

Regular Session, 2011

ACT No. 294

HOUSE BILL NO. 534

BY REPRESENTATIVE CARTER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

AN ACT

To amend and reenact R.S. 22:1457(A)(2), R.S. 32:402(B)(1)(a)(ii)(bb), 402.1(A)(introductory paragraph), (1), (2)(introductory paragraph), (a), (b), and (g), 407(A)(2)(a), (4), and (6), 408(A)(1), (3), and(4)(a), 408.1(introductory paragraph) and (2), 416, 417(A), 422, 422.1, R.S. 40:1461, R.S. 47:305.26 and 479.1, to enact R.S. 32:402.1(A)(3)(c), and to repeal R.S. 17:270, 271, and 271.1, R.S. 32:402.1(A)(2)(h) and (3)(a) and (b), (B), and (C) and 402.2, relative to driver's education programs; to consolidate all driver's education programs and instruction under the Department of Public Safety and Corrections, public safety services; to remove all driver's education programs and instruction from the Department of Education; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 22:1457(A)(2) is hereby amended and reenacted to read as follows:

§1457. Discounts; rate reductions

A.(1)

* * *

(2) The form of certification shall be as determined by the commissioner. The credit shall not apply to experience-rated or assigned risk policies, or to policies subject to a discount for an approved driver education course sanctioned by the Department of ~~Education~~ Public Safety and Corrections, public safety services, or required to pay a substandard risk surcharge for such insurance, or to any person whose enrollment in a defensive driving course resulted from a court order or sentence directing such enrollment.

* * *

Section 2. R.S.32:402(B)(1)(a)(ii)(bb), 402.1(A)(introductory paragraph), (1), (2)(introductory paragraph), (a), (b), and (g), 407(A)(2)(a), (4), and (6), 408(A)(1), (3), and (4)(a), 408.1(introductory paragraph) and (2), 416, 417(A), 422, 422.1 are hereby amended and reenacted and R.S. 32:402.1(A)(3)(c) is hereby enacted to read as follows:

§402. All drivers must secure license; exception; emergency vehicle ~~exceptions~~
exception; military personnel exceptions; violations

* * *

B.(1)(a)(i)

* * *

(ii) The provisions of Item (i) of this Subparagraph shall not apply in the following circumstances:

(aa)

* * *

(bb) When an unlicensed minor is participating in a driver education course or a prelicensing training course approved and certified by the Department of Public Safety and Corrections, public safety services ~~or the Department of Education~~.

* * *

§402.1. Driver education; required

A. No application for a license for the operation of a motor vehicle shall be received from any person ~~seventeen years or older~~ making application for the first time unless there is also submitted with the application, on a form approved by the secretary of the Department of Public Safety and Corrections, public safety services ~~or the Department of Education~~, written evidence of the successful completion by the applicant of one of the following:

(1) A "driver education course" for minors under the age of seventeen, which shall consist of not less than eight hours of actual driving ~~experience~~ instruction and thirty hours of classroom instruction, ~~including but not limited to training on railroad and highway grade crossing safety and on sharing the road with motorcycles and tractor/trailer trucks and at least thirty minutes of instruction relative to organ and tissue donation, approved by the Department of Public Safety and Corrections or the~~

1 ~~Department of Education.~~ The Department of Public Safety and Corrections, public
2 safety services, shall establish rules and regulations to administer and define the
3 requirements of the course. The rules and regulations established by the Department
4 of Public Safety and Corrections, public safety services, shall provide for instruction
5 relative to the economic effects of littering. Oversight review of these rules shall be
6 conducted by the House and Senate committees on transportation, highways and
7 public works in accordance with the Administrative Procedure Act.

8 (2) A "prelicensing training course" from any person seventeen years or
9 older if a ~~behind-the-wheel course~~ driver education course is not completed. The
10 prelicensing training course shall consist of a minimum of six hours of instruction
11 ~~in the National Safety Council's defensive driving course, Louisiana's traffic safety~~
12 ~~laws, and substance abuse education, or shall be an equivalent course approved and~~
13 ~~certified by the Department of Public Safety and Corrections.~~ The Department of
14 Public Safety and Corrections, public safety services, shall establish rules and
15 regulations to administer and define the requirements of the course. The course shall
16 ~~include training in railroad and highway grade crossing safety and on sharing the~~
17 ~~road with motorcycles and tractor/trailer trucks and at least thirty minutes of~~
18 ~~instruction relative to organ and tissue donation. The secretary of the Department~~
19 ~~of Public Safety and Corrections shall adopt rules relating to the "prelicensing~~
20 ~~training course". Oversight review of these rules shall be conducted by the House~~
21 ~~and Senate Committees on Transportation, Highways and Public Works~~ committees
22 on transportation, highways and public works in accordance with the Administrative
23 Procedure Act. The rules shall provide for:

24 (a) Licensing or contractual requirements for third-party of training agencies
25 schools and high school instructors.

26 (b) Course content and presentation, including content relative to the
27 economic effects of littering.

28 * * *

29 ~~(g) Fees, which shall not exceed fifty dollars per student.~~

~~(h)~~ (g) Penalties for noncompliance of the mandatory instructional and driving requirements and penalties for the falsification of documents and certificates.

(3)

* * *

(c) The Department of Public Safety and Corrections, public safety services, shall establish the portion of the "driver education course" or "prelicensing training course" relative to the economic effects of littering in conjunction with Keep Louisiana Beautiful, Inc.

* * *

§407. Application of minors; revocation; applications of persons less than twenty-one years of age

A.(1)

* * *

(2)(a) Upon completion of a driver's education course approved by the Department of Public Safety and Corrections, public safety services, ~~or the Department of Education~~ and upon passing a visual examination and a road knowledge test, including rules of the road, signs, and signals, sharing the road with motorcycles and tractor/trailer trucks, and not less than two questions relative to railroad and highway grade railroad safety, an applicant at least fifteen years of age, but less than seventeen years of age, applying for the first time may be issued a Class "E" learner's license. The license may be issued for a four-year period at the same fee as a Class "E" driver's license and must be maintained for at least one hundred eighty days, unless prior to such time the driver reaches seventeen years of age, prior to being converted to a Class "E" intermediate driver's license. The Class "E" learner's license shall authorize the holder to drive while being accompanied by a licensed parent, guardian, adult at least age twenty-one or older, or licensed sibling at least age eighteen or older.

* * *

(4) The intermediate license shall restrict those under the age of seventeen from driving between 11:00 p.m. and 5:00 a.m. unless otherwise accompanied by a

1 licensed parent or guardian, a licensed adult at least twenty-one years of age, or a
2 licensed sibling at least eighteen years of age. In addition to a licensed parent,
3 sibling, or guardian, there may be other members of the ~~permittee's~~ licensee's
4 immediate family in the vehicle. Unless accompanied by a licensed parent, guardian,
5 or adult at least age twenty-one or older, an intermediate licensee may not between
6 the hours of 6:00 p.m. and 5:00 a.m. transport more than one passenger that is under
7 twenty-one years of age and not a member of the intermediate licensee's immediate
8 family. When the intermediate ~~licensee~~ licensee is accompanied by a driver's
9 education ~~teacher~~ instructor, there may be one or more fellow driver's education
10 students in the vehicle. The intermediate licensee shall not place the vehicle in
11 motion until every occupant of the vehicle has been restrained by a properly fastened
12 seat belt or other occupant restraint system unless such person is not required to be
13 restrained pursuant to R.S. 32:295.1.

14 * * *

15 (6) The department may establish rules and regulations to extend the term
16 of the intermediate license if an applicant's license has been suspended, the applicant
17 has been placed on probation by a court due to a driving violation, or the applicant
18 has violated any of the provisions of Paragraph (5) of this Subsection. The term of
19 the extension of the intermediate license shall be for no less than thirty days nor
20 more than one hundred eighty days from the end of any suspension or probation
21 period, or from the date he would otherwise have been eligible to apply for a Class
22 "E" permanent license in the case of a violation of Paragraph (5) of this Subsection.
23 The applicant shall attend and successfully complete either an approved driver
24 education course or prelicensing training course established under contract or license
25 with the Department of Public Safety and Corrections, public safety services,
26 regardless of any prior completion of such course, as a condition of reinstatement of
27 the license suspended pursuant to this Paragraph. The licensee shall have the right
28 to an administrative hearing to appeal the determination of the department to extend

1 the applicant's intermediate license. The provisions of this Paragraph shall apply to
2 any licensee who has not attained the age of eighteen.

3 * * *

4 §408. Examination of applicants required; classes of licenses

5 A.(1) Except as otherwise provided, every applicant must pass a written
6 knowledge and skills test for a motor vehicle representative of the type of motor
7 vehicle he operates or expects to operate, or provide evidence on a form approved
8 by the department that he has successfully passed the written knowledge test and a
9 driving or skills test administered by an authorized third party. In addition to the
10 specialized knowledge and skills tests, each such examination shall include: a test
11 of the applicant's eyesight; his ability to understand highway signs regulating,
12 warning, and directing traffic; his knowledge of railroad and highway grade crossing
13 safety; his knowledge of sharing the road with motorcycles and tractor/trailer trucks;
14 his knowledge of the economic effects of littering; and his knowledge of all relevant
15 traffic regulations.

16 * * *

17 (3) Each knowledge test for a Group "D" or "E" vehicle shall contain at least
18 ~~thirty~~ thirty-two items, exclusive of the number of items testing airbrake knowledge.
19 Not less than two of the ~~thirty~~ thirty-two items shall be relative to railroad and
20 highway grade crossing safety. Not less than two of the thirty-two items shall be
21 relative to the economic effects of littering. For each endorsement, the knowledge
22 test and the airbrake component of the basic knowledge test shall contain a number
23 of questions that ~~is~~ are sufficient to test the applicant's knowledge of the required
24 subject matter with validity and reliability. The applicant for a Class "A", "B", "C",
25 "D", or "E" license shall correctly answer at least eighty percent of the questions on
26 each knowledge test in order to achieve a passing score on such knowledge test. To
27 achieve a passing score on the skills test, an applicant for a Class "A", "B", "C", "D",
28 or "E" license shall demonstrate that he can successfully perform all of the required
29 skills. If an applicant for a Class "A", "B", or "C" commercial driver's license scores
30 less than eighty percent on the airbrake component of the basic knowledge test, the

1 driver shall fail the airbrake component and, if the driver is issued a driver's license,
2 an airbrake restriction shall be indicated on the commercial driver's license. If an
3 applicant for a Class "A", "B", or "C" commercial driver's license performs the skills
4 test in a vehicle not equipped with air brakes, the driver shall have omitted the
5 airbrake component of the skills test and, if the driver is issued a driver's license, the
6 airbrake restriction shall be indicated on the license.

7 (4)(a) The knowledge and skills tests for all applicants may be administered
8 by the department or the department may elect to authorize a third party, including
9 another state, an employer, a public license tag agent, a private training facility or
10 other private institution, driver education course provider, or a department, agency,
11 or instrumentality of state or local government, to administer knowledge and skills
12 tests to applicants for Class "D" or "E" drivers' licenses and to administer skills tests
13 to applicants for a Class "A", "B", or "C" commercial driver's license. The
14 department may contract with or enter into agreements with such third parties or
15 certify or license them to perform the testing. However, the department shall ensure
16 that examiners are qualified to administer the tests on the basis of training or other
17 experience. The department shall establish minimum qualifications for persons
18 administering driver's license tests and prescribe the procedures to be used, including
19 procedures which ensure confidentiality of tests. The tests given by the third party
20 shall be the same as those that would otherwise be given by the department.

21 * * *

22 §408.1. Third party testing; proof of testing

23 The Department of Public Safety and Corrections, public safety services, may
24 ~~authorize~~ contract with or license another state, an employer, a private driver training
25 facility, driver education course provider, or other private institution, or a
26 department, agency, or instrumentality of a local government to administer the skills
27 tests as specified herein if all of the following conditions are met:

28 (1)

29 * * *

(2) The third party has ~~an agreement~~ a contract or license with the department containing, at a minimum, provisions which:

(a) Allow the Department of Public Safety and Corrections, public safety services, or its representative to conduct random examinations, inspections, and audits without prior notice;

(b) Require the Department of Public Safety and Corrections, public safety services, to conduct onsite inspections at least annually;

(c) Require that all ~~third-party~~ third-party examiners meet the same qualification and training standards as Department of Public Safety and Corrections, public safety services, examiners to the extent necessary to conduct skills tests in compliance herein;

(d) Require that, at least on an annual basis, designated Department of Public Safety and Corrections, public safety services, employees take the tests actually administered by the third party as if said employee were a test applicant, or that the Department of Public Safety and Corrections, public safety services, test a sample of drivers who were examined by the third party to compare pass/fail results; and

(e) Reserve unto the Department of Public Safety and Corrections, public safety services, the right to take prompt and appropriate remedial action against the third-party testers in the event that the ~~third-party~~ third party fails to comply with state or federal standards for the commercial driver's license testing program or with any other terms of the third-party contract.

* * *

§416. Unlawful operation by persons under the age of seventeen; parents responsible

No person shall cause or knowingly permit his child or ward, under the age of seventeen years, to drive a motor vehicle or a power cycle upon any public road or highway unless such child or ward is licensed by the state to do so. However, the provisions of this Section shall not apply to a minor who is participating in a driver education course or a prelicensing training course approved and certified by the

1 Department of Public Safety and Corrections, public safety services ~~or the~~
2 ~~Department of Education.~~

3 * * *

4 §417. Allowing unlicensed person under the age of seventeen to drive

5 A. It shall be unlawful for any person to cause or knowingly permit a minor
6 child under the age of seventeen to drive a motor vehicle or a power cycle upon any
7 public road or highway in this state unless such child shall have first obtained a
8 license to drive a motor vehicle or a power cycle. However, the provisions of this
9 Subsection shall not apply to a minor who is participating in a driver education
10 course or a prelicensing training course approved and certified by the Department of
11 Public Safety and Corrections, public safety services ~~or the Department of~~
12 ~~Education.~~

13 * * *

14 §422. Learner's license; driving school instruction permit; special restrictions on
15 motorcycles

16 A. Any person who is at least seventeen years of age may apply to the
17 department for a learner's license to drive motor vehicles or power cycles, provided
18 such person has completed a driving course in accordance with R.S. 32:402.1. The
19 department may, in its discretion, after the applicant has successfully passed all parts
20 of the examination, other than the driving test, issue to the applicant a learner's
21 license at the regular fee of a Class "E" driver's license, which shall entitle the
22 applicant while having such license in his immediate possession to drive a motor
23 vehicle upon public highways when accompanied by a licensed parent or guardian,
24 by a licensed adult at least twenty-one years of age, or by a licensed sibling at least
25 eighteen years of age. In addition to a licensed parent, sibling, guardian, or adult,
26 there may be other members of the ~~permittee's~~ licensee's immediate family in the
27 vehicle, and when accompanied by a driver's education ~~teacher~~ instructor, there may
28 be one or more fellow driver's education students in the vehicle. It shall be unlawful
29 for any other person to accompany the beginner and licensed driver, except in the
30 event the applicant is operating a motorcycle. Any person under the age of

1 seventeen who has a valid learner's license and is operating a motorcycle is restricted
2 to a distance of three miles from the applicant's residence, unless a parent, tutor, or
3 other person having custody is temporarily staying or residing at another location,
4 where the applicant would be restricted to within three miles of that location. Any
5 person seventeen years of age or older being issued a learner's license may apply for
6 a regular Class "E" license thirty days after the issuance of a learner's license, or at
7 any time after the issuance of the learner's license provided the applicant provides
8 proof that the applicant has completed an approved thirty-six hour driver education
9 course, and there shall not be any additional fee for the regular license.

10 B. Any person who is at least fifteen years of age may apply to the
11 department for a school instruction permit if he is enrolled in a driver education
12 course conducted by a person who meets certification requirements as established
13 by ~~the State Board of Elementary and Secondary Education or the Department of~~
14 Public Safety and Corrections, public safety services, for ~~teachers~~ instructors of
15 driver education and traffic safety. The department may, in its discretion, after the
16 applicant has successfully passed all parts of the examination, other than the driving
17 test, issue to the applicant a school instruction permit for which no fee shall be
18 charged. Such driving school instruction permit shall be valid only during the period
19 of such instruction, and when the person to whom the permit is issued is
20 accompanied by the ~~high school~~ instructor of driver education and traffic safety.
21 Such permit shall be in the possession of the instructor during the period of its
22 validity and shall be presented at any time for examination, when so requested by
23 any law enforcement officer. Upon completion of such course of instruction, it shall
24 be the responsibility of the instructor, as directed by the department, to return for
25 cancellation any and all permits which have been issued and are held by him.

26 §422.1. Driver training school permits

27 A. Persons licensed or contracted with ~~by~~ the Department of Public Safety
28 and Corrections, public safety services, to engage in the business of operating a
29 driver training school or ~~licensed~~ approved and certified instructors for such schools
30 shall be authorized to issue Class "E" student driving permits on forms provided by

1 the Department of Public Safety and Corrections, public safety services, in
2 accordance with rules and regulations of the department. The Class "E" driving
3 training school permits may be issued to persons who meet the age requirement for
4 ~~public school~~ driver education courses. ~~Such~~ The permit shall be valid only when
5 the student is accompanied by a ~~licensed~~ an approved and certified instructor, and
6 the ~~licensed~~ approved and certified instructor shall maintain possession of the permit
7 for a period of time established by rule. A copy of the same permit shall be given
8 to the student upon completion of the course with certification thereon of the
9 instructor as to the student's qualification to drive. Improper issuance of such permit
10 shall subject both the driving instructor training school and the instructor to
11 suspension or revocation of license.

12 B. The Department of Public Safety and Corrections, public safety services,
13 shall provide written notice to each operator of a driver training school or licensed
14 instructor for such schools of the requirements contained in ~~R.S. 17:270~~ and R.S.
15 32:402.1.

16 Section 3. R.S. 40:1461 is hereby amended and reenacted to read as follows:

17 §1461. ~~Licensing of~~ Requirements for private training and driving instructor schools

18 A. Every person engaged in the business of operating a private driving
19 instructor training school or agency, or providing driving courses, shall apply for and
20 procure a license from the Department of Public Safety and Corrections, public
21 safety services. No person shall advertise or otherwise hold himself before the
22 public, for remuneration, as qualified, ~~or licensed, or otherwise approved~~ to train or
23 instruct without having first obtained a license or contract with the Department of
24 Public Safety and Corrections, public safety services.

25 B. Every person desiring to train or instruct in driving courses shall file a
26 written application with the deputy secretary.

27 C. The deputy secretary of the Department of Public Safety and Corrections,
28 public safety services, ~~may make~~ shall establish rules and regulations governing the
29 ~~making~~, issuance; and revocation of ~~licenses~~ requirements and qualifications of each
30 applicant and enumerating the terms of the contract and causes of suspension or

1 revocation of the contract and possible fines for violations committed thereunder in
2 accordance with the Administrative Procedure Act and subject to oversight review
3 by the House and Senate committees on transportation, highways and public works.

4 D. The deputy secretary shall charge a fee of twenty-five dollars for each
5 school or agency. The deputy secretary shall charge a fee of ten dollars for each
6 additional instructor the school or agency may employ.

7 E. The fees collected under this Section shall be paid to the office of motor
8 vehicles of the Department of Public Safety and Corrections and used for its
9 maintenance, operation, and supervision.

10 Section 4. R.S. 47:305.26 and 479.1 are hereby amended and reenacted to read as
11 follows:

12 §305.26. Exclusions and exemptions; new vehicles furnished by dealers for driver
13 education purposes

14 Solely for purposes of the sales or use tax levied by the state, such tax shall
15 not be due on vehicles furnished by a dealer in new vehicles when withdrawn from
16 inventory and furnished to a secondary school, college, or public school board on a
17 free loan basis for exclusive use in a driver education program ~~accredited~~ licensed
18 by the ~~Louisiana Department of Education~~ Public Safety and Corrections, public
19 safety services.

20 * * *

21 §479.1. Exemption from registration, title, and license fee or tax for dealers;
22 vehicles used exclusively in driver education programs

23 No dealer in new vehicles shall be required to pay the registration, title, and
24 license fee or tax when registering a new vehicle withdrawn from inventory and
25 furnished to any secondary school, college, or public school board on a free loan
26 basis for exclusive use in a driver education program ~~accredited~~ licensed by the
27 Department of ~~Education~~ Public Safety and Corrections, public safety services.

28 Section 5. R.S. 17:270, 271, and 271.1 are hereby repealed in their entirety.

1 Section 6. R.S. 32:402.1(A)(2)(h) and (3)(a) and (b), (B), and (C) and 402.2 are
2 hereby repealed in their entirety.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____