CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2095

Chapter 101, Laws of 2009

61st Legislature
2009 Regular Session

DRIVER TRAINING SCHOOLS

EFFECTIVE DATE: 07/26/09

Passed by the House March 9, 2009
Yeas 96  Nays 0

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate April 8, 2009
Yeas 44  Nays 0

BRAD OWEN
President of the Senate

Approved April 15, 2009, 11:35 a.m.

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is SUBSTITUTE HOUSE BILL 2095 as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER
Chief Clerk

FILED
April 15, 2009

CHRISTINE GREGOIRE
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to clarifying the permitting, training, and licensing process for driver training schools; and amending RCW 46.82.280, 46.82.300, 46.82.310, 46.82.320, 46.82.325, 46.82.330, and 46.82.360.

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

Sec. 1. RCW 46.82.280 and 2006 c 219 s 2 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Behind-the-wheel instruction" means instruction in an approved driver training school instruction vehicle according to and inclusive of the minimum required curriculum. Behind-the-wheel instruction is characterized by driving experience.

(2) "Classroom" means a space dedicated to and used exclusively by a driver training instructor for the instruction of students. With prior department approval, a branch office classroom may be located within alternative facilities, such as a public or private library, school, community college, college or university, or a business training facility.
(3) "Classroom instruction" means that portion of a traffic safety education course that is characterized by classroom-based student instruction conducted by or under the direct supervision of a licensed instructor or licensed instructors.

(4) "Driver training school" means a commercial driver training school engaged in the business of giving instruction, for a fee, in the operation of automobiles.

(5) "Driver training education course" means a course of instruction in traffic safety education approved and licensed by the department of licensing that consists of classroom and behind-the-wheel instruction as documented by the minimum approved curriculum.

(6) "Director" means the director of the department of licensing of the state of Washington.

(7) "Advisory committee" means the driving instructors' advisory committee as created in this chapter.

(8) "Enrollment" means the collecting of a fee or the signing of a contract for a driver training education course. "Enrollment" does not include the collecting of names and contact information for enrolling students once a driver training school is licensed to instruct.

(9) "Fraudulent practices" means any conduct or representation on the part of a driver training school owner or instructor including:

(a) Inducing anyone to believe, or to give the impression, that a license to operate a motor vehicle or any other license granted by the director may be obtained by any means other than those prescribed by law, or furnishing or obtaining the same by illegal or improper means, or requesting, accepting, or collecting money for such purposes;

(b) Operating a driver training school without a license, providing instruction without an instructor's license, verifying enrollment prior to being licensed, misleading or false statements on applications for a commercial driver training school license or instructor's license or on any required records or supporting documentation;

(c) Failing to fully document and maintain all required driver training school records of instruction, school operation, and instructor training;

(d) Issuing a driver training course certificate without requiring completion of the necessary behind-the-wheel and classroom instruction.
"Instructor" means any person employed by or otherwise associated with a driver training school to instruct persons in the operation of an automobile.

"Owner" means an individual, partnership, corporation, association, or other person or group that holds a substantial interest in a driver training school.

"Place of business" means a designated location at which the business of a driver training school is transacted or its records are kept.

"Person" means any individual, firm, corporation, partnership, or association.

"Substantial interest holder" means a person who has actual or potential influence over the management or operation of any driver training school. Evidence of substantial interest includes, but is not limited to, one or more of the following:

(a) Directly or indirectly owning, operating, managing, or controlling a driver training school or any part of a driver training school;

(b) Directly or indirectly profiting from or assuming liability for debts of a driver training school;

(c) Is an officer or director of a driver training school;

(d) Owning ten percent or more of any class of stock in a privately or closely held corporate driver training school, or five percent or more of any class of stock in a publicly traded corporate driver training school;

(e) Furnishing ten percent or more of the capital, whether in cash, goods, or services, for the operation of a driver training school during any calendar year; or

(f) Directly or indirectly receiving a salary, commission, royalties, or other form of compensation from the activity in which a driver training school is or seeks to be engaged.

"Student" means any person enrolled in an approved driver training course.

Sec. 2. RCW 46.82.300 and 2006 c 219 s 3 are each amended to read as follows:

(1) The director shall be assisted in the duties and responsibilities of this chapter by the driver instructors' advisory
committee, consisting of (five) seven members, two of which, when
possible, must reside east of the crest of the Cascade mountains.
Members of the advisory committee shall be appointed by the director
for two-year terms and shall consist of (a) two representatives of
the driver training schools, (a) two representatives of the driving
instructors (who shall not be from the same school as the school
member), a representative of the superintendent of public instruction,
a representative of the department of licensing, and a representative
from the Washington state traffic safety commission. ((Members shall
be reimbursed for travel expenses in accordance with RCW 43.03.050 and
43.03.060. A member who is receiving a salary from the state shall not
receive compensation other than travel expenses incurred in such
service.))

(2) The advisory committee shall meet at least semiannually and
shall have additional meetings as may be called by the director. The
director or the director's representative shall attend all meetings of
the advisory committee and shall serve as chairman.

(3) Duties of the advisory committee shall be to:
(a) Advise and confer on department proposed policy and rule with
the director or the director's representative on matters pertaining to
the establishment of rules necessary to carry out this chapter;
(b) Review and update when necessary a curriculum consisting of a
list of items of knowledge and the processes of driving a motor vehicle
specifying the minimum requirements adjudged necessary in teaching a
proper and adequate course of driver education;
(c) Review and update instructor certification standards to be
consistent with RCW 46.82.330 and take into consideration those
standards required to be met by traffic safety education teachers under
RCW 28A.220.020(3); and
(d) Prepare the examination for a driver instructor's certificate
and review examination results at least once each calendar year for the
purpose of updating and revising examination standards.

Sec. 3. RCW 46.82.310 and 2006 c 219 s 4 are each amended to read
as follows:
(1) No person shall engage in the business of conducting a driver
training school without a license issued by the director for that
purpose. The school's license must be displayed before the school may:
(a) Schedule, enroll, or engage any students in a course of instruction;
(b) Issue a verification of enrollment to any student; or
(c) Begin any classroom or behind-the-wheel instruction.

(2) An application for a driver training school license shall be filed with the director, containing such information as prescribed by the director, including a uniform business identifier number, accompanied by an application fee as set by rule of the department, which shall in no event be refunded. Before an application for a driver training school license is approved, the business practices, facilities, records, vehicles, and insurance of the proposed school must be inspected and reviewed by authorized representatives of the director. If an application is approved by the director, the applicant shall be granted a license valid for a period of one year from the date of issuance.

(3) A driver training school may apply for a license to establish a branch office or branch classroom by filing an application with the director, containing such information as prescribed by the director, accompanied by an application fee as set by rule of the department, which shall in no event be refunded. Before an application for a license to establish a branch office or branch classroom is approved, the business practices, facilities, records, vehicles, and insurance of the proposed branch location must be inspected and reviewed by authorized representatives of the director. If an application is approved by the director, the applicant shall be granted a license valid for a period of one year from the date of issuance.

(4) The annual fee for renewal of a school or branch location license shall be set by rule of the department. Subject to the department's inspection of the business, the director shall issue a license certificate to each licensee which shall be conspicuously displayed in the place of business of the licensee. If the director has not received a renewal application postmarked on or before the date a license expires the license will be marked late. If the renewal application and fee are not received within thirty days after expiration of the license, the license will be void requiring a new application as provided for in this chapter, including payment of all fees. Instruction may not be given beyond the thirty days from the expiration of the license.
(5) The person to whom a driver training school license has been issued must notify the director in writing within ten business days after any change is made in the officers, directors, or location of the place of business of the school.

(6) Except as otherwise permitted by rule of the department, a change involving the ownership of a driver training school requires a new license application, including payment of all fees.

(a) The owner relinquishing the business must notify the director in writing within ten business days.

(b) The new owner must submit an application and fee as prescribed by rule of the department for transfer of the school's license to the director within ten business days.

(c) Upon receipt of the required notification and the application and fees for license transfer, the director shall permit continuance of the business for a period not to exceed sixty days from the date of transfer pending approval of the new application for a school license.

(d) The transferred license shall remain subject to suspension, revocation, or denial in accordance with RCW 46.82.350 and 46.82.360.

(7) Evidence of liability insurance coverage for the instruction vehicles and the building premises of the driver training school must be filed with the director prior to the issuance or renewal of a school license, and shall meet the following standards:

(a) Coverage must be provided by a company authorized to do business in Washington state;

(b) Automobile liability coverage shall be in the amount of not less than one million dollars, and shall include property damage and uninsured motorists coverage;

(c) The required coverage shall be maintained in full force and effect for the term of the school license;

(d) Changes in insurance coverage due to cancellation or expiration require notification of the director and proof of continuing coverage within ten working days following any change; and

(e) Coverage shall be issued in the name of the school and identify the covered locations and vehicles.

((8) The increased insurance requirements of subsection (7) of this section must be in effect by no later than one year after July 1, 2006.))
Sec. 4. RCW 46.82.320 and 2006 c 219 s 5 are each amended to read as follows:

(1) No person affiliated with a driver training school shall give instruction in the operation of an automobile for a fee without a license issued by the director for that purpose. An application for an original or renewal instructor's license shall be filed with the director, containing such information as prescribed by this chapter and by the director, accompanied by an application fee set by rule of the department, which shall in no event be refunded. An application for a renewal instructor's license must be accompanied by proof of the applicant's continuing professional development that meets the standards adopted by the director. If the applicant satisfactorily meets the application requirements and the examination requirements as prescribed in RCW 46.82.330, the applicant shall be granted a license valid for a period of two years from the date of issuance. ((An instructor shall take a requalification examination every five years.))

(2) The director shall issue a license certificate to each qualified applicant.

(a) An employing driver training school must conspicuously display an instructor's license at its established place of business and display copies of the instructor's license at any branch office where the instructor provides instruction.

(b) Unless revoked, canceled, or denied by the director, the license shall remain the property of the licensee in the event of termination of employment or employment by another driver training school.

(c) If the director has not received a renewal application on or before the date a license expires, the license will be voided requiring a new application as provided for in this chapter, including examination and payment of all fees.

(d) If revoked, canceled, or denied by the director, the license must be surrendered to the department within ten days following the effective date of such action.

(3) Each licensee shall be provided with a wallet-size identification card by the director at the time the license is issued which shall be in the instructor's immediate possession at all times while engaged in instructing.
The person to whom an instructor's license has been issued shall notify the director in writing within ten days of any change of employment or termination of employment, providing the name and address of the new driver training school by whom the instructor will be employed.

Sec. 5. RCW 46.82.325 and 2006 c 219 s 6 are each amended to read as follows:

(1) Instructors, owners, and other persons affiliated with a school who have regularly scheduled, unsupervised contact with students are required to have a background check through the Washington state patrol criminal identification system and through the federal bureau of investigation. The background check shall also include a fingerprint check using a fingerprint card. Persons covered by this section must have their background rechecked under this subsection every five years.

(2) In addition to the background check required under subsection (1) of this section, persons covered by this section must have a background check through the Washington criminal identification system at the time of application for any renewal license.

(3) The cost of the background check shall be paid by the person.

Sec. 6. RCW 46.82.330 and 2006 c 219 s 7 are each amended to read as follows:

(1) The application for an instructor's license shall document the applicant's fitness, knowledge, skills, and abilities to teach the classroom and behind-the-wheel phases of a driver training education program in a commercial driver training school.

(2) An applicant shall be eligible to apply for an original instructor's certificate if the applicant possesses and meets the following qualifications and conditions:

(a) Has been licensed to drive for five or more years and possesses a current and valid Washington driver's license or is a resident of a jurisdiction immediately adjacent to Washington state and possesses a current and valid license issued by such jurisdiction, and does not have on his or her driving record any of the violations or penalties set forth in (((2)))((a) (i), (ii), or (iii) of this ((section)) subsection. The director shall have the right to examine the driving record...
record of the applicant from the department of licensing and from other jurisdictions and from these records determine if the applicant has had:

(i) Not more than one moving traffic violation within the preceding twelve months or more than two moving traffic violations in the preceding twenty-four months;

(ii) No drug or alcohol-related traffic violation or incident within the preceding seven years. If there are two or more drug or alcohol-related traffic violations in the applicant's driving history, the applicant is no longer eligible to be a driving instructor; and

(iii) No driver's license suspension, cancellation, revocation, or denial within the preceding two years, or no more than two of these occurrences in the preceding five years;

(b) Is a high school graduate or the equivalent and at least twenty-one years of age;

(c) Has completed an acceptable application on a form prescribed by the director;

(d) Has satisfactorily completed a course of instruction in the training of drivers acceptable to the director that is no less than sixty hours in length and includes instruction in classroom and behind-the-wheel teaching methods and supervised practice behind-the-wheel teaching of driving techniques; and

(e) Has paid an examination fee as set by rule of the department and has successfully completed an instructor's examination as prepared by the advisory committee, which shall consist of a knowledge test and an actual driving test conducted in a vehicle provided by the applicant. The examination shall determine:

(i) The applicant's knowledge of driving laws and rules;

(ii) The applicant's ability to safely operate a motor vehicle; and

(iii) The applicant's ability to impart this knowledge and ability to others).

Sec. 7. RCW 46.82.360 and 2006 c 219 s 10 are each amended to read as follows:

The license of any driver training school or instructor may be suspended, revoked, denied, or refused renewal, or such other
disciplinary action authorized under RCW 18.235.110 may be imposed, for
failure to comply with the business practices specified in this
section.

(1) No place of business shall be established nor any business of
a driver training school conducted or solicited within one thousand
feet of an office or building owned or leased by the department of
licensing in which examinations for drivers' licenses are conducted.
The distance of one thousand feet shall be measured along the public
streets by the nearest route from the place of business to such
building.

(2) Any automobile used by a driver training school or an
instructor for instruction purposes must be equipped with:

(a) Dual controls for foot brake and clutch, or foot brake only in
a vehicle equipped with an automatic transmission;

(b) An instructor's rear view mirror; and

(c) A sign in legible, printed English letters displayed on the
back or top, or both, of the vehicle that:

(i) Is not less than twenty inches in horizontal width or less than
ten inches in vertical height;

(ii) Has the words "student driver," "instruction car," or "driving
school" in letters at least two and one-half inches in height near the
top;

(iii) Has the name and telephone number of the school in similarly
legible letters not less than one inch in height placed somewhere below
the aforementioned words;

(iv) Has lettering and background colors that make it clearly
readable at one hundred feet in clear daylight;

(v) Is displayed at all times when instruction is being given.

(3) Instruction may not be given by an instructor to a student who
is under the age of fifteen, and behind-the-wheel instruction may not
be given by an instructor to a student in an automobile unless the
student possesses a current and valid instruction permit issued
pursuant to RCW 46.20.055 or a current and valid driver's license.

(4) No driver training school or instructor shall advertise or
otherwise indicate that the issuance of a driver's license is
guaranteed or assured as a result of the course of instruction offered.

(5) No driver training school or instructor shall utilize any types
of advertising without using the full, legal name of the school and
identifying itself as a driver training school. Instruction vehicles
and equipment, classrooms, driving simulators, training materials and
services advertised must be available in a manner as might be expected
by the average person reading the advertisement.

(6) A driver training school shall have an established place of
business owned, rented, or leased by the school and regularly occupied
and used exclusively for the business of giving driver instruction.
The established place of business of a driver training school shall be
located in a district that is zoned for business or commercial purposes
or zoned for conditional use permits for schools, trade schools, or
colleges. However, the use of public or private schools does not
alleviate the driver training school from securing and maintaining an
established place of business or from using its own classroom on a
regular basis as required under this chapter.

(a) The established place of business, branch office, or classroom
or advertised address of any such driver training school shall not
consist of or include a house trailer, residence, tent, temporary
stand, temporary address, bus, telephone answering service if such
service is the sole means of contacting the driver training school, a
room or rooms in a hotel or rooming house or apartment house, or
premises occupied by a single or multiple-unit dwelling house.

(b) A driver training school may lease classroom space within a
public or private school that is recognized and regulated by the office
of the superintendent of public instruction to conduct student
instruction as approved by the director. However, such use of public
or private classroom space does not alleviate the driver training
school from securing and maintaining an established place of business
nor from using its own classroom on a regular basis as required by this
chapter.

(c) To classify as a branch office or classroom the facility must
be within a thirty-five mile radius of the established place of
business. The department may waive or extend the thirty-five mile
restriction for driver training schools located in counties below the
median population density.

(d) Nothing in this subsection may be construed as limiting the
authority of local governments to grant conditional use permits or
variances from zoning ordinances.
(7) No driver training school or instructor shall conduct any type of instruction or training on a course used by the department of licensing for testing applicants for a Washington driver's license.

(8) Each driver training school shall maintain its student, instructor, vehicle, insurance, and operating records at its established place of business.

(a) Student records must include the student's name, address, and telephone number, date of enrollment and all dates of instruction, the student's instruction permit or driver's license number, the type of training given, the total number of hours of instruction, and the name and signature of the instructor or instructors.

(b) Instructor records shall include the instructor's license number, the date of hire, the dates and duration of an instructor's training — including initial certification — as an instructor and continuing education, an abstract of the driving record for the instructor obtained within the past year, and a list of the locations where the instructor is providing student instruction.

(c) Vehicle records shall include the original insurance policies and copies of the vehicle registration for all instruction vehicles.

(d) Student and instructor records shall be maintained for three years following the completion of the instruction. Vehicle records shall be maintained for five years following their issuance. All records shall be made available for inspection upon the request of the department.

(e) Upon a transfer or sale of school ownership the school records shall be transferred to and become the property and responsibility of the new owner.

(9) Each driver training school shall, at its established place of business, display, in a place where it can be seen by all clients, a copy of the required minimum curriculum furnished by the department and a copy of the school's own curriculum. Copies of the required minimum curriculum are to be provided to driver training schools and instructors by the director.

(10) Driver training schools and instructors shall submit to periodic inspections of their business practices, facilities, records, and insurance by authorized representatives of the director of the
department of licensing.
Passed by the House March 9, 2009.
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