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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Jayson Whiteside, Department of Administration

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: June 17, 2024

RE: Filed Permanent Regulations: Department of Administration

Department of Administration regulations re: Division of Motor Vehicles Licensing & Definitions (2 AAC 90.020 - .990, 2 AAC 91.020 & 91.175)

Attorney General File:	2023200314
Regulation Filed:	6/17/2024
Effective Date:	7/17/2024
Print:	251, October 2024

cc with enclosures: Colleen Bailey, Department of Law
Judy Herndon, LexisNexis

Department of Law

CIVIL DIVISION

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THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

June 14, 2024

The Honorable Nancy Dahlstrom
Lieutenant Governor
State of Alaska
P.O. Box 110015
Juneau, AK 99811-0015

Re: *2 AAC 90.020 - .990, 2 AAC 91.020 & 91.175: DOA - Div. of Motor
Vehicles Licensing & Definitions*
Our file: 2023200314

Dear Lieutenant Governor Dahlstrom:

The Department of Law has reviewed the attached regulations of the Department of Administration against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This letter constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Department of Administration after the close of the public comment period.

The regulations concern amendments to Title 2, chapter 90 of the Alaska Administrative Code to update requirements for driving school examinations and road tests, remove discretionary extensions for commercial driver's licenses, and to provide definitions for the terms "driving record" and "vehicle age." Additionally, amendments are made to Title 2, chapter 91 to update experience, training, and testing requirements related to commercial driver's license applications and driver training.

The March 20, 2024 public notice and the June 13, 2024 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.060 is not required.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.060. The corrections are incorporated into the attached copy of the regulations.

Sincerely,

TREG TAYLOR
ATTORNEY GENERAL

By: Rebecca C. Polizzotto
Rebecca C. Polizzotto
Chief Assistant Attorney General
Legislation, Regulations, and
Legislative Research Section

Digitally signed by
Rebecca C. Polizzotto
Date: 2024.06.14
15:16:56 -08'00'

RCP/bws

CC w/enclosure: Jayson Whiteside
Department of Administration

Marshall Harbin, Assistant Attorney General
Department of Law

Brad Sharp, Assistant Attorney General
Department of Law

ORDER ADOPTING CHANGES TO REGULATIONS
OF DEPARTMENT OF ADMINISTRATION

The attached seven pages of regulations, dealing with commercial and non-commercial driving examinations, commercial driver's license expiration extensions, and definitions are adopted and certified to be a correct copy of the regulation changes that the Department of Administration adopts under the authority of AS 28.05.011 and AS 28.17.041 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Administration paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: 06/13/2024

Digitally signed by Paula
Vrana
Date: 2024.06.13 10:41:27
-08'00'

Paula Vrana, Commissioner

FILING CERTIFICATION

April Simpson for

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on

June 17, 2024, at 3:06 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

Nancy Dahlstrom
for Lieutenant Governor Nancy Dahlstrom

Effective: July 17, 2024

Register: 25, October 2024

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, NANCY DAHLSTROM, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

April Simpson, Regulations and Initiatives Specialist

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.



A handwritten signature in blue ink, reading "Nancy Dahlstrom", is written over a horizontal dotted line.

**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

Chapter 90. Driver Licensing and Safety Responsibility.

The introductory language of 2 AAC 90.020(b) is amended to read:

(b) The driving examination must be administered in the type of vehicle that the applicant is to operate, and the vehicle must be furnished by the applicant, [OR] the applicant's employer, **or a certified driving school**. The examination **must** [WILL] consist of at least the following maneuvers:

...

(Eff. 7/1/2006, Register 178; am 1/1/2011, Register 196; am 7 / 17 / 2024, Register 251)

Authority: AS 28.05.011 AS 28.15.041 AS 28.15.046

2 AAC 90.420(h)(3) is amended to read:

(3) the department may conduct the first road test when the applicant satisfactorily meets all other requirements; a second road test will be conducted at least **two business days** [ONE WEEK] after the first test if the department determines it is necessary; further testing will be at the department's discretion and the department may require proof that additional driver training has been completed; the department may not allow the use of an autocycle for a road test for a Class D driver's license; the department will not refund a road test fee if the applicant cancels an appointment for a road test later than 72 hours before the time scheduled for the test, fails to appear for the scheduled road test, fails the road test due to an unsafe vehicle, carries improper registration, or lacks proof of insurance for the vehicle being used for testing.

(Eff. 7/1/2006, Register 178; am 1/1/2011, Register 196; am 6/27/2014, Register 210; am

Register 251, October 2024 ADMINISTRATION

1/12/2018, Register 225; am 1/1/2019, Register 228; am 2/23/2020, Register 233; am
7 / 17 / 2024, Register 251)

Authority: AS 18.65.310 AS 28.15.081 AS 28.15.111
AS 28.05.011 AS 28.15.101 AS 28.15.211
AS 28.15.041

2 AAC 90.435 is amended to read:

2 AAC 90.435. Extension of driver license expiration. Except as provided in AS 28.15.101(d), the department may extend, for a period not to exceed one year, the expiration of a valid non-commercial driver's license issued in this state to a resident of this state who is temporarily out-of-state and is unable to obtain services in person because of a compelling reason, as determined by the department. [THE DEPARTMENT MAY EXTEND, FOR 30 DAYS, THE EXPIRATION OF A COMMERCIAL DRIVER'S LICENSE ISSUED IN THIS STATE TO A RESIDENT OF THIS STATE WHO IS TEMPORARILY OUT-OF-STATE AND IS UNABLE TO OBTAIN SERVICES IN PERSON.] The department may [WILL] not waive the written or road tests required under 2 AAC 90.420 to extend the expiration of a driver's license. The extension must be in the applicant's immediate possession while the applicant is driving a motor vehicle. The extension is invalid if the applicant's license has been reissued or has been cancelled, denied, disqualified, suspended, or revoked. (Eff. 1/1/2011, Register 196; am 1/12/2018, Register 225; am 7 / 17 / 2024, Register 251)

Authority: AS 28.05.011 AS 28.15.011 AS 28.15.101

2 AAC 90.990(a) is amended to read:

(a) Unless the context requires otherwise, in this chapter,

(1) "all-terrain vehicle" has the meaning given in AS 11.46.360(b);

(2) "autocycle" means a three-wheeled motorcycle with 50cc or more engine displacement that is designed to be controlled with a steering wheel and pedals that does not require the operator to straddle or sit astride it, is equipped with safety belts for all occupants and is manufactured to comply with federal safety requirements for motorcycles.

(3) "cc" means cubic centimeters of displacement;

(4) "commercial motor vehicle" has the meaning given in AS 28.90.990;

(5) "department" means the Department of Administration;

(6) "division" means the Division of Motor Vehicles [DIVISION OF MOTOR VEHICLES] in the department;

(7) "driving record" means the records maintained by the division of a person's

(A) personal information, as that term is defined under

AS 28.10.505(f);

(B) license and permit information and application history;

(C) history of having a driving privilege or license suspended, revoked, cancelled, limited, restricted, or denied, and the reason for that action;

(D) information relating to financial responsibility;

(E) convictions for vehicle, driver, or traffic offenses; and

(F) involvement in any motor vehicle accident

(i) required to be reported to the department; and

(ii) for which the person was found by the department or a court of competent jurisdiction to be liable;

(8) [(7)] "driver's license" or "license" has the meaning given in AS 28.90.990;

(9) [(8)] "electronic batch record" means a group of records retrieved on a daily basis by a commercial agency contracting with the department for electronic access;

(10) [(9)] "electronic transmission" means any form of communication, not directly involving the physical transmission of paper, that creates a record that may be retained, retrieved, and reviewed by a recipient of the communication and that may be directly reproduced in paper form by a recipient through an automated process;

(11) [(10)] "GCWR" means "gross combination weight rating" as defined in AS 28.90.990;

(12) [(11)] "GVWR" means "gross vehicle weight rating" as defined in AS 28.90.990;

(13) [(12)] "hearing officer" means an employee of the department appointed by the commissioner under AS 28.05.141;

(14) [(13)] "ignition interlock device" has the meaning given in AS 12.55.102;

(15) [(14)] "interlock provider" means an entity designated by the Department of Corrections under AS 33.05.020 to be a provider of ignition interlock devices;

(16) [(15)] "interstate commerce" means trade, traffic, or transportation in the United States between

(A) a place in a state and a place outside of such state, including a place outside of the United States;

(B) two places in a state through another state or a place outside of the United States; or

(C) two places in a state as part of trade, traffic, or transportation originating or terminating outside the state or the United States;

(17) [(16)] "intrastate commerce" means any trade, traffic, or transportation in any state that is not defined as "interstate commerce" **under** [IN (15) OF] this subsection;

(18) [(17)] "licensee" means an individual who possesses a valid driver's license issued under this chapter;

(19) [(18)] "military personnel" means

(A) active duty military personnel;

(B) current members of the reserves or national guard; and

(C) veterans released from military service within 90 days of the application date;

(20) [(19)] "peace officer" has the meaning given in AS 01.10.060;

(21) [(20)] "residence address" means the address, legal description, or physical description of the person's place of residence;

(22) [(21)] "snowmobile" has the meaning given in AS 28.39.250;

(23) [(22)] "tank vehicle" means a commercial motor vehicle designed to transport liquid or gaseous material within a tank that is permanently or temporarily attached to the vehicle or to the chassis, including a cargo tank vehicle, and a portable tank vehicle other than one with a rated capacity of under 1,000 gallons;

(24) "vehicle age" means the model year of a vehicle, as stated by the manufacturer.

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(Eff. 7/1/2006, Register 178; am 1/1/2011, Register 196; am 2/23/2020, Register 233; am 7 / 17 / 2024, Register 251)

Authority: AS 28.05.011 AS 28.15.041 AS 28.90.990
AS 28.05.061 AS 28.15.151

Chapter 91. Driver Training Schools and Instructors.

2 AAC 91.020(c) is amended to read:

(c) To qualify as an instructor or third-party examiner for a commercial motor vehicle, an applicant must satisfy the requirements under (b) of [IN] this section and have accumulated at least three [FIVE] years' experience in the operation of commercial motor vehicles within the seven years preceding application. The applicant must also hold and maintain a medical card approved by the United States Department of Transportation under 49 C.F.R. Part 391, Subpart E (physical qualifications and examinations), as revised as of October 4, 2016. (Eff. 7/1/2006, Register 178; am 10/10/2014, Register 212; am 1/12/2018, Register 225; am 7 / 17 / 2024, Register 251)

Authority: AS 28.05.041 AS 28.17.011 AS 28.17.041
AS 28.15.081 AS 28.17.031

2 AAC 91.175 is amended to read:

2 AAC 91.175. Separation of training and testing functions at driver training schools for applicants for commercial driver's licenses. If a driver training school that instructs applicants for commercial driver's licenses also serves as a third-party tester on behalf

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of and under an agreement with the department under 49 C.F.R. 383.75, adopted by reference in 2 AAC 90.250, an instructor who is also certificated under 49 C.F.R. 383.75 and 49 C.F.R. 384.228 as a third-party skills test examiner from that driver training school may not administer a skills test required under AS 28, 2 AAC 90, or 49 C.F.R. Part 383 to an applicant whom the instructor has skills trained. (Eff. 10/10/2014, Register 212; am 1/12/2018, Register 225; am 7 / 17 / 2024, Register 251)

Authority: AS 28.17.011 AS 28.17.031 AS 28.17.041