

2016 Regular Session

HOUSE BILL NO. 747

BY REPRESENTATIVE WHITE

MTR VEHICLE/OFFICE: Allows cease and desist orders to be issued to persons contracted or licensed by the Dept. of Public Safety and Corrections, public safety services, to administer skills tests

1 AN ACT

2 To amend and reenact R.S. 32:408.1 (introductory paragraph) and to enact R.S. 32:408.1(B),  
3 relative to the issuance of cease and desist orders to persons administering driving  
4 skills tests in violation of law; to authorize the Department of Public Safety and  
5 Corrections, public safety services, to issue cease and desist order to persons  
6 administering skills tests in violation of law; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 32:408.1 (introductory paragraph) is hereby amended and reenacted  
9 and R.S. 32:408.1(B) is hereby enacted to read as follows:

10 §408.1. Third-party testing; proof of testing

11 A. The Department of Public Safety and Corrections, public safety services,  
12 may contract with or license another state, an employer, a private driver training  
13 facility, driver education course provider, or other private institution, or a  
14 department, agency, or instrumentality of a local government to administer the skills  
15 tests as specified herein if all of the following conditions are met:

16 \* \* \*

17 B.(1) A person or business shall not operate as a third party tester or a third  
18 party examiner unless such person or business has a current contract with the  
19 Department of Public Safety and Corrections, public safety services, or is currently

1 licensed by the Department of Public Safety and Corrections, public safety services,  
2 as a third party tester or a third party examiner.

3 (2) A third party tester or a third party examiner whom the Department of  
4 Public Safety and Corrections, public safety services, has issued a license or contract  
5 for the administration of skills tests shall not engage in prohibited activity. For the  
6 purpose of this Subsection, "prohibited activity" means:

7 (a) Activity normally conducted by a third party tester or a third party  
8 examiner such as issuing certificates of successful completion of the skills tests for  
9 a commercial driver's license or endorsement that is to be used by an applicant to  
10 apply for a commercial driver's license or an endorsement on a commercial driver's  
11 license, advertising as a licensed, authorized, or approved third party tester or a third  
12 party examiner, or holding oneself out as an authorized or approved third party tester  
13 or a third party examiner without a contract or license approval by the department.

14 (b) Failure to administer the skills test for a commercial driver's license or an  
15 endorsement on a commercial driver's license in accordance with state and federal  
16 statutes and regulations, or Department of Public Safety and Corrections, public  
17 safety services, policies issued in accordance with those statutes and regulations.

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

27 (4) If the person or business subject to the cease and desist order in this  
28 Section cannot be served, or does not comply with the cease and desist order, the  
29 Department of Public Safety and Corrections, public safety services, may file a

1        petition for injunctive relief as provided in the Code of Civil Procedure in district  
2        court. There shall be no suspensive appeal or stay of an order or judgment of the  
3        district court granting the Department of Public Safety and Corrections, public safety  
4        services, a preliminary or permanent injunction.

5                (5) The Department of Public Safety and Corrections, public safety services,  
6        shall promulgate rules as it determines are necessary to aid in the implementation  
7        and enforcement of this Section, in accordance with the Administrative Procedure  
8        Act.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 747 Original

2016 Regular Session

White

**Abstract:** Authorizes the Dept. of Public Safety and Corrections, public safety services, to issue cease and desist orders to persons administering skills tests in violation of law.

Present law provides the Dept. 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 skills tests.

Proposed law prohibits a person or business from operating as a third party tester or a third party examiner unless such person or business has a current contract with the Dept. of Public Safety and Corrections, public safety services, or is currently licensed by the Dept. of Public Safety and Corrections, public safety services, as a third party tester or a third party examiner or for a third party tester.

Proposed law authorizes the Dept. of Public Safety and Corrections, public safety services, to issue cease and desist orders to persons operating as a third party tester or a third party examiner without a contract with or license from the Dept. of Public Safety and Corrections, public safety services, or to a third party tester or a third party examiner who is engaging prohibited activity.

(Amends R.S. 32:408.1(into. para.); Adds R.S. 32:408.1(B))