

## **735-160-0010**

### **Commercial Driver Training School Operator Qualifications**

(1) An Operator of the school must be at least 21 years of age and meet the qualification requirements of sections (2) through (7) of this rule.

(2) An Operator must not have a conviction for any of the following crimes:

(a) A traffic crime as defined by ORS 801.545 and OAR 735-160-0005(20). This subsection does not apply if the conviction occurred more than five years preceding the date an application for a School Certificate or Corrected School Certificate is submitted to DMV;

(b) Kidnapping or custodial interference as defined in ORS 163.225 through 163.257;

(c) Any sexual offense, with or without force, any offense related to child pornography or any offense compelling or promoting prostitution;

(d) Any crime involving injury or threat of injury to another person;

(e) Any crime involving theft, forgery, fraud, falsifying or tampering with records, or racketeering; or

(f) Any crime relating to the unlawful possession, use, sale, manufacture or distribution of controlled substances or alcoholic beverages.

(3) An applicant who has been convicted of one of the crimes listed in section (2) of this rule may include an explanation or evidence of intervening circumstances since the conviction. DMV will determine if the intervening circumstances of the conviction are such that the conviction does not affect the person's fitness to operate a Commercial Driver Training School.

(4) An Operator must not engage in conduct that is substantially related to the person's fitness to be an Operator or that demonstrates unfitness and inability to perform the responsibilities of an Operator. DMV will determine from the facts of the conduct, and the intervening circumstances known to DMV, if the person is fit to perform the responsibilities of an Operator or poses a risk to the safety of others while performing those responsibilities.

(5) An Operator may not be the operator of any school in Oregon if a School Certificate issued to the operator is currently revoked for an offense described in OAR 735-160-0010(2). An Operator may not be the operator of any school in Oregon if a School Certificate issued to the Operator is currently suspended, revoked, canceled, or withdrawn unless the School Certificate is reinstated or is eligible and the Operator meets all eligibility requirements of OAR 735-160-0010.

(6) An Operator must not have been the operator of any school in another jurisdiction that has been suspended, revoked, canceled, or withdrawn for the same or a similar offense as described in OAR 735-160-0010(2) within five years preceding the date of application for a School Certificate or Corrected School Certificate. DMV will review the results of an operator's criminal history to determine whether the offense is applicable.

(7) The criteria described in this rule apply to a current School Certificate and may provide grounds for suspension, revocation, or cancellation as described in OAR 735-160-0115 if an Operator fails to remain qualified as prescribed under this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.500, 822.515 & 822.530

Stats. Implemented: ORS 822.500 & 822.515

## **735-160-0011**

### **Issuance of Commercial Driver Training School Certificate**

(1) An Operator must apply for an original or renewal School Certificate pursuant to ORS 822.515 and must:

- (a) Submit a completed application on a form or in a format provided or established by DMV;
  - (b) Meet the qualifications listed in OAR 735-160-0010;
  - (c) Submit a release authorizing DMV to obtain the Operator's criminal history report. Criminal history records will only be used to determine Operator qualifications and may be used as evidence in any contested case hearing or appeal as described in section (6) of this rule. Such records will otherwise be kept confidential and not released to any person unless DMV determines a record, or any portion thereof, must be released pursuant to the Public Records Law, ORS 192.410 to 192.505, or the Attorney General or a court orders disclosure in accordance with the Public Records law.
  - (d) Submit a School bond that complies with the requirements of ORS 822.505, on a form prescribed by DMV, and certify that a bond will remain in effect as long as the School Certificate is valid;
  - (e) Submit proof of insurance that complies with the requirements of ORS 822.510, on a form provided or established by DMV. The Operator shall certify that insurance will remain in effect as long as the School Certificate is valid;
  - (f) Submit the fee required under ORS 822.700; and
  - (g) Register the business name with the Secretary of State, Corporation Division and provide the registry number.
- (2) The business location of the School must comply with the requirements of OAR 735-160-0020.
- (3) Once issued, a School Certificate is not transferable to any other commercial driver training school.
- (4) An Operator must submit to DMV a renewal application, supporting documents and payment for a School Certificate no later than the expiration date stated in ORS 822.515(4)(a). DMV will provide a grace period of 45 days for the application to be processed during which time the existing school certificate will remain valid. A renewal application that is received after the expiration date of the existing School Certificate will be treated as an application for an original School Certificate.
- (5) DMV will not issue or renew a School Certificate if:
- (a) The qualifications or requirements set forth in Chapter ORS 822 and OAR Chapter 735 Division 160 rules are not met; or
  - (b) DMV determines information contained in the application is false.
- (6) If DMV refuses to issue or renew a School Certificate, DMV will notify the Operator in writing. The Operator may request a contested case hearing. The hearing shall be conducted in accordance with the applicable provisions of the Administrative Procedures Act, ORS 183.310 to 183.540 and is subject to the following:
- (a) A request for hearing must be submitted in writing to and received by DMV within 20 days of the date the refusal notification is mailed to the Operator. DMV will not issue a School Certificate pending the outcome of the contested case hearing. If DMV refuses to renew a School Certificate, the expired School Certificate shall remain valid pending the outcome of the contested case hearing, unless the basis for the refusal is failure to provide or maintain a School bond or provide proof of insurance, as required, or DMV determines continued operation of the School would constitute a serious danger to the public health or safety.
  - (b) Failure to timely request a hearing constitutes waiver of the right to a hearing and no School Certificate will be issued or renewed until the requirements of ORS 822.500 to 822.515 and the OAR Chapter 735, Division 160 rules are satisfied.

(7) Failure to maintain any of the requirements as prescribed under this rule may result in a sanction as described in OAR 735-160-0115 of a School Certificate issued or renewed in accordance with this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 822.505, 822.510 & 822.515

Stats. Implemented: ORS 822.500, 822.510 & 822.515

### **735-160-0075**

#### **Commercial Driver Training School Instructor Qualifications**

(1) No person will teach, conduct classes, give demonstrations to, or supervise the practice of student drivers for compensation unless he or she is issued an Instructor Certificate by DMV.

(2) To be eligible for an Instructor Certificate, or to renew or maintain an Instructor Certificate, a person must:

(a) Be at least 21 years of age to conduct behind-the-wheel training and age 19 to conduct classroom training;

(b) Be an employee of a School that holds a valid and current School Certificate issued by DMV;

(c) Have valid Oregon driving privileges, or valid driving privileges from another jurisdiction if the instructor only conducts classroom training, and have had valid driving privileges for at least three years preceding the date an application is submitted to DMV for an Instructor Certificate. To be valid, driving privileges must not be suspended, revoked, canceled, or otherwise withdrawn for a violation of a traffic crime described in OAR 735-160-0005(20) and ORS 801.545. For purposes of these OAR 735 division 160 rules, a hardship or probationary permit does not constitute valid driving privileges. An Instructor who has not held Oregon driving privileges for the three year period may be required to submit a certified driving record from any jurisdiction or foreign government that issued driving privileges during that period;

(d) Not have a conviction for any of the following crimes:

(A) A traffic crime as defined by ORS 801.545 and OAR 735-160-0005(20). This subsection does not apply if the conviction occurred more than five years preceding the date an application for an Instructor Certificate is submitted to DMV;

(B) Kidnapping or custodial interference as defined in ORS 163.225 through 163.257;

(C) Any sexual offense, with or without force, any offense related to child pornography, or compelling or promoting prostitution;

(D) Any crime involving injury or threat of injury to another person;

(E) Any crime involving theft, forgery, fraud, falsifying or tampering with records, or racketeering; or

(F) Any crime relating to the unlawful possession, use, sale, manufacture, or distribution of controlled substances or alcoholic beverages;

(e) Not engage in conduct that is substantially related to the person's fitness to be an Instructor or that demonstrates unfitness and inability to perform the responsibilities of an instructor. DMV will determine from the facts of the conduct, and the intervening circumstances known to DMV, if the person is fit to perform the responsibilities of an instructor or poses a risk to the safety of others while performing those responsibilities; and

(f) Have received a passing score on both the written knowledge test and drive test described in OAR 735-160-0100. If the instructor only conducts classroom training the drive test is not required.

**(3)** A person is not eligible for an Instructor Certificate, and will not be allowed to renew or maintain an Instructor Certificate if:

(a) The person has a physical or mental condition or impairment affecting the person's ability to teach, give demonstrations, or supervise the practice of student drivers in a motor vehicle;

(b) The person's vision in both eyes, with or without corrective lenses, does not meet a minimum acuity of 20/40. Corrective lenses do not include bioptic telescopic lenses; If the instructor only conducts classroom training there is no vision requirement that must be met.

(c) The person's driving privileges are revoked as a habitual offender under ORS 809.600 or any equivalent action in another jurisdiction. This section shall apply if the instructor's driving privileges were revoked as a habitual offender and have not been restored under ORS 809.660 or its equivalent in another jurisdiction at least five years prior to the date an application for an Instructor Certificate or Corrected Instructor Certificate is submitted to DMV;

(d) The person is enrolled or participating in a DUII diversion program including an equivalent diversion program in another jurisdiction. This section will apply if the person was enrolled or participated in a diversion program anytime within the five years preceding the date an application for an Instructor Certificate is submitted to DMV;

(e) The person has had a suspension of driving privileges under a driver improvement program, including an equivalent driver improvement program in another jurisdiction. This section will apply if the suspension occurred within the last three years preceding the date an application for an Instructor Certificate is submitted;

(f) The person refuses to take a breath or blood test in accordance with ORS 813.100 or any equivalent violation in another jurisdiction. This section will apply if the person refused a breath test anytime within five years preceding the date an application for an Instructor Certificate is submitted to DMV;

(g) The person fails to pass a breath or blood test in accordance with ORS 813.100 or any equivalent violation in another jurisdiction. This section will apply if the person fails a breath test anytime within five years preceding the date an application for an Instructor Certificate is submitted to DMV;

(h) An Instructor must not be an instructor at any school in Oregon whose School Certificate is currently revoked, canceled, or withdrawn unless the Operator has completed the terms of their sanction according to OAR 735-160-0125 and meets all eligibility requirements of OAR 735-160-0075; or

(i) An Instructor must not have an Instructor Certificate that is suspended, revoked, canceled, or withdrawn or a similar sanction in another jurisdiction on the date the application for an Instructor Certificate is submitted to DMV.

**(4)** An applicant who has been convicted of one of the crimes listed in section (2) of this rule may include an explanation or evidence of intervening circumstances since the conviction. DMV will determine if the intervening circumstances of the conviction are such that the conviction does not affect the person's fitness to be an Instructor.

**(5)** An applicant who has been suspended as described in section (3)(e) of this rule may include an explanation or evidence of intervening circumstances since the suspension. DMV will determine if the intervening circumstances of the suspension are such that the suspension does not affect the person's fitness to be an Instructor.

**(6)** DMV may request additional information from an applicant who has been convicted of one of the crimes listed in section (2) of this rule. Additional information may include, but is not limited to, documentation regarding the intervening circumstances of the conviction. DMV will

determine if the intervening circumstances of the conviction are such that the conviction does not affect the person's fitness to be an Instructor.

(7) The criteria described in this rule apply to a current Instructor Certificate and may provide grounds for suspension, revocation, or cancellation as described in OAR 735-160-0115 if an Instructor fails to remain qualified as prescribed under this rule.

Stat. Auth.: ORS 184.616, 814.619, 802.010 & 822.530

Stats. Implemented: ORS 822.530

### **735-160-0080**

#### **Issuance of Commercial Driver Training School Instructor Certificate**

(1) An applicant must apply for an original or renewal Instructor Certificate pursuant to ORS 822.530 and must:

- (a) Submit a completed application on a form or in a format provided or established by DMV;
- (b) Meet the Instructor qualifications listed in OAR 735-160-0075;
- (c) Pass the knowledge and drive test requirement in accordance with OAR 735-160-0100; If the instructor only conducts classroom training the drive test is not required.
- (d) Submit a release authorizing DMV to obtain the applicant's criminal history report. Criminal history records will only be used to determine instructor qualification and may be used as evidence in any contested case hearing or appeal as described in section (6) of this rule. Such records will otherwise be kept confidential and not released to any person unless DMV determines a record, or any portion thereof, must be released pursuant to the Public Records Law, ORS 192.410 to 192.505, or the Attorney General or a court orders disclosure in accordance with the Public Records Law.
- (e) Submit the fee required under ORS 822.700; and
- (f) Possess and maintain a current and valid Oregon driver license, or valid driving privileges from another jurisdiction if the instructor only conducts classroom training

(2) An Instructor must submit to DMV a renewal application, supporting documents and payment for an Instructor Certificate no later than the expiration date stated in ORS 822.530(4)(a). DMV may provide a grace period of 45 days for the application to be processed during which time the existing school certificate will remain valid. A renewal application that is received after the expiration date of the existing Instructor Certificate will be treated as an application for an original Instructor Certificate.

(3) DMV will not issue or renew an Instructor Certificate if:

- (a) The qualification or requirement set forth in Chapter ORS 822 and OAR Chapter 735, Division 160 rules are not met; or
- (b) DMV determines information contained in the application is false.

(4) If DMV refuses to issue or renew an Instructor Certificate, DMV will notify the Instructor in writing. The Instructor may request a contested case hearing. The hearing shall be conducted in accordance with the applicable provisions of the Administrative Procedures Act, ORS 183.310 to 183.540 and is subject to the following:

- (a) A request for hearing must be submitted in writing and received by DMV within 20 days of the date the refusal notification is mailed to the Instructor. DMV will not issue an Instructor Certificate pending the outcome of the contested case hearing. If DMV refuses to renew an Instructor Certificate, the expired Instructor Certificate shall remain valid pending the outcome of the contested case hearing; and

(b) Failure to timely request a hearing constitutes waiver of the right to a hearing and no Instructor Certificate will be issued or renewed until the requirements of ORS 822.500 to 822.515 and OAR Chapter 735, Division 160 rules are satisfied.

(5) Failure to maintain any of the requirements as prescribed under this rule may result in a sanction as described in OAR 735-160-0115 of an Instructor Certificate issued or renewed in accordance with this rule.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 822.530  
 Stats. Implemented: ORS 822.530

**735-160-0125**

**Sanctions**

DMV adopts the following matrix of sanctions for School Operator and Instructor violations. As used in this rule, an offense will be considered a second or subsequent offense if it occurred within three years from the date the operator or instructor was notified in writing of the occurrence of the same or a substantially similar offense in another jurisdiction. DMV will not sanction as a second or third/subsequent offense if more than three years have passed from the date of the previous violation for the same or similar offense.

Description	Violations (3-yr period)	First Offense	Second Offense	Third/ Subsequent Offense
Failure to meet operator qualifications concerning criminal convictions	OAR 735-160-0010(2)	Revocation for five years	\\	\\
Failure to maintain fitness to be an operator.	OAR 735-160-0010 (4)	Immediate suspension until complies	Revocation for five years	\\
Failure to meet operator qualifications concerning suspended, revoked or cancelled certificate in another jurisdiction.	OAR 735-160-0010(6)	Immediate cancellation until requalifies	Revocation for five years	\\
Failure to maintain bond.	OAR 735-160-0011(1)(d)	Immediate suspension until complies	Immediate suspension until complies - minimum 30 days	Immediate suspension until complies - minimum 60 days
Failure to maintain insurance.	OAR 735-160-0011 (1)(e)	Immediate suspension until complies	Immediate suspension until complies - minimum 30 days	Immediate suspension until complies - minimum 60 days
Submit false information on a School original, renewal, supplemental or corrected application.	OAR 735-160-0011(1)(a); 735-160-0015(1)(b); 735-160-0020(4)	Suspension one year	Revocation for five years	\\
Failure to notify DMV	OAR 735-160-0015	Written warning	Suspension 5	Suspension 30

Description	Violations (3-yr period)	First Offense	Second Offense	Third/ Subsequent Offense
within 10 days of change of location or operator name change, loss of instructor qualifications, change in instructor employment status or complaint received by DMV. Failure to provide student a copy of or display grievance procedure. Failure to notify DMV within 24 hours of notice of legal action or criminal investigation.	(1)(a),(b),(i),(j)		days	days
Failure to allow only DMV certified instructors to work for Commercial Drive Training School.	OAR 735-160-0015 (1)(h)	Suspension 30 days	Suspension 60 days	Revocation for five years
Failure to establish procedures that insure no instructor or student is under the influence of any intoxicant during instruction.	OAR 735-160-0015(1)(d)	Immediate suspension until complies.	Immediate suspension until complies - minimum 5 days	Immediate suspension until complies - minimum 30 days
Failure to make business records, vehicles and facilities available for DMV inspection.	OAR 735-160-0015 (1)(c)	Suspension 30 days	Suspension 60 days	Revocation for five years
Operator falsify or tamper with records, act as an instructor when operator is not DMV certified instructor, transfer a school certificate to other school or operator, assist persons to fraudulently obtaining driving privileges; permit an instructor to provide instruction to student not enrolled in school, conduct any behind-the-wheel instruction with student not in possession of a valid driver license or instruction permit, use driving route specifically used by DMV, provide questions and answers identical to DMV knowledge test, operator	OAR 735-160-0015 (2)	Suspension 30 days	Suspension 60 days	Revocation for five years

Description	Violations (3-yr period)	First Offense	Second Offense	Third/ Subsequent Offense
allow instructor to conduct behind-the-wheel instruction without valid driving privileges.				
Business location relative to DMV offices, operation from a liquor store, bar, tent, temporary stand, temporary address, mailing address or telephone answering service, failure to maintain a structure, failure to conform to advertising practices.	OAR 735-160-0020 (1) (2) (3) (7)	Suspension until complies. Cancellation if no compliance within 30 days.	Suspension until complies. Cancellation if no compliance within 30 days.	Revocation for five years
Operator failure to obtain a supplemental business location certificate, failure to notify of a business location change, failure to maintain classroom facilities, failure to make copies of Oregon Vehicle Code and Oregon Administrative rules available.	OAR 735-160-0020 (4) (5) (6)	Written Warning	Suspension 30 days	Revocation for five years
Operator failure to maintain required records.	OAR 735-160-0030	Written Warning	Suspension until complies	Suspension until complies
Failure to make records, motor vehicles, and facilities available for DMV inspection.	OAR 735-160-0035 (2) (3) (4)	Suspension until complies. Cancellation if no compliance within 30 days.	Suspension until complies. Cancellation if no compliance within 30 days.	Revocation for five years
Operator failure to submit response to DMV regarding complaint within 10 days.	OAR 735-160-0035 (5)	Written Warning	Suspension until complies	Revocation for five years
Failure to correct deficiencies identified during DMV inspection within 30 days.	OAR 735-160-0035 (7)	Suspension until complies	Suspension until complies. Cancellation if no compliance within 30 days	Revocation for five years
Vehicles: Failure to maintain dual controls, vehicle in safe condition, meet safety equipment standards, be equipped with safety belts, have equipment functioning properly, be covered by minimum insurance requirements, be	OAR 735-160-0040 (1)	Written warning	Suspension until complies	Revocation for five years

Description	Violations (3-yr period)	First Offense	Second Offense	Third/ Subsequent Offense
properly registered, be equipped with emergency equipment.				
Operator failure to maintain curriculum standards.	OAR 735-160-0050	Written Warning	Suspension until complies	Revocation for five years
Operator allow instructor under 19/21 to teach.	OAR 735-160-0075 (2)(a)	Written Warning	Suspension 5 days	Revocation for five years
Instructor failure to maintain qualifications	OAR 735-160-0075 (2)(b),(c); (3)(a),(b)	Cancellation until complies	////////////////////	////////////////////
Conviction for certain criminal offenses, conviction for traffic crime	OAR 735-160-0075(2)(d)	Revocation for five years	////////////////////	////////////////////
Instructor engages in conduct related to fitness and ability to perform responsibilities of an instructor	OAR 735-160-0075 (2)(e)	Cancellation until complies	Suspension until complies	Revocation for five years
Instructor habitual offender, participation in DUII diversion, refusal to take a breath/blood test, failure to pass a breath/blood test, instructor certificate revoked or suspended or instructor work at school whose certificate is revoked, cancelled or withdrawn.	OAR 735-160-0075 (3)(c),(d),(e),(f) (g),(h),(i)	Revocation for five years	////////////////////	////////////////////
Instructor failure to notify DMV of notice of civil action or criminal investigation, arrest or conviction, failure to respond to DMV to any complaint received.	OAR 735-160-0095 (1)(h) (i)	Immediate suspension until complies	////////////////////	////////////////////
Instructor Responsibilities: Failure to complete student records, keep instructor certificate at the school and make available, instructor failure to carry card while providing instruction, teach enrolled student, allow	OAR 735-160-0095 (1)(c)(f)(g); (2)(d)(e)	Written warning	Suspension 5 days	Suspension 30 days

