

HOUSE BILL 1982

By Howell

AN ACT to amend Tennessee Code Annotated, Title 12;
Section 49-6-2107 and Title 55, Chapter 50,
relative to driver services.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 55, Chapter 50, is amended by adding the following as a new part:

55-50-1001. Short title.

This part is known and may be cited as the "DMV Modernization Act of 2022".

55-50-1002. Purpose.

This part allows public and third-party service providers to perform functions of the department and otherwise mandates new measures to improve the efficiency and quality of driver services offered by this state.

55-50-1003. Definitions.

As used in this part:

(1) "Commercial driver license" has the same meaning as defined in § 55-50-102;

(2) "Department" means the department of safety;

(3) "Driver license" has the same meaning as defined in § 55-50-102;

(4) "Driver services" means any service related to the issuance, examination, and renewal of driver licenses, commercial driver licenses, and photo identification licenses provided for in this chapter;

(5) "Driver services training" means educational courses or materials that provide a comprehensive overview of the procedures and practices necessary to provide driver services in this state;

(6) "Estimated cost" means the cost estimated by the department to be incurred by the state to provide the relevant driver service under current practices;

(7) "Key person" mean any owner, partner, shareholder, director, officer, manager, member, or trustee; or any other individual holding a similar position that entitles the individual to control any aspect of a person's corporate governance or business;

(8) "Online driver services" means all driver services that are reasonably capable of being provided to the public through a website administered by the department;

(9) "Person" means an individual or a corporation, partnership, limited liability company, business trust, trust, association, or other organization, or other legal entity, or a series of a domestic limited liability company;

(10) "Public service provider" means any agency of government operated by, under, or through the department for the purpose of providing driver services, including driver services centers;

(11) "Serious violation" means any action by a third-party service provider that may constitute grounds for suspension or revocation of that provider's license to provide driver services, including:

(A) Materially misrepresenting or misstating facts in the application for a third-party provider license;

(B) Violating a federal law or law of this state;

(C) Violating a rule promulgated by, or policy adopted by, the department;

(D) Failing to keep and maintain records required by this part or a rule promulgated by the department;

(E) Allowing an unauthorized person to engage in any business pursuant to this part; or

(F) Engaging in any activity that the department determines to be inappropriate in relation to the license to provide driver services;

(12) "Standard public fee" means the fee set by the department for transactions involving driver services; and

(13) "Third-party service provider" means any person, other than the department or a public service provider, licensed by the department to provide driver services in this state.

55-50-1004. Third-party service providers.

(a) The department shall establish procedures for licensing third-party service providers that may provide driver services currently provided by the department.

(b) The department shall create two (2) tiers of licenses for third-party service providers, as follows:

(1) Tier 1 licenses must allow third-party service providers to provide all driver services, excluding all written, knowledge, and skills testing requirements; and

(2) Tier 2 licenses must allow third-party service providers to provide all driver services.

(c) A third-party service provider shall not perform any driver services without obtaining a license from the department.

55-50-1005. Application procedure.

(a)

(1) Except as provided by subdivision (a)(2), the department shall make available to the public driver services training no later than July 1, 2023.

(2) The department shall make available driver services training to any person not convicted of fraud or a felony involving a motor vehicle in this state or any other state, territory, or possession of the United States or a foreign country within the ten (10) years immediately preceding the date on which the person requests the training in the manner established by the department.

(3) The department may charge a fee for a person to attend an educational course for driver services training. The fee must not exceed one hundred fifty percent (150%) of the estimated cost-per-attendant of the training.

(b) No later than July 1, 2023, the department shall establish a procedure for third-party service providers to apply for a license to provide driver services in this state.

(c) A person may apply to the department to be licensed as a third-party service provider, on a form prescribed and furnished by the department, and shall include with the application all documents and fees prescribed by the department.

(d) The application shall contain:

(1) The person's name and physical address and, if the person is not an individual, the names and physical addresses for each key person;

(2) The person's principal place of business;

(3) The location of the person's established place of business at or from which the driver services of a third-party service provider will be conducted;

(4) The person's intended fees for performing driver services as a third-party service provider; and

(5) Other information relating to performing driver services required by the department.

(e)

(1) Except as provided by subsection (g), a person who applies for a license pursuant to this section shall submit with the application a bond.

(2) The bond must be in a form to be approved by the department and in the amount of at least twenty-five thousand dollars (\$25,000) for each location at which driver services will be provided.

(3) A surety company authorized to transact business in this state shall execute the bond with the applicant as principal obligor on the bond and the state as obligee.

(4) The bond must be conditioned that the applicant will faithfully comply with all provisions of law and must be non-cancellable without at least sixty-days' prior notice to the department.

(5) Any future liability of the surety company terminates on the department's termination of a third-party service provider's license.

(6) The bond inures to the benefit of any person who suffers loss because of any of the following:

(A) Nonpayment by the obligor of any fee or tax paid to the third party by that person;

(B) Insolvency or discontinuance of the obligor's business; or

(C) Failure of the obligor's duty to comply with this part.

(f) The aggregate liability of a surety company for any breach of the conditions of a bond required pursuant to this section must not exceed the amount of the bond.

(g) The bond requirement of this section does not apply to:

- (1) The department;
- (2) Any agency of government;
- (3) A third-party service provider that is licensed, bonded, and in good standing with all relevant government agencies to conduct its business in this state;
- (4) A person who owns or is the registrant of a fleet of one hundred (100) or more vehicles; or
- (5) A person who employs at least five hundred (500) individuals.

55-50-1006. Licensing third-party service providers.

- (a) The department shall issue a tier 1 license to any applicant that:
 - (1) Meets each of the applicable requirements described in § 55-50-1005, as determined by the department;
 - (2) Has at least one (1) key person who has completed the department's driver services training; and
 - (3) Furnishes an application that conforms to the applicable procedures and requirements described in this part.
- (b) The department shall issue a tier 2 license to any applicant that:
 - (1) Meets each of the requirements described in § 55-50-1005; and
 - (2) Has continuously operated as a tier 1 third-party service provider for a period of no less than three (3) years.
- (c) A third-party service provider issued a license pursuant to this part shall comply with all applicable provisions of 49 CFR Part 383 and rules promulgated by the department pertaining to the issuance, examination, and renewal of commercial driver licenses.

55-50-1007. Online driver services.

No later than January 1, 2024, the department, in addition to any driver services provided in person, shall provide online driver services that include at least the same or similar types of driver services offered online by agencies and departments in other states that provide driver services.

55-50-1008. Department funding.

(a) Funding for public, online, and third-party service providers must be derived from fees charged for driver services.

(b) The department shall set the appropriate standard public fee for each driver service provided by the department.

(c) The department and public service providers may assess a processing or convenience fee that is in addition to the applicable standard public fee set by the department for each driver service.

(d)

(1) The department and public service providers shall remit to the state the amount of the standard public fee charged for each transaction processed.

(2) Public service providers may retain any amounts collected for each driver service that exceed the standard public fee for such driver service.

(3) Any amounts retained by public service providers for performing driver services must be used to fund the operation of the public service provider, including awarding bonuses to employees of the public service provider in recognition of outstanding service or performance.

(4) Any bonuses awarded to employees of a public service provider for performing driver services must be drawn only from amounts retained by the public service provider for performing driver services after remitting the standard public fee for each service to the state.

(e) Third-party service providers may set their own rates to provide driver services and shall remit to the state the amount of the standard public fee for each transaction for driver services that the providers process.

55-50-1009. Wait time calculation.

(a) No later than December 31 of each calendar year, the department shall collect and calculate a representative sample of wait times for each driver service provided by both public and third-party service providers.

(b) No later than December 31 of each calendar year, the department shall calculate an average wait time for all third-party service providers.

(c) In the event a public service provider has an average wait time that is less than the average wait time for all third-party service providers under subsection (b), the department or a public service provider, as applicable, shall award to:

(1) The most senior manager of each public service provider a one-time performance bonus in the amount of ten percent (10%) of gross annual compensation for each ten-percent reduction in wait times relative to the third-party service provider average under subsection (b); and

(2) All the public service provider's employees, excluding the most senior manager of the public service provider who received a bonus under subdivision (c)(1), a one-time performance bonus in recognition of outstanding service.

55-50-1010. Net promoter score.

(a) At the conclusion of performing any driver service for a member of the public, all public, online, and third-party service providers must offer the person an opportunity to provide feedback in response to the following question: "On a scale from 1 to 10, how would you rate your experience?".

(b) All feedback received from members of the public in response to the question in subsection (a) must be provided to the department.

(c) On or before December 31 of each calendar year, the department shall calculate the average net promoter score for each public and third-party service provider based on feedback collected from members of the public under subsection (a).

(d) In the event a public service provider has a net promoter score that is greater than the average net promoter score for third-party service providers under subsection (c), the department or the public service provider, as applicable, shall award to:

(1) The most senior manager of each public service provider a one-time performance bonus in the amount of ten percent (10%) of gross annual compensation for each net promoter score point above the third-party service provider average; and

(2) All the public service provider's employees, excluding the most senior manager of a public service provider who received a bonus under subdivision (d)(1), a one-time performance bonus in recognition of outstanding service.

55-50-1011. Efficiency mandate.

(a) No later than December 31 of each calendar year, the department shall survey managers of public service providers for recommendations on potential methods of improving efficiency and the quality of services provided by the department.

(b) Managers of public service providers may outsource driver services provided by their office to other department offices or agencies or departments of this state if doing so would reduce the overall cost of providing such driver services. Any state agency or department may accept such a request if it is capable of providing the driver services more efficiently or for a lower overall cost than the requesting agency.

(c) Managers of public service providers may hire temporary and part-time labor as needed to meet demand. Temporary and part-time labor employed by a public service provider under this subsection (c) is exempt from the state service law, compiled in title 8, chapter 30, and the rules of the department of human resources, and is not subject to personnel policies applicable to state employees generally, such as leave, compensation, and classification.

55-50-1012. Cancellation and suspension of license; hearing; appeal.

(a) The department may suspend or revoke a license issued to a third-party service provider pursuant to this part if the department determines that the person or, in the case of a legal entity, any key person has:

(1) Made a misrepresentation, omission, or misstatement in the application to conceal a matter that would have caused the application to be denied if it was known by the department at the time; or

(2) Been convicted of fraud or a felony involving a motor vehicle in this state or any other state, territory, or possession of the United States or a foreign country since the third-party service provider's license was issued.

(b) The department shall suspend or revoke the license of a third-party service provider granted pursuant to this part if the department determines that the third-party service provider failed to maintain the bond required under § 55-50-1005(e).

(c) If the department has reasonable grounds to believe a third-party service provider or, in the case of a legal entity, a key person has committed a serious violation, the department may temporarily suspend the third-party service provider's license pending formal suspension or revocation proceedings.

(d) On determining that grounds exist for suspension or revocation of a third-party service provider's license, the department shall give written notice to a

representative of the third-party service provider to appear at a hearing to consider the suspension or revocation of the third-party service provider's license.

(e) After consideration of the evidence presented at the hearing, the department shall serve notice of the department's findings and order to the third-party service provider.

(f) If a third-party service provider's license is suspended or canceled, the provider may appeal the department's order under subsection (e) by filing a written notice of appeal with the department within thirty (30) days of the date on which the order is issued. If an appeal is timely filed with the department, the department shall initiate a contested case proceeding under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, to hear the provider's appeal.

55-50-1013. Federal waivers.

The department shall publicize any available temporary or permanent test waivers issued by the federal motor carrier safety administration that apply to school bus (S) endorsement testing.

55-50-1014. Rulemaking.

The commissioner is authorized to promulgate rules to effectuate the purposes of this part. All rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5. The commissioner shall, within ninety (90) days of the effective date of this act, begin promulgating such rules.

SECTION 2. The headings to sections, chapters, and parts in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 3. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 4. For purposes of rulemaking, this act takes effect upon becoming a law, the public welfare requiring it. For all other purposes, this act takes effect January 1, 2023, the public welfare requiring it.