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DIVISION 5

IGNITION INTERLOCK DEVICE PROGRAM

737-005-0000

Definitions Relevant to the Ignition Interlock Device Program

For purposes of OAR 737-005-0000 through 737-005-0012, the following definitions shall apply:

(1) "Food Stamp Identification Card" means the document authorized by a branch office of Children, Adults and Families of the Oregon Department of Human Services issued to a household eligible for the Federal Food Stamp Program and showing the certification of eligibility period.

(2) "Blood Alcohol Concentration (BAC)" means the weight (w) amount of alcohol contained in a unit volume (v) of blood measured in grams Ethanol/100 ml blood and expressed as %, grams %, %w/v and % BAC.

(3) "Approved Ignition Interlock Device Vendor" means a person, company, corporation, or representative who has been approved to sell, install, lease, or maintain ignition interlock devices which appear on Oregon's approved ignition interlock device list established

by the Transportation Safety Division of the Oregon Department of Transportation in accordance with standards established by OAR 735-169-0000 through 735-169-0040.

(4) "Indigence Standards" means standards of indigency based on household income adopted by the Federal Government for the Federal Food Stamp Program.

(5) "Ignition Interlock Device" means an instrument designed to measure the BAC of an individual and which prevents a motorized vehicle from starting when the BAC exceeds a predetermined and preset level.

(6) "Intoxicated Driver Program Fund" means a fund established by ORS 813.270. This fund is administered by the Office of Mental Health and Addiction Services of the Oregon Department of Human Services.

Stat. Auth.: ORS 813.602

Stats. Implemented: ORS 813.600 - 813.616

Hist.: TSC 1-1989(Temp), f. & cert. ef. 7-21-89; TSC 1-1990, f. & cert. ef. 1-16-90

737-005-0010

Establishing Eligibility for Fee Waiver

A person required to have an ignition interlock device installed in his or her vehicle who meets the indigence standards may have the fees charged by an approved ignition interlock device vendor for leasing, installing, and maintaining an ignition interlock device in his/her vehicle waived. Persons requesting a fee waiver must provide proof of eligibility for the fee waiver to the vendor. Proof of eligibility shall be a current Food Stamp Identification Card issued by Children, Adults and Families of the Oregon Department of Human Services in accordance with standards established by OAR 461-078-0020.

Stat. Auth.: ORS 813.602

Stats. Implemented: ORS 813.600 - 813.616

Hist.: TSC 1-1989(Temp), f. & cert. ef. 7-21-89; TSC 1-1990, f. & cert. ef. 1-16-90

737-005-0011

Maintaining Eligibility for Fee Waiver

A person receiving a waiver of the fees for leasing, installing, and maintaining an ignition interlock device must maintain a current Food Stamp Identification Card and display it to the approved ignition interlock device vendor on request. A person unable to provide a current Food Stamp Identification Card does not meet the indigence standards and must assume responsibility for all fees charged for leasing and maintaining the ignition interlock device installed in his/her vehicle.

Stat. Auth.: ORS 813.602

Stats. Implemented: ORS 813.600 - 813.616

Hist.: TSC 1-1989(Temp), f. & cert. ef. 7-21-89; TSC 1-1990, f. & cert. ef. 1-16-90

737-005-0012

Reimbursement of Ignition Interlock Device Vendor

The Office of Mental Health and Addiction Services of the Oregon Department of Human Services shall reimburse the approved ignition interlock device vendor for fees waived for any person meeting indigence standards. Reimbursement shall be from the Intoxicated Driver Program Fund in accordance with a properly executed contract between the Office of Mental Health and Addiction Services and the approved ignition interlock vendor.

Stat. Auth.: ORS 813.602

Stats. Implemented: ORS 813.600 - 813.616

Hist.: TSC 1-1989(Temp), f. & cert. ef. 7-21-89; TSC 1-1990, f. & cert. ef. 1-16-90

DIVISION 10

VEHICLE EQUIPMENT AND SAFETY STANDARDS

737-010-0000

Definitions Relating to Low-Speed Vehicles and Medium-Speed Electric Vehicles

As used in Division 10 rules and Chapter 865, Oregon Laws 2009, the following definitions apply:

(1) “CFR” means Code of Federal Regulations and, unless otherwise expressly identified, refers to revision 63 FR 33216, June 17, 1998, as amended at 68 FR 43972, July 25, 2003;

(2) “Crushproof body design” means the vehicle has been certified by the National Highway Traffic Safety Administration that the vehicle is in compliance with FMVSS No. 216 Roof crush resistance;

(3) “TSD” means the Transportation Safety Division of the Oregon Department of Transportation;

(4) “Enclosed” means a complete shell comprised of a top, bottom and sides meant to protect the vehicle and occupants;

(5) “FMVSS” means Federal Motor Vehicle Safety Standards and Regulations as specified by NHTSA under 49 CFR, Part 571;

(6) “Low-speed vehicle” means a four wheeled motor vehicle with a top speed of more than 20 miles per hour but not more than 25 miles per hour;

(7) “Medium-speed electric vehicle” means an electric motor vehicle with four wheels that is equipped with a roll cage or a crush-proof body design, can attain a maximum speed of 35 miles per hour on a paved, level surface, is fully enclosed and has at least one door for entry;

(8) “NHTSA” means the U.S. Department of Transportation, National Highway Traffic Safety Administration;

(9) “Open-body type vehicle” means a vehicle having no occupant compartment doors and/or top or a vehicle having readily detachable occupant compartment doors and/or top; and

(10) “Roll cage” is an enclosure that will support the vehicle’s weight and be so designed as to protect the occupants when the vehicle is resting on this enclosure.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184.616, 184.619, 802.010, 815.010, 815.030 & Ch 865 OL 2009

Stats. Implemented: ORS 815.010, 815.030 & Ch 865 OL 2009

Hist.: TSD 1-2009(Temp), f. & cert. ef. 9-29-09 thru 3-20-10

737-010-0010

Minimum Safety Standards for Low-Speed Vehicles

(1) As the minimum vehicle safety standards for low-speed vehicles, TSD adopts the Federal Motor Vehicle Safety Standards (FMVSS) applicable to low-speed vehicles as set forth in 49 CFR, Part 571.500 (October 1, 2008).

(2) The vehicle safety equipment requirements for low-speed vehicles described under this rule apply to original and replacement equipment.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 815.010, 815.030 & Ch 865 OL 2009

Stats. Implemented: ORS 815.010, 815.030 & Ch 865 OL 2009

Hist.: TSD 1-2009(Temp), f. & cert. ef. 9-29-09 thru 3-20-10

737-010-0020

Minimum Safety Standards for Medium-Speed Electric Vehicles

(1) As the minimum vehicle safety standards for medium-speed electric vehicles, TSD adopts the Federal Motor Vehicle Safety Standards (FMVSS) applicable to light vehicles as set forth in 49 CFR, Part 571 (October 1, 2008). In addition, TSD adopts FMVSS Standard no. 305, Electric-powered vehicles: electrolyte spillage and electrical shock protection, as set forth in 49 CFR 571.305 (October 1, 2008).

(2) A medium-speed electric vehicle must be fully enclosed and may not be an open-body type vehicle.

(3) The vehicle safety equipment requirements for medium-speed electric vehicles described under this rule apply to original and replacement equipment.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 815.010, 815.030 & Ch 865 OL 2009

Stats. Implemented: ORS 815.010, 815.030 & Ch 865 OL 2009

Hist.: TSD 1-2009(Temp), f. & cert. ef. 9-29-09 thru 3-20-10

DIVISION 15

TRAFFIC SAFETY EDUCATION

737-015-0010

Purpose

The purpose of the rules in division 15 is to implement ORS 802.345 by:

(1) Establishing a curriculum for a traffic safety education course under ORS 336.800;

(2) Establishing a procedure to certify that a traffic safety education course meets the curriculum standards;

(3) Establish qualifications for a person to teach a traffic safety education course; and

(4) Establish rules for the administration of ORS 336.805 and 336.810, relating to recordkeeping for and reimbursement and distribution of funds in the Student Driver Training Fund.

Stat. Auth.: ORS 184.616, 184.619 & 802.345

Stats. Implemented: ORS 336.800, 336.805, 336.810, 802.110, 802.345 & 807.065

Hist.: TSS 1-2000(Temp), f. 2-11-00, cert. ef. 3-1-00 thru 8-27-00; TSS 2-2000, f. 8-10-00, cert. ef. 8-28-00

737-015-0020

Definitions

As used in Division 15 rules, unless the context otherwise requires:

(1) “Approved certification” means any form, sticker, or validation, approved by the Department, that serves as proof of completion of a traffic safety education course.

(2) “Approved provider” is an educational facility or a driving school that provides instruction using a Division-approved curriculum by instructors who have completed a Division-approved instructor course of study:

(a) An educational facility is a public provider; and

(b) A driving school is a private provider. To qualify as an approved provider, the driving school owner, operator or instructor must certify and provide verification annually that an instructor meet all requirements of employment and remain in compliance with OAR 735-160-0003 through 735-160-0130

(3) “Audits” means the Division’s audits of approved providers performed on-site to review student, curriculum, and instructor records to ensure that the providers are in compliance with OAR 737-015-0010 through 737-015-0110. An audit may include observation of the instructor during behind-the-wheel and classroom instruction.

(4) “Behind-the-wheel” instruction means the portion of the traffic safety education course that requires the student to be located behind the steering wheel of a motor vehicle or simulated vehicle, operating it either in real or simulated traffic situations, through the direct guidance of a driver education instructor.

(a) Four hours of simulation is equal to one hour of behind the wheel instruction

(b) One hour of operating a motor vehicle is equal to one hour of behind the wheel instruction.

(5) “Classroom instruction” means that portion of traffic safety education instruction that is given in a classroom situation and is not included as a portion of the behind-the-wheel instruction.

(6) “Completing the course” means completing an Oregon Department of Transportation, Transportation Safety Division approved traffic safety education course.

(7) “Concurrent” means the integration of classroom instruction and behind the wheel instruction. No less than four and no more than 10 hours of classroom instruction will be completed before starting behind-the-wheel instruction. The classroom and behind-the-wheel instruction will be well organized and coordinated.

(8) “Curriculum guide” means a document that describes what the students need to learn and provides a guide for instructors as they prepare for instruction. It is a document that assists traffic safety instructors and district coordinators in meeting the needs of the regulations identified in OAR 737-015-0030 and 735-015-0040.

(9) “Department” or “ODOT” means the Oregon Department of Transportation.

(10) “Division” or “TSD” means the Transportation Safety Division of the Oregon Department of Transportation.

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

(12) “Driving school” means a commercial vendor, owner, operator or instructor who teaches traffic safety education directly to teen drivers and the school is certified by DMV under OAR 735-160-0003

through 735-160-0130, relating to Commercial Driver Training Schools.

(13) "Driving school owner, operator or instructor" means a person who is certified by DMV under OAR 735-160-0003 through 735-160-0130, relating to Commercial Driver Training Schools.

(14) "Driving simulator" means an electromechanical device designed to represent the driver's compartment of the automobile and with the use of films or video programs attempts to develop judgment, decision-making skills, behavior response, and manipulative skills essential in learning the driving task.

(15) "Dual control" means an additional brake pedal installed as specified by the manufacturer, for use by the traffic safety education instructor to assist in an emergency when a student driver is at the regular controls during behind-the-wheel instruction. Dual controls consist of a foot brake for both the student driver and the instructor, connected either by mechanical or hydraulic means.

(16) "Educational facility" includes any public school district, education service district, community college district, any facility for the deaf operated under ORS 346.010, the Hillcrest School of Oregon, MacLaren School for Boys, tribal schools, state and federal schools, public agencies, and any parochial, private- or home-school facility meeting the requirements of OAR 581-045-0535 and ORS 345.505.

(17) "Eligible student" means a student that is at least 15 years of age, who has not graduated from high school or received a GED, and has not reached 18 years of age and has an instruction permit.

(18) "Hours" means clock hours, not including breaks or other time that does not apply to actual instruction.

(19) "Lesson plan" means a written outline of the content and method of instruction. Required elements are specified in OAR 737-015-0030.

(20) "Practice driving observation" means that portion of traffic safety education instruction given in a dual control vehicle as the instructor observes the student driver and engages the back seat passengers in discussion of the student driver operation of the motor vehicle.

(21) "Public school" means a school district, education service district, community college district, any facility for the deaf operated under ORS 346.010, the Hillcrest School of Oregon and the MacLaren School for Boys.

(22) "Scope and sequence" means a written outline that provides a framework for the knowledge, skills, driving behaviors and habits that students are expected to acquire in the classroom and behind-the-wheel portion of a traffic safety education program.

(23) "Simulation" means the portion of the behind-the-wheel traffic safety education course given in a driving simulator.

(24) "Traffic safety education" means a course consisting of classroom instruction, practice driving, and in some cases practice driving observation, all devoted to educating teen student drivers in safe and proper driving practices.

Stat. Auth.: ORS 184.616, 184.619 & 802.345

Stats. Implemented: ORS 336.800, 336.805, 336.810, 802.110, 802.345 & 807.065

Hist.: TSS 1-2000(Temp), f. 2-11-00, cert. ef. 3-1-00 thru 8-27-00; TSS 2-2000, f. 8-10-00, cert. ef. 8-28-00; TSD 1-2007, f. 3-26-07, cert. ef. 4-1-07

737-015-0030

Curriculum Requirements

(1) Each approved provider must appoint a person responsible for ensuring that all driver education requirements are met and to be the contact person with the Division.

(2) Each approved provider must develop a lesson plan that includes:

- (a) The title of the lesson or module to be taught;
- (b) Prerequisites;
- (c) Overall objectives;
- (d) Performance objectives;
- (e) Materials and resources;
- (f) Instructor and student activities;
- (g) Time breakdown;
- (h) Methods of assessment; and
- (i) Assignments.

(3) Each approved provider must adopt written policies that include:

- (a) Enrollment criteria;
- (b) Student fees and refunds;
- (c) Course failures and repeats; and
- (d) Minimum and maximum course duration.

(4) Each approved provider must submit in writing, all reportable motor vehicle accidents that involve a driver education motor vehicle to the Division within three working days of the accident.

(5) A traffic safety education program curriculum must include:

(a) Except as provided in sections (10), (11) and (12) of this rule, a minimum of 30 hours of classroom instruction not exceeding six hours per week or three hours per day that includes:

(A) Instructing students about driving on all types of Oregon roads to enable the student to acquire knowledge about driving techniques and experiences and sharing the road with other highway users such as bicycles, motorcycles, pedestrians, trains, cars, trucks, and rail in a positive and courteous manner;

(B) Driver responsibility of automobile maintenance, fuel efficient driving, potential distractions, safety restraint (belt) use, and legal and moral responsibilities;

(C) Preparing and controlling the vehicle;

(D) Identification and proper use of signs, signals, markings, roadway types and variations such as county, city, expressways, freeways, and interstates;

(E) How to enter, use, and exit different types of intersections;

(F) Basic automobile maneuvers and traffic flow;

(G) Management of time and space using accepted and current practices, including targeting, line of sight/path of travel, model driving habits and reference point concepts;

(H) Defensive driving practices;

(I) Rules of the road;

(J) How the laws of physics and natural laws affect driving;

(K) How physical, emotional, and psychological conditions such as personal attitudinal traits affect driving;

(L) How alcohol and other drugs affect driving; and

(M) Emergency situations and vehicle malfunctions.

(b) A minimum of six hours of behind-the-wheel instruction not exceeding 90 minutes of driving per day per student that includes:

(A) The rules and procedures of operating an automobile;

(B) The visual skills to obtain correct information and make reduced-risk decisions about driving maneuvers;

(C) Vehicle movement in a precise and timely manner to avoid conflict with others;

(D) Pre-drive procedures that include use of vehicle controls, door locks and head restraints, having headlights on at all times and use of safety (belt) restraints;

(E) Basic maneuvers that include starting, stopping, backing, vehicle control, speed control, parking, pulling to and from the curb, right-of-way, and push/pull and hand-over-hand steering;

(F) Complex maneuvers that include entering and exiting an intersection, entering and exiting curves, lane changes, merging, passing, turns in traffic, city driving, and three-point turnabouts; and

(G) Visual skills, including automobile mirror usage, using current and accepted practices, including targeting, line of sight, path of travel, model driving habits, and reference point concepts.

(c) A minimum of six hours of practice driving observation not exceeding three hours of observation per day per student.

(d) Parent, legal guardian, or supervising adult involvement that includes participating in a parent meeting and submitting documentation, in the form of a log or other means, demonstrating to the provider that a minimum of five hours of supervised home practice was conducted prior to the completion of the course. This supervised home practice is not counted as a part of the classroom, behind-the-wheel, and practice driving observation of the provider course.

(e) A skill assessment for each student driver that covers, at a minimum:

(A) Positioning a vehicle based on visual referencing skills, space management, fender judgment and road position control;

(B) Procedures and sequencing for vehicle operations from the simple to the complex skill based on vehicle operation control, vehicle maneuvering, vehicle control options, and vehicle balance;

(C) Processing traffic and vehicle information into speed and position changes based on visual skills, space management, vehicle speed control, and control of the road; and

(D) Precision movements for maintaining vehicle control and balance in expected and unexpected situations based on vehicle speed control, vehicle balance, collision avoidance, traction control, response to mechanical failures and traction loss.

(6) A traffic safety education curriculum guide must be submitted to ODOT-TSD by September 1, 2007 for review and approval and every three years thereafter. If the curriculum guide is submitted before September 1, 2007 the next curriculum will be required three years from the date of the last submittal. A curriculum guide must include the following elements:

- (a) Philosophy;
- (b) Goals and objectives;
- (c) Scope and sequence;
- (d) Major instructional activities;
- (e) Suggested teaching strategies;
- (f) Lists of available materials and resources;
- (g) Procedures for student and program evaluation;
- (h) A written lesson plan with a coordinated flow chart for each classroom and behind-the-wheel session; and

(i) A written drive route that supports each behind-the-wheel lesson plan with specific driving behaviors to be practiced, directions and strategies to improve student performance and habit development. The drive route cannot duplicate the DMV drive test route.

(7) Behind-the-wheel instruction and practice driving observation may not precede classroom instruction, however the three portions — classroom, behind-the-wheel and practice driving observation — are recommended to be offered concurrently. Beginning September 1, 2008, concurrent instruction is required.

(8) No program will be completed in less than 35 days and no more than 180 days. An extension beyond the 180 days may be provided if there is compelling reason dealing with school, family or medical circumstances and has been agreed upon with provider and student before the completion of the course.

(9) At the end of each program, the provider will issue a Department approved certification to each student that successfully completes the traffic safety education course.

(10) Exception — The classroom portion of a driver education program, required under section (5) (a) of this rule, offered from June through August may be conducted over a shorter period of time and for longer hours. The classroom instruction must be conducted over no less than a three-week period with no more than 10 hours of classroom instruction per week.

(11) Waivers — Waivers may be requested by the approved public or private provider through August 31, 2008 as follows:

(a) A waiver of the three hours per day restriction, required under section (5)(a) of this rule, may be requested from the Division Manager or his or her designee, but no waiver exceeding six hours per week will be granted. At least two months advance notice is necessary prior to the date such waiver is allowed.

(b) A waiver of the minimum of six hours of practice driving observation, required under section (5)(c) of this rule, may be requested from the Division Manager or his or her designee if a particular student and his or her parent, legal guardian or supervising adult requests that the student be given one-on-one instruction.

(12) A waiver request under section (11) of this rule must include:

- (a) A compelling reason for the request;
- (b) Why the waiver is needed i.e., a survey of parents requesting a non-conforming class structure;
- (c) Why granting such a waiver will not adversely affect the learning of the participating student(s); and
- (d) Parental support of such scheduling.

Stat. Auth.: ORS 184.616, 184.619 & 802.345

Stats. Implemented: ORS 336.800, 336.805, 336.810, 802.110, 802.345 & 807.065

Hist.: TSS 1-2000(Temp), f. 2-11-00, cert. ef. 3-1-00 thru 8-27-00; TSS 2-2000, f. 8-10-00, cert. ef. 8-28-00; TSD 1-2007, f. 3-26-07, cert. ef. 4-1-07

737-015-0050

Instructional Materials and Equipment

(1) Current traffic safety education instructional materials shall be provided for each student enrolled for classroom instruction, and shall be available to students during the classroom and behind-the-wheel instruction.

(2) Any motor vehicle used by an approved provider, for the behind-the-wheel instruction portion of a traffic safety education course shall:

- (a) Be equipped with a dual control;
- (b) Be maintained in good mechanical condition;
- (c) Meet the safety and equipment standards of the Oregon Vehicle Code;
- (d) Be equipped with approved seat belts for the student driver, the instructor and any observing passengers;
- (e) Be equipped with a functional heater and defroster;
- (f) Be equipped with the following emergency equipment: a fire extinguisher; first aid kit in compliance with OR-OSHA Bloodborne Pathogens Standards; and three flares or three approved reflectors;
- (g) Be clearly identified with an appropriate sign or signs stating: "Student Driver" or "Dual Control Car, Driver Education" or "Driver Education Car." Such identification must be clearly visible and readable to pedestrians and other traffic;
- (h) Be properly registered in Oregon or an adjacent state;
- (i) Be covered by insurance as required by the state of Oregon;

and

(j) Be equipped with at least the following mirrors:

(A) One mirror on each side of the vehicle, mounted either inside or out, for the use of the instructor and the student while properly seated;

(B) A rear view mirror for the use of the driver; and

(C) An instructor eye check mirror to monitor eye movements of the student driver.

(D) An instructor rear view mirror.

(3) Headlights must be in use at all times — low or high beam, as appropriate — during behind-the-wheel instruction.

Stat. Auth.: ORS 184.616, 184.619 & 802.345

Stats. Implemented: ORS 336.800, 336.805, 336.810, 802.110, 802.345 & 807.065

Hist.: TSS 1-2000(Temp), f. 2-11-00, cert. ef. 3-1-00 thru 8-27-00; TSS 2-2000, f. 8-10-00, cert. ef. 8-28-00; TSS 2-2001, f. & cert. ef. 8-13-01; TSD 1-2007, f. 3-26-07, cert. ef. 4-1-07

737-015-0060

Use of Driving Simulators

(1) Not more than one-half of the required hours specified for behind-the-wheel instruction may be given by means of a driving simulator, in accordance with the ratio for driving simulator to behind-the-wheel instruction found in OAR 737-015-0020(4)

(2) Driving simulator instruction may not precede classroom instruction. If offered, simulation must be offered concurrently with classroom instruction beginning September 1, 2008.

(3) An instructor must complete a workshop in driving simulation operation and application before providing instructions on the driving simulator.

(4) Documentation of the completed workshop must be kept in the instructor's file.

Stat. Auth.: ORS 184.616, 184.619 & 802.345

Stats. Implemented: ORS 336.800, 336.805, 336.810, 802.110, 802.345 & 807.065

Hist.: TSS 1-2000(Temp), f. 2-11-00, cert. ef. 3-1-00 thru 8-27-00; TSS 2-2000, f. 8-10-00, cert. ef. 8-28-00; TSD 1-2007, f. 3-26-07, cert. ef. 4-1-07

737-015-0070

Qualifications of an Approved ODOT-TSD Traffic Safety Education Instructor

All of the following qualifications apply to a traffic safety education instructor:

(1) A traffic safety education course instructor must meet all requirements of his or her employer.

(2) A person assigned to provide classroom or behind-the-wheel driving instruction, for the traffic safety education course must certify and provide verification annually to his or her employer that the person holds a valid Oregon driver license or a license issued by a state adjacent to Oregon, if the person is a legal resident of that state. This person must provide a five-year certified court print abstract to the employing provider showing:

(a) Not more than one driver improvement violation within the preceding 12 months or more than two driver improvement violations in the preceding 24 months;

(b) No alcohol or drug related traffic violation, conviction or infraction within the preceding five years; or

(c) No driver's license suspension, cancellation, revocation or denial within the preceding three years.

(3) A person assigned to provide traffic safety education classroom instruction must certify and provide verification annually to his or her employer that they have previously completed a Division-approved course of study for Foundations of traffic safety education and completed the Division-approved classroom course.

(4) A person assigned to provide only traffic safety education behind-the-wheel instruction must certify and provide verification annually to his or her employer that they have previously completed the Division-approved Foundations course and the Division-approved course of study for behind-the-wheel instructor preparation, including an in-car practicum with beginning drivers.

(5) An instructor must have a current first aid/CPR Certification.

(6) An instructor must be re-certified every two years. To qualify, the instructor must, during the previous two years:

(a) Participate in 15 hours of continuing education to improve driver education teaching competency. This professional development training may be obtained through a state agency, college or university or professional education organization. Professional development hours will be accepted for the purpose of enhancing instructional knowledge and skills in support of teaching driver education best practices. Every instructor must maintain a professional development file that includes the agenda, objectives, time schedule and completion certificates for the continuing education;

(b) Provide a minimum of 30 hours of classroom, behind-the-wheel or simulator instruction in a Division-approved program during the re-certification period; and

(c) Retain a current first aid/CPR Certification. This is not included in the 15 hours of continuing education.

(7) A waiver, of the coursework required under section (4) of this rule for behind-the-wheel instruction, may be granted for up to one year by the Division Manager or his or her designee. This person must have prior advanced driver training and must verify successful completion of the required courses for driver education certification.

(8) A certified teacher, unable to complete the coursework as required under section (3) of this rule, may be granted a one-year waiver by the Division Manager or his or her designee, if the person verifies successful completion of the required courses for driver education certification.

(9) An applicant will be refused approval to provide traffic safety education or a current approval will be suspended or revoked if the applicant or instructor has his or her driver license or privilege suspended or revoked or canceled for any reason or is involved in the DMV Driver Improvement Program or has exceeded two driver improvement violations in a two-year period or has any alcohol or drug related traffic violation, conviction or infraction.

(10) Approval to provide traffic safety education may be granted upon reapplication when the traffic safety education instructor's driver license or privilege in Oregon has been reinstated in full for three years or one year has passed since the last Driver Improvement Program entry on the driving record or five years have passed since an alcohol or drug related traffic violation, conviction or infraction.

(11) Opportunities for reinstatement and appeal are available according to provisions equivalent to those specified in ORS 342.175(4) and 342.180.

Stat. Auth.: ORS 184.616, 184.619 & 802.345

Stats. Implemented: ORS 336.800, 336.805, 336.810, 802.110, 802.345 & 807.065

Hist.: TSS 1-2000(Temp), f. 2-11-00, cert. ef. 3-1-00 thru 8-27-00; Administrative correction 2-17-00; TSS 2-2000, f. 8-10-00, cert. ef. 8-28-00; TSS 1-2001(Temp), f. & cert. ef. 6-14-01 thru 12-10-01; TSS 2-2001, f. & cert. ef. 8-13-01; TSD 1-2007, f. 3-26-07, cert. ef. 4-1-07

737-015-0090

Recordkeeping

(1) To ensure accurate recording and reporting, an approved provider must complete and return all required traffic safety education course recording and reporting forms supplied by the Division before or on the required dates.

(2) The public provider must maintain the following records:

(a) A permanent record for each student who begins, regardless of whether or not the student completes, a traffic safety education course including:

(A) The dates the course was taken;

(B) The final grade achieved, if course is completed;

(C) Verification that the student had a permit on the first day of class;

(D) The student's mailing address;

(E) The student's progress;

(F) A record of home practice;

(G) Time involvement;

(H) Evaluation results; and

(I) Attendance — classroom and behind-the-wheel start and end times and dates.

(b) A permanent record for all instructors, including current and past instructors, who have conducted the classroom or behind-the-wheel portion of a traffic safety course including:

(A) The instructor's driver license number, date(s) of employment; job application or resume; and

(B) Record of the instructor's continuing education; first aid/CPR Certificate; and simulation training, if applicable.

(c) A copy of the curriculum guide that was provided to the Division.

(d) A copy of all accident reports for reportable accidents relating to a driver education motor vehicle owned or operated by the provider.

(e) A copy of written policies required by OAR 737-015-0030, 737-015-0040 and ORS 336.805.

(3) A private provider must maintain the records required in OAR 735-160-0030(2) plus:

(a) A copy of the curriculum guide that was provided to the Division.

(b) A copy of all accident reports for reportable accidents relating to a driver education motor vehicle owned or operated by the provider.

(c) A copy of written policies required by OAR 737-015-0030, 737-015-0040 and ORS 336.805.

(4) For all approved providers records must be retained for five years for instructors and 10 years for all other program records.

Stat. Auth.: ORS 184.616, 184.619 & 802.345

Stats. Implemented: ORS 336.800, 336.805, 336.810, 802.110, 802.345 & 807.065

Hist.: TSS 1-2000(Temp), f. 2-11-00, cert. ef. 3-1-00 thru 8-27-00; TSS 2-2000, f. 8-10-00, cert. ef. 8-28-00; TSD 1-2007, f. 3-26-07, cert. ef. 4-1-07

737-015-0100

Reimbursement for Traffic Safety Education Courses

(1) The ODOT-TSD will reimburse public schools for traffic safety education courses that meet the requirements of OAR 737-015-0010 through 737-015-0110, conducted for students admitted to public schools under ORS 339.115.

(2) The amount of reimbursement will not be greater than the net cost of conducting the course, nor will it exceed \$210 per pupil completing the course. If funds available to the ODOT-TSD for the Student Driver Training Fund are not adequate to pay all approved claims in full, public schools will receive a pro rata reimbursement based upon the ratio that the total amount of funds available bears to the total amount of funds required for maximum allowable reimbursement. Calculation for pro rata reimbursement will be as follows: the total amount of funds available in the Student Driver Training Fund will be divided by the statewide total number of students eli-

gible for reimbursement. This calculation will generate a prorated per student amount. Each public school's reimbursement will be determined by multiplying the prorated amount times the number of eligible students claimed by the public school. In no case will the public school receive more than its eligible expenses less tuition received. In the event of a pro rata reimbursement, claims received after the deadline will not be considered for reimbursement at any time.

(3) Accurate and complete records of the cost of conducting a traffic safety education course must be kept, and reports must be submitted to the ODOT-TSD by each public school seeking reimbursement. All student fees must be received by the public provider.

(4) Distribution of funds available in the Student Driver Training Fund will be made annually by the ODOT-TSD Manager based on the reimbursement form submitted by the public school at the end of each fiscal year.

(5) The ODOT-TSD will reimburse costs of traffic safety education courses that comply with OAR 737-015-0010 to 737-015-0110. Allowable costs may include:

(a) Salary for classroom, behind-the-wheel and simulation instructors, or the contracted cost per student;

(b) Motor vehicle expenses, whether leased or owned by the public school, including vehicle insurance and operating expenses (i.e., gas, oil, repairs);

(c) Instructional materials; and

(d) Direct program coordination costs, including administrative costs and contract development and management costs directly relating to the traffic safety education course.

(6) Public schools shall receive reimbursement only for those students who have completed the traffic safety education course prior to issuance of their provisional driver license.

Stat. Auth.: ORS 184.616, 184.619 & 802.345

Stats. Implemented: ORS 336.800, 336.805, 336.810, 802.110, 802.345 & 807.065

Hist.: TSS 1-2000(Temp), f. 2-11-00, cert. ef. 3-1-00 thru 8-27-00; TSS 2-2000, f. 8-10-00, cert. ef. 8-28-00; TSS 2-2001, f. & cert. ef. 8-13-01; TSD 1-2007, f. 3-26-07, cert. ef. 4-1-07

737-015-0110

Audits and Investigation

(1) The ODOT-TSD may periodically audit all approved providers to determine compliance with laws and rules pertaining to the operation of the approved provider's program and instructor certification requirements. Providers must allow the ODOT-TSD to conduct random audits with prior notice during regular school or business hours:

(a) Periodic audits may include examination of:

(A) Student driver records for which division approved driver training was conducted by the provider regardless of whether the student driver completed or failed to complete the school's driver training program;

(B) Qualifications of traffic safety instructors; and

(C) Other items the ODOT-TSD deems necessary such as classroom and behind-the-wheel instructor observations, vehicle equipment, vehicles and instructional materials to assure that the provider meets requirements for maintaining its approval.

(b) Refusal to permit an audit will result in notice from the ODOT-TSD requiring the provider to cease and desist from classroom and behind-the-wheel instruction and the use of the ODOT-TSD-approved completion seal.

(c) An ODOT-TSD representative will prepare a written report of each audit. A copy of the ODOT-TSD representative's report, including any corrective action, will be sent to the provider.

(d) Providers must correct any deficiency identified by an ODOT-TSD inspector during an on-site audit within 30 calendar days of the date of the audit. A corrective action report must be provided to the ODOT-TSD. If not corrected, public providers will not be eligible for reimbursement. When non-compliance of rules continues the ODOT-TSD may revoke or cancel recognition of the provider and notify DMV.

(2) The ODOT-TSD may investigate any complaint it receives about an approved provider or instructor. The authorized provider or provider's employees must cooperate with the ODOT-TSD during the investigation. If requested by the ODOT-TSD, the approved

provider must provide a written response to the complaint within 10 working days by either mail or facsimile from the date the ODOT-TSD notifies the provider of the complaint. The ODOT-TSD must prepare a written report of each investigation. A copy of the ODOT-TSD report, including any corrective action, will be sent to the provider. If not corrected, public providers will not be eligible for reimbursement. When non-compliance of rules continues the ODOT-TSD may revoke or cancel recognition of the provider and notify the DMV.

(3) The ODOT-TSD may revoke its approval of a provider or instructor upon providing five days advance written notice when the ODOT-TSD determines, through an audit or investigation, that the safety of students or members of the general public is being endangered because of unsafe practices or use of unsafe equipment.

(4) An approved provider or instructor whose approval has been suspended, revoked, or cancelled is entitled to a contested case hearing as provided in the Oregon Administrative Procedures Act under ORS 183.413 to 183.500.

(5) When ODOT-TSD takes action to suspend, revoke or cancel an approved provider ODOT-TSD will send notice to the approved provider or instructor listed. The notice will be in writing and state that the suspension, revocation, or cancellation will begin either in five calendar days (an immediate suspension or cancellation) or in 30 calendar days from the date on the notice. The notice will be served by first class mail sent to the current address on record with ODOT-TSD.

(6) When ODOT-TSD takes action to suspend, revoke or cancel an instructor approval ODOT-TSD will send notice to the instructor listed on the Instructor Report. The notice will be in writing and state that the suspension, revocation, or cancellation will begin either in five calendar days (for an immediate suspension or cancellation) or in 30 calendar days from the date on the notice. The notice will be served by first class mail sent to the current school address on record with ODOT-TSD.

(7) Except as provided for in section (9) of this rule, a request for a hearing must be submitted in writing to, and received by, the Office of Administrative Hearings within 20 days of the date of the notice. If a hearing request is received in a timely manner the suspension, revocation or cancellation will not go into effect pending the outcome of the hearing, unless the certificate is immediately suspended or cancelled.

(8) If the approval is immediately suspended or cancelled as set forth in subsection (6) and (7) of this section, the request for hearing shall be submitted in writing to, and received by, ODOT-TSD within 90 days of the date of notice of suspension. The suspension or cancellation shall remain in effect pending the outcome of the hearing.

(9) Except as provided in OAR 137-003-0003, when no request for a hearing is received by the deadline, the approved provider or instructor has waived the right to a hearing, ODOT-TSD's file shall constitute the record of the case, and a default order shall be issued by ODOT-TSD.

(10) If a provider or instructor approval has been revoked, the provider or instructor may reapply for an original certificate after a period of revocation of five years and must meet all the requirements for the certificate.

(11) If the provider or instructor certificate is cancelled, the provider or instructor may reapply for an original certificate when they have met all of the requirements.

(12) At the end of a suspension period, ODOT-TSD will reinstate the provider or instructor certificate unless the provider or instructor does not meet the qualification requirements for the approval. If the approval has expired, the provider or instructor must reapply for an original certificate, must meet all the requirements for new certification.

Stat. Auth.: ORS 184.616, 184.619, 802.345

Stats. Implemented: ORS 336.800, 336.805, 336.810, 802.110, 802.345, 807.065

Hist.: TSD 1-2007, f. 3-26-07, cert. ef. 4-1-07

DIVISION 25

OREGON SAFE ROUTES TO SCHOOL FUND

737-025-0000

Purpose of the Rules

ORS 184.740 establishes the Safe Routes to School Fund to assist communities in identifying and reducing barriers and hazards to children walking or bicycling to and from school. The purpose of the rules in division 25 is to establish the criteria used in awarding grants from the Safe Routes to School Fund.

Stat. Auth.: ORS 184.616, 184.619, 184.740 & 184.741

Stat. Implemented: ORS 184.741

Hist.: TSD 1-2006, f. & cert. ef. 11-15-06

737-025-0010

Definitions and Acronyms

For the purposes of Division 25 rules, the following definitions apply:

(1) "Action Plan" means the plan developed to fulfill the requirements of ORS 195.115 and OAR 737-025-0050(3) and that meets the requirements of OAR 737-025-0060.

(2) "Applicant" means an entity that qualifies under OAR 737-025-0030.

(3) "Application" means the form, prescribed by the Transportation Safety Division (TSD), and all supplemental attachments, exhibits or other supporting papers required by OAR 737-025-0050 when applying for a Safe Routes to School Fund grant.

(4) "Education" means public-awareness and encouragement campaigns, outreach to press and community leaders, bicycle and pedestrian safety programs and activities, traffic education, training, and the evaluation of such activities.

(5) "Endorsement" means support and approval as required in OAR 737-025-0030.

(6) "Enforcement" means law enforcement operations and equipment relating to school zones, crosswalks, speed; crossing guard activities and supplies; and evaluation of such activities.

(7) "Engineering" means planning, design, construction, and evaluation of infrastructure-related projects.

(8) "Letter of commitment" means a letter from the governing body (or bodies) or the school or school district, stating their willingness to participate in the project, as well as their endorsement of the project.

(9) "Letter of Interest" means the preliminary letter, in a format prescribed by TSD as referenced in OAR 737-025-0050.

(10) "Non-Profit" means an organization or group of organizations described in section 501(c)(3) of the Internal Revenue Code that is exempt from income tax under section 501(a) of the Internal Revenue Code; or is organized not for profit, pursuant to ORS chapter 65, or any predecessor of ORS chapter 65; or is otherwise organized and operated under section 501(c) of the Internal Revenue Code.

(11) "OTSC" means the Oregon Transportation Safety Committee, the Governor-appointed committee that advises ODOT as defined in ORS 802.300.

(12) "Qualifying School" means a public, private, parochial, charter or alternative educational program offering instruction at levels kindergarten through eighth grade, or any part thereof

(13) "School district" means:

(a) A school district as defined in ORS 330.003.

(b) The Oregon State School for the Blind.

(c) The Oregon State School for the Deaf.

(d) An educational program under the Youth Corrections Education Program.

(e) A public charter school as defined in ORS 338.005.

(f) An education service district.

(14) "SRTS" means Safe Routes to School.

(15) "SRTS Fund" means the Safe Routes to School Fund established under ORS 184.740.

(16) "Safe Routes to School Advisory Committee" means the nine-member volunteer advisory group that gives advice and direction to the Safe Routes to School Program.

(17) "TSD" means the Transportation Safety Division, a division of the Oregon Department of Transportation.

(18) "Traffic safety committee" means a local government advisory body charged with traffic safety. Alternately, a local non-profit, such as a coalition or neighborhood association, which specifically includes traffic safety in their charter or charge from one or more government bodies can fulfill this role in the absence of a committee.

(19) "Walking or bicycling" means use of human-powered forms of transportation, including, but not limited to, walking, or use of bicycles, bike trailers, skateboards, scooters, rollerblades, skates and wheelchairs.

Stat. Auth.: ORS 184.616, 184.619, 184.740 & 184.741

Stat. Implemented: ORS 184.741

Hist.: TSD 1-2006, f. & cert. ef. 11-15-06

737-025-0020

Application Procedure

(1) TSD will announce periods for submitting applications for grants from the Safe Routes to School Fund. Applications will not be accepted at times outside an announced application period.

(2) Applicants for projects that are not funded during an application period may reapply during a subsequent application period announced by TSD.

Stat. Auth.: ORS 184.616; 184.619; 184.740; 184.741

Stat. Implemented: ORS 184.741

Hist.: TSD 1-2006, f. & cert. ef. 11-15-06

737-025-0030

Who May Apply

Eligible applicants for SRTS Fund grants include:

(1) A school district, or a qualifying school not represented by a school district, in cooperation with the governing body (or bodies) with jurisdiction over the affected roadways or properties. The school district, or qualifying school not represented by a school district, must submit letters of commitment from such governing bodies stating their participation and endorsement as applicable to the project;

(2) A city, county, state, regional government body, transit district or other unit of local government as defined by ORS 190.003, in cooperation with a school district or a qualifying school. The governing body must submit a letter of commitment from the qualifying school or affected school district stating its participation or endorsement as applicable to the project;

(3) A non-profit organization in partnership with a school district, qualifying school, or one of the governmental bodies identified in section (1) or (2) of this rule. The application must include appropriate letters of commitment from the affected governing bodies. Additionally, if the organization is not a school, the application must include a letter of commitment from the affected school district, if applicable, stating its participation or endorsement. The school district, if applicable, or one of the governing bodies with jurisdiction over the affected roadways or properties, must confirm their willingness to take legal and financial responsibility for the infrastructure portion of the project.

Stat. Auth.: ORS 184.616; 184.619; 184.740; 184.741

Stat. Implemented: ORS 184.741

Hist.: TSD 1-2006, f. & cert. ef. 11-15-06

737-025-0040

Eligible Projects and Activities

(1) Grants awarded through the Safe Routes to School Program may be used for projects or activities in:

(a) Education

(b) Engineering;

(c) Enforcement; or

(d) Any combination of the above.

(2) All projects and activities must directly benefit a qualifying school.

(3) All projects and activities must meet the eligibility criteria applicable to the specific funds being dispensed through the SRTS Fund.

Stat. Auth.: ORS 184.616; 184.619; 184.740; 184.741

Stat. Implemented: ORS 184.741

Hist.: TSD 1-2006, f. & cert. ef. 11-15-06

737-025-0050

Grant Application Requirements

An applicant applying for a grant from the SRTS Fund must submit the following documents to TSD:

- (1) A Letter of Interest, if the application announcement indicates it is required for that specific funding cycle.
- (2) A completed application in a format prescribed by TSD and containing or accompanied by such information as TSD may require.
- (3) An Action Plan which meets TSD requirements, or a commitment to independently complete an Action Plan within a specified time, or a request for assistance to complete an Action Plan (as allowed by ORS 184.741).

Stat. Auth.: ORS 184.616; 184.619; 184.740; 184.741

Stat. Implemented: ORS 184.741

Hist.: TSD 1-2006, f. & cert. ef. 11-15-06

737-025-0060

Action Plan

Action Plans submitted to fulfill the requirements of OAR 737-025-0050 for each school identified for a SRTS project or activity must:

- (1) Outline existing conditions and attitudes that have been identified as barriers and hazards to children walking or bicycling to and from school, as required by ORS 195.115.

- (2) List the most critical actions needed to reach the Action Plan's stated goals in the areas of education, engineering, and enforcement.

- (3) Be a product of a coalition of local interested parties that must include representation of the following groups (a single person may fulfill multiple representations):

- (a) School Principal or designated school staff representative endorsed by the school district, if one exists;

- (b) A parent who is a representative of or has the endorsement of a recognized school/parent organization, if one exists;

- (c) City or county staff or representative endorsed by the local road authority;

- (d) Local traffic safety committee, if one exists.

Stat. Auth.: ORS 184.616; 184.619; 184.740; 184.741

Stat. Implemented: ORS 184.741

Hist.: TSD 1-2006, f. & cert. ef. 11-15-06

737-025-0070

Project Selection Criteria

The following criteria will be used to select projects to receive SRTS Fund grants:

- (1) Technical Merit:

- (a) Conformance to the local transportation plan, state land use laws and appropriate federal, state and local planning and programming requirements.

- (b) Adherence to appropriate design standards or methodology.

- (c) Appropriate scope of work in relation to identified needs.

- (d) Emphasis on best practices learned from successful SRTS programs.

- (e) Efficient and cost-effective use of funds.

- (2) Benefit:

- (a) Potential to improve the ability of students to walk and bicycle to school.

- (b) Potential to reduce or avoid child injuries and fatalities.

- (c) Potential to create a more livable community by reducing the barriers and hazards to children walking or bicycling to school.

- (d) Potential to create a safer walking and bicycling built environment within approximately two miles of a school. Highest priority will be given for projects within one-half mile of a qualifying school.

- (3) Support and readiness:

- (a) Support of the school district, if applicable, and governing body for the project as demonstrated by a letter of commitment and endorsement.

- (b) Readiness to proceed with the project as demonstrated by a proposed start date, identification of other available funding, or other indicators as provided by the applicant.

Stat. Auth.: ORS 184.616; 184.619; 184.740; 184.741

Stat. Implemented: ORS 184.741

Hist.: TSD 1-2006, f. & cert. ef. 11-15-06

737-025-0080

Project Selection and Awarding Grants

- (1) TSD will review the applications to determine if:

- (a) The Applicant and the project are eligible for a SRTS Fund grant; and

- (b) The project proposal complies with the appropriate standards or practices for the work described.

- (2) The Safe Routes to School Advisory Committee will evaluate eligible applications and submit funding recommendations to the TSD Administrator.

- (3) The TSD Administrator will select projects and award grants based on the criteria established in OAR 737-025-0070.

Stat. Auth.: ORS 184.616; 184.619; 184.740; 184.741

Stat. Implemented: ORS 184.741

Hist.: TSD 1-2006, f. & cert. ef. 11-15-06