

MODEL LAW ON DRIVER LICENSE TESTING AND APPLICATION PROCESSING BY THIRD PARTIES

Section 1. Third party licensing.--

(1). The department may license third parties to perform the following functions:

(a). Commercial driver license testing. Third party commercial driver license testers shall administer knowledge tests and driving examinations to determine if a commercial driver license applicant demonstrates an ability to perform pretrip inspections and to exercise ordinary and reasonable control in the operation of vehicles requiring a class A, B , or C license.

(b) Class M driver license testing. Third party class M driver license testers shall determine a class M driver license applicant's full or partial eligibility for a class M driver license [, including eligibility for a motorcycle endorsement]. The department may also license testers for [*reference state novice license*].

(c) Application processing services. Third party application processors shall process applications submitted pursuant to [*citation to relevant driver license statutes*].

(2) A person shall not engage in any business pursuant to this chapter unless the department licenses the person to engage in the business.

(3) The department may furnish necessary documents subject to this chapter.

(4) A licensed third party shall submit to the department all statutorily prescribed driver license fees it collects. In addition to the statutorily prescribed fees, a licensed third party may collect and retain a reasonable and commensurate fee for its services.

Section 2. Powers and duties of department; rules

(1) The department shall supervise and regulate all persons required by this chapter to obtain a license.

(2) The department may:

(a) Conduct investigations the department deems necessary.

(b) Conduct audits and require that the licensee submit to the department or the department's designee, at such intervals as the department determines, an audit by a [*certified public accountant or such other person as the department designates*]

(c) Make on-site inspections during regular business hours and at such locations as the department deems appropriate to determine compliance by a licensed third party with this chapter. If an inspection is conducted at a place located outside this state, the department may charge a fee to the licensed third party.

(d) Require that a licensed third party or employees or agents of a licensed third party be certified by a driver license examiner certification program administered by any international association of motor vehicle administrators to perform the functions prescribed in this chapter.

(e) Reject a licensed third party's determination regarding a driver license applicant and administer a driver examination if the department has reason to question the driver license applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

(f) Revoke or suspend a third party license for [*one year*] if the department finds that the licensed third party is not in compliance with this chapter or rules and regulations

adopted pursuant to this chapter and, if cause exists, may order a reexamination of a driver license applicant who was examined or processed by the third party whose license was revoked or suspended.

(g) Promulgate such rules and regulations as it deems necessary or useful to the implementation of this chapter.

Section 3. Third party license application procedure.--

(1) A person may apply for licensing pursuant to this chapter to the department in writing on a form prescribed by the department. The person shall include with the application all documents and fees prescribed by the department.

(2) The application for licensing shall be under oath and shall contain:

(a) The name and residence address of the applicant; if the applicant is a partnership, the name and residence address of each partner; or if the applicant is a corporation, the name and residence address of each principal officer and any stockholder holding more than [____ %] of the corporation.

(b) The principal place of business of the applicant.

(c) The established place of business at or from which the business is to be conducted.

(d) Such other information as the department requires.

Section 4. Bond requirement.--

(1) A person who applies for licensing pursuant to this chapter shall submit with the application a bond in a form to be approved by the department and in an amount of at least [*twenty-five thousand dollars*].

(2) A surety company authorized to transact business in this state shall execute the bond with the applicant as principal obligor on the bond and the state as obligee. The bond shall be conditioned that the applicant will faithfully comply with all of the provisions of law and that the bond is noncancellable for the period of time for which the license to the applicant is issued. Any liability of the surety company terminates on the department's termination of a third party's license to perform driver license functions.

(3) The bond inures to the benefit of any person who suffers loss because of any of the following:

(a) Nonpayment by the licensed third party of any fee or tax paid to the third party by that person.

(b) Insolvency or discontinuance of business.

(c) Failure of the licensed third party to comply with the licensed third party's duties pursuant to this chapter.

(4) The aggregate liability of a surety company for any breach of the conditions of a bond required pursuant to this section shall not exceed the amount of the bond.

(5) The bond requirement of this section does not apply to:

(a) A department, agency or political subdivision of this state.

(b) A court of this state.

(c) A law enforcement agency or department of this state

- (d) A financial institution or enterprise under the jurisdiction of the state banking department or a federal monetary authority.
- (e) The federal government or any of its agencies.
- (f) A motor vehicle dealer that is licensed and bonded by this state [or a state organization of licensed and bonded motor vehicle dealers].
- (g) A manufacturer, importer, factory branch or distributor licensed by this state.
- (h) An insurer under the jurisdiction of the department of insurance.
- (i) An owner of a fleet as defined in [§ 28-2201—*citation to relevant state statute*].
- (j) A public utility.
- (k) A tribal government.
- (l) A title service company that is bonded by this state.
- (m) An employer or association that has at least five hundred employees or members.

Section 5. Criminal background investigation.--

(1) An applicant and each partner, officer, director, agent or stockholder owning twenty per cent or more of a corporation seeking licensing or certification pursuant to this chapter shall provide a full set of fingerprints to enable the department to conduct a criminal background investigation. The criminal background is not required if either:

- (a) The applicant is exempt pursuant to subsection (8) of this section.
- (b) The applicant is currently licensed pursuant to another provision of the laws of this state and the applicant and each partner, officer, director, agent, or stockholder owning twenty per cent or more of a corporation have submitted to the same type of criminal background investigation as prescribed by this section during the past five years.

(2) The department shall deny an application for a license if:

- (a) The application contains a false statement or misrepresentation.
- (b) A person named in the application:
 - (i) has been convicted of a felony in any state, territory or possession of the United States or any foreign country, regardless of whether civil rights have been restored.
 - (ii) has been convicted of a misdemeanor involving dishonesty, false statement, perjury, or moral turpitude.

[For the purpose of this section, the phrase "has been convicted" shall include a plea of guilty, no contest or nolo contendere, or a finding of guilt by a trier of fact, whether or not a judgment of guilt was entered or sentence was imposed.]

(3) The first phase of the criminal background investigation shall be a criminal history record check pursuant to [*applicable state statute*]. On notification by the [*applicable state department*] that the applicant has not been convicted of a violation that would prohibit the applicant from obtaining a license, the department may approve an application for provisional licensing pending completion of the criminal background investigation if the applicant meets all other

requirements of this chapter. The department may revoke a provisional license for a violation of this title. A provisional license is valid unless revoked by the department or until the applicant receives approval or denial of the application for license.

(4) Within [*twenty days*] of completion of the criminal background investigation, the department shall approve or deny the application for license. If the application is denied, the department shall advise the applicant in writing of the denial and the grounds for denial. The department or its employees are not liable for any costs incurred by an applicant seeking licensing under this chapter.

(5) An applicant whose application is denied may petition the department in writing for a hearing pursuant to the Administrative Procedures Act.

(6) If the licensed third party adds a partner, officer, director, agent, or any stockholder owning more than [*twenty per cent*] of the corporation and who was not included in the criminal background investigation on a prior application, the licensed third party shall notify the department within [*thirty days*] of the change.

(7) At the time of notification pursuant to subsection (6) of this section, the third party shall submit to the department an application and, if applicable, a full set of fingerprints for the purpose of a criminal background investigation. On completion of the investigation if the individual added or changed by the licensed third party is found to be ineligible pursuant to subsection (2) of this section, the department shall advise the licensed third party and the individual in writing of the grounds for the action and that the license will be revoked unless the individual is removed from the position.

(8). The requirement for a criminal background investigation does not apply to:

(a) A department, agency or political subdivision of this state.

(b) A court of this state .

(c) A law enforcement agency or department of this state.

(d) A financial institution or enterprise under the jurisdiction of this state or a federal monetary authority.

(f) The federal government or any of its agencies.

(g) A motor vehicle dealer that is licensed and bonded by this state [*or a state organization of licensed and bonded motor vehicle dealers*].

(h) A manufacturer, importer, factory branch or distributor licensed by this state.

(i) An insurer under the jurisdiction of the department of insurance.

(j) An owner or registrant of a fleet as defined in [*citation to relevant state statute*].

(k) A public utility.

(i) A tribal government.

(j) A title service company that is bonded by this state.

(k) An employer or association that has at least five hundred employees or members.

Section 6. Records.--

A third party who is licensed pursuant to this chapter shall:

(1) Maintain records in a form and manner prescribed by the department.

(2) Provide the department with access to the records during regular business hours to ensure compliance with all applicable statutes and rules and regulations.

Section 7. Application denial; hearing; appeal

(1) The department shall deny an application for third party license for of the following reasons:

- (a) That the applicant is not eligible for third party license under this chapter.
- (b) That the application is not made in good faith.
- (c) That the application contains a material misrepresentation or misstatement.
- (d) That the applicant has not met the requirements of law.

(2) The department shall notify the applicant of the denial within the time and in the manner specified in the Administrative Procedures Act.

(3) An applicant who is aggrieved by the denial of an application may make a written request to the department for a hearing on the application denial within the time and in the manner specified in the Administrative Procedures Act.

(4) The final decision of the department denying the application may be appealed within the time and in the manner provided by [the Administrative Procedure Act or other applicable law or rule].

Section 8. Revocation or suspension of license; hearing; appeal

(1) The department may suspend or revoke the license of a third party granted pursuant to this chapter for any of the following reasons:

- (a) Making a material misrepresentation or misstatement in the application for license.
- (b) Violation of a law of this state.
- (c) Violation of a rule adopted by the department.
- (d) Failure to keep and maintain records required by this chapter.
- (e) Allowing an unauthorized or unlicensed person to engage in any business pursuant to this chapter.
- (f) Failure to maintain the bond required by section 4.
- (g) A person named in the application has been convicted of a felony in any state, territory or possession of the United States or any foreign country, regardless of whether civil rights have been restored.
- (h) A person named in the application has been convicted of a misdemeanor involving dishonesty, false statement, perjury, or moral turpitude.

[For the purpose of this section, the phrase "has been convicted" shall include a plea of guilty, no contest or nolo contendere, or a finding of guilt by a trier of fact, whether or not a judgment of guilt was entered or sentence was imposed.]

(2) The department shall give notice of the suspension or revocation within the time and in the manner provided in the Administrative Procedures Act.

(3) An applicant who is aggrieved by the denial of an application may make a written request to the department for a hearing within the time and in the manner specified in the Administrative Procedures Act.

(4) The final decision of the department suspending or revoking the license may be appealed within the time and in the manner provided by [the Administrative Procedures Act or other applicable law or rule].