

520 CMR: DEPARTMENT OF PUBLIC SAFETY

520 CMR 13.00: THE OPERATION OF HORSE DRAWN CARRIAGES FOR PUBLIC HIRE ON PUBLIC ROADS AND WAYS OF THE COMMONWEALTH TO ENSURE PUBLIC SAFETY

Section

- 13.01: Scope and Purpose
- 13.02: Definitions
- 13.03: General Administrative Provisions; Issuance of Annual License; Denials; Appeals
- 13.04: Issuance of Certification of Competency to be a Carriage Horse Driver, Disqualifications; Examinations; Denials; Appeals
- 13.05: Driver Responsibility
- 13.06: Licensee Responsibilities
- 13.07: Inspections
- 13.08: Additional Requirements for Horse Drawn Carriages and Horse Safety
- 13.09: Driver's Duties, Hours, Days of Operation, Routes for Carriage
- 13.10: Carriage and Horse Operations Prohibited During Adverse Weather Conditions, Detrimental to Public Safety
- 13.11: Accident Notification Requirements
- 13.12: Suspension or Revocation of License, Appeal Process
- 13.13: Exemption from Examination Requirements for Certificate of Competency to be a Carriage Horse Driver

13.01: Scope and Purpose

(1) Pursuant to M.G.L. c. 22, § 20, the Department of Public Safety is authorized to promulgate rules and regulations governing the operation of horse drawn carriages. 520 CMR 13.00 establish the general administrative provisions including the License and Certificate of Competency issuance and inspections for all Horse Drawn Carriages excluding Horse Drawn Carriages used in funeral proceedings.

(2) Purpose. The purpose of 520 CMR 13.00 is to regulate the operation of Horse Drawn Carriages for public hire on public roads and ways of the Commonwealth to ensure the safety of the public.

13.02: Definitions

As used in 520 CMR 13.00, the following terms shall have the following meanings unless otherwise indicated:

Apprentice. An individual who is at least 18 years of age, holds a valid driver's license, and is under the direct guidance and supervision of a driver holding a valid Certificate of Competency.

Certificate of Competency. A certificate issued by the Department to a Driver upon demonstration of competency and approval by the Department.

Commissioner. The Commissioner of the Department of Public Safety.

Department. Department of Public Safety.

Division. The Division of Inspection of the Department of Public Safety.

Driver. A person who holds a valid Certificate of Competency and a valid driver's license.

Groom. A person employed by a company operating Horse Drawn Carriages who is knowledgeable in horse care and carriage operation.

Horse Drawn Carriage. Any wheeled device similar to, but not limited to, wagons, carriages, carts, or similar devices in, upon, or by which any living person may be transported; designed to be drawn by one or more horse(s), hold passengers, and be driven for hire.

13.02: continued

Inspector. A District Engineering Inspector of the Division of Inspection of the Department of Public Safety.

License. A certificate issued by the Department to an owner of a company operating Horse Drawn Carriages.

13.03: General Administrative Provisions; Issuance of Annual License; Denials; Appeals

(1) It shall be unlawful for any individual to operate or permit another to operate a Horse Drawn Carriage for public hire unless the person has first obtained a License from the Commissioner.

(2) Prior to obtaining a License the applicant shall provide the Department with the following:

- (a) Completed application as required by the Department;
- (b) A \$25.00 non-refundable application fee;
- (c) a \$100 License fee for one horse and carriage (which includes the \$50 carriage inspection fee);
- (d) a \$50 inspection fee for each additional carriage. Additional horses shall be licensed at \$50 each;
- (e) A list of Drivers and proof of their meeting all relevant provisions applicable to them as set forth in 520 CMR 13.04;
- (f) Proof of insurance valid for the duration of the licensing period. Coverage shall be as follows: The applicant shall furnish proof of general liability insurance in the minimum amount of \$1,000,000.00 per occurrence limit with a \$2,000,000.00 general aggregate limit written on an occurrence form, a bond or other substantially equivalent proof approved by the Commissioner;
- (g) A health Certificate signed by the examining veterinarian shall be submitted with application and yearly renewal for License to the Commissioner;
- (h) A completed criminal offender record information (CORI) Request Form.

(3) Applications for renewing existing Licenses shall be made to the Commissioner by February 1<sup>st</sup> of each calendar year. A License shall be valid for a period of one year or until the expiration of the insurance certificate, whichever occurs sooner.

License Extension - Military Service. If the Licensee is on active duty with the armed forces of the United States, as defined in M.G.L. c. 4, § 7 clause forty-third, the License shall remain valid until the Licensee is released from active duty and for a period of not less than 90 days following that release. For 520 CMR 13.03(7) to apply, the Licensee must be given an Honorable Discharge, a General Discharge, or an Under Other than Honorable Conditions (UOTHC) Discharge as noted on their discharge and separation papers.

(4) Only those horses and carriages which appear on the application form and for which the fees have been paid may be used for hire.

(5) Denials; Appeals. The Commissioner may refuse to grant or renew a License based upon the following grounds:

- (a) Submittal of an incomplete application or submittal of an application on a form not authorized by the Department;
- (b) Failure to submit a completed CORI Request Form and/or a determination by the Commissioner that the applicant's criminal record falls within the Department's list of presumptive disqualifications for licensure;
- (c) Failure to submit the required fees;
- (d) The knowing submission of false, invalid, incorrect or fraudulent information;
- (e) Failure to submit work records pursuant to 520 CMR 13.05(2);
- (f) If the License was suspended or revoked during the previous licensing period or if the applicant fails to qualify under any provisions of 520 CMR 13.00;

13.03: continued

(g) If the Commissioner finds that the applicant does not possess the integrity and general fitness to operate Horse Drawn Carriages in a safe manner and in the public interest consistent with 520 CMR 13.01 and M.G.L. c. 22, § 20.

In the event that the License shall not be granted or renewed, the Commissioner shall notify the applicant in writing within 30 days, setting forth the reasons for the denial.

(6) If the application or renewal is denied, the applicant may within ten business days of receipt of the denial, make written demand upon the Commissioner for a hearing before the Commissioner or his or her designee to determine the reasonableness of the Commissioner's action. The decision from this hearing shall be final. If the denial is affirmed, the applicant shall be ineligible to make new application under the previous or new name for a period of one year.

(7) The Commissioner may determine the number of Licenses granted for any particular locality based on road, route, traffic and other Public Safety concerns, subject to prior local approval.

(8) No person who has ever been convicted of cruelty to animals shall be granted a License.

13.04: Issuance of Certification of Competency to be a Carriage Horse Driver, Disqualifications; Examinations; Denials; Appeals

(1) In order to obtain a Certificate of Competency, each Driver shall have a minimum of 80 hours apprenticeship with a Driver who has previously met the requirements under 520 CMR 13.04, and has a minimum of two years driving experience.

(2) The apprenticeship shall be sworn to by the Driver and Apprentice on a form provided by the Department and such documentation together with application for examination and \$50 fee shall be submitted to the Department.

(3) Each applicant seeking a Certificate of Competency shall submit to a written examination provided by the Department.

(4) Examinations. Inspectors shall act as examiners for the Certification of Competency. An Inspector may administer the oath to the Apprentice at the time of examination. The examination may include but not be limited to:

- (a) All provisions of 520 CMR 13.00;
- (b) Massachusetts Registry of Motor Vehicles rules of the road;
- (c) The proper method for fitting the bridle, bit, harness and padding to a horse; and, hitching and unhitching a properly harnessed horse;
- (d) The proper handling of a Horse Drawn Carriage; and knowledge of responding to emergency situations including but not limited to unexpected animal behavior.

(5) If the applicant fails the exam as provided for in 520 CMR 13.04(3), they may re-test after 30 days.

(6) Each applicant shall possess a valid driver's license to be eligible for examination for a Certificate of Competency.

(7) Applicants shall be at least 18 years of age at the time of application for the Certificate of Competency.

(8) Disqualifications.

- (a) No person who has ever been convicted of cruelty of animals shall be eligible to sit for the exam for a Certificate of Competency or otherwise be employed by the carriage horse company.
- (b) No person who has a conviction for operating under the influence of alcohol or narcotics, or vehicular homicide in the five years preceding application for a Certificate of Competency shall be eligible to sit for the exam.

13.04: continued

(9) The Commissioner shall cause an investigation be made of any criminal record of the applicant for a Driver's Certificate of Competency.

(10) Renewals. Certificates shall continue in force until the date of birth of the Certificate holder occurring more than 12 months but not more than 24 months after the effective date of such Certificate unless sooner revoked.

If any such Certificate or the renewal thereof expires in an even year, any subsequent renewal shall expire on the next anniversary of the Certificate holder's birth occurring in an even year. If any such Certificate or renewal thereof expires in an odd year, any subsequent renewal shall expire on the next anniversary of the Certificate holder's date of birth occurring in an odd year. A Certificate issued to a person born on February 29<sup>th</sup> shall, for the purposes of 520 CMR 13.04(10), expire on March 1<sup>st</sup>. Certificates not renewed at expiration shall become void and shall after one year be reinstated only by re-examination of the former Certificate holder.

Certificate Extension - Military Service. If the Certificate holder is on active duty with the armed forces of the United States, as defined in M.G.L. c. 4, § 7 clause forty-third, the Certificate shall remain valid until the Certificate holder is released from active duty and for a period of not less than 90 days following that release. For 520 CMR 13.04(10) to apply, the Certificate holder must be given an Honorable Discharge, a General Discharge, or an Under Other than Honorable Conditions (UOTHC) Discharge as noted on their discharge and separation papers.

13.05: Driver Responsibility

(1) The Driver shall obey all local and Commonwealth of Massachusetts traffic laws and traffic regulations.

(2) The Driver shall keep daily work records on forms furnished upon licensing by the Department and the Licensee shall maintain records for one year. On or before January 1<sup>st</sup>, the Licensee shall submit these records to the Department. A willfully false entry in the Record Book on Carriage Horses shall be sufficient cause for revocation or suspension of License or Certificate at any time. Such daily work records for each month shall be kept in the Driver's compartment and always be accessible to the Commissioner or any Inspector. All daily work record entries shall be legible so that they may be easily read. Work records shall include the following:

- (a) safety check of harness and carriage and emergency repairs;
- (b) log of number of passenger(s) per ride, number of rides, location and time of each pick-up and discharge;
- (c) schedule of horse including the time it began and ended work and dates worked;
- (d) schedule of rest and water periods horse worked;
- (e) any emergencies, unusual incidents or accidents;
- (f) any and all horse injuries, behavioral problems or maladies;
- (g) schedule of private functions of the day including the name of the horse and hours worked; and
- (h) apprenticeship records.

(3) The Driver shall wear on their person in plain view a uniform photo identification badge identifying their full name and the name of the Licensee for whom they work.

13.06: Licensee Responsibilities

(1) The Licensee will provide gloves to the Driver, should he request them.

(2) All Drivers must carry their Certificate of Competency on their person at all times while operating a Horse Drawn Carriage and shall furnish the Certificate of Competency for inspection at the request of the Inspector.

(3) All Drivers must carry their valid and current driver's license to operate a motor vehicle at all times while operating a Horse Drawn Carriage and shall furnish the license for inspection at the request of the Inspector.

13.06: continued

(4) If any Horse Drawn Carriage becomes unsafe for operation as determined by the Inspector or the Commissioner, the Inspector or Commissioner may order operations to cease and desist immediately until they are made safe for operation or for a period of time to be determined by the Inspector or the Commissioner.

(5) The Licensee shall make available to the Drivers copies of 520 CMR 13.00 upon request.

13.07: Inspections

(1) All Horse Drawn Carriages shall be inspected prior to the granting of a Horse Drawn Carriage License or its renewal by an Inspector.

(2) The Inspector may cause any Horse Drawn Carriage to be inspected as often as the Commissioner or Inspector shall determine to ensure the safety of the public and/or of the horses.

13.08: Additional Requirements for Horse Drawn Carriages and Horse Safety

(1) No Horse Drawn Carriage shall be permitted to operate unless a valid license plate is issued by the Commissioner and said plate is attached to the rear of the carriage.

(2) Each Horse Drawn Carriage shall have a card permanently, legibly and conspicuously affixed to the carriage which shall contain the current Horse Drawn Carriage License number, business name, passenger capacity, schedule of rates if applicable, and name and phone number of the Licensee and state the following:

"THIS HORSE, CARRIAGE AND DRIVER ARE LICENSED BY THE COMMONWEALTH OF MASSACHUSETTS. THEY ARE INSPECTED BY THE DEPARTMENT OF PUBLIC SAFETY IN ACCORDANCE WITH M.G.L. c. 22, § 20. REPORT ANY PUBLIC SAFETY CONCERNS TO THE DEPARTMENT OF PUBLIC SAFETY at 617-727-3200 or by email: [dpsinfo@massmail.state.ma.us](mailto:dpsinfo@massmail.state.ma.us).

(3) No Horse Drawn Carriage shall be drawn by more than one horse simultaneously unless designed as a multi-hitch vehicle and licensed as such.

(4) Each Horse Drawn Carriage shall have wheels that spin freely.

(5) Each Horse Drawn Carriage shall be equipped with a device to catch manure. The device shall not be affixed to any part of the horse's body and shall be emptied at least after every second use. Curb stands shall be washed free of urine as often as needed.

(6) Each Horse Drawn Carriage shall have in good working order the following: electric turn signals, tail lights, and front lights that are visible from 500 feet. Lights shall be used during the period between one hour after sunset to one hour before sunrise as well as any period when visibility is poor.

(7) Each Horse Drawn Carriage shall have reflective white material placed along the length of the shafts of the carriage, which normally parallel the body, head, and legs of the horse.

(8) Each Horse Drawn Carriage shall have reflectorized slow moving emblem on the rear of the carriage of a size no smaller than 12"x12"x12". The emblem shall be kept clean and in good repair.

(9) Harness, bridles, breaching bits, and padding shall be appropriately sized, cleaned and adjusted daily for each horse before use and shall be kept clean and in good repair.

(10) Harnesses shall be kept oiled and cleaned so as to be supple at all times. Harnesses shall be kept free of makeshift repairs such as, but not limited to, wire, rope, and weak and rusting chains.

13.08: continued

(11) Horse Drawn Carriages shall be curbed for work in areas designated by standard red and white state used regulatory signs. Such designated curbed space is subject to prior approval from local authorities. These regulatory signs shall read:

"CARRIAGE HORSE AREA EXERCISE CAUTION"

Designated curb space shall provide protection from extremes of weather, as seasonally appropriate, including but not limited to shade during hot months, protection from high winds, and be blanketing in cold months. Reasonable care shall be taken to protect horses, carriages and passengers from traffic. Passengers shall be picked up and discharged only at areas designated as a "CARRIAGE HORSE AREA".

(12) Variance Procedure.

(a) If the applicant believes that full compliance with 520 CMR 13.00 is overly burdensome, the applicant may apply to the Commissioner for a variance from 520 CMR 13.00. The burden is on the applicant to demonstrate in writing to the Department that the granting of the variance would not compromise public safety or otherwise undermine the purpose of 520 CMR 13.00. Application for variance shall be made on a form provided by the Department for this purpose, shall contain such information as is required by the Department, and shall be signed by the applicant.

(b) Upon receipt of an application for a variance, the Commissioner or his or her designee may:

1. Grant the application with whatever conditions are deemed appropriate; or
2. Deny the application without a hearing.

(c) Any person aggrieved by this decision may file a request for an adjudicatory hearing with the Department within 30 days of receipt of the decision. All adjudicatory hearings shall be held in accordance with the provisions of M.G.L. c. 30A and 801 CMR 1.02: *Informal/Fair Hearing Rules*. Any person aggrieved by a decision made after a hearing may appeal to the Superior Court in accordance with M.G.L. c. 30A, § 14.

13.09: Driver's Duties, Hours, Days of Operation, Routes, for Carriage

(1) Horses shall never be left unattended. Only the Driver and either an employed Groom or an Apprentice employed by the Licensee under the direct supervision of the Driver may occupy the Driver's seat while the Horse Drawn Carriage is not in operation.

(2) Only the Driver or an Apprentice employed by the Licensee under the direct supervision of the Driver may occupy the Driver's seat while the Horse Drawn Carriage is in operation. The Driver or Apprentice must have the Horse and Carriage under control at all times. The Driver or Apprentice shall remain seated and maintain control of the lines of the horse while passengers are getting on and off the Horse Drawn Carriage. The Driver or Apprentice shall ensure that passengers do not enter or exit the carriage when the Driver is not on the box and seated.

(3) Horse Drawn Carriages shall be driven only during the hours and on routes previously endorsed by local authorities and subsequently approved by the Commissioner as designated in the Licensee's application.

(4) No single fare shall exceed 30 minutes. There shall be not less than a five minute break between fares.

(5) Horse Drawn Carriages shall not be pulled at a speed faster than a slow trot. When traffic permits carriages shall be pulled at a horse's walking pace.

13.10: Carriage and Horse Operations Prohibited During Adverse Weather Conditions, Detrimental to Public Safety

(1) Horse Drawn Carriages shall not be driven during adverse weather conditions, which shall include, but not be restricted to snow, ice, heavy rain, slippery conditions or extreme cold, heat or humidity.

13.10: continued

- (2) Horses shall not be worked in temperatures over 90°F or below 18°F according to the U.S. Weather Bureau; or if, in the opinion of an Inspector, it appears that a horse is in danger because of extreme temperature.

13.11: Accident Notification Requirements

- (1) A complete written report signed by the Driver and Licensee shall be submitted to the Commissioner and local police departments within 72 hours of any accident injury involving property, passengers, drivers or horse.
- (2) Said reports shall be on a form furnished by the Department and shall include:
  - (1) the proper identification of incident;
  - (2) names and addresses of all parties involved and witnesses;
  - (3) names of any agency/person who rendered medical service to victims and/or the medical facility to where they were transferred; and
  - (4) the name of the veterinarian who examined the horse within 72 hours of the accident only in those instances in which physical contact was made with such horse and/or in which such horse exhibits any evidence of apparent injury.

13.12: Suspension or Revocation of License, Appeal Process

Suspension or Revocation of Certificate of Competency or License.

- (1) Administrative action, up to and including revocation of a License or Certificate of Competency may be taken for the following reasons:
  - (a) Failure to properly maintain records pursuant to 520 CMR 13.05(2);
  - (b) Operating in a manner likely to cause injury;
  - (c) Operating a Horse Drawn Carriage without proper authorization from the Department;
  - (d) The knowing submission of false, invalid, incorrect or fraudulent information to the Department;
  - (e) Failure to maintain the required insurance;
  - (f) Permitting an individual to operate the Horse Drawn Carriage who does not have a Certificate of Competency except for an Apprentice who is fulfilling apprenticeship requirements under direct personal supervision of a certified Driver;
  - (g) Failure to take corrective action as ordered pursuant to 520 CMR 13.04(16);
  - (h) Any violation of an automobile law as defined by M.G.L. c. 90C § 1 or of a local motor vehicle law or regulation is subject to ticketing and fines as established by the Commonwealth and/or the town or locality;
  - (i) For any violation of any provision of 520 CMR 13.00.

- (2) Whoever violates any provision of 520 CMR 13.00 or prevents or attempts to prevent the Commissioner or any Inspector or any other person designated by the Commissioner from entering on any premises in the discharge of his or her duties or receiving requested information or documents with respect to this act shall be punished by a fine of not less than \$250 nor more than \$3,000.

(3) Notice of Violations; Hearing and Appeals.

- (a) Notice of Violation. The Department shall send written notice of the alleged violation(s) to the Licensee or holder of the Certificate of Competency.
- (b) Hearings. All hearings held pursuant to 520 CMR 13.12 shall be conducted in accordance with 801 CMR 1.02: *Informal/Fair Hearing Rules* and M.G.L. c. 30A.
- (c) Appeal. Any person aggrieved by a determination of the Commissioner or his or her designee may appeal to the Superior Court in accordance with M.G.L. c. 30A, § 14.

13.12: continued

(4) Appeals.

(a) A person aggrieved by the decision of the Commissioner or Inspector in suspending or revoking the Licensee to act as a licensed Horse Drawn Carriage Company, or a Certificate of Competency to be a Carriage Horse Driver may, within ten days, make written demand upon the Commissioner for a hearing before the Commissioner or his or her designee to determine the reasonableness of the Commissioner's action. The hearing shall be held promptly and in accordance with M.G.L. c. 30A and 801 CMR 1.02: *Informal/Fair Hearing Rules*.

(b) Any person aggrieved by a decision made after a hearing may appeal to the Superior Court in accordance with M.G.L. c. 30A § 14.

13.13: Exemption from Examination Requirements for Certificate of Competency to be a Carriage Horse Driver

Applicants who have a minimum of two cumulative years of full time carriage horse driving experience without incident and have not been previously found in violation of any rules or regulations of any locality within which they operated shall be exempted from 520 CMR 13.04(1) through (3). Such person shall submit to the Commissioner sworn documentation together with application for Certificate of Competency to be a carriage horse Driver and \$50 fee attesting to this experience. Documentation shall include letters of recommendation as to the skill and knowledge of the applicant pertaining to: driving a horse and carriage; and, public safety rules of the road for the Commonwealth of Massachusetts. Such documentation shall come from the employer(s) for whom said Driver worked or from professional driving club judges or officials. If self-employed, such documentation shall come from the city officials to whom the self-employed Driver reported in the city(s) which hosted the carriage horse operation or professional driving club judges or officials. Such documentation shall cover the full two years experience.

REGULATORY AUTHORITY

520 CMR 13.00: M.G.L. c. 22, § 20.