

Document: Proposed Rule, **Register Page Number:** 29 IR 3058

Source: June 1, 2006, Indiana Register, Volume 29, Number 9

Disclaimer: This document was created from the files used to produce the official CD-ROM Indiana Register.

TITLE 140 BUREAU OF MOTOR VEHICLES

Proposed Rule LSA Document #06-126

DIGEST

Amends 140 IAC 3.5-2-15 to eliminate transference of interim plates between dealers. Amends 140 IAC 4-1-1 through 140 IAC 4-1-14 concerning commercial driver training schools and instructors. Effective 30 days after filing with the Secretary of State.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

Estimated Number of Small Businesses Subject to this Rule:

The Bureau estimates that all small businesses in the vehicle merchandising industry sector that utilize interim plates and that all small businesses in the commercial driver training school industry sector will be subject to the proposed rule.

Estimated Annual Average Administrative Costs that Small Businesses Will Incur:

The Bureau of Motor Vehicles estimates that the proposed amendments will impose requirements or administrative costs related to criminal background checks, furnishing documents incorporated by reference, and increased fees for duplicate licenses and name changes.

Estimated Total Annual Economic Impact on Small Businesses:

The proposed changes are estimated to allow some commercial drive schools to expand their business into new market areas. The proposed changes are estimated to reduce the burden resulting from staffing and record keeping requirements. None of the proposed changes should have a negative estimated economic impact beyond the requirement of having handicapped accessible bathrooms and what is already imposed by the existing rule.

Justification of Requirements or Costs on Small Businesses where Rule is not Expressly Required by Law:

Any requirements or costs not expressly required by law are necessary for public safety, public protection, and to implement the requirements of Indiana Code.

Supporting Data, Studies, or Analyses:

The Bureau did not rely on any studies in reaching this estimate.

Regulatory Flexibility Analysis or Alternate Methods:

The Bureau considers these standards necessary to comply with the requirements of state and federal law and considers these standards to be the least restrictive practicable measures under current law.

Explanation of Preliminary Determination:

The Bureau has determined a need for these standards to ensure the orderly administration of the requirements of state and federal law.

Supporting Data, Studies, or Analyses:

The Bureau did not rely on any studies in reaching this conclusion. However, it considered its past experience and the requirements of state and federal law.

140 IAC 3.5-2-15	140 IAC 4-1-8
140 IAC 4-1-1	140 IAC 4-1-9
140 IAC 4-1-2	140 IAC 4-1-10
140 IAC 4-1-3	140 IAC 4-1-11
140 IAC 4-1-4	140 IAC 4-1-12
140 IAC 4-1-5	140 IAC 4-1-13
140 IAC 4-1-6	140 IAC 4-1-14
140 IAC 4-1-7	

SECTION 1. 140 IAC 3.5-2-15 IS AMENDED TO READ AS FOLLOWS:

140 IAC 3.5-2-15 Interim plates; restrictions on use

Authority: IC 9-14-2-2

Affected: IC 9-18-26-10; IC 9-23

Sec. 15. (a) Requirements for the use of interim plates shall be as follows:

(1) Under IC 9-18-26-10, interim plates may be utilized only by the operator of a motor vehicle:

(A) for a period not to exceed thirty-one (31) days after the date of delivery; or

(B) until regular registration plates are obtained;

whichever occurs first.

(2) Only one (1) interim plate may be issued by a dealer to the purchaser of a motor vehicle. No additional interim plates may be issued for the motor vehicle for any reason.

(3) Interim plates may not be utilized on **the following vehicles:**

(A) A vehicle owned or in the inventory of a licensed dealer.

~~(4) Interim plates may not be utilized on~~ (B) Vehicles sold on consignment by a dealer.

~~(5) Interim plates assigned by the bureau of motor vehicles to any dealer may be given or sold to another registered dealer in good standing with the bureau of motor vehicles so long as the transfer, by interim plate control number, is recorded in each dealer's interim plate log.~~

~~(6) A registered dealer obtaining interim plates from another dealer must record those plates in the dealer's interim plate log by interim plate control number and name of transferring dealer.~~

~~(7) (4)~~ The dealer must provide an ownership document to the purchaser at the time of issuance of the interim plate.

~~(8) (5)~~ Interim plates may not be utilized on vehicles sold to dealers at automobile auctions unless the dealer is:

(A) an out-of-state dealer without metal dealer plates from the dealer's state; or is

(B) an Indiana license only dealer without metal dealer plates.

(b) Requirements for the interim plate log shall be as follows:

(1) All dealers utilizing interim plates must maintain a log recording the issuance of each plate.

(2) The interim plate log shall include, but is not limited to, the following:

(A) An interim plate control number by control number sequence.

(B) The name and address of the party to whom the interim plate was issued.

(C) The make, model, and year of the vehicle to which the plate is to be affixed.

(D) The manufacturer's vehicle identification number.

(E) The date of issuance of the interim plate.

(3) All interim plates not issued by the dealer must be retained in the dealer's possession at all times.

(4) The interim plate log shall be maintained continuously for a period of three (3) years.

(c) Penalties shall be as follows:

(1) Any misuse of an interim plate may result in the limiting of the dealer's interim plate usage or suspension of the dealer's license.

(2) The dealer is subject to all criminal penalties provided by statute.

(Bureau of Motor Vehicles; 140 IAC 3.5-2-15; filed Jan 5, 1994, 5:00 p.m.: 17 IR 978; readopted filed Oct 17, 2001, 4:50 p.m.: 25 IR 914)

SECTION 2. 140 IAC 4-1-1 IS AMENDED TO READ AS FOLLOWS:

140 IAC 4-1-1 Definitions

Authority: IC 9-14-2-2

Affected: IC 9-13-2-105; IC 9-24; IC 9-27-4

Sec. 1. Licensing of commercial driver training schools and instructors. ~~(A)~~ Definitions used in these rules and regulations shall have the meanings ascribed to them ~~in this section~~ **as follows** unless the context clearly indicates a different meaning:

(1) **"Agent" means any person, whether:**

(A) **employed by a commercial driver training school or operating in his or her behalf; or**

(B) **acting in behalf of any school located within or outside of the state of Indiana;**

who shall personally solicit any individual within this state to enroll in a commercial driver training school or any person acting on the behalf of the commissioner.

~~(2)~~ (2) **"Commercial driver training school" or "school" means a business enterprise conducted by an individual, association, partnership, or corporation for the education and training of persons, either practically or theoretically, or both, to:**

(A) operate or drive motor vehicles; ~~and/or to or~~

(B) prepare an applicant for any examination or validation given by the bureau of motor vehicles for a driver's license; and charging a consideration or tuition for ~~such the~~ services.

(3) **"Commissioner" means the commissioner of the bureau of motor vehicles.**

~~(2)~~ (4) "Instructor" means:

(A) a person, whether acting for himself **or herself** as operator of a commercial driver training school or for any such school for compensation, who:

(i) teaches;

(ii) conducts classes of;

(iii) gives demonstrations to; or

(iv) supervises practice of;

persons learning to operate or drive motor vehicles or preparing to take an examination for a drivers license; and

(B) any person who supervises the work of any other such instructor.

~~(3) "Commissioner" means the Commissioner of the Bureau of Motor Vehicles.~~

~~(4)~~ (5) "License" ~~shall mean~~ **means** the authorization to:

(A) operate a commercial driver training school; ~~or to~~

(B) act as a commercial driver training instructor;

and any and all documents given with the privilege.

~~(5) "Agent" shall mean any person, whether employed by a commercial driver training school or operating in his behalf; or whether acting in behalf of any school located within or outside of the State of Indiana who shall personally solicit any individual within this State to enroll in a commercial driver training school.~~

(6) **"Motor vehicle" has the meaning set forth in IC 9-13-2-105.**

(7) **"Person" means any of the following:**

(A) **An individual.**

(B) **A combination of individuals.**

(C) **A firm.**

(D) **A partnership.**

(E) **An association.**

(F) **A corporation.**

(8) **"Revocation" means the licensee privilege to:**

(A) **operate a commercial driver training school; or**

(B) **give commercial driver training instruction;**

is terminated.

~~(6)~~ (9) "Solicitor" ~~shall mean~~ **means** any individual, firm, or corporation who:

(A) sells;

(B) offers for sale; or

(C) attempts to sell;

any product or service.

(10) **"Student" means a person who:**

(A) **holds a permit; and**

(B) **is actively enrolled in a driver education class.**

~~(7)~~ (11) "Suspension" ~~shall mean~~ **means** the licensee privilege to:

(A) operate a commercial driver training school; ~~or to~~

(B) give commercial driver training instruction;

is temporarily withdrawn.

~~(8) "Revocation" shall mean the licensee privilege to operate a commercial driver training school or to give commercial driver training instruction is terminated.~~

~~(9) "Motor Vehicle" has the meaning set forth in IC 9-13-2-105.~~

~~(10) "Person" shall mean any individual, combination of individuals, firm, partnership, association or corporation.~~

(Bureau of Motor Vehicles; Driver Training Schools and Instructors Rule I; filed May 27, 1968, 9:30 a.m.: Rules and Regs. 1969, p. 267; errata filed Aug 10, 1992, 3:00 p.m.: 15 IR 2594; readopted filed Jul 30, 2001, 10:27 a.m.: 24 IR 4230)

SECTION 3. 140 IAC 4-1-2 IS AMENDED TO READ AS FOLLOWS:

140 IAC 4-1-2 Application for school license

Authority: IC 9-14-2-2; IC 9-27-4

Affected: IC 9-27-4

Sec. 2. Requirements for commercial driver training school license. ~~(1)~~ **(a)** No person, on or after July 1, ~~1968~~, **2005**, shall:

- (1)** operate;
- (2)** conduct;
- (3)** maintain; or
- (4)** establish;

a commercial driver training school in the state of Indiana unless he **or she** holds a valid, current license issued by the commissioner. ~~of the Indiana Bureau of Motor Vehicles.~~

~~(2)~~ **(b)** Before any license is issued, an application ~~shall~~ **must** be made in writing to the commissioner on forms prepared and furnished by the commissioner.

~~(3)~~ **(c)** The application ~~shall~~ **must** contain, along with any additional information that the commissioner deems necessary, **the following:**

- ~~(a)~~ **(1)** The title or name and address of the school, together with the names, ~~and~~ addresses, **and e-mail addresses** of all owners or partners of an unincorporated school, or the names and addresses of all officers of an incorporated school.
- ~~(b)~~ **(2)** A list and description of the equipment to be used in the school operation.
- ~~(c)~~ **(3)** The specified course of instruction ~~which that~~ will be offered, **and the dates and times of the courses throughout the fiscal year.**
- ~~(d)~~ **(4)** The qualifications of instructors, agents, and supervisors in each specified field together with their names, addresses, and other information as deemed necessary by the commissioner.
- ~~(e)~~ **(5)** A detailed statement showing the financial condition of the school **if requested by the commissioner or his or her authorized agent.**
- ~~(f)~~ **(6)** A schedule of all tuitions, fees, and charges to be made by the school.
- ~~(g)~~ **(7)** ~~A sworn statement that the~~ **All owners, officers, and instructors are of high moral character and reputation and have not been adjudicated a felon the ten years shall be required to provide a criminal background check applied for with the Indiana state police** immediately preceding the date of the application.

~~(4)~~ **(d)** The following additional information ~~shall~~ **must** accompany the application along with any further information that the commissioner shall deem necessary:

- ~~(a)~~ **(1)** Applicants or any officer or partner thereof ~~shall~~ **will** be required to furnish with the application three (3) photographs taken within thirty (30) days to date of filing and must be presented with the application. The photographs ~~shall~~ **must** consist of one (1) full-face, one (1) left profile, and one (1) right profile. All photographs must:
 - (A)** be **one and one-half** (1½) inch square; and ~~must~~
 - (B)** show the shoulders and an uncovered head.

Updated photographs must be provided to the commissioner upon request.

~~(b)~~ **(2)** One (1) set of fingerprints of each digit on the right and left hands accompanied by an affidavit from an Indiana state, county, city, or town enforcement officer, who is qualified to take fingerprints, that the photographs and fingerprints are those of the applicant.

~~(c)~~ **(3)** A sworn statement that each instructor employed by the school:

- (A)** is in possession of a valid, current instructor's license issued by the commissioner; **and**
- (B)** **has not been adjudicated a felon the ten (10) years immediately preceding the date of the application.**

~~(d)~~ **(4)** Samples of ~~any and~~ **the following:**

- (A)** All contracts to be used by the school.
- ~~(e)~~ **(5)** ~~Samples of any and~~ **(B)** All written examinations to be given to the students.
- ~~(f)~~ **(6)** ~~Samples of~~ **(C)** All forms used by the school ~~which that~~ will be furnished or delivered to the students.
- ~~(g)~~ **(7)** If a commercial driver training school has agents or solicitors employed, a copy of the financial agreement between the school and the agents or solicitors.
- (6)** **The school must furnish each student with a copy of the BMV approved "Code of Responsibilities for Driver Education Students" and "Bill of Rights for Driver Education Students".**
- (7)** **The school must furnish all advertisements that will be used including Web site information if applicable.**

~~(5)~~ **(e)** Every application for a commercial driver training school license must be accompanied by an application fee of one hundred

~~(\$100.00)~~ dollars **(\$100)** in the form of a certified check, ~~or~~ United States postal money order, **or corporate check**. No license fee ~~shall~~ **will** be refunded in the event that the license is rejected, suspended, or revoked. There shall be no reduction in fee in the event of application after the beginning of the fiscal year. Licenses expire at midnight, June 30 of each fiscal year. (*Bureau of Motor Vehicles; Driver Training Schools and Instructors Rule II; filed May 27, 1968, 9:30 a.m.: Rules and Regs. 1969, p. 268; readopted filed Jul 30, 2001, 10:27 a.m.: 24 IR 4230*)

SECTION 4. 140 IAC 4-1-3 IS AMENDED TO READ AS FOLLOWS:

140 IAC 4-1-3 License term; transfer; display; replacement; changes; renewal

Authority: IC 9-14-2-2; IC 9-27-4

Affected: IC 9-27-4

Sec. 3. ~~The Commercial Driver Training School License.~~ ~~(1)~~ **(a)** Each commercial driver training school license shall be valid for a period of one **(1)** fiscal year beginning July 1 and ending June 30. **The license will be valid only for the fiscal year for which it is issued, and there will be no reduction in fee in the event of application after the beginning of the fiscal year. The license will expire at midnight, June 30 of each fiscal year.**

~~(2)~~ **(b)** The commercial driver training school license ~~shall~~ **is not be** transferable. In the event of change of ownership, application for a new license must be made, and the old license surrendered to the commissioner before a new license will be issued to the new owner. **The new owner must follow all rules and regulations as described herein to apply for a license as a new school. The school must not conduct any training classes to students during the transition of ownership.** The fee for the new license ~~shall~~ **will** be one hundred ~~(\$100.00)~~ dollars **(\$100)** in the form of a certified check, United States postal money order, or corporate check and ~~shall~~ **must** accompany the application.

~~(3)~~ **(c)** The commercial driver training license certificate ~~shall~~ **must** be conspicuously displayed in the licensee's principal place of business at all times.

~~(4)~~ **(d)** In the event the commercial driver training school license is lost, destroyed, or mutilated, a duplicate **must be obtained** and will be issued upon proof of the facts and, in case of mutilation, upon surrender of ~~such the~~ license. ~~Such~~ **The** proof ~~shall~~ **must** consist of an affidavit indicating **the following:**

~~(a)~~ **(1)** The date the license was lost, destroyed, or mutilated.

~~(b)~~ **(2)** The circumstances surrounding the loss, destruction, or mutilation

~~(c)~~ **(3)** In the event of loss or theft, the name of the police department or police authority to which the report was made and ~~the~~ date of ~~said the~~ report.

The fee for a duplicate commercial driver training school license ~~shall~~ **will** be ~~five (\$5.00)~~ **twenty dollars (\$20)**. The fee ~~shall~~ **must** be in the form of a certified check, ~~or~~ United States postal money order, **or corporate check** and must be remitted before the duplicate will be issued.

~~(5)~~ **(e)** In the event of any change in address or a change of officers, etc., the following will be required:

~~(a)~~ **(1)** The commissioner ~~shall~~ **must** be notified in writing **as follows:**

~~(A)~~ Immediately upon the change of address **or e-mail address** of the owner, partner, **or** officer. ~~or driving instructor.~~

~~(b)~~ ~~The Commissioner shall be notified in writing~~ **(B)** Within ten (10) days of any change in the officers or directors of a corporation. Officers and directors must supply the same information as would be required on an application by the corporation.

~~(c)~~ **(2)** Failure to inform the commissioner ~~shall~~ **will** be grounds for suspension or revocation of the commercial driver training school license.

~~(6)~~ **(f)** Application or renewal of license **requirements are as follows:**

~~(a)~~ **(1)** Application or renewal of a license ~~shall~~ **must** be made on forms prescribed and provided by the commissioner. A renewal fee of one hundred ~~(\$100.00)~~ dollars **(\$100)** in the form of a certified check, ~~or~~ United States postal money order, **or corporate check** must accompany the renewal application.

~~(b)~~ ~~Where an~~ **(2)** ~~The application is made for the renewal of a commercial driver training school license; the applicant may continue to conduct business as a commercial driver training school until the renewal application is granted or denied by the Commissioner; Provided, The renewal application is properly~~ **must be** filed with the commissioner on or before ~~June 15 midnight, May 1~~ of the current license year. **Submission of an incomplete application will result in its return, and the commercial driver training school will not be in compliance with the filing deadline stated herein. A commercial driver training school must**

not conduct business after the expiration of the current license until the commissioner has granted a new license.

(7) (g) To change the name of a commercial driver training school before ~~the~~ expiration date, the owners must make application to the commissioner for a name change accompanied by a certified check, ~~or~~ United States postal money order, **or corporate check** in the amount of ~~ten (\$10.00)~~ **twenty dollars (\$20)**. The change of name ~~shall~~ **will** be contingent upon approval of the commissioner. In the event of refusal, the ~~ten (\$10.00)~~ **twenty dollar (\$20)** fee shall be refunded.

(8) ~~A name change upon expiration date of the license can be effected in the renewal application by inserting the new name in the license application and attaching thereto an application for name change. There shall be no additional charge for a name change if requested as stated. The change of name shall be contingent upon approval of the Commissioner.~~

(9) ~~If in a partnership, a partner withdraws, the Commissioner shall be notified within five (5) calendar days by certified mail. Should a new partner be added the school shall make application for a new license as provided for in these rules and regulations. (Bureau of Motor Vehicles; Driver Training Schools and Instructors Rule III; filed May 27, 1968, 9:30 a.m.: Rules and Regs. 1969, p. 269; readopted filed Jul 30, 2001, 10:27 a.m.: 24 IR 4230)~~

SECTION 5. 140 IAC 4-1-4 IS AMENDED TO READ AS FOLLOWS:

140 IAC 4-1-4 Location of school

Authority: IC 9-14-2-2; IC 9-27-4

Affected: IC 20-1-1-6; IC 20-1-1-6.2; IC 36-1-2-17

Sec. 4. (a) A commercial driver training school that is properly licensed shall be allowed to conduct classroom training ~~only~~ **in a county outside** the county where the school is located **to the students of:**

(1) **a school corporation (as defined in IC 36-1-2-17);**

(2) **a nonpublic secondary school that voluntarily becomes accredited under IC 20-1-1-6; or**

(3) **a nonpublic secondary school recognized under IC 20-1-1-6.2;**

if the governing body of the school corporation or the nonpublic secondary school approves the delivery of the training to its students.

(b) Subsection (a)(1) through (a)(3) is subject to a contract or memorandum of understanding from the school corporation, nonpublic secondary school, or nonpublic secondary school recognized under IC 20-1-1-6.2 with the commercial driver training school who is conducting the course. Classes must be held in a building provided by the school corporation, nonpublic secondary school, or nonpublic secondary school recognized under IC 20-1-1-6.2. The commercial driver training school conducting the course is subject to the rules described in section 7 of this rule. The commissioner or the commissioner's designee may accept reasonable alternative requirements to satisfy this rule.

(c) The commercial driver training school must conduct all classes and operate out of the address appearing on the application.

~~(b)~~ (d) In no instance shall a commercial driver training school operate in any manner from a residential dwelling. *(Bureau of Motor Vehicles; Driver Training Schools and Instructors Rule IV; filed May 27, 1968, 9:30 a.m.: Rules and Regs. 1969, p. 270; readopted filed Oct 17, 2001, 4:37 p.m.: 25 IR 915)*

SECTION 6. 140 IAC 4-1-5 IS AMENDED TO READ AS FOLLOWS:

140 IAC 4-1-5 Office operations; classrooms; advertising

Authority: IC 9-14-2-2; IC 9-27-4

Affected: IC 9-27-4

Sec. 5. All commercial driver training schools ~~shall~~ **must** operate from an office in the following manner:

(1) The commercial driver training school license shall be placed in a conspicuous location within the office.

(2) All records pertaining to the operation of the school ~~shall~~ **must** be maintained in the main office of the school and available for inspection in the presence of the owner or **designee**, after giving notice thereof, by the commissioner or his ~~or her~~ authorized agent between the hours of 9 a.m. and 5 p.m. local time, Monday through ~~Friday~~, **Saturday**, excluding legal holidays. Refusal of the owner or an employee to grant an inspection of the records ~~shall~~ **will** be grounds for suspension or revocation.

(3) The commissioner or his or her authorized agent may periodically attend classroom instruction without notice. Refusal of the owner or an employee to grant attendance will be grounds for suspension or revocation.

~~(3)~~ **(4)** The telephone located in the school ~~shall~~ **must** be used exclusively for the operation of the commercial driver training school.

~~(4)~~ **(5)** Sufficient indoor space to teach students the theoretical instruction relating to the rules and regulations of the road and safe driving practices ~~shall~~ **must** be included within the office. The classroom ~~shall~~ **must** be enclosed to eliminate any and all extraneous interference from the public. The classroom shall:

(A) contain chairs and desks or tables in sufficient number to accommodate students;

(B) have adequate lighting; and

(C) be of sufficient size to comfortably accommodate the students, but in no event shall the classroom contain less than two hundred and twenty-five (225) square feet of usable area.

A minimum of one (1) "unisex" handicapped accessible restroom is required with a functioning lock. Approval of any license application ~~shall~~ **will** be contingent upon approval of the classroom and office space by the commissioner or his **or her** authorized agent.

~~(5)~~ **(6)** One (1) employee of the school must be available ~~from 9 a.m. to 5 p.m., Monday through Friday;~~ **a minimum of thirty (30) hours per week** to give information regarding lessons. ~~or produce the school's records in the event the commissioner or his authorized agent wishes to inspect the school. Refusal to grant an inspection will be grounds for suspension or revocation.~~

~~(6)~~ **(7)** The office ~~shall~~ **must** not be operated in conjunction with any other business.

~~(7)~~ **(8)** The owner or operator will be permitted to list **the following:**

(A) His or her home phone number in his or her advertisements provided it specifically states that the number may be called after 6 p.m.

~~(8) The owner or operator will be permitted to list~~ **(B)** His or her home address and phone number on his or her business cards.

(9) All commercial driver training schools wishing to provide information electronically or use a telephone answering service in connection with their business shall do so in the following manner: The electronic information service or use of the telephone answering service shall be secondary in the operation of the school. The telephone answering service shall only be used when there is no one in the school's business office to answer the telephone. **The outgoing message is required to provide, at a minimum, the following:**

(A) The school's operational hours.

(B) The school's location.

(C) A message indicating calls will be returned to provide requested information.

(10) In the event a commercial driver training school ceases to operate, the commissioner shall be notified in writing **ten (10) calendar days before closure and all student records for the preceding fifteen (15) month period must be provided to the bureau upon request.**

(Bureau of Motor Vehicles; Driver Training Schools and Instructors Rule V; filed May 27, 1968, 9:30 a.m.: Rules and Regs. 1969, p. 271; readopted filed Oct 17, 2001, 4:37 p.m.: 25 IR 915)

SECTION 7. 140 IAC 4-1-6 IS AMENDED TO READ AS FOLLOWS:

140 IAC 4-1-6 Name of school

Authority: IC 9-14-2-2; IC 9-27-4

Affected: IC 9-27-4

Sec. 6. ~~Commercial Driver Training School Name.~~ No commercial driver training school ~~shall~~ **can** use, adopt, or conduct any business under a name that is the same, like, or deceptively similar to the name used by another driving school without the written approval of the commissioner. A commercial driver training school ~~shall at no time cannot~~ use the words:

(1) state;

(2) government;

(3) municipal;

(4) city; or

(5) county;

in any part of the school name. *(Bureau of Motor Vehicles; Driver Training Schools and Instructors Rule VI; filed May 27, 1968, 9:30 a.m.: Rules and Regs. 1969, p. 272; readopted filed Jul 30, 2001, 10:27 a.m.: 24 IR 4230)*

SECTION 8. 140 IAC 4-1-7 IS AMENDED TO READ AS FOLLOWS:

140 IAC 4-1-7 Ownership of more than one school

Authority: IC 9-14-2-2; IC 9-27-4

Affected: IC 9-27-4

Sec. 7. ~~Additional Commercial Driver Training Schools.~~ ~~(1)~~ **(a)** The owner of a commercial driver training school desiring to operate an additional school or schools ~~shall~~ **must** make application on forms prescribed and furnished by the commissioner. Upon approval of the application, the commissioner shall issue a license, appropriately endorsed, for use at the school.

~~(2)~~ **(b)** It shall be permissible, upon approval by the commissioner, for schools to bear the same name so long as ~~the ownership~~ **one (1) owner's name** is identical for all schools concerned.

~~(3)~~ **(c)** Any and all additional schools ~~shall~~ **must** meet the same requirements and follow the same procedure as the licensed original as provided for in these rules and regulations. (*Bureau of Motor Vehicles; Driver Training Schools and Instructors Rule VII; filed May 27, 1968, 9:30 a.m.: Rules and Regs. 1969, p. 272; readopted filed Jul 30, 2001, 10:27 a.m.: 24 IR 4230*)

SECTION 9. 140 IAC 4-1-8 IS AMENDED TO READ AS FOLLOWS:

140 IAC 4-1-8 Records

Authority: IC 9-14-2-2; IC 9-27-4

Affected: IC 9-27-4

Sec. 8. ~~Commercial Driver Training School Records.~~ Every commercial driver training school ~~shall~~ **must** maintain the following records ~~which shall be retained~~ for three (3) years:

~~(a)~~ **(1)** A file setting forth **the following:**

(A) The name, address, contract number, and terms of payment with respect to every person giving:

(i) lessons;

(ii) lectures;

(iii) tutoring;

(iv) instructions of any kind; or

(v) any other service relating to instructions in the operation of a motor vehicle.

~~(b)~~ ~~A file setting forth~~ **(B)** The names and addresses of all students along with the amount and type of training completed.

~~(c)~~ **(2)** A record of all receipts and disbursements **if requested by the commissioner or his or her authorized agent.**

~~(d)~~ **(3)** A file containing a duplicate copy of every contract entered between the school and every person taking lessons, lectures, tutoring, and instructions relating to the operation of a motor vehicle. The original contract ~~shall~~ **must** be given to the student taking instruction and a ~~carbon~~ duplicate thereof retained by the school **in the form of paper or electronic provided the school can reproduce it if requested by the commissioner or his or her authorized agent.**

(4) An electronic file providing the student's:

(A) full name;

(B) phone number;

(C) contract number;

(D) grades and hours in classroom;

(E) behind the wheel training; and

(F) date of course completion.

(*Bureau of Motor Vehicles; Driver Training Schools and Instructors Rule VIII; filed May 27, 1968, 9:30 a.m.: Rules and Regs. 1969, p. 272; readopted filed Jul 30, 2001, 10:27 a.m.: 24 IR 4230*)

SECTION 10. 140 IAC 4-1-9 IS AMENDED TO READ AS FOLLOWS:

140 IAC 4-1-9 Contracts with students

Authority: IC 9-14-2-2; IC 9-27-4

Affected: IC 9-24; IC 9-27-4

Sec. 9. ~~Commercial Driver Training School Contracts.~~ All Contracts with students ~~shall~~ **are required for each student and must** be written and conform to the following standards:

~~(a)~~ **(1)** Each contract ~~shall~~ **must:**

(A) contain the agreed contract price per hour, lesson, or course;
(b) ~~Each contract shall~~ (B) enumerate all related charges to be made to the student; **and**
(c) ~~Each contract shall~~ (C) include the following clause: "An owner, officer, instructor, agent, or employee of any commercial driver training school shall not state nor give the impression to a student that upon completion of the course, they will guarantee the securing of a driver's license to operate a motor vehicle."
(d) (2) The term "no refund" ~~shall~~ **must** not be present in the contract. Schools may substitute the following: "The school will not refund any fee, tuition, or charge or any part thereof should the school be ready, willing, and able to fulfill its part of the contract."
(Bureau of Motor Vehicles; Driver Training Schools and Instructors Rule IX; filed May 27, 1968, 9:30 a.m.: Rules and Regs. 1969, p. 272; readopted filed Jul 30, 2001, 10:27 a.m.: 24 IR 4230)

SECTION 11. 140 IAC 4-1-10 IS AMENDED TO READ AS FOLLOWS:

140 IAC 4-1-10 Insurance coverage

Authority: IC 9-14-2-2; IC 9-27-4

Affected: IC 9-25; IC 9-27-4

Sec. 10. ~~Commercial Driver Training School Insurance:~~ **As follows,** no commercial driver training school license ~~shall~~ **will** be issued unless and until:

(1) The applicant has filed with the commissioner evidence of insurance in a company authorized to do business in the state of Indiana in the amount of at least:

(A) one hundred thousand (~~\$100,000~~) dollars (**\$100,000**) because of bodily injury to or death of any one (1) person and subject to said limit respecting one (1) person; ~~in the amount of at least~~

(B) three hundred thousand (~~\$300,000~~) dollars (**\$300,000**) because of bodily injury to or death of two (2) or more persons in any one (1) accident; and ~~in the amount of at least~~

(C) twenty-five thousand (~~\$25,000~~) dollars (**\$25,000**) because of injury to or destruction of property in any one (1) accident.

(2) The commercial driver training school ~~shall~~ **must** furnish evidence of such insurance coverage in the form of a certificate from the insurance carrier, which shall:

(A) stipulate that the commissioner shall be notified when the policy expires or if it is ~~cancelled; canceled;~~ and ~~shall~~

(B) include the make, model, and manufacturer's identification number of any and all automobiles covered in the policy.

Proof of insurance must be made available to the commissioner upon request.

(3) Commercial driver training schools covered by fleet policies can effect sufficient notice of additional vehicles covered by sending written verification from the insurance company to the commissioner, using the make, model, and manufacturer's identification number, stating that the vehicle has been included in the coverage.

(Bureau of Motor Vehicles; Driver Training Schools and Instructors Rule X; filed May 27, 1968, 9:30 a.m.: Rules and Regs. 1969, p. 273; readopted filed Jul 30, 2001, 10:27 a.m.: 24 IR 4230)

SECTION 12. 140 IAC 4-1-11 IS AMENDED TO READ AS FOLLOWS:

140 IAC 4-1-11 Vehicle standards

Authority: IC 9-14-2-2; IC 9-27-4

Affected: IC 9-25; IC 9-27-4

Sec. 11. (a) Every motor vehicle used for commercial driver training ~~shall~~ **must** have a current Indiana registration plate and be a recent model with not more than five (5) years having elapsed from the date of purchase. As used in this subsection, "date of purchase" means the date of purchase listed upon the certificate of title that was received from the application using the manufacturer's certificate of origin. Every motor vehicle used for commercial driver training ~~shall~~ **must** have the additional equipment as follows:

(1) One (1) operable extra foot brake.

(2) One (1) rearview mirror placed on the inside of the motor vehicle.

(3) Two (2) outside rearview mirrors, one (1) on each side of the vehicle.

(4) Cushions for the proper seating of students when necessary.

(b) Every training vehicle being operated by a student ~~who has had less than four (4) hours of practical driving instruction~~ must be conspicuously marked ~~as a~~ **and visible from all four (4) sides of the** training vehicle.

(e) If, after four (4) hours of practical training, a student demonstrates suitable proficiency in operating a motor vehicle, the instructor may give instruction in a private vehicle if the student provides proof of insurance coverage:

- (1) in at least the amount of twenty-five thousand dollars (\$25,000) because of bodily injury to or death of any one (1) person; and subject to said limit respecting one (1) person;
- (2) in the amount of fifty thousand dollars (\$50,000) because of bodily injury to or death of two (2) or more persons in any one (1) accident; and
- (3) in the amount of ten thousand dollars (\$10,000) because of injury to or destruction of property in any one (1) accident.

(c) Every training vehicle must be clean and in good working condition.

(d) The school vehicle identification certificate issued by the commissioner ~~shall~~ **must** be carried in the vehicle at all times while driving instructions are being given.

(e) **The vehicle registration and current insurance information must be carried in the vehicle at all times.** (*Bureau of Motor Vehicles; Driver Training Schools and Instructors Rule XI; filed May 27, 1968, 9:30 a.m.; Rules and Regs. 1969, p. 273; readopted filed Oct 17, 2001, 4:37 p.m.: 25 IR 916*)

SECTION 13. 140 IAC 4-1-12 IS AMENDED TO READ AS FOLLOWS:

140 IAC 4-1-12 Curriculum

Authority: IC 9-14-2-2; IC 9-27-4

Affected: IC 9-24; IC 9-27-4

Sec. 12. ~~Commercial Driver Training School Instruction.~~ Commercial driver training schools licensed by the commissioner ~~of the Indiana Bureau of Motor Vehicles shall~~ **must** make available both theoretical and practical instruction **as follows:**

(1) The theoretical course of instruction shall include, but not be limited to, the following:

- (A) Subject matter relating to rules and regulations of operating a motor vehicle.
- (B) Safe driving practices **including how to avoid drivers who display aggressive and unsafe behavior.**
- (C) Pedestrian safety.
- (D) Driver responsibility.
- (E) Accident reporting.
- (F) Mental attitudes and physical characteristics of individuals as related to the operation of a motor vehicle.
- (G) Maintenance of an automobile.
- (H) Handling of driver emergencies.
- (I) Driving skills **including the following:**
 - (i) **Proper lane changing.**
 - (ii) **Lane positioning.**
 - (iii) **Proper signaling.**
 - (iv) **Merging**

(J) Basic first aid

(K) Signs, signals, highway markings, and highway design features ~~which that~~ require understanding for the safe operation of a motor vehicle.

(L) Backing and parallel parking.

In preparing questions to be used for instructional or evaluative purposes, the school ~~shall~~ **must** not use questions prepared in the same manner as examination questions used by the Indiana bureau of motor vehicles.

(2) The practical course of instruction shall include the demonstration of ~~and an~~ actual instruction in:

- (A) stopping;
- (B) starting;
- (C) shifting;
- (D) turning;
- (E) **lane changing;**
- (F) **lane positioning;**
- (G) **merging;**
- (H) **signaling;**
- (I) **backing;**

(J) parallel parking; and

(K) steering;

in a dual controlled vehicle ~~which that~~ meets the standards prescribed by the commissioner.

(Bureau of Motor Vehicles; Driver Training Schools and Instructors Rule XII; filed May 27, 1968, 9:30 a.m.: Rules and Regs. 1969, p. 274; readopted filed Jul 30, 2001, 10:27 a.m.: 24 IR 4230)

SECTION 14. 140 IAC 4-1-13 IS AMENDED TO READ AS FOLLOWS:

140 IAC 4-1-13 Instructor's license; qualifications

Authority: IC 9-14-2-2; IC 9-27-4

Affected: IC 9-24; IC 9-27-4-5.5

Sec. 13. (a) No person, on or after July 1, ~~1968~~, **2005**, shall give commercial driver training instruction for compensation or act as a commercial driver training instructor unless he **or she**:

(1) holds a valid, current commercial driver training instructor license issued by the commissioner; ~~of the Indiana bureau of motor vehicles and unless he~~

(2) is employed by a licensed driver training school.

This section does not apply to any full-time teachers in an accredited high school, college, or university who has among his **or her** duties the teaching of driver's education except when employed as an instructor in a commercial driver training school as set forth in the Act and in these rules and regulations.

(b) Requirements for applications and applicants are as follows:

(1) All applications for an instructor's license must be accompanied by a:

(A) certified check, ~~or~~ United States postal money order, **or corporate check** in the amount of ten ~~(\$10)~~ dollars **(\$10)**; and a

(B) notarized statement from the owner of a commercial driver training school listing the applicant's ~~name in~~ full legal name, the applicant's address, and a statement that the applicant will be employed by the school.

The application for the renewal of an instructor's license must be filed with the commissioner on or before midnight, May 1 of the current license year. Submission of an incomplete application will result in its return, and the instructor will not be in compliance with the filing deadline stated herein. This rule applies to original and renewal applications.

(2) All applicants ~~shall~~ **must** be citizens of the United States of America.

(3) Every commercial driver training instructor: ~~shall~~

(A) **must** be:

(i) at least twenty-one (21) years of age; and

(ii) a person of high moral character; **and**

(B) **will be required to provide a criminal background check applied for with the Indiana state police.**

(4) Every person ~~shall~~ **must** hold a valid driver license before making application for a commercial driver training instructor license.

(5) Each application ~~shall~~ **must** be accompanied by a statement from a physician certifying mental ability **and** visual acuity and that the applicant does not have any: ~~contractual~~

(A) **contractual** diseases;

(B) hearing ailments;

(C) epilepsy; or

(D) other malady causing loss of consciousness.

(6) The visual acuity of an instructor ~~shall~~ **must** not be less than 20/40 in either eye with or without eyeglasses or other means of visual correction.

(7) **The visual fields of an instructor shall not be less than fifty-five (55) degrees in either eye.**

~~(7)~~ (8) An instructor giving practical training shall not be absent one (1) functional eye, hand, foot, or leg.

~~(8) All instructors must successfully complete a special written test, a vision test, and a road test, prepared and administered under the authorization of the commissioner, embracing subject matter pertinent to highway design, road signs, and the care, operation, and laws affecting the operation and traffic of motor vehicles. The contents of the written examination shall be taken from the following materials:~~

~~(A) The Indiana driver manual;~~

~~(B) Indiana motor vehicle laws;~~

~~(C) Indiana rules and regulations governing commercial driver training schools and instructors;~~

~~(D) Other sources dealing with driver education.~~

The commissioner may allow for a case-by-case analysis or an instructor's ability to perform instruction in the vehicle or in the classroom and require additional requirements before licensing.

(c) **In conjunction with IC 9-27-4-5.5**, requirements for the instructor license are as follows:

(1) The instructor license shall be valid for a period of one (1) fiscal year beginning July 1 and ending June 30. The license ~~shall~~ **will** be valid only for the fiscal year for which it is issued, and there ~~shall~~ **will** be no reduction in fee in the event of application after the beginning of the fiscal year. All licenses ~~shall~~ **will** expire at midnight, June 30 of each fiscal year.

(2) Where an application is made for the renewal of a commercial driver training instructor license, the ~~applicant may continue to give instruction~~ **applicant must not provide** instruction ~~in the commercial driver or training school until the renewal application is granted or denied by the commissioner; provided the renewal application is properly filed with the commissioner on or before June 15 after the expiration of the current year license year until the commissioner has granted a new license.~~

(3) The instructor wishing to renew his or her license shall submit himself or herself for a complete **physical** reexamination every other year. **The physical must be valid in order to maintain a valid instructor license.**

~~(4) Examinations shall be given at such time and place, as the commissioner shall determine.~~

~~(5) (4)~~ The commissioner, at his **or her** discretion, may order a complete or partial **physical** reexamination of any licensed instructor at any time.

~~(6) (5)~~ An instructor ~~shall~~ **must** have in his or her possession an identification card:

(A) issued by the commissioner; and

(B) containing information prescribed by the commissioner;
while acting in behalf of the school he or she is licensed to represent.

~~(7) (6)~~ The instructor's license certificate shall be maintained ~~in~~ **on** file by the commercial driver training school so long as the instructor shall remain in the employ of ~~said~~ **the** school.

~~(8) More than one (1)~~ **(7) Any** chargeable accident during any consecutive ~~three (3)~~ **two (2)** year period can make an instructor's license subject to review by the commissioner or his **or her** authorized agent.

~~(9) (8)~~ Any violation resulting in suspension or revocation of driving privilege shall cause the revocation of the instructor's license.

~~(10) (9)~~ Every commercial driver training instructor who is not licensed to operate a motor vehicle by the Indiana bureau of motor vehicles ~~shall cause to be sent~~ **must provide** to the commissioner a certified copy of his or her driving record from the jurisdiction from which his or her license is issued. This certified record ~~shall~~ **must** be filed:

(A) with the commissioner before the original application will be approved; and ~~shall be filed~~

(B) upon each and every subsequent renewal.

(10) The commissioner must be notified in writing immediately upon the change of address of driving instructor.

(11) In the event the commercial driver training instructor license is lost, destroyed, or mutilated, a duplicate must be obtained and will be issued upon proof of the facts and, in the case of mutilation, upon surrender of the license. The proof must consist of an affidavit indicating the following:

(A) The date the license was lost, destroyed, or mutilated.

(B) The circumstances surrounding the loss, destruction, or mutilation.

(C) In the event of loss or theft, the name of the police department or police authority to which the report was made and the date of the report.

(d) The fee for a duplicate commercial driver training instructor license will be five dollars (\$5). The fee must be:

(1) in the form of a certified check, United States postal money order, or corporate check; and

(2) remitted before the duplicate will be issued.

(Bureau of Motor Vehicles; Driver Training Schools and Instructors Rule XIII; filed May 27, 1968, 9:30 a.m.: Rules and Regs. 1969, p. 274; readopted filed Oct 17, 2001, 4:37 p.m.: 25 IR 916)

SECTION 15. 140 IAC 4-1-14 IS AMENDED TO READ AS FOLLOWS:

140 IAC 4-1-14 General provisions

Authority: IC 9-14-2-2; IC 9-27-4

Affected: IC 9-24; IC 9-27-4

Sec. 14. ~~General Provisions.~~ ~~(1)~~ **(a)** If the commissioner finds that the application and the school or instructor for which the license is sought, complies with:

(1) IC 9-27-4; and

(2) the rules and regulations of the commissioner promulgated under the provisions of IC 9-27-4;

a license shall be issued to the applicant.

~~(2)~~ **(b)** No person shall perform any instructional duties as an owner or employee of any school or branch thereof unless ~~such the~~ person shall meet the qualifications for instructors as herein provided, and all instructional personnel must possess a valid instructor's license issued by the commissioner. ~~of the Indiana Bureau of Motor Vehicles.~~

~~(3)~~ **(c)** No:

(1) state official ~~or his~~ **or her** agent or employee whose duties relate in any way to the issuance of Indiana ~~driver~~ **driver's** licenses; ~~nor any or~~

(2) employee of the Indiana bureau of motor vehicles or any member of his ~~or her~~ immediate family; shall be connected in any capacity whatsoever with any commercial driving school.

~~(4)~~ **(d)** Any full-time teacher in an accredited high school, college, or university who has among his ~~or her~~ duties the teaching of driver's education shall be exempt from these regulations except when employed as an instructor in a commercial driver training school.

~~(5)~~ **(e)** The provisions of the rules and regulations shall not apply to **any of the following:**

(1) Any person giving driver training lessons without charge. ~~to~~

(2) Employers maintaining driver training schools without charge for their employees only. ~~or to~~

(3) Schools or classes conducted by colleges, universities, and high schools for students regularly enrolled in such a course.

~~(6)~~ **(f)** The commissioner, at his ~~or her~~ discretion, may establish an advisory board consisting of licensed commercial driver training school operators and licensed commercial driver training instructors. The advisory board shall have as its ~~chairman~~ **chairperson** the commissioner or his ~~or her~~ appointed representative. The members of the board shall:

(1) serve at the pleasure of the commissioner; and ~~shall~~

(2) receive no compensation for their services.

~~(7)~~ **(g)** No complete course of instruction ~~conforming to the standards of the Indiana Department of Public Instruction~~ shall be completed in ~~less fewer than fourteen (14)~~ **sixteen (16)** calendar days **and not more than ninety (90) days of the first day the course commences. The ninety (90) days can only be waived by written agreement of a student or the parent of the minor student. Not more than two and one-half (2½) hours of classroom or one (1) hour of behind the wheel instruction can be completed in a twenty-four (24) hour period with not more than five (5) two and one-half (2½) hour classroom sessions or three (3) one (1) hour behind the wheel instruction sessions can be scheduled in less than one (1) week. The school must notify the bureau with the name of any student and an explanation of why he or she did not complete the course within ninety (90) days.**

~~(8)~~ **(h)** The commissioner is herein and hereby empowered to grant instructor licenses that are restricted to theoretical instructions when the applicant has some affliction or impairment ~~which that~~ would otherwise make it impossible for him ~~or her~~ to receive a license.

~~(9)~~ **(i)** The commercial driver training school is required to ascertain, before giving practical instruction to Indiana residents, that the student possesses a valid:

(1) driver education permit;

(2) learner's permit;

(3) operator license;

(4) chauffeur license; or

(5) public passenger chauffeur license;

from the Indiana bureau of motor vehicles. All nonresident students must hold a valid license or permit allowing them to operate a motor vehicle in their home state.

~~(10)~~ **(j)** The course of instruction for any person holding a valid driver education permit shall consist of both theoretical and practical instruction in at least the minimal amounts ~~as prescribed by the Indiana Department of Public Instruction: of thirty (30) clock hours of classroom and six (6) clock hours of behind the wheel training.~~ In the event that an individual has successfully completed either the theoretical or practical instruction at either an accredited institution or a licensed commercial driver training school, the school at which the individual is applying can, with written certification from the ~~bureau and the school which that~~ the

individual took the course, give the remaining instruction. When the courses of instruction are given at two (2) schools, the school giving the latter of the courses ~~can have~~ **with** records as to the previous instruction **may** certify that the individual has successfully completed both phases, ~~(i.e. that is,~~ theoretical and practical, of his **or her** training.

~~(11)~~ **(k)** The school shall **do the following:**

- (1)** Agree to permit the commissioner or his **or her** representatives to inspect the school. ~~and shall~~
- (2)** Make available to the commissioner, at any time when requested to do so, full information pertaining to any or all items of information contained ~~in the application form; and shall herein.~~
- (3)** Permit them to make photostatic copies of the school records required to be kept by the commissioner.

~~(12)~~ **(l)** A school may change its:

- (1)** fee schedule;
- (2)** contracts;
- (3)** examinations; or
- (4)** other forms required to be filed with the commissioner;

only when the school has by certified mail notified the commissioner at least thirty (30) calendar days ~~prior to such~~ **before the** change.

~~(13)~~ **(m)** A school shall not **do the following:**

- (1)** Use any name other than its licensed name for advertising or publicity purposes. ~~nor shall a school~~
- (2)** Advertise or imply that it is:
 - (A)** supervised;
 - (B)** recommended; or
 - (C)** endorsed;

by the commissioner or the Indiana bureau of motor vehicles.

~~(14)~~ **(n)** No commercial driver training school shall advertise in any manner until such time as ~~the school is properly licensed by~~ the commissioner **properly licenses the school.**

(1) Commercial schools will be permitted to associate with other lawful commercial enterprises and to accept endorsements, promotions, cooperative advertising, and strategic marketing partnerships so long as the ventures:

- (A) do not diminish the importance of driver education;**
- (B) are not perceived:**

- (i) by the bureau as unethical; and**
- (ii) as an endorsement by the state of Indiana or any of its bureaus or agencies.**

(2) Commercial schools must provide the bureau with copies of any and all contracts and information concerning the commercial enterprises if requested by the commissioner or his or her authorized agent.

~~(15)~~ **(o)** No commercial driver training school instructor, employee, or agent will be permitted to **do the following:**

(1) Accompany any student into any office being used for the giving of ~~driver~~ **driver's** license examinations for the purpose of assisting a student taking an examination.

~~(16) No commercial driver training school instructor, employee or agent shall be permitted to~~ **(2)** Loiter in or on the premises rented, leased, owned, or used in conjunction with the Indiana bureau of motor vehicles.

~~(17) No commercial driver training school instructor, employee or agent shall be permitted to~~ **(3)** Personally solicit any individual on the premises rented, leased, owned, or used in conjunction with the Indiana bureau of motor vehicles for the purpose of enrolling them in any commercial driver training school.

~~(18)~~ **(p)** Any false information on any application or form shall be grounds for suspension or revocation of any license issued.

~~(19)~~ **(q)** The commissioner may suspend or revoke any license or certificate mentioned in this Act or rules and regulations promulgated ~~pursuant to~~ **under IC 9-27-4** if he **or she** shall find any of the ~~following~~ **violations listed in this subsection.** Violations that are cause for suspension or revocation are inclusive of, but not limited to, the following:

~~(a)~~ **(1)** The licensee has violated any provision of:

- (A)** IC 9-27-4; or ~~any of~~
- (B)** the rules and regulations of the commissioner.

~~(b)~~ **(2)** The applicant **or** licensee **or** any instructor or agent:

- (A) is addicted to the use of:
 - (i) alcoholic liquors;
 - (ii) morphine;
 - (iii) cocaine; or
 - (iv) other drugs having similar effects; or
- (B) shall become incompetent.
- ~~(e)~~ (3) The licensee has failed or refused to permit the commissioner or his **or her** representative to inspect:
 - (A) the school; ~~or~~
 - (B) ~~the~~ class; ~~or~~
 - (C) motor vehicles ~~which that~~ are used to teach its students; or
 - (D) full information pertaining to any or all items contained in ~~an application form or to its program~~. **the rules and regulations.**
- ~~(d)~~ (4) The applicant has failed or refused to submit to the commissioner an application for license in the manner prescribed by the commissioner.
- ~~(e)~~ (5) The licensee has failed or refused to produce his **or her** license when requested to do so either by:
 - (A) prospective students; or
 - (B) the commissioner or his **or her** authorized agent.
- ~~(f)~~ (6) The applicant or licensee has failed to maintain:
 - (A) adequate standards of instruction or qualified instructors; or
 - (B) equipment sufficient to maintain the school or classes.
- ~~(g)~~ (7) The licensee is employing instructors, teachers, or agents who have not been approved and licensed by the department.
- ~~(h)~~ (8) There has been a change in ownership of the school without advising the department immediately by the herein established procedure.
- ~~(i)~~ (9) The licensee is instructing students contrary to the restrictions imposed on the students' driver license.
- ~~(j)~~ (10) The licensee has the unauthorized possession of application forms or questionnaires used by the Indiana bureau of motor vehicles in conjunction with administering ~~driver driver's~~ license examinations.

(r) The license of any driver's license instructor may be suspended or revoked after due notice and a hearing outlining the reasons for suspension or revocation that may include one (1) or more of the following violations:

- (1) Willful or repeated violation of any of the provisions of the law, rules, or regulations of the bureau of motor vehicles dealing with licensing.**
- (2) Committing any act that, in the opinion of the commissioner, constitutes unprofessional conduct, intemperance, or negligence in the performance of duties required and privileges conferred by licensure.**
- (3) Practicing fraud, deceit, or misrepresentation in obtaining a license.**
- (4) Conducting fraudulent, misleading, or deceptive advertising or promotion in regard to commercial instruction programs.**

Upon application for restoration of a license that has been revoked or suspended for any reason under this rule, the commissioner, at his or her discretion, may reinstate the license or certification after a due hearing and apply restrictions to the restoration.

~~(20)~~ (s) Violations that are cause for permanent revocation are inclusive of, but not limited to, the following:

- ~~(a)~~ (1) The licensee has been convicted of a felony or any crime involving:
 - (A) violence;
 - (B) dishonesty;
 - (C) deceit;
 - (D) indecency; or
 - (E) moral conduct.
- ~~(b)~~ (2) The licensee has aided or assisted a person in obtaining a ~~driver driver's~~ license by fraudulent procedure.

(t) The commissioner may enact procedures for electronic transfer of student information, fees, and licensing as modern technology becomes available. (*Bureau of Motor Vehicles; Driver Training Schools and Instructors Rule XIV; filed May 27, 1968, 9:30 a.m.; Rules and Regs. 1969, p. 276; errata filed Aug 10, 1992, 3:00 p.m.: 15 IR 2594; readopted filed Jul 30, 2001, 10:27 a.m.: 24 IR 4230*)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on July 7, 2006 at 8:30 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room A, Indianapolis, Indiana the Bureau of Motor Vehicles will hold a public hearing on proposed amendments concerning interim plates and commercial driver training schools and instructors.

This proposed rule does not impose any requirement or costs on a regulated entity not expressly required by state or federal law except for those requirements or costs necessary for public safety, public protection, and to implement the requirements of state or federal law.

Copies of these rules are now on file at the Indiana Government Center-North, 100 North Senate Avenue, Room N440 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

David J. Certo
Chief Legal Counsel
Bureau of Motor Vehicles