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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 992

02/09/2017 Authored by Zerwas and Koznick The bill was read for the first time and referred to the Committee on Transportation and Regional Governance Policy

1.1 A bill for an act
1.2 relating to public safety; modifying requirements for commercial motor vehicle
1.3 road test for school bus endorsement; modifying provisions relating to third-party
1.4 testing for school bus companies; modifying requirements for issuance of school
1.5 bus driver's license endorsement; amending Minnesota Statutes 2016, sections
1.6 171.01, by adding subdivisions; 171.321, subdivisions 1, 3, by adding subdivisions;
1.7 proposing coding for new law in Minnesota Statutes, chapter 171.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2016, section 171.01, is amended by adding a subdivision
1.10 to read:

1.11 Subd. 21a. Commercial driver's license. "Commercial driver's license" has the meaning
1.12 given in Code of Federal Regulations, title 49, section 383.5.

1.13 Sec. 2. Minnesota Statutes 2016, section 171.01, is amended by adding a subdivision to
1.14 read:

1.15 Subd. 48b. Third-party tester. "Third-party tester" means an individual who is an
1.16 employee of a third-party testing program who has qualified for a third-party tester certificate
1.17 issued by the commissioner granting the individual authorization to conduct road tests or
1.18 skills tests.

1.19 Sec. 3. Minnesota Statutes 2016, section 171.01, is amended by adding a subdivision to
1.20 read:

1.21 Subd. 48c. Third-party testing program. "Third-party testing program" means a
1.22 program authorized by the commissioner to administer to an individual the road test or skills
1.23 test.

2.1 Sec. 4. [171.1615] THIRD-PARTY TESTING PROGRAM ELIGIBILITY.

2.2 Subdivision 1. **Designation.** Only an entity described in subdivisions 2 to 7 may be
2.3 designated by the commissioner as a third-party testing program.

2.4 Subd. 2. **Motor carrier.** A motor carrier that is a third-party testing program must:

2.5 (1) be registered as a business with the secretary of state;

2.6 (2) own or lease, and operate, its own commercial motor vehicles;

2.7 (3) administer commercial driver's license road tests and any necessary endorsement
2.8 tests to operate the commercial motor vehicles; and

2.9 (4) administer tests only to employees of the business.

2.10 Subd. 3. **School bus company.** A school bus company that is a third-party testing
2.11 program must:

2.12 (1) be registered as a business with the secretary of state;

2.13 (2) own or lease, and operate, its own school buses;

2.14 (3) administer road tests and any necessary endorsement tests to operate the school
2.15 buses; and

2.16 (4) administer tests only to employees of the company, unless a bilateral agreement has
2.17 been approved by the commissioner under section 171.1617.

2.18 Subd. 4. **Postsecondary school.** A postsecondary school that is a third-party testing
2.19 program must:

2.20 (1) be a public institution regulated by the North Central Association of Colleges and
2.21 Schools under chapter 124D, or be a public institution regulated by the Board of Trustees
2.22 of the Minnesota State Colleges and Universities;

2.23 (2) own or lease its own vehicles used for testing, or contract to operate
2.24 government-owned vehicles;

2.25 (3) offer courses in operating commercial motor vehicles or motorcycles;

2.26 (4) administer commercial driver's license road and endorsement tests or motorcycle
2.27 endorsement skills tests; and

2.28 (5) administer tests only to students enrolled full time who complete courses offered by
2.29 the institution.

2.30 Subd. 5. **School district.** A school district that is a third-party testing program must:

3.1 (1) own or lease, and operate, its own school buses;

3.2 (2) administer road tests and any necessary endorsement tests to operate a school bus;

3.3 and

3.4 (3) administer tests only to employees of the district, unless a bilateral agreement has

3.5 been approved by the commissioner under section 171.1617.

3.6 Subd. 6. **Motorcycle safety course.** A motorcycle safety course that is a third-party
 3.7 testing program must:

3.8 (1) be licensed as a commercial driver's education program under rules promulgated by
 3.9 the commissioner;

3.10 (2) be registered as a business with the secretary of state or have a tax identification
 3.11 number as a nonprofit organization;

3.12 (3) own or lease its own motorcycles used for testing, or contract to operate
 3.13 government-owned motorcycles;

3.14 (4) administer skills tests and any necessary endorsement tests to operate a motorcycle;
 3.15 and

3.16 (5) administer tests only to students 18 years of age and older who are enrolled full time
 3.17 in the program's motorcycle course and who complete the course.

3.18 Subd. 7. **Public transit authority.** A public transit authority that is a third-party testing
 3.19 program must:

3.20 (1) own and operate its own commercial passenger buses;

3.21 (2) administer road tests and any necessary endorsement tests to operate a bus; and

3.22 (3) administer tests only to employees of the authority.

3.23 Sec. 5. **[171.1616] THIRD-PARTY TESTER QUALIFICATIONS.**

3.24 Subdivision 1. **Generally.** To be certified as a third-party tester, an individual must
 3.25 apply to, and be approved by, the commissioner as specified in this section. The individual
 3.26 must:

3.27 (1) possess a valid driver's license;

3.28 (2) be at least age 21;

3.29 (3) be a licensed driver in a United States state for the past three years;

4.1 (4) before the date of application, have maintained continuous valid driving privileges
4.2 for the past year;

4.3 (5) pass a prequalifying tester examination;

4.4 (6) be an employee of a third-party testing program;

4.5 (7) successfully complete the test administration training required of state-employed
4.6 examiners; and

4.7 (8) have the class of driver's license and endorsements to operate the type of vehicles
4.8 for which the road tests and skills tests are administered.

4.9 Subd. 2. **State employee.** An employee of the Minnesota Department of Public Safety
4.10 is prohibited from being a certified third-party tester.

4.11 Subd. 3. **Driver education instructor.** Except for an instructor in a licensed or approved
4.12 motorcycle driver education program, a third-party tester is prohibited from simultaneously
4.13 being an instructor in a licensed or approved driver education program.

4.14 Subd. 4. **Motorcycle tester qualifications.** All third-party testers employed by a
4.15 third-party testing program for a motorcycle endorsement must be currently certified as
4.16 Motorcycle Safety Foundation instructors. An instructor must meet the certification standards
4.17 specified for a rider coach in the 2001 Motorcycle Safety Foundation Basic Rider Course
4.18 Curriculum Manual.

4.19 Subd. 5. **Employment.** A certified third-party tester must have a certificate for each
4.20 third-party testing program that employs the tester. The tester must reapply and be approved
4.21 for a new certificate to conduct tests on behalf of a new third-party testing program. The
4.22 tester may be simultaneously employed by more than one program.

4.23 Subd. 6. **Maintaining certification.** To maintain certification as a third-party tester, an
4.24 individual must:

4.25 (1) be evaluated at least annually on the administration of tests and record keeping;

4.26 (2) attend annual in-service training, workshops, or seminars provided at a minimum of
4.27 once each year by the commissioner;

4.28 (3) submit monthly testing reports in a format specified by the commissioner;

4.29 (4) account for all record of examinations issued by the commissioner to a third-party
4.30 tester and submit the record of examination immediately to the commissioner after completing
4.31 a road test or skills test; and

5.1 (5) provide proof that all tests administered were to employees of the third-party testing
 5.2 program or to students enrolled full time in a commercial truck driver training course or
 5.3 motorcycle training course, unless a bilateral agreement under section 171.1617, subdivision
 5.4 4, is approved by the commissioner.

5.5 **Sec. 6. [171.1617] TEST ADMINISTRATION.**

5.6 Subdivision 1. **Requirements.** Road tests and skills tests conducted by a third-party
 5.7 tester must meet the requirements established by the commissioner in Minnesota Rules.

5.8 Subd. 2. **Third-party tester restrictions.** A third-party tester must not:

5.9 (1) test a driver who does not possess a valid Minnesota driver's license;

5.10 (2) delegate any portion of testing to another individual;

5.11 (3) test an individual who is not a bona fide employee of a third-party testing program,
 5.12 or test an individual who is not enrolled as a full-time student of the third-party testing
 5.13 program, unless a bilateral agreement under subdivision 4 is approved by the commissioner;

5.14 (4) test a person related to the tester by blood, marriage, or adoption;

5.15 (5) impose a fee in excess of \$100 to test any person;

5.16 (6) test anyone with a physical disability who may need an individualized restriction
 5.17 added to the person's driver's license; or

5.18 (7) test anyone who has not completed all coursework and exercises before administering
 5.19 a road test or skills test.

5.20 Subd. 3. **Repeat test limit.** (a) A third-party testing program may administer a second
 5.21 skills or road test to a student who has failed the initial skills or road test only if the student:

5.22 (1) completes four more hours of training, including a skills test, beyond that normally
 5.23 provided by the licensed driver education program; and

5.24 (2) for motorcycle course students, completes a practice period of no less than one week
 5.25 after the failed test.

5.26 (b) A student who completes a third-party testing program's driver education course and
 5.27 twice fails the skills or road test administered by the program may only take subsequent
 5.28 skills or road tests administered by state examiners.

5.29 Subd. 4. **Bilateral agreements.** Notwithstanding subdivision 2, clause (3), a school
 5.30 district that is a third-party testing program and owns or operates school buses may enter
 5.31 into an agreement with other school districts to test the other districts' school bus driver

6.1 employees, and a school bus company that is a third-party testing program and owns or
 6.2 operates school buses may enter into an agreement with other school bus companies to test
 6.3 the other companies' school bus driver employees. The agreement must be submitted to the
 6.4 commissioner for approval. A certified third-party tester must be employed by a school
 6.5 district or a school bus company providing the testing services.

6.6 Subd. 5. **Testing contingencies.** (a) A third-party testing program must inform each test
 6.7 applicant that test results and test passage are contingent upon:

6.8 (1) remaining employed with the third-party testing program or, in the case of a bilateral
 6.9 agreement under subdivision 4, with the contracting entity, for three months following the
 6.10 test administration date; and

6.11 (2) completing the approved or licensed truck driver training or motorcycle driver
 6.12 education program.

6.13 (b) State examiners may retest a student or employee if:

6.14 (1) required by a state or federal audit; or

6.15 (2) there is reason to believe the test was not appropriately administered.

6.16 Sec. 7. Minnesota Statutes 2016, section 171.321, subdivision 1, is amended to read:

6.17 Subdivision 1. **Endorsement.** No person shall drive a school bus when transporting
 6.18 school children to or from school or upon a school-related trip or activity without having a
 6.19 valid class A, class B, or class C driver's license with a school bus endorsement except that
 6.20 a person possessing a valid driver's license but not a school bus endorsement may drive a
 6.21 type III vehicle or a school bus, subject to the requirements of section 171.02, subdivisions
 6.22 2, 2a, and 2b. The commissioner must use the criteria in this section and section 171.3215
 6.23 when issuing or denying a new school bus endorsement, or when renewing or canceling an
 6.24 existing endorsement.

6.25 Sec. 8. Minnesota Statutes 2016, section 171.321, subdivision 3, is amended to read:

6.26 Subd. 3. **Records check of applicant.** ~~(a)~~ Before issuing or renewing a school bus
 6.27 endorsement, the commissioner shall conduct a criminal history and driver's license records
 6.28 check of the applicant. The commissioner may also conduct the check at any time while a
 6.29 person is so licensed. The check must consist of a criminal history check of the state criminal
 6.30 records repository and a check of the driver's license records system. If the applicant has
 6.31 resided in Minnesota for less than five years, the check must also include a national criminal
 6.32 history check. The commissioner shall accept the national criminal history check request

7.1 and the fingerprints of the applicant and is authorized to exchange fingerprints with the
 7.2 Federal Bureau of Investigation and request the Federal Bureau of Investigation to conduct
 7.3 a criminal history check. The applicant's failure to cooperate with the commissioner in
 7.4 conducting the records check is reasonable cause to deny an application or cancel a school
 7.5 bus endorsement. The commissioner may not release the results of the records check to any
 7.6 person except the applicant or the applicant's designee in writing.

7.7 ~~(b) The commissioner may issue to an otherwise qualified applicant a temporary school~~
 7.8 ~~bus endorsement, effective for no more than 180 days, upon presentation of (1) an affidavit~~
 7.9 ~~by the applicant that the applicant has not been convicted of a disqualifying offense and (2)~~
 7.10 ~~a criminal history check from each state of residence for the previous five years. The criminal~~
 7.11 ~~history check may be conducted and prepared by any public or private source acceptable~~
 7.12 ~~to the commissioner. The commissioner may reissue the temporary endorsement if the~~
 7.13 ~~national criminal records repository check is timely submitted but not completed within the~~
 7.14 ~~180-day period.~~

7.15 Sec. 9. Minnesota Statutes 2016, section 171.321, is amended by adding a subdivision to
 7.16 read:

7.17 Subd. 3a. **Application for temporary endorsement; records check.** (a) The
 7.18 commissioner may issue to an otherwise qualified applicant a temporary school bus
 7.19 endorsement, effective for no more than 180 days, upon presentation of:

7.20 (1) a notarized affidavit from the applicant:

7.21 (i) attesting that the applicant is not currently charged with a felony against another and
 7.22 has not been convicted of a disqualifying offense under section 171.3215; and

7.23 (ii) identifying the states in which the applicant has resided in the five years immediately
 7.24 before the date of application; and

7.25 (2) a notarized affidavit from an authorized individual of a school district or a contractor
 7.26 employed by a school or school district:

7.27 (i) attesting that a criminal records check has been requested on the applicant;

7.28 (ii) specifying the source of the criminal records check; and

7.29 (iii) attesting that the affiant has no knowledge that the applicant is currently charged
 7.30 with a felony against another or has been convicted of a disqualifying offense under section
 7.31 171.3215.

7.32 (b) The criminal records check must be obtained:

8.1 (1) from the Bureau of Criminal Apprehension state criminal records repository for an
8.2 individual who has resided in this state for the five years immediately before the date of
8.3 application; or from a government agency performing the same function as the Bureau of
8.4 Criminal Apprehension in each resident state other than Minnesota for an individual who
8.5 has resided in a state other than Minnesota at any time in the five years immediately before
8.6 the date of application;

8.7 (2) from the Federal Bureau of Investigation; or

8.8 (3) from a private source acceptable to the commissioner.

8.9 (c) The commissioner may reissue the temporary endorsement if the criminal records
8.10 check request is timely submitted but not completed within the 180-day period.

8.11 Sec. 10. Minnesota Statutes 2016, section 171.321, is amended by adding a subdivision
8.12 to read:

8.13 Subd. 3b. **Felony charges.** (a) The commissioner is prohibited from considering an
8.14 application for an initial school bus endorsement submitted by an individual charged with
8.15 a felony against another until that individual is found not guilty of the charge.

8.16 (b) A driver with a school bus endorsement who is charged with a felony against another
8.17 must notify the employer within seven days of the charge. If the driver fails to notify the
8.18 employer, the commissioner must revoke the endorsement. If the endorsement is revoked
8.19 under this paragraph, the commissioner must not reinstate the endorsement until:

8.20 (1) the driver is found not guilty of the charge; or

8.21 (2) the later of five years after final disposition of the case or the applicant's release from
8.22 a correctional facility.