

1-1 By: Wentworth S.B. No. 1114
1-2 (In the Senate - Filed March 3, 2011; March 16, 2011, read
1-3 first time and referred to Committee on Transportation and Homeland
1-4 Security; April 29, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
1-6 April 29, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1114 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the regulation of driver training schools and
1-11 instructors.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 1001.001, Education Code, is amended by
1-14 adding Subdivision (14-a) to read as follows:

1-15 (14-a) "National criminal history record information"
1-16 has the meaning assigned by Section 22.081.

1-17 SECTION 2. Subchapter A, Chapter 1001, Education Code, is
1-18 amended by adding Section 1001.006 to read as follows:

1-19 Sec. 1001.006. REVIEW OF AGENCY JURISDICTION AND CONTROL
1-20 OVER DRIVER EDUCATION AND DRIVING SAFETY SCHOOLS. During the
1-21 Sunset Advisory Commission's review of the agency under Section
1-22 7.004 concerning abolition of the agency on September 1, 2013, the
1-23 commission shall review the agency's jurisdiction and control over
1-24 driver education and driving safety schools and include in its
1-25 report to the legislature and governor under Section 325.010,
1-26 Government Code, a recommendation as to whether another state
1-27 agency should have jurisdiction and control over those schools.
1-28 This section expires January 1, 2014.

1-29 SECTION 3. Section 1001.055, Education Code, is amended to
1-30 read as follows:

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

1-40 (a-1) A certificate printed and issued by a driver education
1-41 school must:

1-42 (1) be in a form required by the agency; and

1-43 (2) include an identifying certificate number
1-44 provided by the agency that may be used to verify the authenticity
1-45 of the certificate with the driver education school.

1-46 (a-2) A driver education school that purchases driver
1-47 education certificate numbers shall provide for the printing and
1-48 issuance of original and duplicate certificates in a manner that,
1-49 to the greatest extent possible, prevents the unauthorized
1-50 production or the misuse of the certificates. The driver education
1-51 school shall electronically submit to the agency in the manner
1-52 established by the agency data identified by the agency relating to
1-53 issuance of agency-approved driver education certificates with the
1-54 certificate numbers.

1-55 (a-3) Certificate numbers must be in serial order so that
1-56 the number on each issued certificate is unique.

1-57 (b) The agency by rule shall provide for the design and
1-58 distribution of the certificates and certificate numbers in a
1-59 manner that, to the greatest extent possible, prevents the
1-60 unauthorized reproduction or misuse of the certificates or
1-61 certificate numbers.

1-62 (c) The agency may charge a fee of not more than \$4 for each
1-63 certificate or certificate number.

2-1 SECTION 4. Subchapter F, Chapter 1001, Education Code, is
2-2 amended by adding Sections 1001.2511, 1001.2512, 1001.2513, and
2-3 1001.2514 to read as follows:

2-4 Sec. 1001.2511. NATIONAL CRIMINAL HISTORY RECORD
2-5 INFORMATION REVIEW FOR DRIVER EDUCATION INSTRUCTORS. (a) This
2-6 section applies to a person who is an applicant for or holder of:

2-7 (1) a driver education instructor license; or

2-8 (2) a license issued under Section 1001.255.

2-9 (b) The agency shall review the national criminal history
2-10 record information of a person who holds a license described by
2-11 Subsection (a) and who has not previously submitted fingerprints to
2-12 the Department of Public Safety or been subject to a national
2-13 criminal history record information review.

2-14 (c) The agency shall place a license described by Subsection
2-15 (a) on inactive status for the license holder's failure to comply
2-16 with a deadline for submitting information required under this
2-17 section.

2-18 (d) The agency may allow a person who is applying for a
2-19 license described by Subsection (a) and who currently resides in
2-20 another state to submit the person's fingerprints and other
2-21 required information in a manner that does not impose an undue
2-22 hardship on the person.

2-23 (e) The commissioner may adopt rules to administer this
2-24 section, including rules establishing:

2-25 (1) deadlines for a person to submit fingerprints and
2-26 photographs in compliance with this section;

2-27 (2) sanctions for a person's failure to comply with the
2-28 requirements of this section, including suspension or revocation of
2-29 or refusal to issue a license described by Subsection (a); and

2-30 (3) notification to a driver education school of
2-31 relevant information obtained by the agency under this section.

2-32 (f) The agency is not civilly or criminally liable for an
2-33 action taken in compliance with this section.

2-34 (g) The commissioner by rule shall establish a schedule for
2-35 obtaining and reviewing the information a person must provide the
2-36 agency under this section. Not later than September 1, 2013, the
2-37 agency must obtain all national criminal history record information
2-38 on all holders of licenses described by Subsection (a). This
2-39 subsection expires October 1, 2013.

2-40 Sec. 1001.2512. FEES FOR CRIMINAL HISTORY RECORD
2-41 INFORMATION REVIEW. The commissioner by rule shall require a
2-42 person submitting to a national criminal history record information
2-43 review under Section 1001.2511 or the driver education school
2-44 employing the person, as determined by the agency, to pay a fee for
2-45 the review in an amount not to exceed the amount of any fee imposed
2-46 on an application for certification under Subchapter B, Chapter 21,
2-47 for a national criminal history record information review under
2-48 Section 22.0837.

2-49 Sec. 1001.2513. CONFIDENTIALITY OF INFORMATION.
2-50 Information collected about a person to comply with Section
2-51 1001.2511, including the person's name, address, phone number,
2-52 social security number, driver's license number, other
2-53 identification number, and fingerprint records:

2-54 (1) may not be released except:

2-55 (A) to provide relevant information to driver
2-56 education schools or otherwise to comply with Section 1001.2511;

2-57 (B) by court order; or

2-58 (C) with the consent of the person who is the
2-59 subject of the information;

2-60 (2) is not subject to disclosure as provided by
2-61 Chapter 552, Government Code; and

2-62 (3) shall be destroyed by the requestor or any
2-63 subsequent holder of the information not later than the first
2-64 anniversary of the date the information is received.

2-65 Sec. 1001.2514. LICENSE HOLDERS AND APPLICANTS CONVICTED OF
2-66 CERTAIN OFFENSES. (a) A driver education school shall discharge
2-67 or refuse to hire as an instructor an employee or applicant for
2-68 employment if the agency obtains information through a criminal
2-69 history record information review that:

3-1 (1) the employee or applicant has been convicted of:
3-2 (A) a felony offense under Title 5, Penal Code;
3-3 (B) an offense on conviction of which a defendant
3-4 is required to register as a sex offender under Chapter 62, Code of
3-5 Criminal Procedure; or
3-6 (C) an offense under the laws of another state or
3-7 federal law that is equivalent to an offense under Paragraph (A) or
3-8 (B); and
3-9 (2) at the time the offense occurred, the victim of the
3-10 offense described by Subdivision (1) was under 18 years of age or
3-11 was enrolled in a public school.
3-12 (b) The agency shall suspend or revoke a license described
3-13 by Section 1001.2511(a) held by a person under this subchapter and
3-14 shall refuse to issue or renew a license described by Section
3-15 1001.2511(a) to a person under this subchapter if the person has
3-16 been convicted of an offense described by Subsection (a) of this
3-17 section.
3-18 (c) Subsections (a) and (b) do not apply to an offense under
3-19 Title 5, Penal Code, if:
3-20 (1) more than 30 years have elapsed since the offense
3-21 was committed; and
3-22 (2) the person convicted has satisfied all terms of
3-23 the court order entered on conviction.
3-24 (d) A driver education school may discharge an employee who
3-25 serves as an instructor if the school obtains information of the
3-26 employee's conviction of a felony or of a misdemeanor involving
3-27 moral turpitude that the employee did not disclose to the school or
3-28 the agency. An employee discharged under this subsection is
3-29 considered to have been discharged for misconduct for purposes of
3-30 Section 207.044, Labor Code.
3-31 SECTION 5. As soon as practicable after the effective date
3-32 of this Act, the Texas Education Agency shall begin obtaining
3-33 national criminal history record information for persons subject to
3-34 a national criminal history record review under Section 1001.2511,
3-35 Education Code, as added by this Act.
3-36 SECTION 6. This Act takes effect September 1, 2011.

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