

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(introductory paragraph), (4), (5), and (6) and to enact
3 R.S. 32:408.1(B), (C), (D), (E), and (F), relative to the issuance of cease and desist
4 orders to persons administering driving skills tests in violation of law; to prohibit or
5 require certain actions relating to the administration of driving skills tests; to
6 authorize the Department of Public Safety and Corrections, public safety services,
7 to issue cease and desist orders to persons administering skills tests in violation of
8 law; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 32:408.1(introductory paragraph), (4), (5), and (6) are hereby
11 amended and reenacted and R.S. 32:408.1(B), (C), (D), (E), and (F) are hereby enacted to
12 read as follows:

13 §408.1. Third-party testing; proof of testing

14 A. The Department of Public Safety and Corrections, public safety services,
15 may contract with or license another state, an employer, a private driver training
16 facility, driver education course provider, or other private institution, or a
17 department, agency, or instrumentality of a local government to administer the skills
18 tests as specified herein if all of the following conditions are met:

19 * * *

1 ~~(4)~~B. A driver applicant who takes and passes driving tests administered by
2 an authorized third party shall provide evidence to the state licensing agency that he
3 has successfully passed the driving tests administered by the third party on a form
4 approved by the department.

5 ~~(5)~~C.(1) Any third party or ~~department~~ Department of Public Safety and
6 Corrections, public safety services, employee authorized under the provisions of this
7 Chapter to administer tests to applicants for commercial driver's licenses ~~who~~
8 ~~falsifies~~ shall not falsify information regarding test results or applicant qualification
9 or ~~who~~ in any way ~~participates~~ participate in, ~~aids~~ aid, or ~~abets~~ abet the fraudulent
10 testing or issuance to an applicant of a commercial driver's license or endorsement,
11 ~~thereon~~ Any person who violates this Paragraph shall be liable under this Chapter for
12 civil penalties of not less than five hundred nor more than five thousand dollars per
13 act. Furthermore, the ~~department~~ Department of Public Safety and Corrections,
14 public safety services, may establish procedures to void all transactions and any
15 licenses issued as a result of such falsification or fraud, such procedures to be
16 established pursuant to the Administrative Procedure Act. Any authorized third
17 party tester suffering a sanction under the provisions of this Chapter shall forfeit his
18 authorized third party testing status and contract and shall not qualify for such status
19 henceforth.

20 (2) A third party tester or third party examiner with whom the Department
21 of Public Safety and Corrections, public safety services, has a contract or to whom
22 has issued a license shall administer the skills test for a commercial driver's license
23 or an endorsement on a commercial driver's license in accordance with state and
24 federal statutes and regulations and policies adopted by the Department of Public
25 Safety and Corrections, public safety services, in accordance with such statutes and
26 regulations.

27 D. A person or business shall not operate, advertise, or hold oneself or itself
28 out as a third party tester or a third party examiner unless such person or business has
29 a current contract with the Department of Public Safety and Corrections, public

1 safety services, to operate as a third party tester or a third party examiner or is
2 currently licensed by the Department of Public Safety and Corrections, public safety
3 services, to operate as a third party tester or a third party examiner.

4 ~~(6)~~E. The principal of the third-party examiner or tester who has or is
5 seeking a contract with the Department of Public Safety and Corrections, public
6 safety services, to administer commercial driving examinations and tests shall
7 consent to, pass, and pay the costs of an annual background check.

8 F.(1) The Department of Public Safety and Corrections, public safety
9 services, may issue a cease and desist order to any person or business operating in
10 violation of this Section. Any such cease and desist order shall be served either by
11 regular mail with a proof of mailing issued by the United States Postal Service, or
12 by hand delivery by a representative of the department. If the cease and desist order
13 is served by mail with proof of mailing, it shall be deemed delivered on the seventh
14 calendar day after the date affixed by the post office on the certificate or proof of
15 mailing. The presumption of delivery in this Subsection shall not apply if the postal
16 service returns the cease and desist order as undeliverable.

17 (2) If the person or business subject to the cease and desist order in this
18 Section cannot be served, or does not comply with the cease and desist order, the
19 Department of Public Safety and Corrections, public safety services, may file a
20 petition for injunctive relief as provided in the Code of Civil Procedure in district
21 court. There shall be no suspensive appeal or stay of an order or judgment of the
22 district court granting the Department of Public Safety and Corrections, public safety
23 services, a preliminary or permanent injunction.

24 (3) The Department of Public Safety and Corrections, public safety services,
25 may promulgate rules in accordance with the Administrative Procedure Act to
26 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 Reengrossed

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 requires a third party tester or third party examiner with whom the Dept. of Public Safety and Corrections, public safety services, has a contract with or to whom has issued a license to administer the skills test for a commercial driver's license or an endorsement on a commercial driver's license in accordance with state and federal statutes and regulations and policies adopted by the Dept. of Public Safety and Corrections, public safety services, in accordance with such statutes and regulations.

Proposed law prohibits a person or business from operating, advertising, or holding oneself or itself out 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, to operate as a third party tester or a third party examiner or is currently licensed by the Dept. of Public Safety and Corrections, public safety services, to operate as a third party tester or a third party examiner.

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 as it relates to the issuance of a cease and desist order authorized by proposed law.

(Amends R.S. 32:408.1(into. para.), (4), (5), and (6); Adds R.S. 32:408.1(B), (C), (D), (E), and (F))

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.

The House Floor Amendments to the engrossed bill:

1. Remove proposed law relating to prohibited activity.
2. Require a third party tester or third party examiner with whom the Dept. of Public Safety and Corrections, public safety services, has a contract with or to whom has issued a license to administer the skills test for a commercial driver's

license or an endorsement on a commercial driver's license in accordance with state and federal statutes and regulations and policies adopted by the Dept. of Public Safety and Corrections, public safety services, in accordance with such statutes and regulations.

3. Prohibit a person or business from operating, advertising, or holding oneself or itself out 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, to operate as a third party tester or a third party examiner or is currently licensed by the Dept. of Public Safety and Corrections, public safety services, to operate as a third party tester or a third party examiner.
4. Make technical changes.