

WSR 23-21-097

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed October 18, 2023, 8:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-11-147.

Title of Rule and Other Identifying Information: Chapter 308-109 WAC, Motorcycle permit and endorsement requirements.

Hearing Location(s): On November 27, 2023, at 2:00 p.m., via Zoom meeting <https://dol-wa.zoom.us/j/86155634629?pwd=cYRmbGNG4kWjOanJqalUxNYNGAeVrp.1>, Meeting ID 861 5563 4629, Passcode 235384; One-tap mobile +12532158782,,86155634629#,,,,*235384# US

(Tacoma), +12532050468,,86155634629#,,,,*235384# US; or dial by your location, Meeting ID 861 5563 4629, Passcode 235384. Find your local number <https://dol-wa.zoom.us/j/86155634629?pwd=cYRmbGNG4kWjOanJqalUxNYNGAeVrp.1>. If you are having difficulty joining the Zoom meeting at the time of the public hearing, please call 360-902-0131. An in-person option is available at the Highways and Licensing Building, 1125 Washington Street S.E., Olympia, WA 98504.

Date of Intended Adoption: November 28, 2023.

Submit Written Comments to: Kelsey Stone, 1125 Washington Street S.E., Olympia, WA 98504, email rulescoordinator@dol.wa.gov, by November 20, 2023.

Assistance for Persons with Disabilities: Contact Kelsey Stone, phone 360-902-0131, email rulescoordinator@dol.wa.gov, by November 17, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Creating new chapters in WAC to address criteria for issuance of motorcycle instructional permits and endorsements, for both 2-wheel and 3-wheel motorcycles. These new chapters will address the length of validity for motorcycle permit and endorsement tests.

Reasons Supporting Proposal: Currently, issuance criteria are only written in department of licensing internal policy and are not customer facing in state law or rules. This rule making will codify the requirements for issuance of a 2-wheel or 3-wheel motorcycle permit or endorsement. It will also set the length of validity for each criteria.

Statutory Authority for Adoption: RCW 46.20.510 Instruction permit—Fee—Examinations—Director may adopt and enforce rules.

Statute Being Implemented: WAC 308-109-010 Definitions, 308-109-040 Outlining requirements for 2-wheel motorcycle instruction permit and endorsement, 308-109-050 Outlining requirements for 3-wheel motorcycle instruction permit and endorsement, and 308-109-060 Reinstatement of surrendered endorsements and reciprocity.

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting: Colton Myers, 1125 Washington Street S.E., Olympia, WA 98504, 360-634-5094; Implementation: Robert Willis, 1125 Washington Street S.E., Olympia, WA 98504, 360-688-3753; and Enforcement: Bryan Jackson, 1125 Washington Street S.E., Olympia, WA 98504, 360-902-3854.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. This rule making codifies criteria for issuance of motorcycle instructional

permits and endorsements and does not have any associated fiscal impacts.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Scope of exemption for rule proposal:

Is fully exempt.

October 18, 2023

Ellis Starrett

Rules and Policy Manager

OTS-4987.2

AMENDATORY SECTION (Amending WSR 20-08-039, filed 3/24/20, effective 4/24/20)

WAC 308-109-010 Definitions. As used in this chapter, unless the context requires otherwise, the following definitions apply:

(1) "Contracted training provider" means an agency, firm, provider, organization, individual, or other entity performing services as outlined in RCW 46.20.520 and 46.81A.020 and is under contract with the department.

(2) "Student" means persons who receive a pass, fail or incomplete status on a course completion report furnished to the department.

(3) "2-wheel permit level knowledge test" is a test created/approved by the department of licensing to determine an acceptable novice knowledge level for operating a 2-wheel motorcycle. This test is valid for 365 days.

(4) "2-wheel permit level skills test" is a test created/approved by the department of licensing to determine an acceptable novice skill level for operating a 2-wheel motorcycle. This test is valid for 365 days.

(5) "2-wheel endorsement level knowledge test" is a test created/approved by the department of licensing to determine an acceptable knowledge level for operating a 2-wheel motorcycle. This test is valid for 365 days.

(6) "2-wheel endorsement level skills test is a test created/approved by the department of licensing to determine an acceptable skill level for operating a 2-wheel motorcycle. This test is valid for 365 days.

(7) "3-wheel knowledge test" is a test created/approved by the department of licensing to determine an acceptable knowledge level for operating a 3-wheel motorcycle. This test is valid for 365 days.

(8) "3-wheel skills test" is a test created/approved by the department of licensing to determine an acceptable skill level for operating a 3-wheel motorcycle. This test is valid for 365 days.

(9) "Motorcycle safety course" means any course offered by a contracted training provider and approved by the department of licensing. This also includes approved out-of-state courses.

(10) "2-wheel motorcycle instruction permit" means authorization to ride a 2-wheel motorcycle on the roads and highways of Washington. With limitations found in RCW 46.20.510.

(11) "3-wheel motorcycle instruction permit" means authorization to ride a 3-wheel motorcycle on the roads and highways of Washington. With limitations found in RCW 46.20.510.

[Statutory Authority: RCW 46.81A.020 and 46.01.110. WSR 20-08-039, § 308-109-010, filed 3/24/20, effective 4/24/20.]

NEW SECTION

WAC 308-109-040 Outlining requirements for 2-wheel motorcycle instruction permit and endorsement. (1) The requirement to add a 2-wheel motorcycle instruction permit (2W MCIP) is passing a permit level knowledge test and a permit level skills test. An approved motorcycle safety course completion (either in state or out-of-state) may waive the required tests.

(a) 2W MCIP may be added at any point the tests and/or motorcycle safety course completion (either in state or out-of-state) are valid.

(b) A valid 2W MCIP may be renewed prior to its expiration for an additional 180 days (effective the day of expiration of original 2W MCIP). Per RCW 46.20.510 the department may only issue two, 180-day permits within a five-year period.

(2) The requirement to add a 2-wheel motorcycle endorsement is **either:**

(a) Valid 2W permit level knowledge and skills tests (a valid motorcycle safety course completion may replace these tests) and valid 2W endorsement level knowledge and skills tests;

or

(b) A valid 2W MCIP and valid 2W endorsement level knowledge and skills tests.

(3) Active-duty military personnel may have all permit and endorsement level testing waived upon completion of an approved motorcycle safety training course (either in state or out-of-state).

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NEW SECTION

WAC 308-109-050 Outlining requirements for 3-wheel motorcycle instruction permit and endorsement. (1) The requirement to add a 3-wheel motorcycle instruction permit (3W MCIP) is passing a level knowledge test. A 3W MCIP may be added at any point the tests are valid. A valid 3W MCIP may be renewed prior to its expiration for an additional 180 days (effective the day of expiration of original 3W MCIP).

(2) The requirement to add a 3-wheel motorcycle endorsement is **either:**

(a) A valid 3W knowledge test and a valid 3W skills test;

or

(b) A valid 3W MCIP and a valid 3W skills test.

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NEW SECTION

WAC 308-109-060 Reinstatement of surrendered endorsements and reciprocity. (1) If an endorsement is surrendered, the customer has 365 days to reinstate the endorsement without the need for retesting. Once the 365 days passes, the customer is required to pass all required tests in WAC 308-109-040.

(2) Customers transferring from a reciprocal jurisdiction, with a valid motorcycle endorsement, will be issued the appropriate endorsement on their Washington credential (2W or 3W or both). If the jurisdiction the customer is transferring from does not distinguish between 2W and 3W endorsement, the customer will be issued a 2W endorsement unless they can prove they tested on a 3W motorcycle.

(3) If an endorsement is, involuntarily, not transferred from out-of-state, the customer has one renewal cycle to reinstate the endorsement without the need for retesting.

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