

CHAPTER 954

H.B. No. 2410

AN ACT

relating to the operation of driver training schools.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 3(7), Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes), is amended to read as follows:

(7) "Extension" means an entity that geographically extends the educational resources of a *driver training* school by offering a driving safety course in a location other than the main business location of the school. An extension may use multiple locations to teach a driving safety course if each location is approved by the parent school and the agency. A driver education course may not be conducted at an extension. An extension of an extension is not permitted.

SECTION 2. Section 8, Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. COMPETITIVE BIDDING; ADVERTISING. (a) The board may not adopt rules to restrict competitive bidding or advertising by a driver training school except to prohibit false, misleading, or deceptive competitive bidding or advertising practices. Specifically, no rule may restrict:

- (1) the use of an advertising medium;
- (2) the outside dimensions of a printed advertisement or outdoor display;
- (3) the duration of an advertisement; or
- (4) advertisement under a trade name.

(b) *The board may adopt rules to restrict advertising by a branch location of a school so that the branch location adequately identifies its primary driver training school in any solicitation.*

SECTION 3. Section 9, Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9. PROHIBITIONS. A person may not:

- (1) operate a school without a driver training school license issued by the commissioner;
- (2) utilize advertising designed to mislead or deceive a prospective student;
- (3) fail to notify the commissioner of the discontinuance of the operation of any school within three working days after cessation of classes and make available accurate records as required by this Act;
- (4) sell, trade, or transfer a uniform certificate of completion to any person, school, or extension not authorized to possess it;
- (5) sell, trade, or transfer a uniform certificate of completion to a student who has not successfully completed an agency-approved, *six-hour* [eight-hour] driving safety course;
- (6) negotiate any promissory instrument received as payment of tuition or other charge before completion of 75 percent of the course, except that before that time, the instrument

may be assigned to a purchaser who will be subject to all the defenses available against the school named as payee;

(7) conduct any part of an agency-approved driver education or driving safety course without an instructor who is physically present in appropriate proximity to the student for the type of instruction being given; or

(8) violate any provision of this Act.

SECTION 4. The Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes) is amended by adding Section 10A to read as follows:

Sec. 10A. BRANCH LOCATIONS. A driver training school that teaches a driver education course at one or more branch locations other than the main business location of the school must obtain a driver training school license for the main business location of the school and a driver training school license for each branch location. An extension or a branch location of a branch location is not permitted.

SECTION 5. Sections 13(b), (d), and (g), Texas Driver and Traffic Safety Education Act (Article 4413(29c), Vernon's Texas Civil Statutes), are amended to read as follows:

(b)(1) License, application, and registration fees shall be collected by the commissioner and deposited with the state treasurer. Fees shall be sufficient to cover administrative costs and may not be subject to refund. Each fee shall be set by the commissioner and approved by the board in an amount not to exceed 150 percent of the following:

(A) the initial fee for a *driver training school license* is \$1,700 *plus \$850 for each branch location*;

(B)(i) annual renewal fees as specified in this subsection may be waived by the agency if revenue generated by the sale of uniform certificates of completion is sufficient to fund the cost of administering this Act and Section 143A, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes); and

(ii) the annual renewal fee for a school *license* shall be determined by the board in an amount sufficient to fund the cost of administering this Act and Section 143A, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes);

(C) the fee for a change of address of a school is \$180;

(D) the fee for a change of name of a school or owner is \$100;

(E) the application fee for each additional course is \$25;

(F) the application fee for each director *is \$30, and for each assistant director, or administrative staff member is \$15*;

(G) the fee for each extension is \$35;

(H) each application for an original driver training instructor's license shall be accompanied by a processing fee of \$50 and an annual license fee of \$25; and

(I) the fee for a duplicate license, which may be issued if the original is lost or destroyed and an affidavit of that fact is filed with the agency, shall be set by the board in an amount sufficient to cover the costs of issuing the duplicate license.

(2) A driver education instructor who teaches driver education courses in a county having a population of 50,000 or less, according to the most recent federal census, and who has no more than 200 students annually, shall be regulated by the agency as a school. An instructor described by this subdivision shall submit a school application or renewal form plus all required documentation and information to the agency. The commissioner may waive initial school fees, annual school renewal fees, or director's or administrative staff member's fees. An instructor described by this subdivision is not exempt from licensing requirements or fees.

(3) The commissioner shall periodically review and recommend adjustments in the level of fees to the board and legislature.

(4) The fee for an investigation at a school to resolve a complaint filed against the school shall be set by the commissioner and approved by the board. The complaint investigation fee may be charged only if:

(A) the complaint could not have been resolved solely by telephone or written correspondence;

(B) a representative of the agency visited the school as a part of the complaint resolution process; and

(C) the school is found to be at fault.

(5) The agency shall print and supply serially numbered uniform certificates of course completion to owners or primary consignees of courses approved under this Act. The agency may charge a fee of \$1 for each certificate. An owner or consignee may not charge an operator a fee in excess of the fee paid to the agency for a certificate.

(6) The commissioner, with approval of the board, may increase any fee authorized under this subsection at a rate that does not exceed the increase in the Consumer Price Index for All Urban Consumers published by the Department of Labor. Fees under this subsection do not have to be increased annually.

(7) Fees collected under this subsection shall be deposited in the state treasury in a special account in the General Revenue Fund. Money in the account may be appropriated only for the administration of this Act and Section 143A, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes).

(d)(1) The commissioner, on review of an application for a driver training school license that is submitted in accordance with this Act and that meets the requirements of this Act, shall issue a driver training school license to the applicant. A driver training school license shall be in a form recommended by the commissioner and approved by the board and shall show in a clear and conspicuous manner at least the following:

(A) the date of issuance, effective date, and term of approval;

(B) the name and address of the school;

(C) the authority for approval and conditions of approval;

(D) the signature of the commissioner; and

(E) any other fair and reasonable representations that are consistent with this Act and considered necessary by the commissioner.

(2) The term for which a driver training school license is issued may not exceed one year.

(3)(A) A driver training school license issued to an owner of the applicant school is nontransferable and is the property of the state. In the event of a change in ownership of the school, a new owner shall, at least 30 days before the date of the change in ownership, apply for a new driver training school license. *Instead of the fees required by Subsection (b) of this section, the fee for a new license required under this subdivision is \$500, plus \$200 for each branch location, if the purchasing entity is substantially similar to the transferring entity and there is no significant change in the management or control of the school.*

(B) The commissioner is not required to reinspect a school or a branch location after a change of its ownership.

(4) At least 30 days before the expiration of a driver training school license, the school shall forward to the commissioner an application for renewal. The commissioner may reexamine the school premises and shall renew or cancel the school's driver training school license. If a school fails to file a complete application for renewal at least 30 days before the expiration date of the driver training school license, the school shall pay as a condition of renewal and in addition to any annual renewal fee a late renewal fee in an amount established by board rule of at least \$100, subject to Subsection (b) of this section.

(5) The commissioner shall visit a school and reexamine the school for compliance with the criteria adopted under this Act [~~not later than three months after the date a school begins operation or after a change in ownership of a school~~].

(g) Before a driver training school license may be issued under this Act, a bond shall be provided by the school for the period for which the license is to be issued, and the obligation of the bond shall be that neither a provision of this Act nor any rule adopted under this Act shall be violated by the school or any of its officers, agents, or employees. A driver training school that teaches driver education shall submit a bond in the amount of \$10,000 for its

primary driver training school and \$5,000 for each branch location of the school. All other schools shall submit a bond in the amount of \$5,000. A bond must be a corporate surety bond issued by a company authorized to do business in the state, be payable to the state, and be used only for payment of a refund due to a student or potential student. The bond shall be filed with the commissioner and shall be in such form as shall be approved by the commissioner. Posting of these bond amounts shall satisfy the requirements for financial stability for schools under this Act.

SECTION 6. This Act takes effect September 1, 1993. The change in law made by this Act applies only to an application for an original or the renewal of a driver training school license that is made on or after that date. An application for an original or the renewal of a driver training school license made before the effective date of this Act is covered by the law in effect when the application was filed, and the former law is continued in effect for this purpose.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 10, 1993, by a non-record vote; passed by the Senate on May 30, 1993, by a viva-voce vote.

Approved June 19, 1993.

Effective Sept. 1, 1993.