

CHAPTER 280**(HB 190)**

AN ACT relating to protecting the public safety involving commercial driver training and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 165A.310 is amended to read as follows:

- (1) "Proprietary school" or "school" means ~~a~~~~any~~ privately owned educational institution, establishment, agency, organization, or person offering or administering a plan, course, or program of instruction in business, trade, technical, industrial, or related areas for which a fee or tuition is charged whether conducted in person, by mail, or by any other method.
- (2) "Board" means the State Board for Proprietary Education.
- (3) "Cabinet" means the *Finance and Administration* Cabinet~~[for Workforce Development]~~.
- (4) "Agent" means any person employed by an institution to act as agent, solicitor, broker, or independent contractor to procure students for such school by solicitation of enrollment in any form made at any place other than the main office or principal place of business of the school.
- (5) "Degree" means associate degree.
- (6) "Person" means an individual, corporation, business trust, estate, partnership, unincorporated association, two (2) or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.
- (7) "School year" is beginning the first day of July and ending the thirtieth day of June next following except when approval shall be suspended or canceled pursuant to the provisions herein.
- (8) *"CDL" means a commercial driver's license as defined in KRS 281A.010.*
- (9) *"CDL driver training" means a course of study that complies with the provisions of Section 4 of this Act governing the instruction of persons in the operation of commercial motor vehicles.*
- (10) *"CDL driver training school" means any person, firm, partnership, association, educational institution, establishment, agency, organization, or corporation that offers CDL driver training to persons desiring to obtain a Kentucky CDL in order to operate a commercial motor vehicle and for which a fee or tuition is charged.*
- (11) *"Classification" means as established in KRS 281A.170.*
- (12) *"Commercial motor vehicle" means as defined in KRS 281A.010.*
- (13) *"Endorsement" means as established in KRS 281A.170.*
- (14) *"Restrictions" means as established in KRS 281A.170.*
- (15) *"Resident" means any person who has established Kentucky as his or her state of domicile. Proof of residency shall include, but not be limited to, a deed or property tax bill, utility agreement or utility bill, or rental housing agreement.*
- (16) The definition of a proprietary school shall not include the following:

- (a) A school or educational institution supported entirely or partly by taxation from either a local or state source;
- (b) A parochial, denominational, or eleemosynary school or institution;
- (c) A school or training program which offers instruction solely in the field of an avocation, recreation, or entertainment, as determined by the state board;
- (d) A course or courses of instruction or study sponsored by an employer for the training and preparation of its own employees for the benefit of the employer and without charge to the employee; *or*
- (e) A school or educational institution licensed or approved by or a course or courses of study or instruction sponsored by the Kentucky Board of Barbering established by KRS 317.430, the Kentucky Board of Hairdressers and Cosmetologists established by KRS 317A.030, the Kentucky Board of Nursing established by KRS 314.121, and the State Board of Embalmers and Funeral Directors of the State of Kentucky established by KRS 316.170.

SECTION 2. A NEW SECTION OF KRS CHAPTER 165A IS CREATED TO READ AS FOLLOWS:

All proprietary schools located or doing business in this state that offer CDL driver training shall be governed by the provisions of this chapter, except for matters governing:

- (1) *The curriculum which shall be established by the board in consultation with the Kentucky State Police and the Kentucky Community and Technical College System; and*
- (2) *The inspection of CDL driver training school facilities which shall be under the authority of the Kentucky State Police pursuant to Sections 4 and 6 of this Act.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 165A IS CREATED TO READ AS FOLLOWS:

- (1) *All persons initially applying for a license to operate a CDL driver training school or a license as a CDL driver training instructor, shall be required to undergo a state and national criminal history background check conducted by the Kentucky State Police. Application forms for a license to operate a CDL driver training school or a license as a CDL driver training instructor shall conspicuously state the following: "STATE LAW REQUIRES A STATE AND NATIONAL CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF APPLYING FOR THIS LICENSE. ANY PERSON WHO REFUSES TO SUBMIT TO A CRIMINAL HISTORY BACKGROUND CHECK SHALL NOT BE ELIGIBLE TO APPLY FOR, OR BE ISSUED, A LICENSE TO OPERATE A CDL DRIVER TRAINING SCHOOL OR A LICENSE FOR A CDL DRIVER TRAINING INSTRUCTOR."*
- (2) *All applicants shall be required to submit to being fingerprinted in accordance with administrative regulations promulgated by the Kentucky State Police under KRS Chapter 13A. If the applicant is a corporation, the fingerprints of all officers shall be required.*
- (3) *The results of the state and national criminal history background checks shall be sent to the board for review within seventy-two (72) hours. If circumstances prohibit the results from being sent to the board within seventy-two (72) hours, the application shall not be processed further until the results are made available to the board. The board shall inform the applicant if, based upon the criminal history background check, the applicant*

is either eligible or ineligible to be issued a license to operate a CDL driver training school or a license for a CDL driver training instructor. The board shall promulgate administrative regulations under KRS Chapter 13A specifying the offenses and conditions under which an application shall be denied based upon a criminal history background check.

- (4) *Any fee charged by the Kentucky State Police to conduct a criminal history background check shall be paid by the applicant and shall not be refundable if, based upon the background check, the board denies the person the right to be issued a license under this chapter. Any fee charged to conduct a criminal history background check shall be an amount not greater than the actual cost of processing the request and conducting the search.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 332 IS CREATED TO READ AS FOLLOWS:

- (1) *All CDL driver training schools, as defined in Section 1 of this Act, shall offer a minimum one hundred sixty (160) hours of instruction to each student that has never been issued a CDL by any state. Each school shall be required to use the curriculum that has been approved by the State Board for Proprietary Education in consultation with the Kentucky State Police and the Kentucky Community and Technical College System. Each school shall perform an evaluation of each student and determine the student's skill level to operate a commercial motor vehicle as beginner, intermediate, or advanced. The curriculum shall require a minimum number of hours of instruction based upon a student's skill level.*
- (2) *Each school may provide the one hundred sixty (160) hour approved curriculum in a manner that best utilizes the staff and equipment of the school including, but not limited to, nights, weekends, holidays, and hours of operation.*
- (3) *All CDL driver training schools as defined in Section 1 of this Act, may offer a refresher course of instruction to a resident who has one (1) year or more verifiable experience operating a commercial motor vehicle. The schools shall verify and maintain records documenting those students attending a refresher course. A refresher course may be offered on an hourly basis.*
- (4) *The ratio of students to instructors during a one hundred sixty (160) hour course shall not exceed:*
- (a) *Thirty (30) students to one (1) instructor during classroom instruction;*
 - (b) *Six (6) students to one (1) instructor during off-the-road training; and*
 - (c) *Three (3) students to one (1) instructor during on-the-road training.*
- (5) *All CDL driver training schools as defined in Section 1 of this Act, shall require each student to undergo a drug test at the time the person applies to enroll in the school.*

Section 5. KRS 332.020 is repealed and reenacted as a new section of KRS Chapter 165A and amended to read as follows:

- (1) *A ~~No~~ person shall **not** operate, conduct, maintain or establish a CDL driver training school unless **the person**~~he~~ holds a valid current license issued by the **board**~~cabinet~~. **The following persons shall not be allowed to be connected in any capacity whatsoever with a CDL driver training school:***

- (a) *Any person whose employment duties in any way relate to the issuance of a motor vehicle operator's license under KRS Chapter 186 or 281A;*
 - (b) *Any employee of the board, Justice Cabinet, or Kentucky State Police; and*
 - (c) *Any member of the immediate family of persons identified in paragraphs (a) and (b) of this subsection.*
- (2) A ~~No~~ person shall **not** operate, conduct, maintain, or establish a **CDL** driver training school unless **the**~~such~~ school has:~~in its employ~~
- (a) At least one (1) licensed **CDL** driver training instructor *in its employ; and*
 - (b) *At least one (1) commercial motor vehicle owed or leased in the name of the CDL driver training school that is properly registered in the Commonwealth and that has undergone a safety inspection within the past twelve (12) months.*
- (3) *A person shall not continue to operate a CDL driver training school if the board has suspended, revoked, canceled, or refused to renew the school's license.*
- (4) A ~~No~~ person shall **not** act as an instructor for a **CDL** driver training school unless **the person**~~he~~ holds a valid current license as an instructor issued by the **board**~~cabinet~~ and unless **the person**~~he~~ is employed by a licensed **CDL** driver training school.

Section 6. KRS 332.030 is repealed and reenacted as a new section of KRS Chapter 165A and amended to read as follows:

- (1) Any person seeking a license to operate, conduct, maintain, or establish a **CDL** driver training school shall **apply**~~make verified application~~ to the **board**~~cabinet~~ on forms prepared and furnished by the **board**~~cabinet~~. The application shall **include**~~set forth~~ the following information:
- (a) The title or name of the school,~~and~~ the names of the owners *of the school*~~thereof~~ and, if the owner *is to* be a corporation, the names and addresses of the officers *of the corporation*~~thereof~~;
 - (b) *Except for corporations* a statement that the owners of the **CDL** driver training school~~unless it be a corporation~~ are each 21 years of age or over, are residents of this state, and have been~~such~~ for at least one (1) year next preceding the application for *the CDL driver training school* license, and are each of good moral character;
 - (c) A description of the established place of business together with the hours during which the **CDL** driver training school is conducted and a description of the equipment and facilities used in **CDL** driver training;
 - (d) Evidence of liability insurance coverage of the **CDL** driver training school, the instructor, and students of the **CDL** driver training school while operating driver training school equipment. **The**~~Such~~ insurance shall have minimum limits of not less than \$25,000 for bodily injury or death of one (1) person in any one accident and subject to the limit for any one person, \$50,000 for bodily injury or death of two (2) or more persons in any one accident and \$10,000 for damage to the property of others in any one accident. Evidence of insurance coverage shall also provide that the insurance coverage shall not be canceled except after *ten*(10) days prior notice in writing by the carrier to the **board**~~secretary~~. Upon request by an applicant, the **board**~~Justice Cabinet~~ shall review an application and provide a letter to the applicant that a proposed **CDL** driver training school has met all preliminary requirements for

approval, except the provisions of this paragraph. The letter may be used by the applicant to help secure the liability insurance coverage needed under this paragraph to obtain a license to operate a school. A letter provided under this paragraph shall not be construed as approval to perform *CDL* driver's training or to operate a school.

- (2) Each original application for a license to operate a *CDL* driver training school and each application for renewal of a license to operate a *CDL* driver training school shall be accompanied by the payment of a fee of *two hundred dollars* (\$200) to the ~~board~~^{cabinet} *and written proof that the applicant has complied with the criminal history background check required by Section 3 of this Act. The application fee charged under this subsection shall not be refundable if, based upon the background check, the board denies the person the right to be issued a license under this chapter.*
- (3) *The board shall pay the State Police to inspect and investigate CDL driver training schools under the requirements of subsection (4) of this section. The payment shall be an amount not greater than the actual cost of conducting the inspection and investigation.*
- (4) *Upon receipt of an application for a license to operate a CDL driver training school, the board shall request the State Police to investigate the person's program and verify the information contained in the application. The State Police shall contact the applicant and make an appointment to inspect the school's facilities. At the time of inspection, the State Police shall verify that the school meets the standards promulgated as administrative regulations under KRS Chapter 13A for license as a CDL driver training school. Upon request, the standards shall be furnished to the school by the board prior to the visit. If the standards are met, the school shall be licensed to offer instruction on how to operate a commercial motor vehicle including classifications, endorsements, and restrictions.*
- (5) Any person seeking a license to act as a *CDL* driver training instructor shall ~~apply~~^{make} ~~verified application~~ to the ~~board~~^{cabinet} on forms prepared and furnished by the ~~board~~^{cabinet} setting forth that the applicant is twenty-one (21) years of age or older; is of good moral character; is a high school graduate or has the equivalent of a high school education, or has equivalent experience; and holds a current and valid operator's license ~~issued by the cabinet~~.
- (6)~~(4)~~ Each original application for a license as a *CDL* driver training instructor and each application for renewal of a license as a *CDL* driver training instructor shall be accompanied by the payment of a fee of *twenty dollars* (\$20.00) to the ~~board~~^{cabinet} *and written proof that the applicant has complied with the criminal history background check required by Section 3 of this Act. The application fee charged under this subsection shall not be refundable if, based upon the background check, the board denies the person the right to be issued a license under this chapter.*
- (7) *In making the determination of good moral character under this section, the board shall consider, but shall not be limited to, the following:*
 - (a) *If the applicant has been convicted of a crime;*
 - (b) *The age of the applicant at the time any criminal conviction was entered;*
 - (c) *The length of time that has elapsed since the applicant's last criminal conviction; and*
 - (d) *The relationship of any crime convicted to the ability of the applicant to operate a CDL driver training school.*

Section 7. KRS 332.040 is repealed and reenacted as a new section of KRS Chapter 165A and amended to read as follows:

- (1) Upon receipt of a satisfactory application accompanied by the prescribed fee, the **board**~~[secretary]~~ shall issue a license to the applicant.
- (2) If the license is issued to a **CDL** driver training school, it shall be **posted and at all times displayed in a conspicuous place so that all persons visiting the school may readily see the license**~~[prominently displayed on the premises of the school at all times]~~.
- (3) If the license is issued to a **CDL** driver training instructor, **the person shall carry the license**~~[it shall be carried on the person of the instructor]~~ at all times during which **the person**~~[he]~~ is actually giving instruction to any student. Upon request, the instructor shall exhibit the license to any student taking instruction from him **or her** and to any other person authorized by law to examine operator's licenses.

Section 8. KRS 332.050 is repealed and reenacted as a new section of KRS Chapter 165A and amended to read as follows:

- (1) Every license issued for the operation of a **CDL** driver training school shall expire on June 30 following the date of the issuance unless~~[sooner]~~ revoked or canceled **by the board**.
- (2) Before July 1 of each year every **CDL** driver training school shall apply for renewal of its license. The application shall be on forms prepared and furnished by the **board**~~[cabinet]~~.
- (3) Every license issued to a **CDL** driver training instructor shall expire on June 30 following the date of the issuance unless~~[sooner]~~ revoked or canceled **by the board**.
- (4) Before July 1 of each year every **CDL** driver training instructor shall apply for renewal of his **or her** license. **The**~~[Such]~~ application shall be on forms prepared and furnished by the **board**~~[cabinet]~~.
- (5) All fees collected under this chapter or the **administrative**~~[rules and]~~ regulations adopted pursuant to this chapter shall be paid into the State Treasury and credited to a trust and agency fund to be used in defraying the costs and expenses of the administration of this chapter. No part of this fund shall revert to the general funds of the Commonwealth.

Section 9. KRS 332.060 is repealed and reenacted as a new section of KRS Chapter 165A and amended to read as follows:

- (1) The **board**~~[secretary]~~ shall, upon receipt of satisfactory evidence, suspend, revoke, refuse to issue or refuse to renew the license of a **CDL** driver training school or a **CDL** driver training instructor if:
 - (a) The licensee fails or refuses to comply with the provisions of this chapter or any **administrative**~~[rule or]~~ regulation adopted hereunder;
 - (b) The licensee has made a false material statement or has concealed a material fact in connection with his **or her** application;
 - (c) The licensee or any partner, or other person directly interested in the **CDL** driver training school held a license issued under this chapter which was revoked or suspended and not reinstated;
 - (d) The licensee has been guilty of a fraudulent practice in attempting to obtain for himself or another a license to operate a motor vehicle;

- (e) Written notice of the cancellation of insurance required by *Section 6 of this Act* [KRS 332.030] is received by the *board* [secretary] and the licensee does not present satisfactory evidence of insurance to the secretary prior to the effective date of the cancellation.

Section 10. KRS 332.070 is repealed and reenacted as a new section of KRS Chapter 165A and amended to read as follows:

Any person whose license to conduct a *CDL* driver training school or any person whose license to give instructions in these schools has been suspended or revoked or the issue or renewal thereof is refused, may request a hearing. The request shall be in writing addressed to the *board* [secretary] who shall conduct a hearing thereon as soon as possible. The hearing shall be conducted in accordance with KRS Chapter 13B. Any person may appeal from the final order of the *board* [secretary] in the Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 11. KRS 332.080 is repealed and reenacted as a new section of KRS Chapter 165A and amended to read as follows:

- (1) Every *CDL* driver training school and *CDL* driver training instructor shall maintain records showing the name, address, and instruction permit or operator's license number of each person to whom instruction is given. *The* [Such] records shall also indicate the type of instruction given and the length of time of *the* [such] instruction.
- (2) *The records required by this section shall be maintained in a manner identical to the retention requirements the Kentucky Community and Technical College System complies with for student records under KRS Chapter 171. The records shall also be available for inspection by the board* [The records required by this section to be maintained shall be available for inspection by the secretary or his authorized representative], but shall otherwise remain confidential.

Section 12. KRS 332.090 is repealed and reenacted as a new section of KRS Chapter 165A and amended to read as follows:

A *CDL* [No] driver training school shall *not* be located within three hundred (300) feet of any governmental building in which is carried on any function having to do with the administration of any laws relating to motor vehicles.

Section 13. KRS 332.100 is repealed and reenacted as a new section of KRS Chapter 165A and amended to read as follows:

The *board* [secretary] shall, *within thirty (30) days of the effective date of this Act, promulgate administrative regulations under KRS Chapter 13A governing the following:*

- (1) *Standards for CDL driver training school office facilities, branch office facilities, classroom facilities, and off-the-road testing facilities;*
- (2) *Conflict of interest by persons associated with a CDL driver training school;*
- (3) *Requirements for the testing and licensing of CDL driver training instructors, including qualifications for classroom instructors and off-the-road and on-the-road instructors;*
- (4) *Maintenance and inspection of student instruction records, including documentation verifying the minimum course hours required under Section 4 of this Act have been completed before the student is issued a release from the CDL driver training school;*

- (5) *A schedule of fees or all charges made by the school including, but not limited to, administrative fees, registration fees, fees for classroom instruction, and fees for off-the-road and on-the-road training;*
- (6) *Contracts and agreements involving CDL driver training schools;*
- (7) *Advertising and solicitation of students by CDL driver training schools;*
- (8) *Inspections of commercial motor vehicles used by CDL driver training schools, including mandatory equipment and out-of-service criteria;*
- (9) *Insurance requirements for commercial motor vehicles used by CDL driver training schools; and*
- (10) *Procedures for the suspension, revocation, nonrenewal, and denial of an application for licensure as a CDL driver training school or licensure as a CDL driver training instructor* ~~[have the power to make all rules and regulations, consistent with this chapter, necessary to carry out the provisions and purposes of this chapter].~~

Section 14. KRS 332.110 is repealed and reenacted as a new section of KRS Chapter 165A and amended to read as follows:

- (1) This chapter shall not apply to:
 - (a) Any school or educational institution which offers to full-time, regularly enrolled students as a part of its curriculum a course in driving instruction *for the purposes of obtaining a Kentucky Class D drivers license issued under KRS Chapter 186;* ~~[nor to]~~
 - (b) Automobile dealers and their salesmen who give instruction without charge to purchasers of motor vehicles; ~~or [nor to]~~
 - (c) Employers who give instruction without charge to their employees.
- (2) This chapter shall not apply to any college within the Kentucky Community and Technical College System which offers to part-time students a course in drivers' instruction where there is *not a* ~~[nor]~~ school licensed pursuant to this chapter in the county.

Section 15. KRS 332.990 is repealed and reenacted as a new section of KRS Chapter 165A and amended to read as follows:

Any person who violates *Sections 5, 7, 11, or 12 of this Act* ~~[KRS 332.020, subsections (2) and (3) of 332.040, 332.080, or 332.090]~~ shall be fined not less than \$100 nor more than \$300 or be imprisoned for not less than ten (10) days nor more than thirty (30) days, or both fined and imprisoned for each offense.

Section 16. KRS 186.895 is amended to read as follows:

The cabinet shall prepare *an annual* ~~[biennially a]~~ report on the program to be submitted to the Governor and the Legislative Research Commission and made available to the public for review during the cabinet's normal business hours. The report shall include the number and location of courses offered, the number of instructors approved, the number of students trained in various courses, *the number of permits, licenses, and registrations issued, the amount of money collected by category for permits, licenses, and registrations*, other information about program implementation as the cabinet shall deem appropriate, and an assessment of the overall impact of the program on motorcycle safety in the state. The report shall also provide a complete accounting

of revenue receipts of the motorcycle safety education program fund and of all moneys expended under the program.

SECTION 17. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

- (1) *The provisions of KRS 186.890(1) and (2) notwithstanding, all revenues from the collection of fees relating to the Motorcycle Safety Education Program Fund shall be utilized to provide motorcycle safety programs. The Transportation Cabinet shall not deduct administrative costs from the Motorcycle Safety Education Program Fund.*
- (2) *The Transportation Cabinet shall report monthly to the Interim Joint Committee on Appropriations and Revenue on the revenues deposited into the Motorcycle Safety Education Program Fund, the expenditures incurred, and the available balance in the fund. In addition, the Transportation Cabinet shall identify the safety programs provided, the cost of the programs, location, and number of attendees.*

Section 18. The following KRS section is repealed:

332.010 Definitions.

Section 19. All current CDL driver training schools shall comply with the provisions of this Act prior to the school's license being renewed in 2002. All current CDL driver training instructors shall comply with the provisions of this Act prior to the instructor's license being renewed in 2002.

Section 20. Whereas the terrorist attacks of September 11, 2001, unveiled a war being waged on America and all Americans, both at home and abroad, by a wide spectrum of terrorists. And whereas United States Government officials have credible information that these cowardly terrorists are attempting to surreptitiously obtain commercial drivers licenses in order to commit criminal acts against the nation's infrastructure by using commercial motor vehicles as weapons of mass destruction. And whereas because the identities of these and future terrorists remain unknown, it is crucial for the Commonwealth to act as quickly as possible to protect its citizens, and by doing so protect all fellow Americans, through the strengthening of state laws governing the training and licensing of operators of commercial driver training schools and of commercial motor vehicles, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Approved April 9, 2002