

Date of Hearing: July 7, 2015

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

SB 344 (Monning) – As Amended June 23, 2015

**SENATE VOTE:** 38-1

**SUBJECT:** Commercial driver's license: education

**SUMMARY:** Prohibits, effective January 1, 2018, an institution offering commercial driver's license training courses from claiming an exemption from the licensure and oversight by the Bureau for Private Postsecondary Education (BPPE), and requires, effective January 1, 2018, persons issued a commercial driver's license to have attended a Department of Motor Vehicles (DMV) certified instruction course. Specifically, **this bill:**

- 1) Prohibits, commencing January 1, 2018, an institution that offers a course of instruction to prepare students to obtain a commercial driver's license that is certified by the DMV from claiming an exemption from the BPPE.
- 2) Prohibits a person from being issued an original commercial driver's license until he or she has satisfied all of the following requirements:
  - a) Commencing January 1, 2018, successful completion of a course of instruction from a commercial motor vehicle driver training institution or program offered by an employer that has been certified by the DMV, except as provided. The DMV is prohibited from certifying a commercial motor vehicle driver training institution or program offered by an employer until the institution or program has submitted an approved course of instruction that meets minimum standards set by the DMV. The course of instruction is required to include, at a minimum, standards necessary to ensure a driver is proficient in safely operating a commercial vehicle. The DMV is required, as necessary, to update the required standards to comply with the guidance or requirements issued by the federal Motor Carrier Safety Administration;
  - b) Provides exemptions from the aforementioned training requirements for individuals who meet other outlined requirements;
  - c) Successful completion of a written and driving test, conducted by the DMV that complies with the minimum federal standards established by the federal Commercial Motor Vehicle Safety Act (Act); and,
  - d) Satisfaction of all other requirements of the federal Act and any other requirements imposed by California law.

**EXISTING LAW:**

- 1) Establishes the BPPE within the Department of Consumer Affairs to provide oversight of private postsecondary educational institutions. Requires BPPE to review, investigate, and approve private postsecondary institutions and authorizes BPPE to take formal action against

institutions to ensure compliance and protect students. (Education Code Section 94800 et seq.)

- 2) Several types of institutions are exempt from BPPE regulation, including non-degree granting institutions that do not participate in federal or state financial aid programs and provide programs costing less than \$2,500. (EDC Section 94874)

#### **FISCAL EFFECT:**

**COMMENTS:** *Double-referral.* This bill was heard in the Assembly Transportation Committee on Monday, June 29, 2015, relative to the issuance of a commercial driver's license and the responsibilities assigned to the DMV. This analysis focuses on the responsibilities assigned to the BPPE.

*Purpose of this bill.* According to the author, "there were 5,327 truck collisions reported in 2012, of which 235 were fatal. In July 2014, a double tractor trailer loaded with 50,000 pounds of soil on Highway 17 lost control and crashed into 10 cars, injuring 7 individuals and killing 25-year-old Daniel McGuire of Santa Cruz. The driver had little, if any formal training prior to the crash." The author argues that formal, adequate commercial driver training is recommended by the DMV Commercial Driver Handbook, but is not required. The author notes that a wide variety of training options are available, but the cost and quality varies widely. For example, the author points to the Advanced Career Institute in Fresno that offers a 5-month program for \$7,000. The author also points to "diploma mills" that offer inexpensive DVD and internet based training for the sole purpose of passing the DMV commercial driver's license examination.

*BPPE exemption.* On January 1, 2010, AB 48 (Portantino), Chapter 310, Statutes of 2009, established the BPPE to provide oversight of private postsecondary educational institutions in order to prevent harm to students and the deception of the public that result from fraudulent or substandard educational programs and degrees. Under the law, several types of institutions are exempt from regulation, including non-degree granting institutions that do not receive public funding and charge less than \$2500 per educational program. The exemption was designed to allow "low-cost and low-risk" institutions to operate without regulation. However, according to the author, there has been a proliferation of commercial driver's license "diploma mills" that fail to ensure students are properly trained and place the public at risk. This bill will prohibit a commercial driver's license training institution from claiming an exemption from the BPPE.

*Oversight provided by the BPPE.* The BPPE enforces minimum standards and disclosure requirements for institutions, specifically BPPE:

- 1) *Licenses* approximately 1,200 non-exempt private postsecondary educational institutions, serving over 300,000 students, operating in California. The Licensing process is designed to ensure that institutions meet minimum operating standards. Accredited institutions are provided approval by means of their accreditation (meaning BPPE does not review these institutions at the point of licensure).
- 2) Conducts announced and unannounced *compliance inspections* of licensed/approved institutions. Inspections are designed to ensure institutions are in compliance with minimum operating requirements. If a compliance inspection uncovers a minor violation, the institution is provided a notice and the opportunity to correct. If a compliance inspection

uncovers a material (major) violation, the compliance inspector makes a referral for an investigation of the violation.

- 3) *Investigates* complaints received by the general public and internal investigative referrals. Most investigations are handled internally by BPPE staff; however, BPPE does have authority (and has utilized) the DCA Division of Investigations for complaints that require undercover investigations and/or the presence of a sworn peace officer.
- 4) *Disciplines* institutions that have been found in violation of law through citations (handled by BPPE staff) and formal actions (BPPE is represented by the Office of the Attorney General).
- 5) Administers the *Student Tuition Recovery Fund* (STRF) to provide refund to students affected by the closure of an institution.
- 6) Collects data through *Annual Reports* provided by licensed/approved institutions.

*How will BPPE work with DMV under this bill?* Currently BPPE is provided authority to rely on another appropriate state agency for review of program quality. Committee staff understands that the author intends for DMV to be responsible for educational program review and certification, and for BPPE to be responsible for enforcing consumer protections.

*Challenges facing the BPPE.* In March 2014, the California State Auditor released an audit report reviewing the effectiveness and efficiency of BPPE operations. The report found that BPPE had consistently failed to meet responsibilities to protect the public's interest. Specifically, the report noted that BPPE failed to conduct compliance inspections, failed to identify and sanction unlicensed institutions, failed to appropriately respond to complaints against institutions, and failed to ensure students were provided with accurate disclosures prior to enrollment. Pursuant to AB 48, the law authorizing the BPPE was scheduled to sunset on January 1, 2015. In 2014, during the Legislative "sunset review" process, BPPE indicated it had sought and obtained additional staff to assist in operations and was working to reduce backlogs and improve oversight activities. SB 1247 (Lieu, Chapter 840) reauthorized the BPPE until January 1, 2017, a shorter timeframe than generally provided in order to allow the Legislature to review BPPE progress during the 2015-16 Legislative Session.

*Prohibiting commercial driver's training schools from claiming an exemption from BPPE will only result in improved quality and consumer protection if the BPPE provides adequate oversight and review of the institutions. As previously outlined, the BPPE has struggled to perform oversight functions. Should this bill become law, the author and committee may wish to continue to monitor BPPE performance to ensure the goals of this legislation are accomplished.*

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Association of Highway Patrolmen  
California Trucking Association  
City of Capitola  
City of San Jose  
City of Scotts Valley

City of Watsonville  
Commercial Vehicle Training Association  
Consumer Attorneys of California  
County of Santa Clara, District Attorney  
County of Santa Cruz, Board of Supervisors  
Metropolitan Transportation Commission  
Peace Officers Research Association of California  
Public Advocates  
Santa Cruz County Regional Transportation Commission  
Truck Safety Coalition  
Young Invincibles  
University of San Diego (USD), Center for Public Interest Law  
USD, Children's Advocacy Institute  
USD, Veterans Legal Clinic

**Opposition**

None on File

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