

**Department of State
Division of Publications**

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For Department of State Use Only

Sequence Number: 05-12-10
Rule ID(s): 4722
File Date: 05/13/2010
Effective Date: 10/29/2010

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §4-5-205 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 thirty (30) days of the publication date of the issue of the Tennessee Administrative Register in which the proposed rules are published. 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

Agency/Board/Commission:	Department of Safety
Division:	Highway Patrol
Contact Person:	Gerry Crownover, Staff Attorney
Address:	1150 Foster Avenue, Nashville, TN
Zip:	37243
Phone:	(615) 251-5277
Email:	Gerry.Crownover@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. Please enter only ONE Rule Number/RuleTitle per row)

Chapter Number	Chapter Title
1340-03-07	Driver Education Courses
Rule Number	Rule Title
1340-03-07-.01	Purpose
1340-03-07-.02	Definitions
1340-03-07-.03	Driver Education Course Provider Requirements
1340-03-07-.04	Driver Education Course Instructor Requirements
1340-03-07-.05	Denial, Revocation or Suspension
1340-03-07-.06	Hearings

(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>)

Rules
Of
Tennessee Department of Safety
Highway Patrol

Chapter 1340-03-07
Driver Education Courses

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1340-03-07-.01	Purpose	1340-03-07-.04	Driver Education Course Instructor Requirements
1340-03-07-.02	Definitions	1340-03-07-.05	Denial, Revocation or Suspension
1340-03-07-.03	Driver Education Course Provider Requirements	1340-03-07-.06	Hearings

1340-03-07-.01 Purpose.

- (1) To establish a system for the application, approval, regulation and standardization of Driver Education Courses by the Tennessee Department of Safety.

Authority: T.C.A. §§ 4-3-2009 and 55-10-301. Administrative History:

1340-03-07-.02 Definitions.

- (1) "Commissioner" shall mean the Commissioner of the Tennessee Department of Safety.
- (2) "Department" shall mean the Tennessee Department of Safety.
- (3) "Driver Education Course" shall mean a classroom or on-line curriculum of driver safety training of not less than four (4) hours which has been determined by the Department to meet or exceed the standards of the AAA, National Safety Council or such other nationally recognized curriculum approved by the Department and which is designed to educate persons committing minor traffic violations and to deter future violations.
- (4) "Driver Education Course Instructor" shall mean an individual who is approved by the Department for the purpose of conducting a Driver Education Course.
- (5) "Driver Education Course Provider" shall mean an entity approved by the Department to operate and conduct a Driver Education Course and shall include:
 - (a) County, municipality or other entity of local government;
 - (b) Nonprofit organization as defined by the Internal Revenue Code, 26 U.S.C. § 501(c)(3); or
 - (c) Private entity, provided the entity meets or exceeds all the requirements of T.C.A. § 40-35-302(g) for private entities providing misdemeanor probation supervision services.
- (6) "Governmental employee" shall mean employees and officials of the state of Tennessee and its political subdivisions who are employed as law enforcement employees or officials; probation and parole employees or officials; judicial employees or officials, or correctional employees or officials, including employees and officials of jails and workhouses.
- (7) "Immediate family" shall mean and include the employee's spouse/partner, mother, father, siblings, adult children or maternal and paternal grandparents.

Authority: T.C.A. §§ 55-10-301 and 40-35-302(g). Administrative History:

1340-03-07-.03 Driver Education Course Provider Requirements.

- (1) An entity which proposes to offer a Driver Education Course must submit an application supplied by the Department, along with a nonrefundable certified check or money order in the amount of one hundred fifty dollars (\$150.00) for the application fee, to the Department's Safety Education Unit of the Highway Patrol.
- (2) Upon initial approval, the applicant will be provided a Certificate by the Department. The Certificate shall be conspicuously displayed in the primary place of business of the approved applicant.
- (3) Submit an annual renewal fee in the amount of fifty dollars (\$50.00).
- (4) Provide a minimum of four (4) hours of classroom or on-line driver safety training which has been determined by the Department to meet or exceed the standards of the AAA, National Safety Council or such other nationally recognized curriculum approved by the Department and which is designed to educate persons committing minor traffic violations and to deter future violations.
- (5) May assess a reasonable fee between fifty dollars (\$50.00) or one hundred seventy-five dollars (\$175.00) for the Driver Education Course, provided that no person shall be refused admittance for inability to pay. This fee shall apply only to Driver Education Courses that may be required pursuant to T.C.A. § 55-10-301 and shall not apply to any program offered pursuant to the provisions of T.C.A. Title 49, Chapter 1, or to any other driving instruction school.
- (6) Issue a certificate of completion to each student who has successfully completed the Driver Education Course. Such certificate shall have thereon the student's full name, driver license number, date of birth, course name, hours completed and the Driver Education Course Provider's name and address.
- (7) No governmental employee or the employee's immediate family shall have a direct or indirect personal interest in a private entity that provides a Driver Education Course and shall not receive anything of value in an individual capacity from the private entity.
- (8) Comply with or exceed the minimum standards set forth herein.
- (9) Only use Instructors who meet the qualifications set forth herein.
- (10) Maintain the following records for a period of three (3) years and ensure that such records are available for inspection by the Department during business hours:
 - (a) A roster of each class, listing the course name, location, Instructor's full name, student names, driver license numbers and date of birth.
 - (b) A receipt for each student stating the student's full name, driver license number and amount paid.
 - (c) A list of students who have successfully completed the Driver Education Course, with each student's full name, driver license number, date of birth, course name and class location.
 - (d) Course material, which shall include the most recent material to teach crash prevention, and safe and defensive driving.
 - (e) Any other records that may be required by the Department.
- (11) Ensure compliance with all Department rules and regulations.
- (12) Immediately notify the Department by mail, facsimile or electronic transmission of any change(s) in information on the application or any change in ownership or Instructors.
- (13) Be open for periodic (with or without notice) on-site inspection by the Department.

(14) Shall not hire any person as an Instructor or otherwise who is an employee of the Department.

(15) Comply with the requirements of the Americans with Disabilities Act of 1990.

Authority: T.C.A. §§ 55-10-301 and 40-35-302(g). Administrative History:

1340-03-07-.04 Driver Education Course Instructor Requirements.

- (1) Must be at least twenty-one (21) years of age, high school graduate or passed the GED, have and maintain a valid driver license that has not been revoked, suspended or cancelled for any reason in the three (3) years preceding the date of hire, no conviction for a felony or any crime involving violence, dishonesty, deceit, fraud, or indecency and not an employee of the Department.
- (2) Shall have attended and successfully completed a Driver Education Course Instructor's School operated by AAA, National Safety Council or such other certified school approved by the Department. The Driver Education Course Provider shall send a copy of the Instructor's certificate of completion to the Department's Safety Education Unit. The Instructor shall maintain current certification.
- (3) No governmental employee or the employee's immediate family shall have a direct or indirect personal interest in a private entity that provides a Driver Education Course and shall not receive anything of value in an individual capacity from the private entity.

Authority: T.C.A. §§ 55-10-301 and 40-35-302(g). Administrative History:

1340-03-07-.05 Denial, Revocation or Suspension.

- (1) The Department may deny, revoke or suspend a Driver Education Course Provider or Instructor for any violation of the law, rules or regulations relating to the operation of a Driver Education Course.
- (2) The Department may deny, revoke or suspend the Driver Education Course Provider or Instructor for actions including, but not limited to, the following:
 - (a) Conviction of a Provider or Instructor for a felony or any crime involving violence, dishonesty, deceit, fraud or indecency.
 - (b) Knowingly presenting false or misleading information to the Department.
 - (c) Failure or refusal to permit the Department to inspect, audit or investigate the Driver Education Course Provider's premises, the Driver Education Course instruction records, financial records, etc.
 - (d) Failure to submit the application with supporting documentation and/or the required fees within the prescribed time limit.
 - (e) Failure to maintain Department approved standards in instruction, equipment or facilities.
 - (f) The presence of alcoholic beverages or narcotic drugs on the premises.
 - (g) The presence of any type of weapon on the premises, except a weapon carried by a commissioned law enforcement officer or an individual with an authorized and valid carry permit.

Authority: T.C.A. §§ 55-10-301 and 40-35-302(g). Administrative History:

1340-03-07-.06 Hearings.

- (1) Any Provider or Instructor of a Defensive Driving Course who has been denied, revoked or suspended shall have the right to request a hearing in writing within thirty (30) days of the date of written notification of such action.

- (2) The hearing shall be before the Commissioner or the Commissioner's designee and held in accordance with the Uniform Administrative Procedures Act (T.C.A. § 4-5-101 et seq.).

Authority: T.C.A. §§ 55-10-301 and 4-5-101 et seq. Administrative History:

* 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 on 04/01/2010, and is in compliance with the provisions of TCA 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 thirty (30) days after the publication date of the issue of the Tennessee Administrative Register in which these proposed rules are published.

Date: 04-01-10

Signature: [Signature]

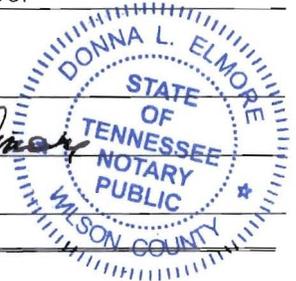
Name of Officer: Dereck Stewart

Title of Officer: Captain, Tennessee Highway Patrol

Subscribed and sworn to before me on: 4-5-10

Notary Public Signature: [Signature]

My commission expires on: 1-26-2014



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.

[Signature]
 Robert E. Cooper, Jr.
 Attorney General and Reporter

5-11-10
 Date

Department of State Use Only

Filed with the Department of State on: 5/13/10

Effective on: 10/29/10

[Signature]
 Tre Hargett
 Secretary of State

RECEIVED
 2010 MAY 13 AM 10: 53
 SECRETARY OF STATE
 PUBLICATIONS

Regulatory Flexibility Addendum

Pursuant to Public Chapter 464 of the 105th General Assembly, prior to initiating the rule making process as described in § 4-5-202(a)(3) and § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 2007, T.C.A. § 4-5-401, et seq., the Department of Safety submits the following regulatory flexibility analysis:

- (1) The extent to which the rule may overlap, duplicate, or conflict with other federal, state, and local government rules:

The proposed rule does not overlap, duplicate or conflict with other federal, state or local government rules.

- (2) Clarity, conciseness, and lack of ambiguity in the rule:

The proposed rule exhibits clarity, conciseness, and lack of ambiguity.

- (3) The establishment of flexible compliance and reporting requirements for small businesses:

The proposed rule establishes reasonable compliance and inspection requirements for small businesses engaged in Driver Education Courses. The proposed rule does not establish any reporting requirements for small businesses.

- (4) The establishment of friendly compliance and reporting requirements for small businesses:

The proposed rule establishes the requirement for periodic compliance inspections for small businesses engaged in Driver Education Courses. The proposed rule does not establish any reporting requirements for small businesses.

- (5) The consolidation or simplification of compliance or reporting requirements for small businesses:

The proposed rule requires periodic inspections for small businesses engaged in Driver Education Courses.

- (6) The establishment of performance standards for small businesses as opposed to design or operational standards required in the proposed rule:

The proposed rule establishes performance and operational standards for small businesses engaged in Driver Education Courses. The majority of these standards are already required by T.C.A. §§ 55-10-301 and 40-35-302(g).

- (7) The unnecessary creation of entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

The proposed rule does not unnecessarily create entry barriers or other effects that stifle entrepreneurial activity, curb innovation, or increase costs.

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;

T.C.A. § 55-10-301 requires that court-ordered driver education courses be approved by the Department of Safety. This is a new rule that establishes uniform procedures for approval and regulation of driver education courses by the Department.

- (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;

Although T.C.A. § 55-10-301 requires driver education courses to be approved by the Department of Safety, the statute does not mandate that the department promulgate rules or regulations.

- (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;

Counties, municipalities, or other entities of local government; nonprofit organizations, and private entities that operate and conduct driver education courses.

- (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;

Entities that provide and conduct driver education courses will be required to pay an initial application fee to the Department of \$150.00 and a \$50.00 renewal fee each year thereafter. These fees will be used by the Department to cover administrative and inspection costs and are not intended or expected to result in any increase in government revenues.

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

Captain Dereck Stewart;

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

Captain Dereck Stewart;

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

Tennessee Department of Safety
1150 Foster Avenue
Nashville, TN 37243
(615) 687-2408

- (I)** Any additional information relevant to the rule proposed for continuation that the committee requests.

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Sequence Number: REDLINE
Rule ID(s): _____
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Agency/Board/Commission: Department of Safety
Division: Highway Patrol
Contact Person: Gerry Crownover, Staff Attorney
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Zip: 37243
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Email: Gerry.Crownover@tn.gov

Revision Type (check all that apply):

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

Chapter Number	Chapter Title
1340-03-07	Driver Education Courses
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(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>)

Rules
Of
Tennessee Department of Safety
Highway Patrol

Chapter 1340-03-07
Driver Education Courses

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1340-03-07-.01 Purpose.

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Authority: T.C.A. §§ 4-3-2009 and 55-10-301. Administrative History:

1340-03-07-.02 Definitions.

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(4) "Driver Education Course Instructor" shall mean an individual who is approved by the Department for the purpose of conducting a Driver Education Course.

(5) "Driver Education Course Provider" shall mean an entity approved by the Department to operate and conduct a Driver Education Course and shall include:

(a) County, municipality or other entity of local government;

(b) Nonprofit organization as defined by the Internal Revenue Code, 26 U.S.C. § 501(c)(3); or

(c) Private entity, provided the entity meets or exceeds all the requirements of T.C.A. § 40-35-302(g) for private entities providing misdemeanor probation supervision services.

(6) "Governmental employee" shall mean employees and officials of the state of Tennessee and its political subdivisions who are employed as law enforcement employees or officials; probation and parole employees or officials; judicial employees or officials, or correctional employees or officials, including employees and officials of jails and workhouses.

(7) "Immediate family" shall mean and include the employee's spouse/partner, mother, father, siblings, adult children or maternal and paternal grandparents.

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- (2) Upon initial approval, the applicant will be provided a Certificate by the Department. The Certificate shall be conspicuously displayed in the primary place of business of the approved applicant.
- (3) Submit an annual renewal fee in the amount of fifty dollars (\$50.00).
- (4) Provide a minimum of four (4) hours of classroom or on-line driver safety training which has been determined by the Department to meet or exceed the standards of the AAA, National Safety Council or such other nationally recognized curriculum approved by the Department and which is designed to educate persons committing minor traffic violations and to deter future violations.
- (5) May assess a reasonable fee between fifty dollars (\$50.00) or one hundred seventy-five dollars (\$175.00) for the Driver Education Course, provided that no person shall be refused admittance for inability to pay. This fee shall apply only to Driver Education Courses that may be required pursuant to T.C.A. § 55-10-301 and shall not apply to any program offered pursuant to the provisions of T.C.A. Title 49, Chapter 1, or to any other driving instruction school.
- (6) Issue a certificate of completion to each student who has successfully completed the Driver Education Course. Such certificate shall have thereon the student's full name, driver license number, date of birth, course name, hours completed and the Driver Education Course Provider's name and address.
- (7) No governmental employee or the employee's immediate family shall have a direct or indirect personal interest in a private entity that provides a Driver Education Course and shall not receive anything of value in an individual capacity from the private entity.
- (8) Comply with or exceed the minimum standards set forth herein.
- (9) Only use Instructors who meet the qualifications set forth herein.
- (10) Maintain the following records for a period of three (3) years and ensure that such records are available for inspection by the Department during business hours:
 - (a) A roster of each class, listing the course name, location, Instructor's full name, student names, driver license numbers and date of birth.
 - (b) A receipt for each student stating the student's full name, driver license number and amount paid.
 - (c) A list of students who have successfully completed the Driver Education Course, with each student's full name, driver license number, date of birth, course name and class location.
 - (d) Course material, which shall include the most recent material to teach crash prevention, and safe and defensive driving.
 - (e) Any other records that may be required by the Department.
- (11) Ensure compliance with all Department rules and regulations.
- (12) Immediately notify the Department by mail, facsimile or electronic transmission of any change(s) in information on the application or any change in ownership or Instructors.
- (13) Be open for periodic (with or without notice) on-site inspection by the Department.

(14) Shall not hire any person as an Instructor or otherwise who is an employee of the Department.

(15) Comply with the requirements of the Americans with Disabilities Act of 1990.

Authority: T.C.A. §§ 55-10-301 and 40-35-302(g). Administrative History:

1340-03-07-.04 Driver Education Course Instructor Requirements.

(1) Must be at least twenty-one (21) years of age, high school graduate or passed the GED, have and maintain a valid driver license that has not been revoked, suspended or cancelled for any reason in the three (3) years preceding the date of hire, no conviction for a felony or any crime involving violence, dishonesty, deceit, fraud, or indecency and not an employee of the Department.

(2) Shall have attended and successfully completed a Driver Education Course Instructor's School operated by AAA, National Safety Council or such other certified school approved by the Department. The Driver Education Course Provider shall send a copy of the Instructor's certificate of completion to the Department's Safety Education Unit. The Instructor shall maintain current certification.

(3) No governmental employee or the employee's immediate family shall have a direct or indirect personal interest in a private entity that provides a Driver Education Course and shall not receive anything of value in an individual capacity from the private entity.

Authority: T.C.A. §§ 55-10-301 and 40-35-302(g). Administrative History:

1340-03-07-.05 Denial, Revocation or Suspension.

(1) The Department may deny, revoke or suspend a Driver Education Course Provider or Instructor for any violation of the law, rules or regulations relating to the operation of a Driver Education Course.

(2) The Department may deny, revoke or suspend the Driver Education Course Provider or Instructor for actions including, but not limited to, the following:

(a) Conviction of a Provider or Instructor for a felony or any crime involving violence, dishonesty, deceit, fraud or indecency.

(b) Knowingly presenting false or misleading information to the Department.

(c) Failure or refusal to permit the Department to inspect, audit or investigate the Driver Education Course Provider's premises, the Driver Education Course instruction records, financial records, etc.

(d) Failure to submit the application with supporting documentation and/or the required fees within the prescribed time limit.

(e) Failure to maintain Department approved standards in instruction, equipment or facilities.

(f) The presence of alcoholic beverages or narcotic drugs on the premises.

(g) The presence of any type of weapon on the premises, except a weapon carried by a commissioned law enforcement officer or an individual with an authorized and valid carry permit.

Authority: T.C.A. §§ 55-10-301 and 40-35-302(g). Administrative History:

1340-03-07-.06 Hearings.

(1) Any Provider or Instructor of a Defensive Driving Course who has been denied, revoked or suspended shall have the right to request a hearing in writing within thirty (30) days of the date of written notification of such action.

(2) The hearing shall be before the Commissioner or the Commissioner's designee and held in accordance with the Uniform Administrative Procedures Act (T.C.A. § 4-5-101 et seq.).

Authority: T.C.A. §§ 55-10-301 and 4-5-101 et seq. Administrative History: