

**Department of State
Division of Publications**

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Nashville, TN 37243
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For Department of State Use Only

Sequence Number: 01-22-16
Rule ID(s): 6118
File Date: 1/29/16
Effective Date: 4/28/16

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

Agency/Board/Commission: Tennessee Department of Safety & Homeland Security
Division: Driver Services Division
Contact Person: Lizabeth Hale
Address: 312 Rosa L. Parks Ave, 25th Floor
Zip: 37243
Phone: 615-251-5349
Email: Lizabeth.Hale@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)

Chapter Number	Chapter Title
1340-01-13	Rules of Classified and Commercial Driver Licenses and Certificates for Driving
Rule Number	Rule Title
1340-01-13-.22	Third Party Testing

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

Rule 1340-01-13-.22(7)(d) is amended by deleting the current language:

Tests administered through the C.D.T.P. shall be given only to students actively enrolled in the Driver Education courses described in the agency's application to participate.

And substituting instead the language:

Tests administered through the C.D.T.P. shall be given only to students actively enrolled in the Driver Education courses described in the agency's application to participate. Public school systems, public institutions of higher learning, and non-public schools in categories 1, 2, or 3 as recognized by the state board of education who participate in Driver Education courses are authorized to administer skills tests to students who have completed the Driver Education course described in the agency's application to participate if the student is still enrolled in the school as a student, and has not transferred to any other school after completing the Driver Education course.

Authority: T.C.A. §§4-5-101 et seq., 55-50-202, 55-50-321, 55-50-322, 55-50-323, 55-50-331, 55-50-405, 55-50-502, Public Chapter No. 194, 2007 and 49 C.F.R. §383 (1992).

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

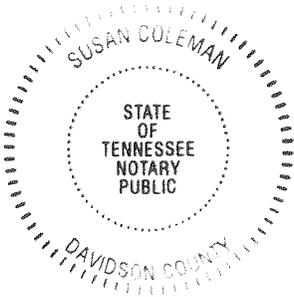
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee Department of Safety and Homeland Security on October 22, 2015, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 11-5-15

Signature: Lori Bullard

Name of Officer: Lori Bullard

Title of Officer: Assistant Commissioner, Driver Services



Subscribed and sworn to before me on: 11-5-2015

Notary Public Signature: Susan Coleman

My commission expires on: May 6, 2019

All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slattery III
Herbert H. Slattery III
Attorney General and Reporter

1/5/2016 Date

Department of State Use Only

Filed with the Department of State on: 1/29/16

Effective on: 4/28/16

Tre Hargett

Tre Hargett
Secretary of State

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PUBLICATIONS

Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

This change will not affect small businesses.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This change will not impact local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This allows Public and Private schools which offer driver education courses to perform the driving skills test for students who have completed the school's driver education program but are still enrolled in the school.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

None.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Public and Private schools that offer driver education programs.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

Fiscal impact is minimal.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Michael Hogan, Director, Driver Services

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Michael Hogan, Director, Driver Services Lizabeth Hale, Deputy General Counsel

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

Michael Hogan, Director, Driver Services 1150 Foster Avenue, Nashville, TN 37243 615-251-5140 Michael.Hogan@tn.gov	Lizabeth Hale, Deputy General Counsel 312 Rosa L. Parks Ave., 25 th Fl., Nashville, TN 37243 615-251-5349 Lizabeth.Hale@tn.gov
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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

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(7) C.D.T.P. Testing Standards and Administration

(a) Students shall be exempt from the Class D knowledge test administered by the Department if they answer correctly eighty percent (80%) of the questions contained in a standard knowledge test developed by the Department and administered through the C.D.T.P. in a supervised setting, with the instructor present. Oral versions of the test are prohibited. The knowledge test must contain one fourth (1/4) of the questions concerning drugs and alcohol and may only be administered after the student has completed the classroom component of the course.

(b) Students shall be exempt from the Class D driving test administered by the Department if they demonstrate an ability to drive safely at a level considered by the instructor as acceptable for licensing. The basis for determining acceptable driving ability shall include, but not be limited to, an assessment of the student's driving competence with respect to skills, judgment, and perception. The driving test must meet minimum standards set forth by the Department in related C.D.T.P. policies and procedures issued to participating agencies and may be given only at the conclusion of the course, after the student has completed both the classroom and driving portions of the course.

(c) Test scores shall be valid for ninety (90) days from the date of the Third Party Driver Examiner test certification form.

~~(d) Tests administered through the C.D.T.P. shall be given only to students actively enrolled in the Driver Education courses described in the agency's application to participate. Tests administered through the C.D.T.P. shall be given only to students actively enrolled in the Driver Education courses described in the agency's application to participate. Public school systems, public institutions of higher learning, and non-public schools in categories 1, 2, or 3 as recognized by the state board of education who participate in Driver Education courses are authorized to administer skills tests to students who have completed the Driver Education course described in the agency's application to participate if the student is still enrolled in the school as a student, and has not transferred to any other school after completing the Driver Education course.~~

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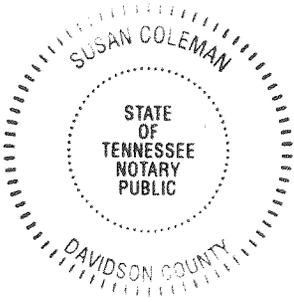
Name of Officer: Lori Bullard

Title of Officer: Assistant Commissioner, Driver Services

Subscribed and sworn to before me on: 11-5-2015

Notary Public Signature: Susan Coleman

My commission expires on: May 6, 2019



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Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter
1/5/2016
Date

Department of State Use Only

Filed with the Department of State on: _____

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Tre Hargett
Secretary of State

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