

JUSTICE AND PUBLIC SAFETY CABINET
Department of State Police
(Amendment)

502 KAR 10:035. Commercial driver's license skill testing.

RELATES TO: KRS 165A.310, 281A.160, [332.040], 49 C.F.R. 383.75, 49 C.F.R. 383.131

STATUTORY AUTHORITY: KRS 165A.310, 281A.150(2), (3), 281A.160, [332.040]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 281A.160 authorizes third parties to administer the skills test for commercial driver's licenses. This administrative regulation establishes procedures for authorization and testing.

Section 1. Application for Authorization. Persons desiring to administer the skills test for commercial driver's licenses shall make a written request to the Kentucky State Police Driver Testing Branch [~~Driver Testing Section of the Department of State Police~~]. The request shall be accompanied by a copy of a current driver's training school or instructor's license, and proof of satisfactory completion of a CDL examiner's training course approved by the U.S. Department of Transportation, Federal Highway Administration (FHWA).

Section 2. Issuance of Authorization. Upon receipt of a written request from a qualified person the Driver Testing Branch [~~Section~~] of the Department of State Police shall issue a letter of authorization to conduct the CDL skills test. The letter of authorization shall be considered an endorsement to the drivers training school or instructor's license and shall be subject to the same terms and conditions as school or instructor's license.

Section 3. Skills Test Requirements. Persons authorized to administer the CDL skills test shall be subject to the following additional requirements:

(1) Administration of skills tests shall comply with 49 C.F.R. 383.75, Subparts G and H.

(2) Persons administering the skills tests shall, without deviation, administer the test in accordance with the AAMVA's 2005 CDL Test System Model CDL Examiner's Manual [~~Kentucky State Police Driver Testing Section CDL Examiner's Manual. The manual is hereby incorporated by reference. Copies of the manual may be obtained from the Driver Testing Section of the Department of State Police, 919 Versailles Road, Frankfort, Kentucky 40604.~~]

(3) Persons administering the skills tests shall, following the road test, immediately call the Kentucky State Police Driver Testing Branch [~~Driver Testing Section of the Department of State Police and report the score given to the person tested~~].

Section 4. Processing Fee. A processing fee of twenty-five (25) dollars shall accompany the written request to administer the skills test.

PHILLIP J. BURNETT, JR., Commissioner

APPROVED BY AGENCY: August 24, 2021

FILED WITH LRC: August 26, 2021 at 4:30 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 8:00 a.m. on November 22, 2021 at 4449 Kit Carson Drive, Funderburk Building, Richmond, Kentucky 40475. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an

opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on November 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Amy Barker, Assistant General Counsel, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email amy.barker@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for driver's license skill testing, including authorization and testing.

(b) The necessity of this administrative regulation: This regulation is necessary in order to carry out the provisions of KRS 165A.310 and the applicable federal statute.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms to the authorizing statute by providing guidance to the promulgated regulations implementing KRS 165A.310 and the applicable federal statute.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation assists in the administration of the statutes by clarifying the statutory authority and updating the procedures currently utilized by the department.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment accurately reflects the statutory authority and the procedures utilized by the department.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the authorizing statute by providing guidance to the promulgated regulations implementing KRS 165A.310 and the applicable federal statute.

(d) How the amendment will assist in the effective administration of the statutes: The amendment clarifies the statutory authority.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Department of Kentucky State Police; driver training schools; driver training school instructors.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: No new or additional actions will have to be taken by the regulated entities in order to effectively comply with this amended regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: Nothing.

(c) As a result of compliance, what benefits will accrue to the entities: They will benefit from having the correct statutory authority cited.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Not applicable.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will be necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No, this regulation does not establish any new fees; nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Kentucky State Police; driver training schools; driver training school instructors.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 165A.310 and the applicable federal statute.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? Nothing.

(d) How much will it cost to administer this program for subsequent years? Nothing.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None.

Expenditures (+/-): None.

Other Explanation: None.