

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 422

BY BUSINESS COMMITTEE

AN ACT

1 RELATING TO DRIVING BUSINESSES; AMENDING SECTION 54-5401, IDAHO CODE, TO  
2 REMOVE A PROVISION REGARDING A DECLARATION OF POLICY AND TO MAKE A TECH-  
3 NICAL CORRECTION; AMENDING SECTION 54-5402, IDAHO CODE, TO REVISE A  
4 DEFINITION, TO REMOVE A DEFINITION, AND TO MAKE TECHNICAL CORRECTIONS;  
5 AMENDING SECTION 54-5403, IDAHO CODE, TO REVISE A PROVISION REGARDING  
6 BOARD COMPOSITION AND TO MAKE TECHNICAL CORRECTIONS; AMENDING SEC-  
7 TION 54-5404, IDAHO CODE, TO REMOVE PROVISIONS REGARDING CERTAIN FEES;  
8 AMENDING SECTION 54-5405, IDAHO CODE, TO REVISE A PROVISION REGARDING  
9 AN AUTOMOBILE INSURANCE REQUIREMENT AND TO MAKE TECHNICAL CORRECTIONS;  
10 AMENDING SECTION 54-5406, IDAHO CODE, TO REVISE PROVISIONS REGARDING  
11 REQUIREMENTS FOR DRIVING INSTRUCTORS; AND AMENDING SECTION 54-5408,  
12 IDAHO CODE, TO REVISE A PROVISION REGARDING DISCIPLINE, TO REMOVE  
13 CERTAIN PROVISIONS REGARDING DISCIPLINE, AND TO MAKE A TECHNICAL COR-  
14 RECTION.  
15

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

17 SECTION 1. That Section 54-5401, Idaho Code, be, and the same is hereby  
18 amended to read as follows:

19 54-5401. SHORT TITLE -- ~~DECLARATION OF POLICY.~~ (1) This chapter shall  
20 be known and may be cited as the "Idaho Driving Businesses Act."

21 ~~(2) In order to safeguard life, health and property, and to promote the~~  
22 ~~public welfare, the business of driver education in this state is hereby de-~~  
23 ~~clared to be subject to regulation in the public interest. It shall be un-~~  
24 ~~lawful for any person to offer private driver education for others in this~~  
25 ~~state, as defined in the provisions of this chapter, unless such person has~~  
26 ~~been licensed or is otherwise exempt under the provisions of this chapter.~~  
27 ~~The right to engage in the business of driver education shall be deemed a per-~~  
28 ~~sonal right, based on the qualifications of the individual as evidenced by~~  
29 ~~the license, and shall not be transferable.~~

30 SECTION 2. That Section 54-5402, Idaho Code, be, and the same is hereby  
31 amended to read as follows:

32 54-5402. DEFINITIONS. As used in this chapter:

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

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

38 (3) "Driving business" means any driver education business,  
39 established for the education of students in a classroom or motor vehicle, or  
40 both, which education shall not qualify a student for a commercial driver's

1 ~~license or which education is.~~ A driving business shall not include an  
 2 education program run by a church, ~~or~~ synagogue, ~~or by a~~ refugee program or  
 3 ~~those teaching an~~ accident prevention courses taught, ~~by or~~ regulated, or  
 4 licensed by the transportation department.

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

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

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

18 SECTION 3. That Section 54-5403, Idaho Code, be, and the same is hereby  
 19 amended to read as follows:

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

24 (2) The board shall consist of five (5) members appointed by the gover-  
 25 nor. The governor may consider recommendations for appointment to the board  
 26 from the Idaho association of professional driving businesses, any associ-  
 27 ation of driving businesses or from any individual residing in this state.  
 28 The board shall consist of four (4) members who are licensed under this chap-  
 29 ter and one (1) member of the public ~~who has been a customer of private driver~~  
 30 ~~education.~~ At least one (1) member shall be a driving business owner.

31 (3) Members shall serve at the pleasure of the governor. Board members  
 32 shall be appointed for a term of three (3) years. No member of the board may  
 33 be appointed to more than two (2) consecutive terms. Members of the board  
 34 shall hold office until the expiration of the term for which they were ap-  
 35 pointed and until their successors have been appointed and qualified. In the  
 36 event of a vacancy other than expiration of a term, the governor shall ap-  
 37 point a replacement to fill the vacancy for the remainder of the unexpired  
 38 term.

39 (4) Members of the board shall be citizens of the United States and res-  
 40 idents of this state and shall never have been the subject of a disciplinary  
 41 action under the provisions of section 54-5409, Idaho Code.

42 (5) The board shall:

43 (a) Enforce the minimum standards and requirements as provided in this  
 44 chapter and by rule adopted by the board. The board may promulgate such  
 45 rules, in compliance with chapter 52, title 67, Idaho Code, as may be  
 46 necessary to carry out the provisions of this chapter in order to effec-  
 47 tuate the purposes herein and for the orderly and efficient administra-  
 48 tion thereof, except as may be limited or prohibited by law and the pro-  
 49 visions of this chapter;

1 (b) Accept or reject applications for licensing, business, and in-  
 2 struction, and establish the fees to be charged for original applica-  
 3 tion and renewal, subject to the provisions of this chapter;

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

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

7 (e) Contract with the bureau of occupational licenses to provide admin-  
 8 istrative services;

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

12 (g) Adopt rules providing for continuing education, if necessary.

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

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

20 (8) The members shall elect annually one (1) of their number to be  
 21 chairman. The chairman may serve in such capacity for a one (1) year term and  
 22 may not serve in such capacity for more than two (2) consecutive terms.

23 (9) A majority of the board shall constitute a quorum for the transac-  
 24 tion of business.

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

27 SECTION 4. That Section 54-5404, Idaho Code, be, and the same is hereby  
 28 amended to read as follows:

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

35 ~~(2) An original application fee shall be no more than one hundred dol-~~  
 36 ~~lars (\$100).~~

37 ~~(3) The fee for the original license, and the annual renewal, of any in-~~  
 38 ~~structor license or apprentice permit shall be no more than one hundred dol-~~  
 39 ~~lars (\$100).~~

40 ~~(4) A fee for the original license, and the annual renewal, of any driv-~~  
 41 ~~ing business license shall be no more than nine hundred dollars (\$900).~~

42 ~~(5) All licenses issued under the provisions of this chapter shall be~~  
 43 ~~subject to annual renewal. License renewal and reinstatement shall be in ac-~~  
 44 ~~cordance with section 67-2614, Idaho Code.~~

45 ~~(6) All fees are nonrefundable.~~

46 SECTION 5. That Section 54-5405, Idaho Code, be, and the same is hereby  
 47 amended to read as follows:

1           54-5405. DRIVING BUSINESSES -- LICENSE REQUIREMENTS. (1) No private  
2 driver training business shall be established nor shall any existing busi-  
3 ness continue to operate unless the business applies for and obtains from the  
4 board a license that expires on the license issue date and must be renewed  
5 annually. The application for license shall include the name of the owner, a  
6 satisfactory fingerprint-based criminal history check of the Idaho central  
7 criminal database and the federal bureau of investigation criminal history  
8 database, the location of the business, a certificate of occupancy for a  
9 business that offers classroom instruction in a physical classroom loca-  
10 tion, a certificate of commercial automobile insurance, a list of licensed  
11 instructors, proof of an annual vehicle check, board-approved curriculum  
12 components and a course of instruction for students, ~~which~~ that shall in-  
13 clude the following:

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

18           (2) Any private driver training business or driving instructor li-  
19 censed pursuant to this chapter shall be exempt from the provisions of title  
20 33, Idaho Code, that regulate driver education as long as such license is  
21 current and valid and the private driver training business or driving in-  
22 structor is acting pursuant to activities that the license permits.

23           (3) Any driving business licensed pursuant to this chapter may contract  
24 with a public school to provide driver education. Any driving business that  
25 contracts with a public school to provide driver education may be allowed  
26 to use the services of any or all of the driving instructors of that driving  
27 business. Once a person has been licensed as a driving instructor, that per-  
28 son is authorized to teach in any approved driver education program.

29           (4) A driving business shall ensure that each of its employees and per-  
30 sons under its control who provides driver education to its students is at  
31 all times licensed under this chapter as a driving instructor or permitted as  
32 a driving instructor apprentice.

33           SECTION 6. That Section 54-5406, Idaho Code, be, and the same is hereby  
34 amended to read as follows:

35           54-5406. DRIVING INSTRUCTORS -- REQUIREMENTS. (1) Each person apply-  
36 ing for a driving instructor license must complete an application provided  
37 by the bureau of occupational licenses that requires the applicant to be at  
38 least twenty-one (21) years of age, have ~~written evidence of graduation from~~  
39 ~~a high school, an accredited college or university or a CED~~ a high school  
40 diploma or equivalent, a valid driver's license and a satisfactory driving  
41 record from the jurisdiction from which the license was issued, a satisfac-  
42 tory fingerprint-based criminal history check of the Idaho central criminal  
43 database and the federal bureau of investigation criminal history database,  
44 a medical certificate and any required completed coursework. Licensees  
45 shall certify that they hold a current medical certificate at the time of  
46 license renewal.

47           (2) Every new applicant for a license pursuant to this chapter shall  
48 have completed a board-approved apprenticeship training program of ~~not less~~  
49 no fewer than ~~sixty~~ thirty (30) hours of classroom instruction and ~~one~~

1 hundred ~~eight~~ fifty (10850) hours of behind-the-wheel training. The board  
 2 may waive, as a whole or either part, the apprenticeship for an applicant  
 3 who holds a current, active and unrestricted equivalent instructor license  
 4 from another state or who has the requisite training and experience as demon-  
 5 strated in a manner established by board rule. Such applicant shall submit  
 6 supporting documentation with the completed application and shall meet all  
 7 other requirements in this chapter and in board rule.

8 ~~(3) If the board granted any instructor a license without the satisfac-~~  
 9 ~~tory fingerprint-based criminal history check as provided in subsection (1)~~  
 10 ~~of this section, such licensee shall obtain and submit the required finger-~~  
 11 ~~print-based criminal history check to the board on or before the date of the~~  
 12 ~~licensee's first renewal.~~

13 SECTION 7. That Section 54-5408, Idaho Code, be, and the same is hereby  
 14 amended to read as follows:

15 54-5408. DISCIPLINE. (1) Grounds for discipline. The board shall have  
 16 the power to deny any application for or renewal of a license or to revoke,  
 17 suspend or otherwise sanction any such license issued pursuant to this chap-  
 18 ter and to limit or restrict the practice of any driving instructor or driv-  
 19 ing business upon a determination by the board that the person or business:

20 (a) Was convicted, found guilty, received a withheld judgment or sus-  
 21 pended sentence in this or any other state, of any action constituting  
 22 a felony or of a crime involving moral turpitude that reflects upon the  
 23 qualifications, functions, or duties of a driving business or driving  
 24 business instructor;

25 (b) Violated the provisions of this chapter or rules, standards of con-  
 26 duct and practice, or any ethical codes as may be adopted by the board;

27 (c) Is or has been negligent or reckless in the practice of driver edu-  
 28 cation; or

29 (d) Has had any license, certificate or registration to work as a driv-  
 30 ing instructor or operate as a driving business suspended or revoked in  
 31 any jurisdiction. A certified copy of the order of suspension or revo-  
 32 cation shall be prima facie evidence of such suspension or revocation.

33 (2) Every person or business subject to disciplinary proceedings shall  
 34 be afforded an opportunity for hearing.

35 ~~(a) All proceedings hereunder shall be in accordance with chapter 52,~~  
 36 ~~title 67, Idaho Code.~~

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

39 ~~(3) The board may, pursuant to an order of discipline, require the per-~~  
 40 ~~son or business to pay all or part of the costs and fees incurred by the board~~  
 41 ~~in proceedings upon which the order was entered.~~

42 (43) The board may, pursuant to an order of discipline, require the per-  
 43 son or business to pay an administrative fine not to exceed one thousand dol-  
 44 lars (\$1,000) for each violation identified in the order.