

11-19

Secretary of State
Certificate and Order for Filing
PERMANENT ADMINISTRATIVE RULES

I certify that the attached copies* are true, full and correct copies of the PERMANENT Rules(s) adopted on November 9, 2010 by the
Date prior to or same as filing date.

Oregon Department of Transportation, Driver and Motor Vehicle Services Division 735
Agency and Division Administrative Rules Chapter Number

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to become effective January 1, 2011 Rulemaking Notice was published in the October 2010 Oregon Bulletin.**
Date upon filing or later Month and Year

RULE CAPTION

Basic Control Skills Test and other Commercial Driver License Testing
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION
List each rule number separately, 000-000-0000.

ADOPT:

AMEND: 735-060-0000, 735-060-0120, 735-062-0002, 735-062-0070 and 735-062-0200

REPEAL:

ORS 184.616, 184.619, 802.010, 802.200, 802.540, 807.045, 807.070, 807.072 and 807.080
Stats. Auth.

Federal Motor Carrier Safety Administration (FMCSA) regulation, 49 CFR 383, subparts G and H and Proposed Notice of Rulemaking, 73 FR 19281, April 9, 2008, Commercial Driver's License Testing and Commercial Learner's Permit Standards.
Other Authority

ORS 807.040, 807.045, 807.070 and 807.072
Stats. Implemented

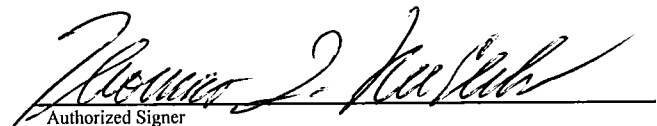
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RULE SUMMARY

Applicants for a Commercial Driver License (CDL) must demonstrate basic knowledge, vehicle control and driving skills. Based on recommendations of the American Association of Motor Vehicle Administrators (AAMVA) and proposed rulemaking issued by FMCSA, DMV has updated its CDL testing requirements by amending OAR 735-060-0120, 735-062-0070 and 735-062-0200 to require that a CDL applicant must successfully complete a Basic Control Skills test before taking an on-road driving test. DMV intends to implement Basic Vehicle Control Skills testing on January 1, 2011.

The basic vehicle control skills test requires a CDL applicant to demonstrate effective maneuvering of the truck, bus or tractor trailer that he or she is driving (and is testing to be licensed to drive). The skills that the driver must demonstrate include backing maneuvers as well a pulling forward and executing a turn all within specific boundaries.

DMV also amended OAR 735-060-0000 and 735-062-0002 to add a definition of CDL skills test. A CDL skills test is a pre-trip vehicle inspection, a basic control skills test or an on-road driving test.


Authorized Signer

Thomas L. McClellan
Printed Name

11/10/10

Date

* With this original, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.

** The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

DMV 20-2010

735-060-0000

Definitions

(1) The following definitions apply to terms in OAR 735-060-0000 through 735-060-0130:

- (a) "Administrative Training" means a class provided by DMV to a CDL Tester Representative that describes the administrative requirements and responsibilities of a CDL Third Party Tester, including but not limited to, maintaining records and proper completion of DMV required reports.
- (b) "CDL" means commercial driver license.
- (c) "CDL Certificate of Test Completion" is a document that certifies an individual is competent to safely exercise the commercial driving privileges granted by a Class A, Class B, Class C CDL, or an endorsement related to a CDL and that is issued by a CDL Third Party Examiner as authorized by ORS 807.080.
- (d) "CDL skills test" is a pre-trip vehicle inspection test, a basic control skills test or an on-road driving test.
- (e) "CDL Third Party Examiner" or "CDL Examiner" is an individual issued a Third Party Examiner Certificate by DMV that authorizes the individual to conduct certified drive tests to determine a driver's qualification to obtain a CDL and issue CDL Certificates of Test Completion.
- (f) "CDL Third Party Examiner Certificate" or "Examiner Certificate" is a certificate issued by DMV that authorizes an individual to conduct certification drive tests to determine a driver's qualification to obtain a CDL, endorsement related to a CDL, or both and to issue CDL Certificates of Test Completion.
- (g) "CDL Third Party Tester" or "CDL Tester" is an individual or entity issued a CDL Third Party Tester Certificate by DMV for the purpose of certifying the competency of drivers to safely exercise commercial driving privileges. For purposes of OAR 735-060-0000 to 735-060-0130 the term includes, but is not limited to, an individual, corporation, association, firm, company, business, partnership, limited liability company, employer, federal or state agency, municipal corporation as defined by ORS 33.710, including a mass transit or transportation district, a publicly owned and operated educational facility and the Oregon Department of Education.
- (h) "CDL Third Party Tester Certificate" or "Tester Certificate" is a driver competency testing certificate issued by DMV as authorized by ORS 807.080(2).
- (i) "CDL Third Party Tester Representative" or "CDL Tester Representative" is an individual, designated by the CDL Tester as responsible for the CDL Third Party Tester's activities required by administrative rule and the CDL Third Party Tester Agreement.
- (j) "Calendar day" is a period that begins at 12:01 a.m. and ends at 11:59 p.m. on the same day.
- (k) "Commercial truck or bus driver training school" means any school that trains the general public in driving commercial motor vehicles and has been licensed by the Oregon Department of Education as a licensed private career school.
- (L) "Disqualified" means a person's CDL has been suspended, revoked, cancelled or withdrawn by a State or other jurisdiction, or the person is not qualified to operate a commercial motor vehicle under 49 CFR part 391. "Disqualified" has the same meaning given the term "disqualification" in 49 CFR part 383.5.
- (m) "DMV" means the Driver and Motor Vehicle Services Division of the Oregon Department of Transportation.

- (n) "Employee" means a person who works for another for compensation, but does not include an independent contractor.
- (o) "Employer" includes any of the following:
 - (A) An individually owned business;
 - (B) A company;
 - (C) A corporation;
 - (D) An association;
 - (E) A cooperative; and
 - (F) A federal, state, county or municipal agency, including a publicly owned and operated education facility and the Oregon Department of Education.
- (p) "FMCSA" means the Federal Motor Carrier Safety Administration.
- (q) "Major traffic crime" means a conviction under Oregon statute or city ordinance, or a comparable statute or city ordinance of any other jurisdiction, for any traffic offense that is punishable by a jail sentence and includes the following offenses:
 - (A) Any degree of murder, manslaughter, criminally negligent homicide or assault resulting from the operation of a motor vehicle;
 - (B) Driving under the influence of intoxicants;
 - (C) Reckless driving as defined in ORS 811.140;
 - (D) Failure to perform the duties of a driver involved in an accident or collision under ORS 811.700 or 811.705;
 - (E) Criminally driving while suspended or revoked, as defined under ORS 811.182;
 - (F) Fleeing or attempting to elude a police officer, as defined in ORS 811.540;
 - (G) Vehicular assault of bicyclist or pedestrian under ORS 811.060;
 - (H) Reckless endangerment of highway workers, as defined in ORS 811.231;
 - (I) False accident report under ORS 811.740;
 - (J) Knowingly violating an out-of-service notice under ORS 825.990(2); or
 - (K) A violation of ORS 825.990(3).
- (r) "Motor carrier" means for-hire carrier or private carrier as those terms are defined in ORS 825.005 and who is subject to the FMCSA Regulations.
- (s) "Under the influence of intoxicants" means a person's physical or mental faculties are adversely affected by use of over the counter drugs or a lawfully prescribed controlled substance to a noticeable or perceptible degree, unlawful use of a controlled substance or consumption of an intoxicating liquor within six hours of or while conducting or taking a certification drive test.
- (2) The terms "employer" and "employee" are only applicable as used in OAR 735-060-0010 through 735-060-0130. They are not intended to affect any employer or employee rights, responsibilities or obligations.

Stat. Auth.: ORS 184.616, 184.619, 807.072 & 807.080

Stats. Implemented: ORS 807.040, 807.070, 807.072 & 807.080

735-060-0120

The Certification Drive Test

(1) DMV adopts the following FMSCA regulations in effect on July 1, 2008 and prescribes that these regulations establish the standards that must be followed in the testing for a commercial driver license:

- (a) 49 CFR sec. 383.75, Third Party Testing; and
- (b) 49 CFR sec. 383.131 through sec. 383.135.

- (2) The certification drive test conducted under the CDL Third Party Tester program must be by a CDL Third Party Examiner. The CDL Third Party Examiner must:
- (a) Be certified by DMV; and
 - (b) Not conduct more than eight CDL Class A, B, or C pre-trip vehicle inspection tests, eight basic control skills tests and eight on-road driving tests within a single calendar day;
 - (c) Begin and end all CDL skills tests during daylight hours;
 - (d) Conduct all CDL skills tests within the State of Oregon;
 - (e) Conduct the CDL skills tests in the same type and class of commercial vehicle. All CDL skills tests must be completed on the same calendar day unless the driver tested has previously failed the basic control skills or on-road drive test;
 - (f) Not conduct another on-road drive test until after the minimum waiting period set forth in OAR 735-062-0070 (8) has passed, if the driver fails any CDL skills test;
 - (g) Conduct the same CDL skills tests that are administered by DMV examiners and use test scoring sheets approved by DMV;
 - (h) Not permit any person who is not a certified examiner, an official with DMV, an official with the FMSCA or the driver being tested to observe or participate in CDL skills tests without the prior approval of DMV; and
 - (i) Conduct all tests in English as required by OAR 735-062-0075(2)(d) and (e).
- (3) The CDL Third Party Examiner must do the following before administering a drive test:
- (a) Ensure the driver being tested has a valid Oregon CDL instruction permit and Oregon Class C driver license or a valid Oregon CDL and, if the driver does not have a CDL, the Oregon driver license was issued at least 21 days prior to the test as required by OAR 735-060-0105(3)(i). A certification drive test must not be administered if the CDL Examiner has reason to believe that the driver's driving privileges are suspended, revoked, canceled or have otherwise been withdrawn; and
 - (b) View the driver's Medical Certificate and any required medical waiver as described in OAR 735-063-0060.
- (4) The certification drive test must be conducted in accordance with the federal regulations adopted by section (1) of this rule and the methods and procedures set forth in the Oregon Department of Transportation CDL Examiner's Manual, incorporated herein. The certification drive test must include, but is not limited to, the following:
- (a) A pre-trip inspection test. This test is designed to evaluate the driver's ability to identify and operate the equipment on the vehicle in which he or she is being tested and to detect and identify unsafe vehicle equipment items. The specific items that must be inspected during a pre-trip inspection are those listed in the Oregon Department of Transportation CDL Examiner's Manual;
 - (b) A basic control skills test. This test is designed to evaluate the driver's ability to control the vehicle and judge the position of the vehicle in relation to other objects through basic starting, stopping, backing or parking maneuvers; and
 - (c) An on-road driving test. This test is designed to evaluate the driver's competency to safely operate a commercial motor vehicle or combination of commercial vehicles under actual driving conditions. The driver must demonstrate safe and proper driving methods and procedures and knowledge of the traffic laws. The following apply to an on-road driving test:
 - (A) It must be conducted on a driving test route approved by DMV and meeting the specifications set forth in section (5) of this rule;
 - (B) The commercial motor vehicle or combination of commercial motor vehicles must be of the class for which the driver seeks a license or endorsement and must have the proper equipment in

safe working order so that the vehicle(s) can be operated safely and legally. The CDL Examiner is not required to verify the safe condition of any commercial motor vehicle provided by the driver for an on-road test, but must not conduct the test if it is apparent the vehicle cannot be operated safely and legally; and

(C) The commercial motor vehicle or combination of vehicles need not be loaded, but the test must be conducted and scored as if the vehicle or combination of vehicles is loaded.

(5) The on-road driving test route must:

(a) Be designed to enable the CDL Third Party Examiner to evaluate the ability of the driver to perform the maneuvers listed in the Oregon Department of Transportation CDL Examiner's Manual, incorporated by reference herein; and

(b) Meet the specifications for an on-road driving test for commercial driver licensing set forth in the Oregon Department of Transportation CDL Examiner's Manual, incorporated by reference herein.

(6) The Oregon Department of Education may establish additional requirement for the pre-trip inspection and on-road driving test for a school bus driver certificate, but may not modify or omit any of the testing requirements set forth in these rules, including those in the Oregon Department of Transportation CDL Examiner Manual, incorporated by reference herein, without the prior approval of DMV.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.080

Stats. Implemented: ORS 807.040, 807.070 & 807.100

735-062-0002

Definitions

As used in this division the following definitions apply:

(1) "Biometric data" means measurements of the physical characteristics of a person's face that can be used to authenticate the identity of the person.

(2) "CDL skills test" is a pre-trip vehicle inspection test, a basic control skills test or an on-road driving test.

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

(4) "Legal presence" or "legal presence in the United States" means that a person is a citizen or permanent legal resident of the United States or is otherwise legally present in the United States under federal immigration laws.

(5) "SSA" means the Social Security Administration.

(6) "SSN" means Social Security Number.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.021 & 807.050

Stats. Implemented: ORS 801.163, 802.200, 807.021, 807.024 & 807.050

735-062-0070

Drive Test

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

only by a person with a Class A commercial driver license. All persons must qualify for a Class C driver license before applying for a Class A, B or C commercial driver license.

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

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

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

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

- (a) Operate vehicle equipment and controls;
- (b) Start the vehicle;
- (c) Stop the vehicle;
- (d) Turn and steer the vehicle;
- (e) Change lanes;
- (f) Merge with other traffic;
- (g) Signal;
- (h) Use lanes properly and maintain lane position;
- (i) Control speed and obey speed limits;
- (j) Back the vehicle;
- (k) Observe signs, signals, other traffic and pedestrians;
- (l) Use courtesy on the road and defensive driving techniques; and
- (m) Demonstrate general driving ability and vehicle control.

(6) In addition to the on-road driving test, applicants for a Class A or B commercial driver license must pass a pre-trip vehicle inspection test. Applicants for a Class C commercial driver license with a passenger endorsement also must pass a pre-trip vehicle inspection test. During this test, the examiner will evaluate the applicant's ability to properly inspect vehicle components as described in the Oregon Commercial Driver Manual.

(7) In addition, prior to the completion of the on-road driving test, applicants for a Class A, B or C commercial driver license must pass a basic controls skills test. During this test, the examiner will evaluate the applicant's ability to control the vehicle and judge the position of the vehicle in relation to other objects through basic starting, stopping, backing or parking maneuvers.

(8) The first drive test or CDL skills test may be conducted the day an applicant, who is otherwise eligible, satisfactorily completes the knowledge test and vision screening, or presents a valid instruction permit, except as indicated in section (8) of this rule. If the applicant fails the first drive test or CDL skills test, a drive test examiner will conduct additional tests as needed, with the following frequency:

- (a) A second test may be conducted no sooner than seven days after the first test;
 - (b) A third test may be conducted no sooner than 14 days after the second test;
 - (c) A fourth test may be conducted no sooner than 28 days after the third test; and
 - (d) A fifth test may be conducted no sooner than 28 days after the fourth test.
- (9) The first drive test for a provisional license applicant under 18 years of age may be conducted the day the applicant becomes eligible for the test. To be eligible for a drive test, the applicant

must present a valid instruction permit. A drive test examiner will conduct additional drive tests with the following frequency:

- (a) A second drive test may be conducted no sooner than 28 days after the first drive test;
 - (b) A third drive test may be conducted no sooner than 28 days after the second drive test;
 - (c) A fourth drive test may be conducted no sooner than 28 days after the third drive test; and
 - (d) A fifth drive test may be conducted no sooner than 28 days after the fourth drive test.
- (10) No more than five drive tests may be conducted within any 12-month period. Following a fifth drive test failure within a 12 month period, no further drive tests will be conducted for one year from the date of the fifth drive test failure.

Stat. Auth.: ORS 184.614, 184.619, 802.010, 802.200, 802.540, 807.070 & 807.080

Stats. Implemented: ORS 807.070

735-062-0200

Conversion From Another Jurisdiction's Commercial Driver License

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will require an applicant for a commercial driver license in this state who currently holds a CDL issued by another jurisdiction to:

- (a) Take and pass the Class C knowledge test and a vision screening; and
 - (b) Take and pass the CDL skills tests and knowledge test required, if the person applies for a higher class license.
- (2) DMV may waive all tests, except the Class C knowledge test and the hazardous materials endorsement knowledge test, if the applicant applies for a license equal to the CDL the applicant has been issued by another jurisdiction and the CDL has not been expired for more than one year.
- (3) DMV may require an applicant to take any or all CDL tests prior to issuing a CDL.
- (4) DMV will submit an inquiry through the Commercial Driver License Information System (CDLIS) and the National Driver Register (NDR)/ Problem Driver Pointer System (PDPS) before issuing an Oregon CDL. DMV will not issue an Oregon CDL if the inquiry shows:
- (a) The applicant has a current and valid CDL, issued by another jurisdiction unless the CDL is surrendered to DMV or the applicant certifies it has been lost or destroyed;
 - (b) The applicant's driving privileges are suspended, revoked or canceled in another jurisdiction; or
 - (c) The applicant is disqualified from operating a commercial motor vehicle in another jurisdiction.
- (5) The driving record of the applicant from another jurisdiction will become a part of the Oregon driving record as provided in OAR 735-062-0210.
- (6) A person whose driving privileges have been suspended, revoked, or canceled in another jurisdiction or who has been disqualified from operating a commercial motor vehicle in another jurisdiction, must be eligible for valid driving privileges in the other jurisdiction before an Oregon CDL may be issued. When the person is eligible for valid driving privileges in the other jurisdiction, he or she may ask that DMV check CDLIS and NDR/PDPS to verify the eligibility.
- Stat. Auth.: ORS 184.616, 184.619, 807.045, 807.050 & 807.070
- Stat. Implemented: ORS 807.045