

WSR 24-21-148

PROPOSED RULES

DEPARTMENT OF LICENSING

[Filed October 22, 2024, 3:06 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-08-080.

Title of Rule and Other Identifying Information: WAC 308-100-005 Definitions, 308-100-036 Reporting training results, 308-108-020 Definitions, 308-108-140 Reporting requirements, and 308-109-010 Definitions; and a new section in chapter 308-109 WAC, Motorcycle permit and endorsement requirements.

Hearing Location(s): On November 26, 2024, at 9:30 a.m., Microsoft Teams [contact agency for link], Meeting ID 250 290 806 056, Passcode AuKrQt; or dial in by phone +1 564-999-2000,,994018907# United States, Olympia, Phone conference ID 994 018 907#. Please note that there is both an in-person and a virtual option. If you are not able to sign in using Teams, your only option may be phone. Please plan on attending in person if the call in option is not a preferred method of participating.

Date of Intended Adoption: November 27, 2024.

Submit Written Comments to: Ellis Starrett, 1125 Washington Street S.E., Olympia, WA 98504, email rulescoordinator@dol.wa.gov, beginning October 23, 2024, by November 26, 2024.

Assistance for Persons with Disabilities: Contact Ellis Starrett, phone 360-902-3846, email rulescoordinator@dol.wa.gov, by November 15, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of licensing (DOL) is pursuing rule making to outline the process for motorcycle safety, commercial driver's license, and driver training schools to submit required information to DOL, per SB 5583 passed during the 2023 legislative session. All provided information will be used to populate the interactive map displayed on DOL's website.

Reasons Supporting Proposal: This rule making is necessary to successfully implement SB 5583.

Statutory Authority for Adoption: SB 5583 Young driver safety; RCW 46.01.110 Rule-making authority.

Statute Being Implemented: SB 5583 Young driver safety.

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

Name of Proponent: Washington state legislature, governmental.

Name of Agency Personnel Responsible for Drafting: Bryan Jackson, 1125 Washington Street S.E., Olympia, WA 98504, 360-902-3854; Implementation: Ellis Starrett, 1125 Washington Street S.E., Olympia, WA 98504, 360-902-3846; and Enforcement: Sarann Sinthavong, 1125 Washington Street S.E., Olympia, WA 98504, 360-634-5422.

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 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 rule content is explicitly and specifically dictated by statute.

Scope of exemption for rule proposal:

Is fully exempt.

October 22, 2024

OTS-5888.1

AMENDATORY SECTION (Amending WSR 23-23-180, filed 11/22/23, effective 12/23/23)

WAC 308-100-005 Definitions. The definitions of this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Behind-the-wheel (BTW) range training" means training provided by a BTW instructor when a student has actual control of the power unit during a driving lesson conducted for backing, street driving, and proficiency development. BTW range training does not include time a student spends observing the operation of a CMV when he or she is not in control of the vehicle.

(2) "Behind-the-wheel (BTW) instructor" means an individual who provides BTW training involving the actual operation of a CMV by a student on a range or a public road and meets one of these qualifications:

(a) Holds a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided and has at least two years of experience driving a CMV requiring a CDL of the same or higher class and/or the same endorsement and meets all applicable state qualification requirements for CMV instructors; or

(b) Holds a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided and has at least two years of experience as a BTW CMV instructor and meets all applicable state qualification requirements for CMV instructors.

(c) **Exception applicable to (a) and (b) of this definition:** A BTW instructor who provides training solely on a range which is not a public road is not required to hold a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided, as long as the instructor previously held a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided, and complies with the other requirements set forth in (a) or (b) of this definition.

(d) If an instructor's CDL has been canceled, suspended, or revoked due to any of the disqualifying offenses identified in C.F.R. 383.51, the instructor is prohibited from engaging in BTW instruction for two years following the date his or her CDL is reinstated.

(3) "Certified test route" means:

(a) Test route that is approved and assigned by the department.

(b) The areas for completing the pretrip inspection, basic controls and road test as approved by the department for the administration of a commercial driver license skills test.

(4) "Classroom" means a space dedicated to and used exclusively by an instructor for the instruction of students. With prior department approval, a classroom may be located within alternative facili-

ties, such as a public or private library, school, community college, college or university, public agency, or a business training facility. "Classroom," may also include a virtual classroom environment when video conferencing technology is capable of two-way communication between the instructor and all students.

(5) "Classroom/theory instruction" means knowledge instruction on the operation of a CMV and related matters provided by a theory instructor through lectures, demonstrations, audiovisual presentations, computer-based instruction, driving simulation devices, or similar means. Instruction occurring outside a classroom is included if it does not involve actual operation of a commercial motor vehicle and its components by the student.

(6) "Commercial driver license (CDL) third-party examiner" means a person or entity that is authorized by the state to administer commercial driver's license (CDL) skills tests.

(7) "Course cost" means the price charged for a course offering before any taxes, subsidies, discounts, or other price reductions or additional fees.

(8) "Demonstration of proficiency" means driver-trainee must demonstrate proficiency in required skills over time. Demonstration of proficiency of state and federal entry level driver training standards is not met by the completion of minimum hours of training. Nor is it limited to a single standardized assessment result.

~~((7))~~ (9) "Department" means the department of licensing.

(10) "Employee" means any operator of a commercial motor vehicle, including full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner operator contractors, while in the course of operating a commercial motor vehicle, who are either directly employed by or under lease to an employer.

~~((8))~~ (11) "Employer" means a person or entity that hires one or more individuals to operate a commercial motor vehicle on a regular basis during their normal course of employment and whose primary purpose is not to train operators of commercial motor vehicles.

~~((9))~~ (12) "English proficiency" means applicants for a commercial motor vehicle skills test must be able to understand and respond to verbal commands and instructions in English by a skills test examiner per 49 C.F.R. 383.133(5).

~~((10))~~ (13) "Entry-level driver training schools for commercial driver licenses (CDL)" means an entity that is approved by the department, to provide training as required by RCW 46.25.060 (1) (a) (ii).

(14) "Hour," as used in connection with training requirements, means no less than 50 minutes of training or instruction.

~~((11))~~ (15) "Instructor-led" means person-to-person learning where students can ask questions, receive feedback in real-time, and interaction and discussion are enabled. Some classroom instruction may include self-paced, online components as authorized and certified by the department of licensing. Completely self-paced, online training courses are not authorized.

~~((12))~~ (16) "Lab" means a teaching environment involving a non-moving vehicle for hands on instruction supported by classroom material.

~~((13))~~ (17) "License or endorsement test" means a skills test that is required to obtain a commercial learner's permit, commercial driver license, or endorsement.

(18) "Observation" means the careful watching, as a passenger in a commercial motor vehicle, of street driving during the hours of

course instruction, recording lessons learned and applying classroom material.

~~((14))~~ (19) "Proficiency development" means driving exercises that will allow more time to develop the skills needed to demonstrate proficiency, competence, and confidence in the street driving and backing maneuvers portions of a course.

~~((15))~~ (20) "Proficiency-based learning" means:

(a) Learning outcomes emphasize competencies that include application and creation of knowledge along with the development of skills and abilities;

(b) Competency criteria and standards are explicit, measurable, transferable learning objectives that equip driver-trainees with necessary knowledge, skills, and abilities;

(c) Assessments are meaningful and directly related to driver-trainees' accomplishment of objectives;

(d) Driver-trainees receive rapid, differentiated support based on their individual learning needs; and

(e) Driver-trainees are given specific and actionable feedback that allows them to advance upon demonstrated proficiency of content in all required areas of the curriculum.

~~((16))~~ (21) "Range" means an area closed from the public where driving activities are practiced, free of obstructions, enables the driver to maneuver safely and free from interference from other vehicles and hazards, and has adequate sight lines.

~~((17))~~ (22) "Street driving" means driving a commercial motor vehicle on a public road, where the traffic laws are enforced, consisting of city street, country road, and freeway driving.

~~((18))~~ (23) "Theory instructor" means an individual who provides knowledge instruction on the operation of a CMV and meets one of these qualifications:

(a) Holds a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided and has at least two years of experience driving a CMV requiring a CDL of the same (or higher) class and/or the same endorsement and meets all applicable state qualification requirements for CMV instructors; or

(b) Holds a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided and has at least two years of experience as a BTW CMV instructor and meets all applicable state qualification requirements for CMV instructors.

(c) **Exceptions applicable to (a) and (b) of this definition:** An instructor is not required to hold a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided, if the instructor previously held a CDL of the same (or higher) class and complies with the other requirements set forth in (a) or (b) of this definition.

(d) If an instructor's CDL has been canceled, suspended, or revoked due to any of the disqualifying offenses identified in C.F.R. 383.51, the instructor is prohibited from engaging in theory instruction for two years following the date his or her CDL is reinstated.

~~((19))~~ (24) "Training institute/provider" means an entity that is approved by the department, to provide training as required by RCW 46.25.060 (1)(a)(ii):

(a) An institution of higher learning accredited by the Northwest Association of Schools and Colleges or by an accrediting association recognized by the higher education board;

(b) A licensed private vocational school as that term is defined by RCW 28C.10.020(7);

(c) An entity in another state that the department has determined provides training or instruction equivalent to that required under WAC 308-100-033 or 308-100-035; or

(d) An entity that the state has determined provides on-site contracted training or instruction equivalent to that required under WAC 308-100-033.

~~((20))~~ (25) "Without a CDL" means any period of cancellation, expiration, revocation, surrender, or suspension.

AMENDATORY SECTION (Amending WSR 19-01-078, filed 12/17/18, effective 1/17/19)

WAC 308-100-036 Reporting training results. (1) A training provider and employer must provide electronic notification to the department when a student successfully completes a course of instruction described in WAC 308-100-033 for schools and WAC 308-100-035 for employers.

(2) The notification of course completion must consist of:

(a) A certification that the student/employee demonstrated proficiency in all elements of the curriculum required in subsection (1) of this section;

(b) Driver license number;

(c) Phone number;

(d) Type of training;

(e) Classroom hours completed;

(f) Backing hours completed;

(g) Street driving hours completed;

(h) Proficiency hours completed;

(i) Range hours completed;

(j) Course start date;

(k) Course completion date; and

(l) Instructor.

(3) The department must receive an electronic notification of successful completion prior to a student/employee taking a skills test.

(4) All entry-level driver training schools for commercial driver licenses and commercial driver license third-party examiners must report the following information to the department at time of license or contract application, license or contract renewal, and no less than once per year unless otherwise specified in this or another chapter:

(a) Name of business;

(b) Location(s) where services are provided, in standard USPS format;

(c) Contact information, including:

(i) Phone number;

(ii) Email address;

(iii) Website (if applicable);

(d) Language(s) services are offered in;

(e) All course offerings;

(f) Course cost; and

(g) License or endorsement test offerings.

OTS-5889.1

AMENDATORY SECTION (Amending WSR 22-22-075, filed 10/31/22, effective 12/1/22)

WAC 308-108-020 Definitions. The definitions of this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Adult course" means the course offered to adults who do not need the comprehensive driver training education required for minor drivers.

(2) "Behind the wheel instruction" means that portion of a traffic safety education course that consists of on-street, dual-controlled vehicle operation or similar instruction given under simulated conditions that has been approved by the director.

~~((2))~~ (3) "Branch office" or "branch classroom" means a facility within a 35-mile radius of a driver training school's established place of business, except where the 35-mile radius requirement has been waived or extended by the department as provided by RCW 46.82.360 (6)(c), that has been approved by the department for use by the driver training school.

~~((3))~~ (4) "Classroom," defined in RCW 46.82.280(2), may also include a virtual classroom environment when video conferencing technology is capable of two-way communication between the instructor and all students.

~~((4))~~ (5) "Course cost" means the price charged for a course offering before any taxes, subsidies, discounts, or other price reductions or additional fees.

(6) "Department" means the department of licensing.

(7) "Driver training education course" means the driver training education course as defined in RCW 46.82.280 and following the required curriculum.

(8) "Engage in a course of instruction" means to enroll in, schedule, collect a fee for, or sign an application for an instruction permit in order to attend or take part in a driver training education course.

~~((5))~~ (9) "Inactive instructor" means an instructor with a valid Washington instructor's license who is no longer employed by or otherwise associated with a licensed driver training school.

~~((6))~~ (10) "Instructor-led" means person-to-person learning where students can ask questions, receive feedback in real-time, and interaction and discussion are enabled.

~~((7))~~ (11) "Instructor-trainer" means a currently licensed instructor who is training traffic safety education instructors and who has not less than:

(a) One thousand hours of experience in providing traffic safety education in the past year;

(b) Five years of previous experience in providing traffic safety education; or

(c) One thousand hours or five years experience in the field of traffic safety and proof of training acceptable to the director in how to teach and train others, and not less than 300 hours of previous experience in training others.

~~((8))~~ (12) "License or endorsement test" means a test that is required to obtain a personal or commercial driver license or permit or a motorcycle permit or endorsement.

(13) "Records" means all documents, papers and reports required to own a driver training school, including but not limited to:

(a) Vehicle registration, title, insurance policy, and maintenance information;

(b) Business financial documents, such as franchise agreements, corporate documents, bank records, partnership agreements, lease agreements, and purchase and sale agreements; and

(c) Student classroom and behind-the-wheel instruction reports.

~~((9))~~ (14) "Student" means any person enrolled in an approved driver training education course who is at least 15 years of age.

AMENDATORY SECTION (Amending WSR 09-21-093, filed 10/20/09, effective 11/20/09)

WAC 308-108-140 Reporting requirements. (1) All driver training school owners shall:

~~((1))~~ (a) Report to the department within ~~((ten))~~ 10 days any driving or traffic-related incidents involving an instructor employed by the school ~~((7))~~ including, but not limited to:

~~((a))~~ (i) Conviction for a traffic violation;

~~((b))~~ (ii) Finding that a traffic infraction has been committed;

~~((e))~~ (iii) Entry into a deferred prosecution agreement; or

~~((d))~~ (iv) Suspension, revocation, cancellation, or denial of driving privileges.

~~((2))~~ (b) Report to the department within ~~((twenty-four))~~ 24 hours following any traffic safety education vehicle involved in a traffic collision for which an accident report must be or has been made under the provisions of RCW 46.52.030. Prior to the return to service of any traffic safety education vehicle that has been involved in a collision, the school owner must forward a vehicle inspection report to the department.

~~((3))~~ (c) Forward to the department by the seventh day of each month, a report of student enrollment in traffic safety education courses provided by the school, including but not limited to:

~~((a))~~ (i) The start date and end date of any courses provided by the school that are initiated during the reporting period, including the total number of students enrolled in each course;

~~((b))~~ (ii) The names and certificate numbers of all instructors providing classroom and/or behind the wheel instruction for each course;

~~((e))~~ (iii) The names and instruction permit or driver's license numbers or dates of birth of all students enrolled in each course, along with the identifying number of the traffic safety education certificate reserved for each student for issuance upon successful completion of the course.

~~((4))~~ (d) Not less than annually, have completed and have on file at the main school location a vehicle inspection report as required under WAC 308-108-110 (1)(b) for all traffic safety education vehicles in use by the school.

~~((5))~~ (e) Report to the department within ~~((ten))~~ 10 days any new vehicles used by the school for instructional purposes or any vehicles taken out of service.

(2) All driver training schools must report the following information to the department at time of license application, license re-

newal, and no less than once per year unless otherwise specified in this or another chapter:

- (a) Name of business;
- (b) Location(s) where services are provided, in standard USPS format;
- (c) Contact information, including:
 - (i) Phone number;
 - (ii) Email address;
 - (iii) Website (if applicable);
- (d) Language(s) training course services are offered in;
- (e) Course offerings, including:
 - (i) Driver training education course;
 - (ii) Adult course;
 - (iii) Course cost; and
- (f) License or endorsement test offerings.

OTS-5890.2

AMENDATORY SECTION (Amending WSR 24-03-114, filed 1/19/24, effective 3/1/24)

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) "Course cost" means the price charged for a course offering before any taxes, subsidies, discounts, or other price reductions or additional fees.

(3) "Department" means the department of licensing.

(4) "License or endorsement test" means a test that is required to obtain a personal or commercial driver license or permit or a motorcycle permit or endorsement.

(5) "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.

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

~~((3))~~ (7) "2-wheel novice course" means a 2-wheel motorcycle safety course intended for new riders and approved by the department.

(8) "2-wheel advanced course" means a 2-wheel motorcycle safety course intended for experienced riders and approved by the department.

(9) "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 two-wheel motorcycle. This test is valid for 365 days.

~~((4))~~ (10) "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 two-wheel motorcycle. This test is valid for 365 days.

~~((5))~~ (11) "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 two-wheel motorcycle. This test is valid for 365 days.

~~((6))~~ (12) "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 two-wheel motorcycle. This test is valid for 365 days.

~~((7))~~ (13) "3-wheel novice course" means a 3-wheel motorcycle safety course intended for new riders and approved by the department.

(14) "3-wheel advanced course" means a 3-wheel motorcycle safety course intended for new riders and approved by the department.

(15) "3-wheel knowledge test" is a test created/approved by the department of licensing to determine an acceptable knowledge level for operating a three-wheel motorcycle. This test is valid for 365 days.

~~((8))~~ (16) "3-wheel skills test" is a test created/approved by the department of licensing to determine an acceptable skill level for operating a three-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))~~ (17) "2-wheel motorcycle instruction permit" means authorization to ride a two-wheel motorcycle on the roads and highways of Washington. With limitations found in RCW 46.20.510.

~~((11))~~ (18) "3-wheel motorcycle instruction permit" means authorization to ride a three-wheel motorcycle on the roads and highways of Washington. With limitations found in RCW 46.20.510.

NEW SECTION

WAC 308-109-070 Reporting requirements. All motorcycle safety contracted training providers must report the following information to the department at time of contract application, contract renewal, and no less than once per year unless otherwise specified in this or another chapter:

- (1) Name of business;
- (2) Location(s) where services are provided, in standard USPS format;
- (3) Contact information, including:
 - (a) Phone number;
 - (b) Email address;
 - (c) Website (if applicable);
- (4) Language(s) training course services are offered in;
- (5) Course offerings, including:
 - (a) 2-wheel novice course;
 - (b) 2-wheel advanced course;
 - (c) 3-wheel novice course;
 - (d) 3-wheel advanced course;
- (6) Course cost; and
- (7) License or endorsement test offerings.