

IN THE SENATE

SENATE BILL NO. 1133

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO DRIVING BUSINESSES; REPEALING CHAPTER 21, TITLE 49, IDAHO
2 CODE, RELATING TO COMMERCIAL DRIVER SCHOOLS; AMENDING TITLE
3 54, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 54, TITLE 54,
4 IDAHO CODE, TO PROVIDE A SHORT TITLE AND DECLARATION OF POLICY,
5 TO DEFINE TERMS, TO CREATE THE DRIVING BUSINESSES LICENSURE
6 BOARD IN THE DEPARTMENT OF SELF-GOVERNING AGENCIES, TO PROVIDE
7 FOR TERMS OF MEMBERS, QUALIFICATIONS, POWERS AND DUTIES,
8 MEETINGS AND COMPENSATION, TO PROVIDE FEES, TO PROVIDE LICENSE
9 REQUIREMENTS FOR DRIVING BUSINESSES, TO PROVIDE REQUIREMENTS
10 FOR DRIVING INSTRUCTORS, TO PROVIDE CURRICULUM COMPONENTS
11 FOR DRIVING BUSINESSES, TO PROVIDE FOR DISCIPLINARY ACTIONS AND
12 TO PROHIBIT CERTAIN ACTS; AND AMENDING SECTION 67-2601, IDAHO
13 CODE, TO CREATE THE CERTIFIED SHORTHAND REPORTERS BOARD AND
14 THE DRIVING BUSINESSES LICENSURE BOARD IN THE DEPARTMENT OF
15 SELF-GOVERNING AGENCIES AND TO MAKE TECHNICAL CORRECTIONS.
16

17 Be It Enacted by the Legislature of the State of Idaho:

18 SECTION 1. That Chapter 21, Title 49, Idaho Code, be, and the same is hereby repealed.

19 SECTION 2. That Title 54, Idaho Code, be, and the same is hereby amended by the
20 addition thereto of a NEW CHAPTER, to be known and designated as Chapter 54, Title 54,
21 Idaho Code, and to read as follows:

22 CHAPTER 54
23 DRIVING BUSINESSES

24 54-5401. SHORT TITLE – DECLARATION OF POLICY. (1) This chapter shall be
25 known as the "Idaho Driving Businesses Act."

26 (2) In order to safeguard life, health and property, and to promote the public welfare, the
27 business of driver education in this state is hereby declared to be subject to regulation in the
28 public interest. It shall be unlawful for any person to offer private driver education for others
29 in this state, as defined in the provisions of this chapter, unless such person has been licensed or
30 is otherwise exempt under the provisions of this chapter. The right to engage in the business of
31 driver education shall be deemed a personal right, based on the qualifications of the individual
32 as evidenced by the license, and shall not be transferable.

33 54-5402. DEFINITIONS. As used in this chapter:

34 (1) "Board" means the Idaho driving businesses licensure board, which will act as the
35 state regulatory body for driving businesses hereinafter provided in this chapter.

36 (2) "Driver education" means classroom instruction and behind-the-wheel driving time.

1 (3) "Driving business" means any driver education business, for the education of students
 2 in a classroom or motor vehicle, or both, which education shall not qualify a student for a
 3 commercial driver's license or which education is run by a church or synagogue or by a refugee
 4 program or those teaching accident prevention courses taught by or regulated or licensed by the
 5 transportation department.

6 (4) "Driving instructor" means a person who is licensed by the board to teach the
 7 classroom instruction phase and behind-the-wheel training phase of automobile driver training.
 8 This term does not apply to any independent certified driving instructor who participates in
 9 a state or federal program directed at training or retraining persons in occupational skills,
 10 or to instructors who operate or work for public driving businesses that are overseen by the
 11 department of education.

12 (5) "License" means a document issued by the bureau of occupational licenses on behalf
 13 of the board officially documenting the individual's right to practice as a driving instructor or to
 14 operate a driving business within the state of Idaho.

15 (6) "Student" means a person aged fourteen and one-half (14 1/2) up to seventeen (17)
 16 years.

17 54-5403. BOARD – TERMS OF MEMBERS – QUALIFICATIONS – POWERS AND
 18 DUTIES – MEETINGS – COMPENSATION. (1) A driving businesses licensure board is
 19 hereby established in the department of self-governing agencies whose duty it shall be to
 20 administer the provisions of this chapter.

21 (2) The board shall consist of five (5) members appointed by the governor. The governor
 22 may consider recommendations for appointment to the board from the Idaho association of
 23 professional driving businesses, any association of driving businesses or from any individual
 24 residing in this state. The board shall consist of four (4) members who have been in the driving
 25 business for at least five (5) years and one (1) member of the public who has been a customer
 26 of private driver education.

27 (3) Members shall begin their terms on July 1, 2009, and serve at the pleasure of the
 28 governor. Terms shall initially be staggered as follows: one (1) member whose term expires
 29 July 1, 2010; two (2) members whose terms expire July 1, 2011; and two (2) members whose
 30 terms expire July 1, 2012. Thereafter, each member of the board shall serve three (3) year
 31 terms. No member of the board may be appointed to more than two (2) consecutive terms.
 32 Members of the board shall hold office until the expiration of the term for which they were
 33 appointed and until their successors have been appointed and qualified. In the event of a
 34 vacancy other than expiration of a term, the governor shall appoint a replacement to fill the
 35 vacancy for the remainder of the unexpired term.

36 (4) Members of the board who are driving business owners shall be citizens of the
 37 United States and residents of this state, and they shall have been licensed driving business
 38 owners with a minimum of five (5) years of continuous licensing prior to being nominated,
 39 and shall never have been the subject of a disciplinary action under the provisions of section
 40 54-5409, Idaho Code.

41 (5) The board shall:

42 (a) Enforce the minimum standards and requirements as provided in this chapter and
 43 by rule adopted by the board. The board may promulgate such rules, in compliance
 44 with chapter 52, title 67, Idaho Code, as may be necessary to carry out the provisions
 45 of this chapter in order to effectuate the purposes herein and for the orderly and efficient

1 administration thereof, except as may be limited or prohibited by law and the provisions
2 of this chapter;

3 (b) Accept or reject applications for licensing, business and instruction, and establish the
4 fees to be charged for original application and renewal, subject to the provisions of this
5 chapter;

6 (c) Hold and attend public meetings, and furnish copies of information to those engaged
7 in the business and to the public upon request;

8 (d) Review and approve instructor training curriculum and programs;

9 (e) Contract with the bureau of occupational licenses to provide administrative services;
10 and

11 (f) Include a link on the bureau of occupational licenses' website to current curriculum
12 components offered by private driver education businesses.

13 (6) The board shall have the authority to conduct inspections and audits of any licensed
14 driving business or any licensed instructor to ensure compliance with the laws and rules of the
15 board. Failure to cooperate with an inspection or audit may constitute grounds for disciplinary
16 action.

17 (7) The board shall meet within thirty (30) days after the appointment of its members and
18 thereafter at such times as may be expedient and necessary for the proper performance of its
19 duties, but it shall not meet less than once per year.

20 (8) At the board's first meeting, the members shall elect one (1) of their number to be
21 chairman and then shall elect a chairman annually thereafter. The chairman may serve in such
22 capacity for a one (1) year term and may not serve in such capacity for more than two (2)
23 consecutive terms.

24 (9) A majority of the board shall constitute a quorum for the transaction of business.

25 (10) Each member of the board shall be compensated as provided by section 59-509(k),
26 Idaho Code.

27 54-5404. FEES. (1) All fees received under the provisions of this chapter shall be paid
28 to the bureau of occupational licenses and deposited in the state treasury to the credit of the
29 occupational licenses fund. All costs and expenses incurred under the provisions of this chapter
30 shall be a charge against and paid from said fund. Actual fees shall be set by administrative
31 rule.

32 (2) An original application fee shall be no more than one hundred dollars (\$100).

33 (3) The fee for the original license, and the annual renewal, of any instructor license or
34 apprentice permit shall be no more than one hundred dollars (\$100).

35 (4) A fee for the original license, and the annual renewal, of any driving business license
36 shall be no more than nine hundred dollars (\$900).

37 (5) All licenses issued under the provisions of this chapter shall be subject to annual
38 renewal. License renewal and reinstatement shall be in accordance with section 67-2614, Idaho
39 Code.

40 (6) All fees are nonrefundable.

41 54-5405. DRIVING BUSINESSES – LICENSE REQUIREMENTS. (1) No private
42 driver training business shall be established nor shall any existing business continue to operate
43 unless the business applies for and obtains from the board a license which expires on the
44 license issue date and must be renewed annually. The application for license shall include the

1 name of the owner, criminal history background check, the location of the business, a certificate
 2 of occupancy, a certificate of automobile insurance, a list of certified instructors, proof of an
 3 annual vehicle check, board approved curriculum components and a course of instruction for
 4 students, which shall include the following:

- 5 (a) Not less than thirty (30) hours of classroom instruction;
- 6 (b) Not less than six (6) hours of behind-the-wheel practice driving; and
- 7 (c) Not less than six (6) hours of observation.

8 (2) Any private driver training business or driving instructor licensed pursuant to this
 9 chapter shall be exempt from the provisions of title 33, Idaho Code, that regulate driver
 10 education as long as such license is current and valid and the private driver training business or
 11 driving instructor is acting pursuant to activities that the license permits.

12 (3) Any driving business licensed pursuant to this chapter may contract with a public
 13 school to provide driver education. Any driving business that contracts with a public school
 14 to provide driver education may be allowed to use the services of any or all of the driving
 15 instructors of that driving business. Once a person has been licensed as a driving instructor,
 16 that person is authorized to teach in any approved driver education program.

17 54-5406. DRIVING INSTRUCTORS – REQUIREMENTS. (1) Each person applying
 18 for a driving instructor license must complete an application provided by the bureau of
 19 occupational licenses that requires the applicant to be at least twenty-one (21) years of
 20 age, have a valid driver’s license, a copy of a satisfactory driving record from the Idaho
 21 transportation department, criminal history background check, medical certificate and copies of
 22 required completed coursework and the board approved apprenticeship training program.

23 (2) On and after July 1, 2010, every new applicant for a license pursuant to this chapter
 24 shall have completed a board approved apprenticeship training program of not less than sixty
 25 (60) hours of classroom instruction and one hundred eight (108) hours of behind-the-wheel
 26 training.

27 54-5407. CURRICULUM COMPONENTS FOR DRIVING BUSINESSES. The
 28 curriculum components for driving businesses shall be approved by the board and reviewed
 29 annually and the curriculum components must accompany any original application for a license.

30 54-5408. DISCIPLINE. (1) Grounds for discipline. The board shall have the power to
 31 deny any application for or renewal of a driving instructor license or to revoke, suspend or
 32 otherwise sanction any such license issued pursuant to this chapter and to limit or restrict the
 33 practice of any driving instructor upon a determination by the board that the person:

- 34 (a) Was convicted, found guilty, received a withheld judgment or suspended sentence in
 35 this or any other state, of any action constituting a felony or of a crime involving moral
 36 turpitude; or
- 37 (b) Violated the provisions of this chapter or rules, standards of conduct and practice, or
 38 any ethical codes as may be adopted by the board; or
- 39 (c) Is or has been negligent or reckless in the practice of driver education; or
- 40 (d) Has had any license, certificate or registration to work as a driving instructor
 41 suspended or revoked in any jurisdiction. A certified copy of the order of suspension or
 42 revocation shall be prima facie evidence of such suspension or revocation.

43 (2) Every person subject to disciplinary proceedings shall be afforded an opportunity for
 44 hearing.

1 (a) All proceedings hereunder shall be in accordance with chapter 52, title 67, Idaho
2 Code.

3 (b) Hearings shall be conducted by the board or by persons appointed by the board to
4 conduct hearings and receive evidence.

5 (3) The board may, pursuant to an order of discipline, require the person to pay all
6 or part of the costs and fees incurred by the board in proceedings upon which the order was
7 entered.

8 (4) The board may, pursuant to an order of discipline, require the person to pay an
9 administrative fine not to exceed one thousand dollars (\$1,000) for each violation identified in
10 the order.

11 54-5409. CERTAIN ACTS PROHIBITED. (1) The following acts shall be unlawful and
12 punishable as a misdemeanor:

13 (a) The violation of any of the provisions of this chapter;

14 (b) Permitting any person in one's employ, supervision or control to practice as a driving
15 instructor unless that person has complied with the provisions of this chapter;

16 (c) Practicing or offering to practice any of the occupations defined in this chapter, unless
17 licensed as herein provided;

18 (d) Maintaining or operating a driving business unless such business is licensed as herein
19 provided.

20 (2) The board may seek injunction against any person who practices as a driving
21 instructor or who operates a driving business in violation of the provisions of this chapter. In
22 the event a permanent injunction is entered against such person, or plea or verdict of guilty is
23 entered in any criminal matter, the board may impose a civil penalty in the amount of all costs
24 and fees incurred by the board in prosecuting the matter.

25 SECTION 3. That Section 67-2601, Idaho Code, be, and the same is hereby amended to
26 read as follows:

27 67-2601. DEPARTMENT CREATED – ORGANIZATION – DIRECTOR – BUREAU
28 OF OCCUPATIONAL LICENSES CREATED. (1) There is hereby created the department of
29 self-governing agencies. The department shall, for the purposes of section 20, article IV of the
30 constitution of the state of Idaho, be an executive department of the state government.

31 (2) The department shall consist of the following:

32 (a) Agricultural commodity commissions: Idaho apple commission, as provided by
33 chapter 36, title 22, Idaho Code; Idaho bean commission, as provided by chapter 29,
34 title 22, Idaho Code; Idaho beef council, as provided by chapter 29, title 25, Idaho
35 Code; Idaho cherry commission, as provided by chapter 37, title 22, Idaho Code; Idaho
36 dairy products commission, as provided by chapter 31, title 25, Idaho Code; Idaho
37 pea and lentil commission, as provided by chapter 35, title 22, Idaho Code; Idaho
38 potato commission, as provided by chapter 12, title 22, Idaho Code; the Idaho wheat
39 commission, as provided by chapter 33, title 22, Idaho Code; and the Idaho aquaculture
40 commission, as provided by chapter 44, title 22, Idaho Code.

41 (b) Professional and occupational licensing boards: Idaho state board of certified public
42 accountancy, as provided by chapter 2, title 54, Idaho Code; board of acupuncture,
43 as provided by chapter 47, title 54, Idaho Code; board of architectural examiners, as
44 provided by chapter 3, title 54, Idaho Code; office of the state athletic director, as

1 provided by chapter 4, title 54, Idaho Code; board of barber examiners, as provided
 2 by chapter 5, title 54, Idaho Code; board of commissioners of the Idaho state bar, as
 3 provided by chapter 4, title 3, Idaho Code; board of chiropractic physicians, as provided
 4 by chapter 7, title 54, Idaho Code; Idaho board of cosmetology, as provided by chapter
 5 8, title 54, Idaho Code; Idaho counselor licensing board, as provided by chapter 34, title
 6 54, Idaho Code; state board of dentistry, as provided by chapter 9, title 54, Idaho Code;
 7 state board of dentistry, as provided by chapter 33, title 54, Idaho Code; state board of
 8 engineering examiners, as provided by chapter 12, title 54, Idaho Code; state board for
 9 registration of professional geologists, as provided by chapter 28, title 54, Idaho Code;
 10 speech and hearing services licensure board, as provided by chapter 29, title 54, Idaho
 11 Code; Idaho physical therapy licensure board, as provided by chapter 22, title 54, Idaho
 12 Code; Idaho state board of landscape architects, as provided by chapter 30, title 54,
 13 Idaho Code; liquefied petroleum gas safety board, as provided by chapter 53, title 54,
 14 Idaho Code; state board of medicine, as provided by chapter 18, title 54, Idaho Code;
 15 state board of morticians, as provided by chapter 11, title 54, Idaho Code; board of
 16 naturopathic medical examiners, as provided by chapter 51, title 54, Idaho Code; board
 17 of nurses, as provided by chapter 14, title 54, Idaho Code; board of examiners of nursing
 18 home administrators, as provided by chapter 16, title 54, Idaho Code; state board of
 19 optometry, as provided by chapter 15, title 54, Idaho Code; Idaho outfitters and guides
 20 board, as provided by chapter 21, title 36, Idaho Code; board of pharmacy, as provided by
 21 chapter 17, title 54, Idaho Code; state board of podiatry, as provided by chapter 6, title
 22 54, Idaho Code; Idaho state board of psychologist examiners, as provided by chapter 23,
 23 title 54, Idaho Code; Idaho real estate commission, as provided by chapter 20, title 54,
 24 Idaho Code; real estate appraiser board, as provided by chapter 41, title 54, Idaho Code;
 25 board of social work examiners, as provided by chapter 32, title 54, Idaho Code; the
 26 board of veterinary medicine, as provided by chapter 21, title 54, Idaho Code; the board
 27 of examiners of residential care facility administrators, as provided by chapter 42, title 54,
 28 Idaho Code; the certified shorthand reporters board, as provided by chapter 31, title 54,
 29 Idaho Code; the driving businesses licensure board, as provided by chapter 54, title 54,
 30 Idaho Code; and the board of drinking water and wastewater professionals, as provided
 31 by chapter 24, title 54, Idaho Code.

32 (c) The board of examiners, pursuant to section 67-2001, Idaho Code.

33 (d) The division of building safety: building code board, chapter 41, title 39, Idaho
 34 Code; manufactured ~~home advisory~~ housing board, chapter 21, title 44, Idaho Code;
 35 electrical board, chapter 10, title 54, Idaho Code; public works contractors license board,
 36 chapter 19, title 54, Idaho Code; plumbing board, chapter 26, title 54, Idaho Code; public
 37 works construction management, chapter 45, title 54, Idaho Code; the heating, ventilation
 38 and air conditioning board, chapter 50, title 54, Idaho Code; and modular buildings
 39 advisory board, chapter 43, title 39, Idaho Code.

40 (e) The division of veterans services to be headed by a division administrator who shall
 41 be a nonclassified employee exempt from the provisions of chapter 53, title 67, Idaho
 42 Code. The administrator of the division shall administer the provisions of chapter 2, title
 43 65, Idaho Code, and chapter 9, title 66, Idaho Code, with the advice of the veterans affairs
 44 commission established under chapter 2, title 65, Idaho Code, and shall perform such
 45 additional duties as are imposed upon him by law.

1 (3) The bureau of occupational licenses is hereby created within the department of
2 self-governing agencies.