

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1671 Driver Training Schools
SPONSOR(S): Justice
TIED BILLS: **IDEN./SIM. BILLS:** SB 1598

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|-------------------------|--------|---------|----------------|
| 1) Highway Safety (Sub) | | Garner | Miller |
| 2) Transportation | | | |
| 3) Business Regulation | | | |
| 4) Finance & Tax | | | |
| 5) Appropriations | | | |

SUMMARY ANALYSIS

HB 1671 provides that the Department of Highway Safety and Motor Vehicles (DHSMV) must authorize, rather than license, the operation of driver training schools. The bill authorizes DHSMV to investigate the qualifications of new owners of driver training schools, including whether they are of "good moral character." In addition the bill makes certain actions of a driver training school operator a criminal offense punishable as a first-degree misdemeanor, and provides grounds upon which DHSMV may take administrative action against a school's authorization or a driving instructor's certification. Driver training school authorization renewal periods are changed from annual to biennial, and instructor certification renewal periods are made to coincide.

The bill is expected to have a minimal negative revenue impact to the General Revenue Fund, and a minimal positive revenue impact to the Highway Safety Operating Trust Fund. See the FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT section for more detail.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

HB 1671 increases the role of DHSMV in regulating commercial driving schools by authorizing the agency to conduct background investigations and determine the suitability of persons for ownership control of the schools. In addition, the bill prohibits a number of acts that are not currently prohibited.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The Department of Highway Safety and Motor Vehicles (DHSMV) currently licenses and oversees driver's schools. Operation of a driver's school is prohibited unless a license has first been obtained from DHSMV. DHSMV has authority to adopt rules pursuant to the Florida Administrative Procedures Act to implement the provisions of the Commercial Driving Schools law. (Note: These provisions govern commercial driving schools, not schools that train drivers to operate commercial trucks. Those provisions are located in another chapter).

Applications for an original license must be accompanied by a \$50 non-refundable fee. If the application is approved, a further fee of \$200 must be paid before the license will be issued. A license is valid for one year and may not be transferred. If ownership of the driver's school business changes, the new ownership entity must submit an application for a new license together with all instructor's certificates. Licenses must be renewed annually for a fee of \$100.

All driver's school instructors must be certified by DHSMV. The fee for an initial certification application is \$25, and annual renewal costs \$10. Certificates are valid only in connection with the business of the driver's school or schools listed on the certificate or in connection with a driver's education course offered by a district school board. Applicants are required to take special eye tests, written tests, and road tests and to furnish proof of qualifications and ability as an instructor.

Any person serving in the capacity of an agent for a commercial driving school must first obtain an agent identification card from DHSMV. The fee for an application is \$25, and renewal of the card costs \$10 annually. The card is valid only for use in connection with the business of the driver's school or schools listed on the card.

Vehicles owned or controlled by a driver's school cannot be used for instruction until the school has obtained a school vehicle identification certificate from DHSMV. The certificate must be carried in the school vehicle at all times. An initial application costs \$15, and annual renewal costs \$10. Certificates are not issued unless the vehicle is equipped in accordance with DHSMV's safety requirements.

DHSMV can suspend or revoke any license or certificate issued under the Commercial Driving Schools law if the holder of the license or certificate has violated the provisions of that law.

All money license and certificate application and renewal fees are deposited into the General Revenue Fund. DHSMV is required to request funding for this program in its annual legislative budget request.

Effect of Proposed Changes

HB 1671 requires DHSMV to authorize operation of driver training schools rather than license them, and authorizes DHSMV to enter into contractual agreements for authorizations and certifications necessary to administer the law.

Under the bill, the initial application fee for authorization remains \$50, however, if the application for authorization is approved, the applicant must pay a further fee of \$300 before final authorization is granted. The authorization is valid for 2 years instead of 1. An application for authorization must contain the name of any owner who has an interest in the school. Biennial renewal of authorization costs \$200. The bill authorizes DHSMV to require information and certifications necessary to determine that the applicant is of good moral character, and that the applicant meets the other requirements of the law.

HB 1671 provides new regulations for change of ownership of driver training schools. Authorization may not be transferred or assigned, and a school may not operate under any name or at any location other than that specified in the application for authorization, without the prior written consent of DHSMV. Anyone purchasing or acquiring control of a driver training school must first apply to DHSMV for approval. The application must contain the name and address of the proposed new owner and other information required by DHSMV.

Existing co-owners who intend to acquire control of an existing school from other co-owners must also first apply to DHSMV for approval, and must submit the names and addresses of the stockholders or partners who own any part of the driver training school and are seeking to acquire control.

Before DHSMV grants approval, it may conduct an investigation of the applicant and examine the records of the entity as part of the investigation in accordance with applicable law. DHSMV must determine whether there are any complaints pending. Approval may be given only after DHSMV determines that the proposed new owners possess the financial ability, experience, and integrity to operate the school.

The bill requires authorized owners to be at least 21 years of age, be of good moral character, have adequate education or managerial or business experience, to employ at least one certified instructor, and to ensure that any student under age 18 holds a valid driver's license. In order to determine good moral character, DHSMV must conduct a background investigation of each individual owner, stockholder, or partner, including submission of a criminal history report. DHSMV may deny an application for authorization or renewal citing lack of good moral character.

Under HB 1671, applications for an instructor's certificate cost \$35, and biennial renewals that coincide with school authorization renewals cost \$20. DHSMV may also require information and certifications demonstrating the instructor applicant is of good moral character.

Driver training school instructor certification requirements include:

- Must be at least 21 years of age;
- Must be of good moral character;
- Must complete instructor training prescribed by DHSMV

HB 1671 repeals provisions relating to agents of commercial driving schools, and provides expiration of authorizations or certifications if delinquent renewals aren't rectified, and a late fee of up to \$300 is not paid. In addition, the bill provides prohibited acts that are subject to punishment as a first-degree

misdeemeanor, and enumerates actions that constitute grounds for DHSMV to institute disciplinary action against authorization or certification. Disciplinary measures available to DHSMV include:

- Denial of an application for authorization or certification;
- Permanent revocation, suspension, restriction, or denial of renewal of authorization or certification;
- Imposition of an administrative fine of up to \$5,000 per count or offense;
- Issuance of a reprimand;
- Imposition of conditions of probation; and
- Assessment of costs associated with investigation and prosecution.

HB 1671 requires application and renewal fees to be deposited into the Highway Safety Operating Trust Fund for the administration of the program instead of the General Revenue Fund.

C. SECTION DIRECTORY:

Section 1. Amends s. 488.01, F.S., requiring operators of driver training schools to obtain authorization instead of a license.

Section 2. Amends s. 488.02, F.S., revising authority of DHSMV with respect to rules and contractual agreements for enforcing provisions relating to driver training schools.

Section 3. Amends s. 488.03, F.S., prescribing fees and providing for biennial renewal of authorization.

Section 4. Creates s. 488.031, F.S., providing for application and approval of changes of ownership of driver training schools.

Section 5. Creates s. 488.035, F.S., prescribing prerequisites for ownership of a driver training school, and defining "good moral character."

Section 6. Amends s. 488.04, F.S., providing for certification of instructors, prescribing fees, and providing a certification period.

Section 7. Creates 488.041, F.S., providing prerequisites for certification as a driver training school instructor, and defining "good moral character."

Section 8. Repeals s. 488.045, F.S., relating to agents for commercial driving schools.

Section 9. Amends s. 488.05, F.S., providing prerequisites for certification of driver training school vehicles.

Section 10. Repeals s. 488.06, F.S., relating to revocation or suspension of a license or certificate.

Section 11. Creates s. 488.065, F.S., providing fees for delinquent renewal of an authorization or certificate and providing consequences for failure to renew.

Section 12. Repeals s. 488.07, F.S., relating to penalties.

Section 13. Creates s. 488.075, F.S., providing for form of authorizations and certificates, and prohibiting assignment of authorizations and certificates.

Section 14. Creates s. 488.085, F.S., prohibiting certain acts by schools and instructors and providing criminal penalties for violations.

Section 15. Creates s. 488.09, F.S., prescribing grounds for discipline by DHSMV.

Section 16. Creates s. 488.10, F.S., prohibiting reapplication for a specified period after the department has denied or revoked authorization or certification.

Section 17. Transfers and amends s. 488.08, F.S., to be renumbered as s. 488.11, F.S., providing for disposition of funds from licenses and applications.

Section 18. Creates s. 488.12, F.S., providing that driver training schools and instructors are subject to licensing by other federal or state laws or local ordinances.

Section 19. Creates s. 488.13, F.S., providing for investigations, audits, and reviews.

Section 20. Provides an effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

| | <u>FY 2003-04</u> | <u>FY 2004-05</u> | <u>FY 2005-06</u> |
|-------------------------------------|-------------------|--------------------|-------------------|
| 1. Revenues: | | | |
| General Revenue Fund: | | | |
| Driving Schools | | | |
| Original and Renewal Fees: | (\$ 16,200) | (\$ 16,200) | (\$ 16,200) |
| Driving Instructors | | | |
| Original and Renewal Fees | (\$ 5,630) | (\$ 5,630) | (\$ 5,630) |
| School Vehicles | | | |
| Original and Renewal Fees | (\$ 5,310) | (\$ 5,310) | (\$ 5,310) |
| Total General Revenue: | (\$ 27,140) | (\$ 27,140) | (\$ 27,140) |
| Highway Safety Operating TF: | | | |
| Driving Schools | | | |
| Original and Renewal Fees: | \$ 31,300 | \$ 0 | \$ 31,300 |
| Driving Instructors | | | |
| Original and Renewal Fees: | \$ 11,260 | \$ 0 | \$ 11,260 |
| School Vehicles | | | |
| Original and Renewal Fees: | \$ 10,500 | \$ 0 | \$ 10,500 |
| Highway Safety Operating TF | \$ 53,060 | \$ 0 | \$ 53,060 |
| REVENUE: | | | |
| General Revenue Fund | (\$ 27,140) | (\$ 27,140) | (\$ 27,140) |
| Highway Safety Operating TF | \$ 53,060 | \$ 0 | \$ 53,060 |
| Total: | \$ 25,920 | (\$ 27,140) | \$ 25,920 |

2. Expenditures:

DHSMV may incur some administrative expense in implementing the provisions of this bill requiring background investigations and other enforcement actions. However, that cost is indeterminate as the actual costs per investigation are unknown, and the number of investigations that may be required is also unknown.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Application and renewal fees are increased for licenses/authorizations and certifications of instructors. Although persons making an initial application or a renewal will be required to pay more, the impact is neutral over a four year period because the renewal periods are biennial instead of annual.

D. FISCAL COMMENTS:

According to DHSMV, implementation of this bill will result in driver license school fees being deposited into the Highway Safety Operating Trust Fund rather than the General Revenue Fund. This bill is revenue neutral with respect to the biennial renewal of an authorization or certification over a four-year period. This bill also authorizes the Department to charge a late fee not to exceed \$300 for delinquent renewals. The revenue impact from the late fee is indeterminate as this proposed penalty may encourage timely renewal of authorizations and certifications.

All revenue estimates have been provided by DHSMV.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

HB 1671 authorizes DHSMV to adopt rules necessary to implement the provisions in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES