

SUBJECT: Revised drivers' education certificates and background check requirements

COMMITTEE: Public Education — committee substitute recommended

VOTE: 11 ayes — Eissler, Hochberg, Allen, Aycock, Dutton, Guillen, Huberty, Shelton, T. Smith, Strama, Weber

0 nays

WITNESSES: *(On original bill:)*

For — Carlos Reyna, I Drive Safely; *(Registered, but did not testify:)* Marco Benavides, Benavides Driving School; Jack Frost, Adam Morin, Frost Driving School; Laura Hernandez, Norma Reyna, Texas Driving School; Roberto Reyna, ABC Driving School; Dawn Thomas, Austin Driving School of Fort Worth; Gene Walker, Safeway Driving Center)

Against — Aida Cazares Martinez, Cazares Defensive Driving School; Eric Givilancz, Roadworthy Driving Academy; Mike Hardy, Longhorn Driving Schools; Paul Hastings, Texas Home School Coalition; Tom Pennington, Green Light Driving Academy; Robert Zaldivar; *(Registered, but did not testify:)* Lauro Martinez, Cazares Driving School; Malcolm St. Romain)

BACKGROUND: Education Code, chap. 1001, gives the Texas Education Agency (TEA) jurisdiction over driver training schools, including those operated by private firms as well as public schools. TEA sets and reviews curricula for driver education programs, sets qualifications for instructors, supplies driver education certificates, and oversees other aspects of the driver training school's operations.

DIGEST: CSHB 2678 would amend several sections of Education Code, chap. 1001, to revise the process for issuing drivers' education certificates, require criminal background checks for all driver training schools, and schedule a Sunset review of TEA's oversight of the programs.

**Driver education certificates.** CSHB 2678 would allow driver training schools to print their own driver education certificates, using unique certificate numbers furnished by TEA, rather than purchasing printed certificates from TEA.

The driver training school's certificates would have to:

- conform to the form required by TEA;
- include an identification number provided by TEA;
- be submitted electronically to TEA; and
- have unique certificate numbers issued in serial order.

A driver education school that purchased certificate numbers would have to ensure that the certificates were printed and issued to prevent unauthorized reproduction or misuse to whatever extent possible.

**Criminal background checks.** CSHB 2678 would require anyone applying for a driver education instructor license to submit fingerprints through the Department of Public Safety (DPS) for a national criminal background check. The requirement would not apply to those who had already undergone DPS criminal background checks. TEA would be allowed to permit an applicant living out of state to submit the fingerprints for the criminal background check in a manner that did not impose an undue hardship on the applicant.

The education commissioner could develop rules establishing:

- deadlines for submitting fingerprints and photographs for criminal background checks;
- sanctions for failure to comply with the criminal background check requirement; and
- a notification process to driver education schools of relevant information obtained through the criminal background check.

The commissioner would have to establish a schedule for obtaining and reviewing the criminal background check information. TEA would have to obtain all criminal background information on instructor license applicants or holders by September 1, 2013, and this provision would expire on October 1, 2013.

Other provisions would exclude TEA from criminal or civil liability in conjunction with the criminal background check procedure, require the applicant to pay a fee for the criminal background check, and establish rules on keeping information collected confidential.

CSHB 2678 would require a driver education school to discharge or refuse to hire an instructor or applicant who had been convicted of:

- a felony;
- an offense requiring registrations as a sex offender; or
- an offense under federal or other state law that is equivalent to a felony or sex offense under Texas law and the victim was under 18 or enrolled in a public school when it occurred.

TEA would be required to suspend or revoke the license of anyone convicted of a felony, but the provision would not apply to an offense committed more than 30 years ago and for which the person had satisfied all conditions set by the court's sentence.

In addition, the driver education school would be able to fire an employee if it received information about a conviction of a felony or misdemeanor involving moral turpitude that the employee did not disclose to the school.

TEA would also be required to start collecting criminal background check information as soon as practical once the bill would take effect.

**Sunset provision.** The bill would require that the Sunset Advisory Commission make a recommendation about whether TEA or another state agency should have jurisdiction over driver education schools as part of the TEA Sunset review due in 2013. The Sunset review provision would expire on January 1, 2014.

The bill would take effect on September 1, 2011.

**SUPPORTERS  
SAY:**

**Drivers' education certificates.** CSHB 2678 would take advantage of cost savings and conveniences permitted by new information technology. It should no longer be necessary for TEA to print and distribute driver education certificate forms. The availability of high-quality, low-cost, printing systems would allow even small driver education schools to issue their own certificates. Reducing the number of forms TEA printed would save money for the state.

Requiring certificates bearing TEA-issued numbers to be electronically submitted to the agency would enhance the security of these documents. Requiring unique numbers would prevent illegal duplication. The documents would not be more susceptible to fraud as the forms currently

printed and issued by TEA. The agency also reports that phony driver education certificates have been less problematic than the documents issued for driver safety and improvement classes.

CSHB 2678 would be permissive and would not require TEA to discontinue issuing its own driver certificate forms. These forms would be readily available for small driver education schools or parents providing driving instruction to their children as they are now.

**Background checks.** CSHB 2678 would provide a greater degree of security for our children by requiring background checks on more individuals who come into close contact with them. Driver training sometimes requires that instructors be alone in vehicles with students. We should be aware of the possible criminal background of these instructors given the vulnerability of and possible danger to these young Texans.

HB 2678 would include the same safeguards used to protect the confidentiality of information as other state-required background checks do.

The bill would provide that the costs of the criminal background checks were borne by the applicants or the driver education schools, so there would be no additional cost to the state.

**Sunset review.** CSHB 2678 would provide a thorough review of the future of driver training programs as part of the broader scrutiny of TEA under the Sunset process. Currently, even stakeholders, including the owners of commercial driver education schools, cannot reach a consensus on what the requirements for instructors should be. Based on the Sunset recommendations, the 83rd Legislature should decide whether to keep driver training schools under TEA review or move them to another agency such as DPS or the Department of Licensing and Regulation. The Sunset process also could address whether certification requirements for instructors should be revised and how to encourage recruitment of new instructors.

OPPONENTS  
SAY:

**Drivers education certificates.** Allowing driver education schools to print their own certificates with TEA-supplied serial numbers would invite fraud. Phony driver education and defensive driving school certificates are problematic enough already.

Requiring parents who home school their children to send off for TEA-supplied numbers could be burdensome and could delay issuing the certificates for several weeks.

**Criminal background checks.** CSHB 2678 would represent another example of the erosion of privacy caused by requiring criminal background checks. The process has become expensive and arguably has not materially improved the security of Texans.

OTHER  
OPPONENTS  
SAY:

CSHB 2678 should have retained some of the original bill's provisions addressing the need to revise standards for driver education school instructors. Since public schools have largely eliminated their driver education programs, there is no pipeline for new instructors. Most of the instructors in private driver schools are former public school teachers and coaches.

NOTES:

The companion bill, SB 1114 by Wentworth, was reported favorably, as substituted by the Senate Transportation and Homeland Security Committee on April 29 with a recommendation that it be placed on the Local and Uncontested Calendar.