

By: Smith of Tarrant

H.B. No. 2678

A BILL TO BE ENTITLED

AN ACT

relating to driver training and education.

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

SECTION 1. Section 1001.001, Education Code, is amended by adding Subdivision (14-a) to read as follows:

(14-a) "National criminal history record information" has the meaning assigned by Section 22.081.

SECTION 2. Subchapter A, Chapter 1001, Education Code, is amended by adding Section 1001.006 to read as follows:

Sec. 1001.006. REVIEW OF AGENCY JURISDICTION AND CONTROL OVER DRIVER EDUCATION AND DRIVING SAFETY SCHOOLS. During the Sunset Advisory Commission's review of the agency under Section 7.004 concerning abolition of the agency on September 1, 2013, the commission shall review the agency'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, Government Code, a recommendation as to whether another state agency should have jurisdiction and control over those schools. This section expires January 1, 2014.

SECTION 3. Section 1001.055, Education Code, is amended to read as follows:

Sec. 1001.055. DRIVER EDUCATION CERTIFICATES AND CERTIFICATE NUMBERS. (a) The agency shall provide [~~print and supply~~] to each licensed or exempt driver education school driver

1 education certificates or certificate numbers to enable the school
2 and each approved parent-taught course provider (approved by the
3 Texas Department of Public Safety under Section 521.205 of the
4 Transportation Code) to print and issue agency-approved driver
5 education certificates with the certificate numbers to be used for
6 certifying completion of an approved driver education course to
7 satisfy the requirements of Sections 521.204(a)(2) and 521.1601,
8 Transportation Code. [~~The certificates must be numbered serially.~~]

9 (a-1) A certificate printed and issued by a driver education
10 school or Department of Public Safety approved course provider
11 must:

12 (1) be in a form required by the agency; and
13 (2) include an identifying certificate number
14 provided by the agency that may be used to verify the authenticity
15 of the certificate with the driver education school or Department
16 of Public Safety approved course provider.

17 (a-2) A driver education school or Department of Public
18 Safety approved course provider that purchases driver education
19 certificate numbers shall provide for the printing and issuance of
20 original and duplicate certificates in a manner that, to the
21 greatest extent possible, prevents the unauthorized production or
22 the misuse of the certificates. The driver education school or
23 Department of Public Safety approved course provider shall
24 electronically submit to the agency in the manner established by
25 the agency data identified by the agency relating to issuance of
26 agency-approved driver education certificates with the certificate
27 numbers.

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

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

8 (c) The agency may charge a fee of not more than \$4 for each
9 certificate or certificate number.

10 SECTION 4. Subchapter F, Chapter 1001, Education Code, is
11 amended by adding Sections 1001.2511, 1001.2512, 1001.2513, and
12 1001.2514 to read as follows:

13 Sec. 1001.2511. NATIONAL CRIMINAL HISTORY RECORD
14 INFORMATION REVIEW FOR DRIVER EDUCATION INSTRUCTORS. (a) This
15 section applies to a person who is an applicant for or holder of:

16 (1) a driver education instructor license; or

17 (2) a license issued under Section 1001.255.

18 (b) The agency shall review the national criminal history
19 record information of a person who holds a license described by
20 Subsection (a).

21 (c) The agency shall place a license described by Subsection
22 (a) on inactive status for the license holder's failure to comply
23 with a deadline for submitting information required under this
24 section.

25 (d) The agency may allow a person who is applying for a
26 license described by Subsection (a) and who currently resides in
27 another state to submit the person's fingerprints and other

1 required information in a manner that does not impose an undue
2 hardship on the person.

3 (e) The commissioner may adopt rules to administer this
4 section, including rules establishing:

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

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

10 (3) notification to a driver education school of
11 relevant information obtained by the agency under this section.

12 (f) The agency is not civilly or criminally liable for an
13 action taken in compliance with this section.

14 (g) The commissioner by rule shall establish a schedule for
15 obtaining and reviewing the information a person must provide the
16 agency under this section. Not later than September 1, 2013, the
17 agency must obtain all national criminal history record information
18 on all holders of licenses described by Subsection (a). This
19 subsection expires October 1, 2013.

20 Sec. 1001.2512. FEES FOR CRIMINAL HISTORY RECORD
21 INFORMATION REVIEW. The commissioner by rule shall require a
22 person submitting to a national criminal history record information
23 review under Section 1001.2511 or the driver education school
24 employing the person, as determined by the agency, to pay a fee for
25 the review in an amount not to exceed the amount of any fee imposed
26 on an application for certification under Subchapter B, Chapter 21,
27 for a national criminal history record information review under

1 Section 22.0837.

2 Sec. 1001.2513. CONFIDENTIALITY OF INFORMATION.

3 Information collected about a person to comply with Section
4 1001.2511, including the person's name, address, phone number,
5 social security number, driver's license number, other
6 identification number, and fingerprint records:

7 (1) may not be released except:

8 (A) to provide relevant information to driver
9 education schools or otherwise to comply with Section 1001.2511;

10 (B) by court order; or

11 (C) with the consent of the person who is the
12 subject of the information;

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

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

18 Sec. 1001.2514. LICENSE HOLDERS AND APPLICANTS CONVICTED OF
19 CERTAIN OFFENSES. (a) A driver education school shall discharge or
20 refuse to hire as an instructor an employee or applicant for
21 employment if the agency obtains information through a criminal
22 history record information review that:

23 (1) the employee or applicant has been convicted of:

24 (A) a felony offense under Title 5, Penal Code;

25 (B) an offense on conviction of which a defendant
26 is required to register as a sex offender under Chapter 62, Code of
27 Criminal Procedure; or

1 (C) an offense under the laws of another state or
2 federal law that is equivalent to an offense under Paragraph (A) or
3 (B); and

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

7 (b) The agency shall suspend or revoke a license described
8 by Section 1001.2511(a) held by a person under this subchapter and
9 shall refuse to issue or renew a license described by Section
10 1001.2511(a) to a person under this subchapter if the person has
11 been convicted of an offense described by Subsection (a) of this
12 section.

13 (c) Subsections (a) and (b) do not apply to an offense under
14 Title 5, Penal Code, if:

15 (1) more than 30 years have elapsed since the offense
16 was committed; and

17 (2) the person convicted has satisfied all terms of
18 the court order entered on conviction.

19 (d) A driver education school may discharge an employee who
20 serves as an instructor if the school obtains information of the
21 employee's conviction of a felony or of a misdemeanor involving
22 moral turpitude that the employee did not disclose to the school or
23 the agency. An employee discharged under this subsection is
24 considered to have been discharged for misconduct for purposes of
25 Section 207.044, Labor Code.

26 SECTION 5. Section 1001.253, Education Code, is amended by
27 amending Subsection (d) and adding Subsection (g) to read as

1 follows:

2 (d) Except as provided by Subsection (g) or Section
3 1001.254, a driver education instructor license authorizing a
4 person to teach or provide classroom training may not be issued
5 unless the person:

6 (1) has completed nine semester hours of driver and
7 traffic safety education or a program of study in driver education
8 approved by the commissioner from an approved driver education
9 school; and

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

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

23 SECTION 6. As soon as practicable after the effective date
24 of this Act, the Texas Education Agency shall begin obtaining
25 national criminal history record information for persons subject to
26 a national criminal history record review under Section 1001.2511,
27 Education Code, as added by this Act.

1 SECTION 7. This Act takes effect September 1, 2011.