

SENATE SUMMARY OF HOUSE AMENDMENTS

SB 476 By Senator Gary Smith**KEYWORD AND SUMMARY AS RETURNED TO THE SENATE**

COMMERCIAL REGULATIONS. Provides for driving school bonding requirements and cease and desist orders. (8/1/14)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

1. Technical Legislative Bureau amendments

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE**DIGEST**

Gary Smith (SB 476)

Proposed law requires each private driving school to execute a surety bond in the sum of \$40,000, if such surety bond is available for purchase. The bond shall name the Department of Public Safety and Corrections (DPSC), office of motor vehicles (OMV), as obligee and shall be subject to the condition that, if the private driving school or any of the private driving school's instructors fail to perform any services the school agreed to provide to a student or a student's parent, the private driving school fees may be recovered from the bond by filing a claim through DPSC against the bond. Private driving schools with multiple locations shall be required to furnish only a \$40,000 surety bond.

Proposed law requires the surety bond furnished to be delivered to and filed with OMV.

Proposed law provides that it shall be unlawful for any person to operate a driving school or to offer instruction as a driving school instructor unless both the school and the instructor are currently licensed as a driving school by the department, or for a licensed driving school to engage in any prohibited activity.

Proposed law defines "prohibited activity" as:

- (1) Activity normally conducted by a driving school such as classroom instruction, behind the wheel instruction, issuing certificates of successful completion to be used by an applicant to apply for a driver's license, advertising as a licensed, authorized or approved driving school, or holding oneself out as an authorized or approved driving school or instructor without a license, authorization or approval by the department; or
- (2) Activity conducted by a driving school or an instructor, whether licensed or not, in which a student of the school is requested to go to, or is taken to, a hotel room, a private residence, or any other location not appropriate for a person that age.

Proposed law provides for the procedure in which a cease and desist order may be issued.

Proposed law requires that the cease and desist order be served either by USPS regular mail with a proof of mailing, or by hand delivery by a representative of DPSC. If the order is served by mail with proof of mailing, it is deemed delivered on the seventh calendar day after postmark. There is no presumption of delivery if the USPS returns the cease and desist order as undeliverable.

Proposed law provides that if the person or business subject to the cease and desist order cannot be served, or does not comply with the cease and desist order, DPSC may file a petition for injunctive relief in district court. Further provides that there shall be no suspensive appeal or stay of an order or judgment granting the DPSC a preliminary or permanent injunction.

Proposed law provides that DPSC shall promulgate rules necessary to aid in the implementation and enforcement of this Section, in accordance with the Administrative Procedure Act.

Effective August 1, 2014.

(Adds R.S. 40:1462 and 1463)

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