
SUBSTITUTE SENATE BILL 5938

State of Washington

61st Legislature

2009 Regular Session

By Senate Transportation (originally sponsored by Senators Ranker, Swecker, Haugen, Delvin, Eide, Sheldon, Jacobsen, Shin, and McAuliffe)

READ FIRST TIME 03/02/09.

1 AN ACT Relating to clarifying the permitting, training, and
2 licensing process for driver training schools; and amending RCW
3 46.82.280, 46.82.300, 46.82.310, 46.82.320, 46.82.325, 46.82.330, and
4 46.82.360.

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

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

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

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

14 (2) "Classroom" means a space dedicated to and used exclusively by
15 a driver training instructor for the instruction of students. With
16 prior department approval, a branch office classroom may be located
17 within alternative facilities, such as a public or private library,
18 school, community college, college or university, or a business
19 training facility.

1 (3) "Classroom instruction" means that portion of a traffic safety
2 education course that is characterized by classroom-based student
3 instruction conducted by or under the direct supervision of a licensed
4 instructor or licensed instructors.

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

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

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

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

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

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

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

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

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

36 (d) Issuing a driver training course certificate without requiring
37 completion of the necessary behind-the-wheel and classroom instruction.

1 ((+9)) (10) "Instructor" means any person employed by or otherwise
2 associated with a driver training school to instruct persons in the
3 operation of an automobile.

4 ((+10)) (11) "Owner" means an individual, partnership,
5 corporation, association, or other person or group that holds a
6 substantial interest in a driver training school.

7 ((+11)) (12) "Place of business" means a designated location at
8 which the business of a driver training school is transacted (~~and~~) or
9 its records are kept.

10 ((+12)) (13) "Person" means any individual, firm, corporation,
11 partnership, or association.

12 ((+13)) (14) "Substantial interest holder" means a person who has
13 actual or potential influence over the management or operation of any
14 driver training school. Evidence of substantial interest includes, but
15 is not limited to, one or more of the following:

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

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

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

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

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

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

32 ((+14)) (15) "Student" means any person enrolled in ((a)) an
33 approved driver training course (~~that pays a fee for instruction~~).

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

36 (1) The director shall be assisted in the duties and
37 responsibilities of this chapter by the driver instructors' advisory

1 committee, consisting of ~~((five))~~ seven members, two of which, when
2 possible, must reside east of the crest of the Cascade mountains.
3 Members of the advisory committee shall be appointed by the director
4 for two-year terms and shall consist of ~~((a))~~ two representatives of
5 the driver training schools, ~~((a))~~ two representatives of the driving
6 instructors (who shall not be from the same school as the school
7 member), a representative of the superintendent of public instruction,
8 a representative of the department of licensing, and a representative
9 from the Washington state traffic safety commission. ~~((Members shall~~
10 ~~be reimbursed for travel expenses in accordance with RCW 43.03.050 and~~
11 ~~43.03.060. A member who is receiving a salary from the state shall not~~
12 ~~receive compensation other than travel expenses incurred in such~~
13 ~~service.))~~

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

18 (3) Duties of the advisory committee shall be to:

19 (a) Advise and confer on department proposed policy and rule with
20 the director or the director's representative on matters pertaining to
21 the establishment of rules necessary to carry out this chapter;

22 (b) Review and update when necessary a curriculum consisting of a
23 list of items of knowledge and the processes of driving a motor vehicle
24 specifying the minimum requirements adjudged necessary in teaching a
25 proper and adequate course of driver education;

26 (c) Review and update instructor certification standards to be
27 consistent with RCW 46.82.330 and take into consideration those
28 standards required to be met by traffic safety education teachers under
29 RCW 28A.220.020(3); and

30 (d) Prepare the examination for a driver instructor's certificate
31 and review examination results at least once each calendar year for the
32 purpose of updating and revising examination standards.

33 **Sec. 3.** RCW 46.82.310 and 2006 c 219 s 4 are each amended to read
34 as follows:

35 (1) No person shall engage in the business of conducting a driver
36 training school without a license issued by the director for that
37 purpose. The school's license must be displayed before the school may:

1 (a) Schedule, enroll, or engage any students in a course of
2 instruction;

3 (b) Issue a verification of enrollment to any student; or

4 (c) Begin any classroom or behind-the-wheel instruction.

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

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

27 (4) The annual fee for renewal of a school or branch location
28 license shall be set by rule of the department. Subject to the
29 department's inspection of the business, the director shall issue a
30 license certificate to each licensee which shall be conspicuously
31 displayed in the place of business of the licensee. If the director
32 has not received a renewal application postmarked on or before the date
33 a license expires the license will be marked late. If the renewal
34 application and fee are not received within thirty days after
35 expiration of the license, the license will be void requiring a new
36 application as provided for in this chapter, including payment of all
37 fees. Instruction may not be given beyond the thirty days from the
38 expiration of the license.

1 (5) The person to whom a driver training school license has been
2 issued must notify the director in writing within ten business days
3 after any change is made in the officers, directors, or location of the
4 place of business of the school.

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

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

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

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

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

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

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

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

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

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

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

35 (~~(8) The increased insurance requirements of subsection (7) of~~
36 ~~this section must be in effect by no later than one year after July 1,~~
37 ~~2006.~~)

1 **Sec. 4.** RCW 46.82.320 and 2006 c 219 s 5 are each amended to read
2 as follows:

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

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

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

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

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

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

35 (3) Each licensee shall be provided with a wallet-size
36 identification card by the director at the time the license is issued
37 which shall be (~~carried on~~) in the instructor's (~~person~~) immediate
38 possession at all times while engaged in instructing.

1 (4) The person to whom an instructor's license has been issued
2 shall notify the director in writing within ten days of any change of
3 employment or termination of employment, providing the name and address
4 of the new driver training school by whom the instructor will be
5 employed.

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

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

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

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

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

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

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

29 (a) Has been licensed to drive for five or more years and possesses
30 a current and valid Washington driver's license or is a resident of a
31 jurisdiction immediately adjacent to Washington state and possesses a
32 current and valid license issued by such jurisdiction, and does not
33 have on his or her driving record any of the violations or penalties
34 set forth in ~~((2))~~(a) (i), (ii), or (iii) of this ~~((section))~~
35 subsection. The director shall have the right to examine the driving

1 record of the applicant from the department of licensing and from other
2 jurisdictions and from these records determine if the applicant has
3 had:

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

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

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

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

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

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

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

29 ~~(i) The applicant's knowledge of driving laws and rules;~~
30 ~~(ii) The applicant's ability to safely operate a motor vehicle; and~~
31 ~~(iii) The applicant's ability to impart this knowledge and ability~~
32 ~~to others)).~~

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

35 The license of any driver training school or instructor may be
36 suspended, revoked, denied, or refused renewal, or such other

1 disciplinary action authorized under RCW 18.235.110 may be imposed, for
2 failure to comply with the business practices specified in this
3 section.

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

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

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

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

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

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

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

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

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

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

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

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

37 (5) No driver training school or instructor shall utilize any types
38 of advertising without using the full, legal name of the school and

1 identifying itself as a driver training school. Instruction vehicles
2 and equipment, classrooms, driving simulators, training materials and
3 services advertised must be available in a manner as might be expected
4 by the average person reading the advertisement.

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

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

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

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

35 (d) Nothing in this subsection may be construed as limiting the
36 authority of local governments to grant conditional use permits or
37 variances from zoning ordinances.

1 (7) No driver training school or instructor shall conduct any type
2 of instruction or training on a course used by the department of
3 licensing for testing applicants for a Washington driver's license.

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

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

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

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

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

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

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

34 (10) Driver training schools and instructors shall submit to
35 periodic inspections of their business practices, facilities, records,
36 and insurance by authorized representatives of the director of the

1 department of licensing.

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