

WSR 22-22-075

PERMANENT RULES

DEPARTMENT OF LICENSING

[Filed October 31, 2022, 1:16 p.m., effective December 1, 2022]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department of licensing is amending rules to allow driver training schools to offer driver training education classes virtually after the state of emergency ends in Washington state.

Citation of Rules Affected by this Order: Repealing WAC 308-108-190 Emergency clause; and amending WAC 308-108-020 Definitions, 308-108-120 Administration, 308-108-130 Inspection and review, 308-108-150 Course requirements, 308-108-165 Prohibition on wireless communication devices during instruction, and 308-108-170 Ensuring student accomplishment.

Statutory Authority for Adoption: RCW 46.82.290 Administration of chapter—Adoption of rules, and 46.01.110 Rule-making authority.

Adopted under notice filed as WSR 22-19-098 on September 21, 2022.

Changes Other than Editing from Proposed to Adopted Version: Insert "of" after "the duration" in WAC 308-108-150 Course requirements, subsection (4), for grammatical accuracy. It now reads "... where the instructor is present for the duration of instruction ..."

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 6, Repealed 1; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: October 31, 2022.

Ellis Starrett
Rules and Policy Manager

OTS-4098.2

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

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

- (1) "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) "Branch office" or "branch classroom" means a facility within a (~~(thirty-five mile)~~) 35-mile radius of a driver training school's established place of business, except where the (~~(thirty-five mile)~~) 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) "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) "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.

(~~((4))~~) (5) "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.

(~~((5))~~) (6) "Instructor-led" means person-to-person learning where students can ask questions, receive feedback in real-time, and interaction and discussion are enabled.

(7) "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 (~~(three hundred)~~) 300 hours of previous experience in training others.

(~~((6))~~) (8) "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.

(~~((7))~~) (9) "Student" means any person enrolled in an approved driver training education course who is at least (~~(fifteen)~~) 15 years of age.

[Statutory Authority: RCW 46.82.290. WSR 09-21-093, § 308-108-020, filed 10/20/09, effective 11/20/09. Statutory Authority: RCW 46.82.290, 46.82.310, 46.82.320, 46.82.330, and 46.82.340. WSR 07-01-069, § 308-108-020, filed 12/18/06, effective 1/18/07. Statutory Authority: RCW 46.82.290. WSR 05-16-061, § 308-108-020, filed 7/29/05, effective 8/29/05.]

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

WAC 308-108-120 Administration. (1) The driver training school's license and all instructor certificates shall be posted in a

conspicuous place (~~at the location where instruction takes place. The school license must be posted~~) before engaging students in a course of instruction. An additional electronic copy will be provided to school customers, upon request.

(2) Each driver training school shall adopt and provide for its customers a written policy that includes, but is not limited to:

- (a) Enrollment criteria;
- (b) Student fees and student fee refunds;
- (c) Course failures and course repeats;
- (d) The minimum and maximum course duration;
- (e) Refusing to allow a student to attend a driver training education course before the age of (~~fifteen~~) 15 years;
- (f) Refusing to enroll new students in a driver education course after the first three classes have been completed; and
- (g) Information about Washington's intermediate licensing requirements, restrictions, and penalties and a place for parents to initial indicating that they have received the information.

(3) Driver training school owners and instructors shall maintain individual student records on forms provided by the department or on substantially similar forms that have been approved by the department. Student records shall document for each student:

- (a) Course attendance, starting, and ending dates;
- (b) The dates and times for each session of classroom and behind the wheel instruction;
- (c) Classroom and behind the wheel progress and time involvement or flowchart;
- (d) Classroom and behind the wheel performance evaluation results;
- (e) The name and signature of the instructor who provided each session of classroom and behind the wheel instruction; and
- (f) That both the student and parent received intermediate license requirements, restriction, and penalty information.

(4) Student records must be maintained by a driver training school for three years from the date instruction has ended.

(5) Driver training school records that must be maintained by a driver training school for three years, include but are not limited to:

- (a) The school's written curriculum guide;
- (b) Insurance policies;
- (c) Collision or injury reports;
- (d) Traffic safety education vehicle registration records; and
- (e) Records of any traffic violations committed by an instructor employed by the school.

(6) Upon the sale or other transfer of a school by its owner, the school and student records shall be transferred to the new owner and become the property and responsibility of the new owner.

(7) The driving school owner must notify the department within (~~thirty~~) 30 days of closing the school and submit all unused traffic safety certificates and student course completion reports to the department.

(8) Class size must not exceed city fire code requirements for the classroom.

(9) Traffic safety education classroom hours shall not overlap between two or more classes.

(10) Failure to renew a school license before it expires will put all related branch office or branch classroom licenses into an inactive status.

(11) Student records are subject to department audit and inspection anytime after ~~((ninety))~~ 90 days of the school's initial licensing, or as soon as practicable for the department.

(12) Branch office or classroom locations must display an official license issued by the department in a conspicuous place.

[Statutory Authority: RCW 46.82.290, WSR 09-21-093, § 308-108-120, filed 10/20/09, effective 11/20/09. Statutory Authority: RCW 46.82.290, 46.82.310, 46.82.320, 46.82.330, and 46.82.340. WSR 07-01-069, § 308-108-120, filed 12/18/06, effective 1/18/07. Statutory Authority: RCW 46.82.290. WSR 05-16-061, § 308-108-120, filed 7/29/05, effective 8/29/05.]

AMENDATORY SECTION (Amending WSR 07-01-069, filed 12/18/06, effective 1/18/07)

WAC 308-108-130 Inspection and review. (1) The department may require that a driver training school owner submit to an inspection or review of the school's operations and records at any time during regular business hours.

(2) Records shall be housed electronically or via hard copy and ~~((immediately available for inspection at a driver training school's primary place of business. Branch office records may be housed at the primary place of business, however, such records must be))~~ made available for inspection ~~((at the branch location))~~ within ~~((twenty-four hours))~~ two business days following a request for review by the department.

(3) Schools will provide the department access to virtual classroom sessions upon request.

[Statutory Authority: RCW 46.82.290, 46.82.310, 46.82.320, 46.82.330, and 46.82.340. WSR 07-01-069, § 308-108-130, filed 12/18/06, effective 1/18/07. Statutory Authority: RCW 46.82.290. WSR 05-16-061, § 308-108-130, filed 7/29/05, effective 8/29/05.]

AMENDATORY SECTION (Amending WSR 19-07-058, filed 3/18/19, effective 4/18/19)

WAC 308-108-150 Course requirements. Driver training schools that provide education for persons under the age of ~~((eighteen))~~ 18 must ensure their course:

(1) Includes a minimum of ~~((thirty))~~ 30 hours of classroom instruction;

(2) Meets the behind the wheel instruction and observation requirements of WAC 308-108-160;

(3) Has a minimum of one hour and no more than two hours of classroom instruction and no more than one hour of behind the wheel instruction during a single day, except when adding a make-up class, in which case classroom instruction must not exceed four hours in a single day;

(4) Has a classroom portion that is ~~((at least fifty percent))~~ instructor-led ((with verbal)), where the instructor is present for the duration of instruction ((consisting)), and consists of:

- (a) ~~((In-person training,))~~ Lecture, group work, videos, and/or other activities;
- (b) Teacher and student interaction; and
- (c) Questions and answers ~~(; and~~
- ~~(d) No)),~~ and/or discussion;
- (5) Has no more than six make-up hours of alternative instructor-led classroom instruction, delivering the same information that was missed.
- ~~((5))~~ (6) Has all students in a classroom session on the same lesson, with the exception of make-up lessons. Open enrollment or self-paced instruction is not permitted;
- ~~((6))~~ (7) Is not completed in fewer than ((thirty)) 30 calendar days;
- ~~((7))~~ (8) Includes comprehensive final written and behind the wheel examinations;
- ~~((8))~~ (9) Has a flow chart that indicates how the classroom and behind the wheel instruction are completed throughout the course;
- ~~((9))~~ (10) Includes information on the state of Washington's intermediate license requirements, restrictions, violations, and sanctions for violation of these requirements;
- ~~((10))~~ (11) Includes the delivery of instructional material developed by the department and the federally designated organ procurement organization for Washington state relating to organ and tissue donation awareness education; and
- ~~((11))~~ (12) Has a designated time for a parent, guardian, or employer night that is no less than one hour, which may fulfill one of the ((thirty)) 30 hours required for student training, and must include:
 - (a) Instruction on the parent, guardian, or employer responsibilities and the importance of parent, guardian, or employer involvement with the teen driver;
 - (b) Information on intermediate license laws, restrictions, and sanctions;
 - (c) An introduction to the parent guide to teen driving; and
 - (d) A questions and answers period.

[Statutory Authority: Chapter 46.82 RCW. WSR 19-07-058, § 308-108-150, filed 3/18/19, effective 4/18/19. Statutory Authority: RCW 46.82.290. WSR 09-21-092, § 308-108-150, filed 10/20/09, effective 1/1/10. Statutory Authority: RCW 46.82.290, 46.82.310, 46.82.320, 46.82.330, and 46.82.340. WSR 07-01-069, § 308-108-150, filed 12/18/06, effective 1/18/07. Statutory Authority: RCW 46.82.290. WSR 05-16-061, § 308-108-150, filed 7/29/05, effective 8/29/05.]

AMENDATORY SECTION (Amending WSR 17-21-026, filed 10/10/17, effective 11/10/17)

WAC 308-108-165 Prohibition on wireless communication devices during instruction. (1) Driving school instructors must not use personal electronic devices, hands-free or otherwise, that distract from or interfere with the behind the wheel or classroom instruction task. This includes the use of any communications devices that result in verbal or written text responses while conducting instruction. While supervising the operation of a vehicle, instructors are additionally prohibited from sending or receiving messages with these devices. Ring

volumes for these devices, or any phone in proximity, are to be silenced so as not to interfere in any way with the student learning or interacting with the instructor.

(2) This section does not apply to voice activated GPS devices or classroom devices that are being used as part of an approved curriculum. This section also does not preclude the use of devices to report illegal activity, summon medical or other emergency help, or prevent injury to a person or property, as permitted under RCW 46.61.672.

(3) An unreasonable risk associated with a failure to obey this section is a violation of RCW 18.235.130(4).

(4) This section does not prohibit the use of wireless communication devices during instruction if the use is to access a virtual classroom or in the case of an emergency.

[Statutory Authority: RCW 46.01.110, 46.20.2891, 46.82.290, and 46.90.010. WSR 17-21-026, § 308-108-165, filed 10/10/17, effective 11/10/17. Statutory Authority: RCW 46.82.290. WSR 09-21-093, § 308-108-165, filed 10/20/09, effective 11/20/09.]

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

WAC 308-108-170 Ensuring student accomplishment. (1) Each driver training school must have a written curriculum guide available to each instructor and such guide shall be used for student instruction.

(2) In order to receive a traffic safety education certificate, all students under the age of (~~eighteen~~) 18 must satisfactorily complete all portions of the course of instruction included in the student curriculum as approved by the driver instructors' advisory committee.

(3) In order to satisfactorily complete a school's driver training course, all students under the age of (~~eighteen~~) 18 must pass a comprehensive driving knowledge and skills test or tests that deals with all or many of the relevant details of the course curriculum that meets the standards established by the department.

(4) Each driver training school must assess the needs and progress of students and give appropriate direction for additional driving experience and/or (~~parent~~) guided practice provided by a licensed driver with at least five years of driving experience.

[Statutory Authority: RCW 46.82.290. WSR 09-21-093, § 308-108-170, filed 10/20/09, effective 11/20/09. Statutory Authority: RCW 46.82.290, 46.82.310, 46.82.320, 46.82.330, and 46.82.340. WSR 07-01-069, § 308-108-170, filed 12/18/06, effective 1/18/07. Statutory Authority: RCW 46.82.290. WSR 05-16-061, § 308-108-170, filed 7/29/05, effective 8/29/05.]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 308-108-190 Emergency clause.