

# HOUSE BILL REPORT

## ESHB 1481

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### As Amended by the Senate

**Title:** An act relating to creating uniformity in driver training education provided by school districts and commercial driver training schools.

**Brief Description:** Creating uniformity in driver training education provided by school districts and commercial driver training schools.

**Sponsors:** House Committee on Transportation (originally sponsored by Representatives Hayes and Bergquist).

#### **Brief History:**

##### **Committee Activity:**

Transportation: 1/30/17, 2/20/17 [DPS].

##### **Floor Activity:**

Passed House: 3/7/17, 96-1.

Senate Amended.

Passed Senate: 4/7/17, 43-4.

#### **Brief Summary of Engrossed Substitute Bill**

- Requires a school district that offers a driver training education course to certify to the Department of Licensing (DOL) that it is operating a traffic safety education program that meets certain curriculum, instructor, record retention, and accuracy in reporting requirements.
- Requires the Office of the Superintendent of Public Instruction and the DOL to jointly develop and maintain a required curriculum for school districts and private driver training schools operating a traffic safety education program in consultation with the Central Washington University's traffic safety education program.
- Mandates that a school district that offers a traffic safety education program maintain certain specified records on program instructors.
- Requires the DOL to conduct audits of traffic safety education programs, in consultation with the Superintendent of Public Instruction (Superintendent).
- Authorizes the DOL to suspend a school's or school district's traffic safety education program certification, in consultation with the Superintendent, in certain circumstances.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

- Eliminates the requirement that private driver training school instructors retake an instructor licensing examination when renewing a license if certain conditions are met.

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## HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 23 members: Representatives Clibborn, Chair; Farrell, Vice Chair; Fey, Vice Chair; Orcutt, Ranking Minority Member; Hargrove, Assistant Ranking Minority Member; Harmsworth, Assistant Ranking Minority Member; Chapman, Gregerson, Hayes, Irwin, Kloba, Lovick, McBride, Morris, Ortiz-Self, Pellicciotti, Pike, Riccelli, Shea, Stambaugh, Tarleton, Van Werven and Young.

**Staff:** Jennifer Harris (786-7143).

### **Background:**

Two different sets of laws govern driver training schools and traffic safety education courses offered by some secondary schools in the state. The completion of driver training at either type of program is one of the mandatory criteria for those under the age of 18 to be eligible to receive an intermediate driver's license.

### Secondary School Traffic Safety Education Courses.

#### *Regulatory Oversight.*

The Superintendent of Public Instruction (Superintendent), who oversees kindergarten through grade 12 (K-12) public education in the state, is authorized to establish a section of traffic safety education. The traffic safety education section must: (1) define a "realistic level of effort" to provide an effective traffic safety education course; (2) establish a level of driving competency required of each student to successfully complete the course; and (3) ensure that an effective statewide program is implemented and sustained by administering, supervising, and developing the program and by assisting local school districts in conducting their traffic safety education programs.

Each school district must submit a report to the Superintendent on the condition of its traffic safety education program. The Superintendent is required to monitor the quality of the program and carry out laws set forth for the program, and is authorized to adopt necessary rules and regulations to govern the operation and scope of the program. The Superintendent must establish the required minimum number of hours of continuing traffic safety education for traffic safety education instructors.

#### *School Districts.*

The board of directors of a school district that maintains a secondary school including any of the grades 10 through 12 may establish and maintain a traffic safety education course. The

board of directors of a school district or of multiple school districts may contract with a driver training school to teach the laboratory phase of the traffic safety education course. Instructors of the contracting driver training school must be qualified teachers of traffic safety education under joint qualification requirements adopted by the Superintendent and the Director of the DOL.

Under current administrative rule, school districts must apply annually to the Superintendent for approval of their traffic safety education program and must submit the name and contact information of the program administrator, provide the names of all traffic safety education instructors, and provide verification of compliance with all applicable administrative rules. School districts must appoint a person to be responsible for ensuring the program's compliance with all administrative rules, adopt written policies, and maintain individual student records.

#### *Instructor Licensing.*

By administrative rule, in order to qualify to teach traffic safety education courses, certified secondary school teachers must possess a valid driver's license, provide a current satisfactory driving record to the employing school district, and complete 12 quarter hours or eight semester hours of approved course work; to remain qualified, teachers must obtain 40 clock hours of course work every five years. Certified secondary school teachers who hold a continuing certificate to teach in secondary schools, issued prior to 1987, are not required to have completed this course work, but must have obtained a letter of approval to teach traffic safety education from the Superintendent.

The Superintendent may grant individuals who are not certified secondary school teachers conditional certificates to teach traffic safety education courses. To teach a behind-the-wheel course, an instructor with a conditional certificate must complete a 60-hour training course approved by the Superintendent, pass practical and knowledge examinations, and have at least five years of licensed driving experience. To teach a classroom course, an instructor with a conditional certificate must complete at least 1,000 hours of behind-the-wheel teaching experience within the last five years and complete an 80-clock-hour classroom instructor training course approved by the Superintendent. Conditional certificate continuing education requirements are currently set to 60 hours.

#### *Curriculum.*

The minimum length of instruction, as set by administrative rule, is 30 hours of classroom instruction, six hours of driving experience, and four hours of driving observation time. Most curriculum requirements are set by administrative rule. Each school district curriculum guide must include the following driver education topics: introduction to the highway transportation system; preparing and controlling the vehicle; maneuvering in a limited space; signs, signals, and pavement markings; vehicle characteristics; human functions used in driving; roadway variations; intersections; management of time and space; lane changes; passing; nonmotorized traffic; internal factors affecting driving performance; physical factors affecting driving performance; alcohol and drugs; vehicle maintenance; planning for travel; limited visibility; reduced traction; special driving conditions; vehicle malfunctioning; avoiding and minimizing impact; post-crash responsibilities; legal responsibilities; highway

transportation system improvement; fuel conservation; motorcycle awareness; and driving safely among bicyclists and pedestrians, using materials approved by the Director of the DOL.

Also by administrative rule, a student enrolled in a traffic safety education course must have a valid instruction permit.

#### *Driver Licensing Examination.*

School districts that offer a traffic safety education program may administer portions of the driver licensing examination that test the applicant's knowledge of traffic laws and ability to safely operate a motor vehicle. The Superintendent is required to work with the DOL, 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 in place for driver training schools.

#### Private Driver Training Schools.

##### *Regulatory Oversight.*

The Director of the Department of Licensing (DOL) is responsible for the administration and enforcement of laws pertaining to driver training schools and is authorized to adopt and enforce administrative rules related to these laws. A driver training school must obtain a license to operate from the DOL by filing an application with the DOL and must conspicuously display that license at its place of business. A driver training school must file evidence of liability insurance coverage that meets certain minimum requirements with the DOL. A license may be suspended, revoked, denied, or refused renewal by the DOL for failure to comply with certain specified business practices.

##### *Instructor Licensing.*

All driver training school instructors must obtain a license to provide instruction from the DOL. Instructors are eligible to receive a license upon completion of an application accompanied by proof of the applicant's continued professional development that meets the DOL standards. To receive a license, an applicant must: (1) have been licensed to drive for five or more years; (2) possess a current and valid driver's license; (3) not have certain enumerated violations on his or her driving record for the periods specified; (4) be a high school graduate or the equivalent; (5) be at least 21 years old; and (6) have satisfactorily completed a driver training instructor course approved by the DOL that is at least 60 hours in length (by administrative rule, this course is required to be at least 100 hours in length). A license is valid for two years and can be revoked, canceled, or denied by the DOL for certain enumerated causes. By administrative rule, eight hours of continuing professional development must be completed to renew a license.

##### *Curriculum.*

The DOL is required to develop and maintain a basic minimum required curriculum for driver training schools that must include information on: the safe, lawful, and responsible operation of motor vehicles; intermediate driver's license issuance; passenger and driving restrictions and sanctions for violating these restrictions; the effect of traffic violations and collisions on driving privileges; the effects of alcohol and drug use on motor vehicle operators; motorcycle awareness; bicycle safety; pedestrian safety; proper use of the left-hand lane by motor vehicles on multilane highways; and bicyclists' and pedestrians' rights and responsibilities and suggested riding procedures in common traffic situations. Under current administrative rule, the DOL requires at least 30 hours of classroom instruction and seven to 10 hours of behind-the-wheel instruction.

If presented with acceptable proof that a licensed instructor or driver training school is not showing proper diligence in teaching this basic minimum curriculum, the DOL may revoke the license of the instructor or school, or both, if the instructor or school cannot provide acceptable reasons demonstrating why the instructor's or school's license should not be revoked.

#### *Driver Licensing Examination.*

Driver training schools 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. Before a driver training school may conduct driver licensing examinations, it must enter into an agreement with the DOL allowing the DOL: to conduct random examinations, inspections, and audits without prior notice and on-site inspections at least annually; to test, at least annually, a random sample of the drivers approved by the school 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 to reserve the right to take action against a driver training school that fails to comply with state or federal standards for a driver licensing examination or to comply with any terms of the agreement.

#### *Records.*

Each driver training school is required to maintain student, instructor, vehicle, insurance, and operating records at its established place of business. Student records must include the student's name, address, telephone number, the type of training given, the total number of hours of instruction, and the name and signature of the instructor or instructors. Vehicle records must include the original insurance policies and copies of the vehicle registration for all instruction vehicles. Student and instructor records must be maintained for three years following completion of instruction, and vehicle records must be maintained for five years following their issuance. All records must be made available for inspection on request of the DOL. A driver training school must also 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.

#### *Secondary School and Higher Education.*

The laws governing driver training schools are not applicable to a traffic safety education course offered by high schools, vocational-technical schools, colleges, or universities, so long

as the course is conducted in a like manner as the school's other regular courses. If such a course is conducted by a driver training school on a contractual basis, then the laws governing driver training schools apply.

### **Summary of Engrossed Substitute Bill:**

#### Secondary School Driver Training Education Courses.

##### *School Districts.*

The DOL must develop and administer a certification process for a school district's traffic safety education program. Any school district that offers a driver training education course must certify to the DOL: (1) that it is operating a driver training education program; (2) that the driver training education course follows the curriculum set by the Office of the Superintendent of Public Instruction (OSPI) and the DOL, meets the course delivery standards set by the OSPI, and that a record retention policy is in place that complies with retention requirements; and (3) that the school district has verified that all instructors are authorized by the Superintendent of Public Instruction (Superintendent) to teach a driver training education course.

A driver training education course may not be taken by a student who is under the age of 15 years old and behind-the-wheel instruction may not be given to a student unless the student has a driver's instruction permit or a driver's license.

##### *Curriculum.*

The OSPI and the DOL must jointly develop and maintain a required curriculum for school districts operating a driver training education program. The jointly developed curriculum must be prepared by August 1, 2018. The OSPI and the DOL are required to consult with Central Washington University (CWU) traffic safety instructors or program content developers in developing the curriculum.

The curriculum and instructional materials must include information on: the safe, lawful, and responsible operation of motor vehicles; intermediate driver's license issuance; passenger and driving restrictions and sanctions for violating these restrictions; the effect of traffic violations and collisions on driving privileges; the effects of alcohol and drug use on motor vehicle operators; motorcycle awareness; bicycle safety; pedestrian safety; proper use of the left-hand lane by motor vehicles on multilane highways; and bicyclists' and pedestrians' rights and responsibilities and suggested riding procedures in common traffic situations.

##### *Records.*

Each school district must maintain driver training education course records for three years following completion of instruction with the following information: instructor names, addresses, and documentation establishing instructors as a qualified teachers of driver training education, student names, addresses, telephone numbers, dates of enrollment, all dates of instruction, student drivers' instruction permit and drivers' license numbers, the type

of training received, the total number of hours of instruction, and the name of the students' instructors.

Records must be made available for inspection at the request of the OSPI or the DOL. The Superintendent may adopt rules for the retention of additional documents subject to inspection by the OSPI and the DOL.

#### *Audit Process.*

The DOL is authorized to conduct audits of driver training education programs once every five years, or more frequently, to ensure that instructors are qualified teachers of driver training education and are teaching the required curriculum material, and that accurate records are maintained and accurate information is provided to the DOL regarding student performance. The audit process must take into account the unique nature of school district facilities, operations, and hours. The DOL may examine all relevant information, including driver training education course curriculum materials and student records, and may visit any driver training education course while it is in progress. The DOL must consult with the Superintendent in developing and carrying out its auditing practices.

The DOL may suspend a school or school district's traffic safety education program certification if the school or school district does not follow the curriculum set by the OSPI and the DOL, any program instructors are not qualified teachers of driver training education, accurate records have not been maintained, accurate information regarding student performance has not been provided to the DOL, or if the school or school district refuses to comply with the DOL audit process. The DOL's director must consult with the Superintendent in developing and carrying out these certification suspension practices.

#### Private Driver Training Schools.

The curriculum jointly developed and maintained by the OSPI and the DOL is required to be used in private driver training school courses.

A renewal instructor's license applicant is not required to retake an instructor licensing examination so long as submission of the license renewal application occurs within six months of the date the previous instructor's license expired.

#### Interagency Cooperation.

The DOL and the OSPI must work together to transfer and coordinate responsibilities to make the changes described above to the administration of driver training education programs in secondary schools.

#### **EFFECT OF SENATE AMENDMENT(S):**

The Senate Amendment makes the following changes to traffic safety education programs offered by secondary schools:

- enables Washington State Board of Education-approved private schools to offer driver training education courses as part of a traffic safety education program, and mandates

that they do so in the same manner and with the same oversight as school districts; and

- provides secondary schools with an additional option to offer a driver training education course before a regular school day (instead of just during or after a school day, or on Saturdays).

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect on August 1, 2018, except for section 13, relating to interagency cooperation, which takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The OSPI has been overseeing driver training in K-12 education, and the DOL has been overseeing private driver training programs. The OSPI has not been funded to provide oversight for high schools since 2001, even though it has retained its oversight authority. The DOL has some funding, but has no jurisdiction over public schools. The bill is intended to keep high school teachers who are already licensed whole. Without this bill, more and more high schools will eliminate their programs, largely in rural areas where there is no access to private driver training schools.

Under the current system, there is no uniformity and information cannot be shared between agencies. There is no coordination between the OSPI and the DOL. High schools record when a student has completed a driver training course in the DOL portal system, and the DOL uses this information to determine who is eligible for a driver's license. But the DOL says it is not able to access school records to confirm that a student completed all course requirements.

There are students on the roads who have not completed courses, and no one is acting to stop this. A fatal traffic collision occurred as a result of lack of oversight. A student who failed the final drive test of a high school course was permitted to get his license and caused a collision that left his brother severely injured.

The National Highway Transportation Safety Administration (NHTSA) conducted an assessment of Washington's driver training program. The NHTSA recommended the state bring oversight of driver training under one regulatory authority or coordinated agencies informed by a panel of stakeholders. The NHTSA also recommended a full-time, funded state administrator oversee the driver training program and that the driver training program have standardized curriculum.

Most high schools do a great job. Washington was once widely recognized as having a model program in driver training education. But the old rules of traffic safety education for teachers were written for a time when the OSPI received money to oversee the program and all teachers had an OSPI endorsement to teach traffic safety education.

(Opposed) There is lack of oversight in traffic safety education in the public schools. Two hundred and thirty school teachers teach traffic safety education and 91 school districts offer the program. But this bill gives the OSPI too great a role; this is an unfunded mandate. Providing the DOL with 4.7 full-time employees and zero to the OSPI creates an imbalance.

The requirements for double licensing of school teachers and fees for two different agencies are not needed. The DOL does not need to regulate certificated teachers. It would be better to fund one or two staff members at the OSPI and give authority to the DOL to audit programs with the ability to deny traffic safety education program approval. The NHTSA recommended Washington use one agency or that it use coordinated agencies, which means the program can be overseen by both the DOL and the OSPI.

Traffic safety education in public schools can be funded through traffic tickets. The biggest problem facing young people is vehicle collisions and the deaths that result from them. If one or two OSPI staff members were funded, this bill would not be needed. This is how the program used to be run and should be run.

(Other) It is an important goal to strive to provide consistency in traffic safety education in the state. It used to be that 80 percent of public schools offered driver training. Now roughly 80 percent of public schools do not offer driver training. Private driver training schools are playing a more important role, especially since their role in driver licensing expanded in 2011. The DOL will work with the OSPI and CWU if the bill moves forward.

**Persons Testifying:** (In support) Representative Hayes, prime sponsor; Glenn Gorton, Office of Superintendent of Public Instruction; Debra Grenier; Yusuf Quidwai; Joe Giammona, The Driver Training Group; and J. C. Fawcett, Defensive Driving School.

(Opposed) Alex Hansen, Washington Traffic Safety Education Association; and Gerald Apple, Educational Service District 113.

(Other) Tony Sermonti, Department of Licensing.

**Persons Signed In To Testify But Not Testifying:** None.