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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 735
DEPARTMENT OF TRANSPORTATION
DRIVER AND MOTOR VEHICLE SERVICES DIVISION

FILED

09/29/2023 12:11 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Commercial Driver Training Schools and Instructors

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/21/2023 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

Oregon Laws 2023, chapter 400, sections 24 to 29, and 34 (HB 2099), repealed ORS 822.505, 822.510, 822.520, 822.525, 822.530 and 822.534. The legislation also amended ORS 822.515 to permit DMV, by rule, to provide for the issuance of commercial driver training school certificates and driver training instructor certificates. This includes: the form and manner of the application, the minimum qualifications for the commercial driver training school certificate, grounds and procedures for the denial of a certificate, requirements for the location of the place of business and location of facilities, requirements for records retention, vehicle equipment standards, courses and standards of instruction, requirements for character of school operators and instructors, and any other matters the department considers necessary for the protection of the public.

These proposed rules prescribe the form and manner of the application, the minimum qualifications for the driver training instructor certificate, grounds and procedures for the denial of a certificate, criteria for revocations, suspensions and cancelations, and other matters the department considers necessary for the protection of the public. DMV moved all requirements that were in statute into rule. The only changes DMV proposes to make to the program is to remove language regarding correcting a certificate, remove language regarding supplemental certificates, move from a sanction matrix to a sanction structure outlined in the rules, and require commercial driver training school operators to pay for the criminal background check for their current and potential employees.

DMV proposes to amend OAR 735-160-0003 to remove references to statutes that have been repealed and to insert statutory references that now apply. DMV is also making other changes for clarification.

DMV proposes to amend OAR 735-160-0005 to remove the definitions of "code of ethics and rules of conduct violation," "corrected school certificate," "corrected instructor certificate," "instructor card," "Supplemental school certificate," "traffic crime," and "warning;" add the definition of "criminal background information;" and amend the

defined terms of "cancellation," "revocation" and "suspension." The new defined terms are "cancel," "revoke," and "suspend." DMV is also making other changes for clarification.

DMV proposes to amend OAR 735-160-0010 to correct references, make minor grammatical changes, remove terms no longer relevant, remove sections referencing a driver's fitness, and remove an operator's ability to include an explanation of the crime or evidence of intervening circumstances since the conviction when the operator has been convicted of a crime listed in the rule.

DMV proposes to amend OAR 735-160-0011 to make minor grammatical changes, insert additional requirements for operator's who are applying for an original or renewal school certificate, clarify that a bond shall be filed and held by DMV, update the grace period provided by DMV when all requirements are received by DMV prior to the expiration of the existing certificate.

DMV proposes to amend OAR 735-160-0015 to make minor grammatical changes; clarify how an operator may notify DMV; clarify the definition of "intoxicant;" require operators to obtain Commercial Driver Training School Feedback forms and distribute the forms to their students. The operators will also be required to have an active email address and internet access.

DMV proposes to amend OAR 735-160-0020 to update the language regarding what is permissible for schools to promote in order to gain business, remove the requirement to have access to the most current Oregon Vehicle Code statutes and the most current Administrative Rules relating to driver licensing, require the school to notify DMV of any changes in location prior to conducting business from the new location; remove information regarding issuance of a supplemental school certificate.

DMV proposes to amend OAR 735-160-0030 to remove the requirement that a commercial driver training school keep a copy of the school grievance procedure for handling student or parent complaints, maintain a monthly list containing information from OAR 735-160-0030(2)(a), (b), (c) and (d) for students that participate in driver training. DMV is also requiring the school to make available all records immediately upon request.

DMV proposes to amend OAR 735-160-0035 to clarify when DMV will inspect schools, update references, and make minor grammatical changes.

DMV proposes to amend OAR 735-160-0040 to amend the requirements for motor vehicles owned or leased by a school for behind-the-wheel instruction, remove the exemption for motorcycles and mopeds from the compliance requirements in subsection (1)(a), (d) and (h) of the rule.

DMV proposes to amend OAR 735-160-0050 to require schools to use ODOT or DMV approved curriculum resources to administer the school's programs and permit the schools to use alternative curriculum as long as it is approved by DMV in writing prior to use by the school. Clarify the minimum requirements a school must use when providing behind-the-wheel instruction.

DMV proposes to amend OAR 735-160-0075 to make minor grammatical changes, require instructors to have valid driving privileges for at least three of the last five years, rearrange the rule for clarity, and remove information that is no longer needed regarding answering "yes" to medical questions on the application because DMV no longer asks those questions. DMV is also removing the option for people who are convicted of crimes to include an explanation of the crime, evidence of intervening circumstances since a conviction or suspension because DMV has no practical way to evaluate intervening circumstances to grant or deny exceptions to DMV requirements.

DMV proposes to amend OAR 735-160-0080 to update the requirements for applicants of an original or renewal instructor certificate.

DMV proposes to amend OAR 735-160-0095 to update commercial driver training school instructor responsibilities.

DMV proposes to repeal OAR 735-160-0100 because the legislature removed DMV's authority for the rule.

DMV proposes to amend OAR 735-160-0110 to make grammatical changes.

DMV proposes to amend OAR 735-160-0115 to clarify when DMV may impose a sanction on a commercial driver training school or instructor and what considerations DMV will take when determining which sanction is appropriate. The rule also states when DMV may cancel a commercial driver training school certificate or driver training instructor certificate and for how long the certificate will be suspended.

DMV proposes to repeal OAR 735-160-0125 to delete the matrix of sanctions for school operator and instructor violations. DMV proposes the repeal to provide additional opportunity to assess the severity of program violations and because the existing sanction matrix was impractical, addressed violations that do not occur, and omitted violations that do occur.

DMV proposes to amend OAR 735-160-0130 to update the code of ethics and rules of conduct that schools, operators and instructors must adhere to.

DMV proposes to adopt OAR 735-160-0140 to provide for a customer feedback process.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

HB 2099 enrolled version -

<https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/HB2099/Enrolled>

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

Oregon Laws 2023, Chapter 400 shifted the commercial driver training school and driver instructor programs from statute to rule. The changes made to sanction structure, correcting a certificate, criminal background checks and the supplemental businesses will be applied equally to all Oregonians regardless of race. Because it can be true that racial minorities are stopped, charged, and convicted at rates higher than the group's population would suggest, which may be based on racial bias, DMV acknowledges that there may be a negative effect on racial equity in the context of criminal background checks. It is possible that the additional incidents will prohibit racial minorities from being an instructor at a higher rate than white applicants.

FISCAL AND ECONOMIC IMPACT:

See statements below.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) The proposed rules may have a positive or negative cost of compliance on commercial driver training schools and driver training instructors because DMV is moving away from a sanction matrix and moving to the sanction structure outlined in the rules. As a result of this change, a school or instructor who receives a sanction may incur a longer period where they are not able to provide training, which may result in less income for the school or instructor. Having said that, the change in sanction structure may result in instances where the school or instructor incurs a sanction for a shorter period of time where they are not able to provide training (including no time at all), which could potentially result in increased income for the school or instructor. As a result of these factors, DMV is unable to provide a cost of compliance on schools or instructors, but DMV is able to say that these factors will only apply to schools or instructors that are sanctioned by DMV.

The commercial driver training schools will incur the cost to conduct a background check on their current and potential employees. The average cost per criminal background check is \$25.00 per employee.

DMV will have a positive cost of compliance as a result of the proposed rules because DMV will no longer pay for criminal background checks for a commercial driver training school's employees.

(2) Minor, businesses will incur costs associated with running criminal background checks for their prospective and current employees. There are multiple companies that can conduct criminal background checks and the costs incurred will depend on which company they go through and the number of employees.

(2)(a) 30

(2)(b) The businesses will need to have reporting, recordkeeping and administrative activities as a result of the criminal background checks. DMV does not believe the costs will be significant.

(2)(c) Other than the costs associated with conducting criminal background checks for their employees, this program is a continuation of the repealed statutory requirements. There would be no other change from the current requirements that had previously been set out in statute.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

DMV sent draft rules to 14 organizations representing small businesses. DMV did not receive any responses.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The time from July 27, 2023, when the bill became law (Governor's signature) to January 1, 2024, operative date was not long enough to assemble a RAC and progress through the rule drafting, notice and comment, and official adoption process, which would have left this industry effectively unregulated. The vast majority of this rule-writing is moving the program requirements from statute into rule and further clarifying currently ambiguous language. DMV is also adjusting the rule language to require schools to conduct criminal background checks on their employees and adjusts the sanction structure.

RULES PROPOSED:

735-160-0003, 735-160-0005, 735-160-0010, 735-160-0011, 735-160-0015, 735-160-0020, 735-160-0030, 735-160-0035, 735-160-0040, 735-160-0050, 735-160-0075, 735-160-0080, 735-160-0095, 735-160-0100, 735-160-0110, 735-160-0115, 735-160-0125, 735-160-0130, 735-160-0140

AMEND: 735-160-0003

RULE SUMMARY: DMV proposes to amend this rule to remove references to statutes that have been repealed and to insert statutory references that now apply. DMV is also making other changes for clarification.

CHANGES TO RULE:

Purpose and Exemptions ¶

(1) The purpose of chapter 735, division 160, rules is to outline the requirements for a Commercial Driver Training School Certificate pursuant to ~~ORS 822.515~~ and a Driver Training Instructor Certificate, pursuant to ORS ~~822.530~~15. ¶

(2) Except as provided in ORS 822.500(2) and section (4) of this rule, a person must obtain a Commercial Driver Training School Certificate to operate, for consideration, a business or non-profit enterprise engaged in educating and training persons in the driving of motor vehicles, either practically or theoretically or both. ¶

(3) Except as provided in ~~ORS 822.525(2)~~ and section (4) of this rule, a person must obtain a Driver Training Instructor Certificate if, for compensation, the person teaches, conducts classes, gives demonstrations to or supervises practice in the driving of motor vehicles. This section applies to persons acting on their own behalf, or acting as an operator of or on behalf of, any business, nonprofit enterprise, or school engaged in educating and training persons in the driving of motor vehicles, either practically or theoretically or both. ¶

(4) A person that provides limited driver education or training for a specialized purpose is exempt from the requirement to obtain either a Commercial Driver Training School Certificate or a Driver Training Instructor Certificate. ¶

(5) For purposes of ORS 822.500, ~~822.525~~ and section (4) of this rule, the following are persons who provide limited driver education or training for a specialized purpose: ¶

(a) A rehabilitation specialist engaged in evaluating, assessing or retraining drivers to compensate for a physical or mental condition or impairment. ¶

(b) A provider of a DMV approved accident prevention course offered primarily for insurance discount purposes pursuant to ORS 742.490. ¶

(c) A provider who teaches specialized driving skills to drivers of emergency vehicles as defined by ORS 801.260. ¶

(d) An employee of a government entity, business, non-profit enterprise or school who provides defensive driving training or similar driver safety instruction to employees of the government entity, business, nonprofit enterprise or school who hold valid driver licenses. ¶

(e) A person hired by, or contracting with, a government entity, business, non-profit enterprise or school who provides defensive driving training or similar driver safety instruction to employees of the government entity, business or nonprofit enterprise who hold valid driver licenses. ¶

(f) A federal, state, county or city agency that provides driver safety training to members of the public who hold valid driver licenses, including, but not limited to teaching people how to drive in adverse weather conditions, a safe-driving program or a motorcycle safety program. ¶

(g) A provider of off-the-highway instruction in the operation of off-road racing vehicles to persons holding valid driver licenses. ¶

(h) A provider of off-the-highway instruction in the operation of off-road all-terrain vehicles (ATVs). ¶

(i) A provider of training conducted exclusively over the internet, if no classroom or behind-the-wheel training is conducted at any physical location in Oregon. ¶

(j) A provider of driver improvement or similar driver safety instruction for the purpose of a court order or for a court diversion program. ¶

(k) An insurer, or person acting on behalf of an insurer, who provides defensive driving training or similar driver safety instruction for the purpose of reducing insurance premiums, not used to meet a DMV requirement. ¶

~~(l)~~ Providers of off-the-highway training conducted exclusively for currently licensed drivers who are taking the training to gain specific skills, not used to meet a DMV requirement. Examples of specific skills training include, but are not limited to, hazardous driving conditions training, crash avoidance training or tactical driver training.

Statutory/Other Authority: ~~ORS 184.616, 184.619, 802.010, 822.500, 822.525~~

Statutes/Other Implemented: ORS 822.500, 822.515, ~~822.525, 822.530~~

AMEND: 735-160-0005

RULE SUMMARY: DMV proposes to amend this rule to remove the definitions of "code of ethics and rules of conduct violation," "corrected school certificate," "corrected instructor certificate," "instructor card," "Supplemental school certificate," "traffic crime," and "warning;" add the definition of "criminal background information;" and amend the defined terms of "cancellation," "revocation" and "suspension." The new defined terms are "cancel," "revoke," and "suspend." DMV is also making other changes for clarification.

CHANGES TO RULE:

735-160-0005

Definitions ¶¶

The following definitions apply to terms in chapter 735, division 160, rules.¶¶

- (1) "Behind-the-wheel" instruction means the portion of the training that requires the student to be located in the automobile.¶¶
- (2) "Cancellation" in regards to a School Certificate or Instructor Certificate" means to DMV's declare a School Certificate or Instructor Certificate void with a new certificate obtainable only as defined in OAR 735-160-0115(12).¶¶
- (3) "Code of Ethics and Rules of Conduct Violation" means any violation of the standards established by OAR 735-160-0130. ~~ation by order that a certificate is void.~~ ¶¶
- (43) "Commercial Driver Training School" or "School" means a privately or publicly owned driver training facility in Oregon that has been issued a School Certificate by DMV to provide student drivers behind-the-wheel instruction, classroom instruction or both, for a fee.¶¶
- (54) "Commercial Driver Training School Operator" or "Operator" means the person designated on the School Certificate as the representative responsible for the operation of a Commercial Driver Training School certified by DMV.¶¶
- (65) "Commercial Driver Training School Instructor" or "Instructor" means a person issued an Instructor Certificate by DMV who is an employee of a Commercial Driver Training School, and who teaches, conducts classes, gives demonstrations or supervises the practice of student drivers.¶¶
- (76) "Corrected School Certificate" means a certificate issued based on an application submitted by an Operator to:¶¶
 - (a) Correct or change a school name or address; or¶¶
 - (b) ~~Correct~~ Criminal Background Information" means a copy of a criminal background check rect or change the person designated as the school's Operator.¶¶
- (8) "Corrected Instructor Certificate" means a certificate issued based on an application submitted by an Instructor to:¶¶
 - (a) Correct or change the name or address of the school employing the Instructor; or¶¶
 - (b) ~~Correct or change the Instructor's name or~~ that is completed within the last two years by an organization certified by the National Association of Professional Background Screeners (NAPBS).¶¶
- (97) "DMV" means the Driver and Motor Vehicle Services Division of the Department of Transportation.¶¶
- (108) "Employee" means an individual who may or may not provide services for the school for compensation. For purposes of these chapter 735, division 160, rules, this definition includes an independent contractor.¶¶
- (119) "Instructor Certificate" means a certificate issued by DMV as provided in ORS 822.53015 to a Commercial Driver Training School Instructor to provide, for a fee, student drivers behind-the-wheel instruction, classroom instruction, or both.¶¶
- (12) "Instructor Card" means a Card issued to an Instructor certified by DMV as evidence of Instructor certification, to student drivers for a fee.¶¶
- (130) "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, a territory or province of Canada, any state of the Republic of Mexico or the Federal District of Mexico or foreign government that has legal authority to issue driver licenses.¶¶
- (141) "Permanent classroom facility" means a classroom used on a continuing, ongoing basis.¶¶
- (152) "Revocation" means the termination of the authority granted under a School Certificate or an Instructor Certificate for a specified period, with a new certificate obtainable only as defined under 735-160-0115(117).¶¶
- (163) "School Certificate" means a certificate issued by DMV as provided in ORS 822.515 to a Commercial Driver Training School Operator.¶¶
- (174) "Student driver" or "student" means a person who is receiving classroom or behind-the-wheel instruction, or both, at a Commercial Driver Training School.¶¶

(18) "Supplemental School Certificate" means a certificate issued by DMV that authorizes a school to operate, under the same business name, at an additional business location that is 500 or more feet beyond any other authorized business location of the school. An additional business location includes a location where business records are kept and business activities are conducted but does not include a location where only instruction is provided commercial driver training school.¶

(19) "Suspension" means the temporary withdrawal for a specified period of time of the authority to conduct business or perform instructional activities granted under a School Certificate or an Instructor Certificate.¶

(20) "Traffic crime" means a conviction under Oregon statute or city ordinance, or a comparable statute or city ordinance of any other jurisdiction, for any misdemeanor or felony involving the use of a motor vehicle that may result in a jail sentence.¶

(21) "Warning" means a written correction notice issued by DMV to the Operator or an Instructor of a Commercial Driver Training School that requires corrective action be taken as specified by DMV certificate or an instructor certificate.

Statutory/Other Authority: ORS ~~184.616~~, 184.619, 802.010, 822.515, ~~822.530~~

Statutes/Other Implemented: ORS 822.515

AMEND: 735-160-0010

RULE SUMMARY: DMV proposes to amend this rule to correct references, make minor grammatical changes, remove terms no longer relevant, remove sections referencing a driver's fitness, and remove an operator's ability to include an explanation of the crime or evidence of intervening circumstances since the conviction when the operator has been convicted of a crime listed in the rule.

CHANGES TO RULE:

735-160-0010

Commercial Driver Training School Operator Qualifications ¶

(1) An Operator of the school must be at least 21 years of age and meet the qualification requirements of sections (2) through (7) of this rule described in ORS 822.515 and these OAR 735, division 160, rules. ¶

(2) An Operator must not have a conviction for any of the following crimes: ¶

(a) A traffic crime as defined by ORS 801.545 and OAR 735-160-0005(20). This subsection does not apply if the conviction occurred more than five years preceding the date an application for a School Certificate or Corrected School Certificate is submitted to DMV; ¶

(b) Kidnapping, custodial interference, subjecting another to involuntary servitude, or trafficking in persons as defined in ORS 163.225 through 163.266; ¶

(c) Any sexual offense, with or without force, any offense related to child pornography or any offense compelling or promoting prostitution; ¶

(d) Any crime involving death, injury or threat of injury to another person; ¶

(e) Any crime involving theft, forgery, fraud, falsifying or tampering with records, or racketeering; or ¶

(f) Any crime relating to the unlawful possession, use, sale, manufacture or distribution of controlled substances or alcoholic beverages. ¶

(3) An Operator who has been convicted of one of the crimes listed in section (2) of this rule may include an explanation of the crime or evidence of intervening circumstances since the conviction. DMV may issue a School Certificate if the person is otherwise qualified and DMV determines based on the explanation or evidence DMV determines that the conviction does not affect the person's fitness to be an Operator. ¶

(4) An Operator must not engage in conduct that is substantially related to the person's fitness to be an Operator or that demonstrates unfitness and inability to perform the responsibilities of an Operator. DMV will determine from the facts of the conduct, and the intervening circumstances known to DMV, if the person is fit to perform the responsibilities of an Operator or poses a risk to the safety of others while performing those responsibilities an intoxicant, as defined in Oregon Laws 2023, Chapter 498. ¶

(5) An Operator may not be the operator of any school in Oregon if a School Certificate issued to the operator is currently revoked for an offense described in OAR 735-160-0010(2). An Operator may not be the operator of any school in Oregon if a School Certificate issued to the Operator is currently suspended, revoked, canceled, or withdrawn unless the School Certificate is reinstated or is eligible and the Operator meets all eligibility requirements of OAR 735-160-0010. ¶

(6) An Operator must not have been the operator of any school in another jurisdiction that has been suspended, revoked, canceled, or withdrawn for the same or a similar offense as described in OAR 735-160-0010(2) within five years preceding the date of application for a School Certificate or Corrected School Certificate. DMV will review the results of an operator's criminal history to determine whether the offense is applicable. ¶

(7) The criteria described in this rule apply to a current School Certificate and may provide grounds for suspension, revocation, or cancellation as described in OAR 735-160-0115 if an Operator fails to remain qualified as prescribed under this rule.

Statutory/Other Authority: ORS ~~184.616~~, 184.619, 802.010, 822.500, 822.515, ~~822.530~~

Statutes/Other Implemented: ORS 822.500, 822.515

AMEND: 735-160-0011

RULE SUMMARY: DMV proposes to amend this rule to make minor grammatical changes, insert additional requirements for operators who are applying for an original or renewal school certificate, clarify that a bond shall be filed and held by DMV, update the grace period provided by DMV when all requirements are received by DMV prior to the expiration of the existing certificate.

CHANGES TO RULE:

735-160-0011

Issuance of Commercial Driver Training School Certificate ¶

- (1) An Operator must apply for an original or renewal School Certificate pursuant to ORS 822.515 and must:¶
- (a) Submit a completed application on a form or in a format provided or established by DMV;¶
 - (b) Meet the qualifications listed in OAR 735-160-0010;¶
 - (c) Authorize DMV to ~~obtain~~ conduct the Operator's criminal background ~~information check~~. Criminal background information will only be used to determine Operator qualifications and may be used as evidence in any contested case hearing or appeal as described in section (6) of this rule. Such information will otherwise be kept confidential and not released to any person unless DMV determines a record, or any portion thereof, must be released pursuant to the Oregon Public Records Law, ORS 192.410 to 192.505, or the Attorney General or a court orders disclosure in accordance with the Oregon Public Records Law.¶
 - (d) ~~Submit a School's~~ surety bond issued to the commercial driver training school that permits any person that complies with the requi ~~o~~ have a right of action against the school and against the surety on the bond in the person's own name if the person suffers any loss or damage by reason of the school's fraudulent repre ~~sents of~~ ORS 822.505, on a form prescribed by DMV, and certify that a ~~ations or violation of rules adopted by the department under ORS 822.515 and complies with the following requirements:¶
 - (A) The bond shall have a corporate surety licensed to do business within this state.¶
 - (B) The bond shall be executed to the State of Oregon.¶
 - (C) The bond will remain in effect as long as the School Certificate is valid;¶~~
 - (e) ~~Submit proof of insurance that complies with the requirements of ORS 822.510, on a form prescribed by DMV. It shall be in the sum of \$2,500.~~¶
 - (D) The bond shall be approved as to form by the Attorney General.¶
 - (E) The bond must be conditioned that the person issued the certificate shall conduct business as a commercial driver training school without fraudulent representation and without violation of any rules adopted by the Department of Transportation under ORS 822.515.¶
 - (e) If the school intends to administer behind-the-wheel instruction, submit proof of insurance that complies with all of the following:¶
 - (A) The insurance must be issued to the school.¶
 - (B) The insurance must be issued by an insurance company authorized to do business in this state.¶
 - (C) The insurance must show coverage in the amount of \$100,000 of bodily injury to or death of one person in any one accident, \$300,000 because of bodily injury to or death of two or more Operator must certify that insurance will remain in effect as long as the School Certificate is valid; ~~sons in any one accident, and \$50,000 because of injury to or destruction of the property of others in any one accident.~~¶
 - (D) The policy shall designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is granted.¶
 - (E) The policy shall insure any and all persons against loss from the liabilities imposed by law for damages arising out of the operation, use or maintenance of the motor vehicle when using any motor vehicle owned or operated by the school with the consent of the school.¶
 - (f) ~~Submit the fee required under ORS 822.700; and,~~¶
 - (g) Register the business name with the Secretary of State, Corporation Division and provide the registry number.¶
 - (2h) Submit a schedule of all fees and charges for training services, as well as any cancellation policy maintained by the schools¶
- (2) The bond described in section (1) of this rule shall be filed and held by DMV.¶
- (3) The business location of the School must comply with the requirements of OAR 735-160-0020.¶
- (34) ~~Once issued, a School Certificate is not transferable to any other Commercial Driver Training School.~~¶
- (45) ~~An Operator must submit to DMV a renewal application, all required supporting documents and payment for a School Certificate no later than the last day of the calendar year. If all requirements are received prior to expiration of the existing certificate, DMV will provide a grace period of 45 days for the application to be~~

processed by DMV during which time the existing §school Ccertificate will remain valid. A renewal application that is received after the expiration date of the existing §school Ccertificate will be treated as an application for an original §school Ccertificate.¶

(56) DMV will not issue or renew a §school Ccertificate if:¶

(a) The qualifications or requirements set forth in Chapter ORS 822 and OAR chapter 735 division 160 rules are not met; or¶

(b) DMV determines information contained in the application is incomplete or false.¶

(67) If DMV refuses to issue or renew a §school Ccertificate, DMV will notify the Ooperator in writing. The Ooperator may request a contested case hearing. The hearing is conducted in accordance with the contested case provisions of the Administrative Procedures Act, ORS ~~183.310 to 183.500~~chapter 183, and is subject to the following:¶

(a) A request for hearing must be submitted in writing to and received by DMV within 20 days of the date the refusal notification is mailed to the Ooperator. DMV will not issue a §school Ccertificate pending the outcome of the contested case hearing. If DMV refuses to renew a §school Ccertificate, the expired §school Ccertificate remains valid pending the outcome of the contested case hearing, unless the basis for the refusal is failure to provide or maintain a §school bond or provide proof of insurance, as required, ~~or DMV determines continued operation of the School would constitute a serious danger to the public health or safety.~~¶

(b) Failure to timely request a hearing constitutes waiver of the right to a hearing and no §school Ccertificate will be issued or renewed until the requirements of ORS 822.500 ~~to and~~ 822.515 and the OAR chapter 735, division 160, rules are satisfied.¶

(78) Failure to maintain any of the requirements as prescribed under this rule may result in a sanction as described in OAR 735-160-0115 of a §school Ccertificate issued or renewed in accordance with this rule.

Statutory/Other Authority: ORS ~~184.616, 184.619, 802.010, 822.505, 822.510, 822.515~~

Statutes/Other Implemented: ORS 822.500, ~~822.510, 822.515~~

AMEND: 735-160-0015

RULE SUMMARY: DMV proposes to amend this rule to make minor grammatical changes; clarify how an operator may notify DMV; clarify the definition of "intoxicant;" require operators to obtain Commercial Driver Training School Feedback forms and distribute the forms to their students. The operators will also be required to have an active email address and internet access.

CHANGES TO RULE:

735-160-0015

Commercial Driver Training School Operator Responsibilities ¶

(1) An Operator must:¶

(a) Notify DMV by ~~mail, regular mail or facsimile~~ mail, email or regular mail within ~~10 calendar day~~ 24 hours of any of the following:¶

(A) The location of any permanent classroom facility changes;¶

(B) The School goes out of business and ceases operations;¶

(C) The Operator no longer meets or maintains the qualifications set forth in OAR 735-160-0010;¶

(D) The School does not maintain the requirements set forth in OAR 735-160-0011;¶

(E) An instructor whose employment with the School has terminated; or¶

(F) An instructor employed by the School who no longer meets or maintains the qualifications, responsibilities or requirements set forth in OAR 735-160-0075, 735-160-0080, and 735-160-0095, including an explanation of why the instructor no longer meets the qualifications, responsibilities, or requirements.¶

(b) ~~File an application with DMV for a Corrected School Certificate within 10 calendar day~~ Notify DMV by regular mail or email within 24 hours if the name or address of the School changes or the School Operator's name changes. If the name of the School changes, the Operator must submit bond and insurance documents in the new business name to DMV within ~~thirty (30)~~ 10 days;¶

(c) Make any and all business records, vehicles and facilities related to the operation of the School available for inspection by a DMV inspector in accordance with OAR 735-160-0030. DMV may conduct an inspection with or without prior notice to the School Operator;¶

(d) Establish procedures that reasonably ensure no Instructor or student is under the influence of any intoxicant, as defined in Oregon Laws 2023, Chapter 498 during classroom or behind-the-wheel instruction;¶

(e) ~~Provide student with a copy of, or prominently display in a publicly accessible and conspicuous manner, a complaint procedure that includes DMV contact information~~ Obtain Commercial Driver Training School Feedback forms (DMV form 735-7419) from DMV by emailing thirdpartyprograms@odot.oregon.gov. ¶

(f) Provide student with a copy of the Commercial Driver Training School Feedback form (DMV form 735-7419);¶

(fg) Comply with all statutes, administrative rules, and regulations related to the operation of a Commercial Driver Training School;¶

(gh) Adhere to the Code of Ethics and Rules of Conduct set forth in OAR 735-160-0130;¶

(hi) Authorize only a person ~~that who~~ who has ~~been issued an~~ been issued a valid instructor Certificate, ~~who and~~ and is employed by the School; to provide classroom or behind-the-wheel instruction to a student driver;¶

(ij) Notify DMV by ~~facsimile, email or~~ email or regular mail within 24 hours (excluding weekends and state holidays) of any:¶

(A) Notice of a civil legal action filed against the School, Operator or an instructor which is related to the School's operations; or¶

(B) Criminal investigation, arrest or conviction for an offense described in OAR 735-0160-0010(2); and¶

(jk) ~~If requested, respond to DMV by mail, email or facsim~~ Notify DMV by mail, or email within ~~10~~ 5 calendar days ~~of any customer complaints received by DMV~~ of any customer complaints received by the school.¶

(L) Have an active email address and Internet access.¶

(2) An Operator must not:¶

(a) Falsify or tamper with any records;¶

(b) Act as a Commercial Driver Training instructor unless the Operator has ~~been issued an~~ been issued a valid instructor Certificate by DMV;¶

(c) Transfer or allow any other School or Operator to use the School Certificate issued to the Operator;¶

(d) Knowingly assist a person to fraudulently obtain driving privileges from DMV; or¶

(e) Permit an instructor who works for the School to:¶

(A) Provide classroom or behind-the-wheel instruction to any student driver who is not enrolled in the School. ~~This subsection, but does not apply to~~ include instruction given by an instructor to ~~his or her~~ the instructor's immediate family members;¶

(B) Conduct any behind-the-wheel instruction with any student driver not in possession of a valid driver license or

instruction permit;¶

(C) Provide behind-the-wheel instruction to any student driver on a driving route specifically used by DMV to test applicants for Oregon driving privileges;¶

(D) Provide questions and answers that are identical to a DMV knowledge test during classroom training;¶

(E) Conduct training, if the instructor does not possess a valid driver license from Oregon, or another jurisdiction within the United States.¶

(f) Permit any person under the age of 19 to conduct any instruction; or permit any person under the age of 21 to conduct behind-the-wheel instruction.

Statutory/Other Authority: ORS 184.619, 802.010, 822.505, ~~822.510~~, ~~822.515~~, 822.53015

Statutes/Other Implemented: ORS ~~822.505~~, ~~822.510~~, 822.515

AMEND: 735-160-0020

RULE SUMMARY: DMV proposes to amend this rule to update the language regarding what is permissible for schools to promote in order to gain business, remove the requirement to have access to the most current Oregon Vehicle Code statutes and the most current Administrative Rules relating to driver licensing, require the school to notify DMV of any changes in location prior to conducting business from the new location; remove information regarding issuance of a supplemental school certificate.

CHANGES TO RULE:

735-160-0020

Location and Advertising Promotion ¶¶

- (1) ~~No SA school may have a business location closer than 1,500 feet to any DMV office, unless it has continuously operated in that location prior to the opening of the DMV office.¶¶~~
- (2) ~~No School may not~~ be operated from a liquor store, bar, tent, temporary stand, temporary address, mailing service, or through a telephone answering service.¶¶
- (3) ~~Every SA school~~ must have a business location in Oregon having at least one structure where records required to be maintained are kept and made available for DMV inspection. The ~~S~~school ~~C~~ertificate must list the business location.¶¶
- (4) ~~A Ccommercial Ddriver Ftraining Sschool with more than one business location must, on a form supplied by DMV, apply for and be issued a Supplemental School Certificate for each additional business location not listed on the School Certificate. A supplemental business location must be 500 or more feet from any other business location of the School and must operate under the same business name as that listed on the School Certificate. The Supplemental School Certificate must list the supplemental business location.¶¶~~
- (5) ~~If th~~ notify DMV by regular mail or email of any additional business locations prior to conducting business from that business location.¶¶
- (4) ~~If the primary or sole business location changes, the School DMV must be issued a Corrected Snew school Ccertificate before business may be conducted at the new location. If the name of the School change~~For a business that operates in multiple locations, the ~~S~~school must ~~obtain a Corrected School Certificate and Corrected Supplemental School Certificate for each business~~notify DMV of any change in location before business may be conducted under the new name.¶¶
- (6) ~~Access to the most current Oregon Vehicle Code statutes and the most current Oregon Administrative Rules relating to driver licensing must be available at each business location and supplemental business location prior to conducting business from that location. ¶¶~~
- (5) ~~If the name of the Sschool. The statutes and administrative rules must be made available for view by the public upon request. Access to the statutes and administrative rules may be provided electronically through the internet.~~ changes, the school must obtain a new school certificate. ¶¶
- (7) ~~The following advertising promotion practices must be followed:¶¶~~
- (a) ~~No advertisement, publication, employee or other person affiliated with the School may indicate or imply that A school, operator, employee or instructor may not falsely guarantee DMV will issue driving privileges upon an applicant's enrollment in the Sschool guarantees issuance of driving privileges;¶¶~~
- (b) ~~No employee or other person affiliated with the School may. ¶¶~~
- (b) ~~A school, operator, employee or instructor may not solicit business or cause business to be solicited on its behalf or display or distribute any advertising material within 1,500 feet of any DMV office, unless the business on a premises owned or leased by the DMV without prior written authorization from DMV.¶¶~~
- (c) ~~DMV certification of the Sa school is within 1,500 feet as authorized under section (1) of this rule;¶¶~~
- (e) ~~Snot an endorsement or recommendation by DMV of the school forms, agreements, advertising and business premises signs may say: "This school is certified by the State of Oregon." There may be no suggestion, either its services. A school may not express or implied, y in any form, agreement, advertisement, publication, business solicitation, or business sign promotional material that the Sschool is endorsed or recommended by the State of Oregon or any agency of the State;¶¶~~
- (d) ~~Only the business location or supplemental business location address as it appears on the S. A school may indicate in its promotional material that, "This school Cjs certificate or Supplemental School Certificate may be included in any advertisement or business solicitation;¶¶~~
- (e) ~~No advertisement, publication, or business solicitation may be false, deceptive, or misleading and no employee ered by the State of Oregon." ¶¶~~
- (d) ~~A school may list only the DMV-approved business locations as the address for the business in any school advertisement or business solicitation.¶¶~~

- (e) A school, an employee of the school or any other person affiliated with the school may not disseminate false, deceptive, or misleading information about the school, or authorize others to do the same; ~~¶~~
- (f) ~~Q, in any advertisement, publication, or business solicitation. ¶~~
- (f) A school may list only the school name as it appears on the current school certificate ~~may be used~~ in any publication, form, advertisement, business solicitation, or sign; ~~and ¶~~
- (g) ~~No. ¶~~
- (g) A school advertisement, publication, employee, or other person affiliated with the school may not knowingly encourage any persons who ~~are~~ is not domiciled in or a residents of Oregon to apply for Oregon driving privileges.
Statutory/Other Authority: ORS ~~184.616~~, 184.619, 802.010, 822.515
Statutes/Other Implemented: ORS 822.515

AMEND: 735-160-0030

RULE SUMMARY: DMV proposes to amend this rule to remove the requirement that a commercial driver training school keep a copy of the school grievance procedure for handling student or parent complaints, maintain a monthly list containing information from OAR 735-160-0030(2)(a), (b), (c) and (d) for students that participate in driver training. DMV is also requiring the school to make available all records immediately upon request.

CHANGES TO RULE:

735-160-0030

Commercial Driver Training School Records ¶¶

(1) The records of all student drivers enrolled in any class or course offered by the school must be retained as set forth in this rule, including the records of ~~those~~ student drivers who withdrew or were terminated from the school.¶¶

(2) A student driver record must contain, ~~but is not limited to~~ at a minimum, the following:¶¶

(a) The complete name of the student driver;¶¶

(b) The driver license or instruction permit number of the student driver and the name of the state that issued the license or permit if available;¶¶

(c) The name and Instructor Certificate number of each Instructor who provided training;¶¶

(d) Number of hour(s), date(s) of service, and type of training (behind-the-wheel or classroom) participated in by the student driver;¶¶

(e) All written contracts or agreements, signed by the student driver; and¶¶

~~(f) A copy of the school grievance procedure for handling student or parent complaints, unless grievance procedure is posted in accordance with 735-160-0015(1).¶¶~~

(3) The records of all school instructors, including current and past instructors must be retained as set forth in this rule. An instructor record must contain:¶¶

(a) The instructor's driver license number, copy of completed criminal background information, date(s) of employment with the school, job application or resume; and¶¶

(b) A copy of the Instructor Certificate issued by DMV to the instructor.¶¶

~~(4) Maintain a monthly listing containing information from OAR 735-160-0030(2)(a), (b), (c) and (d) (above) for students that participated in driver training. This list must be made available to DMV upon request.¶¶~~

~~(5) The original student driver records, instructor records and any records documenting compliance with any statutes or administrative rules must be maintained as originals in paper format or electronically for a period of ~~three~~ five years at the ~~business location, or primary~~ business location certified by DMV if the records relate to student drivers or instructors at the supplemental location. For good cause shown or upon a ~~showing of a business necessity,~~ business location. DMV, in its sole discretion, may authorize an operator to maintain the school records at another location within the State of Oregon.¶¶~~

~~(6) Instructor records must be maintained permanently for current employees. After employee separation, instructor records must be kept for an additional ~~three~~ five years after the separation date.¶¶~~

~~(7) All records must be made available to DMV within 5 (five) business days of request, excluding weekends and state holidays immediately upon request.~~

Statutory/Other Authority: ORS ~~184.616~~, 184.619, 802.010, 822.515

Statutes/Other Implemented: ORS 822.515

AMEND: 735-160-0035

RULE SUMMARY: DMV proposes to amend this rule to clarify when DMV will inspect schools, update references, and make minor grammatical changes.

CHANGES TO RULE:

735-160-0035

Inspection and Investigation ¶¶

(1) DMV will periodically inspect a School to determine it is complying with all laws and administrative rules pertaining to ~~C~~commercial ~~D~~driver ~~T~~training ~~S~~schools, including ~~I~~instructor certification and operation requirements.¶¶

(2) All records subject to this rule must be available for inspection by an authorized representative(s) of DMV. DMV may conduct a random inspection of the business premises, records, or equipment of a School to review compliance with Oregon statutes and administrative rules. DMV may give notice and arrange an appointment with the ~~O~~operator prior to an inspection, or may conduct a random inspection without providing notice to the ~~O~~operator during DMV's normal business hours, Monday through Friday, 8 am to 5pm. The ~~O~~operator must consent to and fully cooperate with any inspection.¶¶

(3) Inspections may include examination of:¶¶

(a) All student driver records regardless of whether the student driver completed or failed to complete the ~~S~~school's driver training program;¶¶

(b) The records of current or former ~~I~~instructors employed by the ~~S~~school;¶¶

(c) Any motor vehicles used for training student drivers, to ensure that the vehicles meet the equipment standards of OAR 735-160-0040;¶¶

(d) Any curriculum and instructional materials used to teach or demonstrate how to drive; and¶¶

(e) Those facilities, records, or equipment DMV deems necessary to inspect, in its discretion, to ensure that the ~~S~~school is complying with all applicable provisions of law.¶¶

(4) Refusal to permit DMV to conduct an inspection will result in a sanction imposed pursuant to OAR 735-160-01215.¶¶

(5) DMV may investigate any complaint it receives about an Operator or Instructor. The ~~O~~operator, ~~I~~instructor and employees of the ~~S~~school must cooperate with DMV during the investigation. If requested by DMV, the ~~O~~operator must respond to the complaint in writing and ~~submit~~provide a copy of the response to DMV by ~~mail~~, eregular mail or ~~facsimile~~email within 10 calendar days from the date DMV notifies the ~~O~~operator of the complaint.¶¶

(6) DMV will prepare a written report of each inspection and investigation. A copy of the DMV report, including any sanction or corrective action, will be sent to the ~~O~~operator.¶¶

(7) The ~~O~~operator must correct any deficiency identified by a DMV inspector during an on-site inspection; within 30 calendar days of the date the inspection report requiring corrective action is issued by DMV.

Statutory/Other Authority: ~~ORS 184.616, 184.619, 802.010, 822.515, 822.530~~

Statutes/Other Implemented: ORS 822.515

AMEND: 735-160-0040

RULE SUMMARY: DMV proposes to amend this rule to amend the requirements for motor vehicles owned or leased by a school for behind-the-wheel instruction, remove the exemption for motorcycles and mopeds from the compliance requirements in subsection (1)(a), (d) and (h) of the rule.

CHANGES TO RULE:

735-160-0040

Vehicle Equipment ¶¶

~~(1)~~ Any motor vehicles owned or leased by a ~~S~~school for behind-the-wheel instruction must:¶¶

~~(a)~~ Be equipped with dual controls. Dual controls consist of:¶¶

~~(Aa)~~ A foot brake control for both the student driver and the instructor, connected either by mechanical or hydraulic means; and¶¶

~~(Bb)~~ A clutch control connected either by mechanical or hydraulic means if the vehicle is equipped with a manual transmission.¶¶

~~(b)~~ Be maintained in safe mechanical and physical condition;¶¶

~~(c)~~ Meet the safety equipment standards of the Oregon Vehicle Code, as provided in ORS Chapter 815;¶¶

~~(d)~~ Be equipped with safety belts that meet the standards required under ORS 815.055 and OAR 735-102-0000, for each person in the vehicle;¶¶

~~(e)~~ Have all equipment functioning properly;¶¶

~~(f)~~ Be properly registered in compliance with the laws of Oregon;¶¶

~~(g)~~ Be covered by at least the minimum insurance requirements ~~establish~~required under ~~ORS 822.510~~AR 735-160-0011; and¶¶

~~(h)~~ Be equipped with the following emergency equipment:¶¶

~~(Aa)~~ Fire extinguisher;¶¶

~~(Bb)~~ First aid kit; and¶¶

~~(Cc)~~ Three flares or three red emergency triangles.¶¶

~~(2)~~ Motorcycles or mopeds are not required to comply with subsections ~~(1)(a), (d) and (h)~~ of this rule.¶¶

[Publications: Publications referenced are available from the agency.]

Statutory/Other Authority: ~~ORS 184.616~~, 184.619, 802.010, 822.515

Statutes/Other Implemented: ORS 822.515

AMEND: 735-160-0050

RULE SUMMARY: DMV proposes to amend this rule to require schools to use ODOT or DMV approved curriculum resources to administer the school's programs and permit the schools to use alternative curriculum as long as it is approved by DMV in writing prior to use by the school. Clarify the minimum requirements a school must use when providing behind-the-wheel instruction.

CHANGES TO RULE:

735-160-0050

Curriculum Standards and Courses for Commercial Driver Training School Program ¶¶

(1) The curriculum standards established in sections (2) and (3) of this rule will have the goal of proper training of student drivers to provide maximum safety for all persons who travel or otherwise use the public highways, and to reduce traffic violations and traffic crashes. Schools must use ODOT or DMV-approved curriculum resources to administer their programs. If a school wishes to use alternative curriculum resources, those resources and any future updates to those resources must be approved in writing by DMV prior to use.¶¶

(2) Classroom training ~~may~~must include, but need not be limited to, instruction on:¶¶

(a) Knowledge of Oregon motor vehicle statutes and administrative rules related to the operation of a motor vehicle on public highways and premises open to the public;¶¶

(b) Safe driving practices;¶¶

(c) Driving techniques for different types of roads and road surfaces, and for safe driving near pedestrians, trains, and other vehicles including, but not limited to, cars, trucks, bicycles, and motorcycles;¶¶

(d) Driver responsibility including, but not limited to, automobile maintenance, insurance, use of safety belts and child restraints, passenger safety, and the implied consent laws;¶¶

(e) Defensive driving practices and techniques;¶¶

(f) How the laws of physics affect driving;¶¶

(g) How a driver's physical, emotional, and psychological condition affects driving ability;¶¶

(h) How driver use of alcohol, drugs, inhalants, or other substances affect driving ability; and,¶¶

(i) Dealing with emergency situations and vehicle malfunctions while driving.¶¶

(3) Behind-the-wheel instruction ~~may~~must include, but need not be limited to, instruction on:¶¶

(a) Operation of vehicle controls;¶¶

(b) Performing vehicle maneuvers such as starting, stopping, lane changes, backing, braking, parking, steering, and turning a vehicle under a variety of traffic conditions;¶¶

(c) Managing space around the vehicle by adjusting speed and position to avoid conflicts and reduce risk;¶¶

(d) Processing traffic and vehicle information into speed and position changes based on visual skills, space management, vehicle speed control, and control of road; and¶¶

(e) Precision movements for maintaining vehicle control and balance in expected and unexpected situations based on vehicle speed control, vehicle balance, collision avoidance, traction control, response to mechanical failures, and traction loss.¶¶

(4) During any behind-the-wheel instruction session, the instructor must ensure the following safety requirements ~~must be~~are met:¶¶

(a) Only the student driver operating the vehicle and the instructor shall be seated in the front seats of the vehicle; and¶¶

(b) All vehicle occupants shall use safety belts at all times while in the vehicle.

Statutory/Other Authority: ~~ORS 184.616~~, 184.619, 802.010, 822.515

Statutes/Other Implemented: ORS 822.515

AMEND: 735-160-0075

RULE SUMMARY: DMV proposes to amend this rule to make minor grammatical changes, require instructors to have valid driving privileges for at least three of the last five years, rearrange the rule for clarity, and remove information that is no longer needed regarding answering "yes" to medical questions on the application because DMV no longer asks those questions. DMV is also removing the option for people who are convicted of crimes to include an explanation of the crime, evidence of intervening circumstances since a conviction or suspension because DMV has no practical way to evaluate intervening circumstances to grant or deny exceptions to DMV requirements.

CHANGES TO RULE:

735-160-0075

Commercial Driver Training School Instructor Qualifications ¶¶

- (1) ~~No~~ A person will ~~may not~~ teach, conduct classes, give demonstrations to, or supervise the practice of student drivers for compensation unless ~~the or she~~ the person is issued an ~~instructor C~~ instructor C certificate by DMV. ¶¶
- (2) To be eligible for an ~~instructor C~~ instructor C certificate, or to renew or maintain an ~~instructor C~~ instructor C certificate, a person must meet all of the following requirements: ¶¶
- (a) Be at least 21 years of age to conduct behind-the-wheel training and age 19 to conduct classroom training; ¶¶
- (b) Be an employee of a ~~S~~ S school that holds a valid and current ~~S~~ S school ~~C~~ C certificate issued by DMV; ¶¶
- (c) Have possessed valid Oregon driving privileges, or valid driving privileges from another jurisdiction within the United States, for at least three ~~years of the last five years immediately~~ years immediately preceding the date an application for an Instructor Certificate is submitted to DMV, or valid driving privileges for at least ~~five years~~ three of the last five years immediately preceding the date an application for an ~~instructor C~~ instructor C certificate is submitted to DMV if the person will conduct behind-the-wheel instruction. To be valid, driving privileges must not be suspended, revoked, canceled, or otherwise withdrawn for a ~~viola~~ conviction of a traffic crime ~~described in OAR 735-160-0005(20) and ORS 801.545 at any time within the five-year period.~~ For purposes of these ~~OAR 735-160-0005(20) and ORS 801.545~~ Division 160 rules, a hardship ~~or, probationary, or instruction driver~~ permit does not constitute valid driving privileges. A person who has not held Oregon driving privileges for the periods described above, may be required to submit a certified driving record from each jurisdiction that issued driving privileges during that period; ¶¶
- (d) ~~Not have a conviction for any of the following crimes:~~ ¶¶
- (A) A traffic crime as defined by ORS 801.545 and OAR 735-160-0005(20). This subsection does not apply if the conviction occurred more than five years preceding the date an application for an Instructor Certificate is submitted to DMV; ¶¶
- (B) Kidnapping, custodial interference, subjecting another to involuntary servitude, or trafficking in persons as defined in ORS 163.225 through 163.266; ¶¶
- (C) Any sexual offense, with or without force, any offense related to child pornography, or compelling or promoting prostitution; ¶¶
- (D) Any crime involving death, injury or threat of injury to another person; ¶¶
- (E) Any crime involving theft, forgery, fraud, falsifying or tampering with records, or racketeering; or ¶¶
- (F) Any crime relating to the unlawful possession, use, sale, manufacture, or distribution of controlled substances or alcoholic beverages; ¶¶
- (e) ~~Not engage in conduct that is substantially related to the person's fitness to be an instructor or that demonstrates unfitness and inability to perform the responsibilities of an instructor. DMV will determine from the facts of the conduct, and the intervening circumstances known to DMV, if the person is fit to perform the responsibilities of an instructor or poses a risk to the safety of others while performing those responsibilities; and~~ ¶¶
- (f) ¶¶
- (d) Have received a passing score on the written knowledge test and the certification drive test described in OAR 735-160-0100 if the person is required to take the certification drive test under OAR 735-160-0080(3). ¶¶
- (ge) Currently possess valid driving privileges in Oregon, or another jurisdiction within the United States. ¶¶
- (3) A person is not eligible for an ~~instructor C~~ instructor C certificate, and will not be allowed to renew or maintain an ~~instructor C~~ instructor C certificate if: ¶¶
- (a) The person has a physical or mental condition or impairment affecting the person's ability to teach, give demonstrations, or supervise the practice of student drivers in a motor vehicle; ¶¶
- (b) The person's vision in both eyes, with or without corrective lenses, does not meet a minimum acuity of 20/40. Corrective lenses do not include bioptic telescopic lenses. This requirement does not apply to a person applying to conduct only classroom training. ¶¶

(c) The person's driving privileges are revoked as a habitual offender under ORS 809.600 or any equivalent action in another jurisdiction. This section applies if the person's driving privileges were revoked as a habitual offender and have not been restored under ORS 809.660 or its equivalent in another jurisdiction at least five years prior to the date an application for an Instructor Certificate or Corrected Instructor Certificate is submitted to DMV;¶

(d) The person is enrolled or participating in a DUII diversion program including an equivalent diversion program in another jurisdiction. This section will apply if the person was enrolled or participated in a diversion program anytime within the five years preceding the date an application for an Instructor Certificate is submitted to DMV;¶

(e) The person has had a suspension of driving privileges under a driver improvement program, including an equivalent driver improvement program in another jurisdiction. This section will apply if the suspension occurred within the last three years preceding the date an application for an Instructor Certificate is submitted;¶

(f) The person refuses to take a breath or blood test in accordance with ORS 813.100 or any equivalent violation in another jurisdiction. This section applies if the person refused a breath test anytime within five years preceding the date an application for an Instructor Certificate is submitted to DMV;¶

(g) The person fails to pass a breath or blood test in accordance with ORS 813.100 or any equivalent violation in another jurisdiction. This section applies if the person fails a breath test anytime within five years preceding the date an application for an Instructor Certificate is submitted to DMV;¶

(h) The person is an Instructor at any School in Oregon whose School Certificate is currently revoked, canceled, or withdrawn unless the Operator has completed the terms of their sanction according to OAR 735-160-01215; or¶

(i) The person has an Instructor Certificate or School Certificate that is suspended, revoked, canceled, or withdrawn or a similar sanction in this or in any other jurisdiction, on the date the application for an Instructor Certificate is submitted to DMV. The person must disclose on the application if he or she has been certified as an Instructor or Operator in the past three years in any other jurisdiction, and specify the jurisdiction(s). DMV will verify whether the person's certification is currently withdrawn in that jurisdiction and if it is grounds for denial or withdrawal of an Oregon Instructor Certificate.¶

~~(4) The person who has been convicted of one of the crimes list has a conviction for any of the following crimes:¶~~

~~(A) A traffic crime, except as provided in sections (2) of this rule may include an explanation of the crime or evidence of intervening circumstances since the conviction. Notwithstanding the conviction (D) to (F) of this rule. This subsection does not apply if the conviction occurred more than five years preceding the date an application DMV may issue for an Instructor Certificate if the person is otherwise qualified and DMV determines based on the explanation or evidence that the conviction does not affect the submitted to DMV;¶~~

~~(B) Kidnapping, custodial interference, subjecting another to involuntary servitude, or trafficking in person's as defitness to be an Instructor, d in ORS 163.225 through 163.266;¶~~

~~(5C) A person whose driving privileges have been suspended as described in section (3)(e) of this rule may include an explanation or evidence of intervening circumstances since the suspension. Notwithstanding the suspended driving privileges, DMV may issue an Instructor Certificate if the person is otherwise qualified and DMV determines based on the explanation or evidence that the suspension does not affect ny sexual offense, with or without force, any offense related to child pornography, or compelling or promoting prostitution;¶~~

~~(D) Any crime, including a traffic crime, involving death, injury or threat of injury to another person's fitness to be an Instructor;¶~~

~~(6E) An applicant who has answered "Yes" to any medical question on the application, or whose driving privileges are cancelled, suspended or revoked due to a mental or physical condition may include an explanation or evidence regardy crime, including a traffic crime, involving theft, forgery, fraud, falsifying or tampering the condition. DMV may request additional information from the applicant including, but not limited to, documentation regarding the nature of the condition from a licensed medical practitioner. Notwithstanding the condition, DMV may issue an Instructor Certificate if the person is otherwise qualified and based on the explanation or evidence DMV determines that the condition does not affect the person's fitness to be an Instructor with records, or racketeering; or¶~~

~~(F) Any crime, including a traffic crime, relating to the unlawful possession, use, sale, manufacture, or distribution of intoxicants, as defined in Oregon Laws 2023, Chapter 498.¶~~

(74) The criteria described in this rule apply to a current Instructor Certificate and may provide grounds for suspension, revocation, or cancellation as described in OAR 735-160-0115 if an Instructor fails to remain qualified as prescribed under this rule.

Statutory/Other Authority: ORS 814.619, 802.010, 822.53015

Statutes/Other Implemented: ORS 822.53015

AMEND: 735-160-0080

RULE SUMMARY: DMV proposes to amend this rule to update the requirements for applicants of an original or renewal instructor certificate.

CHANGES TO RULE:

735-160-0080

Issuance of Commercial Driver Training School Instructor Certificate ¶

- (1) An applicant must apply for an original or renewal ~~instructor~~ Certificate pursuant to ORS 822.53015 and must:¶
- (a) Submit a completed application on a form or in a format provided or established by DMV;¶
 - (b) Meet the ~~instructor~~ qualifications listed in OAR 735-160-0075;¶
 - (c) ~~Pass the knowledge and certification drive test requirement in accordance with OAR 735-160-0100. The drive test is not required if:~~¶
 - (A) ~~The applicant can provide proof that he or she completed the Transportation Safety Division (TSD) approved Foundations course and the TSD approved course of study for behind-the-wheel instructor preparation, including an in-car practicum with beginning drivers;~~¶
 - (B) ~~The applicant is an approved ODOT-TSD Traffic Safety Education Instructor; or~~¶
 - (C) ~~The applicant will only conduct classroom training.~~¶
 - (d) ~~Authorize DMV to obtain~~ provide DMV with a copy of the applicant's criminal background information. Criminal background information will only be used to determine the person's qualifications to be an ~~instructor~~ and may be used as evidence in any contested case hearing or appeal as described in section (6) of this rule. Such information will otherwise be kept confidential and not released to any person unless DMV determines a record, or any portion thereof, must be released pursuant to the Oregon Public Records Law, ORS 192.410 to 192.505, or the Attorney General or a court orders disclosure in accordance with the Oregon Public Records Law.¶
 - (ed) Submit the fee required under ORS 822.700; and¶
 - (fe) Possess and maintain a current and valid driver license from Oregon; or another jurisdiction within the United States.¶
- (2) An ~~instructor~~ must submit to DMV a completed renewal application, supporting documents and payment for an ~~instructor~~ Certificate ~~no later than the last day of the calendar year. DMV may provide a grace period prior to expiration of 45 days for the application to be processed during which time their existing instructor~~ Certificate ~~will remain valid.~~ A renewal application that is received after the last day of the calendar year will be treated as an application for an original ~~instructor~~ Certificate.¶
- (3) DMV will not issue or renew an ~~instructor~~ Certificate if:¶
- (a) Any of the qualifications or requirements set forth in ORS Chapter 822 and OAR chapter 735, division 160 rules are not met; or¶
 - (b) DMV determines information contained in the application is incomplete or false.¶
- (4) If DMV refuses to issue or renew an ~~instructor~~ Certificate, DMV will notify the person in writing. The person may request a contested case hearing. The hearing is conducted in accordance with the applicable contested case provisions of the Administrative Procedures Act, ORS ~~183.310 to 183.500~~ chapter 183, and is subject to the following:¶
- (a) A request for hearing must be submitted in writing and received by DMV within 20 days of the date the refusal notification is mailed to the person. DMV will not issue an ~~instructor~~ Certificate pending the outcome of the contested case hearing. If DMV refuses to renew an ~~instructor~~ Certificate, the expired ~~instructor~~ Certificate remains valid pending the outcome of the contested case hearing; and¶
 - (b) Failure to timely request a hearing constitutes waiver of the right to a hearing and no ~~instructor~~ Certificate will be issued or renewed until the requirements of ORS 822.500 to 822.515 and OAR chapter 735, division 160 rules are satisfied.¶
- (5) Failure to maintain any of the requirements as prescribed under this rule may result in a sanction as described in OAR 735-160-0115 of an ~~instructor~~ Certificate issued or renewed in accordance with this rule.
- Statutory/Other Authority: ORS 184.619, 802.010, ~~822.530~~ 15
- Statutes/Other Implemented: ORS ~~822.530~~ 15

AMEND: 735-160-0095

RULE SUMMARY: DMV proposes to amend this rule to update commercial driver training school instructor responsibilities.

CHANGES TO RULE:

735-160-0095

Commercial Driver Training School Instructor Responsibilities ¶¶

(1) An instructor shall:¶¶

(a) Meet and remain in compliance with the instructor qualifications set forth in OAR 735-160-0075;¶¶

(b) Provide student driver training that meets the curriculum requirements set forth in OAR 735-160-0050;¶¶

(c) Accurately complete all applicable student driver records required under OAR 735-160-0030;¶¶

(d) Adhere to the Code of Ethics and Rules of Conduct set forth in OAR 735-160-0130;¶¶

(e) Comply with all statutes, administrative rules and regulations relating to acting as an instructor;¶¶

(f) Carry the instructor's card at all times while providing instruction;¶¶

~~(g) Notify DMV by mail or facsimile~~ Notify DMV by email within 24 hours or send notification by regular mail within 24 hours (calculated by postmark date), excluding state holidays or weekends of any:¶¶

(A) Notice of civil legal action filed against the instructor related to acting as an instructor; or¶¶

(B) A criminal investigation, arrest or conviction for an offense described in OAR 735-160-0075(2)(d); and¶¶

~~(Cg)~~ If requested, respond to DMV in writing or by facsimile or regular mail within 10 calendar days (excluding weekends and state holidays) to any complaint received by DMV.¶¶

(2) An instructor shall not:¶¶

(a) Falsify or tamper with any records;¶¶

(b) Transfer to or allow any other person to use his or their instructor Certificate or Instructor Card;¶¶

(c) Knowingly assist a person in fraudulently obtaining driving privileges from DMV;¶¶

(d) Provide classroom or behind-the-wheel instruction to any student driver who is not enrolled in the school.

This subsection does not apply to the instructor's immediate family members;¶¶

(e) Allow any student driver to operate a motor vehicle without a valid driver license or instruction permit;¶¶

(f) Provide behind-the-wheel instruction to any student driver on a driving route specifically used by DMV to test applicants for Oregon driving privileges;¶¶

(g) Provide questions and answers that are identical to a DMV knowledge test during classroom training;¶¶

(h) Allow any student driver to participate in classroom instruction or behind-the-wheel instruction if the instructor has reason to believe the student driver is under the influence of an intoxicant;¶¶

(i) Provide classroom instruction or behind-the-wheel instruction if the instructor is under the influence of an intoxicant; or¶¶

(j) Act as an instructor for classroom or behind-the-wheel training without a valid driver license issued in Oregon, or another jurisdiction within the United States.

Statutory/Other Authority: ORS 184.619, 802.010, 822.525, ~~822.530~~ 15

Statutes/Other Implemented: ORS 822.530 15

REPEAL: 735-160-0100

RULE SUMMARY: DMV proposes to repeal this rule because the legislature removed DMV's authority for the rule.

CHANGES TO RULE:

~~735-160-0100~~

~~Commercial Driver Training School Instructor Testing~~

~~(1) The knowledge test required by OAR 735-160-0080 for an applicant will consist of questions about:¶¶~~

~~(a) The Oregon Vehicle Code;¶¶~~

~~(b) Safe driving practices;¶¶~~

~~(c) The operation of motor vehicles;¶¶~~

~~(d) The methods and requirements for instructing student drivers under OAR 735-160-0050; and¶¶~~

~~(e) The qualification and responsibilities related to being an Instructor under OAR 735-160-0003 through 735-160-0130.¶¶~~

~~(2) The certification driving test required by OAR 735-160-0080 examines the applicant's ability to drive consistent with the standards established by ORS 807.070(3) and OAR 735-160-0050.¶¶~~

~~(3) Each applicant will be given a maximum of three opportunities in one year to pass the knowledge test or the certification drive test in accordance with sections (4) and (5) of this rule.¶¶~~

~~(4) Applicants, required to pass a certification drive test under OAR 735-160-0080(3), who fail the certification drive test on the first attempt must wait at least seven calendar days before taking a second certification drive test. Individuals who fail the certification drive test on the second attempt must wait 14 calendar days before taking a third certification drive test. Applicants who fail the third certification drive test must wait one year from the date of taking the third certification drive test.¶¶~~

~~(5) Applicants who fail the knowledge test on the first attempt must wait at least seven calendar days before taking a second knowledge test. Individuals who fail the knowledge test on the second attempt must wait 14 calendar days before taking a third knowledge test. Individuals who fail the third knowledge test must wait one year from the date of taking the third knowledge test.¶¶~~

~~(6) Applicants must receive a passing score of 85 percent or higher on the written knowledge test described in section (1) of this rule and a passing score of 90 percent or higher on the certification drive test described in section (2) of this rule.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 802.010, 822.515, 822.530~~

~~Statutes/Other Implemented: ORS 822.530~~

AMEND: 735-160-0110

RULE SUMMARY: DMV proposes to amend OAR 735-160-0110 to make grammatical changes.

CHANGES TO RULE:

735-160-0110

Instructor Certificate Issuance, Correction, Surrender, and Replacement ¶

- (1) DMV will issue an instructor certificate and instructor's card to an applicant who has met all the requirements of OAR 735-160-0075 through 735-160-0100. The name of the school employing the applicant shall be included on the instructor certificate and instructor's card.¶
- (2) An instructor certificate and Instructor's card are not transferable.¶
- (3) An instructor must obtain a corrected instructor certificate and instructor card when:¶
 - (a) The name or address of the school currently employing the instructor changes or is incorrect; or¶
 - (b) The instructor's name changes or is incorrect.¶
- (4) At the time employment with the school ends, the instructor's original instructor certificate and instructor card must be surrendered to the school. Within 10 calendar days of surrender, the school must return the original instructor certificate and Instructor card to DMV.¶
- (5) DMV will issue a replacement instructor certificate if the instructor certificate or instructor's card has been lost, mutilated or destroyed.¶
- (6) To apply for replacement or correction of an instructor certificate or instructor's card, the instructor must:¶
 - (a) Submit a written request to DMV; and¶
 - (b) Clearly explain the reason for the request.

Statutory/Other Authority: ORS ~~184.619~~, 802.010, 822.515, ~~822.530~~

Statutes/Other Implemented: ORS ~~822.530~~ 15

AMEND: 735-160-0115

RULE SUMMARY: DMV proposes to amend this rule to clarify when DMV may impose a sanction on a commercial driver training school or instructor and what considerations DMV will take when determining which sanction is appropriate. The rule also states when DMV may cancel a commercial driver training school certificate or driver training instructor certificate and for how long the certificate will be suspended.

CHANGES TO RULE:

735-160-0115

Commercial Driver Training School and Instructor Sanctions ¶

(1) DMV ~~will~~may impose sanctions when it determines ~~a~~that a school or an instructor has violated any provisions of the Oregon Vehicle Code; or ~~administrative rules promulgated by DMV relating to:~~

~~(a) Operating a Commercial Driver Traof these Division 160 administrative rules. ¶~~

(2) DMV will impose a sanction appropriate for the particular violation. DMV will consider the following factors when determining an appropriate sanction: ¶

(a) The severity of the violation; ¶

(b) The possible impact of the violation on the safety of the public; ¶

(c) The number of similar or related violations; ¶

(d) Whether the violations were willful or intentional; ¶

(e) The history of prior sanctions imposed by DMV; ¶

(f) Whether the violation is an isolated occurrence, part of a continuing School; ~~or~~ pattern, or one of a series of violations; ¶

(g) The history of prior violations; ¶

~~(h) Acting as a Commercial Driver Training School Instructor~~ny extenuating circumstances or other factors bearing on the appropriate nature of the sanction; and ¶

(i) The history of prior sanctions imposed by DMV on other schools or instructors for a similar violation. ¶

~~(23) DMV will~~When DMV imposes a sanction appropriate for the particular violation. In determining an appropriate sanction, DMV may use the matrix outlined in OAR 735-160-0125 as a guideline and may consider the following criteria: ¶

(a) The severity of the violation or its impact on the safety of the public; ¶

(b) The number of similar or related violations; ~~uspension or revocation of a school certificate or an instructor certificate based on a violation or violations that occurred while the school, operator, or instructor held a school certificate or instructor certificate, and the school certificate or instructor certificate has expired or will expire during the sanction period, the suspension or revocation shall be imposed for the School's or Instructor's right to apply for a school certificate or instructor certificate for the duration specified within this rule. ¶~~

(4) DMV may cancel a commercial driver training school certificate if the school or operator fails to maintain the eligibility or qualification requirements under ORS 822.500 to 822.515 or as prescribed in these Division 160 rules. ¶

(5) DMV may cancel a driver training instructor certificate if the instructor fails to maintain the eligibility or qualification requirements under ORS 822.500 and 822.515 or as prescribed in these Division 160 rules. ¶

(6) DMV may suspend a school certificate for no less than 30 calendar days and no more than one year. DMV may suspend an instructor certificate for no less than 30 calendar days and no more than one year. The following are examples of violations that may result in suspension: ¶

(a) Public Safety - A public safety violation includes, but is not limited to, the following: ¶

(A) Permitting a person who does not have an instructor certificate issued by DMV to provide driver training to a student; ¶

(B) Allowing a student to train in an unsafe vehicle; or ¶

~~(c)~~Whether the violations were willful or intentional; and Failing to adhere to the motor vehicle requirements prescribed in OAR 735-160-0040. ¶

(b) Integrity of the Commercial Driver Training School program - An integrity violation includes, but is not limited to, the following: ¶

~~(d)~~(A) The history of prior sanctions imposPermitting an instructor whose instructor certificate has been suspended, cancelled, or revoked by DMV to provide driver training to a student; ¶

(B) Providing driver training when the school's school certificate has been suspended, cancelled, or revoked by DMV. ¶

~~(3C) DMV will~~impose sanctions when it determines violations have occurred or are occurring. These may include one or more of the following: ¶

~~(a) A written warning, including correction notices; Conducting business in a manner that reasonably makes a student feel intimidated. ¶~~

~~(D) Failing to adhere to the promotion practices and location requirements prescribed in OAR 735-160-0020. ¶~~

~~(E) Conducting business in a manner that causes a student to pay additional fees or fees that are not required for the services requested. ¶~~

~~(F) Accepting payment from a student but failing to provide promised services to the student within a reasonable period. "Failing to provide promised services" does not include payment, or a portion of a payment, accepted and retained by the school in accordance with a cancellation policy maintained by the school and made available to the student prior to payment; or ¶~~

~~(b)(G) Suspension of the School Certificate and suspension of the right to apply for or renew a School Certificate for up to one year; ¶~~

~~(c) Suspension of the Instructor Certificate and suspension of the right to apply for or renew Refusing to permit DMV to conduct an inspection, as required by OAR 735-160-0035. ¶~~

~~(H) Failing to provide a student with a copy of the Commercial Driver Training School Feedback form (DMV form 735-7419). ¶~~

~~(c) Security of personal information - A security violation includes, but is not limited to, failing to maintain proper security of records that must be retained as part of the Commercial Driver Training School program. ¶~~

~~(d) Multiple minor violations of these Division 160 rules observed in a single inspection. ¶~~

~~(e) Failing to correct the conduct or circumstances underlying a violation communicated to the school or instructor in a written warning, including those communicated on correction notices or inspection reports, resulting in the continued occurrence of the same or a similar violation. ¶~~

~~(7) DMV may revoke a school certificate for no less than one year and no more than five years. DMV may revoke an instructor certificate for up to one year; ¶~~

~~(d) Revocation of the School Certificate and revocation of the right to apply for or renew a School Certificate for up to five years; or ¶~~

~~(a) Fails to correct violation of the right to apply for or renew a School Certificate for up to five years; or ¶~~

~~(b) Commits multiple violations, that individually would otherwise result in a suspension, that are observed during one or more inspections; or ¶~~

~~(c) Revocation of the Instructor Certificate and revocation of the right to apply for or renew a School Certificate; or ¶~~

~~(8) DMV may permanently revoke a school certificate if DMV determines that the school or operator was convicted of crime or has violated any provision of the code of ethics and rules of conduct set forth in OAR 735-160-0130. ¶~~

~~(9) DMV may permanently revoke an instructor certificate for up to five years if DMV determines that the instructor was convicted of crime or has violated any provision of the code of ethics and rules of conduct set forth in OAR 735-160-0130. ¶~~

~~(4)(10) DMV may cancel, suspend or revoke impose an immediate suspension under section (6) of this rule of a School Certificate or an instructor certificate if the School, the Operator or the Instructor fails to maintain the eligibility requirements under ORS 822.500 to 822.535 and these OAR division 160n accordance with the provisions of ORS 183.430. DMV may impose such a suspension in addition to a permanent revocation under section (8) or (9) of this rules. ¶~~

~~(5)(11) An Operator or instructor whose certificate has been suspended, revoked, or cancelled is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500. ¶~~

~~(6)(12) When DMV takes action to suspend, revoke or cancel a School Certificate DMV will send notice to the Operator listed on the School Certificate. The notice will be in writing and state that the suspension, revocation, or cancellation will begin either in five calendar days (an immediate suspension or cancellation) or in 30 calendar days from the date on the notice. The notice will be served by first class mail sent to the School's most current address on record with DMV. ¶~~

~~(7)(13) When DMV takes action to suspend, revoke or cancel an instructor certificate DMV will send notice to the instructor listed on the instructor certificate. The notice will be in writing and state that the suspension, revocation, or cancellation will begin either in five calendar days (for an immediate suspension or cancellation) or in 30 calendar days from the date on the notice. The notice will be served by first class mail sent to the School listed as the instructor's current employer. DMV will use the School's most current address on record with DMV. ¶~~

~~(8)(14) Except as provided for in section (9)(15) of this rule, a request for a hearing must be submitted in writing to, and received by, DMV within 20 days of the date of the notice. If a hearing request is received in a timely manner the suspension, revocation or cancellation will not go into effect pending the outcome of the hearing, unless the~~

School Certificate is immediately suspended or cancelled.¶

~~(915)~~ If the School Certificate is immediately suspended or cancelled as set forth in OAR 735-160-01215, the request for hearing must be submitted in writing to, and received by, DMV within 90 days of the date of the notice of suspension. The suspension or cancellation will remain in effect pending the outcome of the hearing.¶

~~(106)~~ Except as provided in OAR 137-003-0528, when no request for a hearing is received by the deadline, the Operator or Instructor has waived the right to a hearing, DMV's file constitutes the record of the case, and a default order will be issued by DMV.¶

~~(117)~~ If a School Certificate or Instructor Certificate is revoked, the Operator or Instructor may reapply for an original certificate after ~~a~~the period of revocation ~~of five years~~ and must meet all the qualifications and requirements for the certificate.¶

~~(128)~~ If the School Certificate or Instructor Certificate is cancelled, the Operator or Instructor may reapply for an original certificate when they have met all ~~of the~~ requirements for a certificate and fees are paid in accordance with ORS 822.700.¶

~~(139)~~ At the end of a suspension period, DMV will reinstate the School Certificate or Instructor Certificate unless the certificate has expired, or the Operator or Instructor does not comply with the reinstatement requirements or meet the qualification requirements for the certificate. If the certificate is suspended and has been expired for more than one year, the Operator or Instructor must reapply for an original certificate, comply with the reinstatement requirements, meet all the qualifications and requirements for a new School Certificate or Instructor Certificate, and pay fees in accordance with ORS 822.700.

Statutory/Other Authority: ~~ORS 184.616, 184.619, 802.010, 822.515, 822.530~~

Statutes/Other Implemented: ORS 822.515

REPEAL: 735-160-0125

RULE SUMMARY: DMV proposes to repeal this rule to delete the matrix of sanctions for school operator and instructor violations. DMV proposes the repeal to provide additional opportunity to assess the severity of program violations and because the existing sanction matrix was impractical, addressed violations that do not occur, and omitted violations that do occur.

CHANGES TO RULE:

~~735-160-0125~~

~~Sanctions~~

~~DMV adopts the following matrix of sanctions for School Operator and Instructor violations. As used in this rule, an offense will be considered a second or subsequent offense if it occurred within three years from the date the Operator or Instructor was notified in writing of the occurrence of the same or a substantially similar offense in this or another jurisdiction. DMV will not sanction as a second or third/subsequent offense if more than three years have passed from the date of the previous violation for the same or similar offense. [Table not included. See ED.NOTE.]¶~~

~~[ED.NOTE: Tables referenced are available from the agency.]~~

~~Statutory/Other Authority: ORS 184.616, 814.619, 802.010, 822.515, 822.530~~

~~Statutes/Other Implemented: ORS 822.515 - 822.530~~

AMEND: 735-160-0130

RULE SUMMARY: DMV proposes to amend this rule to update the code of ethics and rules of conduct that schools, operators and instructors must adhere to.

CHANGES TO RULE:

735-160-0130

Code of Ethics and Rules of Conduct ¶¶

~~(1) Each Schools, operators, and each Instructor accepts the responsibilities and requirements of the driver training profession. Each Operator and Instructor must adhere to the highest ethical standards of professional conduct.¶¶~~

~~(2) To fulfill their obligations to the public and to DMV, the Operator and Instructor must:¶¶~~

~~(a) Recognize that the instruction and training of student drivers is a position of trust;¶¶~~

~~(b) Exhibit competence and wisdom in conducting professional responsibilities;¶¶~~

~~(c) Uphold and obey the law, including but not limited to the provisions of the Oregon Vehicle Code; and¶¶~~

~~(d) Maintain and uphold the highest educational standards possible for instructing and training student drivers. s must be professional and respectful in all dealings with students and others while ensuring the safety of Oregon's roads. ¶¶~~

~~(3) Rules of Conduct. An Operator and Instructor ~~will~~may not engage in or knowingly allow any owner, officer, agent, director, manager, or employee of a Sschool to engage in any of the following:¶¶~~

~~(a) Assist or knowingly allow a student driver to ~~fraudulently~~ obtain driving privileges fraudulently for which the student driver is ineligible or has not qualified;¶¶~~

~~(b) Discriminate against a student driver because of race, religion, national origin, disability, age, sex, or sexual orientation or a potential student driver for a reason proscribed by ORS 659A.403 or by Title VI of the Civil Rights Act of 1964;¶¶~~

~~(c) Have sexual contact with, or request sexual contact from, a student driver. For purposes of this section, "sexual contact" means:¶¶~~

~~(A) Sexual intercourse; or¶¶~~

~~(B) Any touching of the sexual or other intimate parts of a person for the purpose of arousing or gratifying the sexual desire of either party;¶¶~~

~~(d) Make sexual advances either verbally or physically or request sexual contact from any student driver, whether directly, indirectly or by innuendo;¶¶~~

~~(e) Use physical force or a threat of physical force against a student driver, unless such force or threat of force is necessary to avoid immediate danger to the safety of the student driver, the Operator or Instructor, employees of the Sschool, passengers in a vehicle being used for behind-the-wheel instruction, or the general public;¶¶~~

~~(f) Possess or use any unlawful controlled substance or intoxicating beverage, or be under the influence of any intoxicating beverages, drugs or controlled substances intoxicant, as defined in Oregon Laws 2023, Chapter 498 while training or instruction is being provided to student drivers;¶¶~~

~~(g) Be under the influence of any intoxicant, as defined in Oregon Laws 2023, Chapter 498, while training or instruction is being provided to sStudent drivers;¶¶~~

~~(gh) Falsify any document or make a misrepresentation on the application for a Sschool or Instructor Certificate;¶¶~~

~~(hi) Refer any student driver to a particular DMV-certified third-party tester or examiner for DMV testing purposes; or¶¶~~

~~(i) If also certified as an examiner, as defined as a DMV third party tester or examiner in OAR 735-061-0410, test an applicant for driving privileges if the applicant was enrolled as a student driver at the School; instructor trained the applicant, unless otherwise authorized by DMV.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 802.010, 822.515, 822.530~~

~~Statutes/Other Implemented: ORS 822.53015~~

ADOPT: 735-160-0140

RULE SUMMARY: DMV proposes to adopt this rule to provide for a customer feedback process.

CHANGES TO RULE:

735-160-0140

Customer Feedback Process

- (1) At the conclusion of the training process, an operator must ensure that each student is given a Commercial Driver Training School Feedback form (DMV form 735-7419).¶
 - (2) The commercial driver training school form is designed to give the student necessary information to provide DMV with feedback regarding the experience of training with a school. The form provides contact information for the Commercial Driver Training School Program at DMV, including a mailing address, and methods to submit the form to DMV electronically.¶
 - (3) DMV may contact an applicant to obtain additional information or investigate a complaint raised by a student.¶
 - (4) If DMV requires a school or instructor to respond to a particular student's complaint, the school or instructor must respond and provide a copy of the response in writing to DMV within 10 calendar days.¶
 - (5) DMV may compile data from the Commercial Driver Training School Feedback forms to evaluate the effectiveness of the Commercial Driver Training School program.
- Statutory/Other Authority: ORS 184.619, 802.010, 822.515
- Statutes/Other Implemented: ORS 822.515