



STATE OF CONNECTICUT DEPARTMENT OF MOTOR VEHICLES



60 State Street, Wethersfield, Connecticut 06161
ct.gov/dmv

I, **Melody A. Currey**, Commissioner of the **Department of Motor Vehicles**, an agency of the State of Connecticut, hereby certify that:

- (1) On **April 3, 2012**, the agency gave notice in the Connecticut Law Journal of its intent to amend or adopt its regulations concerning **"Commercial Driving Schools"**.
- (2) On **June 14, 2012**, the agency gave notice by mail to each joint standing committee of the general assembly having cognizance of the subject matter of the proposed regulation.
- (3) The agency gave notice by mail to those persons who have requested advance notice of the regulation-making proceeding of the agency.
- (4) The agency provided a copy of the proposed regulation(s) to those persons requesting it.
- (5) The agency prepared a fiscal note, including an estimate of the cost or of the revenue impact on the state or any municipality of the state. A true copy of the fiscal note is attached.
- (6) On **March 25, 2011**, the agency prepared a small business impact statement which indicated that a regulatory flexibility analysis was required and on **June 14, 2012**, notified the Department of Economic and Community Development on of its intent to adopt the proposed regulation(s).
- (7) All interested persons were given until **May 3, 2012** to submit data, views or arguments concerning the proposed regulations and to inspect and copy the fiscal note referenced.
- (8) On **N/A**, a hearing was held by the agency concerning said proposal, at 60 State Street Wethersfield DMV, Wethersfield, CT.
- (9) The agency has considered fully all written and oral submissions with respect to the proposed regulation(s) and, where it deemed appropriate, has revised the fiscal note to indicate any changes made in the proposed regulation(s).
- (10) On **June 15, 2012**, the agency mailed to all persons who submitted data, views or arguments in writing, and to all persons who made statements or oral arguments at the hearing held (if any) and who requested notification, notice that the agency has decided to take action on the proposed regulation(s), and that it has made available for copying and inspection: (a) the final wording of the proposed regulation(s); (b) a statement of the principal reasons in support of its intended action; and (c) a statement of the principal considerations in opposition to its intended action as urged in written or oral comments on the proposed regulation(s) and its reasons for rejecting such considerations.

DEPARTMENT OF MOTOR VEHICLES

BY: Melody A. Currey
Melody A. Currey, Commissioner

6/14/12
(Date)

Seat Belts Do Save Lives

Statement of Reasons in Support of Amendments to Section 14-78 of the Regulations of Connecticut State Agencies

This Statement of Reasons concerns proposed amendments to the regulations governing commercial driving schools and driver education for both 16 and 17 year olds who require a learner's permit for behind the wheel instruction and those individuals who are 18 years of age and older. These regulatory revisions are being proposed under the authority of section 14-78 of the Connecticut General Statutes and are adopted pursuant to Public Act 2010-110.

I. Introduction

The proposed regulatory revisions modify the requirements for commercial driving schools serving individuals who are seeking driver education courses as mandated by motor vehicle law. Pursuant to Public Act 2010-110, the Department of Motor Vehicles ("the Department") is charged with the incorporation of several major changes as they pertain to licensing requirements (1) to engage in the business of conducting a driver's school; (2) to become a licensed driver instructor; and (3) to become a licensed master instructor. In addition, the regulations reflect changes to the learner's permit requirement and its corresponding effect on driver education and the student's course content.

A primary governmental responsibility for motor vehicle administrators is the issuance of a motor vehicle license to a first-time operator. Due to the serious transgressions by a major commercial driving school in 2009, the Department of Motor Vehicles has attempted to strengthen the laws pertaining to driving schools. Since that time the Department has proposed legislation and undertaken administrative enhancements, including drafting these regulations to reflect the necessary changes in this area of motor vehicle law.

These proposed amendments governing driver education by commercial driving schools strengthen the commitment the department has and its role in such driver education as follows:

- Define or expand the following terms that are used in the regulations- behind-the wheel instruction, commercial driving school, classroom instruction, full course, master instructor, place of business, and student;
- Clarify requirements for those individuals operating under a learner's permit;
- Establish certain license requirements for instructors who provide a driver education program for a commercial driving school;
- Require the posting of rates for commercial driving schools for the benefit of the general public;

- Establish license criteria for those seeking to obtain a master instructor license;
- Require any vehicle used for behind-the-wheel instruction to be subject to inspection at the Department's inspection lanes.

These proposed revisions are consistent with Public Act 2010-110 and address issues and practices surrounding driver education and driving schools that have come to the Department's attention in the course of the 2009 investigation.

II. Summary of Comments Received

For these revisions, no hearing was requested or held, and written comments were required to be submitted not later than 4:30 p.m. on May 3, 2012. Only one set of comments was received by the Department. The commenter, the Connecticut Driving School Professionals, supported certain revisions and opposed others. The commenter also discussed many existing laws and governing regulations that are beyond the scope of the proposed revisions.

A. Comments on Proposed Revisions to RCSA section 14-78-22 and Responses Thereto

- Commenter suggests that the word "managers" be defined, (although no substitute language was offered) as its meaning has several interpretations in this context.

Response: The Department agrees that there is a need for clarity in the subsection (c) when listing those individuals subject to criminal background checks and a check of the state child abuse and neglect registry.

As Proposed

14-78-22 (c) Each applicant, and all partners, officers, and managers upon initial application shall be fingerprinted and be subject to a state and national records check and a check of the state child abuse registry pursuant to section 17a-101 of the Connecticut General Statutes.

As Revised

14-78-22(c) Each applicant, and all partners, officers, directors and principals, in addition to any person whose name appears on the application, upon initial application shall be fingerprinted and be subject to a state and national records check and a check of the state child abuse and neglect registry pursuant to section 17a-101 of the Connecticut General Statutes.

In addition, a technical correction to the revision was incorporated above to reflect the correct name of the registry maintained by the Department of Children and Families.

- Commenter suggests that the posting of rates in subsection (h) restricts schools from offering price specials without approval from the Department and offers to submit a schedule of maximum prices to be charged.

Response The Department has amended subsection (h) in light of the commenter's concerns.

As Proposed

14-78-22 (h) The [applicant(s)] applicant shall file with the application a schedule of rates charged for services provided in the instruction of drivers.

As Revised

14-78-22 (h) The [applicant(s)] applicant shall file with the application a schedule of maximum rates charged for services provided in the instruction of drivers.

B. Comments on Proposed Revisions to RCSA section 14-78-23 and Responses Thereto

- Commenter suggests in subsection (b) the incorporation of language that defers to the town's signage requirements, as some municipalities have strict zoning regulations that may conflict with "adequate signage", as referenced in the revision.

Response The Department agrees with the commenter on the addition of this substitute language as it considers the various planning and zoning laws found at the local level.

As Proposed

14-78-23 (b) Each place of business shall have adequate signage, which reflects the name and ownership of said business.

As Revised

14-78-23 (b) Each place of business shall have adequate signage, as allowed by the board or authority designated by local charter, regulation or ordinance of the town, city or borough wherein the business is located. Such signage shall reflect the name and ownership of said business.

- Commenter suggests that the Department provide for a grandfather provision to the ADA requirement established in the revision.

Response The Department realizes that building code requirements are best addressed at the local level during the approval process. The revised language provides for this scrutiny.

As Proposed

14-78-23 (c) Each place of business shall meet governmental zoning, safety, [and] fire code requirements, and shall comply with all applicable provisions of the American with Disabilities Act pursuant to 42 USC 12101.

As Revised

14-78-23 (c) Each place of business shall meet governmental zoning, safety, [and] fire code and accessibility requirements.

- Commenter suggests for subsection (e), which is existing language, that an e-mail should serve as notification in lieu of the required certified mail.

Response

The commenter's suggestion of relying on e-mail correspondence may not afford certainty that notification was received.

C. Comment on Proposed Revisions to RCSA section 14-78-24 and Response Thereto

- Commenter notes that the General Assembly is contemplating a change which seeks to increase the school's initial license period and renewal to a two year cycle.

Response

The Department is aware of the extension of the license period and supports a corresponding change to the revision. The extension of the license period will provide greater efficiency for the renewal process. The revised language now offered will cite the governing statute in lieu of a definitive time period.

As Proposed

14-78-24(a) Upon approval of an application for a license by the commissioner, one or more license certificates shall be issued to the applicant. The license shall be valid [during the calendar year of its issue] for one year and [its] the expiration date shall appear on the license certificate.

As Revised

14-78-24(a) Upon approval of an application for a license by the commissioner, one or more license certificates shall be issued to the applicant. The license shall be valid [during the calendar year of its issue] in accordance with section 14-69 of the Connecticut General Statutes and [its] the expiration date shall appear on the license certificate.

D. Comment on Proposed Revisions to RCSA section 14-78-25 and Response Thereto

- Commenter requests any denial of a license application be within two weeks of submission.

Response While the Department appreciates the commenter's concerns for a denial within a reasonable amount of time, there are issues during the application process that are out of the Department's control.

E. Comment on Proposed Revisions to RCSA section 14-78-26 and Response Thereto

- Commenter seeks to streamline the renewal process for licensees with multiple locations as well as stating that the fingerprinting process at renewal time is a lengthy one.

Response The Department can address the license renewal process concerns outlined by the commenter administratively. In addition, the Department would like to clarify that the requirement for fingerprinting of an applicant is conducted only at initial licensure.

F. Comment on Proposed Revisions to RCSA section 14-78-28 and Response Thereto

- Commenter suggests that existing language be amended to allow for a school license to be transferable.

Response The Department disagrees with the commenter. A license is not transferable and this fact serves as a means to protect the public, while allowing the municipality to have a role in the licensure process. No other licensing provision contained within Title 14 permits a transfer of a business license to a new buyer.

G. Comment on Proposed Revisions to RCSA section 14-78-30 and Response Thereto

- Commenter suggests existing language which prohibits display of advertising material within 1500 feet of the Department full service branch be amended to allow for an exemption of driving school vehicles displaying commercial information while at the DMV for a driver test, as this is a common occurrence that is not allowed under the regulation.

Response The existing language *allows* for the Commissioner to authorize such display, and she has done so for such display by those engaged in the road test portion of the driver test. The intent of this section is to disallow the advertisement by the school in and around our Department service branches.

H. Comment on Proposed Revisions to RCSA section 14-78-32 and Responses Thereto

- Commenter points out that subsection (a) of 14-78-32 requires the school to now capture a student's learner's permit number as part of its official record-keeping mandate, and that this number only applies to students enrolled in the behind-the-wheel portion of instruction.

Response If a student enrolled in either a full-course of instruction or classroom only instruction has been issued a learner's permit by the Department, the permit number should be part of the student's record.

- Commenter states that subsection (b) (1) of 14-78-32 caused great confusion as the schools no longer issue such permits at the driving schools; and
- Commenter also points out in subsection (b) (7) of 14-78-32, the driving schools only capture test results for those students that take the driver test with the driving school vehicles.

Response The Department acknowledges that driving schools no longer issue learner's permits. As such, this language in (b) (1) has been removed, and this subsection has been renumbered. In addition, the subsection formerly designated (b) (7) has been revised to reflect the school is only responsible for recording the test results of its students using a vehicle provided by the driving school. The revision also adds permissive language regarding the administration of a vision screening.

As Proposed

14-78-32(b) The following additional records shall be maintained on file at the commercial driving school:

(1) where the student is under eighteen (18) years of age, a signed approval by an individual authorized under section 14-36 (c) of the Connecticut General Statutes to consent to the issuance of a learner's permit [authorization by the student's parent or legal guardian] permitting the student to receive driver instruction and training;

- (2) The date of the student's vision screening required in accordance with [Section] section 14-78-43 of the Regulations of Connecticut State Agencies, the name of the person who administered the vision screening, [if other than a licensed medical professional,] and whether the student meets the vision standards of sections 14-45a-1 to 14-45a-4, inclusive, of the Regulations of Connecticut State Agencies;
- (3) The types of instruction, including the date each type of instruction was given and the number of hours for each type of instruction received by the student;
- (4) Registration information for each vehicle in which the student received behind -the-wheel instruction;
- (5) The fees paid by the student for any classroom instruction, behind-the-wheel instruction, [and/or] or safe driving practices instruction.
- (6) The [name(s)] name or names of the [instructor(s)] instructor or instructors for each instructional [and/] or training session, or both;
- (7) The date, location of test, motor vehicle used (if a vehicle is owned or leased by a licensed commercial driving school is used) and results of each driving test administered by the department; [and]
- (8) Any additional fees paid by the student [.] and
- (9) A class attendance list, which shall include the date, time, location, names of students, and the instructor or instructors, for all driver education classes.

As Revised

14-78-32(b) The following additional records shall be maintained on file at the commercial driving school:

- [(1)] where the student is under eighteen (18) years of age, authorization by the student's parent or legal guardian permitting the student to receive driver instruction and training;
- [(2)](1) In the event that a vision screening is administered, [The] the date of the student's vision screening required in accordance with [Section] section 14-78-43 of the Regulations of Connecticut State Agencies, the name of the person who administered the vision screening, [if other than a licensed medical professional,] and whether the student meets the vision standards of sections 14-45a-1 to 14-45a-4, inclusive, of the Regulations of Connecticut State Agencies;
- [(3)](2) The types of instruction, including the date each type of instruction was given and the number of hours for each type of instruction received by the student;
- [(4)](3) Registration information for each vehicle in which the student received behind -the-wheel instruction;
- [(5)](4) The fees paid by the student for any classroom instruction, behind-the-wheel instruction, [and/or] or safe driving practices instruction;
- [(6)](5) The [name(s)] name or names of the [instructor(s)] instructor or instructors for each instructional [and/] or training session, or both;
- [(7)](6) The date, location of test, motor vehicle used (if a vehicle is owned or leased by a licensed commercial driving school is used) and results of each driving test administered by the department[;] and taken in such vehicle owned or leased by a licensed commercial driving school;
- [(8)] (7) Any additional fees paid by the student [.] and
- (8) A class attendance list, which shall include the date, time, location, names of students, and the instructor or instructors, for all driver education classes.

I. Comment on Proposed Revisions to RCSA section 14-78-33 and section 14-78-33a and Response Thereto

- Commenter suggests that students on a non-school day should be able to complete four hours of class, and that adult students should be permitted to complete the 8 Hour Safe Driving Course in one day.

Response It is in the interest of enhanced learning by students and the absorption of course content that the Department is retaining the existing language regarding students who are still attending a secondary school, however, the existing language provides for the flexibility the commenter seeks. The Commissioner *may require* the eight hours of instruction conducted on two separate days. A request can be made, in writing, to the Commissioner by any driving school to offer such safety course hours in one day for the adult population.

J. Comment on Proposed Revisions to RCSA section 14-78-33a and Response Thereto

- Commenter addresses aspects of the current law regarding the education of 16 and 17 year olds to that of an adult student. Commenter suggests that both groups are new drivers and need the same education regardless of age. Commenter also wanted to know what happens to a student that begins a course of instruction and turns 18 in the middle of the program.

Response The commenter's concerns here are not the subject of proposed revisions to the regulation, as they are statutorily driven requirements. For the student who turns 18 during the course of instruction, the Department believes that this is a contractual matter between the student and the driving school.

K. Comments on Proposed Revisions to RCSA section 14-78-34 and Response Thereto

- Commenter wonders whether having another instructor or a supervisor in the motor vehicle while a student is engaged in a behind-the-wheel instruction is permitted under the regulation.

Response Yes, it is permissible under the regulations, as the number of instructors is not explicitly addressed.

L. Comments on Proposed Revisions to RCSA section 14-78-35 and Response Thereto

- Commenter does not believe it is responsible to determine whether its students are safe and capable drivers and qualified to hold operator's licenses.

Response Assessment of its students is critical to the safety of driving school instructors, motor vehicle testing agents and the motoring public. This language is consistent with the Department's companion regulations regarding Driver Education in Secondary Schools.

M. Comments on Proposed Revisions to RCSA section 14-78-36 and Response Thereto

- Again, commenter suggests that there should be no distinction between 16 and 17 year olds and adult students. The commenter also would like the Department to consider requiring the certificate of completion (CS-1) for adults who take the 30 hour classroom course of instruction.

Response Adults are not required by law to take the thirty (30) hour classroom course of instruction.

N. Comments on Proposed Revisions to RCSA section 14-78-38 and Response Thereto

- Commenter does not agree with the "safe and capable driver" reference in the revised regulation and seeks to remove this obligatory language.

Response Please see comments under section 14-78-35 above.

O. Comments on Proposed Revisions to RCSA section 14-78-40 and Response Thereto

- Commenter is strongly against the requirement for the school to bring all its motor vehicles to the Department's inspection lane for a safety inspection, as the requirement does not seem necessary for new and lightly used motor vehicles.

Response Due to limited resources, the Department finds it necessary to consolidate the safety inspections at our facilities, whereas previously our personnel accommodated these inspections at the school's facilities. However, the Department does find merit in the commenter's suggestions, and DMV is looking at devising a schedule which utilizes Monday visits when the anticipated volume of vehicles is manageable. As such, the DMV will address this aspect of the comments administratively.

P. Comments on Proposed Revisions to RCSA section 14-78-42(a) and Response Thereto

- Commenter believes this is a good addition to the regulation, but would like the word "simulator" to be defined in the regulation.

Response The Department agrees with the Commenter's suggestion and has added this definition to our enumerated list of terms in the regulation. The subsection will be renumbered accordingly.

As Revised
14-78-20 (15) "Simulator" means a machine that simulates specific conditions or the characteristics of the real process of driving a motor vehicle for the purposes of driver education.

Q. Comments on Proposed Revisions to RCSA section 14-78-44 and Response Thereto

- Commenter suggests the new language found in this section which reads in part "shall schedule such driving test in the manner prescribed by the Commissioner" is confusing and would like clarification.

Response The Department does not find the new language confusing, as it simply is a grammatical change to the regulation, and allows for appointments to be made in various ways, as determined by the Commissioner.

R. Comments on Proposed Revisions to RCSA section 14-78-45 and Responses Thereto

- Commenter suggests a change in subsection (a) of 14-78-45 from one month to five days for a retest of a licensed instructor due to a failed proficiency test.

Response The Department agrees with the commenter, as our companion regulations regarding Driver Education in Secondary Schools allow for a five day period before a retest can be administered.

An earlier version of the regulation had considered a one month wait that was inadvertently left in this revision.

As Proposed

14-78-45(a) [No] A retest shall be conducted by the commissioner no sooner than one month from the date of such failure and until such licensed driving instructor has [been provided] received additional instruction administered by a master instructor, and provided the commissioner with proof of such additional instruction.

As Revised

14-78-45(a) [No] A retest shall be conducted by the commissioner not earlier than five (5) business days from the date of such failure and until such licensed driving instructor has [been provided] received additional instruction administered by a master instructor, and provided the commissioner with proof of such additional instruction

- Commenter also suggests that the Department change section 14-78 of the Connecticut General Statutes to allow classroom only instructors to be licensed by the DMV, and believes that not allowing individuals the opportunity to instruct may violate ADA requirements.

Response

Section 14-78 of the Connecticut General Statutes was amended in 2010 to eliminate the issuance of a classroom only instructor's license. Therefore, the regulation does not allow us to provide for this type of limited instructor's license. However, the statute does provide for the grandfathering of those who hold the license presently.

S. Comments on Proposed Revisions to RCSA section 14-78-47 and Response Thereto

- Commenter suggests the filing of rate changes will inundate the Department's DEU with paperwork and are unnecessary.

Response

The statutes governing commercial driving schools mandate the posting of rates to be charged as well as the filing of an amended schedule if such rates are changed. The regulations are compliant with such requirements.

T. Comments on Proposed Revisions to RCSA section 14-78-47(a) and Response Thereto

- Commenter notes that this new section presents a number of problems including posting of rates in a high school building in which it is a guest and the fact that

many of the locations are classroom-only that do not accept walk-in enrollments or payments. The commenter suggests that the requirement for rates to be posted should be in only one place of business or to be accessible online.

Response The Department's revision clearly states that for each place of business, the sign displaying its rates shall be in a conspicuous area *where customers pay for the service* (emphasis added).

U. Comments on Proposed Revisions to RCSA section 14-78-48 and Responses Thereto

- Commenter recommends that the medical examination be valid for six (6) months in lieu of the three (3) months.

Response The medical certification's validity is a standard time period. A medical certification that is presented within the three month timeframe at the time of application will be honored by the Driver Education Unit of the Department.

- Commenter states that the revision does not provide for additional physical examinations beyond initial licensure of a driving instructor to assure such instructor's medical condition has not deteriorated.

Response The effect of the new medical certification requirement found in subsection (d) of 14-78-48 will require the instructor to maintain his or her medical certification every two years.

V. Comments on Proposed Revisions to RCSA section 14-78-49 and Response Thereto

- Commenter feels that three years, not five, is enough time for a driving instructor to prove they are able to be a Master Instructor.

Response The Department disagrees with the Commenter. The five years, as provided for in the revision, is a sufficient time in which to acquire the skills, responsibilities and experience necessary to master the art of instruction.

June 15, 2012

Date

Anne F. Howroyd, Division Manager

Name, DMV title