

DEPARTMENT OF REVENUE

Division of Motor Vehicles

DRIVER TESTING AND EDUCATION PROGRAM RULES AND REGULATIONS

1 CCR 204-30 Rule 8

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

PURPOSE

The Department of Revenue, Division of Motor Vehicles, Driver Testing and Education Section developed rules, regulations and certification requirements to establish the working and operational instructions for the conduct of certified Commercial Driving Schools, Commercial Driver Education programs, Basic Operators Skills Testing Organizations, and third party testers.

The rules, regulations and requirements will furnish guidelines as necessary for certified Commercial Driving Schools to remain current with changing laws and new programs promoting the safety and welfare of the citizens of Colorado and to aid in the detection of fraudulent activities.

STATUTORY AUTHORITY

Sections: 12-15-114, 116, and 120, 24-4-103, 42-1-102 (43.5), 42-1-204, 42-1-222, 42-2-106 and 42-2-111 C.R.S and in adopting such rules, the Department shall use the guidelines concerning Commercial Driving Schools promulgated by the United States Department of Transportation, Section 12-15-116(3) C.R.S.

(100) DEFINITIONS

- a) **BOST: (Basic Operators Skills Test):** Means either the Basic Operator Skills Drive Test (BOSD) or the Basic Operators Skills Written Knowledge Test (BOSW) or both.
- b) **Basic Operator Skills Tester:** An individual employed by a certified Commercial Driving School who has successfully passed the training required by the Department, has successfully met the additional company training requirements, and is certified to administer the BOSD.
- c) **Basic Operator's skill testing Organization (BOSTO):** A Commercial Driving School certified by the Department to conduct the BOST for a permit or driver license.
- d) **Behind-the-Wheel training (BTW):** An extension of classroom instruction that provides students with opportunities for traffic experiences under real conditions.
- e) **Behind-the-Wheel instructor (BTWI):** An instructor employed by a ~~an approved~~certified Commercial Driving School who is certified by the Department for behind-the-wheel training.
- f) **Clock Hours:** Full hour consisting of sixty (60) minutes. ~~Section 12-15-101 (1), C.R.S.~~
- g) **CMV:** Commercial motor vehicle.
- h) **Certified Commercial Driving School (CDS):** Any business or any person who, for compensation, provides or offers to provide training or examinations that are statutorily-mandated for a driver license or instruction permit. The aforementioned does not include institutions of higher education offering programs approved by the Department of Education and/or private occupational schools offering programs approved by the private occupational school division, section 42-2-111(1)(b), C.R.S.~~Any business or any person who, for compensation, provides or offers to provide~~

~~instruction in the operation of a motor vehicle, and is certified by the Driver Testing Education Section of the Motor Vehicle Division. The aforementioned does not include secondary schools and institutions of higher education offering programs approved by the Department of Education and/or private occupational schools offering programs approved by the private occupational school division.~~

- i) **Commercial driving instructor:** An individual employed by a Commercial Driving School ~~certified Commercial Driving School~~ (CDS) as an instructor ~~tester~~ of students.
- j) **Curriculum Content:** The content of a course of instruction set by the Department that meets the minimum requirements to obtain a driving permit.
- k) **Department:** The Department of Revenue.
- l) **DTES:** Driver Testing and Education Section.
- m) **Expanded Driver Awareness Program / Driver Awareness Program (EDAP/DAP):** A four-hour pre-qualification driver awareness program approved by the Department. Section 42-2-106(1)(d)(I), C.R.S.
- n) **Instruction Permit:** A driving document issued by the Department to allow an individual to drive a motor vehicle or motorcycle, as provided for in section 42-2-106, C.R.S., prior to receiving a Colorado driver's license.
- o) **Revocation of testing certification:** The permanent withdrawal of a BOST tester's or a BOSTO's testing privileges by the Department.
- p) **Shadow drive:** Additional practice in drive testing before certification or re-certification.
- q) **Suspension of testing certification:** An action taken by the Department against a BOST tester or a BOSTO whereby testing privileges are withdrawn for a specified period of time.
- r) **Service Dogs:** Dogs that are individually trained to do work or perform tasks for people with disabilities. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals.

(150) APPLICABILITY

This Rule 8 applies only to CDSs that offer that offer statutorily-mandated examinations or statutorily-mandated training for a driver's license or instruction permit.

(200) GENERAL REQUIREMENTS FOR COMMERCIAL DRIVING SCHOOL CERTIFICATION

- ~~a) Commercial Driving Schools[]~~
- ~~ab) In order for a Commercial Driving School to be certified by the Department as a CDS, such school must:~~
 - ~~1. Commercial Driving Schools (CDS) shall e~~Enter into a written contract with the Department;
 - ~~2. The CDS shall have Offer~~a commercial driver education course of instruction approved by the Department.
- ~~bc)~~ Application for certification must be submitted on forms provided by the Department and must indicate on the form the type of certification being requested.
- ~~cd)~~ A copy(s) of the CDS's state, county, or municipal business license(s) or waivers, registration with

the Secretary of State, along with any other documentation required by the county or city, shall be submitted with an application. Section 12-15-116(2), C.R.S.

de) A CDS's place of business ~~shall~~must be a separate establishment and not part of a residence.

~~1. All CDSs shall comply with city zoning and code requirements.~~

~~12.~~ All CDSs are required to have a mailing address that is not a post office box.

~~23.~~ A CDS must request and receive written approval from the Department for recordkeeping in a residential home office.

ef) Each new owner/manager must complete "Records Management"/BOSW training prior to certificationu.

fg) **Insurance:** All CDSs must have: proof of current and valid vehicle insurance, vehicle registration, general liability insurance, surety bond, and worker's compensation insurance on file with the Department at all times.

1. The Department must be listed on the general liability and vehicle insurance policies as a secondary insured.

2. It is the CDS owner's responsibility to ensure that the insurance company sends the required information to the Department.

3. Failure to provide updated insurance and registration information to the Department within 30 days of expiration is grounds for suspension, and such suspension may be in effect until current insurance and/or registration is received.

4. A CDS is required to provide an inventory of all vehicles used for testing/training, and proof of second brake installation to the Department. Changes to vehicle inventory ~~shall~~must be reported, in writing, to the Department within 30 days of the change.

gh) **Bond:** All CDSs ~~shall~~must maintain a surety bond, executed by a surety company authorized to do business in Colorado, in the amount of \$10,000 with the Department.

1. The bond ~~shall~~must be for the use and benefit of the Department in the event of a monetary loss within the limitations of the bond attributable to the willful, intentional, or negligent conduct of the CDS, or its agents or employees.

2. The bond may be used to indemnify against loss or damage arising out of the CDS's breach of contract between the CDS and the student.

3. If the amount of the bond is decreased or terminated, or if there is a final judgment outstanding on the bond, the ~~CDS's~~BOSTO certification ~~shall~~ may be suspended. The suspension ~~shall~~ may continue until satisfactory steps are taken to restore the original amount of the bond.

4. The Department ~~shall~~must be named as the beneficiary on the bond.

hi) **Physical facilities:** Each CDS requesting certification by the Department must have a place of business with adequate facilities to conduct classes and to maintain all required files and records:

1. All forms issued by the Department ~~shall~~must be kept in locked and limited access areas.

2. A CDSs ~~shall~~must obtain written permission from property owners, on a Department

approved form, prior to conducting driver education training on the property. The written permission must be submitted to the Department prior to the commencement of training on the property.

3. Each CDS ~~shall~~**must** post its hours of operation in a conspicuous place and be available to the public during those hours.
4. If a CDS uses approved public facilities as a place of business, then commercial driving instructors for the CDS must maintain a copy of the school's CDS certification and classroom waiver in their possession.

~~j) A new CDS may not have a name that is substantially similar to a previously certified CDS. The Department reserves the right to determine if a name is substantially similar.~~

~~ik) CDSs shall~~**must** monitor and ensure their employees are following all rules, regulations, and statutes.

~~il) A CDS must notify t~~The Department ~~must receive notice~~ in writing within 3 days of any change in the place of business, directors, owners, or managers of any CDS. Certifications are not transferable.

~~km) If a CDS has any~~ change in ownership, then the new owner must file a new application for certification, sign a new contract with the Department and be approved by the Department before beginning operation under the new ownership. Failure to inform the Department of any ownership change ~~shall be~~ **is** grounds for revocation or suspension of CDS certification.

~~l) To become a certified~~**request certification as a CDS, the CDS must complete and submit a Department approved application form.**

(201) CURRICULUM

~~a) CDSs that train using behind-the-wheel ride along, simulator, range driving, or homework, may not use this time towards the 6 hours behind-the-wheel training, but may count up to 2 hours towards classroom hours.~~

~~b) A CDS must offer a thirty (30) hour commercial driver education course of instruction approved by the Department, except that a CDS that provides only EDAP/DAP training need not offer such 30-hour course, but must meet the requirements in section 303 of this rule.~~

~~cb) Any change in a CDS's course~~ of instruction requires resubmission and recertification.

~~de) When a course of instruction is submitted for approval, the course of instruction shall~~**must** include a lesson plan with an instructor guide, course outline, and course content, all in the format required ~~by the Department.~~

~~ed) A CDS shall~~**must** teach the approved course of instruction at all times. Failure to teach the approved course of instruction or changing a course of instruction without prior submission and recertification may result in a suspension or revocation of certification of the CDS.

~~fe) Driver education courses must be equal to, or exceed the requirements, for hours of instruction (excluding lunches/meal times/breaks) and course content as determined by~~**set forth in** the Department's **application form for CDS certification.**

~~gf) The course of instruction requirements for a driver education course, Expanded Driver Awareness program, or behind-the-wheel training are available on the Department's official website.~~

(202) CURRICULUM WITHDRAWAL

- a) Approval of a CDS's course of instruction may be withdrawn for failure to teach the approved content or the required number of hours, comply with BOST rules and regulations.
- b) If a CDS is notified that approval for its course of instruction has been withdrawn, the CDS ~~shall~~must cease instructing and signing all forms that allow an applicant to obtain a permit or license.
- c) A CDS may appeal withdrawal of approval for its course of instruction by filing a written appeal within 10 calendar days after receiving notice of withdrawal of approval, with the Department's Hearings Division, whose decision shall be final.

(203) CLASSROOM REQUIREMENTS

- a) With the exception of internet and home study, a CDS must provide a classroom that meets the following requirements:
 - 1. has a large enough space to seat all students comfortably, containing at least one adequate; seating and desk/table space for each student, and one program instructor's desk, table, or podium;
 - 2. has curricula presentation equipment for the class;
 - 3. has appropriate clean restroom facilities; and
 - 4. has adequate parking available in close proximity to the classroom.
- b) Approval of the classroom by the Department is required prior to scheduling the first class.
- c) Modular units must be inspected and approved in writing by the Department prior to any classes being taught at the unit. Motorized mobile units will not be approved.
- d) CDS, EDAP, and DAP programs ~~shall~~must not be part of a home, mobile home, apartment, or living quarters of any kind. ~~Classrooms must project a professional image and provide students with the proper learning environment.~~

(300) ~~COMMERCIAL DRIVING SCHOOL~~CERTIFIED COMMERCIAL DRIVING SCHOOL OPERATING REQUIREMENTS

- a) All CDSs ~~shall~~must comply with applicable Colorado revised statutes, Department rules and regulations, ~~and BOST standards.~~
- b) All CDSs ~~shall~~must cooperate with any investigation of a written complaint against a tester or a CDS.
- c) While a CDS may provide information to applicants regarding documentation required by the Department for the issuance of instruction permits, licenses, or identification cards, a CDS may not act as a liaison between the applicant and the Department.
- d) All instructors ~~shall~~must be physically and mentally able to safely operate a motor vehicle and to train others in the operation of a motor vehicle.
- e) All employees of a CDS must:
 - 1. ~~have provide~~ a CBI background check and a Department approved form with an original

signature ~~on a Department approved form; on file with the Department;~~

~~2. submit a new background check and an original signature, on a Department approved form, with each renewal packet;~~

~~3. submit paperwork for any new hire within 10 days of employment;~~

24. have a valid Colorado driver's license that has not been suspended, revoked, forfeited, or denied within the last three years; and

35. must ensure that testing/training forms are fully and accurately completed.

f) If the Department has reason to believe or receives information that an employee has been convicted of or pled guilty or nolo contendere to a felony or received a deferred sentence to a felony charge, the Department may deny certification. ~~or suspend or revoke testing certification.~~

g) A CDS must:

1. have a valid tester number on file with the Department; ~~and~~

2. account for all forms in ~~his/her~~its possession; ~~;~~

~~3. with each renewal packet a CDS must submit on a Department approved form a list of certifications requested for each tester, a CBI background check and every other year an original signature for each tester; ;~~

~~4. within 10 days of employment submit paperwork on a Department approved form listing the certifications requested (excluding BOSD) for the tester and a CBI background check with and original signature; and;~~

~~5. must ensure that testing/training forms are fully and accurately completed.~~

hg) Signing a form that represents ~~confirmation~~ that training/testing has been successfully completed, when a student has not successfully completed the testing/training, ~~will~~ may result in suspension or revocation of the employee's certification, and the certification of the CDS employing the instructor may be suspended or revoked. ~~f~~

ih) If an employee of a CDS drives with students, the employee may not have a personal driving record showing the accumulation of 8 or more points in the past three-year period. The Department will randomly audit motor vehicle records (MVR) of all CDS employees. If upon random audit, it is determined that an employee has accumulated ~~more than 8 or more~~ points within a 3-year period, or his/her license has been suspended, revoked, forfeited, or denied, the employee's certification ~~will~~ may be suspended or revoked. If a CDS fails to report a change of status with the driving license of one of its employees, the CDS's certification may be suspended or revoked.

ij) A CDS must notify the Department of the location of all branch offices. Branch opening notices must include copies of the business license(s) ~~waivers~~. A notice must be mailed to the Department within 10 days of opening or closing any branch office, and the notice must include the names of all employees to be added or deleted from the CDS's certification and the date the branch office was opened or closed. A branch office is required to meet all classroom and physical facilities requirements applicable to the main facility.

kj) A CDS must keep ~~their~~ its current physical and mailing addresses, contact phone numbers, and the name of one contact person who is an employee or principal of the CDS on file with the Department.

- ~~l~~k) The Department will not accept forms that show evidence of alteration. Forms containing an alteration ~~shall~~must be voided and a new form issued.
- ~~m~~l) A CDS ~~shall~~must notify the Department in writing within 3 business days of an employee's change of driving status or departure from the CDS.
- ~~n~~m) Home Study programs:
 1. must meet minimum curriculum requirements;
 2. must provide, in person or online, a final test that is administered prior to sending a completion statement. Test questions must come from a pool of questions that are scrambled each time a student takes a test or quiz;
 3. must, if the provider's main facility is out of state, maintain a ~~branch~~satellite office in Colorado containing student files for audits and maintain copies of completion statements with the student files;
 4. must forward completion statements containing an original signature to students (electronic, photocopied, or faxed signatures do not meet this requirement); and
 5. must NOT issue a completion statement to a student unless the student receives a correct score of ~~at least 9 correct answers or~~ 80% or higher on the final test.

(301) BEHIND-THE-WHEEL TRAINING

- a) Vehicles used by a CDS for behind-the-wheel (BTW) instruction must:
 1. be equipped as ~~defined~~required in section 12-15-114 C.R.S.;
 2. be registered and insured as required in article 3 of ~~title~~ 42 and article 4 of ~~title~~ 10;
 3. be available for inspection ~~and~~ audit and, if found to be out of compliance with requirements, may result in suspension of certification until such time as requirements are met; and
 4. be available for inspection by the Department prior to certification of a CDS, or if obtained after certification, be available for inspection prior to use. inspected prior to use by the CDS for BTW instruction
- b) All BTW lessons must be in vehicles owned/leased by the CDS. BTW instruction ~~shall~~must not be administered in a student's private vehicle.
- c) ~~Behind-the-wheel~~BTW training ~~shall~~must be recorded on a Department approved form, which form ~~shall~~must be attached to the BTW completion statement.
- d) If a second student is in the back seat of the vehicle during BTW training, the second student ~~shall~~must not be given credit towards ~~their~~his/her 6 hours of BTW; and
- ~~e) _____ and~~ The CDS must have a ~~waiver or stipulation~~notification with permission, signed by the parent or guardian of the second student, stating that the parent or guardian is aware the second student will be in a vehicle driven by another student.
- ~~f) _____~~ For a CDS to become certified to teach BTW, a CDS one must submit a curriculum on a Department approved form.

(302) CERTIFIED COMMERCIAL DRIVING SCHOOLS OFFERING INTERNET PROGRAMS

- a) ~~Internet providers~~ CDSs offering internet programs ~~shall must~~ use the name they registered with the Colorado Secretary of State in any advertising within Colorado
- b) ~~The c~~urriculum of CDSs offering internet programs must equal or exceed the current minimum standards of the Department and be approved by the Department prior to being sold in the State of Colorado.
- c) All ~~out-of-state~~ CDSs offering ~~only internet programs~~ ~~Internet providers~~ must enter into a contract with the Department and in order to be an approved school certified as a CDS, and but are not eligible to be certified ~~comes~~ a BOSTO or basic operator skills tester.
- d) All CDSs offering internet programs must maintain an ~~an~~ satellite office in Colorado containing student files available for audits. Copies of completion statements must be maintained with the student files.
- e) CDSs offering internet programs ~~are required to~~ must forward provide completion statements containing an original signature to students. Electronic, photocopied, or faxed signatures do not meet this requirement.
- f) To be eligible for renewal of certification, a CDS offering ~~internet~~ internet programs approved by the ~~State of Colorado Department,~~ must issue Affidavits of a Department Completion Form ~~offer~~ a Driver Education course to at least 50 students in the ~~S~~state of Colorado each year.
- g) If a CDS contracts with another CDS to sell an online product, the ~~new seller contract~~ must be submitted a copy of their executed contract to the Department within 10 days of the date on which the contract was fully executed.
- h) ~~Each CDS shall must issue t~~The Driver Testing and Education ~~Section~~ (DTES) manager and auditor ~~will be issued~~ a user name and password so random audits of student records, test scores, curriculum, and security protocols can be performed.
- i) All internet material must contain an explanation of current Colorado laws including:
 1. ~~teen minor~~ permit issuance;
 2. behind-the-wheel requirements; and
 3. requirements for licensure.
- j) Internet programs ~~shall~~ must be monitored to ensure applicants had the opportunity to review the curriculum for the required number of hours prior to issuance of a completion statement.
- k) Each internet chapter/section must have a question ~~ie~~ embedded within it that does not allow progression if a student does not correctly answer the question pertaining to that chapter/section.
- l) After two failed attempts to pass a test/quiz, students must review previous material.
- m) A final test must be administered prior to sending a completion statement. Test questions must come from a pool of questions that are scrambled each time a student takes a test or quiz.
- n) Students must be shown the correct answers to questions they missed on tests and quizzes prior to re-testing.
- o) Students must receive a correct score of at least 80% or higher ~~correct answers~~ before being

allowed to go to the next module/section, or being issued a completion certificate.

(303) EDAP/DAP PROGRAMS

- a) All entities that teach the ~~Expanded Driver Awareness ("EDAP") program~~ EDAP/DAP for the purpose of qualifying students for a Colorado minor's instruction permit must be ~~certified as a~~ CDS and except as otherwise provided in subsection 201(b) of this rule, meet CDS curriculum and statutory requirements.
- b) An approved ~~Driver Awareness Program (DAP)~~ DAP must be approved through the National Safety Council and remain in good standing with the NSC rules, regulations, and teaching standards, and must be provided by ~~certified as a~~ CDS and meet CDS curriculum and statutory requirements.
- c) Students must be 15 years and 6 months of age before completing an approved ~~EDAP/DAP Expanded Driver Awareness program or a Driver Awareness Program.~~
- d) ~~EDAP and DAP~~ EDAP/DAP completion statements are valid for 6 months from the time date of issuance.

(304) ADVERTISING

- a) Advertisements ~~shall~~ must not imply that a CDS can issue or guarantee the issuance of a Colorado driver license or permit.
- b) Advertisements and CDS employees ~~shall~~ must not imply that a CDS or the employee has influence over the Department in the issuance of a Colorado driver license or permit.
- c) No CDS, basic operator skills tester, ~~BOSTO or~~ CDS employee or CDS agent is permitted to solicit or advertise on the premises of a Colorado driver's license office.
- d) Use of the Colorado State seal by a CDS is strictly prohibited.
- e) CDSs ~~cannot~~ shall not advertise a business practice that violates any statute, rule, or regulation.

(305) CONTRACTS

- a) All contracts for driver education ~~and testing~~ between a CDS and any individual or entity must contain, at a minimum, the following:
 - 1. CLASSROOM INSTRUCTION: package rate, the available dates or the website where dates can be found, times and length of each lesson, and the total number of hours of instruction;
 - 2. INTERNET OR HOME STUDY: mandated completion date if any, the total cost, and a telephone contact number ~~for~~ and the times technical and/or informational help is available.
 - 3. BEHIND-THE-WHEEL LABORATORY: package rate, the length of each lesson, the total number of hours, and the rate for any vehicle charges. Cancellation or rescheduling policies must be included in simple language. Contracts ~~shall~~ must extend for at least 12 months from the date of permit issuance.
- b) All contracts for driver education and testing must contain:

1. A statement that reads: "This agreement constitutes the entire contract between the school and the student, and any verbal assurances or promises not contained herein are not binding on either the school or the student."
2. A statement that reads: "Under this agreement an instructor may not provide behind-the-wheel training to more than two individual students per session."

~~(400) CODE OF CONDUCT~~

~~a) Every CDS and its BOST testers, employees, and agents recognize that they have a position of high public trust and agree to adhere to the following code of conduct:~~

- ~~1. Impartially administer all official duties without regard to race, gender, creed, national origin, position or influence.~~
- ~~2. Conduct all examinations in a manner reflecting their importance to public safety.~~
- ~~3. serve the public with all possible promptness and courtesy and not bully, threaten, degrade, put down, or disgrace any student or any other CDS.~~
- ~~4. Refuse any additional payment, bribe or favor.~~
- ~~5. Convey only accurate information to the public with regard to licensing requirements and BOST examinations.~~
- ~~6. Work only by official BOST testing standards—never substituting personal ideas for prescribed methods.~~
- ~~7. Maintain a professional appearance and demeanor.~~
- ~~8. Uphold the honor and dignity of the profession by reporting any fraudulent or illegal activities related to a CDS employee, BOST tester or agent of a CDS.~~
- ~~9. Carry out all duties not specifically covered by this code with the safety and welfare of the public as the controlling motive.~~

~~Failure to adhere to the aforementioned standards will result in an investigation and may lead to disciplinary action up to and including curriculum withdrawal, employee or CDS suspension, or revocation.~~

(500400) BOSTO AND BOST CERTIFICATION

- a) A CDS that is listed as a full time school (teaches required 30 hours of curriculum and offers 6 hours of BTW instruction) with the Department may apply ~~for certification as a to administer~~ BOST O tests. Testing must be equal to the training and examination ~~offered by~~ of the Department. Section 42-2-111(1) (b), C.R.S.
- b) Before applying for BOSTO certification, a CDS must submit copies of 25 student classroom completion statements and ten, 6-hour~~s~~ BTW completion statements for students under the age of 18 to the Department.
- c) ~~BOSTO certifications are valid for one year from July 1st through June 30th of the following calendar year. (These dates are from (800) a., but would this mean that a certification cannot be issued on any other date than July 1st?) and~~ must be renewed annually before the current certification expires.

- d) To renew a BOSTO certification, a CDS must provide ~~statements-documentation reflecting demonstrating~~ class completion for 50 students and 6-hours BTW completion for 25 students under the age of 18 for the preceding year. Any CDS that does not meet this requirement ~~may~~ will have its BOSTO written and drive testing privileges suspended. A CDS may re-apply for testing privileges with their ~~next yearly~~ renewal ~~application packet~~, if the minimum teaching requirements listed above have been met. ~~A CDS in a rRural area-schools~~ with limited population may apply for a variance.
- e) Owning or operating a CDS does not confer certification to administer the BOST written knowledge or drive test for the State of Colorado. BOST written knowledge or drive tests ~~can~~ may only be administered by a CDS certified as BOSTO by the Department.
- f) BOST testers who do not follow Department standards, or who sign completion statements for students who have failed written knowledge or drive tests ~~will~~ may have their certification as BOST testers revoked or suspended, and the certification of the ~~BOSTO~~ CDS employing such BOST testers may be suspended or revoked.
- g) Requests for ~~training and training and~~ certification as a BOSTO:
1. must be submitted in writing on a Department approved form;
 2. must list all employees for BOST ~~training and training and~~ certification; ~~and~~
 3. ~~each employee seeking training and training and certification must:~~
 3. i) ~~employees must~~ be at least 21 years of age; and
 4. ii) ~~have~~ have a valid Colorado driver license.
- h) All forms submitted for BOSTO certification ~~shall~~ must be kept by the CDS in a secure location and remain under the control of the CDS.
- i) Upon successful completion of the driving skills tester training course ~~by a CDS's employee, and a CDS~~ having met all additional company training and Department requirements, the Department may certify ~~the~~ CDS as a BOSTO ~~and a CDS's employee as a BOST tester. The Department will issue a separate BOST number and certification to each employee successfully completing the required training.~~
- j) A CDS must have at least one employee certified as a BOST tester to maintain BOSTO certification.
- k) In the event the BOSTO certification for a CDS is not renewed, or is revoked or suspended, all individual BOST ~~tester~~ certifications ~~for that BOSTO within that CDS~~ will be cancelled.
- l) A CDS may ~~cancel request~~ their BOSTO certification or the BOST certification of any employee ~~be canceled~~ by notifying the Department in writing. Cancellation of a certification does not nullify any of the terms of the contract between the CDS and the Department.
- m) CDSs ~~shall~~ must ensure that all their BOST testers continue to meet the training and qualification standards required to conduct BOST tests. Failure of a tester to attend scheduled training may result in suspension of testing privileges.
- n) CDSs ~~shall~~ must ensure that each BOST tester they employ follows the Department's standards for administering BOST tests.
- o) Written knowledge and driving skill tests administered by BOST testers must be equal to the ~~training and training and~~ examination conducted by the Department. Section 42-2-111(1)(b) C.R.S.

- p) A CDS ~~may be~~ suspended from BOST drive testing, ~~may also be suspended from~~ written knowledge testing, ~~or both. (And vice versa?)~~
- q) A BOST tester may be employed by more than one CDS certified as a BOSTO. A BOST tester employed by more than one CDS certified as a BOSTO will be issued a separate certification number for each CDS employing the BOST tester. A BOST tester certification is valid only while the tester is employed by the CDS listed on the certificate.
- r) The Department reserves the right to retest any student/applicant ~~if an audit indicates that the test was not administered properly or not at all, at any time.~~
- s) The Department ~~shall~~must issue a unique tester number to each BOST tester. BOST testers ~~shall~~must use only their assigned number. Unauthorized use of ~~a~~ certificate numbers ~~may~~will result in revocation or suspension of an individual's BOST certification and may result in revocation of BOSTO certification for the ~~organization-CDS~~ employing the BOST tester.
- t) BOST testers ~~shall~~must refer the following applicants to a Colorado driver license office:
 1. an applicant requesting a required skills test upon completion of a rehabilitation program;
 2. an applicant requesting a drive test after having failed 4 previous drive tests;
 3. an applicant requesting a written knowledge test after ~~4~~ failed attempts;
 4. an applicant ~~whose driver license is~~ currently under restraint ~~action~~;
 5. an applicant ~~with a valid license~~ requesting a ~~re-exam~~ test ~~without a corresponding letter from the Department~~;
 6. an applicant using a one-day permit; and
 7. an applicant unable to produce a photo ID.

(5401) THE BOST DRIVE TEST

- a) Drive test routes must be approved ~~in writing~~ by the Department prior to certification of a CDS as a BOSTO. BOST testers ~~shall~~must administer the BOST drive test only on routes approved by the Department for the ~~BOSTOCDS~~ employing the tester. ~~BOSTOCDSs~~ must request and receive approval from the Department ~~in writing~~ for any changes to an approved drive route prior to administering a road test.
- b) A ~~CDS-certified as a~~ BOSTO that has multiple physical locations must request approval for each route prior to testing. Testing on an approved test route must begin from an approved teaching/public location.
- c) Two approved drive test routes are required for each testing location
- d) ~~BOSTOCDSs~~ are required to maintain copies of approved drive routes in their files.
- e) ~~All BOSTO drive testing must be conducted on one of the approved routes~~ BOST testers must use all routes on a regular basis. Any testing on a route not previously approved may result in suspension or revocation of ~~BOST tester~~ certification.
- f) Using approved testing routes as a "pre-test" or as BTW practice for students ~~may~~will result in suspension or revocation of the tester(s) certification.

- g) Only BOST testers may administer the drive test and sign the (DR2735) Basic Operators Driving Skill test completion statement. The DR2735 will remain valid for ~~60~~180 days from the date of completion.
- h) It is the responsibility of the BOSTOCDS to ensure BOST testers complete all testing forms correctly.
- i) A BOST tester's signature on a driver completion statement constitutes a representation by the BOST tester that the applicant whose name is on the completion statement took and passed the drive test.
- j) All BOSTOCDSs shallmust hold the State harmless from liability resulting from the BOSTOCDS's administration of the BOST drive test.
- k) Prior to administering any test, BOST testers ~~shallmust~~ ensure applicants have a valid driving permit in their immediate possession, ~~a valid permit.~~
- l) A road test is not allowed if an applicant does not meet statutory licensing requirements. Testing an applicant before they meet the statutory requirements and/or postdating a BOST completion statement constitutes fraudulent activity and is grounds for suspension or revocation of BOST tester certification.
- m) BOST testers must verify that any vehicle used for testing:
 1. is properly registered and insured. Both the insurance and the registration cards must be in the vehicle and match the vehicle identification numbers;
 2. has both front and rear license plates ~~must be~~ attached to the outside of the vehicle; or temporary tags must be visible in the back window of the vehicle;
 3. has passed a safety inspection by the BOST tester to ensure all necessary equipment is in safe operating order, and that the vehicle meets all applicable state statutes for operation on a public roadway-city street;
 4. has been inspected for compliance with this subsection prior to every drive test, regardless of who owns the vehicle; and
 5. is either registered to the BOSTOCDS as a training vehicle for BTW training or a vehicle provided by the applicant.
- n) Prior to administering a BOST drive test, testers ~~shallmust~~ complete the information section of the (DR2732) score sheet including the date of the test, the name of the applicant, the vehicle, the organization, the tester information, and, after the instructions have been read, fill in the start time on the score sheet. Once the car has been secured at the end of the test, the finish time and applicant's score ~~shallmust~~ be written on the score sheet, even if the applicant has failed the test.
- o) Applicants and testers are prohibited from smoking, drinking, or eating during a drive test. All electronic devices and cell phones must be turned off during the test.
- p) Testers must conduct a full driving test in accordance with statutes, rules, contract, and BOST standards. All tests ~~shallmust~~ be recorded on forms provided by the Department.
- q) BOST drive tests ~~canmay~~ only be administered during daylight hours.
- r) After a drive test is completed, testers ~~shallmust~~ immediately critique the applicant's performance on the test in a location outside of the vehicle. If the applicant is a minor, the critique ~~shallmust~~ be

done in the presence of the parent/guardian if the parent/guardian is present.

- s) Upon successful completion of a BOST drive test, testers ~~shall~~**must** complete the DR2735, Basic Operator's Driving Skills Test completion statement. Tester and applicant ~~shall~~**must** sign the form. Tester ~~shall~~**must** staple the pink copy of the DR2735 to the score sheet (DR2732).
- t) BOST testers ~~shall~~**must** note all failures on an applicant's drive test score sheet and fax or email a failed score sheet to DTES within 24 hours of the test.
- u) If an applicant fails a drive test, BOST testers are to write "fail" and the date on the back of the applicant's permit with a permanent marker.
- v) An applicant under 18 years of age holding an out of state instruction permit may take one drive test with a BOSTO on the permit if the minor has met the statutory requirements. An applicant 18 years of age or older with an out of state instruction permit may not be tested by a BOSTOCDS.
- w) A tester ~~shall~~**must** not administer more than one complete driving test per day to any applicant. Giving an applicant more than one test per day ~~will~~**may** result in ~~an automatic~~ suspension of the tester's certification.
- x) No passengers, pets (service dogs excluded), or interpreters may be in a vehicle during a drive test. Occupants in a vehicle during a driving test are limited to the applicant(s) and the tester, with the following exceptions:
 1. A Department representative may be in the vehicle when an audit is being performed for quality assurance purposes.
 2. Another BOST tester may be in the vehicle for training and evaluation purposes with prior notification to the Department.

(5402) THE BOST WRITTEN KNOWLEDGE TEST

- a) BOST testers administering the written knowledge test ~~shall~~**must** issue the BOST written knowledge completion statement (DR2238) to the applicant upon successful completion of the written test. The DR2238 form is valid for ~~30~~**180** days from the date of issue. Only certified BOST testers may sign this form.
- b) BOST written knowledge testers:
 1. ~~shall~~**must** administer and proctor tests only at an established place of business;
 2. ~~shall~~**must** ensure that applicants do not -are not to be allowed access to any unauthorized assistance, including, but not limited to, written material, cell phones, any person, or or electronic devices, or communicate with any unauthorized person while testing;
 3. ~~shall~~**must** require applicants to write their full first and last name(s), date of birth, and the date of the test in the information box provided on the BOST written knowledge test; and interpreters, including BOST testers acting as an interpreter, must write their full-legal first and last name(s) and driver license number on the back of the test;
 4. ~~shall~~**must** require a correct score of 80% or higher (~~0 to 5 incorrect answers~~) to pass;
 5. ~~shall~~**must** grade correctly using the score key and a red pen;
 6. ~~shall~~**must** provide up to four only two tests per applicant in total, and no more than two per day. If an applicant fails ~~two~~**four** -written tests, all subsequent tests ~~shall~~**must** be taken at a Department driver license office; and

7. ~~shall~~must ensure that if an applicant fails the first test with the BOST organization, then the second test must be a different version ~~of than~~ the first test. If an applicant misses more than ~~50% of the~~10 questions on a first test attempt, the applicant must wait until the next day to test again.

~~c) Applicants may use an interpreter for the written test. Any~~The use of interpreter must will be arranged for by the applicant and any costs associated with the use of an interpreter is will be the responsibility of the applicant.

~~de) An applicant's interpreter shall not be allowed to interpret the BOST written knowledge test unless they are~~ must be at least 16 years old and show an unexpired driver license from any state in the United States.

~~ed) The BOST tester or other interpreter can interpret in the required language and can only interpret the questions and answer choices.~~

~~fe) The BOST written knowledge test shall~~must not be given to any applicant under the age of 14 years and 11 months.

~~gf) BOST written knowledge tests shall~~must not be used as "practice" or "pre" tests.

~~he) BOST written knowledge tests may not be copied outside the physical facilities unless the BOST written knowledge tests remain under the direct supervision and control of a~~ BOSTOCDS.

~~ih) Written completion statements shall~~must not be partially or fully completed until after a student has completed and passed the written test.

~~ji) BOST testers administering the written knowledge test shall~~must periodically check with the Department to confirm they have the most current version of tests/keys.

~~ki) Tests must be proctored and graded by a BOST tester with a~~ BOSTBOSW written-certification.

~~lk) The BOST tester signing the DR2238 is responsible for the accurate grading of the test. Tests graded incorrectly may result in a suspension of the signing BOST tester's certification. Repeated incorrect grading of written knowledge tests will result in a revocation of BOST written testing certification.~~

~~(5403)~~ **BOST TESTER REQUIREMENTS**

a) BOST testers ~~shall~~must administer ~~at least~~ a minimum of 24 drive tests per year. Failure to complete the minimum number of tests ~~will~~may result in suspension of a tester's certification.

~~b) Only testers certified by the Department to give the BOST drive test are authorized to administer the drive test and sign the BOST completion statement (DR2735).~~

~~be) All BOST testers must have had a valid driver's license for at least 4 years and be at least 21 years of age.~~

~~cd) BOST drive testers must attend at least one continuing education class for updated testing practices every two years. Failure to attend a Department continuing education class within a two year period will~~may result in ~~a suspension of a~~for the ~~tester's certification~~ until continuing education has been successfully completed. Proof of continuing education must be kept by a BOSTO CDS in the tester's file for periodic review by the Department.

~~de) BOST testers cannot administer any BOST test to a member of their immediate family.~~

"Immediate family" is defined at section 42-1-102(43.5), C.R.S.

- ef) A potential BOST tester:
 1. must complete and pass the BOST training class;
 2. must show proof of four shadow drives on each route the tester will be using for drive tests testing on (all within 3 errors as documented by of another certified tester); and
 3. must complete all shadow drives within 6 weeks of passing the BOST training class.
- fg) To be eligible for a BOST class, a potential BOST tester must have conducted at least 24 hours of BTW training or been employed by the BOSTOschool for at least a year.
- gh) Applicants failing the BOST drive test with a certified BOST tester ~~shall~~must only be re-tested by a different certified BOST tester (unless the Department determines that this would be a hardship).
- hi) An expired completion statement, DR 2735 form (after ~~60~~180-days) will require the applicant to retake the test.

~~Postdating, pre-dating, or partially completioningion of of any form is not allowed. A form with only a signature and a tester number on it is a form that may be deemed fraudulently used.~~

(6500) RECORDKEEPING AND REPORTING

- a) CDSs and BOSTOs shallmust use only the Department's forms and ~~shall~~must account for all control ~~led-numbered~~ forms issued to them.
- b) Issued forms ~~shall~~must be used in control number order. Each series of assigned completion statements must be completed before a new series is started.
- c) Audited rRecords must be stored securely for a period of three years. ~~—Records include all contracts, records of student enrollment, BTW logs, written tests, drive tests score sheets, progress reports, student completion statements, and controlled numbered forms issued by the Department, and BOST forms.~~
- d) Student/parent contracts, progress reports and student enrollment records may be stored electronically after they have been audited.
- ed) After three years all testing records ~~shall~~must be shredded.
- fe) All forms issued, including those for passed and failed examinations, ~~shall~~must be logged on a CDS's and BOSTO's ~~monthly~~ report.
- gf) CDSs and BOSTOs shallmust submit monthly reports on Department approved forms. Reports ~~shall~~must be submitted electronically to the Department by the 10th day of each month for the previous month's activity, even if there was no activity. Incomplete reports will not be accepted.
- hg) All voided control numbered forms should be logged on monthly reports, filed in numeric order, with a note stating why the document was voided and the number of the replacement form. All replacement forms for drive and written tests must be dated using the same date as the original form, ~~with the exception of a drive retest.~~
- ih) Monthly reports submitted by a CDS and by a BOSTO to the Department should report all student and testing activity including, but not limited to, monthly classroom schedules, class completion statements, BTW completion statements, written knowledge completion statements, and drive test completion statements.

j) CDSs, BOSTOs, and testers are responsible for securing both blank and completed forms.

~~k) Post-dating, pre-dating, or partial completion of any form is not allowed.~~

~~(7600)~~ **AUDITING**

a) CDSs ~~shall~~must allow the Department to observe classroom instruction and/or BTW training.

b) CDSs certified as BOSTOs are required to allow onsite inspections, examinations and audits by a Department representative without prior notice in order to:

1. review all required documentation, including, but not limited to, student completion statements, BTW logs, BOST written knowledge and drive testing records;
2. observe classroom instruction;
3. observe BTW instruction;
4. ~~i~~nspect vehicles;
5. observe and score live road testing by a BOST tester and compare pass/fail scores;
6. test the skills of BOST testers who administer the drive test; and
7. audit monthly reports for supporting data, advertising, and continuing education certificates.

c) A CDS/BOST tester must surrender all required documentation-testing records to the Department upon request. The CDS/ BOST tester may make copies and retain copies of such documentation~~records~~.

d) Audits may be conducted at the CDS's or BOSTO's office, the Department's office, or at another location as determined by the auditor.

e) To assure that CDSs and BOSTOs continue to meet the standards established by the Department, a Department representative will conduct on-site or virtual (for internet providers only) compliance inspections, as often as the Department deems necessary, to review all required documentation, including but not limited to, contracts, student enrollment and progress records, BTW logs, student completion records, classroom facilities, vehicle, and testing records. ~~R-Testing~~ records will be checked for accuracy and completeness, including, but not limited to, missing or voided records and, in the case of control numbered documents, for ~~—~~ numerical filing sequence.

f) During Department compliance audits, CDSs and BOSTOs shallmust cooperate with the Department, allow access to testing areas and routes, and supply student names and testing records, results, and any other items as requested by the Department.

g) BOST drive testers will be evaluated either during an actual drive test or a drive test with a Department representative as the driver. BOST testers must follow Department procedures, meet Department standards, and must pass the evaluation with a score of 80% or higher. Failure to pass the evaluation will be grounds for the Department to require additional continuing education or suspension of BOST tester certification.

h) ~~All CDS, BOSTO, and BOST~~ records must be accessible during normal business hours and made available to a Department representative upon request.

(8700) CERTIFICATION RENEWAL

- a) CDS curriculum approval and BOST certification are valid from July 1st through June 30th of the following calendar year. The Department shall determine when curriculum review is required. Curriculum review will not be conducted more frequently than annually, unless course content changes.
- b) BOST certifications, CDS certifications as BOSTOs, and CDS contracts with the Department are subject to annual renewal.
- c) Renewal applications are due on June 1 of each calendar year. Applications not received and approved by June 30 will result ~~in a CDS's or BOSTO's certification not being renewed, in placement of a CDS in "not renewed" status, meaning the~~ and the Department will not honor completion forms or driver education certificates from the CDS or BOSTO.
- d) Incomplete renewal applications shall be returned to the CDS or BOSTO submitting the application.
- e) Renewal ~~applications~~ shall ~~must~~ include a breakdown of the ~~hourly~~ costs of each package offered by the CDS or BOSTO.

(9800) SUSPENSION/ REVOCATION/ CESSATION OF BUSINESS

- a) CDSs and BOSTOs must return all copies of written knowledge tests and keys, certifications, and any control numbered documents within ten days of cessation of business.
- b) Monthly reports not received by the 10th of the month for the previous month may result in a suspension of testing privileges for 30 days, unless a hardship is determined by the Department.
- c) Refusing to be audited ~~will~~ may result in the suspension of a CDS's or BOSTO's training and/or testing privileges.
- d) Failure of a CDS or a BOSTO to address and/or correct problems found in ~~at~~ the previous audit may result in suspension of certification. Failure of the Department to take action based upon an audit does not waive the Department's authority to later take action later based upon that audit.
- e) ~~Fraudulent or criminal activity involving licensure by any CDS or CDS employee will be grounds for revocation. Such activity may be reported to appropriate State/Federal authorities.~~
- ef) A CDS or BOST tester who ~~supplies~~ ying false information to the Department ~~may~~ will have their CDS certification or BOST tester certification suspended or revoked. Fraudulent testing or the fraudulent use of the forms and/or completion statements ~~may~~ shall result in the suspension and/or revocation of BOST certification.
- fg) The certification of a CDS, BOSTO, or BOST tester may be suspended or revoked for failure to comply with these rules and regulations, BOST standards, or contract obligations.
- gh) Any BOSTO or BOST tester who omits any test requirement from a written knowledge or driving skill test, or participates in any illegal activity related to driver licensing, may be subject to penalties including loss of testing certification or, criminal prosecution, ~~and restitution for costs and fees incurred by the test applicant and/or the Department.~~
- hi) Any information concerning illegal or fraudulent activity concerning, but not limited to written knowledge or driving skills testing, will be referred by the Department to the appropriate law enforcement authority.
- ij) If an applicant's testing was improper, illegal, or fraudulent, the applicant may have ~~their~~ his/her

driver's license canceled. ~~The BOSTO employing the BOST tester administering such test may will be liable for the costs associated with retesting.~~

- k) ~~Repeated violations of these rules and regulations by a CDS, BOSTO, or BOST tester will result in a review of testing privileges by the Department.~~
- j) The Department may issue a summary suspension ~~letter~~ to any CDS, BOSTO, or BOST tester if the Department has credible evidence objective and reasonable grounds to believe that a CDS or BOST tester has violated the provisions of these rules and regulations, state statutes, or that the public health, safety, or welfare requires emergency action. A summary suspension ~~letter~~ shall serve as notice to immediately cease testing and training until an investigation or hearing is complete.
- km) Upon receipt of a summary suspension ~~letter~~, a CDS, BOSTO, and/or BOST tester must immediately stop all BOST testing and/or training. ~~Proceedings~~Proceedings for a suspension or revocation shall be promptly instituted and determined. A CDS, BOSTO, or BOST tester may file a written appeal with the Department's Hearings Division within 10 calendar days after the giving of such notice receipt the summary suspension letter. The decision of the Department's Hearings Division constitutes final agency action.
- ln) Written complaints about a CDS, BOSTO, or BOST tester received by the Department regarding the requirements of these rules and regulations may result in an investigation through the Department or the Motor Vehicle Investigative Unit. Section 42-1-222 CRS.
- me) If a CDS is found to be in violation of the terms of its contract with the Department, then the contract between the Department and the CDS may be terminated.

(40900) GRANDFATHER PROVISIONS

Law enforcement agencies and rehabilitation providers who are licensed as BOSTOs are exempt from the requirements for approval as a CDS.

All publications and statutes incorporated by reference in these Rules and Regulations are on file and available for public inspection by contacting the Department of Revenue, Division of Motor Vehicles, Driver Testing and Education Section, 1881 Pierce Street, Room 114, Lakewood, Colorado, 80214. This rule does not include later amendments to or additions of any materials incorporated by reference.

*Materials incorporated by reference may be examined at any State publication depository library.

Editor's Notes

History

Entire rule eff. 06/30/2014.