

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1598

SPONSOR: Senator Aronberg

SUBJECT: Driver Training Schools

DATE: April 17, 2003

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McAuliffe</u>	<u>Meyer</u>	<u>TR</u>	<u>Favorable</u>
2.	_____	_____	<u>ED</u>	_____
3.	_____	_____	<u>FT</u>	_____
4.	_____	_____	<u>ATD</u>	_____
5.	_____	_____	<u>AP</u>	_____
6.	_____	_____	_____	_____

## I. Summary:

This bill provides the Department of Highway Safety and Motor Vehicles (DHSMV) must authorize, rather than license, the operation of driver training schools. The bill authorizes DHSMV to investigate the qualifications of new owners of driver training schools, including whether they are of "good moral character." In addition the bill makes certain actions of a driver training school operator a criminal offense punishable as a first-degree misdemeanor, and provides grounds upon which DHSMV may take administrative action against a school's authorization or a driving instructor's certification. Driver training school authorization renewal periods are changed from annual to biennial, and instructor certification renewal periods are made to coincide.

This bill substantially amends ss. 488.01, 488.02, 488.03, 488.04, 488.05, 488.08; creates ss. 488.031, 488.035, 488.041, 488.065, 488.075, 488.085, 488.09, 488.10, 488.12, 488.13; and repeals ss. 488.045, 488.06, and 488.07 of the Florida Statutes.

## II. Present Situation:

Sections 488.01 and 488.02, F.S., authorizes DHSMV to license and oversee driver's schools. Operation of a driver's school is prohibited unless a license has first been obtained from DHSMV. The DHSMV has authority to adopt rules pursuant to the Florida Administrative Procedures Act to implement the provisions of the Commercial Driving Schools law. (Note: These provisions govern commercial driving schools, not schools that train drivers to operate commercial trucks. Those provisions are located in another chapter).

Section 488.03, F.S., provides applications for an original license must be accompanied by a \$50 non-refundable fee. If the application is approved, another fee of \$200 must be paid before the

license will be issued. A license is valid for one year and may not be transferred. If ownership of the driver's school business changes, the new ownership entity must submit an application for a new license together with all instructor's certificates. Licenses must be renewed annually for a fee of \$100.

Section 488.04, F.S., provides all driver's school instructors must be certified by DHSMV. The fee for an initial certification application is \$25, and annual renewal costs \$10. Certificates are valid only in connection with the business of the driver's school or schools listed on the certificate or in connection with a driver's education course offered by a district school board. Applicants are required to take special eye tests, written tests, and road tests and to furnish proof of qualifications and ability as an instructor.

Section 488.045, F.S., provides any person serving in the capacity of an agent for a commercial driving school must first obtain an agent identification card from DHSMV. The fee for an application is \$25, and renewal of the card costs \$10 annually. The card is valid only for use in connection with the business of the driver's school or schools listed on the card.

Section 488.05, F.S., provides vehicles owned or controlled by a driver's school cannot be used for instruction until the school has obtained a school vehicle identification certificate from DHSMV. The certificate must be carried in the school vehicle at all times. An initial application costs \$15, and annual renewal costs \$10. Certificates are not issued unless the vehicle is equipped in accordance with DHSMV's safety requirements. DHSMV can suspend or revoke any license or certificate issued under the Commercial Driving Schools law if the holder of the license or certificate has violated the provisions of that law.

Section 488.06, F.S., provides DHSMV may suspend or revoke any license or certificate issued to a driver's school for any violation of ch. 488, F.S.

Section 488.07, F.S., provides any violation of ch. 488, F.S., is a misdemeanor of the first degree.

Section 488.08, F.S., provides all funds received from the application for, or from the issuance of, driver's school licenses and certificates are deposited into the General Revenue Fund. The DHSMV is currently required to request funding for this program in its annual legislative budget request.

### **III. Effect of Proposed Changes:**

This bill amends ss. 488.01 and 488.02, F.S., to require DHSMV to authorize operation of driver training schools rather than license them, and authorizes DHSMV to enter into contractual agreements for authorizations and certifications necessary to administer the law.

Section 488.03, F.S., is amended to provide the initial application fee for authorization remains \$50, however, if the application for authorization is approved, the applicant must pay a further fee of \$300 before final authorization is granted. The authorization is valid for 2 years instead of 1 year. An application for authorization must contain the name of any owner who has an interest in the school. Biennial renewal of authorization costs \$200. The bill authorizes DHSMV to

require information and certifications necessary to determine the applicant is of good moral character, and the applicant meets the other requirements of the law.

Section 488.031, F.S., is created to provide new regulations for change of ownership of driver training schools. The bill provides authorization may not be transferred or assigned, and a school may not operate under any name or at any location other than that specified in the application for authorization, without the prior written consent of DHSMV. Anyone purchasing or acquiring control of a driver training school must first apply to DHSMV for approval, and the application must contain the name and address of the proposed new owner and other information required by DHSMV. Existing co-owners who intend to acquire control of an existing school from other co-owners must also first apply to DHSMV for approval, and must submit the names and addresses of the stockholders or partners who own any part of the driver training school and are seeking to acquire control. Before DHSMV grants approval, it may conduct an investigation of the applicant and examine the records of the entity as part of the investigation in accordance with applicable law. DHSMV must determine whether there are any complaints pending. Approval may be given only after DHSMV determines the proposed new owners possess the financial ability, experience, and integrity to operate the school.

Section 488.035, F.S. is created to require authorized owners of driver training schools to be at least 21 years of age, be of good moral character, have adequate education or managerial or business experience, to employ at least one certified instructor, and to ensure that any student under age 18 holds a valid driver's license. In order to determine good moral character, DHSMV must conduct a background investigation of each individual owner, stockholder, or partner, including submission of a criminal history report. DHSMV may deny an application for authorization or renewal citing lack of good moral character.

Section 488.04, F.S., is amended to provide applications for an instructor's certificate cost \$35, and biennial renewals that coincide with school authorization renewals cost \$20. DHSMV may also require information and certifications demonstrating the instructor applicant is of good moral character.

Section 488.041, F.S., is created to provide driver training school instructor certification requirements include the applicant:

- Must be at least 21 years of age;
- Must be of good moral character; and
- Must complete instructor training prescribed by DHSMV.

The bill repeals s. 488.045, F.S., relating to agents of commercial driving schools.

Section 488.05, F.S., is amended to provide for a nonrefundable application fee of \$25 for the original driver training school vehicle certification, and provides for a biennial renewal fee of \$20. The section further provides such vehicles must be equipped with dual driver controls and permanent markings on the exterior of the vehicle which state the name of the driver training school.

The bill repeals s. 488.06, F.S., relating to revocation or suspension of a license or certificate.

The bill repeals s. 488.07, F.S., relating to penalties.

Section 488.065, F.S., is created to provide failure to renew a driving school authorization or certification could result in a late fee of up to \$300.

The bill creates s. 488.075, F.S., providing driver training school authorizations and certificates are only valid when used by the business or person specified on the authorization or certificate, and a business may not operate with a fictitious name, or under more than one name unless authorized by DHSMV.

Section 488.085, F.S., is created to provide prohibited acts that are subject to punishment as a first-degree misdemeanor. Such acts include:

- Practicing as a driver training school or instructor without certification.
- Operating a driver training school with uncertified instructors.
- Falsely advertising as a driver training school when the school is not authorized or certified.
- Presenting another persons authorization or certification as his or her own.
- Knowingly giving DHSMV false or forged evidence.
- Using a revoked authorization or certification.
- Soliciting business within 300 feet of a driver's license office.

Section 488.09, F.S., is created to provide actions that constitute grounds for DHSMV to institute disciplinary action against authorization or certification. Disciplinary measures available to DHSMV include:

- Denial of an application for authorization or certification;
- Permanent revocation, suspension, restriction, or denial of renewal of authorization or certification;
- Imposition of an administrative fine of up to \$5,000 per count or offense;
- Issuance of a reprimand;
- Imposition of conditions of probation; and
- Assessment of costs associated with investigation and prosecution.

Section 488.10, F.S., is created to provide an applicant is ineligible to reapply for authorization or certification for 3 years following the denial or revocation of authorization or certification. This time restriction does not apply when denial or revocation was because of an inadvertent error or other technical reason.

Section 488.11, F.S., is amended to require application and renewal fees to be deposited into the Highway Safety Operating Trust Fund for the administration of the program instead of the General Revenue Fund.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

According to DHSMV, implementation of this bill will result in driver license school fees being deposited into the Highway Safety Operating Trust Fund rather than the General Revenue Fund. This bill is revenue neutral with respect to the biennial renewal of an authorization or certification over a four-year period. This bill also authorizes the Department to charge a late fee not to exceed \$300 for delinquent renewals. The revenue impact from the late fee is indeterminate as this proposed penalty may encourage timely renewal of authorizations and certifications. According to DHSMV, this bill will have no fiscal impact on the department.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.