

By: Smith of Tarrant

H.B. No. 2678

Substitute the following for H.B. No. 2678:

By: Strama

C.S.H.B. No. 2678

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of driver training schools and  
3 instructors.

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

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

7 (14-a) "National criminal history record information"  
8 has the meaning assigned by Section 22.081.

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

11 Sec. 1001.006. REVIEW OF AGENCY JURISDICTION AND CONTROL  
12 OVER DRIVER EDUCATION AND DRIVING SAFETY SCHOOLS. During the  
13 Sunset Advisory Commission's review of the agency under Section  
14 7.004 concerning abolition of the agency on September 1, 2013, the  
15 commission shall review the agency's jurisdiction and control over  
16 driver education and driving safety schools and include in its  
17 report to the legislature and governor under Section 325.010,  
18 Government Code, a recommendation as to whether another state  
19 agency should have jurisdiction and control over those schools.  
20 This section expires January 1, 2014.

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

23 Sec. 1001.055. DRIVER EDUCATION CERTIFICATES AND  
24 CERTIFICATE NUMBERS. (a) The agency shall provide [~~print and~~

1 ~~supply~~] to each licensed or exempt driver education school driver  
2 education certificates or certificate numbers to enable the school  
3 to print and issue agency-approved driver education certificates  
4 with the certificate numbers to be used for certifying completion  
5 of an approved driver education course to satisfy the requirements  
6 of Sections 521.204(a)(2) and 521.1601, Transportation Code. [~~The~~  
7 ~~certificates must be numbered serially.~~]

8 (a-1) A certificate printed and issued by a driver education  
9 school must:

- 10 (1) be in a form required by the agency; and  
11 (2) include an identifying certificate number  
12 provided by the agency that may be used to verify the authenticity  
13 of the certificate with the driver education school.

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

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

25 (b) The agency by rule shall provide for the design and  
26 distribution of the certificates and certificate numbers in a  
27 manner that, to the greatest extent possible, prevents the

1 unauthorized reproduction or misuse of the certificates or  
2 certificate numbers.

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

5 SECTION 4. Subchapter F, Chapter 1001, Education Code, is  
6 amended by adding Sections 1001.2511, 1001.2512, 1001.2513, and  
7 1001.2514 to read as follows:

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

11 (1) a driver education instructor license; or

12 (2) a license issued under Section 1001.255.

13 (b) The agency shall review the national criminal history  
14 record information of a person who holds a license described by  
15 Subsection (a) and who has not previously submitted fingerprints to  
16 the Department of Public Safety or been subject to a national  
17 criminal history record information review.

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

22 (d) The agency may allow a person who is applying for a  
23 license described by Subsection (a) and who currently resides in  
24 another state to submit the person's fingerprints and other  
25 required information in a manner that does not impose an undue  
26 hardship on the person.

27 (e) The commissioner may adopt rules to administer this

1 section, including rules establishing:

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

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

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

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

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

17 Sec. 1001.2512. FEES FOR CRIMINAL HISTORY RECORD  
18 INFORMATION REVIEW. The commissioner by rule shall require a  
19 person submitting to a national criminal history record information  
20 review under Section 1001.2511 or the driver education school  
21 employing the person, as determined by the agency, to pay a fee for  
22 the review in an amount not to exceed the amount of any fee imposed  
23 on an application for certification under Subchapter B, Chapter 21,  
24 for a national criminal history record information review under  
25 Section 22.0837.

26 Sec. 1001.2513. CONFIDENTIALITY OF INFORMATION.  
27 Information collected about a person to comply with Section

1 1001.2511, including the person's name, address, phone number,  
2 social security number, driver's license number, other  
3 identification number, and fingerprint records:

4 (1) may not be released except:

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

7 (B) by court order; or

8 (C) with the consent of the person who is the  
9 subject of the information;

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

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

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

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

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

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

25 (C) an offense under the laws of another state or  
26 federal law that is equivalent to an offense under Paragraph (A) or  
27 (B); and

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

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

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

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

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

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

23           SECTION 5. 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 6. This Act takes effect September 1, 2011.