

JUSTICE AND PUBLIC SAFETY CABINET
Kentucky Law Enforcement Council
(Amendment)

502 KAR 10:080. License suspension, revocation, denial.

RELATES TO: KRS 332.216 [~~332.060~~]

STATUTORY AUTHORITY: KRS 15A.160, 165A.475, 332.216 [~~332.100~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.160 and 332.216 authorize the department to [~~332.100 provide that the Secretary of the Justice Cabinet in cooperation with the Commissioner, Department of State Police, may~~] adopt [such] administrative regulations necessary to carry out the provisions of KRS Chapter 165A and [~~Chapter~~] 332. This administrative regulation establishes the department's policy regarding license suspensions, revocations or denials.

Section 1. In addition to the provisions of KRS 332.216 [~~332.060~~], the commissioner of the department [~~secretary~~] shall upon receipt of satisfactory evidence, suspend, revoke, refuse to issue or refuse to renew the license of a driver training school or a driver training instructor if:

(1) The licensee fails or refuses to comply with the provisions of KRS Chapter 165A and 332 or any rule or administrative regulation adopted thereunder.

(2) The licensee has made a false material statement or has concealed a material fact in connection with his or her application.

(3) The licensee or any officer, director, partner, or other person directly interested in the driver training school held a license issued under KRS 165A.475 [~~332.030~~] which was revoked or suspended and not reinstated.

(4) The licensee has been guilty of a fraudulent practice in attempting to obtain for himself, herself, or another a license to operate a motor vehicle.

(5) Written notice of the cancellation of insurance required by KRS 165A or 332.204 [~~332.030~~] is received by the commissioner and the licensee does not present satisfactory evidence of insurance to the commissioner prior to the effective date of the cancellation.

(6) The licensee has failed to maintain adequate standards of instructions or safe and necessary equipment which is needed to give proper driver training instruction.

(7) The licensee is employing instructors or agents who have not been licensed by the department.

(8) The licensee has been convicted of a felony, or any crime involving violence, dishonesty, deceit, indecency, immoral conduct, or sexual abuse.

(9) The licensee or any officer, director, partner or other person directly interested in the driver training school or any instructor licensed under the name of the school shall have in their possession a copy of the department's driver licensing examination questions or their equivalent, or attempts to obtain a copy of these test questions for the purpose of making them available to their students or any other person.

(10) The licensee has failed to provide or maintain premises, equipment, or conditions which are adequate, safe, and sanitary in accordance with these administrative regulations.

(11) The licensee or any officer, director, partner, instructor, agent, or other person actively involved in the driver training school is addicted to the use of alcohol, morphine, cocaine, or other mood-altering drug.

(12) The licensee or any officer, director, partner, instructor, agent, or other person actively involved in the driver training school has been legally adjudged mentally incompetent.

Section 2. ~~If~~ Whenever a driver training instructor is convicted of driving an automobile while under the influence or of leaving the scene of an accident, reckless homicide, two (2) moving hazardous violations within a two (2) year period, or driving when addicted to or while under the influence of narcotic drugs, his license shall be revoked.

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 8:00 a.m. 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: Katherine George, Staff Attorney, 4449 Kit Carson Drive, Funderburk Building, Richmond, Kentucky 40475, phone (859) 622-3801, fax (859) 622-5027, email katie.george@ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Katherine George

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the department's policy regarding license suspensions, revocations or denials.

(b) The necessity of this administrative regulation: This regulation is necessary in order to carry out the provisions of KRS 15A.160 and 332.216.

(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 15A.160 and 332.216.

(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 the procedures for licenses suspension, revocations, and denials.

(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 clarifies the department's policies currently in place.

(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 15A.160 and 332.216.

(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; driver training school facilities; licensees.

(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; driver training school facilities; licensees.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 15A.160 and 332.216.

(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.