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**HOUSE BILL 2266**

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**State of Washington 65th Legislature 2018 Regular Session**

**By** Representatives Hayes, Kilduff, Muri, Young, Appleton, and Harris

AN ACT Relating to clarifying the nature of the driver training education curriculum developed and maintained by the department of licensing and the office of the superintendent of public instruction; amending RCW 28A.220.030, 28A.220.035, 28A.220.037, 46.82.280, 46.82.360, and 46.82.420; amending 2017 c 197 s 1 (uncodified); reenacting and amending RCW 28A.220.020; and providing an effective date.

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

**Sec.**  2017 c 197 s 1 (uncodified) is amended to read as follows:

The legislature finds that there is a need to establish consistency in the quality of driver training education in this state to reduce the number of young driver accidents that are prematurely killing our youth. The traffic safety commission reports that out of two hundred forty-five fatalities in the first half of 2016, thirty-one involved young drivers aged sixteen to twenty-five. The intent of this act is to require driver training education core curriculum to be developed and maintained jointly by the office of the superintendent of public instruction and the department of licensing. The legislature also finds that there is a need to audit driver training education courses; therefore, the intent of this act is also to provide the department of licensing with resources and authority to audit all driver training education courses, in consultation with the superintendent of public instruction for driver training education courses offered by school districts.

**Sec.**  RCW 28A.220.020 and 2017 c 197 s 2 are each reenacted and amended to read as follows:

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

(1) "Appropriate course delivery standards" means the classroom and behind-the-wheel student learning experiences considered acceptable to the superintendent of public instruction under RCW 28A.220.030 that must be satisfactorily accomplished by the student in order to successfully complete the driver training education course.

(2) "Approved private school" means a private school approved by the board of education under chapter 28A.195 RCW.

(3) "Director" means the director of the department of licensing.

(4) "Driver training education course" means a course of instruction in traffic safety education (a) offered as part of a traffic safety education program authorized by the superintendent of public instruction and certified by the department of licensing and (b) taught by a qualified teacher of driver training education that consists of classroom and behind-the-wheel instruction using a core curriculum that meets joint superintendent of public instruction and department of licensing standards and the course requirements established by the superintendent of public instruction under RCW 28A.220.030. Behind-the-wheel instruction is characterized by driving experience.

(5) "Qualified teacher of driver training education" means an instructor who:

(a) Is certificated under chapter 28A.410 RCW and has obtained a traffic safety endorsement or a letter of approval to teach traffic safety education from the superintendent of public instruction or is certificated by the superintendent of public instruction to teach a driver training education course; or

(b) Is an instructor provided by a driver training school that has contracted with a school district's or districts' board of directors under RCW 28A.220.030(3) to teach driver education for the school district.

(6) "Superintendent" or "state superintendent" means the superintendent of public instruction.

(7) "Traffic safety education program" means the administration and provision of driver training education courses offered by secondary schools of a school district ((~~or~~)), vocational-technical schools, or approved private schools that are conducted by such schools in a like manner to their other regular courses.

**Sec.**  RCW 28A.220.030 and 2017 c 197 s 3 are each amended to read as follows:

(1) The superintendent of public instruction is authorized to establish a section of traffic safety education, and through such section shall: Define appropriate course delivery standards required to provide an effective driver training education course, establish a level of driving competency required of each student to successfully complete the course, and ensure that an effective statewide program is implemented and sustained; administer, supervise, and develop the traffic safety education program; and assist local school districts and approved private schools in the conduct of their traffic safety education programs. The superintendent shall adopt necessary rules governing the operation and scope of the traffic safety education program; and each school district and approved private school shall submit a report to the superintendent on the condition of its traffic safety education program: PROVIDED, That the superintendent shall monitor the quality of the program and carry out the purposes of this chapter.

(2)(a) The board of directors of any school district maintaining a secondary school which includes any of the grades 10 to 12, inclusive, or any approved private school which includes any of the grades 10 to 12, inclusive, may establish and maintain a traffic safety education program.

(b) Any school district or approved private school that offers a driver training education course must certify to the department of licensing that it is operating a traffic safety education program, that the driver training education course ((~~follows~~)) adheres to the core curriculum promulgated by the office of the superintendent of public instruction and the department of licensing, that it meets the course delivery standards promulgated by the office of the superintendent of public instruction, that a record retention policy is in place to meet the requirements of subsection (5) of this section, and that the school district or approved private school has verified that all instructors are authorized by the office of the superintendent of public instruction to teach a driver training education course.

(c) Any portion of a driver training education course offered by a school district may be taught before or after regular school hours or on Saturdays as well as on regular school days or as a summer school course, at the option of the local school district. If a school district elects to offer a driver training education course and has within its boundaries a private accredited secondary school which includes any of the grades 10 to 12, inclusive, at least one driver training education course must be given at times other than regular school hours if there is sufficient demand for it.

(3)(a) A qualified teacher of driver training education must be certificated under chapter 28A.410 RCW and obtain a traffic safety endorsement or a letter of approval to teach traffic safety education from the superintendent of public instruction to teach either the classroom instruction or the behind-the-wheel instruction portion of the driver training education course, or both, under rules adopted by the superintendent. The classroom or behind-the-wheel instruction portion of the driver training education course may also be taught by instructors certificated under rules adopted by the superintendent of public instruction, exclusive of any requirement that the instructor be certificated under chapter 28A.410 RCW.

(b) The superintendent shall establish a required minimum number of hours of continuing traffic safety education for qualified teachers of driver training education.

(4) The board of directors of a school district, or combination of school districts, may contract with any driver training school licensed under chapter 46.82 RCW to teach the behind-the-wheel instruction portion of the driver training education course. Instructors provided by any such contracting driver training school must be properly qualified teachers of driver training education under the joint qualification requirements adopted by the superintendent of public instruction and the director of licensing.

(5) Each school district or approved private school offering a traffic safety education program must maintain: (a) Documentation of each instructor's name and address and that establishes the instructor as a qualified teacher of driver training education as defined in RCW 28A.220.020; and (b) student records that include the student's name, address, and telephone number, the date of enrollment and all dates of instruction, the student's driver's instruction permit or driver's license number, the type of training received, the total number of hours of instruction, and the name of the instructor or instructors. These records must be maintained for three years following the completion of the instruction and are subject to inspection upon request of the department of licensing or the office of the superintendent of public instruction. The superintendent may adopt rules regarding the retention of additional documents that are subject to inspection by the department of licensing or the office of the superintendent of public instruction.

(6) A driver training education course may not be offered by a school district or an approved private school 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 a motor vehicle unless the student possesses either a current and valid driver's instruction permit issued under RCW 46.20.055 or a current and valid driver's license.

(7) School districts that offer a driver training education course under this chapter may administer the portions of the driver licensing examination that test the applicant's knowledge of traffic laws and ability to safely operate a motor vehicle as authorized under RCW 46.20.120(7). The superintendent shall work with the department of licensing, in consultation with school districts that offer a traffic safety education program, to develop standards and requirements for administering each portion of the driver licensing examination that are comparable to the standards and requirements for driver training schools under RCW 46.82.450.

(8) Before a school district may provide a portion of the driver licensing examination, the school district must, after consultation with the superintendent, enter into an agreement with the department of licensing that sets forth an accountability and audit process that takes into account the unique nature of school district facilities and school hours and, at a minimum, contains provisions that:

(a) Allow the department of licensing to conduct random examinations, inspections, and audits without prior notice;

(b) Allow the department of licensing to conduct on-site inspections at least annually;

(c) Allow the department of licensing to test, at least annually, a random sample of the drivers approved by the school district for licensure and to cancel any driver's license that may have been issued to any driver selected for testing who refuses to be tested; and

(d) Reserve to the department of licensing the right to take prompt and appropriate action against a school district that fails to comply with state or federal standards for a driver licensing examination or to comply with any terms of the agreement.

**Sec.**  RCW 28A.220.035 and 2017 c 197 s 4 are each amended to read as follows:

The office of the superintendent of public instruction and the department of licensing shall jointly develop and maintain a required core curriculum for school districts and approved private schools operating a traffic safety education program. The jointly developed core curriculum must be prepared by August 1, 2018. The core curriculum and instructional materials must comply with the course content requirements of RCW 46.82.420(2) and 46.82.430. In developing the core curriculum, the office of the superintendent of public instruction and the department of licensing shall consult with one or more of Central Washington University's traffic safety education instructors or program content developers.

**Sec.**  RCW 28A.220.037 and 2017 c 197 s 5 are each amended to read as follows:

(1) The department of licensing shall develop and administer the certification process required under RCW 28A.220.030 for a school district's or approved private school's traffic safety education program in consultation with the superintendent.

(2) The department of licensing shall conduct audits of traffic safety education programs to ensure that the instructors are qualified teachers of driver training education and teaching the required core curriculum material, and that accurate records are maintained and accurate information is provided to the department of licensing regarding student performance. Each school district and approved private school may be audited at least once every five years or more frequently. The audit process must take into account the unique nature of school district facilities, operations, and hours. As part of its audit process, the department of licensing may examine all relevant information, including driver training education course curriculum materials and student records, and visit any course in progress that is part of the traffic safety education program. The director shall consult with the superintendent in developing and carrying out these auditing practices.

(3) The department of licensing may suspend a school's or school district's traffic safety education program certification if: The school or school district does not follow the core curriculum promulgated by the office of the superintendent of public instruction and the department of licensing, any program instructors are not qualified teachers of driver training education, accurate records have not been maintained under RCW 28A.220.030(5) or accurate information regarding student performance has not been provided to the department of licensing, or the school or school district refuses to cooperate with the department of licensing audit process authorized under this chapter. The director shall consult with the superintendent in developing and carrying out these program certification suspension practices.

**Sec.**  RCW 46.82.280 and 2017 c 197 s 8 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 required core 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 using the required core curriculum conducted by or under the direct supervision of a licensed instructor or licensed instructors.

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

(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 that ((~~follows the approved~~)) adheres to the required core curriculum.

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

(7) "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.

(8) "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.

(9) "Instructor" means any person employed by or otherwise associated with a driver training school to instruct persons in the operation of an automobile.

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

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

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

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

(14) "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.

**Sec.**  RCW 46.82.360 and 2017 c 197 s 11 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) Vehicle records shall include the original insurance policies and copies of the vehicle registration for all instruction vehicles.

(c) 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.

(d) 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 core curriculum furnished by the department and a copy of any supplemental curriculum in use by the school. Copies of the required core 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.

**Sec.**  RCW 46.82.420 and 2017 c 197 s 12 are each amended to read as follows:

(1) The department and the office of the superintendent of public instruction shall jointly develop and maintain a required core curriculum as specified in RCW 28A.220.035. The department shall furnish to each qualifying applicant for an instructor's license or a driver training school license a copy of ((~~such~~)) the required core curriculum.

(2) In addition to information on the safe, lawful, and responsible operation of motor vehicles on the state's highways, the required core curriculum shall include information on:

(a) Intermediate driver's license issuance, passenger and driving restrictions and sanctions for violating the restrictions, and the effect of traffic violations and collisions on the driving privileges;

(b) The effects of alcohol and drug use on motor vehicle operators, including information on drug and alcohol related traffic injury and mortality rates in the state of Washington and the current penalties for driving under the influence of drugs or alcohol;

(c) Motorcycle awareness, approved by the director, to ensure new operators of motor vehicles have been instructed in the importance of safely sharing the road with motorcyclists;

(d) Bicycle safety, to ensure that operators of motor vehicles have been instructed in the importance of safely sharing the road with bicyclists; and

(e) Pedestrian safety, to ensure that operators of motor vehicles have been instructed in the importance of safely sharing the road with pedestrians.

(3) Should the director be presented with acceptable proof that any licensed instructor or driver training school is not showing proper diligence in teaching the required core curriculum, the instructor or school shall be required to appear before the director and show cause why the license of the instructor or school should not be revoked for such negligence. If the director does not accept such reasons as may be offered, the director may revoke the license of the instructor or school, or both.

NEW SECTION. **Sec.**  This act takes effect August 1, 2018.

**--- END ---**