

1 **CHAPTER 808. YOUTH DRIVER EDUCATION FUNDING PROGRAM**

2
3 **PROPOSED RULES TO BE PUBLISHED IN THE *TEXAS REGISTER*. THIS**
4 **DOCUMENT WILL HAVE NO SUBSTANTIVE CHANGES BUT IS SUBJECT**
5 **TO FORMATTING CHANGES AS REQUIRED BY THE OFFICE OF**
6 **SECRETARY OF STATE.**

7
8 **ON FEBRUARY 8, 2022**, THE TEXAS WORKFORCE COMMISSION APPROVED
9 THE PROPOSED RULES BELOW WITH PREAMBLE TO BE PUBLISHED IN THE
10 *TEXAS REGISTER*.

11
12 Publication Date of the Proposal in the *Texas Register*: **February 25, 2022**
13 End of Comment Period: **March 28, 2022**

14
15 The Texas Workforce Commission (TWC) proposes new Chapter 808, relating to the
16 Youth Driver Education Funding Program, comprising the following subchapters:

- 17
18 Subchapter A. Youth Driver Education Funding Program Eligibility, §808.1
19 Subchapter B. Use of Youth Driver Education Funds, §808.21

20
21 **PART I. PURPOSE, BACKGROUND, AND AUTHORITY**

22 The purpose of the Chapter 808 rules is to implement Senate Bill (SB) 2054 from the
23 87th Texas Legislature, Regular Session (2021). SB 2054 amended Texas Transportation
24 Code, Chapter 521, Subchapter H to add §521.168, Payment of Fees for Certain Foster
25 and Homeless Children and Youths, which states that unless prohibited by Texas
26 Transportation Code, §521.4265(c), TWC shall, upon request from an individual who
27 meets the eligibility criteria outlined in Texas Transportation Code, §521.168, pay the
28 fees associated with obtaining a driver's license imposed under Texas Transportation
29 Code, Chapter 521, Subchapter H, or Texas Education Code, Chapter 1001.

30
31 Texas Transportation Code, §521.168(a) lists the following criteria for eligible
32 individuals:

- 33 --Individuals eligible for a driver's license fee exemption under Texas Transportation
34 Code, §521.1811; or
35 --Individuals younger than 26 years of age who were or are:
36 --in the managing conservatorship of the Texas Department of Family and Protective
37 Services on the day before the individual's 18th birthday; or
38 --a homeless child or youth, as defined by 42 United States Code §11434a.

39
40 Texas Transportation Code, §521.168(b) stipulates that TWC shall establish a process by
41 which an eligible individual may apply to TWC for the payment of fees associated with
42 obtaining a driver's license imposed under Texas Transportation Code, Chapter 521,
43 Subchapter H, or Texas Education Code, Chapter 1001, and TWC pays those fees on the
44 eligible individual's behalf.

1 SB 2054 also amended Texas Transportation Code, § 521.4265(b) and (c) and added
2 §521.4265(d). Texas Transportation Code, §521.4265(b) and (c) states that these fees will
3 be paid for through the Texas Department of Public Safety's (DPS) identification fee
4 exemption account. Texas Transportation Code, § 521.4265(b) stipulates that DPS shall
5 request that the Texas Comptroller of Public Accounts transfer to TWC amounts
6 sufficient to cover the cost of implementing the Youth Driver Education Funding
7 Program under Texas Transportation Code, §521.168, including amounts sufficient for
8 TWC's payment of fees to entities other than DPS.

9
10 Texas Transportation Code, §521.4265(c)(1) states that fund transfers for the Youth
11 Driver Education Funding Program may not be requested if the balance of the account for
12 the fiscal year is less than three times the amount expended in the previous fiscal year for
13 fee waivers provided by Texas Transportation Code, §521.1015(e) and §521.1811.

14
15 Texas Transportation Code, §521.4265(d) requires DPS, in consultation with TWC, to
16 establish rules for a process governing these fund transfers.

17
18 **PART II. EXPLANATION OF INDIVIDUAL PROVISIONS**

19
20 **SUBCHAPTER A. YOUTH DRIVER EDUCATION FUNDING PROGRAM**
21 **ELIGIBILITY**

22 TWC proposes new Subchapter A:

23
24 **§808.1. Eligible Population**

25 New §808.1 states that TWC shall pay the fees associated with obtaining a driver's
26 license imposed under Texas Transportation Code, Chapter 521, Subchapter H, or Texas
27 Education Code, Chapter 1001, for eligible individuals who meet the criteria listed in
28 Texas Transportation Code, §521.168(a).

29
30 **SUBCHAPTER B. USE OF YOUTH DRIVER EDUCATION FUNDS**

31 TWC proposes new Subchapter B:

32
33 **§808.21. Verification Process**

34 New §808.21 describes the verification process by which eligible individuals may apply
35 to have fees associated with obtaining a driver's license--imposed under Texas
36 Transportation Code, Chapter 521, Subchapter H, or Texas Education Code, Chapter
37 1001--paid for through TWC's Youth Driver Education Funding Program. New §808.21
38 also describes how TWC will respond to individuals requesting payment who are
39 determined to be ineligible and provides steps required for driver education providers to
40 receive a fee payment.

41
42 **PART III. IMPACT STATEMENTS**

43 Chris Nelson, Chief Financial Officer, determined that for each year of the first five years
44 the rules will be in effect, the following statements will apply:

1 There are no additional estimated costs to the state or local governments expected as a
2 result of enforcing or administering the rules.

3
4 There are no estimated cost reductions to the state or to local governments as a result of
5 enforcing or administering the rules.

6
7 There are no estimated losses or increases in revenue to the state or to local governments
8 as a result of enforcing or administering the rules.

9
10 There are no foreseeable implications relating to costs or revenue of the state or local
11 governments as a result of enforcing or administering the rules.

12
13 There are no anticipated economic costs to individuals required to comply with the rules.

14
15 There is no anticipated adverse economic impact on small businesses, microbusinesses,
16 or rural communities as a result of enforcing or administering the rules.

17
18 Based on the analyses required by Texas Government Code, §2001.024, TWC
19 determined that the requirement to repeal or amend a rule, as required by Texas
20 Government Code, §2001.0045, does not apply to this rulemaking.

21
22 Takings Impact Assessment

23 Under Texas Government Code, §2007.002(5), "taking" means a governmental action
24 that affects private real property, in whole or in part or temporarily or permanently, in a
25 manner that requires the governmental entity to compensate the private real property
26 owner as provided by the Fifth and Fourteenth Amendments to the US Constitution or the
27 Texas Constitution, Article I, §17 or §19, or restricts or limits the owner's right to the
28 property that would otherwise exist in the absence of the governmental action, and is the
29 producing cause of a reduction of at least 25 percent in the market value of the affected
30 private real property, determined by comparing the market value of the property as if the
31 governmental action is not in effect and the market value of the property determined as if
32 the governmental action is in effect. TWC completed a Takings Impact Analysis for the
33 proposed rulemaking action under Texas Government Code, §2007.043. The primary
34 purpose of this proposed rulemaking action, as discussed elsewhere in this preamble, is to
35 establish how TWC shall, upon request from an individual who meets the eligibility
36 criteria outlined in Texas Transportation Code, §521.168, pay the fees associated with
37 obtaining a driver's license imposed under Chapter 521, Subchapter H, or Texas
38 Education Code, Chapter 1001.

39
40 The proposed rulemaking action will not create any additional burden on private real
41 property or affect private real property in a manner that would require compensation to
42 private real property owners under the US Constitution or the Texas Constitution. The
43 proposal also will not affect private real property in a manner that restricts or limits an
44 owner's right to the property that would otherwise exist in the absence of the
45 governmental action. Therefore, the proposed rulemaking will not cause a taking under
46 Texas Government Code, Chapter 2007.

1
2 Government Growth Impact Statement

3 TWC determined that during the first five years the new rules will be in effect, they:
4 --will create a government program;
5 --will require the creation of employee positions;
6 --will not require an increase or decrease in future legislative appropriations to TWC;
7 --will not require an increase or decrease in fees paid to TWC;
8 --will not create a new regulation;
9 --will not expand, limit, or eliminate an existing regulation;
10 --will increase the number of individuals subject to the new rules; and
11 --will positively affect the state's economy.

12
13 Economic Impact Statement and Regulatory Flexibility Analysis

14 TWC determined that the rules will not have an adverse economic impact on small
15 businesses or rural communities, as the proposed rules place no requirements on small
16 businesses or rural communities.

17
18 Mariana Vega, Director, Labor Market Information, determined that there is not a
19 significant negative impact upon employment conditions in the state as a result of the
20 rules.

21
22 Courtney Arbour, Director, Workforce Development Division, determined that for each
23 year of the first five years the rules are in effect, the public benefit anticipated as a result
24 of enforcing the proposed rules will be to improve employment opportunities and
25 outcomes for youth currently or formerly in foster care and homeless youth. TWC Foster
26 Youth Transition Centers, Local Workforce Development Boards (Boards), and other
27 stakeholders in the foster care and homeless services community frequently identify lack
28 of access to transportation as a major barrier to employment for the populations they
29 serve. These rules will make it easier for eligible youth to obtain driver education, which
30 in turn will lower this employment barrier.

31
32 TWC hereby certifies that the proposal has been reviewed by legal counsel and found to
33 be within TWC's legal authority to adopt.

34
35 **PART IV. COORDINATION ACTIVITIES**

36 In the development of these rules for publication and public comment, TWC sought the
37 involvement of Texas' 28 Boards. TWC provided the policy concept regarding these rules
38 to the Boards for consideration and review on October 19, 2021. TWC also conducted a
39 conference call with Board executive directors and Board staff on October 29, 2021, to
40 discuss the policy concept. During the rulemaking process, TWC considered all
41 information gathered in order to develop rules that provide clear and concise direction to
42 all parties involved.

43
44 **PART V. PUBLIC COMMENT**

1 Comments on the proposed rules may be submitted to
2 TWCPolicyComments@twc.texas.gov. Comments must be received no later than March
3 28, 2022.

4

5 **PART VI. STATUTORY AUTHORITY**

6 The new rules are proposed under Texas Labor Code, §301.0015 and §302.002(d), which
7 provide TWC with the authority to adopt, amend, or repeal such rules as it deems
8 necessary for the effective administration of TWC services and activities.

9

10 The new rules implement the changes made to the Texas Transportation Code, Chapter
11 521, by SB 2054, specifically the requirements of amended Texas Transportation Code,
12 §521.168(b).

13

1 **CHAPTER 808. YOUTH DRIVER EDUCATION FUNDING PROGRAM**

2
3 **SUBCHAPTER A. YOUTH DRIVER EDUCATION FUNDING PROGRAM**
4 **ELIGIBILITY**

5
6 **§808.1. Eligible Population.**

7
8 Unless prohibited under Texas Transportation Code, §521.4265(c), the Agency
9 shall, upon request from an individual who meets the eligibility criteria in this
10 section, pay the fees associated with obtaining a driver's license imposed under
11 Texas Transportation Code, Chapter 521, Subchapter H, or Texas Education
12 Code, Chapter 1001. Eligible individuals for the Youth Driver Education Funding
13 Program include individuals:

14
15 (1) eligible for a driver's license fee exemption under Texas Transportation
16 Code, §521.1811; or

17
18 (2) younger than 26 years of age who were or are:

19
20 (A) in the managing conservatorship of the Texas Department of
21 Family and Protective Services on the day before the individual's
22 18th birthday; or

23
24 (B) a homeless child or youth as defined by 42 United States Code
25 §11434a.

26
27 **SUBCHAPTER B. USE OF YOUTH DRIVER EDUCATION FUNDS**

28
29 **§808.21. Verification Process.**

30
31 (a) To receive a driver education fee waiver, an eligible individual must identify
32 a driver education provider with whom he or she intends to enroll that:

33
34 (1) is registered with the Texas Department of Licensing and Registration
35 as a certified Texas driver education provider;

36
37 (2) is a registered vendor in accordance with rules established by the
38 Agency and the Texas Comptroller of Public Accounts; and

39
40 (3) charges a rate that does not exceed twice the average rate of all other
41 certified Texas driver education providers within a 30-mile radius of
42 the selected certified Texas driver education provider's physical
43 location. For driver education providers providing online instruction,
44 their rate will be compared to the average rate for online driver
45 education instruction available in Texas.

1 (b) Once a driver education provider is selected, the eligible individual must visit
2 a website designated by the Agency to complete and submit the Driver
3 Education Waiver Request Form, which includes:

4
5 (1) individual eligibility verification; and

6
7 (2) Youth Driver Education Funding Program eligibility verification.

8
9 (c) Agency staff shall review the form within five business days of submission
10 and notify the requestor of the individual's eligibility status. If staff is unable
11 to determine eligibility, staff may contact the individual for further
12 information.

13
14 (d) Once participant and Youth Driver Education Funding Program eligibility are
15 determined, Agency staff shall:

16
17 (1) for an eligible individual, submit a payment request on the individual's
18 behalf to the Agency's Finance Division; or

19
20 (2) for an ineligible individual, send a response to the individual alerting
21 them of their ineligibility.

22
23 (e) After an eligible participant has completed enrollment with the selected
24 provider, the Agency's Finance Division shall review and process the
25 payment request in keeping with Agency policies and procedures regarding
26 fee payment, and if sufficient funds have been transferred from the Texas
27 Department of Public Safety (DPS) to the Agency.

28
29 (f) An eligible participant who fails to attend or complete driver education or a
30 test paid for under this chapter must wait for a period of three months before
31 they enroll in a new course or test to be paid for by this chapter. An eligible
32 participant may have the required waiting period waived by providing a
33 written attestation describing the circumstances that prevented them from
34 attending or completing the driver education or test and explaining why they
35 assert the circumstances were outside their control.

36
37 (g) The Agency shall pay driver education providers for services provided to an
38 eligible individual from the fund after the individual's application receives
39 approval from the Agency, the driver's education provider submits required
40 payment documentation that is accurate and complete, and the individual
41 submits a completed driver education enrollment agreement.

42
43 (h) All Youth Driver Education Funding Program uses described in this chapter
44 shall be monitored and reported on as required by the Texas Comptroller of
45 Public Accounts, the Agency, and DPS.

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(i) Driver education providers shall repay to the Agency improper payments received or refunds due for driver education funded under this chapter in instances:

(1) involving fraud committed by the driver education provider;

(2) in which the provider was paid for driver education from another source;

(3) in which the provider did not deliver driver education; or

(4) in which a refund is due under Texas Education Code, Chapter 1001, Subchapter I.