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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2220

02/27/2023 Authored by Joy, Kiel and Skraba

The bill was read for the first time and referred to the Committee on Transportation Finance and Policy

1.1 A bill for an act
1.2 relating to transportation; authorizing third-party commercial driver's license road
1.3 tests; authorizing rulemaking; appropriating money; amending Minnesota Statutes
1.4 2022, section 171.13, subdivision 1; proposing coding for new law in Minnesota
1.5 Statutes, chapter 171; repealing Minnesota Rules, part 7411.0630, subpart 6.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2022, section 171.13, subdivision 1, is amended to read:

1.8 Subdivision 1. Examination subjects and locations; provisions for color blindness,
1.9 disabled veterans. (a) An applicant for a driver's license must pass the examination required
1.10 by this section before being issued a driver's license. Except as otherwise provided in this
1.11 by section 171.135, the commissioner shall examine each applicant for a driver's license by
1.12 such agency as the commissioner directs must conduct the examination. This examination
1.13 must include:

1.14 (1) a test of the applicant's eyesight, provided that this requirement is met by submission
1.15 of a vision examination certificate under section 171.06, subdivision 7;

1.16 (2) a test of the applicant's ability to read and understand highway signs regulating,
1.17 warning, and directing traffic;

1.18 (3) a test of the applicant's knowledge of (i) traffic laws; (ii) the effects of alcohol and
1.19 drugs on a driver's ability to operate a motor vehicle safely and legally, and of the legal
1.20 penalties and financial consequences resulting from violations of laws prohibiting the
1.21 operation of a motor vehicle while under the influence of alcohol or drugs; (iii) railroad
1.22 grade crossing safety; (iv) slow-moving vehicle safety; (v) laws relating to pupil
1.23 transportation safety, including the significance of school bus lights, signals, stop arm, and

2.1 passing a school bus; (vi) traffic laws related to bicycles; and (vii) the circumstances and
 2.2 dangers of carbon monoxide poisoning;

2.3 (4) an actual demonstration of ability to exercise ordinary and reasonable control in the
 2.4 operation of a motor vehicle; and

2.5 (5) other physical and mental examinations as the commissioner finds necessary to
 2.6 determine the applicant's fitness to operate a motor vehicle safely upon the highways.

2.7 (b) Notwithstanding paragraph (a), the commissioner must not deny an application for
 2.8 a driver's license based on the exclusive grounds that the applicant's eyesight is deficient in
 2.9 color perception or that the applicant has been diagnosed with diabetes mellitus. War veterans
 2.10 operating motor vehicles especially equipped for disabled persons, if otherwise entitled to
 2.11 a license, must be granted such license.

2.12 (c) The commissioner shall make provision for giving the examinations under this
 2.13 subdivision either in the county where the applicant resides or at a place adjacent thereto
 2.14 reasonably convenient to the applicant.

2.15 (d) The commissioner shall ensure that an applicant is able to obtain an appointment for
 2.16 an examination to demonstrate ability under paragraph (a), clause (4), within 14 days of the
 2.17 applicant's request if, under the applicable statutes and rules of the commissioner, the
 2.18 applicant is eligible to take the examination.

2.19 **Sec. 2. [171.135] THIRD-PARTY COMMERCIAL DRIVER'S LICENSE ROAD**
 2.20 **TESTS.**

2.21 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have
 2.22 the meanings given.

2.23 (b) "Applicant" means the individual or entity applying to be a third-party tester program
 2.24 or a third-party tester.

2.25 (c) "Road test" means the physical demonstration of ability to exercise ordinary and
 2.26 reasonable control in the operation of a motor vehicle as required in section 171.13,
 2.27 subdivision 1, paragraph (a), clause (4).

2.28 (d) "Third-party tester" or "tester" means an employee of a third-party testing program
 2.29 who is authorized by the commissioner to conduct the road test for a commercial driver's
 2.30 license.

2.31 (e) "Third-party testing program" or "program" means a program approved by the
 2.32 commissioner to administer the road test conducted by a third-party tester.

3.1 Subd. 2. **Third-party testing program; application.** (a) An applicant must apply in
 3.2 the manner specified by the commissioner for approval to administer the road test. A
 3.3 third-party testing program may administer the road test under this section if the program
 3.4 is approved by the commissioner.

3.5 (b) A program application to the commissioner must include:

3.6 (1) the business or entity name;

3.7 (2) a business registration number if a business or tax identification number if a nonprofit
 3.8 entity;

3.9 (3) mailing address, telephone number, and email address of the administrative office;

3.10 (4) the name of an authorized official responsible for the program and application and
 3.11 the official's title and telephone number;

3.12 (5) a map, drawing, or written description of each test route to be used for road tests;

3.13 (6) the name, birth date, home address, and driver's license number of all individuals
 3.14 the applicant wants to employ as a certified third-party tester;

3.15 (7) the amount for fees, if any, that will be charged; and

3.16 (8) a surety bond, in the amount prescribed by the commissioner.

3.17 Subd. 3. **Third-party testing program; office location.** To qualify as a third-party
 3.18 testing program, the applicant must be located in Minnesota and must maintain an
 3.19 administrative office in at least one permanent, regularly occupied building with a permanent
 3.20 address.

3.21 Subd. 4. **Third-party testing program; evaluation and approval.** (a) The commissioner
 3.22 must evaluate each application submitted by a third-party testing program applicant. If the
 3.23 application is satisfactory, the commissioner must approve the application.

3.24 (b) Upon approval of a third-party testing program application, the commissioner must
 3.25 issue a letter of approval designating the third-party testing program. The letter of approval
 3.26 constitutes an agreement between the state and the third-party testing program that authorizes
 3.27 the program to administer the road test for a commercial driver's license.

3.28 (c) A letter of approval to operate a third-party testing program is not transferable.

3.29 Subd. 5. **Third-party tester; authority.** (a) An individual may conduct the road test
 3.30 for a commercial driver's license under this section if the person:

3.31 (1) possesses a valid third-party tester certificate, as provided in subdivision 6; and

4.1 (2) meets the requirements under Minnesota Rules, chapter 7410, and Code of Federal
4.2 Regulations, title 49, part 380, section 605, and part 383.

4.3 (b) A third-party tester is subject to the same requirements as examiners employed by
4.4 the state, including but not limited to background checks. The third-party tester must pay
4.5 the cost for a required background check.

4.6 Subd. 6. **Third-party tester; certificates.** (a) The commissioner must issue a third-party
4.7 tester certificate to an individual who satisfactorily completes the required training and is
4.8 authorized as a third-party tester.

4.9 (b) A third-party tester certificate is effective on the date of issuance and expires four
4.10 years after issuance. A third-party tester must submit an application for renewal of the
4.11 certificate to the commissioner no less than 30 days before the date the previously issued
4.12 certificate expires.

4.13 (c) The third-party testing program must keep a copy of the certificate of each third-party
4.14 tester employed by the program on file in the administrative office of the program.

4.15 (d) A third-party tester certificate is not transferable.

4.16 Subd. 7. **Training and information.** (a) The commissioner must provide a training
4.17 process that allows an individual to become authorized as a third-party tester.

4.18 (b) The commissioner must provide to each third-party tester all relevant information
4.19 on how to conduct the road test. At a minimum, the commissioner must provide:

4.20 (1) the criteria on which applicants for a commercial driver's license must be tested
4.21 during the road test;

4.22 (2) the method of scoring and evaluating the applicant for a commercial driver's license;

4.23 (3) the method and criteria for determining test routes; and

4.24 (4) the necessary documentation to conduct the road test.

4.25 Subd. 8. **Road tests.** (a) A third-party tester must conduct the commercial driver's license
4.26 road test in the manner and subject to the requirements of this section; section 171.131;
4.27 Minnesota Rules, chapter 7410; and Code of Federal Regulations, title 49, part 383.

4.28 (b) If the third-party tester also provides behind-the-wheel instruction for student drivers
4.29 or employees, the third-party tester must not use the same routes for training and conducting
4.30 the road test.

5.1 (c) Upon passage of the road test, the third-party tester must provide the person with
5.2 certification of passage of the road test. The certification must be in a form prescribed by
5.3 the commissioner.

5.4 Subd. 9. **Prohibited road tests.** (a) A third-party tester must not conduct a road test for
5.5 a person who is required to be examined by the commissioner under section 171.13,
5.6 subdivision 3, and Minnesota Rules, part 7410.2400.

5.7 (b) A third-party tester must not conduct a fourth or subsequent road test for a person.

5.8 Subd. 10. **Immunity.** The department shall be held harmless for any claims, losses,
5.9 damages, costs, and other proceedings made, sustained, brought, or prosecuted in any manner
5.10 based on or occasioned by or attributive to any injury, infringement, or damage arising from
5.11 any act or omission of the third-party tester or the third-party testing program in the
5.12 performance of testing duties.

5.13 Subd. 11. **Application.** This section does not apply to employees of the state that conduct
5.14 the road test.

5.15 Subd. 12. **Oversight; investigations.** (a) The commissioner must monitor and audit the
5.16 road tests conducted by third-party testers.

5.17 (b) The commissioner must establish a process to investigate alleged violations of the
5.18 law and complaints made against third-party testers or programs. The third-party tester or
5.19 program must be given notice of an investigation and be allowed to participate in the
5.20 investigation. The commissioner must provide the results of an audit or investigation to the
5.21 third-party program and any third-party testers.

5.22 Subd. 13. **Denial; cancellation; suspension.** (a) The commissioner may deny an
5.23 application for a third-party testing program or third-party tester if the applicant does not
5.24 qualify for approval or certification under this section or Minnesota Rules, parts 7410.6000
5.25 to 7410.6540. In addition, a misstatement or misrepresentation is grounds for denying a
5.26 letter of approval for a third-party program or a third-party tester certificate.

5.27 (b) The commissioner may cancel the approval of a third-party testing program or
5.28 third-party tester or may suspend a program or tester for:

5.29 (1) failure to comply with or satisfy any provision of this section or Minnesota Rules,
5.30 parts 7410.6000 to 7410.6540;

5.31 (2) falsification of any records or information relating to the third-party testing program;

6.1 (3) performance in a manner that compromises the integrity of the third-party testing
 6.2 program. The commissioner must use the same standards of integrity for state-employed
 6.3 testers and third-party testers; or

6.4 (4) the withdrawal of a third-party tester's driving privileges.

6.5 Subd. 14. **Commissioner's discretion.** (a) The existence of grounds for cancellation or
 6.6 suspension under subdivision 13 is determined at the sole discretion of the commissioner.
 6.7 If the commissioner determines that grounds for cancellation or suspension exist for failure
 6.8 to comply with or satisfy any requirement in this section or Minnesota Rules, parts 7410.6000
 6.9 to 7410.6540, the commissioner may immediately cancel or suspend the third-party testing
 6.10 program or third-party tester from administering any further tests.

6.11 (b) When an application to be a third-party testing program or third-party tester
 6.12 application is denied, or when individual program approval or a tester's certificate is canceled,
 6.13 a notice must be mailed to the subject indicating the reasons for the denial or cancellation
 6.14 and that the third-party testing program or third-party tester may appeal the decision as
 6.15 provided in subdivision 16.

6.16 Subd. 15. **Correction order.** If an audit by the commissioner identifies a situation that
 6.17 needs correction but does not merit suspension or cancellation, the commissioner may issue
 6.18 a correction order to a third-party tester or program for 30 days to correct a deficiency before
 6.19 the program or tester becomes subject to suspension or cancellation. The notice must include
 6.20 the basis for requiring the correction. The notice must notify the individual of the ability to
 6.21 appeal the correction order as provided in subdivision 16. The third-party testing program
 6.22 or third-party tester is permitted 30 days to correct the deficiency without having to reapply.

6.23 Subd. 16. **Notice of denial or cancellation; request for reconsideration and**
 6.24 **hearing.** (a) Within 20 calendar days of the mailing date of a notice of cancellation or denial
 6.25 issued pursuant to subdivision 14 or correction order issued pursuant to subdivision 15, the
 6.26 third-party testing program or third-party tester may submit a request for reconsideration
 6.27 in writing to the commissioner. The commissioner shall review the request for reconsideration
 6.28 and issue a decision within 30 days of the mailing date of the request. The third-party testing
 6.29 program or third-party tester may request a contested case hearing under chapter 14 within
 6.30 20 days of receipt of the commissioner's decision.

6.31 (b) As an alternative to the process in paragraph (a), the third-party testing program or
 6.32 third-party tester may initiate a contested case proceeding within 20 calendar days of the
 6.33 mailing date of a notice of cancellation or denial issued pursuant to subdivision 14 or a
 6.34 correction order issued pursuant to subdivision 15.

7.1 (c) If a correction order issued pursuant to subdivision 15 is appealed under paragraph
 7.2 (a) or (b), the commissioner must not enforce the correction order until the appeal is complete.

7.3 Subd. 17. **Rulemaking.** (a) Except where otherwise provided by this section, the
 7.4 commissioner must apply applicable provisions from Minnesota Rules, parts 7410.6000 to
 7.5 7410.6540, to third-party testing of commercial drivers' licenses. The provisions in Minnesota
 7.6 Rules, parts 7410.6160, 7410.6180, 7410.6280, 7410.6290, 7410.6520, subpart 2, and
 7.7 7410.6540, do not apply to third-party testing for commercial drivers' licenses.

7.8 (b) To the extent that Minnesota Rules, parts 7410.6000 to 7410.6540, or other laws do
 7.9 not prescribe requirements on the following topics, the commissioner may adopt rules on
 7.10 these topics as they pertain to third-party testing programs and testers:

7.11 (1) criteria for approval of an application of a third-party testing program or tester;

7.12 (2) requirements for training to become a third-party testing program or tester;

7.13 (3) the method of scoring and evaluating an applicant for a commercial driver's license;

7.14 (4) the method and criteria for determining test routes;

7.15 (5) documentation necessary to conduct a road test;

7.16 (6) the manner of conducting a road test for a commercial driver's license; and

7.17 (7) a process to investigate alleged violations of law and complaints made against
 7.18 third-party testing programs and testers.

7.19 (c) The commissioner must not adopt rules that create standards for third-party testing
 7.20 programs and third-party testers to provide road tests for a commercial driver's license that
 7.21 are higher than standards required for the state or state employees who perform road tests
 7.22 for commercial drivers' licenses.

7.23 (d) If the commissioner does not adopt rules by June 1, 2025, rulemaking authority under
 7.24 this section is repealed. Rulemaking authority under this section is not continuing authority
 7.25 to amend or repeal rules. Notwithstanding section 14.125, any additional action on rules
 7.26 after adoption must be under specific statutory authority to take the additional action.

7.27 **Sec. 3. RULES.**

7.28 If the commissioner of public safety determines that any additional rules, beyond those
 7.29 authorized to be adopted under Minnesota Statutes, section 171.135, are required to
 7.30 implement this act, the commissioner must report to the chairs and ranking minority members
 7.31 of the legislative committees with jurisdiction over transportation by January 15, 2024,

8.1 describing topics on which additional rulemaking is required. The report must include draft
8.2 legislation to authorize the necessary rulemaking.

8.3 Sec. 4. **APPROPRIATION.**

8.4 \$429,000 in fiscal year 2024, \$390,000 in fiscal year 2025, and \$390,000 in fiscal year
8.5 2026 are appropriated from the driver services operating account in the special revenue
8.6 fund to the commissioner of public safety for the costs of implementing and administering
8.7 the requirements of this act.

8.8 Sec. 5. **REPEALER.**

8.9 Minnesota Rules, part 7411.0630, subpart 6, is repealed.

7411.0630 INSTRUCTOR TRAINING QUALIFICATIONS.

Subp. 6. **Class A, B, or C motor vehicle training instructor.** An instructor providing instruction to operate a class A, B, or C motor vehicle must have a commercial driver's license representative of the vehicle class used for instruction.

A. To provide instruction in a program for the operation of a class A, B, or C motor vehicle, the instructor must successfully complete training to operate the class of motor vehicle for which instruction will be provided.

B. To qualify as an instructor, the individual must document and demonstrate competency of the individual's:

- (1) knowledge of the motor vehicle class;
- (2) knowledge of federal and state laws and regulations related to the class of motor vehicle for which instruction will be provided;
- (3) written communication skills;
- (4) oral instruction presentation and delivery techniques;
- (5) ability to conduct performance assessments;
- (6) ability to control driving activities on the range;
- (7) experience, by a showing of 3,000 hours within the last five years of experience operating the class of vehicle for which instruction will be provided;
- (8) ability to develop training routes and ranges;
- (9) record keeping in compliance with state rules and federal regulations;
- (10) ability to develop and maintain a learning environment;
- (11) ability to give clear and concise directions;
- (12) ability to develop task breakdown explanations;
- (13) ability to organize and deliver lessons;
- (14) ability to respond calmly and decisively to instruction situations;
- (15) time management;
- (16) ability to comment on the driving environment while safely operating the motor vehicle;
- (17) ability to take control of the vehicle from the right passenger seat of the vehicle; and
- (18) ability to contact first aid resources in the event of an emergency.