

SENATE
STATE OF MINNESOTA
SPECIAL SESSION

S.F. No. 28

(SENATE AUTHORS: HOUSLEY)

DATE
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Introduction and first reading

OFFICIAL STATUS

- 1.1 A bill for an act
- 1.2 relating to motor vehicles; authorizing third-party testing for class D and
- 1.3 commercial drivers' licenses; implementing a fee for not appearing for a driving
- 1.4 exam; prohibiting the practice of reserving driving exam slots for driving schools;
- 1.5 appropriating money; amending Minnesota Statutes 2018, section 171.13,
- 1.6 subdivisions 1, 7, by adding a subdivision; Minnesota Statutes 2019 Supplement,
- 1.7 section 171.06, subdivision 3; proposing coding for new law in Minnesota Statutes,
- 1.8 chapter 171.
- 1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.10 Section 1. Minnesota Statutes 2019 Supplement, section 171.06, subdivision 3, is amended
- 1.11 to read:
- 1.12 Subd. 3. **Contents of application; other information.** (a) An application must:
- 1.13 (1) state the full name, date of birth, sex, and either (i) the residence address of the
- 1.14 applicant, or (ii) designated address under section 5B.05;
- 1.15 (2) as may be required by the commissioner, contain a description of the applicant and
- 1.16 any other facts pertaining to the applicant, the applicant's driving privileges, and the
- 1.17 applicant's ability to operate a motor vehicle with safety;
- 1.18 (3) state:
- 1.19 (i) the applicant's Social Security number; or
- 1.20 (ii) if the applicant does not have a Social Security number and is applying for a
- 1.21 Minnesota identification card, instruction permit, or class D provisional or driver's license,
- 1.22 that the applicant certifies that the applicant is not eligible for a Social Security number;

2.1 (4) contain a notification to the applicant of the availability of a living will/health care
2.2 directive designation on the license under section 171.07, subdivision 7; and

2.3 (5) include a method for the applicant to:

2.4 (i) request a veteran designation on the license under section 171.07, subdivision 15,
2.5 and the driving record under section 171.12, subdivision 5a;

2.6 (ii) indicate a desire to make an anatomical gift under paragraph (d);

2.7 (iii) as applicable, designate document retention as provided under section 171.12,
2.8 subdivision 3c; and

2.9 (iv) indicate emergency contacts as provided under section 171.12, subdivision 5b.

2.10 (b) Applications must be accompanied by satisfactory evidence demonstrating:

2.11 (1) identity, date of birth, and any legal name change if applicable; and

2.12 (2) for driver's licenses and Minnesota identification cards that meet all requirements of
2.13 the REAL ID Act:

2.14 (i) principal residence address in Minnesota, including application for a change of address,
2.15 unless the applicant provides a designated address under section 5B.05;

2.16 (ii) Social Security number, or related documentation as applicable; and

2.17 (iii) lawful status, as defined in Code of Federal Regulations, title 6, section 37.3.

2.18 (c) An application for an enhanced driver's license or enhanced identification card must
2.19 be accompanied by:

2.20 (1) satisfactory evidence demonstrating the applicant's full legal name and United States
2.21 citizenship; and

2.22 (2) a photographic identity document.

2.23 (d) An application must be accompanied by a certification of behind-the-wheel
2.24 examination passage under section 171.77 or 171.83, if applicable.

2.25 **EFFECTIVE DATE.** The portion of this section relating to section 171.83 is effective
2.26 July 1, 2020. The portion of this section relating to section 171.77 is effective August 1,
2.27 2020.

2.28 Sec. 2. Minnesota Statutes 2018, section 171.13, subdivision 1, is amended to read:

2.29 Subdivision 1. **Examination subjects and locations; provisions for color blindness,**
2.30 **disabled veterans.** (a) Each applicant for a driver's license must pass the examination

3.1 required in this section. Except as otherwise provided in ~~this section~~ sections 171.70 to
3.2 171.83, the commissioner ~~shall examine each applicant for a driver's license by such agency~~
3.3 ~~as the commissioner directs~~ must conduct the examination. This examination must include:

3.4 (1) a test of the applicant's eyesight;

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

3.7 (3) a test of the applicant's knowledge of (i) traffic laws; (ii) the effects of alcohol and
3.8 drugs on a driver's ability to operate a motor vehicle safely and legally, and of the legal
3.9 penalties and financial consequences resulting from violations of laws prohibiting the
3.10 operation of a motor vehicle while under the influence of alcohol or drugs; (iii) railroad
3.11 grade crossing safety; (iv) slow-moving vehicle safety; (v) laws relating to pupil
3.12 transportation safety, including the significance of school bus lights, signals, stop arm, and
3.13 passing a school bus; (vi) traffic laws related to bicycles; and (vii) the circumstances and
3.14 dangers of carbon monoxide poisoning;

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

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

3.19 (b) Notwithstanding paragraph (a), no driver's license may be denied an applicant on
3.20 the exclusive grounds that the applicant's eyesight is deficient in color perception. War
3.21 veterans operating motor vehicles especially equipped for disabled persons, if otherwise
3.22 entitled to a license, must be granted such license.

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

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

3.30 **EFFECTIVE DATE.** The portion of this section relating to section 171.83 is effective
3.31 July 1, 2020. The remainder of the section is effective August 1, 2020.

4.1 Sec. 3. Minnesota Statutes 2018, section 171.13, subdivision 7, is amended to read:

4.2 Subd. 7. **Repeat Examination fee fees.** (a) A fee of \$10 must be paid by an individual
4.3 to take a third and any subsequent knowledge test administered by the department if the
4.4 individual has failed two previous consecutive knowledge tests on the subject.

4.5 (b) A fee of \$20 must be paid by an individual to take a third and any subsequent skills
4.6 or road test administered by the department if the individual has previously failed two
4.7 consecutive skill or road tests in a specified class of motor vehicle.

4.8 (c) A fee of \$20 must be paid by an individual who fails to appear for a scheduled skills
4.9 or road test or who cancels a skills or road test within 24 hours of the appointment time.

4.10 (d) All fees received under this subdivision must be paid into the state treasury and
4.11 credited to the driver services operating account in the special revenue fund specified under
4.12 section 299A.705.

4.13 **EFFECTIVE DATE.** This section is effective July 1, 2020.

4.14 Sec. 4. Minnesota Statutes 2018, section 171.13, is amended by adding a subdivision to
4.15 read:

4.16 Subd. 8. **Examination scheduling.** The commissioner must not schedule or reserve
4.17 recurring time with a public, private, or commercial driver education program for purposes
4.18 of administering skills or road tests to a class D or commercial driver's license applicant.

4.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.20 Sec. 5. **[171.70] DEFINITIONS.**

4.21 (a) For purposes of sections 171.70 to 171.82, the following definitions have the meanings
4.22 given them.

4.23 (b) "Applicant" means an entity applying for approval to be a third-party testing program.

4.24 (c) "Entity" includes an individual, natural person, and a legal or corporate person,
4.25 however organized unless otherwise expressly described or limited.

4.26 (d) "Letter of approval" means the document issued by the commissioner to the third-party
4.27 testing program authorizing the program to administer road tests for class D drivers' licenses.

4.28 (e) "Road test" means the actual physical demonstration of the ability to exercise ordinary
4.29 and reasonable control in the operation of a motor vehicle as required by section 171.13,
4.30 subdivision 1, paragraph (a), clause (4).

5.1 (f) "Third-party tester" means an individual who is an employee of a third-party testing
5.2 program who has qualified for a third-party tester certificate issued by the commissioner
5.3 granting the individual authorization to conduct road tests for class D drivers' licenses.

5.4 (g) "Third-party tester certificate" means a certificate issued by the commissioner to the
5.5 third-party tester authorizing the third-party tester to administer road tests for class D drivers'
5.6 licenses on behalf of a specified third-party testing program.

5.7 (h) "Third-party testing program" means a program authorized by the commissioner to
5.8 administer to an individual the road test for class D drivers' licenses.

5.9 **Sec. 6. [171.71] THIRD-PARTY TESTER; AUTHORIZATION; RULEMAKING**
5.10 **PROHIBITION.**

5.11 (a) The commissioner must allow a third-party tester that complies with the requirements
5.12 of sections 171.70 to 171.82 to conduct road tests for people applying for class D drivers'
5.13 licenses.

5.14 (b) The commissioner must not adopt new rules or amend existing rules to implement
5.15 the requirements of sections 171.70 to 171.82.

5.16 **Sec. 7. [171.72] PROGRAM APPLICATION; APPROVAL.**

5.17 Subdivision 1. **Application.** The applicant shall apply to the commissioner for approval
5.18 to be a third-party testing program authorized to administer road tests for class D drivers'
5.19 licenses. The applicant must submit the application to the commissioner and provide the
5.20 information in subdivision 2. A third-party testing program or a third-party tester employed
5.21 by the program must not conduct road tests until the program is approved by the
5.22 commissioner.

5.23 Subd. 2. **Application contents.** To apply for approval as a third-party testing program,
5.24 an applicant must complete an application containing the information specified in this
5.25 section:

5.26 (1) business name;

5.27 (2) business registration number if a business or tax identification number if a
5.28 not-for-profit entity;

5.29 (3) address of the business's administrative office;

5.30 (4) telephone number, fax number, and e-mail address of the business's administrative
5.31 office;

6.1 (5) name of an authorized official responsible for the program and application and the
6.2 official's title and telephone number;

6.3 (6) a map, drawing, or written description of the test route to be used for road tests;

6.4 (7) the name, birth date, home address, and driver's license number of each individual
6.5 the applicant wants to employ as a certified third-party tester;

6.6 (8) attestation that the applicant carries the required insurance, as described in chapter
6.7 65B, for all vehicles used for testing; and

6.8 (9) attestation by the authorized official that the information submitted is true and
6.9 accurate.

6.10 Subd. 3. **Location requirement.** To qualify as a third-party testing program, the applicant
6.11 must be located in the state and must maintain an administrative office in at least one
6.12 permanent, regularly occupied building with a permanent address.

6.13 Subd. 4. **Employment of certified tester.** The applicant must employ one or more
6.14 certified third-party testers who meet the qualifications in section 171.75.

6.15 Subd. 5. **Evaluation.** The commissioner shall evaluate the application submitted by the
6.16 third-party testing program applicant. If the application is satisfactory, the commissioner
6.17 must approve the application.

6.18 Subd. 6. **Limitation.** The commissioner is prohibited from imposing any criteria or
6.19 requirements that are not specified by this section.

6.20 Subd. 7. **Commissioner's letter of approval.** Upon approval of an application submitted
6.21 pursuant to this section, the commissioner shall issue a letter of approval to the third-party
6.22 testing program. The letter of approval constitutes an agreement between the state and the
6.23 third-party testing program administering road tests for a class D driver's license. A letter
6.24 of approval to operate a third-party testing program is not transferable.

6.25 Sec. 8. **[171.73] INDEMNIFICATION.**

6.26 An applicant shall agree to indemnify and hold harmless the state and all state officers,
6.27 employees, and agents of the state from and against all claims, losses, damages, costs, and
6.28 other proceedings made, sustained, brought, or prosecuted in any manner based on or
6.29 occasioned by or attributive to any injury, infringement, or damage rising from any act or
6.30 omission of the third-party testing program or the program's employees in the performance
6.31 of testing duties.

7.1 Sec. 9. [171.74] USE OF CERTIFIED THIRD-PARTY TESTERS.

7.2 The third-party testing program shall allow only individuals who have been certified by
7.3 the commissioner as third-party testers under sections 171.75 to 171.76 to administer road
7.4 tests. The program shall maintain, on file in the program's administrative office, a copy of
7.5 the valid certificate of each third-party tester employed by the program.

7.6 Sec. 10. [171.75] THIRD-PARTY TESTER QUALIFICATIONS.

7.7 Subdivision 1. Generally. To be certified as a third-party tester, an individual must make
7.8 application to, and be approved by, the commissioner as provided in this section. The
7.9 individual must:

7.10 (1) possess a valid driver's license;

7.11 (2) be at least age 21;

7.12 (3) be a licensed driver in a United States state for the past three years;

7.13 (4) before the date of application, have maintained continuous valid driving privileges
7.14 for the past year;

7.15 (5) successfully pass a prequalifying tester examination;

7.16 (6) be an employee of a third-party testing program;

7.17 (7) successfully complete the test administration training required of state-employed
7.18 examiners; and

7.19 (8) have a class D driver's license.

7.20 The examination and training required by clauses (5) and (7) must be identical for
7.21 state-employed examiners and third-party testers.

7.22 Subd. 2. State employee. A certified third-party tester must not be an employee of the
7.23 department.

7.24 Subd. 3. Employment. A certified third-party tester must have a certificate for each
7.25 third-party testing program that employs the tester. The tester must reapply and be approved
7.26 for a new certificate to conduct tests on behalf of a new third-party testing program. The
7.27 tester may be simultaneously employed by more than one program.

7.28 Subd. 4. Maintaining certification. To maintain certification as a third-party tester, an
7.29 individual must:

8.1 (1) conduct at least 12 road tests annually over each 24-month period from the date of
8.2 initial issuance of a third-party tester certificate;

8.3 (2) be evaluated at least annually on the administration of tests and record keeping;

8.4 (3) attend annual in-service training, workshops, or seminars provided by the
8.5 commissioner, provided that the requirements are the same as the requirements for testers
8.6 employed by the department;

8.7 (4) submit monthly testing reports in a format specified by the commissioner; and

8.8 (5) account for all records of examination issued by the commissioner to a third-party
8.9 tester and submit the record of examination immediately to the commissioner after completing
8.10 a road test.

8.11 The requirements of this section must be the same as the requirements for testers employed
8.12 by the department.

8.13 Subd. 5. **Limitation.** A third-party tester is subject to the same rules and regulations as
8.14 testers employed by the state, including but not limited to background checks. The third-party
8.15 tester must pay the cost for a required background check. The commissioner is prohibited
8.16 from imposing any criteria or requirements on third-party testing programs or third-party
8.17 testers that are not specified by this section.

8.18 Sec. 11. **[171.76] CERTIFICATES AND LETTER OF APPROVAL.**

8.19 Subdivision 1. **Tester certificates.** The commissioner shall issue a certificate to each
8.20 approved third-party tester of a third-party testing program. The third-party testing program
8.21 must keep a copy of the certificate of each third-party tester employed by the program on
8.22 file in the office of the program. A third-party tester's certificate is effective on the date of
8.23 issuance by the commissioner and expires four years after issuance. A third-party tester
8.24 may not conduct road tests without a valid third-party tester certificate. A certificate issued
8.25 to a third-party tester is not transferable.

8.26 Subd. 2. **Certificate renewal time frame.** A third-party tester must submit an application
8.27 for renewal of the tester's certificate to the commissioner no less than 30 days before the
8.28 date the previously issued certificate expires.

8.29 Sec. 12. **[171.77] TEST PROOF.**

8.30 The third-party testing program shall provide a record of examination, on a format
8.31 approved by the commissioner, to an individual who has passed a road test for a class D

9.1 driver's license. The record of examination, which must be presented at the time of application
9.2 for a class D driver's license, must specify that the individual has passed the required test
9.3 or tests administered by the third-party testing program.

9.4 Sec. 13. **[171.78] AUDITS.**

9.5 Subdivision 1. **Random examinations, inspections, and audits.** A third-party testing
9.6 program shall agree to allow representatives of the commissioner, on behalf of the state, to
9.7 conduct random examinations, inspections, and audits of the testing operation without prior
9.8 notice.

9.9 Subd. 2. **On-site inspections.** A third-party testing program shall permit on-site
9.10 inspections by agents of the commissioner as necessary to determine compliance with
9.11 sections 171.70 to 171.82.

9.12 Subd. 3. **Examination of test administration.** On at least an annual basis, agents of the
9.13 commissioner who are state employees must be permitted to:

9.14 (1) take the tests actually administered by the third-party testing program as if the state
9.15 employees were test applicants;

9.16 (2) test a sample of drivers who were examined by the third-party testing program to
9.17 compare passing and failing results; or

9.18 (3) conduct a road test simultaneously with the third-party tester to compare test results.

9.19 Subd. 4. **Notice of test schedule.** Upon request, no less than 48 hours in advance, the
9.20 third-party testing program shall provide the commissioner with the schedule times and
9.21 dates that skills tests and road tests are to be given.

9.22 Sec. 14. **[171.79] TEST ADMINISTRATION.**

9.23 Subdivision 1. **Generally.** Road tests conducted by a third-party tester must meet the
9.24 requirements in Minnesota Rules, parts 7410.4800 to 7410.5380. The commissioner is
9.25 prohibited from imposing additional test administration criteria or requirements on third-party
9.26 testers.

9.27 Subd. 2. **Third-party tester restrictions.** A third-party tester shall not:

9.28 (1) delegate any portion of testing to another individual;

9.29 (2) test a person related to the tester by blood, marriage, or adoption;

10.1 (3) test anyone with a physical disability who may need an individualized restriction
10.2 added to the person's driver's license; or

10.3 (4) test anyone who has not completed all course work and training before administering
10.4 a road test.

10.5 **Sec. 15. [171.80] RECORD KEEPING; REPORTING REQUIREMENTS.**

10.6 Subdivision 1. **Records of administered tests.** An approved third-party testing program
10.7 shall maintain at the program's administrative offices, for a minimum of three years, the
10.8 tester's copy of the record of examination of any driver for whom the third-party testing
10.9 program conducts a test, whether or not the driver passes or fails the test. Each record of
10.10 examination must include:

10.11 (1) the full name of the driver;

10.12 (2) the date the driver took the test; and

10.13 (3) the name and certificate number of the third-party tester conducting the test.

10.14 Subd. 2. **Records of third-party testers.** The third-party testing program shall maintain
10.15 at the program's administrative offices a record of each third-party tester in the employ of
10.16 the third-party testing program at that location. Each record must include:

10.17 (1) a valid and complete tester certificate indicating the third-party tester has met all
10.18 qualifications;

10.19 (2) a copy of the third-party tester's current driving record, which must be updated
10.20 annually; and

10.21 (3) evidence that the third-party tester is an employee of the third-party testing program.

10.22 Subd. 3. **Record retention.** The third-party testing program shall retain all third-party
10.23 tester records for three years after a third-party tester leaves the employ of the third-party
10.24 testing program.

10.25 Subd. 4. **Reporting requirements.** The third-party testing program shall report the
10.26 number of road tests administered annually by all third-party testers employed by the
10.27 program. The report must be in writing or in an electronic format approved by the
10.28 commissioner and must be received by the commissioner within 45 days of the end of each
10.29 calendar year.

10.30 Subd. 5. **Data Practices Act.** All third-party testing programs and third-party testers are
10.31 subject to section 13.05, subdivision 11.

11.1 Sec. 16. **[171.81] NOTIFICATION REQUIREMENTS.**

11.2 Subdivision 1. **In general.** The third-party testing program shall ensure that the
11.3 commissioner is notified in writing or by electronic means:

11.4 (1) 30 days before any change in the third-party testing program's name or address;

11.5 (2) ten days before any change in the third-party tester employed by the third-party
11.6 testing program;

11.7 (3) within ten days of a change in a third-party tester's driving status;

11.8 (4) within ten days of the third-party testing program ceasing business operations in
11.9 Minnesota; or

11.10 (5) within ten days of a third-party tester:

11.11 (i) receiving notice from any state that the tester's driving privileges have been withdrawn;

11.12 or

11.13 (ii) failing to comply with the third-party testing program or third-party tester
11.14 requirements in sections 171.70 to 171.82.

11.15 Subd. 2. **Test route change.** Before changing a test route, a third-party testing program
11.16 must submit a written request and obtain written approval from the commissioner for any
11.17 proposed change in the road test route. The request may be submitted by facsimile or e-mail.

11.18 Subd. 3. **Tester change.** A third-party tester shall notify the commissioner within ten
11.19 days of leaving the employ of a third-party testing program.

11.20 Sec. 17. **[171.82] INVESTIGATIONS, DENIAL, CANCELLATION, OR**
11.21 **SUSPENSION OF PROGRAM OR TESTER; APPEAL.**

11.22 Subdivision 1. **Investigations.** The commissioner must establish a process to investigate
11.23 alleged violations of the law and complaints made against third-party testers. The third-party
11.24 tester must be given notice of an investigation and be allowed to participate in the
11.25 investigation.

11.26 Subd. 2. **Denial.** The commissioner may deny an application for a third-party testing
11.27 program or tester certificate if the applicant does not qualify for approval or certification
11.28 under sections 171.70 to 171.81. In addition, a misstatement or misrepresentation is grounds
11.29 for denying a letter of approval or tester certificate.

11.30 Subd. 3. **Cancellation or suspension.** The commissioner may cancel the approval of a
11.31 third-party testing program or third-party tester or may suspend a program or tester for:

- 12.1 (1) failure to comply with or satisfy any provision of sections 171.70 to 171.81;
12.2 (2) falsification of any records or information relating to the third-party testing program;
12.3 (3) performance in a manner that compromises the integrity of the third-party testing
12.4 program. The commissioner must use the same standards of integrity for state-employed
12.5 testers and third-party testers; or
12.6 (4) the withdrawal of a third-party tester's driving privileges.

12.7 Subd. 4. **Commissioner's discretion.** (a) The existence of grounds for cancellation or
12.8 suspension under subdivision 3 is determined at the sole discretion of the commissioner. If
12.9 the commissioner determines that grounds for cancellation or suspension exist for failure
12.10 to comply with or satisfy any requirement in sections 171.70 to 171.81, the commissioner
12.11 may immediately cancel or suspend the third-party testing program or third-party tester
12.12 from administering any further tests.

12.13 (b) When an application to be a third-party testing program or third-party tester
12.14 application is denied, or when individual program approval or a tester's certificate is canceled,
12.15 a notice must be mailed to the subject indicating the reasons for the denial or cancellation
12.16 and that the third-party testing program or third-party tester may appeal the decision as
12.17 provided in subdivision 6.

12.18 Subd. 5. **Correction order.** If an audit by the commissioner identifies a situation that
12.19 needs correction but does not merit suspension or cancellation, the commissioner may issue
12.20 a correction order to a third-party tester or program for 30 days to correct a deficiency before
12.21 the program or tester becomes subject to suspension or cancellation. The notice must include
12.22 the basis for requiring the correction. The notice must notify the individual of the ability to
12.23 appeal the correction order as provided in subdivision 6. The third-party testing program
12.24 or third-party tester is permitted 30 days to correct the deficiency without having to reapply.

12.25 Subd. 6. **Notice of denial or cancellation; request for reconsideration and hearing.** (a)
12.26 Within 20 calendar days of receiving a notice of cancellation or denial issued pursuant to
12.27 subdivision 4 or correction order issued pursuant to subdivision 5, the third-party testing
12.28 program or third-party tester may submit a request for reconsideration in writing to the
12.29 commissioner. The commissioner shall review the request for reconsideration and issue a
12.30 decision within 30 days of receipt of the request. Upon receipt of the commissioner's decision,
12.31 the affected party may request a contested case hearing under chapter 14.

13.1 (b) Within 20 calendar days of receiving a notice of cancellation or denial issued pursuant
 13.2 to subdivision 4 or a correction order issued pursuant to subdivision 5, the affected party
 13.3 may request a contested case hearing.

13.4 (c) If a correction order issued pursuant to subdivision 5 is appealed under paragraph
 13.5 (a) or (b), the commissioner must not enforce the correction order until the appeal is complete.

13.6 Sec. 18. **[171.83] THIRD-PARTY BEHIND-THE-WHEEL COMMERCIAL**
 13.7 **DRIVER'S LICENSE EXAMINATIONS.**

13.8 Subdivision 1. Definitions. (a) For purposes of this section, the following definitions
 13.9 have the meanings given.

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

13.12 (c) "Behind-the-wheel examination" means the actual physical demonstration of ability
 13.13 to exercise ordinary and reasonable control in the operation of a motor vehicle as required
 13.14 in section 171.13, subdivision 1, paragraph (a), clause (4).

13.15 (d) "Third-party tester" or "tester" means an individual who is an employee of a
 13.16 third-party testing program and is authorized by the commissioner to conduct the
 13.17 behind-the-wheel examination for a commercial driver's license.

13.18 (e) "Third-party testing program" or "program" means a program approved by the
 13.19 commissioner to administer the behind-the-wheel examination conducted by a third-party
 13.20 tester.

13.21 Subd. 2. Third-party testing program; application. (a) A third-party testing program
 13.22 applicant must apply in the manner specified by the commissioner for approval to administer
 13.23 the behind-the-wheel examination. A third-party testing program may administer the
 13.24 behind-the-wheel examination under this section if the program is approved by the
 13.25 commissioner.

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

13.27 (1) the business or entity name;

13.28 (2) a business registration number if a business or tax identification number if a nonprofit
 13.29 entity;

13.30 (3) mailing address, telephone number, fax number, and e-mail address of the
 13.31 administrative office;

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

14.3 (5) a map, drawing, or written description of each test route to be used for
 14.4 behind-the-wheel examinations;

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

14.7 (7) the amount for fees that will be charged; and

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

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

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

14.16 (b) Upon approval of a third-party testing program application, the commissioner must
 14.17 issue a letter of approval designating the third-party testing program. The letter of approval
 14.18 constitutes an agreement between the state and the third-party testing program that authorizes
 14.19 the program to administer the behind-the-wheel examination for a commercial driver's
 14.20 license.

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

14.22 **Subd. 5. Third-party tester; authority.** (a) An individual may conduct the
 14.23 behind-the-wheel examination for a commercial driver's license under this section if the
 14.24 person:

14.25 (1) is a third-party tester;

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

14.27 (3) meets the requirements under Minnesota Rules, chapter 7410, and Code of Federal
 14.28 Regulations, title 49, part 383.

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

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

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

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

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

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

15.13 (b) The commissioner must provide to each third-party tester all relevant information
15.14 on how to conduct the behind-the-wheel examination. At a minimum, the commissioner
15.15 must provide:

15.16 (1) the criteria on which applicants for a commercial driver's license must be tested
15.17 during the behind-the-wheel examination;

15.18 (2) the method of scoring and evaluating the applicant;

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

15.20 (4) the necessary documentation to conduct the examination.

15.21 Subd. 8. **Examinations.** (a) A third-party tester must conduct the commercial driver's
15.22 license behind-the-wheel examination in the manner and subject to the requirements of this
15.23 section; section 171.131; Minnesota Rules, chapter 7410; and Code of Federal Regulations,
15.24 title 49, part 383; and as prescribed by the commissioner.

15.25 (b) If the third-party tester also provides behind-the-wheel instruction for student drivers
15.26 or employees, the third-party tester must not use the same routes for training and conducting
15.27 the behind-the-wheel examination.

15.28 (c) Upon passage of the behind-the-wheel examination, the third-party tester must provide
15.29 the person with certification of passage of the examination. The certification must be in a
15.30 form prescribed by the commissioner.

15.31 Subd. 9. **Prohibited examinations.** A third-party tester must not conduct a
15.32 behind-the-wheel examination of a person:

16.1 (1) to whom the third-party tester has provided skills training, as prohibited in Code of
16.2 Federal Regulations, title 49, part 383; or

16.3 (2) who is required to be examined by the commissioner under section 171.13, subdivision
16.4 3, and Minnesota Rules, parts 7410.2400 and 7410.2610.

16.5 Subd. 10. **Indemnification.** The department shall be held harmless for any claims, losses,
16.6 damages, costs, and other proceedings made, sustained, brought, or prosecuted in any manner
16.7 based on or occasioned by or attributive to any injury, infringement, or damage rising from
16.8 any act or omission of the third-party tester or the third-party testing program in the
16.9 performance of examination duties.

16.10 Subd. 11. **Oversight.** (a) The commissioner must monitor and audit the behind-the-wheel
16.11 examinations conducted by third-party testers.

16.12 (b) The commissioner must establish a process to investigate violations of the law and
16.13 complaints made against third-party testers. The commissioner may investigate complaints,
16.14 issue corrective orders, and discontinue authorization of a third-party program or third-party
16.15 tester that fails to comply with state laws and regulations as provided in paragraph (d).

16.16 (c) The commissioner must (1) notify a third-party program and any relevant third-party
16.17 testers of an audit or investigation, (2) allow the third-party program and any third-party
16.18 testers to participate in an investigation, and (3) provide the results of an audit or investigation
16.19 to the third-party program and any third-party testers.

16.20 (d) The commissioner may deny, cancel, or suspend a third-party program or third-party
16.21 tester certificate or issue a corrections order to a third-party tester or program in the manner
16.22 specified in section 171.82.

16.23 Subd. 12. **Application.** This section does not apply to the commissioner or employees
16.24 of the state that conduct the behind-the-wheel examination.

16.25 Subd. 13. **Rulemaking.** The commissioner must not adopt new rules or amend existing
16.26 rules to implement the requirements of this section. Except where otherwise provided by
16.27 this section, the commissioner shall apply applicable provisions from Minnesota Rules,
16.28 parts 7410.6000 to 7410.6540, to third-party testing of commercial driver's licenses.

16.29 **EFFECTIVE DATE.** This section is effective July 1, 2020.

16.30 Sec. 19. **CLASS D DRIVER'S LICENSE ROAD EXAMS.**

16.31 The commissioner of public safety must conduct written and road examinations for class
16.32 D or commercial drivers' licenses as long as exams can be conducted in a manner that

17.1 ensures personal protective measures for applicants and examiners and complies with
17.2 guidance and recommendations related to the infectious disease known as COVID-19,
17.3 provided from the Centers for Disease Control and Prevention and the Minnesota Department
17.4 of Health.

17.5 **EFFECTIVE DATE.** This section is effective the day following final enactment.

17.6 Sec. 20. **IMPLEMENTATION.**

17.7 The commissioner of public safety must implement the requirements of this act with
17.8 existing resources. The commissioner must not hire additional staff to implement the
17.9 requirements of this act or to conduct audits as required by Minnesota Statutes, section
17.10 171.78.

17.11 **EFFECTIVE DATE.** This section is effective the day following final enactment.

17.12 Sec. 21. **EFFECTIVE DATE.**

17.13 Except as otherwise provided, this act is effective August 1, 2020.