

NEBRASKA ADMINISTRATIVE CODE

TITLE 247, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 11

NEBRASKA DEPARTMENT OF MOTOR VEHICLES

**RULES AND REGULATIONS GOVERNING DEPARTMENT OF MOTOR VEHICLES
APPROVAL OF DRIVER SAFETY COURSES AND PROVISIONAL OPERATOR-S
PERMITS PURSUANT TO NEB. REV. STAT. ' ' 60-4,120.01, 60-4,130.04 and
60-4,130.05.**

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TITLE 247 NEBRASKA DEPARTMENT OF MOTOR VEHICLES

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Title 247

Nebraska Department of Motor Vehicles

Chapter 11

CHAPTER 11 RULES AND REGULATIONS GOVERNING DEPARTMENT OF MOTOR VEHICLES APPROVAL OF DRIVER SAFETY COURSES AND PROVISIONAL OPERATOR-S PERMITS PURSUANT TO NEB. REV. STAT. ' ' 60-4,120.01, 60-4,130.04 and 60-4,130.05.

001 SCOPE. These rules and regulations govern Department of Motor Vehicles approval of driver safety courses pursuant to Neb. Rev. Stat. ' 60-4,130.05. These rules and regulations apply to schools that offer classes to individuals who will apply for provisional operator-s permits using an approved driver safety course written and drive test waiver pursuant to Neb. Rev. Stat. ' 60-4,120.01. These rules and regulations also apply to any driver training instructor employed at such a school pursuant to Neb. Rev. Stat. ' 60-4,130.04.

002 DEFINITIONS.

002.01 Approved driver safety course means a Department of Motor Vehicles approved driver safety course which includes behind-the-wheel driving specifically emphasizing a) the effects of the consumption of alcohol on a person operating a motor vehicle, b) occupant protection systems, c) risk assessment, and d) railroad crossing safety. The successful completion of this course involves a written examination and drive test which will waive the examination and test by a Department examiner for a provisional operator-s permit.

002.02 Certificate means the certificate issued by the Department of Motor Vehicles to the school which shows it has approved the driver safety course under these rules and regulations.

002.03 Conviction means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person-s appearance in court, a plea of bail or collateral deposited to secure the person-s appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court costs, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

002.04 Department means the Nebraska Department of Motor Vehicles.

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

002.06 Drive test means an actual on public road drive examination using the Department of Motor Vehicles score sheet form DMV 06-40A. (*Attachment 1.*)

002.07 Equivalency course means a course from an accredited Nebraska college or university and approved by the Department of Motor Vehicles, which is the equivalent of a driver-s education endorsement.

002.08 Instructor means any person who teaches, conducts classes, gives demonstrations, or supervises practical training of persons learning to operate motor vehicles.

002.09 School means any school (commercial, non-profit, parochial or public) which offers an approved driver safety course.

002.10 Sponsor means any Nebraska university or college approved or accredited by the North Central Association Of Colleges and Schools that offers a driver-s education equivalency course.

003 REQUIREMENTS FOR A PROVISIONAL OPERATOR-S PERMIT. Any person who is at least sixteen (16) years of age but less than eighteen (18) years of age may apply for a provisional operator-s permit from the Department. The Department will consider any of the following applicants:

003.01 Approved Driver Safety Course. The applicant may successfully complete an approved driver safety course which includes behind-the-wheel driving as set forth in these rules and regulations. The Department will waive the written examination and drive test normally administered by the Department's examiners for a provisional operator's permit upon presentation of a written and drive test waiver. (*Attachment 2.*)

003.02 Fifty-hour (50-hour) Drive Log and Affidavit. The applicant may present to the Department's examiner an affidavit and driving log (*Attachment 3*) verifying that the applicant has completed fifty (50) hours of lawful motor vehicle operation, under conditions that reflect an approved driver safety course curriculum with a licensed driver at least twenty-one (21) years of age. The Department will waive the written examination for these applicants who hold an LPD-learner's permit issued after January 1, 1999, but not the Department's drive test.

003.03 Driver Education Prior to January 1, 1999. The applicant may present to the Department examiner proof that the applicant has successfully completed driver's education prior to January 1, 1999. Proof consists of an approved driver safety course completion card or certificate. The Department will waive the affidavit and the fifty-hour (50-hour) drive log requirement, but the applicant will be required to take the Department's written and drive test.

004 SCHOOL INSTRUCTOR REQUIREMENTS. The Department shall not issue an approved driver safety course certificate to any school unless every instructor meets the following criteria:

004.01 Twenty-one (21) Years Old. The instructor must be at least twenty-one (21) years of age and of good moral character;

004.02 Valid License. Instructors must have held a valid license from their state of residence for a period of at least two (2) consecutive years immediately preceding the date of application. Licensing lapses due to failure to renew before a license's expiration date shall not be cause for denial;

004.03 High School Diploma. The instructor must have a high school diploma or its equivalent; and

004.04 Endorsement. The instructor must possess competence as outlined in a driver's education endorsement or the equivalent thereof.

004.04A Driver's Education Endorsement. An instructor may successfully complete the course work set out in Title 92 NAC 24, from a Nebraska Department of Education approved or accredited college or university.

004.04B Equivalent. An instructor may fulfill the equivalency requirement by successfully completing a driver's education equivalency course from a North Central Association Of Colleges and Schools approved or accredited Nebraska university or college. The requirements for Department of Motor Vehicles' approval of the equivalency course are set forth at 005, below.

004.04C Grace Period. A two-year (2-year) period to comply with the driver education endorsement or equivalent requirements will be granted to:

004.04C1 Nebraska commercial driver training instructors certified by the Department;

004.04C2 Instructors teaching Nebraska driver education training courses certified by the Department; and

004.04C3 Individuals with valid teaching certificates.

004.04D Qualifications for Grace Period. Instructors listed above must have been employed by the certified commercial driver training schools or the certified driver education training course or have had the teaching certificate issued prior to September 1, 1998. The driver education endorsement or equivalent requirements must be met no later than January 1, 2001.

004.05 Clean Driving Record. For the prior five (5) years, the instructor must have no violation noted on his or her driving record for which five (5) or more points might be assessed as set out in Neb. Rev. Stat. ' 60-4,182. This includes probation or other situations in which no points were actually assessed for the violation. Additionally, the instructor must have no suspensions or revocations on his or her driving record within the last five (5) years, including no convictions for DWI or any related alcohol or drug offense in connection with motor vehicle use.

004.06 Retraining. The Department shall notify schools of any retraining requirements for their instructors in writing, as well as the date by which retraining or additional requirements must be completed to maintain certification. To have a school certificate renewed or remain in effect, instructors must complete retraining or additional sessions as often as the Department may require.

004.07 Agent. For purposes of these rules and regulations, each instructor employed by or associated with any school shall be deemed an agent of the school and the school shall share responsibility for all acts performed by the instructor which are within the scope of his or her employment, and which occur during the course of his or her employment.

004.07A Competency Certified Instructors. To be competency certified, the instructor must have successfully completed three (3) credit hours of Driver Performance Measurement from an approved or accredited college or university.

005 INSTRUCTOR-S ENDORSEMENT EQUIVALENT. All approved driver safety course instructors must have a driver education endorsement or the equivalent. Any Nebraska university or college approved or accredited by the North Central Association Of Colleges and Schools may offer a driver-s education equivalency course. The equivalency course, including lectures, seminars, course materials and other instructional programs, must be reviewed and approved by the Department. The sponsor must comply with the following:

005.01 The application and curriculum must be submitted at least thirty (30) days prior to the date on which the equivalency course is to be given.

005.02 Equivalency courses must be taught by individuals with education or experience that is appropriate for the subject matter presented.

005.03 The sponsor must ensure that an individual attends all equivalency course presentations and passes the examination.

005.04 Documentation of Equivalency Course Completion. The sponsor must document an individual-s successful completion of a equivalency course in a numbered certificate or transcript, to be given to the individual no later than fifteen (15) days following the date of the final examination. The certificate or transcript shall state the following:

005.04A The individual-s name;

005.04B The dates that the equivalency course was attended; and

005.04C That the individual successfully completed the equivalency course.

005.05 List to Department. The sponsor must submit the information specified in 010.05 to the Department in the form of a letter containing a list of instructors completing each equivalency course and signed by the administrator of the equivalency course. The list shall be submitted no later than fifteen (15) days after the date of the final examination.

005.06 Application for Approval. To apply for approval of an equivalency course, the sponsor shall submit and provide the following:

005.06A The sponsor-s name, address and phone number;

005.06B The title of the equivalency course;

005.06C Whether the equivalency course is initial, review or additional training;

005.06D The location(s) at which the training is intended to take place;

005.06E The dates or time period over which the training will be presented and the frequency with which it will be offered;

005.06F A list of the individuals who will present the equivalency course, including their experience, education and other qualifications;

005.06G The maximum number of students to be enrolled in each presentation of the training;

005.06H The proposed charge for the training;

005.06I A list of all equivalency course materials, including, but not limited to, handouts, student manuals, instructor notebooks;

005.06J A training schedule showing daily assignments for each instructional group and location of instruction;

005.06K A copy of the drive test route used for training and which incorporates all required characteristics for drive testing; and

005.06L The signature of the administrator of the sponsor making application.

005.07 Approval. Within thirty (30) days of receipt of a complete application, the Department will approve or deny the application in the form of a written notice to the applicant.

005.08 Reapproval. Once approval for an equivalency course has been granted, the Department need not reapprove a equivalency course for each occasion it is administered, but will make an annual determination of whether or not to extend equivalency course approval. The sponsor of an approved equivalency course shall submit the following information to the Department annually on the anniversary of equivalency course approval;

005.08A Any updates to equivalency course materials;

005.08B A summary of any alterations or modifications to previously submitted information; and

005.08C A report to include the frequency with which the equivalency course was given and the numbers attending.

005.09 Denial, Suspension or Revocation of Approval. The Department may deny, suspend or revoke approval of an equivalency course for failure to meet the requirements of the Motor Vehicle Operator's License Act or the provisions of these rules and regulations.

006 APPROVED DRIVER SAFETY COURSE SCHOOL REQUIREMENTS. Any school that offers the approved driver safety course to individuals who will apply for provisional operator's permits as set out at 003.01 above must:

006.01 Place of Business. Continually maintain a place of business which includes at least one (1) permanent, regularly occupied structure within the State of Nebraska.

006.02 Training Site. Provide a training site to accommodate students comfortably and to ensure proper safety, including:

006.02A A classroom with ample working and testing space for enrolled students and several observers.

006.02B Ready access to restrooms.

006.02C Audio visual equipment; chalk boards or other marking boards.

006.03 **Contact Person.** Designate an individual authorized to act on behalf of the school as the contact person with the Department.

006.04 **Certified Instructors.** Ensure that all instructors are certified in accordance with the requirements set forth in these rules and regulations.

006.05 **Motor Vehicle.** Have at least one (1) registered motor vehicle which is equipped for driver training purposes as set forth in these rules and regulations.

006.06 **Display.** Display in a prominent place:

006.06A The certificate from the Department stating that the approved driver safety course has been approved; and

006.06B The names of the approved driver safety course instructors.

007 **APPLICATION FOR SCHOOL CERTIFICATION; REQUIRED INFORMATION.**

Each original and renewal certificate application for the approved driver safety course shall contain the following:

007.01 **School Name.** The legal name, current address and telephone number of the school's headquarters in Nebraska.

007.02 **Contact Person.** The name, title, current work address and telephone number of the school's contact person with the Department.

007.03 **Instructors.** The name, date of birth, driver's license number and home address of all instructors.

007.04 **Endorsement or Equivalent.** Proof of completion of any state-approved driver education endorsement or the equivalent from a Nebraska-approved college or university, as set forth in 004 and 005 above. Such proof will be a driver's education endorsement from the issuing state, or a letter, grade transcript, or certificate from a Nebraska-approved college or university. If the school is offering any competency-based education, proof that those classes are taught by competency certified instructors.

007.05 **Curriculum.** The curriculum of the approved driver safety course that the school will be teaching.

007.06 **Course Date.** The dates, times and locations of the scheduled approved driver safety courses and the respective instructor that will teach each course. Any competency-based courses must be noted.

007.07 **Test Route.** The location and a written description of each approved driver safety course test route that will be used for the administration of the drive test.

007.08 **List of Motor Vehicles.** A list of all motor vehicles used for the approved driver safety course.

007.09 **Insurance.** Valid insurance certificate or insurance policy detailing the coverage for the school listing all motor vehicles used for the approved driver safety course.

007.10 **Signature.** Signature of the approved driver safety course school representative certifying that the information included in the application is true and accurate. An individual applicant, partner, associate, corporate director, officer or manager of a commercial driver training school or a public school superintendent or principal may sign as school representative.

007.11 **Other Information.** Any other information deemed necessary by the Department.

007.12 **Fee.** In addition to the above information, each approved driver safety course

original and renewal certificate application shall be accompanied by a one-hundred dollar (\$100) fee.

007.12A Check or Money Order. A check or money order will be made payable to the Department of Motor Vehicles for the one-hundred dollar (\$100) fee with the completed application. The fee is refundable if the application is initially denied by the Department or returned due to incompleteness or deficiency. The fee covers a two-year (2-year) period beginning on the effective date of issuance or renewal.

007.12B No Refund. No portion of the fee will be refunded if the certificate is suspended or revoked during the two-year (2-year) period or if the school otherwise discontinues activity within the State during any portion of the two-year (2-year) period.

008 APPROVAL OF DRIVER SAFETY COURSE. The Department will approve or deny a driver safety course certification within sixty (60) days after receipt of a completed application and fee. The Department will certify the course or deny the application in the form of a written notice to the school contact person.

009 MOTOR VEHICLE REQUIREMENTS. All motor vehicles, except those used by students who require adaptive equipment as set out at 009.05, used in an approved driver safety course must:

009.01 Be registered in Nebraska;

009.02 Be covered by liability insurance in amounts not less than set forth in section 60-509. This insurance coverage shall be secured by the driver training school on a year-to-year basis and in the event the insurance coverage or policy on any motor vehicle used for driving training purposes is not renewed, the school shall give written notice to the Department at least ten (10) days prior to the expiration date of the policy or coverage;

009.03 Except for commercial trucks, any motor vehicle used for approved driver safety course purposes shall be equipped with a dual braking device which will enable the instructor to bring the motor vehicle under control in case of an emergency; and

009.04 Be readily identified as a driver training motor vehicle.

009.05 Students who require adaptive equipment to operate a motor vehicle may use their personal motor vehicle during training. Before such motor vehicle may be used, the school shall obtain photocopies of the motor vehicle's registration and proof of insurance. No motor vehicle shall be used without first being properly registered pursuant to Neb. Rev. Stat. ' 60-302 and also insured in accordance with Neb. Rev. Stat. ' 60-312.

010 APPROVED DRIVER SAFETY COURSE CURRICULUM. The following is the approved driver safety course education curriculum for schools that offer classes to individuals who will apply for provisional operator's permits using a written and drive test waiver. Standard instruction will include a minimum of twenty (20) hours of classroom instruction and five (5) hours of behind-the-wheel instruction. The students of competency certified instructors must complete at least two (2) hours behind the wheel. Students must attend all course presentations and pass all examinations.

010.01 Behind-the-wheel Instruction. A minimum of five (5) hours behind-the-wheel instruction must be offered to each student in an approved driver safety course. It is to consist of actual driving practice while the motor vehicle is in motion and does not include the drive test.

010.01A Substitutions. Up to two (2) hours total approved driver safety course drive time may be substituted as follows:

010.01A1 Up to two (2) hours of behind-the-wheel instruction may be replaced by time on a closed-course driving range. At a proportion of two to one (2 to 1) (two (2) hours on a driving range equals one (1) hour behind the wheel).

010.01A2 Up to one (1) hour of behind-the-wheel instruction may be replaced by use of a driving simulator at a proportion of four to one (4 to 1). (One (1) hour of

simulated driving equals fifteen (15) minutes of behind-the-wheel drive time.)

010.01B Competency Certified Instructors. Two (2) hours is the minimum behind-the-wheel time requirement for students in competency-based courses. Substitutions are not permitted.

010.02 Classroom Time. A minimum of twenty (20) hours of classroom instruction must be offered to each student enrolled in any approved driver safety course school.

010.03 Classroom Content. While other material may be addressed, the following must be analyzed in depth:

010.03A Motor Vehicle Laws.

010.03A1 Rules of the road, traffic enforcement;

010.03A2 Signs, signals and markings;

010.03A3 What to do in case of an accident; and

010.03A4 Nebraska driver-s manual.

010.03B Vehicle Operating Tasks.

010.03B1 Vehicle familiarization;

010.03B2 Seating position;

010.03B3 Steering wheel control;

010.03B4 Speed control;

010.03B5 Vehicle motion and balance;

010.03B6 Traction control; and

010.03B7 Anti-lock braking.

010.03C Occupant Protection.

010.03C1 Seatbelts;

010.03C2 Airbag;

010.03C3 Automatic restraint; and

010.03C4 Child safety seat.

010.03D Establishing Vehicle Position.

010.03D1 Visual reference points;

010.03D2 Targeting;

010.03D3 Line of sight/path of travel; and

010.03D4 Zone locations.

010.03E Limited Space Movements.

010.03E1 Backing;

010.03E2 Turnabouts; and

010.03E3 Parking.

010.03F Human Functions.

010.03F1 Visual scanning;

010.03F2 Detection/perception;

010.03F3 Evaluation;

010.03F4 Risk assessment;

010.03F5 Decision making; and

010.03F6 Motor skills.

010.03G Traffic Flow Tasks.

010.03G1 Intersections;

010.03G2 Lane changes;

010.03G3 Merging, exiting;

010.03G4 Passing; and

010.03G5 Railroad crossings.

010.03H Driving Environment.

010.03H1 Urban areas;

010.03H2 Rural areas;

010.03H3 Expressways;

010.03H4 Adverse conditions;

010.03H5 Weather;

010.03H6 Construction zone;

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010.03H8 Night.

010.03I Factors Affecting Performance (Risk, Attitude, Emotion).

010.03I1 Emotions;

010.03I2 Peer pressure;

010.03I3 Roadway conditions;

010.03I4 Limited visibility;

010.03I5 Limited traction;

010.03I6 Natural laws; and

010.03I7 Energy conservation.

010.03J Other Roadway Users.

010.03J1 Pedestrians, bicyclists;

010.03J2 Railroads;

010.03J3 Emergency vehicles;

010.03J4 Trucks;

010.03J5 Motorcycles;

010.03J6 Farm equipment; and

010.03J7 Animals.

010.03K Alcohol and Other Drugs.

010.03L Insurance.

010.03M Responses to Vehicle Failure and Driver Errors.

010.03M1 Braking and steering failure;

010.03M2 Engine power loss;

010.03M3 Evasive steering;

010.03M4 Controlled braking; and

010.03M5 Loss of forward vision.

010.04 Behind-the-wheel Content. Behind-the-wheel instruction will cover the following material:

010.04A Car Control.

010.04A1 Pre-entry/entering;

010.04A2 Preparing to drive;

010.04A3 Starting the engine;

010.04A4 Acceleration control;

010.04A5 Braking control;

010.04A6 Tracking/targeting;

010.04A7 Reference points;

010.04A8 Precision turns;

010.04A9 Line of sight/path of travel;

010.04A10 Backing straight, left, right;

010.04A11 Searching target area;

010.04A12 Perpendicular, parallel and angle parking;

010.04A13 Intersections;

010.04A14 Rear zone control;

010.04A15 Traffic lights;

010.04A16 Hill stops and turns; and

010.04A17 Reading instruments.

010.04B **Mixing with Traffic.**

010.04B1 Following distance;

010.04B2 Lane changing;

010.04B3 Passing and being passed;

010.04B4 Merging and existing; and

010.04B5 Limited access highways.

010.04C **Response to Traffic Conditions.**

010.04C1 Effective visual search habits;

010.04C2 Zone control;

010.04C3 Traffic controls and conditions;

010.04C4 Limited vision;

010.04C5 Risk assessment.

010.05 **Evaluation and Waiver.** Instructors are required to administer a written test and the Department's drive test to each student enrolled in an approved driver safety course. DMV FORM # 06-40A ADRIVE TEST SCORE SHEET® is the official record of the drive test.

010.05A All passed and failed score sheets must be retained by the school.

010.05B Students are required to pass the drive test with no more than fifteen (15) deductions.

010.05C Upon successful completion of the course, including the written and drive test, the instructor shall complete DMV FORM # 06-92 AWRITTEN AND DRIVE TEST WAIVER® and shall give the top copy to the student and retain the bottom copy for the school's file.

011 **SCHOOL RENEWAL APPLICATION REQUIREMENTS.**

011.01 **Expiration.** A school certificate will expire on the second anniversary of its effective date unless renewed.

011.02 **Application.** At least one-hundred twenty (120) days prior to expiration, the Department will send to the certified school a renewal application form which includes:

011.02A The date on which the current certificate expires;

011.02B 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; and

011.02C The amount of the renewal fee.

011.03 **Time Line.** The renewal application must be received at least sixty (60) days prior to the time the previous certification expires. The Department will not be responsible for the

timely issuance of any renewal certificate when the application is not received in the requested manner.

012 SCHOOL MUST NOTIFY THE DEPARTMENT OF CHANGES. The Department must receive notice, in writing, within the specified period, of any of the following:

012.01 Name Change. Any change in the school's name, legal status or address in writing ten (10) days prior to its date of occurrence.

012.02 Instructor Changes. Any addition or deletion of approved instructors or changes in their driving statuses within ten (10) days of date of occurrence.

012.03 School Closes. If the school ceases operation in Nebraska, the school shall notify the Department ten (10) days prior to its date of occurrence.

012.04 Insurance Change. If the school's insurance as required by the rules and regulations is canceled or altered by the insurance company, the school shall notify the Department within ten (10) working days of its date of occurrence.

012.05 Curriculum Change. Any change in the curriculum, dates or locations of the approved driver safety course or the drive route not less than ten (10) days *prior* to its occurrence.

013 RECORDS TO BE KEPT BY THE SCHOOL. Each certified school will keep the following records for three (3) years at the contact person location. These records will be open to inspection by the Department's auditors or examiners.

013.01 List of Instructors. A list of all instructors who have taught or who are teaching the approved driver safety course at the school.

013.02 Endorsement. Proof that all instructors who have taught or who are teaching the approved driver safety course for the school possess a driver's education endorsement or equivalent.

013.02A Competency Certified. Proof that all instructors who have taught or who are teaching competency-based driver education have successfully completed three (3) credit hours of driver performance measurement.

013.03 Instructors= Driving Records. Annually updated driving records on each current instructor.

013.04 Student Records. List of all students who have attended each class and classroom final examination results for each student, including all passed and failed drive test score sheets and the second copy of the WRITTEN AND DRIVE TEST WAIVER FORM # DMV 06-92 maintained in alphabetic order by calendar year. Records of students who have taken competency-based driver education will be clearly marked as such.

013.05 Curriculum. Department-approved curriculum for the approved driver safety course.

013.06 Registration and Insurance. Copies of registration and proof of insurance for all approved driver safety course motor vehicles.

013.07 Certificate. The certificate indicating that the school has been approved to teach the driver safety course.

013.08 Drive Test. Location and written description of the route used for the administration of the drive test.

014 SCHOOL INSPECTIONS.

014.01 Random Inspections. The Department may conduct random examinations, inspections and audits of all of the school's facilities and motor vehicles, and upon demand the

school shall exhibit all records, instructional aids and other objects which are necessary to the investigation.

014.02 Drive Test. A Department representative may take the drive test actually administered by the instructor as if the representative were a test applicant.

014.03 Written Evaluation. The Department may, at the Department's discretion, prepare a written report of the results of each inspection and audit. A copy of the report shall be provided to the school.

015 DENIAL, REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF A COMMERCIAL OR PUBLIC SCHOOL CERTIFICATE. The Department will deny, refuse to renew, suspend or revoke an approved driver safety course certificate for any of the following:

015.01 Engaging in or attempting to engage in administration of drive testing without a certificate.

015.02 Fraud, forgery or misrepresentation in an application.

015.03 Failure to provide notice to the Department as required by these rules and regulations.

015.04 Failure to permit on-site inspections or audits as required by these rules and regulations.

015.05 Failure to pay the fee as required by these rules and regulations.

015.06 Failure at any time to comply with the Motor Vehicle Operator's License Act or the rules and regulations adopted and promulgated by the Department under that Act.

015.07 Lack of business stability.

015.08 Fraud, forgery or falsification of any documents relating to the schools, instructors, drive test score sheets or the written and drive test waiver form.

015.09 Employing an instructor who has a conviction for driving a motor vehicle under the influence within the previous five (5) years of the date of application.

015.10 Employing an instructor who has a suspended or revoked driver's license within the previous five (5) years of the date of application, or who has a five-point (5-point) or more driving violation.

016 APPEAL.

016.01 Hearing. Upon suspension, revocation, cancellation or denial of the issuance of a certificate, the Director of the Department shall notify such school in writing and upon written request, shall afford such school a hearing.

016.02 Stay. Upon receipt of a written request, the Director of the Department may stay an administrative order denying, canceling, suspending or revoking the certificate of any school pending an administrative hearing on the matter.

016.03 Administrative Procedures Act. Any action taken by the Department to cancel, suspend, revoke or refuse to issue or renew a certificate shall comply with the Administrative Procedures Act.

017 HEARING; PROCEDURE AND NOTICE.

017.01 Notice. Whenever the Department denies an initial application for or refuses renewal of, or suspends or revokes a certificate, the Department shall notify the party of its intent to deny, refuse renewal, suspend or revoke in the following manner:

017.01A Written notice shall be sent by certified mail, return receipt requested, to the

party's last-known address;

017.01B The notice shall state that the party may request a formal hearing by submitting a written request for formal hearing with the Department within thirty (30) days of the issuance of the notice.

017.02 Notice of Formal Hearing. Upon receipt of a written request for a hearing the Director shall set a hearing date at a time and location designated by the Director, and notify the party. Written notice shall be sent by certified mail, return receipt requested, to the party's last-known address at least fifteen (15) days prior to the hearing.

017.03 Parties to a Hearing. The parties to a hearing shall be the Department and the person or entity notified of impending denial, refusal of renewal, suspension or revocation.

017.04 Hearing Officer. The hearing shall be conducted by the Director or his or her designated hearing officer, who will, inter alia, open the proceedings; enter into the record the notice of hearing; rule on the admissibility of exhibits, take appearances, act on pleadings not previously filed; hear evidence as provided for in these rules and regulations, rule on motions and objections, issue subpoenas, order briefs; cross-examine any witnesses and close the proceedings. Hearing officers make a recommendation to the Director.

017.05 Continuances. Continuances may be granted at the discretion of the Director for good cause or on his or her own motion. A party may request a continuance in the following manner:

017.05A Any party who desires a continuance shall notify the Director in writing, stating in detail the reasons why such continuance is necessary;

017.05B Requests for continuance shall be received by the Department no later than five (5) days prior to hearing:

017.06 Official Record. The Department shall prepare an official record in all hearings in the form of a tape recording.

017.07 Decisions--Transmittal. The Director shall reduce his or her decision or order to writing and deliver that decision or order to the party requesting the hearing. Such delivery shall be by certified mail, return receipt requested.

017.08 Representation by Counsel. Either party may be represented at the hearing by counsel.

017.09 Summary Suspension. The Department may summarily revoke or suspend the certificate of an approved driver safety course, provided that the Department finds that the public safety requires emergency action and incorporates its findings to that effect in its notice of suspension or revocation of certificate. The party may request a hearing within thirty (30) calendar days of the date of notice. If so requested, the hearing shall be instituted within ten (10) calendar days of the request, and the contest of the summary revocation/suspension shall be promptly determined.

017.10 Teleconference Hearings. The hearing officer may conduct the hearing by telephone, television, or other electronic means if each participant in the hearing has an opportunity to participate in, to hear, and if technically feasible, to see the entire proceeding while it is taking place.

018 INTERVENTION.

018.01 Petitions for Intervention. Petitions for intervention must comply with the following requirements:

018.01A Form. The petition must:

018.01A1 Be in a legible form showing the caption, ABefore the Director of the Department of Motor Vehicles,@ and entitled as APetition for Intervention.@"

018.01A2 Specify intervenor-s legal rights, duties, privileges, immunities, or other legal interests justifying their participation in any proceeding in which intervention is sought.

018.01A3 State the names of the interested parties likely to be affected by the intervenor-s petition.

018.01A4 State sufficient facts upon which the Director or hearing officer can rely to render a well-reasoned decision.

018.01A5 Be subscribed by the intervenor or by a duly authorized officer of the intervenor, if the intervenor is a corporation, organization, other legal entity, or the attorney for the intervenor. The petition must include the attorney-s name, bar number, address and telephone number.

018.01B Filing Petition. The petition must be filed with the Department, with copies of the petition for intervention received by all parties named in the notice of hearing, at least five days before a hearing.

018.01C Consideration of a Petition. Petitions for intervention will ordinarily be considered solely on the face of the petition and without hearing.

018.02 Mandatory Vs. Discretionary Intervention. There shall be mandatory and discretionary intervention as set forth below.

018.02A Mandatory Intervention. The Director shall grant a petition for intervention if all of the following occurs:

018.02A1 The petition is submitted in writing to the Director, with copies mailed to all parties named in the notice of the hearing, at least five (5) days before the hearing;

018.02A2 The petition states facts demonstrating that the petitioner-s legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and

018.02A3 The Director or hearing officer determines that the interest of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention.

018.02B Discretionary Intervention. The Director or hearing officer may grant a petition for intervention at any time upon determining that the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.

018.03 Conditions and Privileges of Intervention.

018.03A Conditions. When granting a petition for intervention, the Director or hearing officer may impose conditions upon the intervenor-s participation in the proceedings, either at the time intervention is allowed, or at any subsequent time. Conditions may include: Limiting the intervenor-s participation to designated issues in which the intervenor has a particular interest demonstrated by the petition; limiting the intervenor-s use of discovery, cross-examination, and other procedures so as to promote the orderly and prompt conduct of the proceedings; and requiring two (2) or more intervenors to combine their presentation of evidence and argument, cross-examination, discovery, and other participation in a proceeding.

018.03B Privileges. Unless the order granting a petition for intervention limits an intervenor-s participation with conditions, intervenors will be permitted to participate in any proceeding as if they were an original party.

018.04 Orders. The Director or hearing officer shall issue an order granting or denying each pending petition for intervention at least twenty-four (24) hours before a hearing. The order shall specify any conditions imposed on the intervenor-s participation, and shall state the reasons for the decision. The Director or hearing officer may modify an order granting or denying a petition for intervention at any time, and the order of modification shall state the reasons for modification.

018.05 Appeal. Appeals of any order granting, denying, or modifying a petition for intervention or imposing limitations on an intervenor by condition shall be made in accordance with the Administrative Procedure Act.

019 EVIDENCE.

019.01 What Evidence Admissible. Any evidence shall be deemed admissible in a hearing which would be admissible in civil proceedings under the laws of the State of Nebraska. In addition, the hearing officer may, within his or her discretion, admit evidence possessing probative value in any form commonly accepted by reasonably prudent men in the conduct of their affairs.

019.01A Secondary Evidence. Pursuant to the foregoing provision, secondary evidence of copies of documents may be admitted.

019.01B Privileged Evidence. In all such hearings, effect shall be given to the rules of privilege recognized by the District Courts of the State of Nebraska.

019.01C Incompetent or Irrelevant Evidence; Exceptions. Incompetent, irrelevant or immaterial evidence may be excluded. Where proper objection is made to the admission of any evidence, the party making the objection shall be deemed to have taken exception to any adverse ruling and formal exceptions are not necessary.

019.02 Records of Department. Records and documents in the possession of the Department may be received in evidence in the form in which the same are kept, and without certification. The records and documents shall be afforded in evidence and made a part of the record in the case.

019.03 Cross Examination. Each party shall have a right of cross-examination of all witnesses who testify.

019.04 Official Notice. In the conduct of a hearing, the hearing officer may take official notice of such facts as would be so noticed by the district courts of Nebraska, and may take notice of general technical or scientific facts within the specialized knowledge of the Department.

019.04A Notice of Technical or Scientific Facts. Parties to the proceedings shall be notified before or during the hearing of specialized technical or scientific facts to be so noticed, and opportunity afforded to contest such noticed facts.

019.05 Rules of Evidence. Any party to a formal hearing before the Director may request that the rules of evidence apply at least three (3) days prior to the hearing. Such request shall include the requesting party-s agreement to be liable for the payment of costs incurred thereby, including the costs of court reporting services.

020 DECISIONS AND FINAL ORDERS.

020.01 Written Order Required, Contents. Where a decision or order is rendered by the Director adverse to any party in the proceedings, the order shall be in writing or set forth in the record, and accompanied by findings of fact and conclusions of law.

020.02 Copies of Order. Copies of the decision and order and findings of fact and conclusions of law shall be delivered upon request to any party or his or her attorney of record. If the order requires revocation of a certificate, it will set forth the period of revocation or suspension and require that the certificate be returned to the Director.

021 APPEALS AFTER HEARING. Any party aggrieved by a final decision or order of the Director, made pursuant to these rules and the applicable statute, may appeal such decision or order in the manner provided in the Administrative Procedure Act for contested cases.

Attachments 1-3

247 NAC 11 -- ATTACHMENT 1

DEPARTMENT OF MOTOR VEHICLES

DRIVE TEST SCORE _____

DRIVE TEST SCORE SHEET

(Passing Score: 15 Mark)

Student-s Name _____ Today-s Date _____
 DOB _____ SSN _____
 (Remarks: _____)

Mark thru the A0[®] when the applicant fails to perform well enough to meet the Drive Test criteria. Cross out either AExpressway[®] or ARural Driving[®] depending on your route. Put the number of marks in the G as each maneuver is completed.

ENTERING		STARTING		BACKING	
Seat Belt	0	Ignition-Gear Selection-Clutch	0	Gear Selection	0
Seat, Mirror Adjustment	0	Mirror Check, Outside Observation	0	Observation	0
		Pulling Away	0	Safety	0
				Speed	0

ANGLE/PARALLEL/PERPENDICULAR PARKING			ROADSIDE STOP		
Signal	0		Traffic Check		0
Encroachments	0	0	Signal, Decel/Coast		0
Final Position	0		Position, Cancel Signal		0
Safety	0		Parking Brake, 4-Ways		0

LEFT	-- TURNS --	RIGHT	
			Traffic Check, Signal
			Cancel Signal

						INTERSECTIONS			
						STOP	STOP	THRU	THRU
0	0	0	Traffic Check and ROW	0	0	0			
0	0	0	Signal, Decel/Coast, Lane	0	0	0	0	0	0
0	0	0	Stop Line, Gap, Full Stop	0	0	0	0	0	
0	0	0	Hand Position, Speed	0	0	0	0	0	
0	0	0	Wide/Short, Correct Lane	0	0	0	0	0	0
0	0	0	Traffic Check, Accelerate	0	0	0	0	0	0

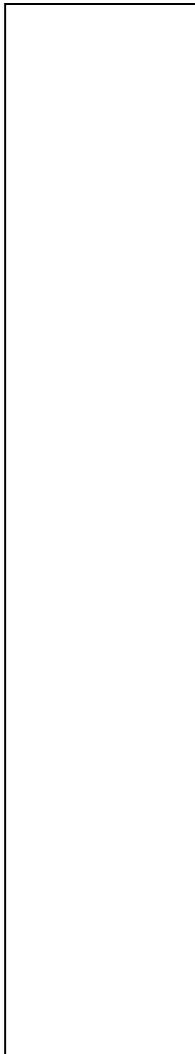
URBAN DRIVING		
Regular Traffic Check		0
Keeps Vehicle in Lane		0
Speed, Spacing		0
Hand Position		0
Defensive Driving		0
Lane Changes	L	R
Traffic Check, Signal	0	0
Check Blind Spot	0	0
In Intersection	0	0
Spacing, Cancel Signal	0	0

CURVE	
Speed: Enter, Thru	0
Proper Steering	0

EXPRESSWAY		
Enter		
Traffic Check, Signal		0
Merge, Cancel Signal		0
Driving		
Traffic Check, Spacing		0
Speed, Vehicle in Lane		0
Lane Changes	L	R
Traffic Check, Signal	0	0
Check Blind Spot	0	0
In Intersection	0	0
Spacing, Cancel Signal	0	0
Exit		
Traffic Check, Signal		0
Speed, Spacing		0
Cancel Signal		0

RURAL DRIVING	
Regular Traffic Check	0
Keeps Vehicle in Lane	0
Speed, Spacing	0
Hand Position	0
Defensive Driving	0
DRIVE ON GRADE	
Regular Traffic Checks	0
Keeps Vehicle in Lane	0
Speed, Spacing	0
Hand Position	0
Defensive Driving	0
RAILROAD CROSSING	
Traffic Check	0
Stop	0

REMAR



GENERAL DRIVING BEHAVIOR

***** TWO MARKS FOR EACH *****

Select Gears Properly (gear selection, clutch usage, gear lever) 2X 0 0 Proper Steering (hand position, no

Manages Speed Properly (too fast/slow, rev/lug engine, coast) 2X 0 0 Def. Driving (position/traffic, controls driving

***** EIGHT MARKS FOR EACH *****

Turning Into Wrong Lane	8X	0	0	Exceeds Speed Limit (1-5) MPH	8X
Incomplete Stop	8X	0	0	Driving Over Lane Markers	8X
Failure to Yield-Ped/Vehicle	8X	0	0		

AUTOMATIC FAILURES

___ Avoidable Accident or Incident

___ Failure to Wear Seat Belt

- Unsafe Behavior
- Drives Over Curb or Over Sidewalk
- Poor Control of Vehicle
- Speeds 6 MPH or More Over Speed Limit
- Improper Vehicle

- Stalls Vehicle Within Intersection Due to Inexperience or Lack of Skill
- Serious Moving Traffic Violations or Disobeyed Signs and/or Signals
- Turning From Wrong Lane
- Driving Left of Center
- Miscellaneous Explain: _____

INSTRUCTOR-S NAME _____ SCHOOL NAME _____

Printed with soy ink on recycled paper

247 NAC 11 -- ATTACHMENT 2

**NEBRASKA DEPARTMENT OF MOTOR VEHICLES
PROVISIONAL OPERATOR'S PERMIT
WRITTEN AND DRIVE TEST WAIVER**

STUDENT INFORMATION:

Student's Name _____

Home Address _____

City _____ Zip Code _____

Date of Birth _____ Social Security Number _____

Competency Tested Yes No Date of Testing _____

INSTRUCTOR INFORMATION:

I certify that the undersigned has successfully completed a department approved driver safety course and may apply for a provisional operator's permit. The department will waive the written examination and driving test.

Instructor Name (Please Print)

Instructor Name (Signature)

Date

Instructor Phone Number

SCHOOL INFORMATION:

Public School or Commercial Driver Training School Name

School Address

School Phone Number

Green Copy: Give to Student for DMV, Yellow Copy: To be Retained by School

DMV06-92
05/98

**247 NAC 11 -- ATTACHMENT 3
NEBRASKA DEPARTMENT OF MOTOR VEHICLES
PROVISIONAL OPERATORS PERMIT**

AFFIDAVIT

I hereby certify that _____, with permit

(Applicant's Name)

number _____, has had a minimum of 50 hours of behind-the-wheel driving practice under conditions that reflect department-approved driver safety course curriculum and is sufficiently prepared and able to safely operate a motor vehicle. I also certify that all 50 hours were spent with a parent, guardian, or adult at least twenty-one years of age, who has a current Nebraska operator's license or who is licensed in another state. Under penalties of perjury, I swear or affirm that all information submitted by me regarding this certification is true and correct.

Signature of Parent, Guardian or Licensed Driver 21 years of Age or Older.

SUBSCRIBED AND SWORN TO before me this _____ day of _____,
_____, at _____, _____, Nebraska.
(City) (County)

Notary Public or Designated County Official

SUGGESTED DRIVING SKILLS CHECKLIST:

Parents: Check off skills you feel your teen has performed several times successfully and confidently. When all items are checked off, your teen may be ready to get a Provisional Operator's Permit.

- ' Pre-driving checks and adjustments
- ' Making accurate turns (left and right)
- ' Backing up
- ' Parking (perpendicular, angle and parallel)
- ' Driving through intersections
- ' Recognizing danger signs/conditions
- ' Driving at night
- ' Driving under adverse conditions (weather, congested traffic, road construction, etc.)
- ' Starting, moving and stopping smoothly
- ' Yielding the right-of-way
- ' Railroad crossing
- ' Changing lanes (checking blind spot)
- ' Following safely behind other vehicles
- ' Communicating with other drivers
- ' Adjusting speed, position and passing on highways
- ' Traffic signals

DRIVING LOG

Date	Location of Practice (e.g. highway, residential area)	Day or Night	Weather Conditions	Time Spent*	Initials of Adult

(*Total time spent practicing must equal a minimum of 50 hours) -OVER-

Date	Location of Practice (e.g. highway, residential area)	Day or Night	Weather Conditions	Time Spent*	Initials of Adult

