

**No. 605 AN ACT**

Defining and providing for the licensing and regulation of private driver education or training schools; conferring powers and imposing duties on the Department of Education and imposing penalties.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

**Section 1.**

The following words and phrases as used in this act shall have the meanings ascribed to them in this section, unless the context clearly requires otherwise:

- (1) "Private driver education or training school" or "school" shall mean a school maintained, classes conducted or instruction offered by any individual, association, partnership, or LLC, corporation or other business entities, for a consideration, for profit or tuition, the purpose of which is to educate or train an individual or individuals, either practically or theoretically or both, to operate or drive a motor vehicle.
- (2) "Department of Education" shall mean the responsible Department of Education.
- (3) "Motor vehicle" shall mean every motor vehicle, as defined in the act, approved the first day of May, one thousand nine hundred twenty-nine (Pamphlet Laws 905), as amended, known as "The Vehicle Code."

**Section 2.**

The provisions of this act shall be administered by the Department of Education.

**Section 3.**

The qualifications for licensure and the standards of licensure.

- (1) Licensed Private Driving Schools

- (a) General.

The situs of a school, branch school and practice driver training area shall be a distance of at least fifteen hundred (1500) feet from any official PA Department of Motor Vehicles license testing facility for examining motor vehicle operators, which distance shall be measured along the public streets by the nearest route from the school, branch school or practice driver training area to the said point. This provision does not apply to Third Party Tester who is also an authorized or certified Third Party Non-Commercial Driver's License Skills Center in respect the school and testing center may be located at the same location or situs.

(b) In the case of a school where five (5) or more students are assembled as a group for theoretical instruction in Driver Education.

(i) The premises, equipment and facilities of the school shall conform to all safety and sanitary requirements of the Commonwealth of Pennsylvania or any of its political subdivisions applicable thereto.

(ii) The provisions for the health, physical welfare and safety of student personnel shall be those prescribed by the governmental authorities having jurisdiction over such matters.

(iii) The heating facilities shall be sufficient to provide for the maintenance of normal room temperatures in all rooms occupied by students when the outside temperature is less than normal room temperature. When the school does not use mechanical ventilation, windows shall be used and equipped for ventilating purposes.

(iv) The premises, facilities and any alterations of or additions to the premises or facilities must be approved by the township or local authority and must show a certificate of occupancy, if applicable.

## (2) Teacher and Director Qualifications.

(a) Every teacher in a school shall be a citizen of the United States, at least twenty-one (21) years of age, and any conviction over 10 years should be omitted unless it involves crimes against children or capital offenses.

(b) Every teacher shall have a valid motor vehicle operator's license issued by the Commonwealth of Pennsylvania, and shall submit documentary evidence of having driven a minimum of fifteen thousand (15,000) miles under all kinds of weather conditions in both urban and rural areas.

(c) Every teacher must maintain, during any consecutive three-year period, a driving record which does not include more than one (1) reportable accident and/or moving violations, as defined in The Vehicle Code, resulting in a suspension or revocation of his motor vehicle operator's license.

(d) Every driving instructor candidate must pass (1) a written 50 multi choice question-examination prepared by the Secretary of Education or such agency as he/she may designate, and embracing subject matter pertinent to the PA Driver's Manual only. All examinations must be available online or at a supervised site that does not require more than a one hour travel by the candidate. Candidates are given three opportunities to pass the written examination. If they fail they will need to submit a new application with fees.

(e) Every teacher shall present a certificate from a physician, legally qualified to practice medicine in the Commonwealth of Pennsylvania, setting forth that said person is neither mentally nor physically disqualified by any chronic or acute physical defect from performing the duties of a driver education teacher.

(f) A director or supervisor of a school or branch thereof shall meet the qualifications of a teacher as set forth hereinbefore in this section including Act 151 and Pennsylvania Child Abuse History Clearances, and shall have had a minimum of two (2) years' successful teaching experience in a private or public driver training school or class.

Any person can own a private driving school as long as they have the qualified director on staff as stated in Section 4 (2)(f).

(g) Every school that employs five (5) or more full-time teachers or an equivalent number of part-time teachers shall designate a director, who shall meet the qualifications prescribed in section 4 (2) (f) and who shall devote at least one-half of his/her time to the performance of administrative and supervisory duties.

### (3) Instructional Equipment and Materials.

(a) Every school shall provide text, test and reference materials, including pamphlets and visual aids, for the instruction in the theoretical and practical phases of driver training online or in print.

(b) Every car used for practical driver training shall be a recent model, not more than eight (8) years old or shall not have more than one hundred and fifty

thousand miles (150,000) whichever occurs later, with special equipment as follows: operable extra brake, defroster and heater in working order, rear-view mirror two (2) outside side view mirrors, one on each side of the vehicle, an instructor mirror attached to the inside windshield on the passenger side of the vehicle and cushion(s) for the proper seating of the students.

(c) Every school shall provide insurance coverage on all cars used for practical driver training. This coverage shall include at least (a) 100,000/300,000/25,000 public liability/property damage.

(4) Program of Instruction.

(a) Driver training schools licensed under this act shall make available the theoretical and/or practical instruction.

(b) Theoretical instruction shall include subject matter relating to rules and regulations of the road, safe driving practices, distracted driving pedestrian safety care, and mechanics of motor vehicles, driver responsibility, and the use of automobile safety devices and any other subject matter regarding safe driving.

(c) Practical instruction in driver education shall include the demonstration of and actual instruction in starting, stopping, shifting, turning, backing, parking and steering in a training vehicle which shall meet the requirements of the Department of Education.

(5) Fees.

(a) Driver training schools licensed under this act shall publish a schedule of prospectus of fees or charges for behind-the-wheel lessons, classroom lessons, refresher lessons, and all other fees or charges made by the school.

(b) Every school shall inform each student, prior to the time instruction commences, of the character and amount of any and all fees or charges.

(6) Records.

Every school shall maintain adequate records of individuals, and each school shall maintain for a five year period for each pupil. Such a record card shall indicate the number of clock hours of instruction received by each pupil, and shall contain information on attendance, and their driving performance.

Such records shall be kept current and available for inspection at all times during regular school hours by one or more representatives of the Department of Education.

(7) Ownership.

(a) Each individual proprietor of a school, each member of a partnership association or company that owns a school, who is directly connected with the conduct and operation of the educational program, must be of good character, and at least twenty-one (21) years of age.

(b) A license shall be granted to the owner of a particular school for the specific ownership constituency and the specific school situs designated in the application for a license. The initial Application Fee for a new driving school will be \$500 and \$300 for annual renewal. There is an additional fee of \$20 per driving instructor and \$5 per vehicle registered as a driving instruction vehicle.

Any new applications to establish a driving school must show evidence of a certificate of occupancy proving physical location that is open to the public.

(c) A change in ownership requires an application for an original license, which application shall be submitted to the Department of Education at least thirty (30) days in advance of the effective date of the said change, and the school shall not be conducted or operated under the new or different individual proprietorship, partnership, association, company or corporation until and unless an original license has been granted and issued to the new or different ownership constituency.

(d) Death or Incapacity of Owner: The school has 6 months to appoint a Director, if it does not have one already, in order to continue operations, sell the school or wrap up operations and finish students already enrolled. In addition, if necessary the school can ask for an additional 6 months.

**Section 4.**

(a) Private driver education or training school shall continue operation until their annual application is due to be renewed. -

(b) Within this Commonwealth, no person or persons shall advertise in behalf of or solicit prospective students to enroll in a school to be established within the

Commonwealth prior to the establishment of such school, unless such person or persons shall apply to the Department of Education for a license in the manner and form prescribed by the Department of Education and shall receive from the Department of Education authorization to conduct such activities.

(c) Within this Commonwealth, no person or persons shall solicit prospective students to enroll in a school to be established outside the Commonwealth prior to the establishment of such school, unless such person or persons shall apply for and obtain from the Department of Education an agent's license in the manner and form prescribed by the Department of Education.

(d) No private entity should offer online instruction to students in the commonwealth unless the online driver education instruction is being offered through an approved private driver education school whose physical address is established in the commonwealth of Pa. This online instruction must be approved by the Department of Education as an acceptable form of Driver instruction permissible to students in the commonwealth.

#### **Section 5.**

Before any license is issued, a verified application shall be made, in writing, to the Department of Education, on a form prepared and furnished by the Department of Education. An application from a school shall require a statement showing (1) the title or name of the school or classes, together with ownership and controlling officers thereof; (2) the specific course of instruction which will be offered; (3) the place or places where such instruction will be given; (4) a specific listing of the equipment available for instruction in each field; (5) the maximum enrollment to be accommodated on equipment available in each specific field; (6) the qualifications of instructors and directors supervisors in each specific field.

#### **Section 6.**

If the Department of Education finds that the application for which a license is sought complies with the provisions of this act and the rules and regulations of the Department of Education promulgated under the provisions of this act, the Department of Education shall issue an original license to the applicant.

#### **Section 7.**

Each original license issued shall be effective from the date of issue until the first day of July following the issuance of the original license, and shall be renewed

annually thereafter on a form prepared and furnished by the responsible regulatory Agency. Each licensing year is to continue from the first day of July to the following thirtieth day of June inclusive. Each school shall have a separate license.

**Section 8.**

The Department of Education shall maintain a list of schools licensed under the provisions of this act, which shall be available for the information of the public.

**Section 9.**

No private driver education or training school shall be granted a license or shall be permitted to continue to operate under a granted license unless:

(a) It shall permit the Department of Education and its representatives to inspect the school or classes, and shall make available to the agency, at any time when requested to do so, full information pertaining to any or all items of information contained in the application form which is currently provided by the department to applicants for license. All inspections need to be scheduled with the school.

(b) It shall prominently display the current approved license where it may be inspected by students, visitors and designated officials of the department.

(c) The advertising and representations made by anyone representing the school to prospective students shall be free from misrepresentation or fraud.

(d) A school shall not use any name, other than its licensed name, for advertising or publicity purposes, nor shall a school advertise or imply that it is "supervised," "recommended," "endorsed," or "accredited" by the Department of Education or the Commonwealth of Pennsylvania.

(e) A school shall not claim or imply that it will guarantee employment upon completion of the course, or guarantee the securing of a license to drive an automobile.

(f) A school shall not by means of "blind" advertisements or advertisements in the "help wanted" or other employment columns of newspapers and other publications solicit prospective students to enroll in the school.

**Section 10.**

The Department of Education shall have the power to refuse to issue and the power to suspend or revoke a license in any case where the department shall find:

- (a) That the licensee has violated any of the provisions of this act or any of the rules and regulations of the Department.
- (b) That the applicant or licensee has knowingly presented to the department false, incomplete or misleading information relating to licensure.
- (c) That the applicant or licensee has pleaded guilty, entered a plea of nolo contendere, or has been found guilty of a crime involving moral turpitude, by a judge or jury in any State or Federal court.
- (d) That the applicant or licensee has failed or refused to permit the department or its representatives to inspect the school or classes, or has failed or refused to make available to the department, at any time when requested to do so, full information pertaining to any or all items of information contained in an application for license or pertaining to the program of instruction and matters relating thereto.
- (e) That the applicant has failed or refused to submit to the department an application for license in the manner and form prescribed by the regulatory agency department.
- (f) That a licensed school has failed or refused to display the current approved license where it may be inspected by students, visitors and designated officials of the department.
- (g) That a licensed agent has failed or refused to display or produce his license when requested to do so by prospective students or designated officials of the Department of Education.
- (h) That the applicant or licensee has failed to provide or maintain premises, equipment or conditions which are adequate, safe and sanitary, in accordance with such standards of the Commonwealth or any of its political subdivisions as are applicable to such premises and equipment.
- (i) That the licensee has perpetrated or committed fraud or deceit in advertising the school or classes or in presenting to prospective students written or oral information relating to the school or classes or to employment opportunities.



(j) That the licensee is employing teachers and directors, who have not been licensed by the Department of Education, or agents who have not been licensed by the department.

(k) That the licensee has failed to provide and maintain adequate standards of instruction or an adequate and qualified teaching staff.

(l) That the licensee has offered training which has not been approved and authorized by the Department of Education.

(m) That there was a change in the ownership of the school and the Agency was not notified within a 60 day period.

(n) That the school was operated or conducted under an ownership constituency not approved by the Department of Education.

The procedure to be followed in the refusal, suspension and revocation of licenses and in appeals taken from action of the Department of Education shall be that prescribed by the act, to be enacted 45 days from the time it passes legislation.

### **Section 11.**

The Department of Education shall have power to make, adopt and enforce rules and regulations for the enforcement of this act. The Department of Education shall appoint an advisory committee of nine members, three members of which shall be selected from persons actively owning a private driver educational school for at least 2 years, three members shall be from the PA Association of Professional Driving Schools, one member shall be from the personnel of the Department of Education, and one member shall be from the personnel of the Pennsylvania State Police and one member from the Department of Transportation. It shall be the duty of the committee to advise and to make recommendations to the Department of Education regarding rules and regulations for the licensing of private driving schools.

### **Section 12.**

Any person who shall violate or fail to comply with any of the provisions of this act or any of the rules and regulations promulgated thereunder shall be guilty of a

misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than five hundred dollars (\$500) not more than five thousand dollars (\$5,000) or to undergo imprisonment for not more than one (1) year, or both. If the violation shall be by a corporation, partnership or association, the officers and directors of such corporation or the members of such partnership or association, or employees with guilty knowledge of the fact, shall also be guilty of misdemeanor, and, upon conviction thereof, shall be punished as hereinbefore provided.

**Section 13.**

The provisions of this act shall become effective immediately upon its final enactment.