

2016 Regular Session

HOUSE BILL NO. 747

BY REPRESENTATIVE WHITE

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 * * *

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

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

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

23 D. A person or business shall not operate, advertise, or hold oneself or itself
 24 out as a third party tester or a third party examiner unless such person or business has
 25 a current contract with the Department of Public Safety and Corrections, public
 26 safety services, to operate as a third party tester or a third party examiner or is
 27 currently licensed by the Department of Public Safety and Corrections, public safety
 28 services, to operate as a third party tester or a third party examiner.

29 ~~(6)~~E. The principal of the third-party examiner or tester who has or is
 30 seeking a contract with the Department of Public Safety and Corrections, public

1 safety services, to administer commercial driving examinations and tests shall
2 consent to, pass, and pay the costs of an annual background check.

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

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

19 (3) The Department of Public Safety and Corrections, public safety services,
20 may promulgate rules in accordance with the Administrative Procedure Act to
21 implement the provisions of this Subsection.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____