NEBRASKA ADMINISTRATIVE CODE

TITLE 247, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 6

NEBRASKA DEPARTMENT OF MOTOR VEHICLES

RULES AND REGULATIONS GOVERNING THE MOTORCYCLE SAFETY EDUCATION PROGRAM PURSUANT TO NEB. REV. STAT. §§ 60-4,127, 60-4,128, AND 60-2120 THROUGH 60-2139.

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MOTORCYCLE SAFETY EDUCATION PROGRAM PURSUANT TO NEB. REV. STAT. §§ 60-4,127, 60-4,128, AND 60-2120 THROUGH 60-2139.

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001 SCOPE. These rules and regulations govern the Nebraska Department of Motor Vehicles procedures to design programs, administer those programs and enforce the provisions for teaching motorcycle rider safety under the Motorcycle Safety Education Act.

002 DEFINITIONS.

002.01 Authorized Representative means the person designated by the provider with the authority to act on its behalf.

002.02 Contact Person means the person available at the provider to receive communications from the department.

002.03 Course Completion Card. A document certified by a state agency charged with the responsibility for issuing such licenses which indicates that the holder has attended and successfully completed a certified motorcycle safety course consistent with these rules and regulations.

002.04 Department means the Nebraska Department of Motor Vehicles.

002.05 Director means the director of the Department of Motor Vehicles.

002.06 Driving Course means a driving pattern used to aid students in learning the skills needed to safely operate a motorcycle as part of a motorcycle safety course.

002.07 Motorcycle means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, excluding tractors and electric personal assistive mobility devices.

002.08 Motorcycle Safety Course means a curriculum of study which has been approved by the department designed to teach drivers the skills and knowledge to safely operate a motorcycle.

002.09 Motorcycle Safety Instructor means a person who has successfully passed a motorcycle safety instructor's course curriculum and is certified by the department to teach a motorcycle safety course.

002.10 Motorcycle Safety Trainer means a person who is qualified and certified by the department to teach another person to become a certified motorcycle safety instructor in this state.

002.11 Provider means a school, business or organization which is offering or intends to offer a motorcycle safety course to the general public.

002.12 Quality Assurance Visit (QAV) means an audit of a provider's program, range, records and instructors.

002.13 Range means the area of ground designated for teaching motorcycle rider skills to students, including but not limited to pavement, markings, signs and obstacles.

003 APPLICATION AND RENEWAL REQUIREMENTS FOR PROVIDERS.

003.01 General Requirements. Any school, business, or organization which wishes to provide a motorcycle safety course must comply with the following:

003.01A Continually maintain a place of business which includes at least one permanent, regularly occupied structure within the State of Nebraska.

003.01B Provide a training site which includes a driving range.

003.01C Designate an authorized representative and contact person.

003.01D Require all instructors to be certified motorcycle safety instructors or motorcycle safety trainers.

003.01E Have one or more certified motorcycle safety instructor(s) present in the classroom or on the driving range with the students at all times during the presentation of the course content, explanations of course materials, administration of test, and riding skills practice.

003.02 Application for Motorcycle Safety Course Provider Certification. Applications to become a motorcycle safety course provider shall be submitted on a form provided by the department and shall contain the following information:

003.02A Provider Name. The legal name, address, telephone number of the provider's headquarters in Nebraska, including the name and electronic contact information for the local contact person.

003.02B Authorized Representative. The name, title, work address, telephone number and electronic contact information of the person authorized to act on the provider's behalf with the Department.

003.02C Location of Course. The location of the classes and driving range if different from that of the provider's headquarters.

003.02D Time Frame. A general schedule of what and when training will be offered and the frequency with which it will be offered.

003.02E Motorcycle Safety Instructors. The names, dates of birth, and operator's license numbers for all persons employed or intended to be employed as motorcycle safety instructors. Motorcycle safety instructors must be certified by the department prior to teaching any motorcycle safety course in this state.

003.02F Curriculum. The curriculum as set forth below in section 004. If the curriculum consists of a learn-to-ride course offered by the Motorcycle Safety Foundation, a copy of the agreement between the provider and the Motorcycle Safety Foundation will be provided with the application.

003.02G Vehicles. Provider shall certify that if approved, they will supply a motorcycle for each student as required in section 004, below.

003.02H Insurance. Proof of $1,000,000 liability insurance coverage for all instructional and business activities.

003.02I Signature. The application must contain the signature of the authorized representative.

003.03 Fee. Each application for certification or the renewal of a certification of each motorcycle safety course provider shall be accompanied by a fee of $100.

003.04 Changes in Status. The provider shall report in writing any of the following to the department:

003.04A Name Change. A change in the provider's authorized contact person or the provider's name, legal status, or address shall be sent to the department ten days prior to occurrence.

003.04B Motorcycle Safety Instructor Change. The provider shall report any change in a motorcycle safety instructor's driving status within ten days of the date of any suspension or revocation of his/her driving privileges. The provider must report a motorcycle safety instructor's conviction, in this or any other state, for a) DWI or any related alcohol or drug offense in connection with a motor vehicle or b) any helmet violation while operating a motorcycle. The provider shall report the addition or termination of motorcycle safety instructors.

003.04C Location Change. If there is any change in the location of the program or driving course, the provider shall notify the department not less than ten days prior to the change.

003.04D Insurance Cancellation or Change. If the provider's insurance is cancelled or altered by the insurer, or if the provider changes insurance carriers, the provider shall notify the department within ten working days.

003.04E Provider Closure. The provider shall notify the department ten days prior to the date the operation ceases. The provider shall arrange for the retention of program records and shall notify the department of those arrangements and how the department's inspectors or auditors may gain access to such records.

003.05 Renewal of Certification.

003.05A A provider's certificate will expire on the second anniversary of its effective date unless renewed.

003.05B At least 120 days prior to expiration, the department will send the Provider's contact person a renewal notice which states:

003.05B1 The date on which the current certificate expires.

003.05B2 The date by which the renewal application must be received by the Department for the renewal to be issued and mailed before the certificate expires.

003.05B3 The amount of the renewal fee ($100).

003.05C All renewal applications must be submitted to the department not less than 60 days prior to the time the current certification expires. The department will not be responsible for the timely issuance of any renewal certificates when the application is not received in a timely manner.

003.06 Denial, Cancellation, Suspension, Revocation or Refusal to Renew Certification. The department may deny, cancel, suspend, revoke, or refuse to renew a provider's motorcycle safety course certification for good cause, including but not limited to:

003.06A Fraud, forgery or misrepresentation on an application;

003.06B Use of non-certified motorcycle safety instructors;

003.06C Lapse of insurance coverage;

003.06D Failure to notify the department of any changes in status under section 003.04 above;

003.06E Failure of an audit by the department pursuant to section 010 below;

003.06F For good cause shown; or

003.06G Failure to maintain adequate records and/or failure to allow the Department access to those records upon request pursuant to section 009 herein.

004 Types of Courses and Time Requirements. The department will waive testing for a class M endorsement upon successful completion of any of the following five courses:

004.01 Basic Course. (BRC) A basic learn to ride a motorcycle course of at least 5 classroom hours, with an additional 3 hours of home study and 10 hours of practical on-cycle training. A motorcycle and helmet will be provided by the motorcycle safety school.

004.02 Advanced Course. (BRC2) A refresher course for riders who already have basic skills. It consists of at least 5 ½ hours of instruction and / or skills training.

004.03 Returning Rider Basic Course. (RRBRC) A refresher course for riders who have a permit but have not been riding for several years. It will consist of at least three hours of classroom and five and a half hours of practical on-cycle training. A motorcycle and helmet will be provided by the motorcycle safety school.

004.04 Scooter Course. (SBRC) A basic learn to ride a scooter course of at least five hours of classroom and 10 hours on-scooter training. The class M endorsement will be restricted to scooters.

004.05 Three Wheeled Course. (3WBRC) A basic learn to ride a three-wheel motorcycle course consisting of four hours of classroom and eight hours of on-three-wheel motorcycle training. The class M endorsement will be restricted to three wheeled motorcycles.

005 CURRICULUM. The curriculum for all motorcycle safety courses shall be uniform across the state and be research based. The course must use methods and materials that have been thoroughly investigated and tested, with documented findings based on scientific research from a nationally recognized organization. The curriculum will provide classroom and actual on-cycle instruction in the basic operation of motorcycles. The content, organization, and chronology of presentation of the specified courses will be based upon documented research and have been shown to be effective in providing safety training in accordance with the nationally accepted standards for motorcycle safety training.

005.01. Basic Course. Classroom training shall include instruction on:

005.01A Motorcycle controls;

005.01B Protective riding gear;

005.01C Pre-ride check;

005.01D Starting and stopping the motorcycle;

005.01E Riding in a straight line;

005.01F Turning;

005.01G Shifting; *(optional for scooter courses)*

005.01H Braking;

005.01I Visibility;

005.01J Lane positioning;

005.01K Defensive riding strategies;

005.01L Steering techniques for cornering and evasive maneuvers;

005.01M Riding on different surfaces;

005.01N Carrying passengers and loads;

005.01O Riding in adverse conditions;

005.01P Alcohol and drugs as they affect riding;

005.01Q Risk awareness and risk acceptance.

005.02 Basic Course Media. One to three hours of the classroom time may be devoted to the showing of visual media. Visual media used in the basic motorcycle safety and education course must be part of the approved curriculum.

005.03 Basic Course On-cycle Training. Practical on-cycle training shall include:

005.03A Proper mounting and dismounting procedures;

005.03B Vehicle starting procedures;

005.03C Straight line riding;

005.03D Turning;

005.03E Shifting gears up and down *(optional for scooter courses);*

005.03F Braking in a straight line and in a curve;

005.03G Cornering;

005.03H Steering techniques for cornering and evasive maneuvers.

005.04 Advanced Course. The curriculum for an Advanced Course shall provide discussion and actual on-cycle instruction in advanced techniques for operation of motorcycles. Advanced instruction shall include, but need not be limited to:

005.04A Risk management;

005.04B Rider responsibility;

005.04C Riding strategies;

005.04D Traction management;

005.04E Cornering;

005.04F Braking;

005.04G Swerving;

005.04H The effects of alcohol, drugs, fatigue and aging.

005.05 Advanced Course Participants. Course participants in the Advanced Course must:

005.05A Provide proof of liability insurance; and

005.05B Use a motorcycle that meets all requirements for safe operation on Nebraska highways.

005.06 Course Evaluation. All courses shall include evaluation of the student's knowledge and skill relating to operation of the motorcycle. To successfully complete a Course the student shall

005.06A Pass a written knowledge test;

005.06B Pass an on-cycle skill test.

005.06C Attend the entire course of instruction; and

005.06D Consistently demonstrate behavior during on-cycle instruction that does not endanger the safety of the student, other course participants or the instructional staff and/or that does not intentionally damage course equipment.

006 MOTORCYCLE SAFETY INSTRUCTOR CERTIFICATION. An application for certification of a motorcycle safety instructor shall be submitted on a form provided by the department and shall contain the applicant's name, date of birth, operator's license number, home address, telephone number, electronic contact information and certification information. The motorcycle safety instructor applicant must certify that he or she meets the following criteria:

006.01 Be at least 21 years of age.

006.02 Have a high school diploma or its equivalent.

006.03 Has a motorcycle endorsement on his or her operator's license and two years or more on road experience in riding one or more types of motorcycle.

006.04 Has i) no suspensions or revocations on his or her driving record within the last five years, ii) no convictions for DWI or related alcohol or drug

offense in connection with a motor vehicle, and iii) no motorcycle helmet violations.

006.05 Has successfully completed an motorcycle safety instructor preparation class. Motorcycle safety instructor preparation class must be based on methods and materials which have been thoroughly investigated and tested, with documented findings based on scientific research from a nationally recognized organization. The motorcycle safety instructor preparation course will consist of no less than fifty-six hours of instruction; including theoretical, practical and student teaching experience in motorcycle safety and education instructional theory and techniques. Classroom training shall include, but not be limited to:

006.05A Training curriculum development;

006.05B Classroom teaching techniques;

006.05C Teaching the classroom curriculum;

006.05D Range teaching techniques including evaluation, coaching and range management;

006.05E Test administration.

006.05F Instruction for teaching on-cycle skills including:

1. All skills detailed in the basic course curriculum;

2. Teaching the practical on-cycle curriculum;

3. Practice of evaluation, coaching and range management techniques.

4. Each Motorcycle safety instructor applicant must have student taught at least one half hour classroom lesson and one half hour range lesson to a class of novice students; peer teaching is not an acceptable substitute for student teaching.

006.06. To successfully complete the motorcycle safety instructor preparation class, the applicant must:

006.06A Pass a knowledge test with eighty percent of the questions answered correctly;

006.06B Pass an on-cycle skill test, scoring no more than fifteen overall penalty points and no more than eight penalty points in any single exercise of the final skill test used in the Basic Course and the Advanced Course;

006.06C Student teach a minimum of one classroom and one range student teaching assignment to novice students: more than one overall failure in either teaching assignment constitutes failure of the course; and

006.06D Consistently demonstrate safe behavior during on-cycle instruction.

006.07 The applicant agrees to teach at least two basic motorcycle safety courses (consisting of classroom instruction and rider skills instruction) under the supervision of a motorcycle safety instructor or motorcycle safety trainer.

006.08 Continuing Education. The Department may provide motorcycle safety instructor update training. The update training shall be curriculum centered and may be web based. All motorcycle safety instructors are required to participate in order to retain his or her Nebraska state certification. Should an motorcycle safety instructor be unable to complete a scheduled update, an alternate assignment may be offered in order to allow him or her to meet this requirement.

007 MOTORCYCLE SAFETY TRAINER CERTIFICATION. The director shall issue certificates in the manner and form prescribed by the director to no more than two motorcycle safety trainers who meet the minimum education, skill, and experience requirements. Motorcycle safety trainers shall teach the motorcycle safety instructor preparation course as assigned by the director.

007.01 Currently a Motorcycle Safety Instructor. A person applying to become a motorcycle safety trainer must be a motorcycle safety instructor and an experienced motorcycle rider.

007.02 Trainer Preparation Class. The applicant will have successfully completed a trainer preparation class. The trainer preparation class shall be based on methods and materials which have been thoroughly investigated and tested, with documented findings based on scientific research from a nationally recognized organization. The trainer preparation class will consist of no less than seventy-two hours of instruction and include theoretical, practical and student teaching experience in motorcycle safety as well as education instructional theory and techniques. The applicant shall be certified and current in all requirements, including any continuing education requirements.

007.02A A person currently certified as a motorcycle safety trainer by another state or recognized accrediting organization may be issued a motorcycle safety trainer's certificate by the department without having to receive the training required by this section if the certification requirements are comparable to the requirements in this state. NRS. 60-2129.

007.04 20 Motorcycle Safety Courses. The trainer applicant shall have successfully taught at least 20 basic motorcycle safety courses consisting of classroom instruction and rider skills instruction.

007.05 Clean Record. The trainer applicant shall have a valid operator's license with the appropriate motorcycle endorsement; and have had no suspensions or revocations on his or her driving record within the last five years including no convictions for DUI or any related alcohol or drug offense. The applicant will have

no helmet violations or other motorcycle related convictions within the past five years.

007.06 21 Years Old. The trainer applicant will be at least 21 years of age and have a high school diploma or equivalent.

008 Renewal and Cancellation of Certification for Motorcycle Safety Instructor or Motorcycle Safety Trainer.

008.01 Certificate Expiration. A motorcycle safety instructor's and a motorcycle safety trainer's certificate will expire on the second anniversary of its effective date unless renewed.

008.02 Notice. At least 120 days prior to expiration, the department will send to the certified motorcycle safety instructor or motorcycle safety trainer at his or her last known address, a renewal notice which states:

008.02A The date on which the current certificate expires;

008.02B The date by which the renewal application must be received by the Department for the renewal to be issued and mailed before the certificate expires;

008.02C All renewal applications must be submitted to the department not less than 60 days prior to the time the current certification expires.

008.03 Denial, Cancellation, Suspension, Revocation or Refusal to Renew Certification. The department may deny, cancel, suspend, revoke or refuse to renew, the certification of a motorcycle safety instructor or motorcycle safety trainer for good cause, including but not limited to:

008.03A Fraud, forgery or misrepresentation on the application;

008.03B Failure to complete or update training required under these Rules and Regulations or as required by the department;

008.03C. Engaging in or attempting to engage in instruction or skills testing without a certificate required by these regulations;

008.03D Failure to maintain a valid operator's license with the appropriate motorcycle endorsement;

008.03E 1) Conviction of driving under the influence of alcohol or any related alcohol or drug offense or 2) conviction of any helmet violation within the previous five years of the date of application or while employed as a motorcycle safety instructor or motorcycle safety trainer;

008.03F Suspension or revocation of a operator's license within the previous five years of the date of application or while employed as a motorcycle safety instructor or motorcycle safety trainer;

008.03G Fraud, forgery or misrepresentation on any documents relating to student evaluations in the training course or skills tests;

008.03H Immoral or dishonorable conduct evidencing unfitness or lack of proficiency to act as a motorcycle safety instructor or motorcycle safety trainer;

008.03I Any other cause adversely reflecting on the motorcycle safety instructor's or motorcycle safety trainer's fitness or capability to administer instruction or skills tests or to perform any other duties required by statute.

009 RECORDS RETENTION. Each motorcycle safety course provider shall maintain the following records, which shall be subject to audit and which shall be made available to the department in the course of an audit or otherwise on demand. Records must be maintained a minimum of two years.

009.01 Motorcycle Safety Instructor and Motorcycle Safety Trainer Records. The motorcycle safety course provider shall retain a copy of the certification issued by the Nebraska Department of Motor Vehicles to each motorcycle safety instructor and each motorcycle safety trainer. It shall also retain a course record card and proof of recertification for each motorcycle safety instructor and each motorcycle safety trainer, which contains the holder's name, sponsor, and identification number indicating that the motorcycle safety instructor or trainer has successfully completed a motorcycle safety instructor preparation class and has been certified. The records will be retained for at least two years after the motorcycle safety instructor or motorcycle safety trainer leaves the employment of the provider.

009.02 Student Records. Each motorcycle safety course provider shall develop and utilize a student registration form. The provider shall retain a record for each student regardless of whether the student passes or fails the tests for the waiver. Each record shall be retained a minimum of two years from the date the student last attended. These lists shall be made available to the department upon request. For each waiveable class, the provider shall send to the department within ten days of the completion of a course, the following information:

009.02A The completed student's class registration form including his or her, name, address, telephone and/or e-mail address, birth date, operator's license number, course completion card number and the state which issued the operator's license held by the student at the time of the training.

009.02B The student's test score sheet(s) showing the results of the written and skills tests.

009.02C The name and identification number of the motorcycle safety instructor or motorcycle trainer who administered the written and skills tests.

009.03 Electronic Reporting. Motorcycle safety course providers, motorcycle safety instructors, and motorcycle safety trainers may be required to provide a test result for each student by electronic means to the department.

010 AUDITS. The department may conduct an audit, also known as a Quality Assurance Visit (QAV) of all motorcycle safety courses from time to time to assure that they are being conducted in compliance with the Motorcycle Safety Education Act and the Rules and Regulations of the Department. Non-compliance with either the Act or the Rules and Regulations is cause for denial, refusal to renew, suspension or revocation of the provider's or motorcycle safety instructor's certification by the department.

010.01 Unannounced. Audits may be unannounced and shall consist of an inspection of the provider's documentation and facilities; observation of the motorcycle safety instructor's training skills; and any other aspect of the program at the discretion of the Director.

010.02 Unbiased. No person who owns or manages a provider or training site shall audit the provider or training site he or she owns or manages.

010.03 Notice of Results. The department shall notify the audited entity of the result in writing.

010.04 Deficiency. The director may summarily suspend a provider, a motorcycle safety instructor, or a motorcycle safety trainer based on the audit if the deficiency or failure to comply is deemed to be serious or dangerous.

010.04A In the event an audit reveals a deficiency or failure to comply, the director may provide a reasonable time period for the audited entity to correct the deficiency.

010.05 Failure to Correct. If the deficiency is not corrected or the failure is based on fraud, forgery or falsification of any documentation, misrepresentation or other criminal act, the department may deny, cancel, suspend, revoke or refuse to renew, any or all of a provider's certification, a motorcycle safety instructor's certification, or a motorcycle safety trainer's certification.

011 WAIVER. The department may waive either or both of the knowledge and skills tests of any person who successfully completes a certified motorcycle safety course in Nebraska and provides proof of such completion in the form of a course completion card upon his or her application for a motorcycle endorsement on their operator's license. Waiver of knowledge and skills tests may also be given when the applicant provides a course completion card that shows the successful completion of a Motorcycle Safety Foundation motorcycle safety course in another state. The department will restrict the class M endorsement for scooters and three-wheeled motorcycle classes.

011.01 The department reserves the right to check the authenticity of any course completion card presented for a test waiver.

011.02 A course completion certification is valid for 24 months from the date the course was completed.

012 DENIAL, CANCELLATION, SUSPENSION, REVOCATION OR REFUSAL TO RENEW CERTIFICATION.

012.01 Notice. Whenever the department denies an initial application for, cancels, suspends, revokes or refuses renewal of any certificate of approval of a motorcycle safety course provider, motorcycle safety instructor, or motorcycle safety trainer, the department shall notify the party of its intent to deny, cancel, suspend, revoke, or refuse to renew the certification as follows:

012.01A Notice shall be made in writing and sent by United States mail to the party's last known address; and

012.01B Notice shall state that the party may request a hearing on the denial, cancellation, suspension, revocation or refusal to renew the certification by the Department by submitting a written request for a hearing with the department within 30 days of the issuance of the notice.

012.02 Effective Date. If the party does not request a hearing within 30 days, the Department's action is final.

012.03 SUMMARY SUSPENSION OR REVOCATION. The department may summarily suspend or revoke the certificate of a motorcycle safety course provider, motorcycle safety instructor or motorcycle safety trainer when the department finds that the public safety requires emergency action and incorporates its findings to that effect in a notice of suspension or revocation of certificate. Conviction of A) a DWI or any related alcohol or drug offense in connection with a motor vehicle or B) A helmet violation while operating a motorcycle is cause for summary suspension or revocation of motorcycle safety instructor's or motorcycle safety trainer's certification. The party may request a hearing within 30 calendar days of the date of notice. The director may stay the suspension until the final order following a hearing.

013 APPEAL.

013.01 Hearing. Upon suspension, revocation, cancellation or denial of the issuance of a motorcycle safety instructor or school license, the director shall notify the school in writing and, upon written request, shall afford the school a hearing.

013.02 Stay. Upon receipt of a written request, and upon good showing by the motorcycle safety instructor or school, the director may stay the administrative order pending an administrative hearing on the matter.

013.03 Administrative Procedure Act. Any action taken by the department to cancel, suspend, revoke or refuse to issue or renew a license shall comply with the Administrative Procedure Act.

013.04 Adoption of Attorney General's Model Rules. All hearings will be held in conformance with Title 53 Nebraska Administrative Code, Chapter 4 of the Nebraska Department of Justice, also known as the Attorney General's Model Rules, incorporated herein by reference and attached to these regulations

014 POST HEARING APPEAL. Any party aggrieved by a final decision or order of the director made pursuant to these Rules and Regulations and the applicable statutes may appeal such decision or order in the manner provided in the Administrative Procedure Act for contested cases pursuant to Neb. Rev. Stat. § 84-917.

015 CALCULATION OF TIME. In computing time, days will be computed by excluding the day of the act or event and include the last day of the period. If the last day of the period falls on a Saturday, Sunday or State Holiday, the period shall include the next working day. If documents are faxed to the Department outside of normal business hours, the date of the receipt shall be the next business day.