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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **1164**

- 02/23/2015 Authored by Zerwas, Cornish, McNamara, Drazkowski and Erhardt
The bill was read for the first time and referred to the Committee on Education Innovation Policy
- 03/04/2015 Adoption of Report: Re-referred to the Committee on Transportation Policy and Finance
- 03/26/2015 Adoption of Report: Re-referred to the Committee on Ways and Means
- 04/13/2015 Adoption of Report: Placed on the General Register
Read Second Time
- 05/18/2015 Pursuant to Rule 4.20, returned to the Committee on Ways and Means

1.1 A bill for an act
 1.2 relating to transportation; 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; amending Minnesota Statutes 2014, section
 1.5 171.01, by adding subdivisions; proposing coding for new law in Minnesota
 1.6 Statutes, chapter 171.

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

1.8 Section 1. Minnesota Statutes 2014, section 171.01, is amended by adding a
 1.9 subdivision to read:

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

1.12 Sec. 2. Minnesota Statutes 2014, section 171.01, is amended by adding a subdivision
 1.13 to read:

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

1.18 Sec. 3. Minnesota Statutes 2014, section 171.01, is amended by adding a subdivision
 1.19 to read:

1.20 Subd. 48c. **Third-party testing program.** "Third-party testing program" means a
 1.21 program authorized by the commissioner to administer to an individual the road test or
 1.22 skills 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
2.17 has 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
2.21 and Schools under chapter 124D, or be a public institution regulated by the Board of
2.22 Trustees 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
2.29 by the institution.

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

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

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

2.34 (3) administer tests only to employees of the district, unless a bilateral agreement
2.35 has been approved by the commissioner under section 171.1617.

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

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

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

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

3.9 (4) administer skills tests and any necessary endorsement tests to operate a
 3.10 motorcycle; and

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

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

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

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

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

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

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

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

3.23 (2) be at least age 21;

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

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

3.27 (5) pass a prequalifying tester examination;

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

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

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

3.33 Subd. 2. **State employee.** A certified third-party tester may not be an employee of
 3.34 the Minnesota Department of Public Safety.

4.1 Subd. 3. **Driver education instructor.** Except for an instructor in a licensed
 4.2 or approved motorcycle driver education program, a third-party tester may not
 4.3 simultaneously be an instructor in a licensed or approved driver education program.

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

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

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

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

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

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

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

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

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

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

4.29 Subd. 2. **Third-party tester restrictions.** A third-party tester shall not:

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

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

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

- 5.1 (4) test a person related to the tester by blood, marriage, or adoption;
5.2 (5) impose a fee in excess of \$100 to test any person;
5.3 (6) test anyone with a physical disability who may need an individualized restriction
5.4 added to the person's driver's license; or
5.5 (7) test anyone who has not completed all coursework and exercises before
5.6 administering a road test or skills test.

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

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

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

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

5.17 Subd. 4. **Bilateral agreements.** Notwithstanding subdivision 2, clause (3), a school
5.18 district that is a third-party testing program and owns or operates school buses may enter
5.19 into an agreement with other school districts to test the other districts' school bus driver
5.20 employees, and a school bus company that is a third-party testing program and owns or
5.21 operates school buses may enter into an agreement with other school bus companies to
5.22 test the other companies' school bus driver employees. The agreement must be submitted
5.23 to the commissioner for approval. A certified third-party tester must be employed by a
5.24 school district or a school bus company providing the testing services.

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

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

5.30 (2) completing the approved or licensed truck driver training or motorcycle driver
5.31 education program.

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

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

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