

1-1 By: Smith of Tarrant (Senate Sponsor - Wentworth) H.B. No. 2678  
1-2 (In the Senate - Received from the House May 9, 2011;  
1-3 May 10, 2011, read first time and referred to Committee on  
1-4 Transportation and Homeland Security; May 21, 2011, reported  
1-5 favorably by the following vote: Yeas 9, Nays 0; May 21, 2011, sent  
1-6 to printer.)

1-7 A BILL TO BE ENTITLED  
1-8 AN ACT

1-9 relating to driver training and education.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 1001.001, Education Code, is amended by  
1-12 adding Subdivision (14-a) to read as follows:

1-13 (14-a) "National criminal history record information"  
1-14 has the meaning assigned by Section 22.081.

1-15 SECTION 2. Subchapter A, Chapter 1001, Education Code, is  
1-16 amended by adding Section 1001.006 to read as follows:

1-17 Sec. 1001.006. REVIEW OF AGENCY JURISDICTION AND CONTROL  
1-18 OVER DRIVER EDUCATION AND DRIVING SAFETY SCHOOLS. During the  
1-19 Sunset Advisory Commission's review of the agency under Section  
1-20 7.004 concerning abolition of the agency on September 1, 2013, the  
1-21 commission shall review the agency's jurisdiction and control over  
1-22 driver education and driving safety schools and include in its  
1-23 report to the legislature and governor under Section 325.010,  
1-24 Government Code, a recommendation as to whether another state  
1-25 agency should have jurisdiction and control over those schools.  
1-26 This section expires January 1, 2014.

1-27 SECTION 3. Section 1001.055, Education Code, is amended to  
1-28 read as follows:

1-29 Sec. 1001.055. DRIVER EDUCATION CERTIFICATES AND  
1-30 CERTIFICATE NUMBERS. (a) The agency shall provide ~~print and~~  
1-31 ~~supply~~ to each licensed or exempt driver education school driver  
1-32 education certificates or certificate numbers to enable the school  
1-33 and each approved parent-taught course provider (approved by the  
1-34 Texas Department of Public Safety under Section 521.205 of the  
1-35 Transportation Code) to print and issue agency-approved driver  
1-36 education certificates with the certificate numbers to be used for  
1-37 certifying completion of an approved driver education course to  
1-38 satisfy the requirements of Sections 521.204(a)(2) and 521.1601,  
1-39 Transportation Code. ~~[The certificates must be numbered serially.]~~

1-40 (a-1) A certificate printed and issued by a driver education  
1-41 school or Department of Public Safety approved course provider  
1-42 must:

1-43 (1) be in a form required by the agency; and  
1-44 (2) include an identifying certificate number  
1-45 provided by the agency that may be used to verify the authenticity  
1-46 of the certificate with the driver education school or Department  
1-47 of Public Safety approved course provider.

1-48 (a-2) A driver education school or Department of Public  
1-49 Safety approved course provider that purchases driver education  
1-50 certificate numbers shall provide for the printing and issuance of  
1-51 original and duplicate certificates in a manner that, to the  
1-52 greatest extent possible, prevents the unauthorized production or  
1-53 the misuse of the certificates. The driver education school or  
1-54 Department of Public Safety approved course provider shall  
1-55 electronically submit to the agency in the manner established by  
1-56 the agency data identified by the agency relating to issuance of  
1-57 agency-approved driver education certificates with the certificate  
1-58 numbers.

1-59 (a-3) Certificate numbers must be in serial order so that  
1-60 the number on each issued certificate is unique.

1-61 (b) The agency by rule shall provide for the design and  
1-62 distribution of the certificates and certificate numbers in a  
1-63 manner that, to the greatest extent possible, prevents the  
1-64 unauthorized reproduction or misuse of the certificates or

2-1 certificate numbers.

2-2 (c) The agency may charge a fee of not more than \$4 for each  
2-3 certificate or certificate number.

2-4 SECTION 4. Subchapter F, Chapter 1001, Education Code, is  
2-5 amended by adding Sections 1001.2511, 1001.2512, 1001.2513, and  
2-6 1001.2514 to read as follows:

2-7 Sec. 1001.2511. NATIONAL CRIMINAL HISTORY RECORD  
2-8 INFORMATION REVIEW FOR DRIVER EDUCATION INSTRUCTORS. (a) This  
2-9 section applies to a person who is an applicant for or holder of:

2-10 (1) a driver education instructor license; or

2-11 (2) a license issued under Section 1001.255.

2-12 (b) The agency shall review the national criminal history  
2-13 record information of a person who holds a license described by  
2-14 Subsection (a).

2-15 (c) The agency shall place a license described by Subsection  
2-16 (a) on inactive status for the license holder's failure to comply  
2-17 with a deadline for submitting information required under this  
2-18 section.

2-19 (d) The agency may allow a person who is applying for a  
2-20 license described by Subsection (a) and who currently resides in  
2-21 another state to submit the person's fingerprints and other  
2-22 required information in a manner that does not impose an undue  
2-23 hardship on the person.

2-24 (e) The commissioner may adopt rules to administer this  
2-25 section, including rules establishing:

2-26 (1) deadlines for a person to submit fingerprints and  
2-27 photographs in compliance with this section;

2-28 (2) sanctions for a person's failure to comply with the  
2-29 requirements of this section, including suspension or revocation of  
2-30 or refusal to issue a license described by Subsection (a); and

2-31 (3) notification to a driver education school of  
2-32 relevant information obtained by the agency under this section.

2-33 (f) The agency is not civilly or criminally liable for an  
2-34 action taken in compliance with this section.

2-35 (g) The commissioner by rule shall establish a schedule for  
2-36 obtaining and reviewing the information a person must provide the  
2-37 agency under this section. Not later than September 1, 2013, the  
2-38 agency must obtain all national criminal history record information  
2-39 on all holders of licenses described by Subsection (a). This  
2-40 subsection expires October 1, 2013.

2-41 Sec. 1001.2512. FEES FOR CRIMINAL HISTORY RECORD  
2-42 INFORMATION REVIEW. The commissioner by rule shall require a  
2-43 person submitting to a national criminal history record information  
2-44 review under Section 1001.2511 or the driver education school  
2-45 employing the person, as determined by the agency, to pay a fee for  
2-46 the review in an amount not to exceed the amount of any fee imposed  
2-47 on an application for certification under Subchapter B, Chapter 21,  
2-48 for a national criminal history record information review under  
2-49 Section 22.0837.

2-50 Sec. 1001.2513. CONFIDENTIALITY OF INFORMATION.  
2-51 Information collected about a person to comply with Section  
2-52 1001.2511, including the person's name, address, phone number,  
2-53 social security number, driver's license number, other  
2-54 identification number, and fingerprint records:

2-55 (1) may not be released except:

2-56 (A) to provide relevant information to driver  
2-57 education schools or otherwise to comply with Section 1001.2511;

2-58 (B) by court order; or

2-59 (C) with the consent of the person who is the  
2-60 subject of the information;

2-61 (2) is not subject to disclosure as provided by  
2-62 Chapter 552, Government Code; and

2-63 (3) shall be destroyed by the requestor or any  
2-64 subsequent holder of the information not later than the first  
2-65 anniversary of the date the information is received.

2-66 Sec. 1001.2514. LICENSE HOLDERS AND APPLICANTS CONVICTED OF  
2-67 CERTAIN OFFENSES. (a) A driver education school shall discharge or  
2-68 refuse to hire as an instructor an employee or applicant for  
2-69 employment if the agency obtains information through a criminal

3-1 history record information review that:  
3-2 (1) the employee or applicant has been convicted of:  
3-3 (A) a felony offense under Title 5, Penal Code;  
3-4 (B) an offense on conviction of which a defendant  
3-5 is required to register as a sex offender under Chapter 62, Code of  
3-6 Criminal Procedure; or  
3-7 (C) an offense under the laws of another state or  
3-8 federal law that is equivalent to an offense under Paragraph (A) or  
3-9 (B); and

3-10 (2) at the time the offense occurred, the victim of the  
3-11 offense described by Subdivision (1) was under 18 years of age or  
3-12 was enrolled in a public school.

3-13 (b) The agency shall suspend or revoke a license described  
3-14 by Section 1001.2511(a) held by a person under this subchapter and  
3-15 shall refuse to issue or renew a license described by Section  
3-16 1001.2511(a) to a person under this subchapter if the person has  
3-17 been convicted of an offense described by Subsection (a) of this  
3-18 section.

3-19 (c) Subsections (a) and (b) do not apply to an offense under  
3-20 Title 5, Penal Code, if:

3-21 (1) more than 30 years have elapsed since the offense  
3-22 was committed; and

3-23 (2) the person convicted has satisfied all terms of  
3-24 the court order entered on conviction.

3-25 (d) A driver education school may discharge an employee who  
3-26 serves as an instructor if the school obtains information of the  
3-27 employee's conviction of a felony or of a misdemeanor involving  
3-28 moral turpitude that the employee did not disclose to the school or  
3-29 the agency. An employee discharged under this subsection is  
3-30 considered to have been discharged for misconduct for purposes of  
3-31 Section 207.044, Labor Code.

3-32 SECTION 5. Section 1001.253, Education Code, is amended by  
3-33 amending Subsection (d) and adding Subsection (g) to read as  
3-34 follows:

3-35 (d) Except as provided by Subsection (g) or Section  
3-36 1001.254, a driver education instructor license authorizing a  
3-37 person to teach or provide classroom training may not be issued  
3-38 unless the person:

3-39 (1) has completed nine semester hours of driver and  
3-40 traffic safety education or a program of study in driver education  
3-41 approved by the commissioner from an approved driver education  
3-42 school; and

3-43 (2) holds a teaching certificate and any additional  
3-44 certification required to teach driver education.

3-45 (g) A driver education instructor license authorizing a  
3-46 person to teach or provide classroom training may be issued to a  
3-47 person who satisfies the requirements of Subsection (d)(1) but does  
3-48 not satisfy the requirements of Subsection (d)(2), except that such  
3-49 a license may authorize the license holder to teach or provide  
3-50 classroom training only for a driver education school that is  
3-51 located in a county that has a population of at least 275,000 but  
3-52 not more than 285,000 and is operated by a private primary or  
3-53 secondary school or open-enrollment charter school. This section  
3-54 does not affect any law or school policy that requires a review of  
3-55 criminal history record information.

3-56 SECTION 6. As soon as practicable after the effective date  
3-57 of this Act, the Texas Education Agency shall begin obtaining  
3-58 national criminal history record information for persons subject to  
3-59 a national criminal history record review under Section 1001.2511,  
3-60 Education Code, as added by this Act.

3-61 SECTION 7. This Act takes effect September 1, 2011.

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