

**ACT No. 293**

2016 Regular Session

HOUSE BILL NO. 747

BY REPRESENTATIVE WHITE

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AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

§408.1. Third-party testing; proof of testing

A. The Department 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 the skills tests as specified herein if all of the following conditions are met:

\* \* \*

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

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_