

## Motorcycle Safety

The DPS Motorcycle Safety Program was established in 1983 and trained 1024 students the first year though a small group of volunteers with little resources. Since that time approximately 700,000 Texans have attended the training. The program has grown to 80 contracted sponsors operating 200 training sites, which are served by over 450 trained and certified instructors.

Since September 1, 2009, courses provided by the program are required for obtaining a Texas motorcycle license (Texas Transportation Code 521.148, 663.031 and CH 662).

To legally operate a motorcycle in Texas, a person must complete a DPS approved motorcycle safety course. Currently the course includes the skill and knowledge test required for licensure. If a student successfully completes the course, and are over the age of 18 any further requirements for licensure from the DPS driver license office are eliminated. The student only has to present their completion card (MSB-8) to become licensed. The only time DPS driver license staff is currently required to administer a road test is for persons 15 to 18 yoa who have successfully completed a motorcycle safety course.

If sponsors are required to return state owned motorcycles already in use, many of the sites will be forced to shut down. This will result in fewer motorcycle safety courses available across the State. If student has less access to training, due to limited training locations, then other licensing options would have to be implemented. One option would be to return to the pre-2009 practice of the DL office staff administering a road and written test with no training requirement.

National accident data suggest untrained/unlicensed motorcycle operators are over represented in crashes and fatalities compared to trained/licensed operators. Motorcyclists are about 27 times more likely than passenger car occupants to be involved in a fatal motor vehicle accident, according to the National Highway Traffic Safety Administration, and a recent Texas study found that about one in every four motorcycle crashes were fatal between 2010 and 2016. If Texans begin to ride as they did pre-2009 without a training requirement, these numbers can only increase. When reducing the quantity and quality of motorcycle training the economic burden to the health care system, the government, and the public will increase.

Providing material support for private motorcycle training does not waste public resources. Instructors are not allowed by law to provide training independently of a DPS approved sponsor and only a sponsor can charge for training. Instructors only provide instruction at a sponsor's site. Sponsors provide the student access to a DPS trained Instructor(s), training location, insurance and classrooms while the state provides motorcycles and course materials to meet the licensing requirement set in Texas Transportation Code, Section 662.07.

Sponsors are able to provide training across the state for a reasonable fee utilizing safe motorcycles with trained instructors delivering a standardized safe training program.

The majority of sponsors and instructors are not employed full time providing motorcycle training. The fact is many sponsors/instructors are retired, have full time professional careers, or are simply supplementing their income by participating in training (usually on weekends). Those involved in training don't do it to get rich, they are involved because they want to share their passion for motorcycling. There are actually fewer instructors than there were prior to the update due to the strict requirements of certification during the last curriculum update many failed to

meet the standard and simply let their license lapse. There are so few qualified instructors, even in large urban areas (Austin/San Antonio), sponsors are having to pay expenses of instructors to travel to their sites to provide training.

The sponsors are providing a service, the state provides motorcycles for the program to ensure that safe motorcycles are available for student use. It is the duty for the State of Texas to ensure the program is safe and part of that safety is having a good, suitable, safe motorcycle operating correctly for someone to learn these important skills. Motorcycles are loaned to all sponsors, many sponsors supplement their fleet with state owned motorcycles. Sponsors are required to use state owned motorcycles solely for training purposes only and are responsible for the upkeep and proper maintenance of those motorcycles.

The Motorcycle Safety Unit looks at training sites throughout the state, those identified as being in critical need areas have the first priority to state owned motorcycles. Loaning state motorcycles are an important part of keeping the tuition down and affordable for students to participate and to become licensed. Although some sites may have more state owned motorcycles than others, the need for the service they are providing to the community has to be taken into consideration. Sponsors that have the largest number of state owned motorcycles also provide the largest number of training in the state.

The Motorcycle Safety Unit holds Sponsors and instructors to a high standard and by overseeing the program maintains that high standard. In keeping with that standard in 2017 the Motorcycle Safety Unit was required to update the curriculum a third time in 35 years. The update had to be delivered as the "old" program would no longer be supported. The Motorcycle safety unit had to update 79 sponsors, 378 instructors and 275 sites had to be transitioned to the new curriculum. This included new support materials and paint (see attached example of what a painted training site looks like). The training program that is currently being delivered is designed to provide the highest quality of training to motorcyclist.

It's has been suggested that the motorcycle program is not currently self-sufficient and relies on taxpayer dollars to operate. The dedicated fund now sits at 16.8 million, this fund grows approximately 1 million per year from motorcycle licensing fees. This fund is from motorcyclist, by motorcyclist, for motorcyclist not one dime of this fund has been funded by the general public. If the Motorcycle safety program was funded as it was intended there would be no taxpayer funds used. To maintain the current level of safety training motorcycles and course materials should continue to be provided in sharing the cost with sponsors. In addition to support materials, increasing and diversifying training programs and awareness campaigns can increase motorcycle safety.

The motorcycle safety program provides support to sponsors and training to new instructors which allows them to maintain the integrity of the program, set high expectations and standards. Instructors are trained as professionals, by professionals. This also ensures consistency in training state wide. A class in Brownsville will mirror what is being taught in Lubbock without exception. Who better to know and enforce the standard than by those who set the standard? Doing a site and instructor assessment does not happen in a few hours. It involves travel to the site and usually occurs over a 2-3 day period. A trainer shows up examines the sponsors, site,

records and upkeep on the motorcycle has been maintained. The trainer then watches the instructor conduct the classroom portion of the class then observes the instructor actually train the student on the range. Only after this has been observed can assessment be made. In cases where there are egregious concerns, the motorcycle safety unit has put a trainer that is unknown to the instructor in the class as a student.

The fact that there were a low number of investigations in 2017 should be expected as the updates being conducted though out the state stretched the motorcycle safety unit's already limited resources thin. If fully staffed and having an appropriate budget more program oversight can be conducted. The training community is very small, word moves quickly when someone is not in compliance and more often than not violations are reported to the Motorcycle safety unit by our own. The sponsors and the instructors as a whole want more oversight and support from the Motorcycle safety unit to ensure that the program continues to be delivered to student in the manner it is intended.

The assumption that the private sector can provide training in rural areas is an unreasonable expectation. An instructor can't simply teach in rural areas without a sponsor. A sponsor regardless of size has to meet the standards of training. A training site has to meet standards in terms of size, surface, and location. Safe training bikes that meet training specifications have to be used (a conservative cost for a training site is \$40,000 for bikes and materials), add the cost of an instructor, lodging, per diem and securing a land lease for motorcycle training that may occur every other month if there is enough local interest, this would not be cost effective. Because of this fact the mobile unit is critical for motorcycle training delivery in areas that can't support a full time site. The mobile unit provides training to need areas identified as critical need by concerned parties such as law enforcement, the courts and other interested parties. These areas are not discouraged from having a permanent training site as many of the mobile sites have been converted to full time training sites by sponsors as the needs of the areas change. There have also been full time training sites that converted to Mobil training sites as the need decreased. Due to the size of the state there are areas of the state that in all probability will never be able to provide full time training. The training numbers by mobile sites was down in 2017 due to the fact one of the mobile instructors is also a trainer and spent the majority of his traveling the state conducting curriculum updates.

The mobile unit, when not conducting curriculum updates as they did in 2017, has the potential offer 72 classes per year and training 576 students. Sponsors in those areas are currently in an administrative role, managing student enrollment with a portion of the course fees being returned to the general fund after the state is reimbursement for the state employees travel expenses. To eliminate this program would deny the citizens living in rural parts of Texas reasonable access to required training for licensure.

In closing, looking at overall the cost and assessment of the motorcycle safety unit and the program delivery in this report is skewed. There is an obvious lack of understanding of how the program is structured, delivered and assessed in terms of standards. There is no mention of the 35 years the program was underfunded. No other years of program delivery have been considered when evaluating the motorcycle safety unit for this report.

The assumption that TDLR could better manage the Motorcycle Safety program is incorrect. The TDLR's role is to regulate, they are not an advocate of Motorcycle Safety. Nor will they promote Motorcycle Safety, they would simply attempt to regulate the industry in which they have no understanding. They are not trained instructors, they have never coached, they would not know what is correct or incorrect application of the approved motorcycle training course. They would have no way to maintain quality insurance as it currently stands. The commission says quality insurance should remain intact, the TDLR has no way of accomplishing this goal.

The ATV program would be better served at the Texas Parks and Wildlife Department due to the fact that they are the agency that is connected to public lands. They also have an OHV sticker program/training and they are already involved in off-highway usage. The ATV program would be better served by this department as they are the only other state agency with an ATV interest.

If the Motorcycle Safety Program stops subsidizing motorcycles and demands the return of the state loaned motorcycles currently in use, equipment and other resources to sponsors it is estimated that 85% of current training sites will have to stop providing training as small sites could not afford to purchase the needed equipment to support training. The Providers that are able to purchase equipment and supplies (approximately \$40,000 per site) would be forced to raise tuition to approximately \$400 per student. Fewer training sites and the increase cost for training will force the demand for an alternative to taking the course to be implemented.

If the current law for training is repealed and DPS has to administer the road and written test to ensure riders are licensed, the fiscal impact on DPS will be about 2.4 million per year. DPS will have to hire additional FTEs to keep up with the added work. Each major DPS office will have to hire licensing examiners to fill this void. This is in direct conflict with the Commissions number one issue in their report "Issue 1 DPS Has Not Maximized Its Resources to Adequately Improve Driver License Customer Service"

It's absolutely imperative that we keep the current staff of the Motorcycle Safety Program. They are considered experts in their field on a state and national level. They are not limited to one area of expertise in the area of motorcycle training. This is their profession, they do what is listed in their job classification, but they are dedicated to motorcycle training and motorcycle safety. It is important that this group of people are retained as they are the sponsors and instructors "go to" for quality assurance, training questions, support and all curriculum related questions.

The unit is a specialized team; however, the program needs additional personnel to address the ever-growing motorcycle riding population in all areas of the state. Although there are contracted persons that do some quality assurance, there is a gap in services. In the coming year quality assurance for the new curriculum needs to be in place, however when there are problems, the unit is already overtaxed when it comes to following up on every issue.

Finally, there is no indication how the 16.8 million dedicated fund will be spent if this unit is essentially dissolved, nor is there any recommendation of repealing the \$5 dollar fee each motorcyclist pays upon renewing their license. The fund is not supported by a tax levied on all Texans, it is paid into by motorcyclists for motorcyclists to benefit motorcyclist. To use this fund for any other purpose would at best, be theft.

The rush to make changes to a program that has been serving the needs of the motorcyclist community places this growing population at a greater risk of harm. I would recommend the Commission keep the Motorcycle Safety Program in its current position and allow it to be funded as it has been intended to through the dedicated funds. If the recommendations of the Commission are realized they will be placing motorcyclist lives at risk, fatalities will increase, and training quality will decrease, if it exists at all. We will be set back where we were 35 years ago.

**From:** [Sunset Advisory Commission](#)  
**To:** [Trisha Linebarger](#)  
**Subject:** FW: Public Input Form for Agencies Under Review (Public/After Publication)  
**Date:** Thursday, May 10, 2018 4:14:47 PM

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-----Original Message-----

From: sundrupal@capitol.local [<mailto:sundrupal@capitol.local>]  
Sent: Thursday, May 10, 2018 4:14 PM  
To: Sunset Advisory Commission <[Sunset@sunset.texas.gov](mailto:Sunset@sunset.texas.gov)>  
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: DEPARTMENT PUBLIC SAFETY DPS

First Name: Donna

Last Name: Fullilove

Title: Texas motorcyclist 20+ years/nationally certified Texas approved rider coach instructor

Organization you are affiliated with:

Email

City: Austin

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or Opposed:

Texas Motorcycle Operators at risk of losing money and training.

This will affect all motorcycle riders in Texas.

The Sunset Commission has recommended the Motorcycle Safety Unit that has been providing motorcycle training to new, returning riders and those seeking advanced training for 35 years be moved from under The Department of Public Safety to Texas Department of Licensing and Regulation. TDLR currently oversees a number of programs such as elevator safety, barbering, cosmetologist, midwives, driver's education, and podiatry just to name a few. None of these programs have the risk to participant safety that motorcycle training does. With the potential move to TDLR, The Motorcycle Safety Program will essentially be dissolved. The Commission has made recommendations that will all but shut down motorcycle training in Texas. We as a riding community throughout the state, have worked hard every legislative session to increase motorcycle rights and raise awareness for those that ride. We will lose a lot of our power at a legislative level and the training that we fought so hard to have passed as a requirement for licensure. This change, if approved, has the potential to set back the progress we have made in motorcycle training in Texas.

The Commission states in their report that DPS waste state resources by providing material and the supplies needed to for motorcycle training in Texas. What many motorcyclists don't realized is \$5 of every motorcycle license renewal is placed in a dedicated fund that is supposed to be used for motorcycle training (Transportation code Sec 662.011). This fund is funded by motorcyclist, for motorcyclist and is to be used for motorcycle training. This fund currently sits at 16.8 million. The Motorcycle Safety Program has never been allowed to have their budget funded by the dedicated fund. The Commission wants to restructure the Motorcycle Safety Program with no mention of what happens to the 16.8 million.

I have taken the liberty of summarizing the Commission's report and addressing some of the major issues with the proposal of change. My comments are in italics and in a larger font. Please feel free to find the report at <https://www.sunset.texas.gov/reviews-and-reports/agencies/departement-public-safety-dps>

Written testimony has to be submitted by May 10, 2018. Public hearings are tentatively scheduled for May 23rd and 24th. Your voice must be heard to maintain our standing in Texas.

## Issue 6

**DPS Management of the Motorcycle Safety Program Wastes State Resources Background** In 1983, the Legislature established a motorcycle operator training and safety program, leaving the governor to designate a state agency to administer the program. Governor Mark White designated the Department of Public Safety (DPS) to be that agency. In 1989, Governor William Clements designated DPS to administer an all-terrain vehicle (ATV) safety program to make courses available in basic training and safety skills for operating an ATV. To legally operate a motorcycle in Texas, a person must complete a DPS-approved motorcycle safety course and, if under age 18, also pass a skills test and complete minimum driver education requirements. To legally ride an ATV on public lands or beaches, a person must complete a DPS-approved ATV safety course.

While DPS has largely contracted out administration of the much smaller ATV program with a national nonprofit organization, the agency uses nine full-time staff and four contracted staff to administer the motorcycle safety program. The program spent almost \$2.3 million in fiscal year 2017, almost all of which came from the Motorcycle Education Fund. A portion of each motorcycle license fee is deposited to the fund, which had a balance of \$16.8 million at the end of fiscal year 2017.

The department licenses or contracts with 79 sponsors — which can be nonprofit organizations like community colleges or private businesses like motorcycle dealers — that provide space to conduct the safety courses. The department also trains and approves instructors who teach motorcycle safety courses using the curriculum developed by the Motorcycle Safety Foundation (MSF), a national nonprofit organization dedicated to motorcycle safety education. Only a state approved instructor can be hired by a sponsor to teach motorcycle courses. Department staff also provide about 30 training courses each year in rural parts of the state using two mobile teams and, along with contracted trainers, conduct quality assurance audits.

Almost 34,000 individuals took the motorcycle safety course in 2017. The department caps the course fee students pay to contracted sponsors at \$250, and all sponsors keep the entire fee.

DPS Motorcycle and ATV Safety Training, provides more detail about the programs' activities.

DPS Motorcycle and ATV Safety Training 2017 Motorcycles Sponsors 79 Training Sites 275 Instructors 378 New instructors trained by DPS 23

Persons trained (motorcycle operators training)	33,911
Audits of sponsors	34
Enforcement actions	5
ATV Instructors	142
ATV Persons trained	1,027

## Findings

Texas continues to have an interest in providing motorcycle safety training.

Texans continue to benefit from proper motorcycle safety training.

Motorcyclists are about 27 times more likely than passenger car occupants to be involved in a fatal motor vehicle accident, according to the National Highway Traffic Safety Administration, and a recent Texas study found that about one in every four motorcycle crashes were fatal between 2010 and 2016.

Proper understanding of motorcycle operation and safety provides a first line of defense against tragedies. Also, Texas receives about \$300,000 annually in federal transportation funding that it would lose if the program ceased to exist. Texas uses this federal funding to promote motorcycle awareness and safety.

Providing material support to private motorcycle training providers wastes public resources.

Providing material support for private motorcycle training does not waste public resources. Private motorcycle

training providers are a resource for the department, these providers are necessary to carry out the mission of offering training across the state of Texas required for motorcycle licensure. Obviously, the state doesn't want its employees to do this, the state has contracts with individuals (sponsors) that are willing to do it.

The sponsors are not delivering their program, they are delivering our program, the program that Texas requires for licensure. The sponsors must find suitable locations for training (most sponsors do not own the land they train on, they have land lease agreements), hire qualified trained instructors that meet the requirements for training. Once the requirements for providing a training site is met, the state provides the sponsor all the resources possible for them to carry out our mission (to administer the state requirement for licensure set by law) and support them in any way that they can to ensure a high integrity, good safe program is delivered to students.

The department has not appropriately administered the motorcycle safety program. The department provides the majority of sponsors — mostly private businesses — with significant material support at no cost, spending state funds to subsidize the private sector. This support has included helmets, traffic cones, and even loaned motorcycles, although DPS is not required or directed to provide this assistance. Further, DPS does not have rules or policies that outline how motorcycles are loaned to sponsors or how many motorcycles may be loaned to a single sponsor. As of January 2018, DPS had loaned more than 800 state-owned motorcycles to 36 sponsors, with a single sponsor receiving 227 of them.

DPS has loaned more than 800 state-owned motorcycles to 36 training course sponsors.

The state provides motorcycles for the program to ensure that safe motorcycles are available for student use, especially since the BRC is required by law to become licensed. It is the duty for the State of Texas to ensure the program is safe and part of that safety is having a good, suitable, safe motorcycle operating correctly for someone to learn these important skills. Motorcycles are loaned to all sponsors, many sponsors supplement their fleet with state owned motorcycles. The Motorcycle Safety Unit looks at training sites throughout the state, those identified as being in critical need areas have the first priority. Loaning state motorcycles are an important part of keeping the tuition down and affordable for students to participate and to become licensed.

The sponsor mentioned above, having 227 state owned motorcycles, has 58 training sites in Texas. The training sites are located from El Paso to Beaumont, Magnolia to Denton. The state-owned bikes in this sponsor fleet averages to 4 state owned motorcycles per site. The Commission failed to acknowledge the fact the sponsor also has 300+ of their own motorcycles in use at those sites. State owned motorcycles used by this sponsor account for less than 50% of their training fleet. This sponsor also averages 20% of the overall training in Texas any given year.

Essentially, DPS helps keep sponsors and instructors in compliance with MSF standards. When MSF updated its curriculum in 2017, which included changes to the design of the training range for riding instruction, DPS spent \$104,000 on paint, in addition to staff time, to repaint training ranges for sponsors. The department also provides traffic cones, instructional materials, and promotional items, like pens, to sponsors. In total, DPS spent over \$525,000 in material support for instructors and sponsors in fiscal year 2017, detailed in the pie chart, DPS Spending for Material Support. The department spent just under \$60,000 on material support the previous year in anticipation of the fiscal year 2017 expenses.

Instructional material includes student handbooks and instructor guides that a majority of other states require sponsors to purchase themselves.

According to DPS, material support was initially intended to temporarily assist the motorcycle safety training industry as it got off the ground until it became self-supporting. However, DPS has continued this practice, giving motorcycle training providers little reason to take on these costs.

Looking at the cost of program delivery in this report is skewed. There is no mention of the 35 years the program was underfunded. No other years of program delivery have been considered when evaluating the motorcycle safety unit for this report. 2017 was a unique year as it met the first curriculum change in the delivery of the motorcycle safety program since 2003, the first in 14 years. The update had to be delivered as the "old" program would no longer be supported. Again, in keeping with the legal requirement for licensure, the update had to be delivered to all 79 sponsors, 378 instructors and 275 sites had to be transitioned to the new curriculum. This included new support materials and paint. The Motorcycle Safety Unit provided these updates behind the national norm, other states began using the updated MSF curriculum beginning in 2014. Texas was behind in updating the curriculum due to budgetary limitations as they were underfunded in previous years.

Therefore, it would be reasonable that the 2017 expenditures would far exceed other years. In keeping with the mission of offering training across Texas it was necessary to provide the updated resources needed to maintain the standards set by the State of Texas. Again, sponsors are not delivering their program they are delivering the State of Texas Motorcycle Safety Program on behalf of the State. The training program that was implemented is to design to provide the highest quality of training to motorcyclist.

It's has been suggested that the motorcycle program is not currently self-sufficient and relies on taxpayer dollars to operate. The dedicated fund which is mentioned in the Background section now sits at 16.8 million, this fund grows



approximately 1 million per year from motorcycle licensing fees.

This has been funded by motorcyclist, not the taxpayers. Every motorcycle license includes a 5.00 fee that goes into the Motorcycle Education Fund.

This fund is from motorcyclist, by motorcyclist, for motorcyclist. If the Motorcycle safety program was funded like it was supposed to there are no taxpayer funds used.

The Transportation code Sec 662.011, establishes the fee that is collected.

That fund which was designed to be used for motorcycle training currently has

16.8 million, historically the Motorcycle Safety Program has not been funded with those dedicated funds. After 20 years of attempts to have the program funded by these funds, the legislation appropriated 2 million per year to be designated to this program. Recently the program was adequately funded by those funds, however by the second biennium the governor vetoed half of the funding because the motorcycle safety initiative and funding was hid on a line item along with the Highway Patrol's safety and education budget so it was vetoed. Half of Motorcycle Safety Program dedicated funding it was vetoed. Although this was not intentional, the unintended consequence was once again inadequate funding of the unit.

The sunset commission actually only looked at one year, the one year evaluated was the year the program was adequately funded. Had the program been adequately funded by the dedicated funds in the past as it should have been, the Motorcycle Training Program playing catch up would not have occurred in 2017. A lot of money was appropriate for that biennium because the program needed it, they had to change the curriculum, they needed new motorcycles, as motorcycle were failing in the field. Had the commission looked at the last 10 – 15 years they would have found that funding has been at best sporadic. There are a number of years they program couldn't buy anything or fund any changes.

DPS Spending for Material Support FY 2017 Paint \$104,141(20%) Promotional Items \$48,170 (9%) Traffic Cones \$19,676 (4%) Helmets \$12,528 (2%) Instructional Material \$340,927 (65%)  
Total: \$525,442

DPS oversteps its role in motorcycle safety training.

Questionable involvement in instructor training. Statute authorizes DPS to determine the qualifications for instructors and certification requirements but does not require DPS to provide the training to qualify instructors. However, DPS is heavily involved in training motorcycle instructors and now hosts nine-day training courses for motorcycle instructors following a curriculum developed by MSF. Four DPS staff are MSF-certified instructor trainers and travel throughout the state to show instructors how to teach the MSF basic motorcycle course to prospective students. Department staff trained 23 new instructors in 2017. Courses cost \$200, and instructors who complete the DPS course qualify for both national certification through MSF and state approval by DPS to teach motorcycle training courses.

Some oversight of instructors is appropriate. The department's main contributions to regulation — checking criminal history and driving records and enforcing DPS rules — serve a valuable public interest by ensuring instructors provide safe, competent motorcycle lessons. As shown in the table, Enforcement Actions, DPS takes little enforcement action against instructors, mostly for expired MSF certification. However, both sponsors and instructors must adhere to a set of ethics rules. These licensing and enforcement functions are traditional state responsibilities, whereas training the individuals who are eventually regulated by the people who trained them is not. For example, the Texas Department of Licensing and Regulation (TDLR) — the state's umbrella regulatory licensing agency — approves instructors, providers, and courses for its driver training, massage therapy, and offender education programs, but does not train instructors for any of those programs. Likewise, the Texas Commission on Fire Protection approves providers and courses for education of its licensees but does not train instructors.

The reason the motorcycle safety program provides training to new instructors is to keep and maintain the integrity of the program high and set high expectations and standards. Instructors are trained as professionals, by professionals. This can be compared to the DPS law-enforcement Academy, the academy doesn't send their troopers to be trained by a third-party, they train them in house. They also evaluate, determine violations and sanctions against those in violation. Just like any professional group that adheres to a standard of training, who better to determine violations than by those professionals who trained them and set the program standards.

The Commission makes a point to show there is a low number of sanctions against those in violation of program standards, indicating inadequate oversight. The commission fails to address the fact that in 2017 the program was focusing its personnel and resources on updating an outdated curriculum across the state. The staffing of the

program is inadequate when looking at the size of the program, the number of sponsors/instructors to be evaluated and the location of training sites and the staff is simply overtaxed when it comes to these areas. The commission also fails to realize that the lack of sanctions in 2017 could actually be a reflection of the implementation of the new curriculum and training. Sponsors/instructors willing to participate in the update showed a continued commitment to continue training. There were a number of instructors that failed to meet standards with the new curriculum update, their licensures were simply allowed to expire. These instructors are not reflected in the Commissions report.

Enforcement Actions	Violation FY 2017	FY 2016	FY 2015	Sponsor Ethics	Violation	2	0	0	Instructor Ethics
Violation	3	2	3	Expired MSF Certification	0	22	50	Suspended Driver License	0
	0	0	1						
Total	5	24	54						

The private sector can provide motorcycle safety courses.

The established population of approved motorcycle training instructors makes it unnecessary for the state to expend limited funds and resources to provide training. DPS provides about 30 motorcycle safety courses each year to almost 190 students primarily in rural areas through two mobile units. The department assigns each mobile unit a pickup truck, trailer, and several motorcycles to use in courses. However, with 378 state-approved instructors across Texas, including rural areas of the state, DPS does not need to be a provider in the industry it regulates. Rather, private market forces should be allowed and expected to provide services to meet the demand of consumers, in this case students willing to pay for motorcycle safety training.

The private sector is providing the motorcycle safety course on behalf of the State of Texas. However even with a large number of instructors that are currently certified to teach, there are still not enough instructors. The assumption that an individual instructor will provide a site for training is unreasonable as most instructors are employed part time in areas that support full time sites. This means the site provides training on a regular basis and not an as needed basis.

The mobile unit offers training to Texas residents in rural areas of the state. These areas don't typically have the population needed to make private sector training available or feasible. The estimated cost for a training site is \$40,000 for bikes and materials, add the cost of an instructor, lodging, per diem and securing a land lease for motorcycle training that may occur every other month if there is enough local interest, this would not be cost effective. Currently the mobile unit, when not conducting curriculum updates as they did in 2017, has the potential offer 72 classes per year at seven sites. Sponsors in those areas are currently in an administrative role, managing student enrollment with a portion of the course fees being returned to the general fund after the state is reimbursement for the state employees travel expenses. This program is structured to defray the cost of administering the program. Surely if there were enough demand in these areas private entities would have surely have stepped in to meet the demand.

The Texas Department of Licensing and Regulation could better administer and oversee the motorcycle and ATV safety programs.

The Texas Department of Licensing and Regulation regulates more than 738,000 individuals and businesses in a variety of trades and professions and has proven itself through successfully receiving and streamlining 23 regulatory programs transferred to the agency since 2001. TDLR also has experience administering programs similar to the motorcycle and ATV safety programs. In 2015, the Legislature transferred the parent-taught driver education program from DPS and the driver education and safety program from the Texas Education Agency, including regulation and oversight of driver education instructors, to TDLR. Since being transferred, this program has fared well. TDLR has streamlined and simplified rules, offers more services online for consumers, and is developing the nation's first driver education course in American Sign Language.<sup>6</sup> Apart from this experience improving a similar program, TDLR offers a statewide presence with inspectors in every part of the state that oversee many different businesses and industries. As the state agency with the most institutional knowledge about licensing private businesses and providing consumer protection, TDLR would be a more appropriate choice to house the motorcycle and ATV safety programs. The programs would receive more attention at TDLR than at DPS, which is appropriately more focused on its important law enforcement responsibilities.

#### Recommendations

##### Change in Statute

##### 6.1 Transfer the motorcycle and ATV safety training programs to the Texas Department of Licensing and Regulation.

This recommendation would transfer responsibility for the motorcycle and ATV safety programs to TDLR no later than September 1, 2019. As part of this recommendation, DPS should provide TDLR access to any information, records, property, or data necessary for the transfer of the programs. This recommendation would also name TDLR as the agency responsible for administering the motorcycle and ATV safety training programs in statute, removing the requirement that the governor designate a state agency responsible for program management. TDLR's

regulatory expertise in providing consumer and business services would provide more efficient administration and oversight of these programs and would allow DPS to focus on its core law enforcement functions. The recommendation would also direct Sunset staff to work with staff from the Texas Legislative Council and TDLR to draft legislation that ensures an orderly transfer of these programs and conforms these programs with TDLR's regulatory model including removal of outdated staffing requirements and harmonizing conflicting statutory requirements.

The assumption that TDLR could better manage the Motorcycle Safety program is incorrect. The TDLR's role is to regulate, they are not an advocate of Motorcycle Safety. Nor will they promote Motorcycle Safety, they would simply attempt to regulate the industry which will not be feasible. They are not trained instructors, they have never coached, therefore they would not know what correct or incorrect application of the approved motorcycle training course is. They would have no way to maintain quality insurance as it currently stands. The commission says the quality insurance should remain intact, the TDLR has no way of accomplishing this goal.

The ATV program would be better served at the Texas Parks and Wildlife Department due to the fact that they are the agency that is connected to public lands. They also have an OHV sticker program/training and they are already involved in off-highway usage. The ATV program would be better served by this department as they are the only other state agency with an ATV interest.

#### Management Action

6.2 The department and TDLR should develop a transition plan for the transfer of the motorcycle and ATV safety training programs.

Transition planning should begin upon passage of the legislation, and the transition plan should include • a timetable with specific steps and deadlines needed to carry out the transfer; • a method to transfer all program and personnel records to TDLR; • steps to ensure against any unnecessary disruption to services to sponsors, instructors, and students; and • other steps necessary to complete the transition of programs.

6.3 Direct DPS to discontinue subsidizing motorcycle safety training course operators.

This recommendation would eliminate the practice of lending motorcycles to sponsors and providing other material support. In accordance with provisions of the state surplus property program and other state requirements, DPS would develop and implement a plan to dispose of its loan motorcycles by August 31, 2019, before the program transfers to TDLR. The department could maintain as many motorcycles as needed to continue training its own staff. The department would report to the Sunset Commission the status of its implementation of this recommendation by October 1, 2019.

If the Motorcycle Safety Program stops subsidizing motorcycles, equipment and other resources to sponsors it is estimated that 85% of current training sites will have to stop providing training as small sites could not afford to purchase the needed equipment to support training. Providers that are able to purchase equipment and supplies (approximately \$40,000 per site) would be forced to raise tuition to approximately \$400 per student. Fewer training sites and the increase cost for training will force the demand for an alternative to taking the course to be implemented. This will likely cause the repealing of the mandatory training law, which will force DPS to go back to road testing and administering a written test.

If the current law is repealed and DPS has to administer the road and written test to ensure riders are licensed, the fiscal impact on DPS will be about

2.4 million per year. DPS will have to hire additional FTEs to keep up with the added work. Each major DPS office will have to hire licensing examiners to fill this void. This is in direct conflict with the Commissions number one issue in their report "Issue 1 DPS Has Not Maximized Its Resources to Adequately Improve Driver License Customer Service"

6.4 Direct DPS to discontinue providing motorcycle safety training.

Under this recommendation, the state would no longer provide instructor training or motorcycle safety courses. To minimize disruption to the industry and students, DPS would phase out its instructor training and safety courses no later than August 31, 2019. The department, and then TDLR, would continue to approve sponsors and instructors to provide motorcycle safety courses, and conduct quality assurance audits. Maintaining this regulation would ensure Texas continues receiving federal transportation funds for motorcycle safety awareness. The department would report to the Sunset Commission its implementation of this recommendation by October 1, 2019.

## Fiscal Implication

Overall, these recommendations would have a positive fiscal impact of

\$463,000 annually beginning in fiscal year 2020 and a reduction of three full-time positions through the elimination of material support to the private motorcycle safety industry and reduced motorcycle safety program staff.

Recommendation 6.1 to transfer oversight of the motorcycle and ATV safety programs to TDLR would not result in a fiscal impact to the state.

Accounting for the cost savings and eliminated full-time positions identified below, TDLR would be able to administer the program with six staff positions that would transfer from DPS to TDLR with these programs, along with about

\$418,000 in associated salaries and benefits. The ATV safety program currently operates through a no-cost cooperative agreement with the All-Terrain Vehicle Safety Institute, which could be continued at TDLR.

Recommendation 6.3 would eliminate the state's subsidies for motorcycle course providers, resulting in a savings of about \$292,000 in materials and supplies each year beginning in fiscal year 2020. Additional one-time gains to general revenue could be achieved if DPS sells the 802 motorcycles currently on loan to motorcycle training sponsors, but the resale value of these motorcycles cannot be estimated at this time.

Recommendation 6.4 would also result in a positive fiscal impact of about \$171,000. Ending instructor education programs would reduce the need for MSF-certified instructor trainers on staff, but three of those positions could be repurposed as inspector positions at TDLR. The reduction of one instructor trainer would result in a savings of about \$70,000 in salary and benefits beginning in fiscal year 2020. Additionally, eliminating DPS' mobile training groups would eliminate the need for two mobile training specialist positions, one of which TDLR could replace with a customer service representative, resulting in a reduction of one full-time position and savings of about \$56,000 in associated salary and benefits.

The department would determine how to use or dispose of the mobile training equipment, which could result in one-time gains to general revenue. However, the resale value of these materials is unknown. The reduction in workload would also reduce the need for administrative assistance, resulting in a cost savings of about \$45,000 and eliminating one full-time position. The department also contracts with four instructor trainers who conduct quality assurance audits of sponsors and instructors. However, Texas has a continuing need for quality assurance of motorcycle safety courses, so these funds should remain with the program.

It's absolutely imperative that we keep the current staff of the Motorcycle Safety Program. They are considered experts in their field on a state and national level. They are not limited to one area of expertise in the area of motorcycle training. This is their profession, they do what is listed in their job classification, but they are dedicated to motorcycle training and motorcycle safety. It is important that this group of people are retained as they are the sponsors and instructors "go to" for training questions, support and all curriculum related questions.

It is also important to understand that each one of these job positions are cross designated. For instance one of the mobile instructors is also a chief instructor that works in all areas of the program. This trainer was one of the primary instructors that provided updates across the state, provided training in the mobile unit, oversaw site transitions to the new curriculum, trained state employees, conducting TAV's and worked in other areas identified as in need of his expertise. The unit is a specialized team; however, the program needs additional personnel to address the ever-growing motorcycle riding population in all areas of the state. Although there are contracted persons that do some quality assurance, there is a gap in services. In the coming year quality assurance for the new curriculum needs to be in place, however when there are issues, the unit is already overtaxed when it comes to following up on every issue.

Finally, there is no indication how the dedicated fund will be spent once this unit is essentially dissolved. There is nothing that addresses the strong probability of the increase in motorcycle fatalities if the current sites are financially no longer able to provide training. The rush to make changes to a program that has been serving the need of the motorcyclist community places this growing population at a greater risk of harm. I would recommend the Commission keep the Motorcycle Safety Program in its current position and allow it to be funded as it has been intended to through the dedicated funds.

If the recommendations of the Commission are realized they will be placing motorcyclist lives at risk, fatalities will increase, training quality will decrease, if it exists at all. We will be set back where we were 35 years ago.

Any Alternative or New Recommendations on This Agency: Leave agency as is under DPS. Allow funding of unit to be made through dedicated fund.

My Comment Will Be Made Public: I agree