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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

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ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Driver Education Completion Cards and Drive Test Waiver

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/21/2024 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)

This notice cites rules from two ODOT rule divisions - 735 DMV, and 737 Safety. The two notices should be read together to gain a complete picture of the actions being taken in these rulemakings.

Currently, when a student under the age of 18 passes an ODOT-approved driver education course the student receives a Student Completion Certificate card. Student Completion Certificate cards are printed by the Oregon Department of Transportation, Transportation Safety Office (TSO), sent by TSO to the driver education provider (DEP) by mail, and then issued to the student by the DEP. The student then presents the card to Driver and Motor Vehicle Services (DMV) when the student applies for a driver license. DMV will waive the skills test for the applicant when presented with the card and a certification of 50 hours of practice drive time.

DMV proposes to amend Oregon Administrative Rules (OAR) to require DEPs to enter course completion data electronically through DMV's website (DMV2U). Record of the student's course completion will be added to DMV systems directly from the DEP. This change would increase efficiency by removing the requirement for TSO to print the Student Completion Certificate card and send it to the DEP, and removing the obligation for the DEP to issue the cards to the students. Direct entry of the course completion will also eliminate the need for TSO and the DEP to reissue a Student Completion Certificate card to students who lose the card because there will not be a card to lose.

DMV field offices will continue to accept Student Completion Certificate cards for the validity period of the cards, two years from the course completion date.

This rulemaking requires DEPs to enter the driver education completion notation and the date the student passed the course into DMV2U within five business days after a student completed the course and passed the final drive assessment. The rule also requires DEPs enter a notation indicating course failure prior to reimbursement. The

proposed rules also amend definitions.

Specific Changes in the Rules:

- DMV proposes to amend OAR 735-062-0080 to include the new method DMV will use to determine if an applicant passed a driver education course and qualifies for a Class C noncommercial drive test waiver.
- DMV proposes to amend OAR 735-062-0140 to include the new method DMV will use to determine if an applicant passed a driver education course and qualifies for a Class C noncommercial drive test waiver.
- DMV proposes to amend OAR 737-015-0020 to define "approved individual," "business day," "completed the course," "DMV2U," "electronic driver education completion notation" and "suspend," and amend the definitions of "approved instructor," "Driver improvement violation," "eligible student," and "public school."
- DMV proposes to amend OAR 737-015-0030 to update how and when a DEP must report the outcome of a student's driver education course and to clarify how often an approved program may give classroom instruction to a student.
- DMV proposes to amend OAR 737-015-0076 to add required tasks an approved provider must complete.
- DMV proposes to adopt OAR 737-015-0095 to establish how electronic driver education entry is completed.
- DMV proposes to amend OAR 737-015-0120 to update the reasons DMV may sanction a driver education program provider or instructor, and to clarify when DMV shall remove access to DMV2U.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

None

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

TSO is streamlining the process of reporting driver education course completion to DMV and amending the requirements of providers and instructors. DMV does not believe these changes will impact racial equity in this state.

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) Public – Students under the age of 18 who complete a driver education course may have to wait up to five days before the DEP enters the information into DMV's system and for DMV's system to show that the student passed the driver education course. This turnaround time will be quicker for some students and possibly slower for others. The difference will ultimately be on the DEP and how quickly they currently provide the Student Completion Certificate card to the student and how long it will take the DEP to enter the information into DMV's system. This change will prevent students from losing their Student Completion Certificate card or forgetting to bring it to a DMV office when getting issued a driver license. This change may save a student time waiting on the reissued card or the time it would

take the student to retrieve the card in order to be issued. DMV is unable to quantify the costs or savings to the student because of these changes.

TSO – TSO will save approximately \$11,000 per year because they will no longer print and mail to the DEPs the students' original Student Completion Certificate cards. TSO will save approximately \$475 per year on reprinting card cost and postage due to students losing their original card. Additionally, TSO will save approximately ten hours per month of employee time.

DEP – Some DEPs currently mail completion cards to the students who pass the course. The DEPs will no longer spend money on postage and envelopes for original issuance of Student Completion Certificate cards to students. DEP staff will also no longer need to work with TSO regarding reissuance of cards, and then paying the postage and envelope costs associated with reissued cards. DEPs will have to enter the students' results into DMV's system within five business days. DMV may sanction a DEP if the DEP does not enter students' driver education course results into DMV's system within the required five business days. A sanction could include a written warning; reduction or denial of reimbursement; suspension or cancellation of approval; restriction or denial of approval for up to one year; or revocation of approved status and the right to apply or renew the approved status for up to five years.

DMV is unable to quantify the savings or costs for the DEPs because each DEP runs their business differently and has different numbers of students who attend their course. DMV believes the entry into DMV2U will be either the same amount of time or less time consuming than the current process. During the rule advisory committee meeting, DMV showed the DEPs the required entry into DMV2U. DMV estimates that each student entry should take less than two minutes. Some DEPs believed the additional entry will take twice as long as their current process for each student. DMV is unable to quantify the cost to businesses for using the electronic system. DMV is also unable to quantify the time savings regarding reissuances, and cannot therefore estimate the cost savings to a DEP.

(2) DEPs will save time because they will no longer have to work with TSO regarding reissued cards. They will no longer have to log and destroy cards that were delivered to them by TSO when the student fails the course. DEPs may incur additional labor costs to enter the student's information into DMV2U to determine if the student is eligible for the course and then again when entering the student's results within the five business day requirement. The total amount of time a DEP spends on entering and searching student information is unknown and we are therefore unable to estimate a cost or cost savings due to the changes in this proposed rulemaking.

A DEP's failure to comply with the new electronic records processing proposed rules may result in sanctions. A sanction could include a written warning, reduction or denial of reimbursement, suspension, cancellation, restriction or denial up to one year or revocation of approved status and the right to apply or renew the approved status for up to five years. These sanctions may result in the loss of income to a DEP, which DMV is unable to calculate.

(2)(a) There are 46 driver education providers, and they all are subject to the rules.

(2)(b) The DEPs will need a computer with internet access, although it is understood that all providers already have this. They will need to be able to log into DMV's computer system using the method provided by DMV. They will need to use that system to ensure each applicant is eligible to take the course, determine subsidy eligibility and then enter a notation after the student completes the course indicating whether the student passed or failed the course. DMV believes this will be equal or less work for the DEPs than is required to comply with DMV's current rules.

(2)(c) DMV does not believe there will be any additional professional services, equipment supplies, labor or increased administration required to comply with the rules. DMV believes all the DEPs already have the necessary equipment.

Since this is a new process, DMV is unable to determine if there will be savings or extra time spent entering student information.

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

DMV sent draft rules to 14 organizations representing small businesses. No responses were received. DMV also provided the rulemaking documents to all 46 driver education providers and held a Rule Advisory Committee meeting.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

735-062-0080, 735-062-0140

AMEND: 735-062-0080

RULE SUMMARY: DMV proposes to amend this rule to include the new method DMV will use to determine if an applicant passed a driver education course and qualifies for a Class C noncommercial drive test waiver.

CHANGES TO RULE:

735-062-0080

Waiving Drive Test Portion of Driver License Examination ¶¶

(1) DMV will waive the actual demonstration of an applicant's ability to drive a Class C vehicle required by ORS 807.070(3) if all of the following apply:¶¶

(a) The applicant surrenders to DMV a driver license issued to the applicant by another state, the District of Columbia, a United States Territory, a Canadian Province or a jurisdiction with whom DMV has a reciprocity agreement and the driver license has not been expired for more than one year or, if the person's driver license issued by a jurisdiction listed above, has been lost or stolen, the applicant submits a letter of clearance, as required in OAR 735-062-0007.¶¶

(b) The surrendered, lost or stolen license authorizes the driving of a vehicle other than a moped or motorcycle.¶¶

(c) The surrendered, lost or stolen license includes no restrictions other than a single restriction or a combination of restrictions comparable to restrictions imposed on an Oregon driver license.¶¶

(d) The applicant has no physical disabilities or impairments which may necessitate any restrictions other than:¶¶

(A) "With corrective lenses";¶¶

(B) "Outside or side-view mirror(s)"; or¶¶

(C) The restriction(s) imposed on the applicant's surrendered, lost or stolen driver license issued by another jurisdiction.¶¶

(e) The applicant has no mental or physical condition or impairment that causes DMV to reasonably believe the applicant's condition or impairment affects the applicant's ability to operate a motor vehicle without endangering the safety of persons or property.¶¶

(2) In addition to section (1) of this rule, DMV will waive the actual demonstration of an applicant's ability to drive a Class C non-commercial vehicle required by ORS 807.070(3) if:¶¶

(a) The applicant passes a traffic safety education course approved by the Transportation Safety ~~Division~~Office under ORS 336.802;¶¶

(b) The drive test administered during the traffic safety education course meets or exceeds the requirements of a Class C non-commercial drive test conducted by DMV; and¶¶

(c) Either of the following occurs:¶¶

(A) The applicant provides a Driver Education Certificate of Completion card, as described in OAR 735-062-0140, that was issued on or before October 13, 2024, and within two years prior to the submission of an application for a Class C non-commercial driver license; or¶¶

(B) At the time of submission of an application for a Class C noncommercial driver license, an electronic driver education completion notation, as described in OAR 737-015-0020(18), is on the applicant's driver record with a notation of a passing score and a date of completion demonstrating the student completed the course within the two previous years.¶¶

(3) DMV will waive the actual demonstration of an applicant's ability to operate a motorcycle if:¶¶

(a) The applicant surrenders to DMV a motorcycle-endorsed driver license issued to the applicant by another

state, the District of Columbia, a United States Territory, a Canadian Province, a jurisdiction with whom DMV has a reciprocity agreement, or submits a clearance letter as provided for in subsection (1)(a) of this rule; and¶

(b) The applicant meets the qualifications in subsections (1)(c), (d) and (e) of this rule.¶

(4) In addition to section (3) of this rule, DMV will waive the actual demonstration of an applicant's ability to operate a motorcycle if:¶

(a) The applicant passes a motorcycle skills test given during a motorcycle rider education course established by the Transportation Safety Office under ORS 802.320; or¶

(b) The applicant meets the qualifications in OAR 735-062-0078(1)(b).¶

(5) Evidence of passing the motorcycle skills test identified in section (4) of this rule is as described in OAR 735-062-0140.¶

(6) DMV will waive the actual demonstration of an applicant's ability to operate a motorcycle if the applicant applies for a restricted motorcycle endorsement that only authorizes the person to operate a motorcycle with more than two wheels and has successfully completed the motorcycle knowledge test as required in OAR 735-062-0040.¶

(7) DMV may not waive the actual demonstration of an applicant's ability to operate a motor vehicle if the applicant has not met all requirements described in OAR chapter 735, divisions 74 or 76, including but not limited to an applicant who is:¶

(a) A returning Oregon resident who was previously subject to requirements under OAR chapter 735, divisions 74 or 76, who did not complete all requirements prior to being issued a license in another jurisdiction; or¶

(b) An individual reported to DMV under OAR chapter 735, divisions 74 or 76, while a resident of another jurisdiction and has not met the requirements established by DMV as a result of receiving the report.

Statutory/Other Authority: ORS 184.619, 190.485, 802.010, 807.070, 807.072, 807.080, 807.170

Statutes/Other Implemented: ORS 190.485, 807.070, 807.072, 807.080, 807.170

AMEND: 735-062-0140

RULE SUMMARY: DMV proposes to amend this rule to include the new method DMV will use to determine if an applicant passed a driver education course and qualifies for a Class C noncommercial drive test waiver.

CHANGES TO RULE:

735-062-0140

Proof of Completion of a Traffic Safety Education or Motorcycle Education Course ¶¶

- (1) For purposes of waiving the Class C drive test, DMV will ~~only accept~~ accept either of the following:¶¶
- (a) A Driver Education Certificate of Completion card issued on or before October 13, 2024, by a traffic safety education course approved by the Transportation Safety Office. The Driver Education Certificate of Completion card must be in the format designed and approved by the Transportation Safety Office and issued within two years prior to the submission of an application for a Class C non-commercial driver license; or¶¶
- (b) An electronic driver education completion notation, as described in OAR 737-015-0020(18), that includes a notation of a passing score on the applicant's driver record and a date of completion demonstrating the student completed the course within the two previous years.¶¶
- (2) For purposes of issuing a motorcycle endorsement, DMV will only accept a course completion card or electronic course completion information from a motorcycle rider education course established under ORS 802.320 or from an approved motorcycle rider education course listed in OAR 735-062-0078.¶¶
- (3) DMV will accept a course completion card as proof of completion of a motorcycle rider education course until July 6, 2022. The card must include, at a minimum:¶¶
- (a) The applicant's name;¶¶
- (b) The name of the course completed;¶¶
- (c) The date of the course;¶¶
- (d) Where the course was taken;¶¶
- (e) The signature of the instructor; and¶¶
- (f) The instructor's certification number.¶¶
- (4) DMV will accept a course completion card as proof of completion of a motorcycle rider education course from providers outside of this state.-The card must include, at a minimum:¶¶
- (a) The applicant's name;¶¶
- (b) The name of the course completed;¶¶
- (c) The date of the course;¶¶
- (d) Where the course was taken; and¶¶
- (e) The signature of the instructor.¶¶
- (5) As of July 6, 2020, DMV accepts proof of an applicant's completion of a motorcycle rider education course from an approved motorcycle rider education course provider established under ORS 802.320 through DMV's website. The approved motorcycle rider education course provider must comply with provisions set forth in OAR 735-018-0020.¶¶
- (6) An applicant must apply for and be issued a motorcycle endorsement within two years from the date of course completion, unless a shorter validity timeframe is listed on the course completion card provided by the applicant. When a shorter validity timeframe is provided on the course completion card, the applicant must apply for and be issued a motorcycle endorsement within the timeframe provided on the course completion card.
- Statutory/Other Authority: ORS 184.619, 802.010, 802.012, 807.175
- Statutes/Other Implemented: ORS 802.012, 807.170, 807.175