education instructors.

C.S.H.B. 2678 omits a provision included in the original authorizing a driver education school to provide all or part of the classroom portion of a TEA-approved curriculum for an instructor development program for driver education instructors by a certain alternative method of instruction if commissioner approved.

C.S.H.B. 2678 omits provisions included in the original authorizing the commissioner to reexamine an approved instructor development program under certain circumstances and requiring such a school to pay the costs of the reexamination.

C.S.H.B. 2678 omits a provision included in the original authorizing an individual applying to renew a driver education instructor license or driving safety instructor license to complete an approved continuing education course by an alternative method if commissioner approved.

C.S.H.B. 2678 omits provisions included in the original adding an exception to the full refund requirement for a student who cancels an enrollment contract under certain conditions and providing for the determination of the amount of a refund.

C.S.H.B. 2678 omits a provision included in the original removing the 10th school day after the last day of attendance at a driver education program as a possible effective date of termination of an enrollment contract for such a program for refund purposes.

C.S.H.B. 2678 omits a provision included in the original requiring the commissioner to adopt rules as necessary to implement the original's provisions by a certain deadline.

C.S.H.B. 2678 contains a provision not included in the original requiring the TEA to review the national criminal history record information of a person who holds a driver education instructor license or an initial or renewal driver education school license and who has not previously submitted fingerprints to the Department of Public Safety or been subject to a national criminal history record information review.

C.S.H.B. 2678 contains provisions not included in the original requiring the TEA to place such a license on inactive status for the license holder's failure to comply with a deadline for submitting such information and authorizing the TEA to allow a person who is applying for such a license 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.

C.S.H.B. 2678 contains provisions not included in the original authorizing the commissioner to adopt rules to administer the bill's provisions and establishing that the TEA is not civilly or criminally liable for an action taken in compliance with the bill's provisions.

C.S.H.B. 2678 contains temporary provisions not included in the original requiring the commissioner by rule to establish a schedule for obtaining and reviewing certain information and requiring the TEA to obtain all national criminal history record information on all holders of the applicable licenses by a certain deadline.

C.S.H.B. 2678 contains provisions not included in the original requiring the commissioner by rule to require a person submitting to a national criminal history record information review or the driver education school employing the person, as determined by the TEA, to pay a fee for the review and providing for the confidentiality of information with regard to the bill's provisions.

C.S.H.B. 2678 contains a provision not included in the original requiring a driver education school to discharge or refuse to hire as an instructor an employee or applicant for employment if the TEA obtains information through a criminal history record information review that the employee or applicant has been convicted of certain offenses, and, at the time such an offense occurred, the victim of the offense was under 18 years of age or was enrolled in a public school.

The substitute contains provisions not included in the original requiring the TEA to suspend or revoke a driver education instructor license or an initial or renewal driver education school license and to refuse to issue or renew the license to a person if the person has been convicted of such an offense and making these provisions inapplicable to a felony offense against a person if certain conditions are met.

C.S.H.B. 2678 contains provisions not included in the original authorizing 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 the TEA and establishing that an employee discharged in such a way is considered to have been discharged for misconduct for purposes relating to the Texas Unemployment Compensation Act.

C.S.H.B. 2678 contains a provision not included in the original requiring the TEA, as soon as practicable after the bill's effective date, to begin obtaining national criminal history record information for persons subject to a national criminal history record review under the bill's provisions.