

## **BILL ANALYSIS**

S.B. 1114  
By: Wentworth  
Public Education  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Interested parties contend that current law relating to the regulation of driver training schools and instructors is in need of revision. S.B. 1114 seeks to provide for that revision.

### **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**

S.B. 1114 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.

S.B. 1114 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.

S.B. 1114 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 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.

S.B. 1114 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 photographs 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.

S.B. 1114 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.

S.B. 1114 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.

S.B. 1114 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.

S.B. 1114 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.

S.B. 1114 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.

S.B. 1114 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.

S.B. 1114 provides for the meaning of "national criminal history record information" by

reference and makes conforming and nonsubstantive changes.

**EFFECTIVE DATE**

September 1, 2011.