



HOUSE OF REPRESENTATIVES

HB 2183

~~technical correction, state highways~~
NOW: ADOT; authorized third parties
Sponsor: Representative Fann

DPA/SE Committee on Transportation

DPA Caucus and COW

X House Engrossed

OVERVIEW

HB 2183 changes various statute in relation to authorized third party driver license providers and driver training and education.

HISTORY

The Arizona Department of Transportation's (ADOT) Motor Vehicle Division (MVD) requires an Arizona teen to have twenty hours of supervised, behind the wheel daytime practice driving and ten hours of night time supervised, practice driving. Anyone under the age of eighteen is issued a Class G license that has additional restrictions. The holder of a Class D license is allowed to operate a motor vehicle that does not require a motorcycle or commercial driver license. For a driver that holds a license in another state, the written test is most often not required. If a road test is required, the operator must first demonstrate their comprehension of English-language instructions and Arizona traffic signs. The operator will then be asked to drive a test route that provides a variety of traffic situations.

Currently, Arizona Revised Statutes § 28-5101 allows the Director of ADOT to contract with third parties to perform certain title and registration, motor carrier licensing and tax reporting, dealer licensing and driver license functions. Statute further prohibits any person from acting in this capacity, unless the Director has given authorization. An authorized third party provider is required to post a sign in the place of business of the amount charged for each transaction by the third party provider and the amount charged for the same transaction by ADOT.

A.R.S. § 28-5102 provides the powers and duties of the Director in relation to third party providers. The Director is required to supervise and regulate authorized persons. The Director must establish minimum quality standards of service and a quality assurance program for authorized third parties to ensure that an authorized third party is complying with the minimum standards. To complete these duties, the Director is allowed to conduct investigations, audits, on-site inspections during regular business hours, and require that authorized third parties and employees be certified to perform various functions. An applicant of authorization must follow the specified application process and submit a bond in a form to be approved by the Director of at least one hundred thousand dollars.

PROVISIONS

Driver license or instruction permit application

- Removes the exemption from the road test for an applicant who submits documentation of successful completion of a driver education course.

Fifty-first Legislature
First Regular Session

Analyst Initials _____
March 7, 2013

Original applicants; examination

- Requires a third party provider to be authorized beginning July 1, 2014.
- Accepts the additional methods in lieu of examination for applicants of their original driver license:
 - Documentation of the successful completion of education on special performance equipment and medically-related driving circumstances.
 - Documentation of the successful completion of a driver training course approved by ADOT.
 - Documentation of the successful completion of driver training lessons provided by an instructor certified by the Superintendent of Public Instruction.
- Allows the following to be an alternative to the examination of an original applicant for a Class M or motorcycle license:
 - Documentation of the successful completion of a motorcycle training program approved by ADOT.
 - A motorcycle training program approved by ADOT and provided in another state or by the United States Military.

Order to complete training and educational sessions

- Removes the provision that allows for governmental agencies, corporations, or other individuals that conduct traffic survival school training and educational sessions to collect a fee that is reasonable and commensurate for the training.
- Removes the language that the only limitation on enrollment in a traffic survival school training and educational session to be the lawful fire safety capacity of the facility in which the class meets, unless a conflict arises with another law.

Notification to the superintendent of public instruction

- Requires the Director of ADOT to notify the Superintendent of Public Instruction if ADOT suspends or revokes the driver license of a person who gives driver training lessons to high school students.

Enforcement; contract with private entity

- Requires the Director or the Director's authorized representative to inspect the school facilities and equipment used by applicants and licensees.
- Allows the Director to contract with a private entity to conduct inspections and administer any rules that relate to the licensure and administration of traffic survival schools.
- Requires that the contract not exceed five years with a right to renew for an additional five years.
- Prohibits the private entity that contracts with the Director from providing traffic survival school courses.
- Allows the private entity those contracts with the Director to charge a fee to each person who enrolls in a traffic survival school.
- Requires the Director to adopt rules for the administration and enforcement of this section.

Training Fee; enrollment limitation

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- Allows government agencies, corporations, or other individuals that conduct traffic survival school educational sessions approved by ADOT to collect a fee that is reasonable and commensurate for the training.
- Requires the only limitation on enrollment in a traffic survival school education session to be the lawful fire safety capacity of the facility in which the class meets, unless a conflict arises with any other law.

License for schools; requirements; fingerprint clearance card

- Prohibits a person from acting as a traffic survival school unless the person applies and obtains a license from the Director in the manner and form specified by the Director.
- Requires the licensing rules adopted by the Director to state the requirements for a school license with such provisions that the Director deems necessary to adequately protect the interest of the public and other matters prescribed by the Director.
- Requires each applicant, partner, or stockholder who owns 20% or more of an entity, who seeks licensure, to submit a valid fingerprint clearance card.

Refusal to issue or renew license of a school

- Allows the Director to refuse to issue or renew a license of a school for various reasons.
- Allows an applicant or licensee to make a written request for a hearing within thirty days after service of notice of the refusal.
 - Specifies that the decision is final if the applicant or licensee does not request a hearing within thirty days.
 - Requires the Director to give written notice to the applicant or licensee to appear at the hearing and show cause as to why the refusal to issue or renew the license should not be upheld.
 - Requires the Director to serve notice in writing to the applicant or licensee of the Director's findings and order.

License expiration; fees; disposition

- Specifies all licenses expire on the last day of the calendar year and may be renewed on application to the Director.
- Requires each application for an original or renewal license to operate a traffic survival school to be accompanied by a fee of two hundred dollars.
- Requires an application for a branch license to be accompanied by a fee of fifty dollars.
- Specifies a license fee may not be refunded if a license is suspended or revoked.
- Requires the Director to deposit monies received from the fees in the State Highway Fund.

Suspension and revocation of license; determination; appeal

- Allows the Director to cancel, suspend, or revoke the license of a school for various reasons, after conducting a hearing.
- Specifies that the decisions of the Director are subject to judicial review.

Cease and desist orders

- Allows the Director to immediately issue a cease and desist order requiring the licensee to immediately cease and desist from further engaging in the business or the prohibited activity, or both, if the Director has reasonable cause.

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- Specifies the Director serve the cease and desist order by personal delivery or first class mail at the business address of record.
- Allows the licensee who receives a cease and desist order to submit a written request for a hearing to the Director within thirty days of receiving the cease and desist order.
- Allows the Director to suspend or cancel the licensee's license on the failure of the licensee to comply with the order or after a requested hearing.

Violation; classification

- Specifies that a person who violates this article is guilty of a Class 3 Misdemeanor.

Third Party Authorization

- Requires each authorized third party that provides services to the general public to post a sign that contains the procedure for filing a complaint or concern with ADOT about the authorized third party.

Authorized third party driver license providers; requirements;

- Requires an authorized third party driver license provider to perform both of the following:
 - Driver license skills and written testing; and
 - Driver license processing.
- Allows a person, who is a third party driver license provider authorized pursuant to this legislation, to perform certain title and registration functions.
- Requires an applicant of authorization to submit with the application all of the following:
 - A bond in a form approved by the Director in an amount of at least three hundred thousand dollars for an initial application for authorization and an additional one hundred thousand dollars for each additional location providing driver license functions.
 - Specifies that if the authorized third party is also authorized to perform certain title and registration functions at the same location, only a single one hundred thousand dollar bond is required for that location.
 - Prohibits the total bond amount required from exceeding one million dollars.
 - Specifies bond requirements do not apply to government entities.
 - Documentation that the applicant has been an authorized third party for at least the immediately preceding three years, conducted an average of at least one thousand retention transactions per month for the previous calendar year, is in good standing with ADOT, and has a facility plan for each location that shows adequate space and equipment necessary to perform driver training, driver license skills and written testing, and driver license issuance.
 - Documentation that the applicant has, during business hours, at least one certified processor qualified to perform fraudulent document recognition, ignition interlock requirements, and driver license reinstatements.
- Requires a third party driver license provider authorized pursuant to this legislation to comply with all quality control requirements prescribed by ADOT.
- Prohibits a third party driver license provider authorized pursuant to this legislation from processing commercial driver licenses.

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Authorized third party driver license training providers; requirements

- Specifies that a person who applies for authorization is not required to submit a bond with the application.

Authorized third party commercial driver license examiners; requirements

- Requires a person, beginning July 1, 2014, to be a separately authorized third party commercial driver license examiner to perform commercial driver license skills testing.

Powers and duties of director

- Requires the Director to adopt rules to administer and enforce regulations in relation to authorized third party driver license provider.

Bond requirement

- Requires a person who applies for authorization to have a bond in the amount of one hundred thousand dollars for each location.

Application denial; hearing; appeal

- Removes the information revealed in the criminal history check of an applicant for third party authorization or certification in the Director's determination of denial.

Cancellation or suspension of authorization or certification

- Allows the Director, if the Director has reasonable grounds to believe that a certificate holder or other person employed by an authorized third party provider has committed a serious violation, to order a summary suspension of the third party's authorization pending formal suspension or cancellation proceedings.
- Defines *serious violation* to mean:
 - Title or registration fraud; or
 - Driver license or identification fraud; or
 - Improper disclosure of personal information; or
 - Bribery; or
 - Theft.

Definitions

- Defines *traffic survival school*.
- Specifies the sessions within traffic survival school incorporate education, but omit *training*.

Miscellaneous

- Specifies for the purposes of this act, ADOT is exempt from rule making through June 30, 2015.
- Specifies all rules that relate to traffic survival schools that are adopted by ADOT before the effective date of this act remain in full force until amended by ADOT.
- Requires a professional driving school that is licensed pursuant to Title 32, Chapter 23, to renew the school's license as prescribed in section 32-2374, and is not entitled to any refund or proration of any renewal fees.
- Contains a delayed repeal date for Title 32, Chapter 23, Arizona Revised Statutes, from and after June, 30, 2014.
- Contains an effective date from and after June 30, 2014.
- Makes technical and conforming changes.