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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **3745**

02/24/2022

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The bill was read for the first time and referred to the Committee on Transportation Finance and Policy

- 1.1 A bill for an act
- 1.2 relating to transportation; authorizing third-party commercial driver's license road
- 1.3 tests; appropriating money; amending Minnesota Statutes 2021 Supplement, section
- 1.4 171.13, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter
- 1.5 171.
- 1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.7 Section 1. Minnesota Statutes 2021 Supplement, section 171.13, subdivision 1, is amended
- 1.8 to read:
- 1.9 Subdivision 1. **Examination subjects and locations; provisions for color blindness,**
- 1.10 **disabled veterans.** (a) Each applicant for a driver's license must pass the examination
- 1.11 required by this section before being issued a driver's license. Except as otherwise provided
- 1.12 ~~in this by section 171.135, the commissioner shall examine each applicant for a driver's~~
- 1.13 ~~license by such agency as the commissioner directs~~ must conduct the examination. This
- 1.14 examination must include:
- 1.15 (1) a test of the applicant's eyesight, provided that this requirement is met by submission
- 1.16 of a vision examination certificate under section 171.06, subdivision 7;
- 1.17 (2) a test of the applicant's ability to read and understand highway signs regulating,
- 1.18 warning, and directing traffic;
- 1.19 (3) a test of the applicant's knowledge of (i) traffic laws; (ii) the effects of alcohol and
- 1.20 drugs on a driver's ability to operate a motor vehicle safely and legally, and of the legal
- 1.21 penalties and financial consequences resulting from violations of laws prohibiting the
- 1.22 operation of a motor vehicle while under the influence of alcohol or drugs; (iii) railroad
- 1.23 grade crossing safety; (iv) slow-moving vehicle safety; (v) laws relating to pupil

transportation safety, including the significance of school bus lights, signals, stop arm, and passing a school bus; (vi) traffic laws related to bicycles; and (vii) the circumstances and dangers of carbon monoxide poisoning;

(4) an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle; and

(5) other physical and mental examinations as the commissioner finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways.

(b) Notwithstanding paragraph (a), the commissioner must not deny an application for a driver's license based on the exclusive grounds that the applicant's eyesight is deficient in color perception or that the applicant has been diagnosed with diabetes mellitus. War veterans operating motor vehicles especially equipped for disabled persons, if otherwise entitled to a license, must be granted such license.

(c) The commissioner shall make provision for giving the examinations under this subdivision either in the county where the applicant resides or at a place adjacent thereto reasonably convenient to the applicant.

(d) The commissioner shall ensure that an applicant is able to obtain an appointment for an examination to demonstrate ability under paragraph (a), clause (4), within 14 days of the applicant's request if, under the applicable statutes and rules of the commissioner, the applicant is eligible to take the examination.

Sec. 2. **[171.135] THIRD-PARTY COMMERCIAL DRIVER'S LICENSE ROAD TESTS.**

Subdivision 1. Definitions. (a) For purposes of this section, the following terms have the meanings given.

(b) "Applicant" means the individual or entity applying to be a third-party tester program or a third-party tester.

(c) "Road test" means the actual physical demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle as required in section 171.13, subdivision 1, paragraph (a), clause (4).

(d) "Third-party tester" or "tester" means an individual who is an employee of a third-party testing program and is authorized by the commissioner to conduct the road test for a commercial driver's license.

3.1 (e) "Third-party testing program" or "program" means a program approved by the
3.2 commissioner to administer the road test conducted by a third-party tester.

3.3 Subd. 2. **Third-party testing program; application.** (a) A third-party testing program
3.4 applicant must apply in the manner specified by the commissioner for approval to administer
3.5 the road test. A third-party testing program may administer the road test under this section
3.6 if the program is approved by the commissioner.

3.7 (b) A program application to the commissioner must include:

3.8 (1) the business or entity name;

3.9 (2) a business registration number if a business or tax identification number if a nonprofit
3.10 entity;

3.11 (3) mailing address, telephone number, and e-mail address of the administrative office;

3.12 (4) the name of an authorized official responsible for the program and application and
3.13 the official's title and telephone number;

3.14 (5) a map, drawing, or written description of each test route to be used for road tests;

3.15 (6) the name, birth date, home address, and driver's license number of all individuals
3.16 the applicant wants to employ as a certified third-party tester;

3.17 (7) the amount for fees, if any, that will be charged; and

3.18 (8) a surety bond, in the amount prescribed by the commissioner.

3.19 Subd. 3. **Third-party testing program; office location.** To qualify as a third-party
3.20 testing program, the applicant must be located in Minnesota and must maintain an
3.21 administrative office in at least one permanent, regularly occupied building with a permanent
3.22 address.

3.23 Subd. 4. **Third-party testing program; evaluation and approval.** (a) The commissioner
3.24 must evaluate each application submitted by a third-party testing program applicant. If the
3.25 application is satisfactory, the commissioner must approve the application.

3.26 (b) Upon approval of a third-party testing program application, the commissioner must
3.27 issue a letter of approval designating the third-party testing program. The letter of approval
3.28 constitutes an agreement between the state and the third-party testing program that authorizes
3.29 the program to administer the road test for a commercial driver's license.

3.30 (c) A letter of approval to operate a third-party testing program is not transferable.

4.1 Subd. 5. **Third-party tester; authority.** (a) An individual may conduct the road test
4.2 for a commercial driver's license under this section if the person:

4.3 (1) is a third-party tester;

4.4 (2) possesses a valid third-party tester certificate, as provided in subdivision 6; and

4.5 (3) meets the requirements under Minnesota Rules, chapter 7410, and Code of Federal
4.6 Regulations, title 49, part 383.

4.7 (b) A third-party tester is subject to the same requirements as examiners employed by
4.8 the state, including but not limited to background checks. The third-party tester must pay
4.9 the cost for a required background check.

4.10 Subd. 6. **Third-party tester; certificates.** (a) The commissioner must issue a third-party
4.11 tester certificate to an individual who satisfactorily completes the required training and is
4.12 authorized as a third-party tester.

4.13 (b) A third-party tester certificate is effective on the date of issuance and expires four
4.14 years after issuance. A third-party tester must submit an application for renewal of the
4.15 certificate to the commissioner no less than 30 days before the date the previously issued
4.16 certificate expires.

4.17 (c) The third-party testing program must keep a copy of the certificate of each third-party
4.18 tester employed by the program on file in the administrative office of the program.

4.19 (d) A third-party tester certificate is not transferable.

4.20 Subd. 7. **Training and information.** (a) The commissioner must provide a training
4.21 process that allows an individual to become authorized as a third-party tester.

4.22 (b) The commissioner must provide to each third-party tester all relevant information
4.23 on how to conduct the road test. At a minimum, the commissioner must provide:

4.24 (1) the criteria on which applicants for a commercial driver's license must be tested
4.25 during the road test;

4.26 (2) the method of scoring and evaluating the applicant;

4.27 (3) the method and criteria for determining test routes; and

4.28 (4) the necessary documentation to conduct the road test.

4.29 Subd. 8. **Road tests.** (a) A third-party tester must conduct the commercial driver's license
4.30 road test in the manner and subject to the requirements of this section; section 171.131;

5.1 Minnesota Rules, chapter 7410; and Code of Federal Regulations, title 49, part 383; and as
5.2 prescribed by the commissioner.

5.3 (b) If the third-party tester also provides behind-the-wheel instruction for student drivers
5.4 or employees, the third-party tester must not use the same routes for training and conducting
5.5 the road test.

5.6 (c) Upon passage of the road test, the third-party tester must provide the person with
5.7 certification of passage of the road test. The certification must be in a form prescribed by
5.8 the commissioner.

5.9 (d) The commissioner must administer the fourth or subsequent road test for a person.

5.10 Subd. 9. **Prohibited road tests.** A third-party tester must not conduct a road test for a
5.11 person who is required to be examined by the commissioner under section 171.13, subdivision
5.12 3, and Minnesota Rules, part 7410.2400.

5.13 Subd. 10. **Indemnification.** The department shall be held harmless for any claims, losses,
5.14 damages, costs, and other proceedings made, sustained, brought, or prosecuted in any manner
5.15 based on or occasioned by or attributive to any injury, infringement, or damage rising from
5.16 any act or omission of the third-party tester or the third-party testing program in the
5.17 performance of testing duties.

5.18 Subd. 11. **Application.** This section does not apply to the commissioner or employees
5.19 of the state that conduct the road test.

5.20 Subd. 12. **Oversight; investigations.** (a) The commissioner must monitor and audit the
5.21 road tests conducted by third-party testers.

5.22 (b) The commissioner must establish a process to investigate alleged violations of the
5.23 law and complaints made against third-party testers or programs. The third-party tester or
5.24 program must be given notice of an investigation and be allowed to participate in the
5.25 investigation. The commissioner must provide the results of an audit or investigation to the
5.26 third-party program and any third-party testers.

5.27 Subd. 13. **Denial; cancellation; suspension.** (a) The commissioner may deny an
5.28 application for a third-party testing program or third-party tester if the applicant does not
5.29 qualify for approval or certification under this section or Minnesota Rules, parts 7410.6000
5.30 to 7410.6540. In addition, a misstatement or misrepresentation is grounds for denying a
5.31 letter of approval for a third-party program or a third-party tester certificate.

5.32 (b) The commissioner may cancel the approval of a third-party testing program or
5.33 third-party tester or may suspend a program or tester for:

(1) failure to comply with or satisfy any provision of this section or Minnesota Rules, parts 7410.6000 to 7410.6540;

(2) falsification of any records or information relating to the third-party testing program;

(3) performance in a manner that compromises the integrity of the third-party testing program. The commissioner must use the same standards of integrity for state-employed testers and third-party testers; or

(4) the withdrawal of a third-party tester's driving privileges.

Subd. 14. **Commissioner's discretion.** (a) The existence of grounds for cancellation or suspension under subdivision 13 is determined at the sole discretion of the commissioner. If the commissioner determines that grounds for cancellation or suspension exist for failure to comply with or satisfy any requirement in this section or Minnesota Rules, parts 7410.6000 to 7410.6540, the commissioner may immediately cancel or suspend the third-party testing program or third-party tester from administering any further tests.

(b) When an application to be a third-party testing program or third-party tester application is denied, or when individual program approval or a tester's certificate is canceled, a notice must be mailed to the subject indicating the reasons for the denial or cancellation and that the third-party testing program or third-party tester may appeal the decision as provided in subdivision 16.

Subd. 15. **Correction order.** If an audit by the commissioner identifies a situation that needs correction but does not merit suspension or cancellation, the commissioner may issue a correction order to a third-party tester or program for 30 days to correct a deficiency before the program or tester becomes subject to suspension or cancellation. The notice must include the basis for requiring the correction. The notice must notify the individual of the ability to appeal the correction order as provided in subdivision 16. The third-party testing program or third-party tester is permitted 30 days to correct the deficiency without having to reapply.

Subd. 16. **Notice of denial or cancellation; request for reconsideration and hearing.** (a) Within 20 calendar days of receiving a notice of cancellation or denial issued pursuant to subdivision 14 or correction order issued pursuant to subdivision 15, the third-party testing program or third-party tester may submit a request for reconsideration in writing to the commissioner. The commissioner shall review the request for reconsideration and issue a decision within 30 days of receipt of the request. Upon receipt of the commissioner's decision, the affected party may request a contested case hearing under chapter 14.

7.1 (b) As an alternative to the process in paragraph (a), the affected party may initiate a
7.2 contested case proceeding within 20 calendar days of receiving a notice of cancellation or
7.3 denial issued pursuant to subdivision 14 or a correction order issued pursuant to subdivision
7.4 15.

7.5 (c) If a correction order issued pursuant to subdivision 15 is appealed under paragraph
7.6 (a) or (b), the commissioner must not enforce the correction order until the appeal is complete.

7.7 Subd. 17. **Rulemaking.** The commissioner must not adopt new rules or amend existing
7.8 rules to implement the requirements of this section. Except where otherwise provided by
7.9 this section, the commissioner shall apply applicable provisions from Minnesota Rules,
7.10 parts 7410.6000 to 7410.6540, to third-party testing of commercial drivers' licenses.

7.11 Sec. 3. **APPROPRIATION.**

7.12 \$425,000 in fiscal year 2023, \$369,000 in fiscal year 2024, and \$369,000 in fiscal year
7.13 2025 are appropriated from the driver services operating account in the special revenue
7.14 fund to the commissioner of public safety for the costs of implementing and administering
7.15 the requirements of this act.