

2016 Regular Session

HOUSE BILL NO. 747

BY REPRESENTATIVE WHITE

MTR VEHICLE/OFFICE: Allows cease and desist orders to be issued to persons contracted or licensed by the Dept. of Public Safety and Corrections, public safety services, to administer skills tests

1 AN ACT

2 To amend and reenact R.S. 32:408.1(A)(introductory paragraph) and to enact R.S.

3 32:408.1(B), relative to the issuance of cease and desist orders to persons

4 administering driving skills tests in violation of law; to authorize the Department of

5 Public Safety and Corrections, public safety services, to issue cease and desist orders

6 to persons administering skills tests in violation of law; and to provide for related

7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 32:408.1(A)(introductory paragraph) is hereby amended and
10 reenacted and R.S. 32:408.1(B) is hereby enacted to read as follows:

11 §408.1. Third-party testing; proof of testing

12 A. The Department of Public Safety and Corrections, public safety services,

13 may contract with or license another state, an employer, a private driver training

14 facility, driver education course provider, or other private institution, or a

1 department, agency, or instrumentality of a local government to administer the skills
2 tests as specified herein if all of the following conditions are met:

3 * * *

4 B.(1) A person or business shall not operate as a third party tester or a third
5 party examiner unless such person or business has a current contract with the
6 Department of Public Safety and Corrections, public safety services, or is currently
7 licensed by the Department of Public Safety and Corrections, public safety services,
8 as a third party tester or a third party examiner.

9 (2) A third party tester or a third party examiner whom the Department of
10 Public Safety and Corrections, public safety services, has issued a license or contract
11 for the administration of skills tests for commercial driver's licenses or endorsement
12 shall not engage in prohibited activity. For the purpose of this Subsection,
13 "prohibited activity" means:

14 (a) Activity normally conducted by a third party tester or a third party
15 examiner such as issuing evidence of successful completion of the skills tests for a
16 commercial driver's license or endorsement that is to be used by an applicant to
17 apply for a commercial driver's license or an endorsement on a commercial driver's
18 license, advertising as a licensed, authorized, or approved third party tester or a third
19 party examiner, or holding oneself out as an authorized or approved third party tester
20 or a third party examiner without a contract or license approval by the department.

21 (b) Failure to administer the skills test for a commercial driver's license or an
22 endorsement on a commercial driver's license in accordance with state and federal
23 statutes and regulations, or Department of Public Safety and Corrections, public
24 safety services, policies issued in accordance with those statutes and regulations.

25 (3) The Department of Public Safety and Corrections, public safety services,
26 may issue a cease and desist order to any person or business operating in violation
27 of this Section. Any such cease and desist order shall be served either by regular
28 mail with a proof of mailing issued by the United States Postal Service, or by hand
29 delivery by a representative of the department. If the cease and desist order is served

1 by mail with proof of mailing, it shall be deemed delivered on the seventh calendar
 2 day after the date affixed by the post office on the certificate or proof of mailing. The
 3 presumption of delivery in this Subsection shall not apply if the postal service returns
 4 the cease and desist order as undeliverable.

5 (4) If the person or business subject to the cease and desist order in this
 6 Section cannot be served, or does not comply with the cease and desist order, the
 7 Department of Public Safety and Corrections, public safety services, may file a
 8 petition for injunctive relief as provided in the Code of Civil Procedure in district
 9 court. There shall be no suspensive appeal or stay of an order or judgment of the
 10 district court granting the Department of Public Safety and Corrections, public safety
 11 services, a preliminary or permanent injunction.

12 (5) The Department of Public Safety and Corrections, public safety services,
 13 may promulgate rules in accordance with the Administrative Procedure Act to
 14 implement the provisions of this Subsection.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 747 Engrossed

2016 Regular Session

White

Abstract: Authorizes the Dept. of Public Safety and Corrections, public safety services, to issue cease and desist orders to persons administering skills tests in violation of law.

Present law provides the Dept. of Public Safety and Corrections, public safety services, may contract with or license another state, an employer, a private driver training facility, driver education course provider, or other private institution, or a department, agency, or instrumentality of a local government to administer skills tests.

Proposed law prohibits a person or business from operating as a third party tester or a third party examiner unless such person or business has a current contract with the Dept. of Public Safety and Corrections, public safety services, or is currently licensed by the Dept. of Public Safety and Corrections, public safety services, as a third party tester or a third party examiner or for a third party tester.

Proposed law prohibits third party testers or third party examiners whom the Dept. of Public Safety and Corrections, public safety services, has issued a license or contract for the administration of skills tests for commercial driver's licenses or endorsement from engaging in prohibited activity.

Proposed law defines "prohibited activity" for purposes of proposed law.

Proposed law authorizes the Dept. of Public Safety and Corrections, public safety services, to issue cease and desist orders to persons operating as a third party tester or a third party examiner without a contract with or license from the Dept. of Public Safety and Corrections, public safety services, or to a third party tester or a third party examiner who is operating in violation of present or proposed law.

Proposed law authorizes the Dept. of Public Safety and Corrections, public safety services, to promulgate administrative rules to implement proposed law.

(Amends R.S. 32:408.1(A)(into. para.); Adds R.S. 32:408.1(B))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Transportation, Highways and Public Works to the original bill:

1. Makes technical changes.