

SUBJECT: Regulation of driver training

COMMITTEE: Public Safety — favorable, with amendments

VOTE: 6 ayes — Oakley, Bailey, Allen, Carter, Edwards, Luna

0 nays

3 absent — Driver, Madden, McCoulskey

SENATE VOTE: On final passage, April 11 — voice vote

WITNESSES: For — None

Against — Richard Martin, Drive Rite of North America

DIGEST: SB 964, as amended, would require the Texas Higher Education Coordinating Board, rather than the Central Education Agency, to develop a program of organized instruction in driver education and traffic safety for public school students. With the approval of the coordinating board, the commissioner of higher education would establish standards for the certification of professional and paraprofessional personnel who conduct programs in the public schools.

In addition, a driver education course to prepare for licensure could be offered by an institution of higher education with the approval of the Texas Higher Education Coordinating Board.

The Texas Driver and Safety Education Act (VACS art. 4413(29c)) would be amended in a number of ways. The bill would conform the section on purpose and objectives to reflect that the Texas Higher Education Coordinating Board would be the licensing and regulatory body of driver training schools and driver training instructors in Texas. A complaint pending before the Central Education Agency would transfer to the coordinating board, except the Central Education Agency would have to finish contested pending cases by September 1, 1996.

Duties of commissioner. The commissioner of higher education would certify course providers, as well as schools, that met the requirements for a driver education school license, driving safety school license or both, or for a course provider license. The commissioner by rule would establish the curriculum and designate the textbooks to be used in a driver education course.

Application for Driving Safety School License. A driving safety school would need to obtain approval from the agency for any multiple classroom locations. The commissioner would be required to approve the application of a driving safety school if the agency found that:

- the instruction, curriculum, content and length of the course presented reasonably and adequately achieve stated objective for which developed;
- space, equipment, instructional material, are adequate to provide training of good quality;
- the instructors and administrators have adequate education and experience;
- the school keeps and maintains adequate records to show attendance and progress of grades;
- the school complies with all county, municipal, state and federal law, including fire, building, and sanitation codes;
- the school's administrators, owner(s), and instructors are of good repute;
- the school does not use erroneous or misleading advertising;
- the school does not use a name similar to an existing school or tax-supported educational institution;
- the school uses the approved contract and polices;
- the school does not owe a civil penalty under this act;
- the school will not provide a course to a person for under \$25; and

- the school meets additional criteria required by the board.

Alternative Teaching Method. The commissioner could approve a driving safety course taught by an alternative method that does not require the presence of students in a classroom if the method includes adequate testing and security measures.

Application for Course Provider License. The commissioner would be required to approve the application of a course provider if the agency found that:

- the course provider has an approved course;
- at least one licensed driving school is willing to offer the course;
- the course provider has adequate education and experience;
- the course provider will develop and provide to driving safety schools a refund policy and regulations pertaining to absence, grading policy, rules of operation and the like to be furnished to each student before enrollment;
- the course provider mails a uniform certificate of completion within 15 days of a person completing a course;
- the course provider keeps and maintains adequate records to show attendance and progress or grades;
- the course provider complies with all county, municipal, state, and federal law, including assumed name registration;
- the course provider is of good repute;
- the course provider has, maintains, and publishes as a part of its student enrollment contract the proper policy for the refund of the unused portion of tuition if a person fails to take the course or withdraws;
- the course provider does not use erroneous or misleading advertising;

- the course provider does not use a name similar to the name of another existing school or tax-supported educational establishment;
- the course provider does not owe a civil penalty under this act; and
- the course provider meets additional requirements of the board.

Course Provider Responsibilities. A course provider would have to mail a uniform certificate of completion to a student within 15 days of course completion. Information regarding issued uniform certificates would have to be submitted electronically to the agency by each course provider. The agency would have to explore the option of sending driving safety course information by electronic transmission to the state municipal and justice courts. A course provider would have to conduct driving safety instructor development courses for its approved driving safety course. A course provider license would entitle a provider to purchase uniform certificates of completion for only one approved driving safety course.

Certificates of Course Completion for Course Providers. The agency would need to supply licensed course providers with serially numbered uniform certificates of course completion. The agency could charge a fee of not more than \$4 for each certificate, rather than \$1. A course provider would charge an operator a fee equal to the fee paid to the agency for a certificate. The course provider would charge and retain a user fee of not less than \$3 a student for course materials, oversight, and administration of the course.

Fees collected under this subsection could only be used for payment of monetary awards for information concerning abuse of the driver education or uniform certificates of completion that leads to the conviction or removal of an approval, license, or authorization. This dedication is exempt from the application of section 403.094 and 403.095 of the Government Code. Duplicate uniform certificates of completion would need to be issued by the agency for a fee determined by the board.

Prohibitions. A person would be prohibited from operating a school that provides a driver education course without a driver education school license, from operating a school that provides driving safety courses

without a driving safety school license, from operating as a course provider without a course provider license, from issuing a driver education certificate to any person or school not authorized to possess it, from issuing a certificate to a person who has not successfully completed an approved course, and from issuing a driver education certificate to a person who has not successfully completed a board-approved driver education course.

Exemptions. Courses exempt from this act, such as vocational driver training schools and courses of instruction sponsored by an employer for its employees would need to comply with the section on driver education certificates. In addition, a course of study conducted by a college or university to train unlicensed individuals would no longer be exempt for any purpose, nor would licensed training classes conducted by colleges, universities, or organizations with 50,000 or more members that qualify for a tax exemption and conduct driving safety courses for members at least 50 years of age.

Public or Private School Locations. The bill would allow a driver training school to conduct driver training courses at a public or private school, but the course would be subject to all requirements of law applicable to a course conducted at the driver training school.

License Fees. The initial fee for a driver education school license would be \$1,000, plus \$850 for each branch location. The initial fee for a driving safety school license would be an appropriate amount established by the board, up to \$200. The initial fee for a course provider license would be an appropriate amount established by the board, up to \$2,000, except the fee could be waived if revenue from the course provider was sufficient to fund the cost of licensing the course provider.

The annual renewal fee for a course provider, driving safety school, driver education school, and branch school would be an appropriate amount established by the board up to \$200, but could be waived if revenue generated by the issuance of the uniform certificates was sufficient to fund the cost of administering this act. The fee for a change of address of a driver education school would be \$180 and for a driving safety school or course provider would be \$50. The fee for a driver education school or course provider name change or owner name change would be \$100. the

fee for a driving safety school or owner of a driving safety school name change would be \$50.

The application fee for each additional driver education or driving safety course at a school would be \$25. Each application of a driving safety course that has not been evaluated by the board would need to be accompanied by a \$9,000 nonrefundable check.

Each application for an original driver education or driving safety instructor's license would need to be accompanied by a processing fee of \$50 and an annual license fee of \$25, except that an annual processing fee could not be collected from a public school instructor currently teaching driver's education in this state. The fee for an investigation of a school or course provider to resolve a complaint filed against the school or course provider would be set by the commissioner and approved by the board.

Application for Renewal. At least 30 days before expiration of a driver education school, driving safety school, or course provider license, the school or course provider would have to forward to the commissioner an application for renewal. The commissioner could reexamine a driver education school's premises. The commissioner would have to renew or cancel the driver education school, driving safety school, or course provider license. If application for renewal was submitted within 30 days of expiration, the school or course provider would pay at least \$100 as established by the board.

Revocation of License. The commissioner could revoke a driver education school, driving safety school, or course provider license. The commissioner would have to notify the licensee of the revocation and state grounds for the revocation. The commissioner could reexamine a school or course provider two or more times during any year in which a notice has been issued or conditions imposed.

Surety Bond. A driver education school would have to post a bond. A driving safety school would not be required to post a surety bond. Before a course provider license could be issued, a bond would have to be provided by the course provider in the amount of \$25,000. The bond would have to be a corporate surety bond used for payment of a refund due to any

student, to cover the payment of any unpaid fee, penalties, fines and to recover the cost of any uniform certificates of completion demanded to be returned. Instead of the bond, the school could provide another form of security approved by the commissioner.

Conditions of Licensure. A driver education school or course provider would have to offer, to receive a license, a full refund if the student cancels the agreement before the end of the third day, unless the student had successfully completed the course or received a failing grade on the course examination. As a condition for granting a driver education school license, a school would have to maintain a policy for the refund of the unused portion of driver education tuition, fees and other charges if the student fails to enter the course or withdraws.

Driver Education Certificates for Driver Education Schools. The agency would have to supply licensed and exempt driver education schools with serially numbered driver education certificates to be used for certifying completion of an approved driver education course. The agency would design and distribute the certificates in a manner that would prevent the unauthorized reproduction or misuse of the certificates. The agency would be able to charge a fee up to \$4 for each certificate.

Driver Education Instructor License. A driver education instructor license could not be issued authorizing a person to teach or give classroom driver education training unless the person had completed nine semester hours of driver and traffic safety education or a program of study in driver education approved by the board and holds a teaching certificate. A driver education instructor who has completed the educational requirements for a classroom driver education instructor could be approved to teach after successfully competing a supervising instructor development program consisting of at least six additional semester hours or a program of study in driver education that includes administering driver education programs and supervising and administering traffic safety education.

The bill would delete language that exempts a driver education instructor teaching in a public secondary school supported by taxation and a driver education instructor in a college or university from having a driving safety instructor license. The bill further clarifies that a person could not teach or

give driver education unless a driver education instructor license had been secured. License renewal would require evidence of completion of continuing education. The continuing education would have to be in courses and for a certain number of hours approved by the commissioner. A driving safety instructor license would have to be carried by the instructor while instructing driving safety courses.

The bill would require that the commissioner establish standards for certification of professional and paraprofessional personnel who conduct driver education programs in driver education schools. A driver education instructor license could not be issued authorizing in-car training unless the person has successfully completed six semester hours of driver education approved by the board. A person holding a driver education instructor license could be approved to assist classroom instructors if the person successfully completes the additional three semester hours of training required for a classroom instructor.

Denial, Revocation, or Suspension of Instructor's License. The bill would also require that within 10 days after a decision to deny, suspend, or revoke an instructor's license the agency would have to notify the applicant or license holder by certified mail. A person could appeal the decision of denial, suspension or revocation by requesting a hearing before the commissioner within 15 days of receiving notice.

A hearing would have to be held within 30 days after the date of receipt of the request. An applicant or licensee could appear in person or by counsel. Within 10 days after the date of the hearing, the commissioner would have to notify the applicant or license holder by certified mail. The commissioner's decision could be appealed to a district court in Travis County.

Instructor Development Program. A driver education school could submit for agency approval a curriculum for an instructor development program for driver education instructors. The program would need to be taught by a person who has successfully completed a supervising instructor development program.

Violations. If the agency believes that a driver education school or instructor violated this act or any rule under this act, the agency could suspend the right to purchase driver education certificates of completion. If the agency believed that a course provider, driving safety school, or driving safety instructor violated this act or the Uniform Act Regulating Traffic on Highways or a rule adopted under one of those acts, the agency could order a peer review, suspend the enrollment of students, or suspend the right to purchase uniform certificates of completion without notice. The costs of a peer review would be paid by the school or course provider, as appropriate.

Any person violating any provision of this bill would commit an offense punishable by a fine between \$100 and \$20,000, or by imprisonment in the county jail for a term not to exceed six months.

Unauthorized Transfer of Certificate. A person who knowingly sells, trades, issues or otherwise transfers a uniform certificate of completion or driver education certificate to an individual, firm, or corporation not authorized to possess it would commit an offense. A person who knowingly possesses a uniform certificate of completion that the person is not authorized to possess would commit an offense.

A person convicted under this section would be punished by imprisonment in the institutional division of the Texas Department of Criminal Justice for a term of not more than five years. The agency would contract with the Texas Department of Public Safety (DPS) to provide undercover and investigative assistance in the enforcement of unauthorized certificate transfer and possession.

Licensing and Testing. The bill would also amend VACS art 6687b. The DPS could license a person who is under the age of 18 if the person has submitted to the department a driver education certificate indicating that the person has completed a driver education course approved by the Texas Higher Education Coordinating Board and has fulfilled other requirements.

A driver education school licensed under the Texas Driver and Traffic Safety Education Act could administer the vision, highway sign, and traffic law parts of the examination to a student of the school. A licensed driver education school could issue an instruction permit without photograph to a

15 to 18 year old with the proper requirements. A licensed driver education school could issue an instruction permit without photograph to any person 18 years of age or older who has successfully completed and passed an approved six-hour adult classroom driver education course and passed all parts of the driver examination.

Sentencing. A court sentencing a person charged with a misdemeanor offense under the Uniform Act Regulating Traffic on Highways (VACS art. 6701d)

could in its discretion defer proceedings to allow the person 90 days to take a driving safety course and 30 days to present a uniform certificate of course completion or would be required to defer the proceedings for the person to take the course in certain circumstances.

The Uniform Act Regulating Traffic on Highways would also be amended to conform with the amended provision of the Texas Driver and Traffic Safety Education Act.

The act would take effect September 1, 1995.

**SUPPORTERS
SAY:**

SB 964 would restructure and improve the quality of driver training schools and program offerings, require more accountability for certificates, increase the authority of the agency to regulate and enforce the provisions of the act.

The Central Education Agency currently regulates the driver training schools. Driver training schools would include both driver education schools, which mainly teach teenagers how to drive, and driving safety schools, which traditionally have provided defensive driving types of classes for insurance and ticket removal reasons. Because the Central Education Agency has not consistently regulated the industry and because all of the other proprietary schools will likely be placed under the Higher Education Coordinating Board (SB 1), this bill would move regulation responsibility to the Texas Higher Education Coordinating Board.

In addition, regulation would be administratively easier because driving safety schools would be licensed separately from driver education schools. Driving safety course providers would have to be licensed and would bear a greater financial burden than the driving safety schools. Quality of the

programs would improve because the course providers would have to meet education and experience requirements.

Most importantly, greater accountability for the certificates would be secured. Approximately 5000 people have access to the certificates of completion for driving safety courses. This easy access has made selling these certificates for a price, without taking the course, all too common. SB 964 would limit access to the certificates to the course providers only, who would have to mail the certificate directly to the person that completed the course. The certificates of completion would be serially numbered, and only the Texas Higher Education Coordinating Board could issue duplicates.

In addition, the bill would make it an offense for a person to knowingly sell or issue a uniform certificate of completion or driver education certificate to a person not authorized to possess it. A person convicted could be imprisoned for up to five years, which would be a strong deterrent to the current illegal sale of these certificates. The cost of the certificates would rise from \$1 to \$4 to help pay for the greater costs of enforcement. Furthermore, the agency would contract with the DPS to provide undercover assistance to seek out the people who are illegally selling these certificates.

The greater enforcement powers of the regulatory body should also help curb the problem since the agency could immediately suspend without notice the right to purchase certificates of completion for both driver education and driving safety if the agency believes the law has been violated. Monetary awards would be offered to individuals who provided evidence that someone abused the right to have a certificate of completion. In addition, the possible penalty amount for violations would be \$20,000 rather than \$1,000.

**OPPONENTS
SAY:**

The Higher Education Coordinating Board would not be the appropriate agency to oversee driver education schools, which mainly teach high school students. In addition, current law requires teachers who are driving education instructors to have six hours of training whereas this bill would require nine hours of training. Teachers who have been teaching for years and have very proficient skills should not be subject to this requirement.

Driving safety schools would not be treated equitably under this bill. Requiring \$9,000 for a driving safety course approval seems exorbitant, and the non-refundable aspect seems to attempt to keep small driving safety schools from prospering and developing new courses. A bond for driving safety course providers would be \$25,000 and only \$10,000 for driver education schools. A driving safety course minimum charge would be \$25 and a minimum fee for materials would be \$3.

**OTHER
OPPONENTS
SAY:**

Driver education schools would be able to assume responsibilities that should only be undertaken by the DPS. For example, the schools would be able to conduct vision and written tests for instruction permits and issue instruction permits.

NOTES:

The committee amendments would provide that a course provider must charge an operator the same fee that was paid to the agency for the certificate and would allow the DPS to do undercover work for the Higher Education Coordinating Board to seek out violators of this act.