

Laura Hopes

From: APA - House Transportation <apa.h-thpw@legis.la.gov>
Sent: Friday, October 31, 2014 11:04 AM
To: Laura Hopes
Subject: Request received

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Laura Hopes

From: Microsoft Outlook
To: apa.h-thpw@legis.la.gov
Sent: Friday, October 31, 2014 11:03 AM
Subject: Relayed: 968D1b Report - Bonds Driving Schools

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Subject: 968D1b Report - Bonds Driving Schools



BOBBY JINDAL
GOVERNOR

MICHAEL D. EDMONSON, COLONEL
DEPUTY SECRETARY

State of Louisiana
Department of Public Safety and Corrections
Public Safety Services
October 31, 2014
OLA-14-LCH-16490

VIA EMAIL ONLY (apa.h-thpw@legis.la.gov)

Karen Gaudet St. Germain, Chairman
House Committee on Transportation
State Capitol
Baton Rouge, LA 70804

Re: Rules Proposed by the Department of Public Safety & Corrections, Office of Motor Vehicles, to amend Chapter 1, Sections 146 and 147, pertaining to Commercial Driving Schools

Dear Ms. Gaudet,

The Department of Public Safety & Corrections, Office of Motor Vehicles, provides the following report to your committee as required by R.S. 49:968(D)(1)(b) for the proposed Notice of Intent that was published in the September 20, 2014, edition of the Louisiana Register on pages 1823, and the declaration of emergency on pages 1669 through 1670, a copy of which is enclosed.

A public hearing was not requested and therefore one was not conducted.

The Office of Motor Vehicles did not receive any public comment on the proposed rules.

As a result, no changes to the proposed rule text are necessary.

Additionally, no technical changes are required.

Sincerely,

Laura C. Hopes
Attorney for the Office of Motor Vehicles
(225) 925-4404

Enclosures

NOTICE OF INTENT

Department of Public Safety Office of Motor Vehicles

Driving Schools—Surety Bonds
(LAC 55:III.146 and 147)

Under the authority of R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Motor Vehicles hereby proposes to amend Sections 146 and 147 under Chapter 1 to implement Act 307 of the 2014 Regular Session which required every private driving school to execute a good and sufficient surety bond with a surety company qualified to do business in Louisiana as surety, in the sum of \$40,000.

The full text of this Notice of Intent can be found in the Emergency Rule section of this *Louisiana Register*.

Family Impact Statement

The proposed rules will not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1730.23

Poverty Impact Statement

The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in R.S. 49:973. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Small Business Statement

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have any adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed rules do not impact or affect a "provider." "Provider" means an organization that provides services for individuals with developmental disabilities as defined in

HCR 170 of the 2014 Regular Session of the Legislature. In particular, the proposed rules have no effect or impact on a "provider" in regards to:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the provider to provide the same level of service;
3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments or requests for public hearing on these proposed rule changes to Laura Hopes, Department of Public Safety and Corrections, Public Safety Services, Office of Legal Affairs, at 7979 Independence Blvd., Suite 307, P.O. Box 66614, Baton Rouge, LA 70896; (225) 925-6103 (phone); (225) 925-3974 (facsimile); laura.hopes@la.gov (email). Comments will be accepted through close of business October 10, 2014.

Public Hearing

A public hearing will be held on Wednesday, October, 29, 2014 at 10 a.m. at 7979 Independence Boulevard, Suite 301, Baton Rouge, LA 70806. If the requisite number of comments are not received, the hearing will be cancelled. Please call and confirm the hearing will be conducted before attended.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Driving Schools—Surety Bonds

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not anticipated to result in state or local governmental expenditures. Pursuant to Act 307 of 2014 private driving schools are required to execute a good and sufficient surety bond in the amount of forty thousand dollars and provide a written statement between the student and the school.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no anticipated direct material effect on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The private training and driving instructor schools will be affected by the proposed rule change. The estimated cost of the bond is dependent on the applicant's personal credit, business and personal financial information and experience in the industry. The bond requirement will be submitted as part of the application or renewal process.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no effect on competition and employment.

Jill P. Boudreaux
Undersecretary
1409#062

Evan Brasseaux
Staff Director
Legislative Fiscal Office

with a dual brake, it shall be an automatic failure of the test if the examiner has to use the brake for any reason.

I. Suspension, Revocation and Penalty Assessment

1. All regulations outlined in this Chapter shall be adhered to by the school and its employees. DPS may suspend or revoke any third party tester certification or examiner license issued under these rules and regulations upon discovery of satisfactory evidence of violations. If the violation involves the owner of the school or other management staff, then the driving school will be assessed penalties or the license may be suspended or revoked. If the violation involves the instructor, then the instructor may be fined or the instructor's license may be suspended or revoked, depending on the nature of the violation. Fines may be assessed up to \$500. If the fine is not paid, the license shall be revoked.

2. Any third party tester/examiner whose certification or license is denied, suspended, or revoked, or who was assessed a fine shall have the right to appeal the action in the same manner as provided in §151, Regulations for All Driver Education Providers, Subsection D.

J. Secondary driving schools are not required to administer the road skills or knowledge test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1), R.S. 32:408.1, and R.S. 40:1461.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1990 (August 2012), amended LR 38:3235 (December 2012), amended LR 40:

**Subchapter C. Third Party Knowledge and Skills
Testing for Class "D" and "E"**

§185. Eligibility, Application, Contract

A. - A.5. ...

6. an examiner shall meet all requirements for a behind the wheel instructor LAC 55:III.145.C;

7. not be convicted of any crime enumerated in R.S. 15:587.1(C) (the Child Protection Act).

B. ...

C. All contracts shall have a term of two years. Contracts shall be renewed by December 31 on the year stated. If the completed application including all fees is not received by December 31, the contract shall expire.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408 and R.S. 32:408.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:1928 (November 2001), amended LR 40:

§187. Compliance

A. ...

B. A third party tester and a third party examiner shall not begin administering the written knowledge test or skills test until authorized to do so by the department.

C. ...

D. All third party examiners shall grant to any authorized personnel of the Department of Public Safety and Corrections the right to conduct random examinations, inspections, or audits of the records, premises, and equipment of the third party tester and the third party examiner without prior notice during business hours for compliance. Personnel of the Department of Public Safety and Corrections shall at least biennially take the tests actually administered by third party examiners as if the

employee were a test applicant, or the department shall at least biennially test a sample of drivers who were examined by the third party examiner to compare pass/fail results.

E. - F.2. ...

3. the date each test was administered;

4. the score obtained by the applicant;

5. the score sheets for each test conducted;

6. the name and address and certificate number of the third-party examiner administering said tests; and

7. the make/model/license plate number of any vehicle used to conduct the testing.

G. ...

1. a copy of the examiner's license issued by the State of Louisiana, Department of Public Safety;

2. - 4. ...

H. ...

I. Third party testers and third party examiners shall not charge a driver/applicant a fee for the administering of the knowledge and skills test in excess of \$40.

J. - M. ...

N. Third party testers and third party examiners shall maintain a minimum limit of automobile liability insurance coverage of \$500,000 per occurrence in connection with the skills test. Third party testers and third party examiners shall also maintain a minimum general liability policy of \$1,000,000 per occurrence. These policies shall provide primary coverage to the state of Louisiana, the department, and the department's employees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:408 and R.S. 32:408.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 27:1928 (November 2001), amended LR 29:604 (April 2003), LR 40:

Jill P. Boudreaux
Undersecretary

1409#054

DECLARATION OF EMERGENCY

**Department of Public Safety and Corrections
Office of Motor Vehicles**

Driving Schools—Surety Bonds (LAC 55:III.146 and 147)

Under the authority of R.S. 37:3270 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Office of Motor Vehicles finds that an imminent peril to the public safety requires adoption of a Rule upon shorter notice than that provided in R.S. 49:953(A), as provided in R.S. 49:953(B), since effective August 1, 2014, every private driving school is required to execute a good and sufficient surety bond with a surety company qualified to do business in Louisiana as surety, in the sum of \$40,000, in accordance with R.S. 40:1462. It is necessary to adopt these Emergency Rules to have this order in place until the corresponding permanent rules can be adopted. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall take effect September 15, 2014, and shall be in effect for the

maximum period allowed under the Act (120 days) or until adoption of the final Rule, whichever occurs first.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

Chapter 1. Driver's License

Subchapter A. General Requirements

§146. Application Process and Fees for Private Driving Schools and Instructors

A. - A.2.j. ...

k. a surety bond in the amount of \$40,000;

l. a written document between the student and school, as defined in LAC 55.III.147.B.3.

B. - E.8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1), R.S. 40:1461 and R.S. 40:1462.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1976 (August 2012), amended LR 40:

§147. General Regulations for Private Driving Schools

A. - A.12. ...

B. Surety Bond

1. School owners shall be required to maintain a \$40,000 surety bond while maintaining a license to operate a driving school.

2. OMV shall be listed as the obligee.

3. The school shall provide a written document detailing the services to be provided for the fee charged. This document shall be signed by the parent (if the student is a minor) or a student (if over the age of eighteen) and the school owner. A paid receipt shall be furnished to the parent/student. This receipt may be part of this document or a separate document.

4. Students (over eighteen) or parents (of minor students) may file with DPS for reimbursement of all or part of the course fee when the school or its instructors fail to provide the instruction as required by statute and these rules.

5. Once a Certificate of Completion is accepted by DPS and a credential is issued, the parent/student may not file against the bond.

6. The parent/student must complete a claim form and submit the form and supporting documents with the claim to OMV for consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:402.1(A)(1), R.S. 40:1461 and R.S. 40:1462.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 38:1977 (August 2012), amended LR 40:

Jill P. Boudreaux
Undersecretary

1409#055

DECLARATION OF EMERGENCY

Department of Revenue Office of the Secretary

Louisiana Tax Delinquency Amnesty Act of 2014
(LAC 61:I.4915)

The Department of Revenue, Office of the Secretary, is exercising the provisions of the Administrative Procedure Act, R.S. 49:953(B) to adopt this emergency rule pertaining

to the Louisiana Tax Delinquency Amnesty Act of 2014 (Acts 2014, No. 822) in accordance with the provisions of R.S. 47:1511. The rule is needed to provide guidelines for implementing and administering installment plans for the 2014 Louisiana Tax Delinquency Amnesty Program. The Emergency Rule shall be effective October 1, 2014, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act.

The Department of Revenue has established a Tax Amnesty Program, hereinafter referred to as "Amnesty Program", beginning October 15, 2014 and ending November 14, 2014. The Amnesty Program shall apply to all taxes administered by the department except for motor fuel, prepaid cell phone sales tax, oil field restoration-oil, oil field restoration-gas, inspection and supervision fee and penalties for failure to submit information reports that are not based on an underpayment of tax. Amnesty will be granted only for eligible taxes to eligible taxpayers who apply for amnesty during the amnesty period on forms prescribed by the secretary and who pay or enter into an installment agreement for all of the tax, half of the interest due, all fees and costs, if applicable, for periods designated on the amnesty application. The amnesty application may include issues or eligible periods that are not in dispute. The secretary reserves the right to require taxpayers to file tax returns with the amnesty application. If the amnesty application is approved, the secretary shall waive the remaining half of the penalties and the remaining half of the interest associated with the tax periods for which amnesty is applied.

Title 61

REVENUE AND TAXATION

Part I. Taxes Collected and Administered by the Secretary of Revenue

Chapter 49. Tax Collection

§4915. Louisiana Tax Delinquency Amnesty Act of 2014

A. Taxpayers' application to make installment payments of a delinquent tax and its interest, penalties, and fees shall, upon approval by the secretary, enter the taxpayer into an installment agreement. In order to continue in the Amnesty Program, the taxpayer must make complete and timely payments of all installment payments. For the payment to be considered timely, all installment payments must be received no later than May 1, 2015.

B. All installment agreements approved by the Secretary shall require the taxpayer to provide a down payment of no less than twenty percent of the total amount of delinquent tax, penalty, interest, and fees owed to the department at the time the installment agreement is approved by the secretary. Field audit and litigation are not eligible to enter into an installment agreement.

C. Every installment agreement shall include fixed equal monthly payments that shall not extend for more than six months. Applicants seeking to enter into an installment agreement with the department shall provide the following information:

1. bank routing number;
2. bank account number; and
3. Social Security number or LDR account number.

D. An installment payment will only be drafted from an account from which the taxpayer is authorized to remit payment. All payments shall be drafted through electronic automated transactions initiated by the department.