

No. 380, S.]

[Published July 25, 1957.

CHAPTER 396

AN ACT to create 85.08 (50) to (63) of the statutes, relating to the licensing of commercial driving schools and instructors and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

85.08 (50) to (63) of the statutes are created to read:

85.08 (50) DEFINITIONS (a) "Driver school" means the business of giving instruction, for compensation, in the driving of motor vehicles, except by any high school or vocational school as part of its regular school program or institutions of higher learning as part of its teacher training program.

(b) "Instructor" means any person who gives instruction in the driving of a motor vehicle, except any person who is employed as a full time instructor by any high school, vocational school or institution of higher learning as provided in (a).

(c) "Place of business" means location at which the driver school is conducted.

(d) "Department" means the motor vehicle department.

(e) "Commissioner" means the commissioner of motor vehicles.

(f) "Fraudulent practices" shall include, but shall not be limited to:

1. Any conduct or representation tending to give the impression that a license to operate a motor vehicle or any other license, registration or service granted by the commissioner may be obtained by any means other than the means prescribed by law or by furnishing or obtaining the same by illegal or improper means; or

2. The requesting, accepting, exacting or collecting of money for such purpose.

(51) LICENSE REQUIRED FOR DRIVING SCHOOL; FEE. (a) No person shall engage in the business of conducting a drivers' school without being licensed therefor by the motor vehicle department.

(b) Application shall be in writing and contain such information as shall be required by the commissioner. If the application is approved by the commissioner, the applicant shall be granted a license upon the payment of a fee of \$25. No license shall be required of the governing body of any high school or vocational school whose course of study in driver training has been approved by the state superintendent of public instruction or the state board of vocational and adult education or for any institution of higher learning offering a teacher training course in driver education. A license so issued shall be valid during the calendar year and the annual renewal fee shall be the same amount. The commissioner shall issue a license certificate to each licensee which shall be displayed in his place of business.

(52) LICENSE REQUIRED FOR INSTRUCTOR; FEE. No person shall be employed by any such licensee to give instruction in driving a motor vehicle, unless he is licensed to act as such instructor by the commissioner. A driving school licensee who acts as an instructor must possess an instructor's license. Application for an instructor's license shall be in writing and shall contain such information as the commissioner shall direct. The fee for any instructor's license, or for any annual renewal thereof, shall be \$5.

(53) DENIAL OF LICENSE TO DRIVER SCHOOL OPERATOR. The motor vehicle department may deny the application of any person for a license, if in their discretion it is determined that:

(a) Such applicant has made a material false statement or concealed a material fact in his application;

(b) Such applicant, any officer, director, partner or any person directly interested in the business was a former holder of a license under this section, or was directly interested in another driver school which held a license under this section and which license was revoked or suspended;

(c) Such applicant or any officer, director, stockholder, partner or any person directly interested in the business has been an habitual petty law offender or has been convicted of an offense against the laws punishable as a felony, unless the person so convicted has been duly pardoned;

(d) Such applicant has failed to furnish satisfactory evidence of good character, reputation and fitness;

(e) Such applicant does not have a place of business as required by sub. (60) (e).

(f) Such applicant is not the true owner of the school; or

(g) The application is not accompanied by a copy of a standard liability insurance policy in the amount of \$50,000 for personal injury to, or death of any one person and subject to said limit for any one person, \$100,000 for personal injury to, or death of any number of persons involved in any one accident, and \$10,000 for property damage in any one accident, suffered or caused by reason of the negligence of the applicant or any agent or employe of the applicant.

(54) DENIAL OF LICENSE TO INSTRUCTOR. The commissioner may deny the application of any person for an instructor's license, if in his discretion he determines that:

(a) Such applicant has made a material false statement or concealed a material fact in connection with his application therefor; or

(b) Such applicant has failed to furnish satisfactory evidence of the facts required of him, is not of good moral character, has not held a license to drive a motor vehicle within the state for the past year, has not had a driving record satisfactory to the commissioner, or has been convicted of a felony and has not been duly pardoned.

(55) **REVOCATION OR SUSPENSION OF SCHOOL LICENSE.** The commissioner may suspend or revoke any school license issued under this section or refuse to issue a renewal thereof if:

(a) A licensee has made a material false statement or concealed a material fact in connection with the application for a license or the renewal thereof;

(b) The licensee or any partner or officer of the licensee has been an habitual petty law offender or has been convicted of a felony;

(c) The licensee has failed to comply with any of the provisions of this section or any of the rules herein establishing instructional standards and procedures;

(d) The licensee or any partner or officer of such licensee has been guilty of fraud or fraudulent practices in relation to the business conducted under the license, or guilty of inducing another person to resort to fraud or fraudulent practices in relation to securing for himself or another the license to drive a motor vehicle;

(e) The licensee has knowingly employed, as an instructor, a person who has been an habitual petty law offender or has been convicted of a felony or has retained such a person in such employ after knowledge of his conviction; or

(f) The licensee has failed to maintain satisfactory insurance to meet damage claims required by this section.

(56) **REVOCATION OR SUSPENSION OF INSTRUCTOR'S LICENSE.** The commissioner may suspend or revoke any instructor's license issued under this section or refuse to issue renewal thereof if:

(a) The licensee has made a material false statement or concealed a material fact in connection with his application for the license or any renewal thereof;

(b) The licensee has been convicted of a felony or has been an habitual petty law offender;

(c) The licensee has failed to comply with any of the provisions of this section or any of the rules herein establishing instructional standards of procedure;

(d) The licensee has been guilty of fraud or fraudulent practices in relation to securing for himself or another a license to drive a motor vehicle.

(57) **RENEWAL, NO BAR TO REVOKE LICENSE.** In reviewing the renewal of a license, the commissioner may deny or delay such license for causes and violations as prescribed by this section occurring during any prior license period.

(58) **HEARINGS.** Every applicant or licensee shall be entitled to a hearing before his application for a license or a renewal thereof is refused or his license is revoked. He shall be given due notice of such action. The sending of a notice of a hearing by registered or certified mail to the last known address of a licensee or applicant, 10 days prior to the date of the hearing, is deemed due notice. The motor vehicle department will hold the hearing and shall have power to subpoena witnesses, administer oaths to witnesses and take testimony of any person or cause his deposition to be taken.

(59) **RECORDS.** Every licensee shall maintain the following records:

(a) A permanently bound book with pages consecutively numbered setting forth the name and address of every person given lessons, lectures, tutoring, instructions of any kind or any services relating to instructions in the operation of motor vehicles;

(b) A record showing the date, type and duration of all lessons, lectures, tutoring, instructions or other services relating to instructions in the operation of motor vehicles, and this record shall include the name

of the instructor giving such lessons or instructions and identification of the vehicle in which any road lesson is given including type of transmission;

(c) A file containing a duplicate copy of every agreement entered into between the school and every person given lessons, lectures, instructions or other services relating to instructions in the operation of motor vehicles. No person shall be given lessons, lectures, tutoring or other services relating to instructions in the operation of motor vehicles until a written agreement in a form approved by the motor vehicle department has been executed by both the school and the student. The student will retain the original, while the school will retain and preserve the carbon duplicate thereof.

(60) PROHIBITED PRACTICES. (a) No licensee may agree to give refresher lessons, unless the student states that he has had previous driving experience.

(b) No licensee shall agree to give unlimited driver's lessons, nor represent or agree, orally or in writing or as a part of an inducement to sign any agreement, to give instructions until a driver's license is obtained.

(c) No agreement shall contain a "no refund" clause, but may contain the following: "The school will not refund any tuition or part of tuition if the school is ready, willing and able to fulfill its part of the agreement."

(d) All records of agreement must include the following statement: "This constitutes the entire agreement between the school and the student and no verbal statement or promises will be recognized."

(e) The licensee shall have a specific place of business described in the license. No licensee will be permitted to establish its headquarters within 1,500 feet of any motor vehicle division office where licenses are issued, nor within 1,500 feet of any headquarters where official road tests are given, and locations shall be filed with the motor vehicle department as part of the license. Any change in address must be reported to and approved by the commissioner.

(f) All licensees must ascertain from state license examiners the route over which road tests are given, and no licensee may instruct in those areas.

(g) Licensees shall not publish, advertise or intimate that a license is guaranteed or assured. The display of a sign such as "License Secured Here" is forbidden.

(h) A drivers' school may display on its premises only a sign reading: "This School is Licensed by the State of Wisconsin."

(i) Except as provided by par. (h) the use of the word "Wisconsin", "State" or the name of the city in which the school is located, in any sign, firm name or other medium of advertising is prohibited.

(j) All driver training cars used by the school must be identified by a sign on the rear of the vehicle stating that it is a driver school vehicle.

(k) All driver training cars must be registered with the commissioner with a brief description of each, including the make, model, license number and type of transmission.

(l) All driver training cars shall be equipped with approved dual controls so that the instructor can stop the car promptly. The department may inspect these cars at their discretion.

(61) INSTRUCTOR EXAMINATION REQUIRED. All applicants will be examined by the state motor vehicle department.

(a) A written and oral test shall be completed by the applicant and shall be designed to evaluate the applicant's knowledge of instruction procedures, motor vehicle and traffic laws, safety equipment requirements

and functions of essential automotive equipment in this test. The applicant must receive a score of at least 80 per cent.

(b) The applicant must pass a road test not less than 5 miles long, which shall include driving maneuvers and parking involved in typical traffic situations. The passing score of the applicant must exceed the minimum standard set for obtaining a driver's license by the state.

(c) The applicant must pass a psychophysical test with the following grades:

1. The visual acuity test—with or without corrective glasses, 20/40 in either eye and at least 20/100 in the other eye as measured in the Snellen type test;

2. The color perception—perceive and distinguish colors commonly used to regulate and control traffic;

3. Depth perception—Using the orthorater depth perception test built into the road sign identification target, the applicant must show at least 20 per cent stereopsis;

4. Field of vision—lateral range of at least 85 per cent or more from a focus line to each eye;

5. Reaction time test—At least 50/100 second using portable brake reaction test or 75/100 second when using detonator method; and

6. Applicant must show adequate hearing with or without corrective help.

(d) Applicant shall submit with his application a statement completed by a registered physician showing that he is physically fit to teach driving.

(e) No license shall be issued to an applicant who has suffered an amputation or loss of the full use of either upper limb, or the natural use of the foot normally employed to operate the foot brake and foot accelerator.

(f) Applicants who fail to pass a satisfactory examination after 2 successive attempts will not be re-examined until one year has elapsed since the date of the last examination.

(62) LOSS OR SURRENDER OF LICENSES.

(a) If any license is lost, it will be reissued by the department for \$1 upon satisfactory proof of loss.

(b) In case of suspension or revocation, the licensee shall surrender all licenses to the commissioner and no portion of the fee shall be refunded.

(63) PENALTY. Any person who violates any of the provisions of subs. (50) to (62) shall be fined not less than \$25 nor more than \$100 for each offense, together with the costs of prosecution, or imprisoned not more than 30 days.

Approved July 20, 1957.
