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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 737
DEPARTMENT OF TRANSPORTATION
TRANSPORTATION SAFETY OFFICE

FILED

08/29/2024 3:30 PM
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:

737-015-0020, 737-015-0030, 737-015-0076, 737-015-0095, 737-015-0120

AMEND: 737-015-0020

RULE SUMMARY: DMV proposes to amend this rule 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."

CHANGES TO RULE:

737-015-0020

Definitions ¶¶

As used in division 15 rules, unless the context otherwise requires:¶¶

(1) "Adaptive Strategy" means a program element that may be altered to help support and promote driver education in underserved areas of the state.¶¶

(2) "Approved Course" also "Approved Program" means a traffic safety education course or program conducted by an approved provider.¶¶

(3) "Approved individual" means an individual that is an employee of an approved provider who has been authorized by the approved provider to enter information into DMV2U.¶¶

(4) "Approved Instructor" also "Instructor" means a teacher who holds a valid approved instructor certification ~~card~~. An approved instructor has successfully completed required training and meets minimum requirements set forth in OAR 737-015-0070.¶¶

(45) "Approved provider" also "provider" is a private school, public school, commercial driver training school or county that has been granted approval by ODOT-TSD~~O~~ to provide instruction using a Division-approved curriculum by instructors who have completed a Division-approved instructor course of study. A provider is responsible for all aspects of the program and is required to maintain required records, whether or not instruction is contracted.¶¶

(56) "Behind-the-wheel" instruction means the portion of the approved course that requires the student to be located behind the steering wheel of a dual control equipped motor vehicle or a simulated vehicle, operating it either in real or simulated traffic situations, through the direct guidance of a driver education instructor.¶¶

(a) Four hours of simulation is equal to one hour of behind the wheel instruction.¶¶

(b) One hour of operating a motor vehicle is equal to one hour of behind the wheel instruction.¶¶

(67) "Business day" means Monday through Friday, 8 a.m. to 5 p.m., excluding Oregon state and federal holidays.¶¶

(8) "Cancellation" means to declare the approved provider or instructor status void and obtainable only as defined in OAR 737-015-0010 ~~through~~ 737-015-0130.¶¶

(79) "Classroom instruction" means that portion of an approved course held in the presence of an approved instructor in a classroom situation and does not include time spent in home study, reading outside of class time or break time. Classroom make-up time is subject to the same provisions.¶¶

(810) "Commercial Driver Training 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.¶¶

(911) "Completing the course" or "completed the course" means completing an ODOT-TSD~~O~~ approved course, with documentation showing 30 hours classroom instruction, 6 hours behind-the-wheel instruction, and 6 hours practice driving observation and 5 hours supervised practice.¶¶

(102) "Curriculum guide" means a document that describes what the students need to learn and provides a guide

for instructors as they prepare for instruction. It is a document that assists traffic safety instructors and district coordinators in meeting the needs of the regulations identified in OAR 737-015-0030.¶

(143) "Department" or "ODOT" means the Oregon Department of Transportation.¶

(124) "Division" or "TSDQ" means the Transportation Safety ~~Division~~Office of the Oregon Department of Transportation. A reference to the Division or TSDQ may include its designee.¶

(135) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.¶

(146) "DMV2U" means DMV's internet address at <https://dmv2u.oregon.gov/eServices/> .¶

(17) "Driver Improvement Violation" means:¶

(a) One conviction for an offense listed in OAR 735-064-0220; or¶

(b) ~~Five convictions for an offense listed in OAR 735-072-0035; or~~¶

~~(c) A Preventable Accident~~A Preventable Accident as defined in OAR 735-072-0020(7).¶

(158) "Driving simulator" means an electromechanical device designed to represent the driver's compartment of the automobile and with the use of films or video programs attempts to develop judgment, decision-making skills, behavior response, and manipulative skills essential in learning the driving task.¶

(169) "Electronic driver education completion notation" means the notation added to an eligible student's DMV record to document the student has completed and either passed or failed an approved course.¶

(20) "Eligible student" means a student that is at least 15 years of age, will complete an approved course before reaching 18 years of age, and has a valid Oregon instruction driver permit.¶

(217) "Hours" means clock hours, not including breaks or other time that does not apply to actual instruction.¶

~~(1822)~~ "Instructor Brake" or "Dual control" means the vehicle is equipped with a foot brake control for both the student driver and the instructor connected either by mechanical or hydraulic means, installed as specified by the manufacturer.¶

~~(1923)~~ "Lesson plan" means a written outline of the content and method of instruction. Required elements are specified in OAR 737-015-0030(3).¶

(204) "Practice driving observation" means that portion of an approved course given in a dual control vehicle as the instructor observes the student driver and engages the back seat passengers in discussion of the student driver operation of the motor vehicle.¶

(215) "Private Provider" means a Commercial Driver Training School that meets approved provider requirements and is in compliance with OAR 737-015-0010 thru 737-015-0130.¶

(226) "Public Provider" means a public school or county that meets approved provider status and is in compliance with OAR 737-015-0010 thru 737-015-0130.¶

~~(237)~~ "Public school" ~~means a common or union high school district, education service district, community college district, or any facility for the deaf operated under~~ is as defined in ORS 343.604-790.¶

(248) "Repeated Violation" means the provider or instructor was notified in writing within three years of the same or a substantially similar deficiency.¶

(259) "Revocation" means the termination of the authority granted an approved provider or an approved instructor for a specified period, with a new certificate obtainable only as defined under OAR 737-015-0120 or 737-015-0130.¶

~~(2630)~~ "Sanction" means an action taken by ODOT-TSDQ against a provider or instructor for non-compliance with Oregon law or ODOT-TSDQ rule related to traffic safety education.¶

~~(2731)~~ "Simulation" means the portion of the behind-the-wheel traffic safety education course given in a driving simulator.¶

(328) "Student Completion Certificate" means an ODOT-TSDQ issued certificate that serves as proof of an eligible student completing an approved course with a passing score.¶

~~(2933)~~ "Suspend" or "Suspension" means the temporary withdrawal for a specified period of time of the authority to conduct business or perform instructional activities granted under approved provider or approved instructor status.¶

(304) "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.¶

(315) "Traffic safety education" means a course consisting of classroom instruction, practice driving, and practice driving observation, all devoted to educating teen student drivers in safe and proper driving practices.¶

(326) "Valid instruction driver permit" means an instruction permit issued by the State of Oregon under ORS 807.280 or an interim driver card issued by the State of Oregon under ORS 807.310 that is in the student's name and is not expired, canceled, suspended or revoked.¶

(337) "Warning" means a written correction notice issued by ODOT-TSDQ that requires corrective action be taken as specified.

Statutory/Other Authority: ~~ORS 184.616,~~ 184.619, 802.345

Statutes/Other Implemented: ORS 336.800, 336.805, 336.810, 802.110, 802.345, 807.065

AMEND: 737-015-0030

RULE SUMMARY: DMV proposes to amend this rule 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.

CHANGES TO RULE:

737-015-0030

Curriculum Requirements ¶

(1) An approved program curriculum must include for each student:¶

(a) A minimum of 30 hours of classroom instruction ~~not exceeding 6 hours per week or 3 hours per day, which includes no more than 3 hours in a single day and no more than 6 hours total in any consecutive 7-day period~~ that includes:¶

(A) Instructing students about driving on all types of Oregon roads in a positive and courteous manner;¶

(B) Driver responsibility;¶

(C) Preparing and controlling the vehicle;¶

(D) Identification and proper use of signs, signals, markings, and roadway types;¶

(E) How to enter, use, and exit different types of intersections;¶

(F) Automobile maneuvers and traffic flow;¶

(G) Management of time and space using accepted and current practices, including targeting, line of sight/path of travel, model driving habits and reference point concepts;¶

(H) Defensive driving;¶

(I) Rules of the road;¶

(J) How the laws of physics and natural laws affect driving;¶

(K) How physical, emotional, and psychological conditions affect driving;¶

(L) Impaired driving; and¶

(M) Emergency situations.¶

(b) A minimum of 6 hours of behind-the-wheel instruction ~~not exceeding~~, which includes no more than 1.5 hours (90 minutes) of driving per day per student ~~not to exceed 120 minutes within 7~~ in a single day and no more than 2 hours total in any consecutive 7-days period. Behind-the-wheel instructional objectives must correspond with topics covered during classroom instruction described under (1)(a) of this rule.¶

(c) A minimum of ~~six~~ 6 hours of practice driving observation ~~not exceeding three hours of observation per day or four hours within seven, which includes no more than 3 hours of observation in a single day and no more than 4 hours total in any consecutive 7-days, per student~~ ~~iod.~~¶

(d) A written skill assessment for each student drive that covers all of the following skills, at a minimum:¶

(A) Positioning a vehicle based on visual referencing skills, space management, fender judgment and road position control;¶

(B) Procedures and sequencing for vehicle operations from the simple to the complex skill based on vehicle operation control, vehicle maneuvering, vehicle control options, and vehicle balance;¶

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

(D) 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.¶

(e) During any behind-the-wheel instruction session, the following safety requirements must be met:¶

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

(B) All vehicle occupants must use safety belts at all times while operating a vehicle; and¶

(C) Headlights must be turned on at all times during behind-the-wheel instruction. Because automatic headlights do not illuminate side and tail lights, headlights must be manually turned on even if an automatic switch is present and in use.¶

(2) An approved program curriculum must include parent, legal guardian, or supervising adult involvement that includes:¶

(a) A parent meeting; and¶

(b) A log or other means to demonstrate that a minimum of five hours supervised home practice was conducted during the course. Documentation must be maintained by the provider. Supervised home practice is not counted as part of the classroom, behind-the-wheel, or practice driving observation.¶

(3) The traffic safety education curriculum guide must be approved by ODOT-TSDQ prior to program implementation. The provider must review and update the guide every three years thereafter, maintaining a full current master copy. The guide must be available for review by ODOT-TSDQ on request. The following elements are required:¶

(a) A written lesson plan for each classroom and each behind-the-wheel session. A provider who has fully adopted the ORPC Playbook is not required to provide additional documentation of classroom lesson plans. The requirement to develop written behind-the-wheel lesson plans remains in effect whether or not the program has adopted the ORPC Playbook. A lesson plan must include:¶

(A) The title of the lesson or module to be taught;¶

(B) Prerequisites;¶

(C) Overall objectives;¶

(D) Performance objectives;¶

(E) Materials and resources;¶

(F) Instructor and student activities;¶

(G) Time breakdown;¶

(H) Methods of assessment; and¶

(I) Assignments.¶

(b) A flow chart that shows the program's integration between classroom and behind-the-wheel lessons.¶

(c) A written drive route that supports each behind-the-wheel lesson plan. The drive route cannot duplicate the DMV drive test route.¶

(d) The final drive route. Every final drive route in use must be pre-approved by ODOT-TSDQ, along with the associated formal written score assessment form. Any change to a final route or score assessment form must also be pre-approved.¶

(4) Classroom and behind-the-wheel instruction and practice driving observation must be provided concurrently.¶

(a) Concurrently means the integration of classroom instruction and behind-the-wheel instruction. For each student, no fewer than 4 and no more than 10 hours of classroom instruction will be completed before beginning behind-the-wheel instruction. Classroom and behind-the-wheel instruction must be well organized and coordinated.¶

(b) Behind-the-wheel instruction and practice driving observation of a particular skill or behavior may not precede the classroom instruction of that same skill or behavior.¶

(5) A course may not be completed in fewer than 35 days and no more than 180 days. An extension beyond 180 days may be provided if there is compelling reason dealing with school, family or medical circumstances and has been agreed upon between the provider and parent before completion of the course. Documentation of the agreement must be maintained.¶

~~(6) At the end of each course, the provider must issue a Student Completion Certificate. Within five business days after a student completed and passed the course and final drive assessment, the provider must enter into DMV2U the driver education completion notation signifying that to each eligible student who completes the approved course with a passing score the student passed and the date the student passed the course and final drive assessment.~~ A student must obtain a minimum score of 80% on the final skills assessment to receive a certificate.¶

~~(7) Summer Exception – The classroom portion of a driver education program, required under section (1)(a) of this rule, offered from June through August may be conducted over a shorter period of time and for longer hours.~~

~~¶ passing notation.¶~~

~~(7) Within five business days after a student has completed and failed the course, the provider must enter into DMV2U the driver education completion notation signifying that the student failed the course.¶~~

~~(8) Summer Exception - The maximum number of classroom hours permitted during any consecutive 7-day period changes during the summer months. When offered from June to August, the classroom instruction must be conducted over no less than a 3-week period with no more than 10 hours of classroom instruction per week, not exceeding 3 hours per day portion of a driver education program required under section (1)(a) of this rule, may contain classroom instruction for up to 3 hours in a single day and 10 hours total in any consecutive 7-day period. Requirements for the behind-the-wheel portion of the course are unaffected by this exception. A course may not be completed in fewer than 35 days.¶~~

~~(8) With agreement between a parent, legal guardian or supervising adult and the provider, behind-the-wheel instruction may be provided hour for hour in place of practice driving observation. In no case shall behind-the-wheel instruction hours be fewer than 6, and in no case shall the behind-the-wheel instruction hours and practice driving observation hours, combined, be fewer than 12. Time must be accurately documented by date, activity, and the amount of time of each session.~~

Statutory/Other Authority: ORS 184.616, 184.619, 802.345, 802.020, 336.802

Statutes/Other Implemented: ORS 336.800, 336.802, 336.805, 336.810, 802.110, 802.345, 807.065

AMEND: 737-015-0076

RULE SUMMARY: DMV proposes to amend this rule to add required tasks an approved provider must complete.

CHANGES TO RULE:

737-015-0076

Provider Responsibilities ¶

- (1) On initial application for approval, a provider must submit the following:¶
 - (a) Curriculum, including lesson plans, drive routes, and skill assessment forms;¶
 - (b) Certification numbers for all instructors who will be permitted to teach the approved program;¶
 - (c) The course's final drive route and assessment form; and¶
 - (d) Required recording and reporting forms, as provided by ODOT-TSDQ.¶
- (2) A provider must complete and return, when warranted, all required recording and reporting forms supplied by the Division before or on the required dates.¶
- (3) A provider may not begin a course until the provider has been granted approved provider status by ODOT-TSDQ.¶
- (4) Any subsequent changes to the final drive route or score assessment form must be pre-approved by ODOT-TSDQ.¶
- (5) Each approved provider must appoint an individual responsible for ensuring that all driver education requirements are met and to be the contact person with the Division.¶
- (6) Each approved provider must adopt written policies that include:¶
 - (a) Enrollment criteria;¶
 - (b) Student fees and refunds;¶
 - (c) Course failures and repeats; and¶
 - (d) Minimum and maximum course duration.¶
- (7) Each approved provider must submit in writing all reportable motor vehicle accidents that involve a driver education motor vehicle to the Division within three working days of the accident. If a police report has been prepared, it must also be provided.¶
- (8) An approved provider must:¶
 - (a) Notify ODOT-TSDQ by mail or facsimile within 10 days (excluding weekends and state holidays) of any of the following:¶
 - (A) The provider no longer meets or maintains the requirements set forth in OAR 737-015-0010 ~~thru~~ 737-015-0130.¶
 - (B) An instructor employed by the provider who no longer meets or maintains qualifications, responsibilities or requirements set forth in OAR 737-015-0070, including an explanation of why the instructor no longer meets the qualifications, responsibilities or requirements.¶
 - (b) Annually obtain a driving record from each out-of-state instructor. The certified driving record must be issued by the jurisdiction or foreign government that issued driving privileges during that period. The provider shall carefully review the record for compliance with Oregon Administrative Rule and maintain a copy with instructor records;¶
 - (c) Establish procedures that reasonably ensure no instructor or student is under the influence of any intoxicant during classroom or behind-the-wheel instruction;¶
 - (d) Comply with all statutes, administrative rules, and regulations related to an approved driver education program provider;¶
 - (e) Adhere to the Code of Ethics and Rules of Conduct set forth in OAR 737-015-0080;¶
 - (f) Authorize only an individual who has ~~provided a copy of~~ a valid approved instructor certification ~~and~~ to provide classroom or behind-the-wheel instruction to a student; ~~and~~¶
 - (g) If requested, respond to ODOT-TSDQ by mail or facsimile within 10 calendar days (excluding weekends and state holidays) to any complaint received by ODOT-TSDQ;¶
 - (h) Ensure that the student is eligible to take the approved course prior to the start of the course;¶
 - (i) Ensure every student's course results and the date those course results were obtained are entered into DMV2U within five business days after the student completed and passed the course and final drive assessment;¶
 - (j) Ensure every student's course results and the date those course results were obtained are entered into DMV2U within five business days after the student failed the course; and¶
 - (k) Ensure every student's course result notation, whether the student passed or failed the course, is entered into DMV2U prior to requesting reimbursement.¶
- (9) An approved provider may not permit any individual to do any of the following:¶
 - (a) Conduct classroom or behind-the-wheel instruction with a student not in possession of a valid driver license or

instruction permit.¶

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

(c) Allow an instructor who does not have current, valid driving privileges to conduct classroom or behind-the-wheel instruction.¶

(d) Allow an instructor who ~~had~~ does not ~~provided a copy of~~ have a valid approved instructor certification card to teach an approved course.¶

(10) An approved provider must ensure only approved individuals have access to DMV2U.

Statutory/Other Authority: ORS 184.616~~9~~, 184.619, 802.345~~336.802~~

Statutes/Other Implemented: 802.010, ORS 336.79~~800~~, 336.800~~2~~, 336.805, 336.810, 802.110, ~~802.345~~, 807.065

ADOPT: 737-015-0095

RULE SUMMARY: DMV proposes to adopt this rule to establish how electronic driver education entry is completed.

CHANGES TO RULE:

737-015-0095

Electronic Driver Education Entry

(1) DMV shall give an approved provider access to DMV2U to check potential student eligibility, determine subsidy eligibility, and to enter student course results.¶

(2) An approved provider shall ensure the student is eligible to take the driver education course by entering the required data into DMV2U prior to the start of the course.¶

(3) An approved provider shall enter the student's passing result and the date of the passing result into DMV2U within five business days after a student completed the course and passed the final drive assessment.¶

(4) An approved provider shall enter a student's course failure result into DMV2U prior to claiming reimbursement for a student who completed the course with a failing result.¶

(5) An approved provider shall enter an electronic driver education completion notation with a passing notation into DMV2U when a student, within two years of completing the course, requests a new Student Completion Certificate because the student's previously issued Student Completion Certificate is no longer available.¶

(6) DMV shall enter an electronic driver education completion notation with a passing notation into DMV2U when a student, within two years of completing the course, requests a new Student Completion Certificate and the approved provider no longer has access to DMV2U.

Statutory/Other Authority: ORS 184.619, 336.802, 802.010

Statutes/Other Implemented: ORS 336.800, 336.802, 336.805, 336.810, 802.110, 807.065

AMEND: 737-015-0120

RULE SUMMARY: DMV proposes to amend this rule to update the reasons DMV may sanction a driver education program provider or instructor, and to clarify when DMV shall remove access to DMV2U.

CHANGES TO RULE:

737-015-0120

Provider and Instructor Sanctions ¶¶

(1) ODOT-TSDQ may impose sanctions when it determines a provider has violated any provision of ORS 336.790 to 336.815, or administrative rules promulgated by ODOT-TSDQ.¶

(2) In determining an appropriate sanction, ODOT-TSDQ may consider the following criteria:¶

(a) The severity of the violation;¶

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

(b) The number of similar or related violations by the provider;¶

(c) Whether the violation was willful or intentional; or¶

(d) The history of prior sanctions imposed by ODOT-TSDQ.¶

(3) ODOT-TSDQ may impose progressive sanctions, when it determines violations have occurred or are occurring,¶

(a) Progressive sanctions begin with a written warning. If deficiencies remain uncorrected, or a complete corrective action report has not been submitted, sanction severity will increase.¶

(b) Sanctions may include one or more of the following:¶

(A) Written warning, including a correction notice or report;¶

(B) Reduction or denial of reimbursement;¶

(C) Suspension, cancellation, restriction or denial up to one year; or¶

(D) Revocation of approved status and the right to apply or renew the approved status for up to five years.¶

(4) ODOT-TSDQ reserves the right to impose additional sanctions to protect a student, the public or public funds.

Sanctions may include, but are not limited to:¶

(a) Reimbursement of fees paid by students¶

(b) Delay of a provider's reimbursement¶

(5) Reasons to sanction a driver education program provider or instructor include, but are not limited to, the following:¶

(a) Misrepresenting information to obtain subsidy;¶

(A) Misrepresenting expenses or revenue;¶

(B) Claiming unauthorized expenses;¶

(C) Submitting a false reimbursement request; or¶

(D) Misrepresenting program location or delivery to receive additional benefit.¶

(b) Misrepresenting information to obtain approved provider or approved instructor status:¶

(A) Misrepresenting the program or its delivery;¶

(B) Misrepresenting qualifications;¶

(C) Failing to maintain eligibility requirements; or¶

(D) Falsely claiming to correct program deficiencies.¶

(c) Knowingly making a false statement or representation for the purpose of obtaining benefit for self or others;¶

(d) Failing to abide by terms or conditions of an approved program;¶

(e) Failing to correct deficiencies, or to provide a complete corrective action report addressing each deficiency, within stated timelines;¶

(f) Failing to abide by applicable OAR or ORS;¶

(g) Failing to submit required forms or information by the due date;¶

(h) ~~Failing to return an approved instructor certification card when directed to do so; or~~¶

(i) Issuing a ~~S~~Entering into DMV2U an electronic driver education completion notation indicating passing when a student has not completed the course and passed the final drive assessment;¶

(i) Entering into DMV2U an electronic driver education completion notation indicating course failure when a student has not completed the course; ¶

(j) Failing to enter student results within five business days after a student has completed the course and passed the final drive assessment as required in OAR 735-015-0095;¶

(k) Failing to enter student results within five business days after a student ~~C~~completion Certificate inappropriately ~~yes~~ the course and fails as required in OAR 735-015-0095;¶

(L) The provider fails to remove an approved individual's access to DMV2U when the individual is no longer authorized or employed by the provider and the individual was added to DMV2U by the provider;¶

(m) The provider enters a passing notation into DMV2U when the student failed the course; or

(n) The provider enters a failing notation into DMV2U when the student passed the course.

(6) Emergency action may be imposed when there is potential for serious harm to the driver education program or any person.

(7) The provider or instructor may provide ODOT-TSDQ with evidence of any mitigating circumstances related to OAR 737-015-0110, which may include the opportunity or degree of difficulty to comply.

(8) ODOT-TSDQ may revoke its approval of a provider or instructor upon providing five days advance notice when ODOT-TSDQ determines, through an audit or investigation, that the safety of any person is endangered because of unsafe practices or unsafe equipment.

(9) When ODOT-TSDQ takes action to suspend, revoke or cancel an approved provider ODOT-TSDQ will send notice to the approved provider. 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 current address on record with ODOT-TSDQ.

(10) If ODOT-TSDQ revokes a provider, no individual who owned, operated, or knowingly participated in the violations of the provider at the time of the act may, within five years of the revocation, own, operate or participate in an ODOT-TSDQ approved program.

(11) A suspended or revoked provider may not schedule students, accept money or conduct classroom or behind-the-wheel lessons for an ODOT-approved program for the full term of suspension or revocation. ~~In addition, the provider must return any ODOT-TSD issued Student Completion certificates to ODOT-TSD.~~

(12) A suspended or revoked provider must refund enrolled students who are monetarily affected by the suspension or revocation.

(13) When ODOT-TSDQ takes action to suspend, revoke or cancel an instructor approval ODOT-TSDQ will send notice to the instructor. 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 to both the instructor and the provider on record with ODOT-TSDQ.

(14) DMV shall remove a provider's access to DMV2U when DMV suspends, revokes or cancels the provider's approval status.

Statutory/Other Authority: ORS 184.6169, ~~184.619~~336.802, 802.345010

Statutes/Other Implemented: ORS 336.790, 336.800, 336.802, 336.805, 336.810, 802.110, ~~802.345~~, 807.065