

Title 247 - NEBRASKA ADMINISTRATIVE CODE

CHAPTER 2 - RULES AND REGULATIONS FOR DRIVER TRAINING SCHOOLS AND INSTRUCTORS PURSUANT TO NEB. REV. STAT. §§ 60-4,173 THROUGH 60-4,179.

001 SCOPE. These rules and regulations apply to the following entities and individuals:

001.01 Any driver training school as defined in these rules and regulations, except those which teach a Department approved driver's safety course for a provisional operator's permit (that course is controlled by Title 247 NAC 11) or Department approved motorcycle safety education program (that course is controlled by Title 247 NAC 6); and

001.02 Any driver training instructor as defined in these rules and regulations.

001.03 These rules shall not apply to federal entry level driver training or driver training schools who only administer federal entry level driver training (ELDT) as defined by 49 C.F.R. §380.605(3).

002 DEFINITIONS.

002.01 Contact person means the authorized person designated to act on behalf of the school as the contact person with the Department.

002.02 Department means the Nebraska Department of Motor Vehicles.

002.03 Director means the Director of the Department of Motor Vehicles.

002.04 Driver training school means a business enterprise conducted by an individual, association, partnership, limited liability company, corporation (for profit or non profit), or a public or private educational facility which educates or trains persons to operate motor vehicles and which charges consideration or tuition for such service or materials, excluding commercial entities that solely provide entry level driver training (ELDT) as defined by 49 C.F.R. §380.605(3).

002.05 Entry level course means a course administered to entry level students as defined by section 002.06 that consists of six hours of classroom and six hours of behind-the-wheel training, as set out in section 005. Entry level course does not include entry level driver training (ELDT) as defined by 49 C.F.R. §380.605(3).

002.06 Entry level student means a student who has either a) failed three successive drive tests from the department so that he or she may not retest for 90 days, or b) has not held a valid driver's license from this or any other U.S. state or jurisdiction within the last five years, does not include individuals enrolled in entry level driver training (ELDT) as defined by 49 C.F.R. §380.605(3).

002.07 Instructor means any person who teaches, conducts classes, gives demonstrations or supervises practical training of persons learning to operate motor vehicles in connection with operation of a driver training school.

002.08 Remedial course means a course administered to remedial level students as set forth in section 006.

002.09 Remedial level student means a student who feels he or she needs improvement in classroom or behind the wheel skills and either a) has held a valid driver's license from an US state or jurisdiction within the past five years, or b) has completed an entry level course.

002.10 School representative means an individual applicant, partner, associate, corporate director, officer or manager of a driver training school.

003 General Requirements for a Driver Training School.

003.01. Building. The school will continuously maintain a place of business which includes at least one permanent, regularly occupied structure within the State of Nebraska. Driver training schools may offer classroom training in person or via online curriculum; however, the driver training school must maintain an available, physical classroom which must be able to accommodate students comfortably and to ensure proper safety, including:

003.01A Textbooks and reference books relating to the proper operation of motor vehicles and traffic laws;

003.01B Ample working and testing space for enrolled students and observers; and

003.01C Ready access to restrooms.

003.02 School Names. No driver training school shall adopt, use, or conduct any business under a name that is like or deceptively similar to a name used by another driver training school. The right to use a name claimed by another driver training school will be determined by the Department on the basis of the longest history of use.

003.03 Display Credentials. Each driver training school must display the state license in a prominent place.

003.04 Insurance. Each driver training school must carry current commercial general liability insurance coverage of \$1,000,000, workers' compensation insurance as required by Neb. Rev. Stat. §48-106, and automobile liability insurance for automobiles owned by the driver training school.

004 Application Requirements for Driver Training Schools. Each original and renewal driver training school license application shall contain information

consisting of:

004.01 Contact Person. The name, title, current address, electronic contact (email), and telephone number of the school's contact person;

004.02 Instructors. The name, electronic contact (email), date of birth, driver's license number and home address of all instructors;

004.03 Motor Vehicles. A schedule of motor vehicles owned or leased;

004.04 Name. The name, address, telephone number of the driver training school;

004.05 Insurance. Valid insurance certificate or insurance policy detailing the coverage for motor vehicles used in the course (as set forth in section 007.02), current commercial general liability insurance coverage of \$1,000,000, and workers compensation insurance as required by Neb. Rev. Stat. §48-106.

004.06 Signature. Signature of the school representative certifying that the information included in the application is true and accurate;

004.07 Owners. The names and addresses of all business owners;

004.08 Class Description. An overview or outline of the course or courses to be offered by the driver training school including the amount of classroom and/or behind-the-wheel time and/or a statement that the school provides entry level student training (it is not necessary to outline the entry level student course); and

004.09 Other Information. Any other information deemed necessary by the Department.

005 Entry Level Student Courses of Instruction

005.01 Entry Level Student Hours. A minimum of six hours of classroom instruction and six hours of behind-the-wheel instruction must be given to each entry level student.

005.01A Hospital Exemption. Rehabilitation hospitals which assess needs of disabled patients and train for those specific needs are exempt from the six-hour behind-the-wheel and the six-hour classroom instruction requirements. They are expected to take whatever time is necessary to train the patient adequately.

005.02 Classroom Instruction. The offered classroom instruction in person or via online curriculum must include safe driving practices in the operation of motor vehicles.

005.03 Behind-the-Wheel. Behind-the-wheel instruction must consist of actual driving practice while the motor vehicle is in motion. Instruction given while the motor vehicle is parked cannot be recorded as behind-the-

wheel instruction time.

005.04 Simulator. Up to one hour of behind-the-wheel instruction may be replaced by use of a driving simulator at a proportion of four to one. (One hour of simulated driving equals 15 minutes of behind-the-wheel drive time.)

005.05 Driving Range. Up to two hours of behind-the-wheel instruction may be replaced by time on a closed course driving range at a proportion of two to one. (Two hours on a driving range equals one hour behind-the-wheel.)

005.06 Entry level student vehicles. Any driver training school that teaches entry level students must have at least one registered motor vehicle which has been equipped for driver training purposes.

006 Remedial Student Courses of Instruction. Each driver training school will assess the needs of remedial level students. The school is expected to take whatever time is necessary to train the student adequately.

007 Driver Training Motor Vehicles.

007.01 Vehicle registration. All motor vehicle used in driver training must be registered and insured. The driver training school shall obtain and retain photocopies of the motor vehicle's registration and proof of insurance if it does not own the vehicle itself. The original registration and insurance will be carried in the vehicle when training students.

007.01A Entry level course. All motor vehicles used for entry level courses, except vehicles used by non-profit corporations, must be registered in the school's name.

007.01B Non Profit Corporation and Remedial Student Vehicles. A non-profit corporation is not required to own or register the motor vehicle used in driver training in its name. A school that teaches remedial courses only is not required to own or register a motor vehicle for driver training in its name.

007.02 Insurance. All motor vehicles used in driver training will be covered by liability insurance in amounts not less than set forth in Neb. Rev. Stat. § 60-509.

007.03 Dual Brakes. Any motor vehicle registered in the school's name pursuant to 007.01A shall be equipped with a dual braking device.

007.03A Vehicle exceptions. Trucks, motorcycles and motor vehicles being used pursuant to 007.05 of these rules and regulations are exempt.

007.03B School exceptions. Vehicles used for remedial training are exempt.

007.04 Identified as Driver School. Any motor vehicle being used for entry level student driver training shall be readily identified as a driver training motor vehicle.

007.05 Disabled Student Motor Vehicles. A student who requires adaptive equipment to operate a motor vehicle may use a personal motor vehicle during training. The vehicle is exempt from the requirements for dual brakes found at 007.03.

008 School/Student Contracts. All written contracts or agreements by or between a driver training school and a student must contain the following:

008.01 A statement indicating the agreed contract price, skills to be learned, and terms of payment;

008.02 A statement indicating the specific time and date when instruction is to start; and

008.03 The driver's license or permit number held by the student.

008.04 Entry Level. For entry level students only, a statement indicating that the student is to receive at least six (6) hours of classroom instruction and six (6) hours of behind-the-wheel instruction.

008.05 Remedial Level Class Description. For remedial students, the contract will provide the student with a written overview or outline of the course or courses to be offered, including the amount of classroom and/or behind-the-wheel time.

008.06 The driver training school shall not include a statement in any of its contracts or advertising to the effect that a state license is guaranteed.

009 Inspections and Changes to Schools.

009.01 Name Change. The school must notify the Department in writing of any change in the school's name, legal status or address ten days prior to its date of occurrence.

009.02 Instructor Changes. The school must notify the Department in writing of any addition or deletion of approved instructors or changes in their driving statuses within ten days of date of occurrence.

009.03 School Closes. If the school ceases operation in Nebraska, the school shall notify the Department in writing ten days prior to its date of occurrence.

009.04 Insurance Change. If the school's insurance as required by these rules and regulations is canceled or altered by the insurance company, the school shall notify the Department in writing within ten working days of its date of occurrence.

009.05 Inspection of School Facilities.

009.05A Random Inspections. The Department may conduct random inspections of all of the school's facilities and motor vehicles. The school shall exhibit all records, instructional aids and other objects which are necessary to the Department's investigation.

009.05B Written Evaluation. The Department may, at the Department's discretion, prepare a written report of the results of each inspection or examination. A copy of the report may be provided to the school.

010 REQUIREMENTS FOR INSTRUCTOR'S LICENSE.

010.01 Requirements for Applicant for Instructor's License. An applicant for an instructor's license will:

010.01A Valid Driver's License. Have held a valid license from their state of residence for a period of at least two consecutive years immediately preceding the date of application. Licensing lapses due to failure to renew before a license's expiration date shall not be cause for denial. The license must be representative of the motor vehicle class taught (i.e., CDL license for CDL training);

010.01B High School Diploma. Have a high school diploma or its equivalent;

010.01C Clean Driving Record. Have no violation noted on his or her driving record for which five or more points might be assessed as set out in Neb. Rev. Stat. § 60-4,182 for the prior five years. This includes probation or other situations in which no points were actually assessed for the violation. Additionally, the instructor must have no suspensions or revocations on his or her driving record within the last five years, including no convictions for DWI or any related alcohol or drug offense in connection with motor vehicle use; and

010.01D Moral. Be of good moral character and at least 21 years old.

010.01E Criminal Background Check. Have no felony conviction within the last 10 (ten) years or any conviction involving fraudulent activities.

010.02 Application for Instructor's License. Each original and renewal instructor's license application shall contain information consisting of:

010.02A Basic Information. The name, current address, electronic contact (email), and telephone number of the applicant;

010.02B Identifying Information. Date of birth and social security number of the applicant.

010.02C Driver Information. The driver's license state and number, and the name of the school to employ the applicant.

010.02D Signature. Signature of the applicant certifying that the information included in the application is true and accurate; and signature of an authorized agent of the driver training school.

010.02E Other Information. Any other information deemed necessary by the Department.

010.03 Approval. The Department will notify instructors when they have been approved.

010.04 Agent. For purposes of these rules and regulations, each instructor employed by or associated with any school shall be deemed an agent of the school and the school shall share responsibility for all acts performed by the instructor which are within the scope of his or her employment, and which occur during the course of his or her employment.

011 FEES.

011.01 Expiration. All licenses will expire on the last day of June in the year following issuance and may be renewed upon application to the Department.

011.02 Fee. Each application for a new or renewal school license shall be accompanied by a fee of fifty dollars (\$50.00). Each application for a new or renewal instructor's license shall be accompanied by a fee of ten dollars (\$10.00). No license fee shall be refunded in the event that the license is rejected, suspended, or revoked.

012 DENIAL, REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF DRIVER TRAINING SCHOOL AND DRIVER TRAINING INSTRUCTOR LICENSES.

012.01 The Department will deny, refuse to renew, suspend or revoke the license of any driver training school or instructor, for any of the following reasons:

012.01A Failure to provide notice to the Department as required by 009 of these rules and regulations;

012.01B Failure to permit or failure of on-site inspections as required by 009.05 of these rules and regulations;

012.01C Failure to pay the fee as required by 011.02 of these rules and regulations;

012.01D Failure at any time to comply with the Motor Vehicle Operator's License Act or the rules and regulations adopted and promulgated by the Department under that Act;

012.01E Lack of business stability;

012.01F Fraud, forgery or falsification of any documents relating to the schools or their instructors;

012.01G Employing an instructor who has a conviction for driving a motor vehicle under the influence within the previous five years of the date of application;

012.01H Employing an instructor who has a suspended or revoked driver's license within the previous five years of the date of application, or who has a five point or more driving violation within the previous five years;

012.01I Fraud, forgery or misrepresentation in an application;

012.01J Failure to teach to the student the proper operation of the appropriate motor vehicle;

12.01K Failure to pass a nationwide criminal background check. The Department will deny any applicant whose record contains a felony conviction within the last ten (10) years or any conviction involving fraudulent activities.

012.02 The Department in deciding whether to suspend or revoke a driver training school shall take this section in to consideration.

012.02A Any driver training school's first offense in violating this section may result in a sixty day suspension except when the violation was under Section 012.01F or Section 012.01I.

012.02B In instances when a driver training school has committed two or more offenses, permanent revocation may be appropriate.

013 APPEAL.

013.01 Hearing. Upon suspension, revocation, cancellation or denial of the issuance of an instructor or school license, the Director shall notify the school in writing and, upon written request, shall afford the school a hearing.

013.02 Stay. Upon receipt of a written request, and upon good showing by the instructor or school, the Director may stay the administrative order pending an administrative hearing on the matter.

013.03 Administrative Procedure Act. Any action taken by the Department to cancel, suspend, revoke or refuse to issue or renew a license shall comply with the Administrative Procedure Act.

013.04 Adoption of Attorney General's Model Rules. All hearings will be held in conformance with Title 53 Nebraska Administrative Code, Chapter 4 of the Nebraska Department of Justice, also known as the Attorney General's Model Rules, incorporated herein by reference and attached to

these regulations.

