

OFFICE OF THE SECRETARY OF STATE
BEV CLARNO
SECRETARY OF STATE

JEFF MORGAN
INTERIM DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION
STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

DMV 30-2020

CHAPTER 735
DEPARTMENT OF TRANSPORTATION
DRIVER AND MOTOR VEHICLE SERVICES DIVISION

FILED
10/23/2020 7:41 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Third Party Examiner Class C Drive Tests

EFFECTIVE DATE: 10/23/2020 THROUGH 01/01/2021

AGENCY APPROVED DATE: 10/22/2020

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

DMV Program Services
1905 Lana Avenue NE
Salem ,OR 97314

Filed By:
Lauri Kunze
Rules Coordinator

NEED FOR THE RULE(S):

The purpose Oregon Administrative Rules (OAR) 735-061-0400 through 735-061-0470, is to establish criteria for which a third party testing business is authorized to give a Class C non-commercial drive test on behalf of DMV and to describe when such a service may be used by an applicant for an Oregon driver license.

Class C third party testing businesses are selected through a competitive procurement process before entering into an agreement with DMV to be authorized to administer drive tests. DMV also enters into agreements with governmental entities to participate in the program as third party testing businesses under ORS chapter 190.

An applicant who is obtaining a driver license for the first time must complete a drive test to demonstrate the applicant's ability to operate a motor vehicle without endangering the safety of persons or property. On March 8, 2020, Governor Brown issued Executive Order 20-03, declaring a statewide state of emergency due to the COVID-19 outbreak in Oregon. In compliance with the order DMV field offices were closed to the public for 10 weeks and the third party testing businesses ceased testing. DMV has not yet resumed drive tests due to COVID-19 and the social distancing rules in effect. A customer who needs a drive test must go through a third party testing business. Currently, OAR 735-061-0440 limits the number of tests a third party examiner may conduct in a single day to 16. This temporary rule will increase the number of tests a third party examiner may conduct to 20 in a single day, increasing the state's testing capacity as much as 25%. This increase will allow third party businesses to better meet the high demand and reduce the backlog of customers waiting for a test.

JUSTIFICATION OF TEMPORARY FILING:

DMV's failure to act promptly will result in serious prejudice to the public interest because customers will not be able to obtain driver licenses. People rely on driver licenses for essential daily activities such as medical appointments, employment, religious activities, and grocery shopping. If DMV does not act promptly, people who need to take and pass a drive test in order to obtain a driver license (customers applying for an original driver license or seeking to

restore driving privileges) may lose employment or may not be able to meet other essential needs.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None

AMEND: 735-061-0440

SUSPEND: Temporary 735-061-0440 from DMV 18-2020

RULE SUMMARY: DMV is increasing the number of tests a third party examiner may administer in one day from 16 to 20.

CHANGES TO RULE:

735-061-0440

Administering the Drive Test

(1) The purpose of the drive test is for the third party examiner to:

- (a) Evaluate the applicant's ability to operate a vehicle in a safe and legal manner under actual driving conditions;
- (b) Determine if the applicant demonstrates safe and legal driving methods and knowledge of traffic laws; and
- (c) Evaluate the applicant's ability to perform required maneuvers according to the examiner training provided by DMV and DMV's scoring criteria.

(2) The drive test administered by a third party examiner must contain the same required and scored maneuvers as the test administered by DMV.

(3) The third party examiner must:

- (a) Administer the test within the State of Oregon;
- (b) Administer no more than ~~16~~20 tests in one day;
- (c) Administer a test on a drive test route that has been approved by DMV;
- (d) Administer the drive test in accordance with the standards adopted in OAR 735-062-0070 and the examiner training provided by DMV;
- (e) Use the drive test score sheet (DMV Form 735-7171) provided by DMV; and
- (f) Not administer the test if the third party examiner knows or should have known the proper wait time between an applicant's previous test failure and current scheduled drive test has not been met, as set forth in OAR 735-062-0070.

(4) Prior to administering a drive test, the third party examiner must view the applicant's photo identification and obtain ~~two~~ two photocopies of the ~~applicant's photo~~ applicant's photo identification. The photo identification must include the applicant's name. ~~On~~ The copy is to be retained in the records maintained by the testing business ~~and the other copy is to put in an envelope with the Certificate of Test Completion that the applicant takes to DMV.~~

Statutory/Other Authority: ~~ORS 184.616, 184.619, 802.010, &~~ ORS 802.600

Statutes/Other Implemented: ORS 802.600