PERMANENT ADMINISTRATIVE ORDER

DMV 38-2019
CHAPTER 735
DEPARTMENT OF TRANSPORTATION
DRIVER AND MOTOR VEHICLE SERVICES DIVISION

FILING CAPTION: Permits Out-of-State Driver License Holders to Become Certified Driver Training School Instructors

EFFECTIVE DATE: 01/01/2020

AGENCY APPROVED DATE: 12/16/2019

CONTACT: Ty Yoder
DMV Vehicle Programs
503-945-5256
ty.m.yoder@odot.state.or.us

FILED
12/17/2019 10:59 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

RULES:
735-160-0015, 735-160-0075, 735-160-0080, 735-160-0095

AMEND: 735-160-0015

NOTICE FILED DATE: 10/28/2019

RULE SUMMARY: The amendment permits out-of-state driver license holders to become certified driver training school instructors.

CHANGES TO RULE:

735-160-0015
Commercial Driver Training School Operator Responsibilities

(1) An Operator must:
(a) Notify DMV by mail, email or facsimile within 10 calendar days 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 days 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) 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 insure no Instructor or student is under the influence of any intoxicant 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;

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

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

(h) Authorize only a person that has been issued an Instructor Certificate, who is employed by the School, to provide classroom or behind-the-wheel instruction to a student driver;

(i) Notify DMV by facsimile, email or 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;

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

(j) If requested, respond to DMV by mail, email or facsimile within 10 calendar days to any complaint received by DMV.

(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 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 does not apply to instruction given by an Instructor to his or her 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 classroom training, if the instructor who does not have a valid Oregon driver license to conduct behind-the-wheel instruction and not allow any Instructor who does not have a valid driver license to conduct classroom training 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 184.616, 184.619, 802.010, 822.505, 822.510, 822.515, 822.530

Statutes/Other Implemented: ORS 822.505, 822.510, 822.515
AMEND: 735-160-0075

NOTICE FILED DATE: 10/28/2019

RULE SUMMARY: Amended the eligibility requirements for an Instructor Certificate.

CHANGES TO RULE:

735-160-0075
Commercial Driver Training School Instructor Qualifications

(1) No person will teach, conduct classes, give demonstrations to, or supervise the practice of student drivers for compensation unless he or she is issued an Instructor Certificate by DMV.

(2) To be eligible for an Instructor Certificate, or to renew or maintain an Instructor Certificate, a person must:

(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 School that holds a valid and current School 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 preceding the date an application for an Instructor Certificate is submitted to DMV if the person will only conduct classroom training, or valid driving privileges for at least five years preceding the date an application for an Instructor 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 violation of a traffic crime described in OAR 735-160-0005(20) and ORS 801.545. For purposes of these OAR 735 division 160 rules, a hardship or probationary 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) 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);

(g) Currently have valid Oregon driving privileges if the person will conduct behind-the-wheel training in Oregon, or another jurisdiction within the United States.

(3) A person is not eligible for an Instructor Certificate, and will not be allowed to renew or maintain an Instructor 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 735-160-0125; 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) A person 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. Notwithstanding the conviction DMV may issue 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 person's fitness to be an Instructor.

(5) 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 the person's fitness to be an Instructor.

(6) 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 regarding 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.

(7) 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 184.614, 814.619, 802.010, 822.530
Statutes/Other Implemented: ORS 822.530
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 822.530 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 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 Public Records Law, ORS 192.410 to 192.505, or the Attorney General or a court orders disclosure in accordance with the Public Records Law.

(e) Submit the fee required under ORS 822.700; and

(f) Possess and maintain a current and valid Oregon driver license. If only conducting classroom training, the applicant may possess and maintain a current and valid driver license from another jurisdiction within the United States.

(2) An Instructor must submit to DMV a 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 of 45 days for the application to be processed during which time the 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 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 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 184.616, 184.619, 802.010, 822.530
Statutes/Other Implemented: ORS 822.530
AMEND: 735-160-0095

NOTICE FILED DATE: 10/28/2019

RULE SUMMARY: DMV amended this rule to permit out-of-state driver license holders to become certified driver training school instructors.

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 within 24 hours, 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 ¶
(C) If requested, respond to DMV in writing or by facsimile or 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 her 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 Oregon driver license or provide classroom instruction without a valid driver license issued in Oregon, or another jurisdiction within the United States.

Statutory/Other Authority: ORS 184.616, 184.619, 802.010, 822.525, 822.530
Statutes/Other Implemented: ORS 822.530