

**TEMPORARY ADMINISTRATIVE ORDER**

**DRAFT**

CHAPTER 735

DEPARTMENT OF TRANSPORTATION, DRIVER AND MOTOR VEHICLE SERVICES  
DIVISION

FILING CAPTION: DMV Online Services and Changes to Drive Test Wait Times and Validity Period

EFFECTIVE DATE: 05/14/2020 THROUGH 11/09/2020

AGENCY APPROVED DATE: 05/14/2020

NEED FOR THE RULE(S): DMV wants to adopt a new rule, OAR 735-018-0150, to describe when an Oregon resident may apply to replace a Real ID or non-Real ID driver license, driver permit and identification card by electronic means using DMV's website. This is a part of DMV's system modernization and is intended to reduce the need for DMV customers to visit field offices and permit DMV staff to use time for other customer transactions.

Rule amendments are proposed to align with programming requirements necessary to implement DMV's new computer system, align with current operating policies, and create efficiencies for DMV customers and DMV.

JUSTIFICATION OF TEMPORARY FILING: In alignment with the operative date for Oregon to become compliant with the Federal Real ID Act of 2005, phase II of DMV's system modernization project is scheduled to be implemented on July 6, 2020. Due to COVID-19, the federal enforcement date for Real ID has been delayed but Oregon law still requires a compliance date by July 2020.

DMV has programmed its new computer system to implement the new processes and procedures described in this rulemaking starting July 6, 2020. Failure to adopt these rules will result in serious prejudice if DMV programs and processes are implemented without first filing the proposed administrative rule adoptions and amendments necessary to implement these programs that have already been programmed into DMV's computer system. As a result of this programming, multiple programs would be out of compliance with DMV's current administrative rules that set out requirements for persons doing business with DMV. The impacted persons subject to serious prejudice are Oregon residents who would be unable to use online services provided by DMV as described in its proposed rules. These persons include commercial and non-commercial Oregon drivers, drive test applicants, motorcycle endorsement applicants, DMV Third Party Testing Businesses, and approved motorcycle rider education providers.

DMV's Third Party Testing Program and Rider Education Providers may have difficulty complying with DMV requirements if the computer system is inconsistent with current DMV rules. DMV would not be able to enforce test result submission requirements, leaving the oversight of the third party testing program in jeopardy of losing program integrity. Lack of rules for the general public to access the online services soon to be provided would result in inconsistencies between DMV's practices, as operationalized through its computer system, and DMV's policies, as described in its rules. The results may include Oregon residents being issued credentials that they are not entitled to or

cancellation of driving privileges because certain rules or guidelines were not followed at the time of issuance. DMV would be testing both commercial and non-commercial drivers outside of mandatory wait times.

A temporary filing will allow DMV to implement the system upgrade in compliance with its own policies and programming. This will result in clear and current guidelines through administrative rules to guide DMV business partners, general public, and testing applicants through the requirements of DMV's upcoming online services. A temporary filing will allow compliance with state laws, public transparency and prevent any serious prejudice to Oregon residents or businesses doing business with DMV.

DMV planned to present the permanent rules for approval at the June OTC meeting. The June OTC meeting has been cancelled, and June was the last month available for approving the permanent rules before the rules must go into effect.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE: None

CONTACT:

Cassandra Bay  
503-945-5232  
cassandra.e.bay@odot.state.or.us  
DMV Driver Programs  
1905 Lana Avenue NE  
Salem, OR 97314

RULES: 735-010-0008, 735-018-0010, 735-018-0020, 735-018-0150, 735-060-0120, 735-061-0410, 735-061-0420, 735-061-0440, 735-061-0450, 735-062-0070, 735-062-0078, 735-062-0080, 735-062-0140, 735-070-0110

AMEND: 735-010-0008

RULE TITLE: Definitions

RULE SUMMARY: Proposed rule amendment OAR 735-018-0010 amends the definition of "unique identifier" to include answers to security questions required for applicants doing business with DMV.

RULE TEXT:

As used in division 10 rules, the following definitions apply:

(1) "Bulk distribution" means the distribution of surveys, marketing materials and solicitations, regardless of the medium used for distribution, including but not limited to:

(a) Material distributed to a targeted group of people to tell them about the suitability or quality of a product or service;

(b) Market research which involves contacting individuals;

(c) Nonprofit entities seeking donations of labor, products or money; or

(d) Political material designed to encourage membership in a political organization, or to gain support for individuals seeking election to public office, or solicit money or labor for a political campaign or election.

(2) “Business entity” means a corporation, organization, firm, association, partnership, governmental agency, lawful commercial enterprise or other legal entity, other than an individual.

(3) “Business address” means the physical address of the place in which or from which a business entity operates.

(4) “Business name” is the name, including an abbreviation or acronym, by which a business is designated in official records and under which it conducts business.

(5) “Conducting business with DMV” includes any business with DMV that results in the creation of a customer record or change to an existing customer record.

(6) “Confidential Information” includes:

(a) A person’s photograph, social security number, mother’s maiden name and place of birth;

(b) Records of driver licenses, identification cards or vehicles used for undercover purposes by law enforcement, parole and probation agencies;

(c) The residence address of an individual whose address is protected by law;

(d) Medical information; and

(e) Drug test information.

(7) “County of use” means the county in which a vehicle is primarily used, when that county is:

(a) Other than the county of the owner’s residence or business address; and

(b) Other than the county of the vehicle address provided to DMV.

(8) “Customer number” means the distinguishing number assigned by DMV to each individual or business entity for which a customer record has been created.

(9) “Customer record” means the computer record created by DMV at the time an individual or business entity first does business with DMV.

(10) “Descriptive address” means information sufficient to identify the location of a residence or business entity if there is no actual street or rural route address, or to explain where a person lives if the person has no fixed residence.

(11) “Disseminator” means a person whose primary business function is the sale or distribution of

information, including personal information in response to an individual record inquiry from a person who is authorized by DMV to receive the information under ORS 802.179.

(12) “DMV” means the Oregon Department of Transportation, Driver and Motor Vehicle Services Division.

(13) “Employment address” means the address of the public agency employing a police officer or eligible public employee as provided in ORS 802.250.

(14) “Full legal name” means an individual’s first name, middle name(s), and last or surname, without use of initials or nicknames.

(15) “Insurance support organization,” as used in ORS 802.179(6), means a person who regularly engages in assembling or collecting information about a natural person for the primary purpose of providing the information to an insurer or insurance agent in connection with claims investigation activities, antifraud activities, underwriting or rating. “Insurance support organization” does not include an insurer, an insurance agent, a governmental institution, medical care institution or medical professional.

(16) “Legitimate business” means a lawful business enterprise operating in compliance with federal, state and local law.

(17) “Mailing address” means an address other than an actual residence or business address to which a person or business entity mail is delivered, including a post office box or address of a service provider.

(18) “Motor vehicle record” means any record that pertains to a grant of driving privileges, an identification card, vehicle title or vehicle registration issued by DMV. “Motor vehicle record” does not mean a record pertaining to a manufactured structure.

(19) “Person” means an individual, an organization or an entity but does not include the State of Oregon or any agency thereof.

(20) “Personal information” means the following information that identifies an individual:

(a) Driver license, driver permit, identification card or customer number;

(b) Name;

(c) Address (excluding five-digit zip code); and

(d) Telephone number.

(21) “Primary residence” means the state, jurisdiction or physical location where an individual lives, during any 12-month period, more than he or she lives elsewhere during that period.

(22) “Records list” means a list of driver or vehicle records compiled by selecting records that meet

one or more general criteria, where the criteria is not specific to any one person or vehicle. Records lists would include such things as a list of vehicle records of a given manufacturer or a list of licensed drivers over the age of 65. A records list would not include records that were selected by a specific identifier, such as an individual's driver license number or a vehicle's registration plate number.

(23) "Registration address" means the vehicle address, if one is provided or if a vehicle address is not provided:

(a) The vehicle owner's residence address if the owner is an individual; or

(b) The vehicle owner's, business address if the owner is other than an individual. Some examples may include a business, school district, organization or church.

(24) "Residence address" means the actual address at which an individual resides more than he or she lives elsewhere during a 12-month period. If an individual resides an equal amount of time at two or more addresses, the individual must determine which address is his or her residence address and use that as the residence address in conducting business with DMV. A residence address must not be that of a service provider, except for purposes of titling or registering a vehicle owned by the service provider or obtaining an Oregon driver license, driver permit or identification card by the service provider.

(25) "Security Question" means data or information used by DMV to authenticate the identity of a DMV customer.

(26) "Service Provider" means a business which facilitates the collection or delivery of mail, or businesses that provide vehicle registration services for another party. A mail service is considered to be a Service Provider.

(27) "Vehicle address" means the residence or business address where the vehicle is primarily housed, or from where the vehicle is primarily dispatched when different than the actual residence or business address of the owner.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 192.324, 802.179, 802.183, 803.370 & 807.050  
STATUTES/OTHER IMPLEMENTED: ORS 802.175 - 802.270, 803.220, 803.370, 807.050, 807.420, 807.560, 807.725 & 821.080

AMEND: 735-018-0010

RULE TITLE: Definitions

RULE SUMMARY: Proposed rule amendment OAR 735-018-0020 specifies that an electronic transaction is a transaction conducted between DMV and a person or organization and is only applicable to transactions described in OAR Chapter 735, Divisions 18, 61 and 62. This rule also specifies that submission of electronic records is voluntary unless otherwise specified by law, rule, or agreement.

RULE TEXT:

For purposes of OAR chapter 735, division 18:

- (1) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.
- (2) "DMV's Website" means DMV's Internet address at <http://www.oregon.gov/ODOT/DMV>.
- (3) "Electronic record" means a document or information created, generated, sent, communicated, received or stored by electronic means.
- (4) "Electronic signature" means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person or organization with the intent to sign the record.
- (5) "Electronic transaction" means the exchange of an electronic record and, in those transactions where an ink on paper signature would also be required under Oregon law, an electronic signature, between a person or organization and DMV for the purposes of:
  - (a) Facilitating access to public records or public information;
  - (b) Purchasing or selling goods or services;
  - (c) Transferring funds;
  - (d) Facilitating the submission of an electronic record or electronic signature required or accepted by DMV; or
  - (e) Creating records which DMV or another person or organization will reasonably rely upon, including but not limited to formal communications, notices, certifications, authorizations and any other record that is issued under a signature.
  - (f) This section (5) does not apply to informational publications and informal communications.
- (6) "Hardcopy" means a document printed on paper.
- (7) "Hyperlink" means a connection to or within electronic documents or from one webpage to another webpage, or file using a computer programming language or user interface.

(8) “Organization” means corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation or any other legal or commercial entity. “Organization” does not include an individual.

(9) “Person” means an individual.

(10) “Personal Information” means the following information that identifies the individual: driver license, driver permit or identification card number; name; address (excluding five-digit ZIP code); and telephone number.

(11) “PIN” means a personal identification number assigned by DMV to a person or organization to establish a secure means of authenticating the identity of a person or organization when conducting certain specified electronic transactions with DMV.

(12) “Record” means a document or information that is customarily printed on paper, which contains information relating to and evidencing the transaction of business between a person or an organization and DMV.

(13) “Unique identifier” means a number, name, symbol, answers to security questions or other identifier used singly or in combination by DMV to uniquely identify a person, organization or vehicle to DMV. For example, a driver license number, customer identification number, date of birth, place of birth, mother’s maiden name, vehicle license plate number, vehicle identification number, etc.

(14) “Webpage” means an electronic document created with a computer programming language or user interface that can be accessed through an online interface or the Internet and displayed on a device such as a computer monitor or mobile device.

(15) “Website” means a group of interrelated webpages, associated files or computer application systems hosted on a web server accessed through the Internet or an online interface.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 403.073, 802.010, 802.012, 803.

STATUTES/OTHER IMPLEMENTED: ORS 403.073, 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420, 807.56

AMEND: 735-018-0020

RULE TITLE: General Provisions

RULE SUMMARY: Proposed rule amendment OAR 735-018-0020 specifies that an electronic transaction is a transaction conducted between DMV and a person or organization and is only applicable to transactions described in OAR Chapter 735, Divisions 18, 61 and 62. This rule also specifies that submission of electronic records is voluntary unless otherwise specified by law, rule, or agreement.

RULE TEXT:

An electronic transaction is a transaction conducted between DMV and a person or organization, including but not limited to the submission of electronic records to DMV that meets all of the following requirements:

- (1) Is limited to the electronic transactions described under OAR 735, divisions 18, 61 and 62 rules;
- (2) Is voluntary, and is made at the sole discretion of the person or organization submitting the electronic record unless otherwise required by Oregon law or by any agreement entered into with the Oregon Department of Transportation;
- (3) Is conducted through DMV's website or an official State of Oregon website that hosts or administers a DMV application or service;
- (4) Is subject to the provisions of DMV record privacy law (ORS 802.175-802.191) and Oregon's Public Records Law (ORS 192.410–192.505);
- (5) Has the same level of legal protection and effect that is given to a hardcopy transaction and may not be denied legal effect, validity or enforceability solely because it is conducted in electronic form;
- (6) Is conducted in accordance with:
  - (a) The provisions of OAR 735, division 18 rules;
  - (b) All applicable laws and administrative rules; and
  - (c) Any instructions contained on DMV's website.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 802.012 & 803.460

STATUTES/OTHER IMPLEMENTED: ORS 802.012, 802.560, 803.200, 803.220, 803.360, 803.370, 803.450, 803.460, 807.420 & 807.560



ADOPT: 735-018-0150

RULE TITLE: Replacement of Real ID or Non-Real ID Driver License, Driver Permit or Identification Card by Electronic Means at DMV's Website

RULE SUMMARY: Proposed rule adoption OAR 735-018-0150 describes requirements for applying for a replacement Real ID or non-Real ID driver license, driver permit or identification card by electronic means. DMV is proposing to allow Oregon residents to apply for a replacement driver license, driver permit or identification card online in certain circumstances, which eliminates the need to complete such transactions at a DMV field office. An applicant must meet certain eligibility requirements to use the online system; otherwise, the applicant must visit a DMV field office to complete the transaction. DMV will use the photograph and signature image on file to issue the credential, and must verify answers to security questions and the applicant's Social Security number. Proposed rule amendment OAR 735-010-0008 defines the term "Security Question" to mean data or information used by DMV to authenticate the identity of a customer. DMV intends to use the data or information provided to verify an applicant's identity when doing business with DMV.

RULE TEXT:

(1) DMV may issue a replacement driver permit, driver license or identification card applied for online for one of the reasons listed in section (2) of this rule if the applicant meets all eligibility requirements set forth in this rule.

(2) DMV may issue a replacement driver license, driver permit or identification card applied for online if an applicant:

(a) Certifies the driver license, driver permit, or identification card was lost, destroyed or mutilated;

(b) Has updated their DMV record with a change of residence or mailing address or by adding a mailing address by submitting a Change of Address as prescribed in OAR 735-010-0070; or

(c) Has not received the applicant's driver license, driver permit or identification card in the mail after applying online or in person at a DMV office and the applicant does not meet the requirements under OAR 735-062-0092(3) for a reissued driver license, driver permit or identification card.

(3) A person may apply to replace, by means of an electronic transaction through DMV's website, a Real ID or non-Real ID driver license, driver permit or identification card by submitting:

(a) A completed online replacement driver license, driver permit or identification card application that:

(A) Contains the last six digits of the applicant's social security number (SSN); or

(B) If the applicant is not eligible for SSN and is applying for non-commercial driving privileges or an identification card the applicant must certify they are ineligible for a SSN; and

(b) The fee required to be paid for replacement of driver license or driver permit card under ORS 807.370 under the method prescribed in OAR 735-018-0070; or

(c) The fee required to be paid for replacement identification card under ORS 807.410 under the method prescribed in OAR 735-018-0070.

(4) A person is not eligible for driving privileges under ORS 807.060(4) or (5) and DMV will not accept an online application for a replacement driver license or driver permit if on an application for an online replacement license or permit a person:

(a) Answers yes to the question “Do you have a vision condition or impairment that has not been corrected by glasses, contacts or surgery that affects your ability to drive safely?” and the person is unable to pass a DMV vision screening;

(b) Answers yes to the question “Do you have any physical or mental conditions or impairments that affect your ability to drive safely?”; or

(c) Answers yes to the question “Do you use alcohol, inhalants, or controlled substances to a degree that affects your ability to drive safely?”

(5) A person who is denied issuance of a replacement driver license or permit when applying online under section (4) of this rule will be allowed to establish or reestablish eligibility by applying in-person at a DMV office and passing DMV examinations under ORS 807.070, by getting a determination of eligibility from the Medical Determination Officer under 807.090 or both, as determined by DMV. The requirement may be waived if DMV determines the application was completed in error and the person is eligible for driving privileges.

(6) In addition to the certifications described in OAR 735-018-0040, the applicant applying for replacement of any driver license, driver permit or identification card submitted by means of an electronic transaction shall constitute a certification by the applicant to all of the following:

(a) Is, at the time of application, a resident of or domiciled in Oregon as described in ORS 807.062;

(b) To the best of the applicant’s knowledge is not suspended, canceled or revoked in Oregon or any other jurisdiction;

(c) Qualifies for the driving privilege or identification card being applied for;

(d) Understands that it is a crime under ORS 807.520 and 807.530 to knowingly make a false application for driving privileges or identification;

(e) Understands that once the application for the replacement driver license, driver permit or identification card is submitted, the current driver license, driver permit or identification card is invalid; and

Understands that if the applicant obtains a replacement driver license, driver permit, or identification card, the applicant must return to DMV the invalidated driver license, driver permit, or identification card to DMV if it is later found, has been updated with a new address or was replaced due to damage.

(7) An applicant applying for a replacement driver license, driver permit, or identification card online may not change any information on the card.

(8) A driver license, driver permit, or identification card being replaced online will contain the last photograph on file with DMV.

(9) DMV may not issue a replacement driver license, driver permit, or identification card under this rule if the applicant's most recent photograph on file with DMV is more than nine years old.

(10) Before issuing a replacement driver license or driver permit, DMV will make an inquiry to the National Driver Registry (NDR)/Problem Driver Pointer System (PDPS), Commercial Driver License Information System (CDLIS) and State Pointer Exchange System (SPEXS)/State to State (S2S) services to determine if the applicant's driving privileges are suspended, revoked, canceled or otherwise not valid in any other jurisdiction

(11) Before issuing a replacement driver license, driver permit or identification card online DMV will make an inquiry using the S2S service to determine if the applicant holds a driver license, driver permit or identification card issued by another jurisdiction.

(12) A replacement driver license, driver permit, or identification card is mailed to the address in DMV's record at the time the applicant applies for the replacement online.

(13) An applicant applying for a replacement online may not request another replacement, either online or in a field office for 20 days after the date the applicant submits the online replacement application.

(14) An applicant in the United States for a temporary length of stay is not eligible to replace the applicant's limited term driver license, limited drive permit or limited term Identification card using the online application process.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 802.010 & 802.012

STATUTES/OTHER IMPLEMENTED: ORS 802.012, 807.040, 807.050, 807.060, 807.062, 807.160, 807.370, 807.400, 807.410 & 807.530

AMEND: 735-060-0120

RULE TITLE: CDL Skills Test

RULE SUMMARY: Proposed rule amendment OAR 735-060-0120 aligns with the elimination of drive test waiting periods following a failed drive test amendments in OAR 735-062-0070. It updates a cross-reference from OAR 735-062-0070(8) to subsection (7) and specifies when DMV will accept scores for any part of a commercial driver license skills test.

RULE TEXT:

(1) The CDL skills test is a three-part test of an individual's skills to safely operate a CMV. The three parts are the pre-trip vehicle inspection test, the basic control skills test, and the on-road drive test.

(2) DMV adopts the following FMSCA regulations in effect on January 1, 2020, and prescribes that these regulations establish the standards that must be followed in the administration of a CDL skills test:

(a) 49 CFR sec. 383.71, Driver Applicant and Certification Procedures;

(b) 49 CFR sec. 383.75, Third Party Testing;

(c) 49 CFR sec. 383.110 through sec. 383.123, Required Knowledge and Skills; and

(d) 49 CFR sec. 383.131 through sec. 383.135, Tests.

(3) The CDL skills test must be administered by a certified CDL Third Party Examiner. The Examiner must:

(a) Not administer more than six CDL skills tests within a single calendar day.

(b) Begin and end all CDL skills tests during daylight hours.

(c) Administer all CDL skills tests within the State of Oregon.

(d) Administer all portions of the CDL skills test in the same type and class of commercial vehicle.

(e) Complete all portions of the CDL skills test on the same calendar day unless the CDL applicant fails or is unable to complete any portion of the test, as described in section (8) of this rule.

(f) Not administer another CDL skills test until after the minimum waiting period set forth in OAR 735-062-0070(7) has passed, if the CDL applicant fails any part of the CDL skills test.

(g) Administer the CDL skills test using the test scoring sheets approved by DMV.

(h) Not permit any person who is not an Examiner, an official with DMV, an official with FMSCA or the CDL applicant being tested to observe or participate in a CDL skills test without the prior approval of DMV.

(i) Administer all portions of the CDL skills test in English.

(4) A CDL skills test must not be administered if the Examiner has reason to believe that the CDL applicant's driving privileges are suspended, revoked, canceled or have otherwise been withdrawn.

(5) The CDL skills test must be administered and scored in accordance with the federal regulations adopted by section (2) of this rule and the methods and procedures set forth in the Oregon CDL Examiner's Manual. The CDL skills test must include, but is not limited to, the following:

(a) A pre-trip vehicle inspection test. This part of the CDL skills test must be administered first and must be administered at the scheduled test site, except as provided in OAR 735-060-0105(2)(b). It is designed to evaluate the CDL applicant's ability to identify and operate the equipment on the vehicle in which the CDL applicant is being tested and to detect and identify unsafe vehicle equipment items as described in the Oregon Commercial Driver Manual. The specific items that must be inspected during a pre-trip inspection are those listed in the Oregon CDL Examiner's Manual.

(b) A basic control skills test. This part of the CDL skills test must be administered after the CDL applicant has successfully completed the pre-trip vehicle inspection test and prior to the on-road drive test, and must be administered at the scheduled test site, except as provided in OAR 735-060-0105(2)(b). It is designed to evaluate the CDL applicant's ability to control the vehicle and judge the position of the vehicle in relation to other objects through basic starting, stopping, backing or parking maneuvers. The specific exercises that must be performed and the course layout that must be used during a basic control skills test are those described in the Oregon CDL Examiner's Manual.

(c) An on-road drive test. This part of the CDL skills test, which must be administered after successful completion of the basic control skills test, is designed to evaluate the CDL applicant's competency to safely operate a commercial motor vehicle or combination of commercial vehicles under actual driving conditions. The CDL applicant must demonstrate safe and proper driving methods and procedures and knowledge of the traffic laws. The following apply to an on-road drive test:

(A) It must be administered on the scheduled on-road drive test route, except as provided in OAR 735-060-0105(2)(b).

(B) The commercial motor vehicle or combination of commercial vehicles must be of the class for which the CDL applicant seeks a license or endorsement and must have the proper equipment in safe working order so that the vehicle(s) can be operated safely and legally. The Examiner is not required to verify the safe condition of any commercial motor vehicle provided by the CDL applicant for an on-road drive test, but must not administer the test if it is apparent the vehicle cannot be operated safely and legally.

(C) The CMV or combination of CMVs must not be loaded, but the test must be administered and scored as if the CMV or combination of CMVs is loaded.

(6) DMV will approve an on-road drive test route if DMV determines that it:

(a) Enables the CDL Third Party Examiner to evaluate the ability of the CDL applicant to perform the maneuvers listed in the Oregon CDL Examiner's Manual; and

(b) Meets the specifications for an on-road drive test for a CDL set forth in the Oregon CDL Examiner's Manual.

(7) DMV may determine that a previously approved on-road drive test route is no longer approved if DMV learns that the route is lacking required elements, or, due to road or traffic conditions, trying to perform necessary maneuvers at a certain point on the route may be unsafe. DMV will notify a Third Party Tester when a route may no longer be used for an on-road drive test.

(8) If an applicant fails any part of the CDL skills test, an approved Third Party Tester may accept a score for the part of the CDL skills test that the applicant passed. DMV or a Third-Party Tester may administer a subsequent CDL skills test for any part of the CDL skills test that the applicant previously failed. DMV may not accept a score for any part of the CDL skills test that the applicant previously passed if the applicant's CLP has expired.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 802.010 & 807.080

STATUTES/OTHER IMPLEMENTED: ORS 807.040 & 807.070

AMEND: 735-061-0410

RULE TITLE: Definitions

RULE SUMMARY: Proposed rule amendment OAR 735-061-0410 removes the definition of DMV's discontinued form, "Certificate of Test Completion." The proposed rule also modifies the definition of "Representative" and "Examiner" as they are no longer defined as key persons under Class C non-commercial third-party testing agreements.

RULE TEXT:

The following definitions apply to terms in OAR 735-061-0400 through 735-061-0470:

- (1) "Applicant" means a person who during the process to obtain a Class C non-commercial driver license utilizes the services of a third party testing business.
- (2) "Class C" or "Class C non-commercial" means, for purposes of these rules, the driving privileges described in ORS 807.031(4).
- (3) "Class C third party testing business" or "testing business" means a private provider or public provider that has entered into an agreement, under ORS 802.600, with DMV to administer Class C drive tests.
- (4) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.
- (5) "Drive test" means an actual demonstration of the applicant's ability to operate a motor vehicle without endangering the safety of persons or property.
- (6) "Examiner" means an individual who is authorized to administer a drive test for an applicant for a Class C non-commercial driver license.
- (7) "Private provider" means a Class C Third Party Testing business that is a certified Commercial Driver Training School, has approved provider status with TSD's Driver Education program, and is compliant with OAR 737-015-0010 through 737-015-0130.
- (8) "Public provider" means a public school or county that has approved provider status with TSD's Driver Education program and is compliant with OAR 737-015-0010 through 737-015-0130.
- (9) "Public school" means a common or union high school district, education service district, community college district or any facility for the deaf operated under ORS 346.010.
- (10) "Representative" means an individual authorized to complete forms and reports for the testing business to submit to DMV.
- (11) "TSD" means the Transportation Safety Division of the Oregon Department of Transportation.

STATUTORY/OTHER AUTHORITY:

STATUTES/OTHER IMPLEMENTED: ORS 184.619, 802.010 & 802.600, ORS 802.600

AMEND: 735-061-0420

RULE TITLE: When an Applicant May Use Class C Third Party Testing and General Provisions

RULE SUMMARY: Proposed rule amendment OAR 735-061-0420 removes all references to the term, "Certificate of Test Completion" and the requirement for a drive test applicant to present the Certificate of Test Completion form to DMV. Discontinuing use of the form makes many of the reasons DMV rejects a test score inapplicable to the process. The proposed rule also eliminates the staggered waiting period required after an applicant, of any age, fails a drive test attempt, and requires an applicant to apply for a driver license within two years from the date of the test.

RULE TEXT:

- (1) The Class C third party testing program is for the purpose of administering drive tests only.
- (2) A person seeking to obtain Class C non-commercial driving privileges must take a drive test. A person may not take the test with a third party testing business, but rather must test with DMV, if the person:
  - (a) Is required to test because the person is in the At-Risk Driver Program.
  - (b) Has an adaptive device installed in the vehicle. An ignition interlock device is not considered an adaptive device for purposes of these rules.
- (3) An applicant is responsible for payment of fees charged by the testing business. Any fee charged by the testing business is separate from the DMV licensing fees.
- (4) An applicant may request that an examiner show the applicant identification provided by the testing business demonstrating that the examiner is authorized to provide a Class C drive test under the Class C Third Party Testing Program. Upon request, the examiner must show the identification to the applicant.
- (5) An applicant may be required by a testing business to use a vehicle provided by the testing business for the purpose of administering the drive test.
- (6) If an applicant provides the vehicle in which the examiner is to administer the drive test, the testing business must ensure that the examiner administers the drive test only in a vehicle that is both legal and safe to be on the road. If an examiner determines that the applicant's vehicle presents a health or safety risk to the examiner, the applicant or the general public, the examiner may refuse to administer a drive test in the applicant's vehicle. The applicant's vehicle must:
  - (a) Be properly insured and registered prior to the test.
  - (b) Have properly functioning safety equipment, including but not limited to turn signals, lights and seat belts.
- (7) An applicant may not have a child, parent, friend, other person or pet in the vehicle at the time of the test. A DMV employee or a representative of the testing business may accompany the applicant and examiner on a drive test for the purpose of overseeing the quality of the testing.



- (8) An applicant may not take a drive test from an examiner who provided behind-the-wheel driver training to the applicant.
- (9) An applicant may not take a drive test from a testing business when the applicant is a family member or friend of any owner, examiner, or representative of the testing business.
- (10) An applicant must provide the testing business one piece of identification that contains the applicant's name and photograph. Examples of such identification include a passport, student body card or work identification card.
- (11) A testing business must provide a receipt to any applicant who takes the drive test.
- (12) An applicant who successfully completed the drive test must go to a DMV field office within two years of the date of the test to apply for a driver license.
- (13) DMV will accept an applicant's test score but will be unable to issue a license if:
- (a) The applicant has not met the requirements to be issued a license or provided DMV all required proof that the applicant is eligible to be issued a license.
  - (b) An applicant, who is 18 years of age or older, did not observe the waiting period following a failed drive test, described in OAR 735-062-0070. DMV will issue a license to the applicant once the necessary waiting period has been observed.
  - (c) The applicant's right to apply for driving privileges was suspended or canceled at the time of the test. DMV will use the test scores to issue a driver license to the applicant when the person reinstates driving privileges as long as the test score remains valid.
- (14) If DMV accepts a drive test score but is unable to issue a license to the applicant at that time, the test score remains valid for two years.
- (15) DMV will reject a test score if:
- (a) The applicant is not 16 years of age or older at the time of the test;
  - (b) At the time of the test, an applicant's driving privileges are revoked and the applicant had not served the full period of revocation or, if the applicant received a habitual offender revocation, the amount of time required for the applicant to be eligible to apply for driving privileges had not elapsed; or
  - (c) An applicant under the age of 18 has not held an instruction permit for a minimum of six months at the time of the test.
- (16) If DMV rejects a test score, the applicant must retest at a time and in a manner that results in an acceptable test score before DMV may issue a license.

(17) DMV may require a person who took a drive test administered by a testing business to retest with DMV if DMV has reason to believe that the person may not be qualified to hold a driver license or permit.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 802.010 & 802.600

STATUTES/OTHER IMPLEMENTED: 802.600

AMEND: 735-061-0440

RULE TITLE: Administering the Drive Test

RULE SUMMARY: Proposed rule amendment OAR 735-061-0440 requires an examiner to require one form of identification presented by the applicant, and eliminates the requirement to insert a copy of the photo identification and Certificate of Test Completion form into the envelope presented to DMV.

RULE TEXT:

- (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 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 a photocopy of the identification. The photo identification must include the applicant's name. The copy is to be retained in the records maintained by the testing business.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 802.010 & 802.600

STATUTES/OTHER IMPLEMENTED: 802.600

AMEND: 735-061-0450

RULE TITLE: Eligibility Check and Results Entry

RULE SUMMARY: Proposed rule amendment OAR 735-061-0450 sets forth the requirement for third-party drive test businesses to verify eligibility of an applicant prior to administering the drive test. An applicant found ineligible to test must be referred to DMV for testing. This proposed rule also requires the testing business to provide an applicant with a receipt and enter test results using electronic means determined by DMV within 24 hours of completion of the test and to comply with provisions relating to online transactions in OAR 735-018-0020.

RULE TEXT:

- (1) Prior to administering the drive test, the third party examiner must use DMV's website, in accordance with OAR 735-018-0020, to verify the drive test applicant meets all requirements set forth in OAR 735-061-0420.
- (2) If the applicant does not meet qualifications for testing as set forth in OAR 735-061-0420, the third party examiner must refer the applicant to DMV and must not conduct the drive test.
- (3) If the applicant meets qualifications for testing as set forth in OAR 735-061-0420, the third party examiner may administer the test.
- (4) After completing the drive test, the third party examiner must:
  - (a) Provide the applicant with a receipt for the test;
  - (b) Enter the drive test results using electronic means determined by DMV within 24 hours of the completion of the test; and
  - (c) Comply with provisions set forth in OAR 735-018-0020.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 802.010, 802.012 & 802.600

STATUTES/OTHER IMPLEMENTED: ORS 802.012 & 802.600

AMEND: 735-062-0070

RULE TITLE: Drive Test

RULE SUMMARY: Proposed rule amendment OAR 735-062-0070 eliminates the staggered waiting period after an applicant fails a drive test. An applicant is eligible to re-test the following day. DMV has determined that the staggered waiting period following a failed drive test attempt no longer meets the intent of DMV's original policy. Third party testing businesses will also be allowed to re-test an applicant following a failed DMV or third party drive test attempt.

RULE TEXT:

(1) A DMV drive test examiner or a third party drive test examiner certified by DMV will conduct the actual demonstration of an applicant's ability to drive a motor vehicle (the drive test) required under ORS 807.070(3). The test(s) must be conducted in a vehicle that can be driven only with the license class for which the application is made. For example, the drive test examiner will test a person applying for a Class C non-commercial driver license in a vehicle that can be driven only by a person with a Class C non-commercial driver license.

(2) Prior to conducting a drive test, a drive test examiner will ask the applicant for proof of compliance with financial responsibility requirements as described in OAR 735-050-0120 or proof of a uniform financial responsibility certificate as described in OAR 735-050-0050.

(3) Prior to conducting a drive test, the drive test examiner will determine if the vehicle being used for the drive test has required equipment (for example, lights, rearview mirrors, seat belts) that is in working order and may be operated in a safe condition. The examiner may refuse to conduct a drive test in a vehicle that is determined to present health or safety risks for the examiner.

(4) The drive test examiner will conduct the drive test on public streets and highways.

(5) The drive test may include checks of the applicant's ability to safely and skillfully do the following:

(a) Operate vehicle equipment and controls;

(b) Start the vehicle;

(c) Stop the vehicle;

(d) Turn and steer the vehicle;

(e) Change lanes;

(f) Merge with other traffic;

(g) Signal;

(h) Use lanes properly and maintain lane position;

(i) Control speed and obey speed limits;

- (j) Back the vehicle;
  - (k) Observe signs, signals, other traffic and pedestrians;
  - (L) Use courtesy on the road and defensive driving techniques; and
  - (m) Demonstrate general driving ability and vehicle control.
- (6) The first drive test may be conducted the day an applicant, who is otherwise eligible, satisfactorily completes the knowledge test and vision screening, or presents a valid instruction permit.
- (7) If an applicant fails a drive test, DMV or a third party testing business may administer a drive test no sooner than the following business day.
- (8) Any required fee for a test must be paid prior to taking the test. DMV will not refund a test fee if the applicant fails the test.
- (9) Test scores are valid for two years from the date the test is passed. After two years the applicant must retake and pass the applicable tests to be issued the license, permit or endorsement.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 802.010, 802.200, 802.540, 807.070 & 807.080  
STATUTES/OTHER IMPLEMENTED: ORS 807.070

AMEND: 735-062-0078

RULE TITLE: Waiving Knowledge Test for Motorcycle Endorsement

RULE SUMMARY: Proposed rule amendment OAR 735-062-0078 specifies that DMV will accept proof of an applicant's completion of an approved rider education provider's test as described in OAR 735-062-0140.

RULE TEXT:

Pursuant to ORS 807.072, DMV will waive the knowledge test for a motorcycle endorsement required by ORS 807.070(2) and OAR 735-062-0040 if DMV has determined that the knowledge test given as part of a motorcycle rider education course established under ORS 802.320 is, at least, equivalent to the test given by DMV, and proof of the applicant's course completion information is submitted as described in OAR 735-062-0140.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 802.010, 802.012 & 807.072

STATUTES/OTHER IMPLEMENTED: ORS 802.012 & 807.072

AMEND: 735-062-0080

RULE TITLE: Waiving Drive Test Portion of Driver License Examination

RULE SUMMARY: Proposed rule amendment OAR 735-062-0080 removes language requiring an applicant to present a course completion card and references requirement for evidence of passing the motorcycle skills test as identified in OAR 735-062-0140. The proposed amendments also prohibit DMV from waiving the drive test requirement for a person previously subject to the At-Risk Driver program who returns to Oregon with an out-of-state driving privilege.

RULE TEXT:

(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 under ORS 802.345;

(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) The applicant provides a Driver Education Certificate of Completion card, as described in OAR



735-062-0140, that was issued within two years prior to the submission of an application for a Class C non-commercial driver license.

(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 or a Canadian Province, 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 Division under ORS 802.320; and

(b) The motorcycle skills test administered during the motorcycle education course meets or exceeds the motorcycle skills test administered by DMV.

(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 who has not met the requirements established by DMV as a result of receiving the report.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 802.010, 807.070, 807.072, 807.080 & 807.170  
STATUTES/OTHER IMPLEMENTED: ORS 807.070, 807.072, 807.080 & 807.170

AMEND: 735-062-0140

RULE TITLE: Proof of Completion of a Traffic Safety Education or Motorcycle Education Course

RULE SUMMARY: Proposed rule amendment OAR 735-062-0140 specifies the method in which DMV will accept proof of an applicant's completion of an approved motorcycle rider education course established under ORS 802.320. DMV will continue to accept a course completion card with a completion date before July 6, 2020 in DMV offices for two years following the rollout of DMV's system modernization. DMV will only accept electronic submission of rider education courses completed on or after July 6, 2020.

RULE TEXT:

- (1) For purposes of waiving the Class C drive test DMV will only accept a Driver Education Certificate of Completion card issued by a traffic safety education course approved by the Transportation Safety Division. The Driver Education Certificate of Completion card must be in the format designed and approved by the Transportation Safety Division.
- (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.
- (3) DMV will accept a course completion card as proof of completion of a motorcycle 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) On or after July 6, 2020, DMV will accept proof of an applicant's completion of a motorcycle education course from an approved rider education course provider through DMV's website. The approved rider education course provider must comply with provisions set forth in OAR 735-018-0020.
- (5) An applicant must apply and be issued a motorcycle endorsement within two years from the date of course completion.

STATUTORY/OTHER AUTHORITY: ORS 184.619 & 807.175

STATUTES/OTHER IMPLEMENTED: ORS 807.170 & 807.175

AMEND: 735-070-0110

RULE TITLE: Hearing Requests Under the Administrative Procedures Act

RULE SUMMARY: Amendment of OAR 735-070-0110 is to align the rule with DMV's current practices. This amendment adds an online option for a driver suspended, revoked or cancelled under certain situations to submit a hearing request under the Administrative Procedures Act.

RULE TEXT:

(1) This rule establishes the hearing request requirements for DMV suspension, revocation and cancellation hearings conducted pursuant to the Administrative Procedures Act, ORS 183.413 to 183.500. This rule does not apply to a hearing request for:

(a) An implied consent hearing under ORS 813.132, 813.410 or 813.460;

(b) An administrative review under ORS 809.440(2); and

(c) A post-imposition hearing under ORS 809.440(4).

(2) A hearing request must be in writing and must:

(a) Include the person's full name;

(b) Separately identify each action being contested if a hearing is being requested for more than one suspension, revocation or cancellation action;

(c) Be postmarked within 20 days of the date of the notice. If the hearing request is not postmarked or a postmark date cannot be determined, it must be received by the Driver and Motor Vehicle Services Division of ODOT (DMV) within 20 days of the date of the notice; and

(d) Be mailed or personally delivered to DMV Headquarters, 1905 Lana Avenue NE, Salem, OR 97314 or if sent by facsimile machine (FAX), received by DMV at FAX number (503) 945-5521 or submitted online through DMV's website

(3) A Hearing request should also include the person's: address, driver license, permit, identification or customer number; date of birth; and telephone number with area code.

(4) Except as provided in OAR 137-003-0528, the person's right to a hearing is waived if a hearing is not requested within the time period specified in section (2) of this rule and the notice becomes the final order by default. The time period for requesting a hearing will be computed as set forth in OAR 137-003-0520(11).

STATUTORY/OTHER AUTHORITY: ORS 183.415, 184.619, 802.010 & 809.440

STATUTES/OTHER IMPLEMENTED: ORS 809.440