

DRAFT AMENDMENTS

540 CMR 23.00: LICENSING, CERTIFICATION AND OPERATING REQUIREMENTS FOR PROFESSIONAL DRIVING SCHOOL INSTRUCTORS; PROFESSIONAL DRIVING SCHOOLS; PUBLIC SCHOOL DRIVER EDUCATION INSTRUCTORS; PUBLIC SCHOOL DRIVER EDUCATION PROGRAMS; DRIVER SKILLS DEVELOPMENT PROGRAM INSTRUCTORS; AND DRIVER SKILLS DEVELOPMENT PROGRAMS

Section

- 23.01: Purpose, Scope and Applicability
- 23.02: Definitions
- 23.03: Qualification Requirements and Terms of Certification for Driving Instructors
- 23.04: Qualification Requirements and Terms of Certification for Driver Education Providers
- 23.05: Facility and Equipment Requirements
- 23.06: Driver Education Program Requirements
- 23.07: Grounds for Discipline
- 23.08: Procedure on Appeal
- 23.09: Liability

23.01: Purpose, Scope and Applicability

540 CMR 23.00 is adopted by the Registrar of Motor Vehicles pursuant to M.G.L. c. 90, § 31 and § 32G, to establish rules and regulations regarding the licensing and certification requirements for Professional Driving School Instructors and Public School Driver Education Instructors and the operation of Professional Driving Schools and Public School Driver Education Programs. In addition, pursuant to M.G.L. c. 90, § 32G½, 540 CMR 23.00 establishes rules and regulations relative to the certification of Driver Skills Development Program Instructors and the operation of Driver Skills Development Programs.

23.02: Definitions

Certificate, Certified or Certification. For the purpose of 540 CMR 23.00, certificate, certified or certification shall be synonymous with license or licensure when related to a school, a program or an instructor except when referring to an individual's driver's license.

Driver Education Program. A standardized driver education program established by the Registrar.

Driver Education Provider. A Professional Driving School, Public School Driver Education Program or a Driver Skills Development Program.

Driver Skills Development Program (DSDP). A driver training program licensed by the Registrar that uses hands-on instruction to teach student drivers to anticipate potential on-road hazards and how to perform maneuvers to avoid the most common types of crashes while maintaining vehicle control. Driver Skills Development Programs shall only be taught by instructors certified to provide such program instruction. Driver Skills Development Program students must be licensed drivers or persons with learner's permits who have completed at least ten hours of supervised driving. Driver Skills Development Programs may only be provided on closed off-road courses in late model passenger automobiles equipped with anti-lock brake (ABS) systems. The driving skills or techniques required to be taught in a Driver Skills Development Program must include, but are not limited to the following:

- (a) Proper Hand and Seating Position. Demonstrating the proper positioning of a driver's hands on the steering wheel and the proper seating position of a driver in a secured safety belt. These demonstrations are designed to help the student driver ensure better control of the vehicle in a crash and to lessen or avoid the potential for injury in the event of a crash.
- (b) Emergency Braking. Demonstrating the sudden application of brakes while controlling the vehicle in a straight-line at various speeds. These demonstrations teach student drivers the techniques and effectiveness of anti-lock brake (ABS) systems in an emergency stop. These demonstrations further provide an understanding of the different mechanics and disparity in stopping distances of ABS versus non-ABS brake systems. Finally these demonstrations stress vehicle performance during sudden stops.

DRAFT AMENDMENTS

23.02: continued

(c) Steering Control Skills. Demonstrating steering control maneuvers on a slalom course. These demonstrations teach a student driver how to maintain control of the vehicle while trying to avoid other objects or vehicles on the road. The student driver is taught evasive maneuvers to the left and to the right around a series of traffic cones while moving at various speeds.

(d) Proper Following Distance. Demonstrating the importance of keeping a safe following distance to avoid “tailgating” and “rear-end” types of vehicle crashes.

(e) Backing-up. Demonstrating the limited visibility a driver has when attempting to back-up using the vehicle’s rear-view mirrors. Student drivers are taught awareness of unseen dangers when driving a vehicle in reverse and instructed to avoid unnecessary driving in reverse.

(f) Crash Avoidance. Demonstrating combined driving skills which allow student drivers to use emergency braking, corrective steering and control, sudden and evasive emergency maneuvers and obstacle avoidance.

Driver Skills Development Program Instructor. A person certified by the Registrar to instruct a Driver Skills Development Program.

Instruction for Hire. The business of instructing persons for a fee in the operation of a motor vehicle. A sponsor for a Class D driver license examination who is compensated for such sponsorship shall be presumed to be conducting instruction for hire. Instruction for hire shall not include training provided by an employer or trade organization if the training is for the purpose of obtaining a Class A, B, or C license.

Principal Administrator. The individual who has responsible control or management of the driving school program, its personnel or its assets.

Professional Driving School. A driver training school licensed by the Registrar to conduct a Professional Driving School Program.

Professional Driving School Instructor. A person certified by the Registrar who is approved to give instruction for hire in the operation of a motor vehicle only when engaged by a licensed Professional Driving School.

Public School Driver Education Instructor. A person certified by the Registrar who is approved to give instruction for hire in the operation of a motor vehicle only when engaged by a licensed Public School Driver Education Program.

Public School Driver Education Program. A program offered through a public school for the instruction of driver training which, unless otherwise agreed to by the Commissioner of the Massachusetts Department of Education and the Registrar, incorporates all of the requirements of a Professional Driving School except that of licensing fees, performance bond requirements and licensing fees for the instructors.

Registrar. The Registrar of Motor Vehicles or her designee.

Registry. The Registry of Motor Vehicles.

Unsatisfactory Driving Record. A record of an individual’s driving history in any or all states in which he/she was licensed that includes:

(a) Any mandatory license suspension activity, or revocation of licensing or driving privileges within the preceding two years based on a moving violation; or

(b) Any conviction under the provisions of M.G.L. c. 90, § 24, within the preceding five year period of operating a motor vehicle while under the influence of intoxicating liquor, or of marijuana, narcotic drugs, depressants or stimulant substances, as defined in M.G.L. c. 94C, §1 or the vapors of glue. Any person who consents to have any such case disposed of under the provisions of M.G.L. c. 902, § 24D shall for the purpose of 540 CMR 23.02: Unsatisfactory Driving Record be deemed to be convicted.

DRAFT AMENDMENTS

23.03: Qualification Requirements and Terms of Certification for Driving Instructors

(1) Certification Requirement.

- (a) No person shall give instruction for hire in the operation of a motor vehicle unless certified by the Registrar in accordance with M.G.L. c. 90, § 32G or § 32G½ (as applicable) and 540 CMR 23.00.
- (b) Certification as an instructor is not required for persons who engage in instructional activities solely as agents, employees or contractors of the Registry of Motor Vehicles.

(2) General Qualifications for All Certified Driving Instructors. In addition to the conditions specified in M.G.L. c. 90, § 32G and § 32G½, an applicant for an instructor's certificate must satisfy the following requirements. Unless otherwise specified, the requirements apply to both the initial certificate and any renewal certificate.

- (a) Application. An applicant must complete and submit an application for an instructor's certificate in a form prescribed by the Registrar and pay the required non-refundable fee.
- (b) Criminal Record Check. An applicant shall be subject to a criminal record check, and shall be rejected if s/he has been convicted of the crimes or has engaged in the conduct proscribed by either M.G.L. c. 90, § 32G or § 32G½.
- (c) Driving Record Check. An applicant shall be subject to a check of his/her driving record. No instructor's certificate shall be issued or remain in effect if an applicant or certificate holder's driver's license or right to operate a motor vehicle is suspended or revoked in Massachusetts or in any other jurisdiction.
- (d) Driving Experience. An applicant shall be at least 21 years of age and have at least 24 months operating experience in the license classification for which the certificate is desired. Experience gained solely under a learner's permit does not qualify toward the 24 month minimum. An applicant who is not a legal resident of the Commonwealth but who holds a valid operator's license issued by his/her state of legal residence may apply for an instructor's certificate, subject to the terms and conditions of the reciprocal licensing agreement between the Commonwealth and the state of legal residence.
- (e) Lawful Presence. An applicant shall establish lawful presence in the United States, as defined in G.L. c. 90, § 1, for the entire period to be covered by the certificate.

(3) Specific Qualification Requirements for Certified Driving Instructors.

(a) Professional Driving Instructors.

- 1. Instructor Training Program. An applicant shall submit documentation that s/he has successfully completed a driving instructor training program suitable for the type of instruction s/he intends to provide, which conforms to the guidelines established by the Registrar for such programs.
- 2. Examination. An applicant must pass the written driving instructor examination for professional driver education administered by the Registrar.
- 3. Department of Education (DOE) Requirement for Commercial Driver Licenses. Applicants shall comply with any applicable DOE requirements prior to engaging in instructional activity.

(b) Driver Skills Development Program Instructors.

- 1. An applicant for certification must have at least one year of experience as an instructor for an existing Driver Skills Development Program that has been training students in Massachusetts or another state's recognized program; or
- 2. An applicant for certification must have at least one year of experience as an instructor for a Professional Driving School and proof that s/he has acquired the skills necessary to instruct a Driver Skills Development Program; or
- 3. An applicant for certification must be sponsored by an existing Driver Skills Development Program and complete the following training program:
 - a. Completion of the DSDP as a student;
 - b. Completion of at least three Driver Skills Development Programs as an observer in the back seat of a vehicle, during an actual driver training course, while a certified instructor supervised the student operating the vehicle, and the applicant attended the classroom instruction for such sessions;
 - c. Completion of at least three in-vehicle Driver Skills Development Programs as a student-instructor with a certified instructor in the vehicle monitoring the applicant's performance; and
 - d. Completion of at least three Driver Skills Development Programs in-vehicle as the primary instructor while under the supervision of a certified instructor not

DRAFT AMENDMENTS

in the vehicle.

DRAFT AMENDMENTS

23.03: continued

e. The Principal Administrator must vouch for the appropriateness of this applicant to provide Driver Skills Development Programs.

(4) Terms of Certification.

(a) Renewal of Certification. Each instructor shall renew his certificate annually submitting a renewal application on a form prescribed by the Registrar and the required non-refundable fee.

(b) Continuing Education/Recertification. The Registrar may require the completion of continuing education or updated competency examinations for any driver education instructor. The Registrar shall identify the programs that will be recognized for such purposes. The Registrar may also require recertification of an instructor if there is a reasonable basis to suspect that the person no longer meets the qualifications required of a driving school instructor.

(c) Duty to Notify of Conviction or License Suspension or Revocation. An applicant or certified instructor shall notify the Registrar of any criminal conviction or arrest for a crime of moral turpitude within three days of such conviction or arrest. An applicant or certified instructor shall notify the Registrar immediately upon the suspension or revocation of his/her license or right to operate in Massachusetts or any jurisdiction. Such notification shall be made in writing to the Director of Vehicle Safety and Compliance Services at the Registry of Motor Vehicles.

(d) Change in Name or Address. Each instructor must notify the Registrar within 30 days of any change in name or address.

(5) Denial or Revocation of Certificate. The Registrar may refuse to issue certification to an individual, and may revoke or suspend a certification already issued, for good cause. Good cause includes, but is not limited to, evidence that:

(a) The applicant, or applicant's sponsor or employer, has made a material false statement or concealed a material fact in connection with a certification application;

(b) The applicant has been the holder of a driving school or driving school instructor's license issued pursuant to either M.G.L. c. 90, § 32G or § 32G½ that was revoked or suspended by the Registrar;

(c) The applicant has been convicted of a felony, or any crime involving violence, fraud, perjury, dishonesty, deceit, indecency, degeneracy, or moral turpitude;

(d) The applicant has failed to furnish satisfactory evidence of good character, reputation or fitness; or

(e) The applicant has an Unsatisfactory Driving Record as defined in 540 CMR 23.02.

(6) Suspension of Certificate. When the Registrar receives notice that the holder of a driving instructor's certificate has been criminally charged with an offense involving a threat to the public safety, or has been the subject of a report to the Department of Children and Families pursuant to G.L. c. 119, § 51A, the Registrar shall immediately suspend such certificate(s) pending the resolution of said proceedings. The Registrar shall not restore said certificate(s) unless the § 51A report is dismissed or any criminal prosecution has terminated in the defendant's favor.

23.04: Qualification Requirements and Terms of Certification for Driver Education Providers

(1) Certification Requirements. No person or entity shall own or operate an establishment to conduct Instruction for Hire unless licensed by the Registrar in accordance with either M.G.L. c. 90, § 32G and § 32G½. Applicants shall comply with any applicable DOE requirements prior to engaging in instructional activity.

(2) Qualifications for a Driver Education Provider Certificate. In addition to the conditions specified in either M.G.L. c. 90, § 32G and § 32G½ (as applicable), and requirements contained in other sections of 540 CMR 23.00, applicants for a driving school license must satisfy the following requirements. Unless otherwise noted, the requirements apply to both the initial license and any renewal license.

(a) Application. An applicant for a Driver Education Provider certificate shall complete and submit an application in a form prescribed by the Registrar and:

1. Pay all required non-refundable fees;
2. Apply for and successfully pass an inspection of the driver education premises

DRAFT AMENDMENTS

conducted by the Registrar or her designee;

DRAFT AMENDMENTS

23.04: continued

3. Submit a copy of the program of instruction that meets or exceeds the minimum program standards established by the Registrar. At the time of application, an applicant for a driving school certificate shall submit a written course curriculum describing the classroom and behind the wheel instruction to be used. The curriculum must demonstrate that it includes such minimum standards as established by the Registrar. The curriculum shall include a description of each of the skills/techniques required to be taught and an explanation of the method and sequence by which they will be taught. Once approved by the Registrar, a driver training program shall not materially alter a program of instruction, including the curriculum, without prior written approval from the Registrar.
 4. Submit written proof of insurance as required by 540 CMR 23.04(3)(c).
 5. Provide a performance bond, acceptable to the Registrar in the amount of \$10,000 for a Driver Education Provider with one location; \$25,000 for a Driver Education Provider with up to three locations; and \$50,000 for a Driver Education Provider with more than three locations. The performance bond shall be held to provide reimbursement to students and/or parents in the event that the program ceases to function and fails to provide or complete the contracted instruction.
- (b) Criminal Record Check. Each applicant, and any officer, director, stockholder, partner, employee, or any other person directly or indirectly who has a financial interest in the business, shall be subject to a criminal record check. A driving school certificate shall be denied if the applicant—or any person who has a direct or indirect financial interest in the business has been convicted of, pleaded guilty to, or engaged in any conduct proscribed by M.G.L. c. 90, § 32G or § 32G½, as applicable.
- (c) Business Information.
1. If the applicant is a corporation, limited liability company or limited liability partnership, a copy of the applicable Articles of Organization, Certificate of Organization, or Registration, including registration as a Foreign Corporation doing business in Massachusetts, required to be filed with the Secretary of State for the Commonwealth, must be submitted.
 2. If the applicant is either an individual or entity (including a corporation) conducting business under a trade name, a copy of the business certificate issued by the municipality where the applicant conducts business or will be conducting business must be submitted.
 3. Each applicant must submit the employer's federal tax identification number (FID/EIN).
- (3) Terms for Maintaining a Driver Education Provider Certificate.
- (a) Renewal. In order to maintain licensure, a Driver Education Provider must annually submit a renewal application and any required fee.
- (b) Inspection. Each provider shall cooperate fully with the requests of an RMV inspector and shall make available any and all records upon request. Each school shall provide RMV inspectors with an opportunity to observe any classroom or behind the wheel instruction as requested.
- (c) Insurance Coverage. Each provider shall at all times maintain current insurance coverage that meets or exceeds the coverage requirements set by M.G.L. c. 90, § 34A including, but not limited to, the vehicle liability policy, motor vehicle liability bond and personal injury protection minimums. All such documentation shall be subject to review by the Registrar, RMV inspectors, the Commissioner of Insurance and current or prospective customers.
- (d) Changes in Business Name, Address or Ownership. The Principal Administrator shall notify the Registrar, in writing, within 30 calendar days of any of the following:
1. A change in the name or address of the business;
 2. A transfer of the business or a change of ownership, including a change in the form or ownership; except that a transfer of less than a majority interest in a corporation shall not be considered a change in ownership.

DRAFT AMENDMENTS

23.04: continued

3. The dissolving of the business or the ceasing of regular business activity, except that if the program has taken full or partial payment for student instruction it will not be providing, or if the program has not provided students who have completed the program with the required certificate of completion, the program's Principal Administrator shall inform the Registrar, prior to or immediately upon cessation of business, of the names and addresses of students who are owed refunds and the amounts owed to each and the names and addresses of the students who have completed the program but have not received the certificate of completion. The Program Administrator shall also provide a list of each student who has not completed the program indicating the number of hours of classroom and behind the wheel instruction the student has not completed or is required to complete for certification.

(e) Performance Bond Required. A Professional Driving School and a Driver Skills Development Program shall maintain a performance bond, acceptable to the Registrar as described above relative to the application process.

23.05 Facility and Equipment Requirements

(1) Professional Driving School and Public School Driver Education Program Requirements.

(a) Main Business Office. Each driving school shall maintain one permanent main business office readily accessible to the public and open for inspection during regular business hours. The office space shall comply with local and state building and sanitation requirements, all legal requirements regarding accessibility by persons with disabilities, and all relevant guidelines of the Registrar. True copies of the following must be conspicuously displayed for the benefit of the public:

1. Driving School Certificate;
2. Driving School Instructor Certificates; and
3. Inspection Reports

(b) Recordkeeping. Business records, including records of student attendance and instruction, personnel records of instructors, records of vehicles used in the program and maintenance records of such vehicles, and leases or licenses and certificates of occupancy, if applicable, for any of the facilities used, shall be maintained at the main business office. Each Professional Driving School and Public School Driver Education Program shall comply with guidelines established by the Registrar for the form, content and retention period of required records.

(c) Classroom Specifications. Classroom activity shall be conducted in a building suitable for such activity. A local occupancy certificate and other reasonable documentation indicating that the interior and exterior of the building meet local and state building and sanitation requirements shall be submitted with the application. The facilities shall also comply with all legal requirements regarding accessibility by disabled persons.

(d) Equipment Specifications. All classroom facilities of the Professional Driving School and Public School Driver Education Program shall be equipped with suitable desks or tables, chairs and other items deemed necessary by the Registrar to adequately conduct and support educational activity.

1. Classroom Equipment.

a. Audio, Video & Interactive Equipment. The school shall maintain audio, video or interactive equipment, acceptable to the Registrar, that is necessary to make appropriate use of the required curriculum and supplemental material.

b. Computer System. The school shall maintain an appropriately configured computer system (with printer and monitor) for administrative use in maintaining the student and administrative records required by the Registrar. The computer shall be equipped to send and receive electronic mail (e-mail) to facilitate electronic communication between the school and the Registrar for the purposes of program administration and exchange of student record information.

c. Upgrades and Replacements. The Registrar may require schools to upgrade or replace equipment when the equipment currently in use by the school is obsolete or no longer conducive to the proper conduct of a Professional Driver Education Program.

DRAFT AMENDMENTS

23.05: continued

2. Vehicles.

- a. Vehicle Condition. Each vehicle used for driving instruction shall have passed the most recent Massachusetts safety and emissions inspection, and any site visit inspection by the Registrar. A vehicle used for driving instruction shall be properly equipped, registered and insured as a commercial vehicle, and shall be maintained in proper operating condition. The Registrar may order a school to immediately cease using a vehicle if the Registrar determines the vehicle is unsafe or not otherwise in compliance with applicable laws, regulations or policies of the Registrar.
- b. Air Bag Equipped. All vehicles used for driving instruction shall at a minimum have an operational air bag system that provides protection for the driver in a frontal collision.
- c. Safety Belts. Each seating position in each vehicle used for driving instruction shall have a functional safety belt for each occupant.
- d. Dual Brakes. Every vehicle used for driving instruction shall be equipped with dual brake controls as required by M.G.L. c. 90, § 7.
- e. Signage. Each vehicle used for driving instruction shall display a sign or lettering acceptable to the Registrar, which shall at least identify the name of the school and the school's main telephone number in lettering at least 1.5 inches in height and 0.5 inches in width which shall be visible from the front and rear of the vehicle or from the sides of the vehicle. In the alternative or in addition, the school may, at its option, use a roof sign for this purpose. Additionally, the words "Student Driver" shall be displayed in lettering at least 1.5 inches in height and 0.5 inches in width, which shall be visible from the front and rear of the vehicle.
- f. Smoking Prohibited. No smoking shall be allowed in any vehicle used for driving instruction while it is being used for instructional purposes.
- g. Cell Phone Use Prohibited. No person shall use a cellular telephone in a driving instruction vehicle while a student is operating the vehicle except to seek emergency assistance.

(2) Driver Skills Development Program Requirements.

- (a) Recordkeeping. Each program shall maintain an office in Massachusetts where business records, including records of student attendance and instruction, personnel records of instructors, records of vehicles used in the program and maintenance records of such vehicles, and leases or licenses and certificates of occupancy, if applicable, for any of the facilities used, shall be maintained. Records shall be accessible for inspection by the Registrar during normal business hours, clearly labeled and shall not be commingled with any other business's records. Each Driver Skills Development Program shall comply with guidelines established by the Registrar for the form, content and retention period of required records. True copies of the following shall be maintained with business records:
 1. Driver Skills Development Program certificate;
 2. Driver Skills Development Instructor certificates;
 3. The most recent inspection report completed by the Registrar.
- (b) Computer System. The program shall maintain an appropriately configured computer system (with printer and monitor) for administrative use in maintaining the student and administrative records required by the Registrar. The computer shall be equipped to send and receive electronic mail (e-mail) to facilitate electronic communication between the program and the Registrar for the purposes of program administration and exchange of student record information.
- (c) On-site Training Room. A classroom facility must be available to provide the portion of instruction not conducted behind the wheel in a structure suitable for such purposes, as approved by the Registrar, with the ability to accommodate at least ten students.
- (d) Toilet Facility. An on-site toilet facility shall be provided for the use of students, parents and instructors and maintained in a sanitary manner for use during instruction programs.

DRAFT AMENDMENTS

23.05: continued

(e) Off-road Course. All in-vehicle instruction and training exercises shall be conducted on an off-road course approved by the Registrar. Such course shall consist of a suitable paved and level road surface devoid of potholes, bumps, permanent obstacles or other potential road hazards that could hinder safe instruction. Non-permanent obstruction placed by program staff specifically to facilitate instruction, such as traffic cones, are permitted. Access to such closed off-road course shall be controlled by the Principal Administrator of the Driver Skills Development Program and the Principal Administrator shall ensure that the course remains safe from unauthorized intrusions by non-participants. Off-road courses are subject to inspection by the Registrar.

1. Dimensions. Off-road courses shall be a minimum of 950 feet in length, at least 125 feet in width, paved, and provide a perimeter of at least 50 feet of unobstructed land in all directions.

2. Evidence of Right to Use Course. A Driver Skills Development Program that does not own the off-road course where it conducts its training must provide documentary evidence that it rents, leases or has a license to use the property or otherwise has written permission from the property owner to use such property for such training.

(f) Vehicles.

1. Informed Consent. The Principal Administrator shall be responsible to ensure that each person that drives or rides in a vehicle as part of a Driver Skills Development Program has given his or her informed consent for the training that will be conducted.

2. Vehicle Condition. Each vehicle used for a Driver Skills Development Program shall be less than three model years old, shall be maintained in good mechanical condition and be free from body damage containing sharp edges. Each vehicle used for driving instruction shall have passed the most recent Massachusetts safety and emissions inspection, and any site visit inspection by the Registrar. The Registrar may order a program to immediately cease using a vehicle if the Registrar determines the vehicle is unsafe or not otherwise in compliance with applicable laws, regulations or policies of the Registrar.

3. Vehicle Registration. Each vehicle used for a Driver Skills Development Program shall be properly equipped, registered and insured as a commercial vehicle, and shall be maintained in the proper operating condition. Any vehicle that is registered in another state and operated on a public way in this state shall have insurance coverage that meets or exceeds the insurance coverages required by M.G.L. c. 90, § 34A.

4. Vehicle Maintenance. All vehicles used for Driver Skill Development Instruction shall be regularly maintained to ensure that all systems are in proper working order and continually meet the safety inspection standards set by Massachusetts law. It is the Principal Administrator's responsibility to ensure that braking, suspension and steering systems on each vehicle are working properly prior to each day's session and that all tires on each vehicle are in an acceptable and safe condition for the instruction that will be provided during the session. Copies of records of regular vehicle maintenance shall be made available when requested by the Registrar.

5. Tires. The type of tires used on such vehicles shall be appropriate for the repeated severe braking and maneuvering required for such driver skills development training, shall be properly inflated, shall not contain bald spots, uneven wear, bulges, embedded foreign matter that can damage the tire, or wear bars that are even with the tread and shall have sufficient tread on all four tires to ensure safe operation.

6. Air-bag Equipped. All driving instruction vehicles shall be equipped with driver and passenger side air bags.

7. Safety Belts. Each seating position in each vehicle used for driving instruction shall have a functional safety belt, which must be worn by each occupant.

8. Anti-lock Brake System (ABS). All driving instruction vehicles shall be equipped with ABS brakes. A school may use a non-ABS equipped vehicle to demonstrate the difference in braking systems.

9. Smoking Prohibited. No smoking shall be allowed in any instruction vehicle while it is being used for instructional purposes.

10. Cell Phone Use Prohibited. No person shall use a cellular telephone in a driving instruction vehicle while a student is operating the vehicle except to seek emergency

DRAFT AMENDMENTS

assistance.

DRAFT AMENDMENTS

23.06: Driver Education Program Requirements

(1) Professional Driving School and Public School Driver Education Program.

(a) Principal Administrator. All applicants shall submit evidence of compliance with the provision of M.G.L. c. 90, § 32G requiring a business principal to have held a driving instructor's certificate for at least a continuous two year period.

(b) Student Eligibility Standards. An individual may enroll in a Professional Driving School or Public School Driver Education Program who has attained the age of 15 years, nine months. Individuals must possess a valid learner's permit in order to participate in the on-road portion of driver's education.

(c) Driver Education Program. Effective September 1, 2007, the Driver Education Program as established by the Registrar pursuant to the provisions of M.G.L. c. 90, § 32G and 540 CMR 23.00, shall be used by each licensed driving school, private and public, which offers driver education classes to persons who intend to obtain a driver's education certificate issued by the Registrar. The Driver Education Program comprises the driver education curriculum, driver practicum curriculum, the parent curriculum and a final examination. A current version of the Driver Education Program will be maintained on file for public viewing at the main office of the Registry of Motor Vehicles and on the Registry's website.

1. Driver Education Curriculum. The driver education curriculum consists of 15 modules taught within 30 hours of classroom instruction. All topics outlined in the curriculum must be covered. A school may submit their curriculum for the Registrar's approval if they wish to teach the curriculum in a different order than outlined in the Driver Education Program developed by the Registry of Motor Vehicles. A licensed driving school may supplement the curriculum if approved by the Registrar.

2. Driver Practicum Curriculum.

a. On-road instruction includes 12 hours of behind the wheel instruction and six hours of observation, for a total of 18 hours. All skills listed on the driver practicum curriculum must be covered within the 12 hours of behind the wheel instruction.

b. No student shall exceed two hours of on-road instruction in a single day.

3. Parent Curriculum. A driving school must provide an in-class opportunity for parents of enrolled driver education students to learn about the Junior Operator's Law and the driving skills and behaviors that their children will be learning. The parent curriculum must be designed to help parents understand the law and prepare them for the parentally supervised driving experience that parents are required to certify when their child applies for a road test. The driving school may schedule this as a separate class for parents only or may include parents in a student class if that class will cover the material required for the parent curriculum. A parent must attend at least two hours of classroom instruction.

4. Final Examination. Prior to the issuance of a driver education certificate a student must take and pass a final examination to test the student's comprehension of the subjects covered in the Driver Education Program. Except as otherwise required by the Registrar, it is the responsibility of the driving school to administer a final examination. The Registrar may determine the time, place, and material to be tested, and manner for which the examination is conducted. The Registrar may establish exam standards and/or set a minimum passing grade for such examination and may refuse to issue a driver education certificate until satisfied that the student meets the minimum standards and has completed the behind the wheel portion of the driver practicum curriculum. The Registrar may require the driving school to demonstrate its process for evaluating student performance and improving its instruction.

5. Notification of Course Completion. The Professional Driving School and Public School Driver Education Program shall notify the Registrar, in a manner to be determined by her, of a student's successful completion of the Driver Education Program.

(2) Driver Skills Development Program.

(a) Student Eligibility Standards. Individuals who possess a valid driver's license, or a valid learner's permit and have completed ten hours of supervised behind the wheel training, may be enrolled in a Driver Skills Development Program in the Commonwealth.

A program licensed under 540 CMR 23.06(2)(a) may accept, at its discretion, a student driver who is a resident of a state that does not issue a learner's permit document if the program's Principal Administrator is satisfied that the student is legally qualified to

DRAFT AMENDMENTS

operate as a student driver on the roadways of the state where he or she is a resident. Instruction in a Driver Skills Development Program shall not be provided to a person under the age of 18 unless the person's parent or guardian has provided informed written consent to the program's Principal Administrator.

DRAFT AMENDMENTS

23.06: continued

(b) Driver Skills Development Program Curriculum. The driving skills or techniques taught in the Driver Skills Development Program must meet the minimum standards for course content as established by the Registrar.

(c) Issuance of Certificate of Completion. Driver Skills Development Programs shall issue a certificate of completion to each student who successfully completes the program of in-vehicle instruction and the school shall make available such information in the form specified by the Registrar or by the Commissioner of Insurance of the Commonwealth or a person of like authority in another state in the event an insurance discount or other benefit is available to students who complete the program. A Driver Skills Development Program may refuse to issue such certificate of completion if the student was incapable of adequately performing or demonstrating the skills taught in the program.

23.07: Grounds for Discipline

(1) Suspension or Revocation of Operating Privileges. Upon suspension or revocation of the license or right to operate a motor vehicle, the certification of the driving instructor shall also be placed in suspension, for a period concurrent with the suspension of the operator privileges, without further notice from the Registrar. Nothing shall preclude the Registrar from suspending or revoking an instructor's certificate if a driving record or other reports indicate that the holder is otherwise unfit to instruct driving students.

(2) General Revocation or Suspensions. The Registrar may suspend or revoke a driving instructor's certificate or driving school certificate for any reason stated in either M.G.L. c. 90, § 32G or § 32G½, or if the Registrar has reason to believe that the holder has violated 540 CMR 23.00 or the laws of the Commonwealth, including but not limited to, whenever the Registrar determines that the instructor or the school, or both, have failed to abide by the requirements of the Driver Education Program or have failed to abide by a policy or decision of the Registrar in regard to any of the program requirements or is otherwise unfit to instruct driving students. Except when an adverse decision of the Registrar regarding a certificate or driving school license is based upon a criminal conviction or the existence of a suspension or revocation of driving privileges, an applicant, certificate holder, or licensee shall be given an opportunity for a hearing prior to a final decision by the Registrar. A person entitled to the opportunity for a hearing shall be notified at least ten days prior to the date of hearing. 540 CMR 9.00 shall govern the notice, hearing and procedural requirements of such hearing.

A driving school whose students consistently fail to meet established standards may be placed on probation and the Registrar may refuse to renew its license until satisfied that the reasons for the failure to meet the standards have been identified and corrected. Failure to cooperate with an investigation or inspection by the Registrar may result in license suspension.

(3) Administrative Penalty. The Registrar may, after an opportunity for a hearing, impose civil administrative penalties not to exceed \$5,000 for the failure of a program to comply with the law or regulations governing Driver Education Programs.

23.08: Procedure on Appeal

(1) Any person who is aggrieved by any ruling or decision of the Registrar, including the denial of an application for a driver training instructor certificate or driving school certificate, or the revocation or suspension of a driver training instructor certificate or driving school certificate, may appeal the ruling or decision to the Board of Appeal on Motor Vehicle Liability, Policies and Bonds, pursuant to M.G.L. c. 90, § 28, within ten days of the ruling or decision.

(2) Any person who is aggrieved by any ruling or decision of the Board of Appeal on Motor Vehicle Liability, Policies and Bonds, may seek further review to the Superior Court under the provisions of M.G.L. c. 30A, § 14.

DRAFT AMENDMENTS

23.09: Liability

Nothing contained in M.G.L. c. 90, § 32G, § 32G½ , or 540 CMR 23.00 shall be deemed to impose any liability whatsoever upon the Registrar in her personal capacity, the Registry of Motor Vehicles or upon the Commonwealth, for any injury or damages which may result from, or be connected with, participation by any individual in a Professional Driving School, Public School Driver Education Program or in a Driver Skills Development Program.

REGULATORY AUTHORITY

540 CMR 23.00: M.G.L. c. 90, § 31 and § 32G.

DRAFT AMENDMENTS

NON-TEXT PAGE