

By: Flynn

H.B. No. 3414

A BILL TO BE ENTITLED

AN ACT

relating to motorcycle and all-terrain vehicle training; creating an offense.

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

SECTION 1. Section 662.006, Transportation Code, is amended to read as follows:

Sec. 662.006. UNAUTHORIZED TRAINING PROHIBITED. (a) A person may not offer or provide training in motorcycle operation for ~~[a]~~ consideration unless the person is licensed by or contracts with the designated state agency.

(b) A person who violates Subsection (a) commits an offense. Each violation and each day that a violation continues is a separate offense. An offense under this subsection is a Class C misdemeanor, except that the offense is a Class B misdemeanor if it is shown on the trial of the offense that the defendant has been previously convicted two or more times of an offense under this section or Section 663.020.

SECTION 2. Section 662.008, Transportation Code, is amended by adding Subsections (c), (d), and (e) to read as follows:

(c) Notwithstanding Subsection (b), the designated agency may immediately suspend or cancel approval of a program sponsor or instructor:

(1) who engages in conduct that:

(A) is substantially inconsistent with public

1 safety, the purposes and requirements of this chapter, or any rules
2 adopted by the designated state agency; and

3 (B) creates a substantial risk of:

4 (i) an injury to a student or the public; or

5 (ii) harm or damage to property;

6 (2) who no longer meets the certification requirements
7 of the Motorcycle Safety Foundation or whose certification has been
8 denied, suspended, canceled, or revoked;

9 (3) convicted of:

10 (A) a felony;

11 (B) a misdemeanor involving moral turpitude;

12 (C) an offense involving the unlawful use or
13 possession of a controlled substance, as defined by Chapter 481,
14 Health and Safety Code; or

15 (D) a serious traffic offense as defined by the
16 designated state agency; or

17 (4) whose driver's license has expired or been denied,
18 suspended, canceled, or revoked.

19 (d) A program sponsor or instructor whose approval has been
20 suspended or canceled under Subsection (c) may request a
21 preliminary hearing before the director of the designated state
22 agency. The sponsor or instructor must provide sufficient
23 information to enable the program director to provide the sponsor
24 or instructor with notice of the time and location of the hearing.
25 The program director or the director of the designated state agency
26 may delegate the responsibility for conducting a preliminary
27 hearing to another employee of the designated agency who is

1 certified by the Motorcycle Safety Foundation as an instructor, if
2 the program director is not available. The preliminary hearing
3 must be held and completed not later than the third business day
4 after the date the designated state agency receives the preliminary
5 hearing request.

6 (e) A program sponsor or instructor whose approval has been
7 suspended or canceled under Subsection (c) may request a hearing,
8 either following or instead of a preliminary hearing under
9 Subsection (d). Following a request under this subsection, notice
10 for a hearing must be given as provided by:

11 (1) Chapter 2001, Government Code; and

12 (2) Chapter 53, Occupations Code.

13 SECTION 3. Section 663.017, Transportation Code, is amended
14 by adding Subsections (c), (d), and (e) to read as follows:

15 (c) Notwithstanding Subsection (b), the designated division
16 or state agency may immediately suspend or cancel approval of a
17 program sponsor or instructor:

18 (1) who engages in conduct that:

19 (A) is substantially inconsistent with public
20 safety, the purposes and requirements of this chapter, or any rules
21 adopted by the designated state agency; and

22 (B) creates a substantial risk of:

23 (i) an injury to a student or the public; or

24 (ii) harm or damage to property;

25 (2) convicted of:

26 (A) a felony;

27 (B) a misdemeanor involving moral turpitude;

1 (C) an offense involving the unlawful use or
2 possession of a controlled substance, as defined by Chapter 481,
3 Health and Safety Code; or

4 (D) a serious traffic offense as defined by the
5 designated division or state agency; or

6 (3) whose driver's license has expired or been denied,
7 suspended, canceled, or revoked.

8 (d) A program sponsor or instructor whose approval has been
9 suspended or canceled under Subsection (c) may request a
10 preliminary hearing before the safety coordinator of the designated
11 division or state agency. The sponsor or instructor must provide
12 sufficient information to enable the safety coordinator to provide
13 the sponsor or instructor with notice of the time and location of
14 the hearing. The safety coordinator or the director of the
15 designated division or agency may delegate the responsibility for
16 conducting a preliminary hearing to another employee of the
17 designated division or agency who is qualified to supervise the
18 program in the absence of the safety coordinator. The preliminary
19 hearing must be held and completed not later than the third business
20 day after the date the designated division or agency receives the
21 preliminary hearing request.

22 (e) A program sponsor or instructor whose approval has been
23 suspended or canceled under Subsection (c) may request a hearing,
24 either following or instead of a preliminary hearing under
25 Subsection (d). Following a request under this subsection, notice
26 for a hearing must be given as provided by:

27 (1) Chapter 2001, Government Code; and

1 (2) Chapter 53, Occupations Code.

2 SECTION 4. Subchapter B, Chapter 663, Transportation Code,
3 is amended by adding Section 663.020 to read as follows:

4 Sec. 663.020. UNAUTHORIZED TRAINING PROHIBITED. (a) A
5 person may not offer or provide training in all-terrain vehicle
6 operation for consideration unless the person is licensed by or
7 contracts with the designated division or state agency.

8 (b) A person who violates Subsection (a) commits an offense.
9 Each violation and each day that a violation continues is a separate
10 offense. An offense under this subsection is a Class C misdemeanor,
11 except that the offense is a Class B misdemeanor if it is shown on
12 the trial of the offense that the defendant has been previously
13 convicted two or more times of an offense under this section or
14 Section 662.006.

15 SECTION 5. This Act takes effect September 1, 2013.