

## **735-060-0040**

### **Inspection**

(1) To insure compliance with all relevant statutes, administrative rules and regulation, before issuing a CDL Third Party Tester Certificate, an authorized representative of DMV will, during regular business hours, inspect the applicant's:

- (a) Business office, facility or campus;
- (b) CDL drive test route and testing procedures; and
- (c) Vehicles used for testing purposes that are owned or leased by the applicant.

(2) DMV, the Oregon Secretary of State, or the Federal Motor Carrier Safety Administration may conduct a random inspection of the business premises, records and equipment of a CDL Third Party Tester to review compliance with Oregon statutes, administrative rules and federal regulation requirements for CDL Third Party Testers and CDL Examiners. No notice will be given to the CDL Tester prior to the random inspection. The CDL Tester must consent to and fully cooperate with the random inspection.

(3) In addition to any other inspection, DMV will annually conduct an on-site inspection of each CDL Tester to review compliance with Oregon statutes, administrative rules and federal regulations pertaining to the third party tester and examiner program.

(4) An onsite inspection will include, but may not be limited to:

(a) CDL Third Party Tester records, including records of all applicants for whom a CDL drive test was conducted by the CDL Third Party Tester and Examiner, regardless of whether the applicant passed or failed the test and class rosters if the tester is also a commercial truck or bus driver training school licensed by the Oregon Department of Education;

(b) The business office, facility or campus;

(c) Testing procedures;

(d) Testing equipment, including vehicle(s) owned or leased by the CDL Tester and used for certification drive testing;

(e) A review of the CDL Third Party Tester's qualifications as listed in OAR 735-060-0030;

(f) The testing procedures used by CDL Examiners of the CDL Third Party Tester;

(g) The CDL drive test route(s);

(h) Review of the CDL Third Party Tester's compliance with all terms of the CDL Third Party Tester Agreement; and

(i) Any other related areas the DMV representative may deem necessary at the time of the inspection.

(5) As part of an inspection, a DMV representative may accompany a CDL Third Party Examiner on a certification drive test or retest a sample of the drivers who were tested by the CDL Examiner to compare pass/fail results.

(6) A DMV representative may pose as a customer of a CDL Third Party Tester without identifying himself or herself as an employee of DMV in order to observe the manner in which testing is conducted.

(7) To pass an inspection the CDL Third Party Tester must be in compliance with the statutes, rules and regulations pertaining to the CDL Third Party Tester and Examiner program and the provisions of the CDL Third Party Tester Agreement.

(8) The DMV inspector will prepare a written report and specify any deficiencies that must be corrected. The CDL Third Party Tester will be given a copy of the report. Deficiencies identified must be corrected by the CDL Third Party Tester within 30 days of receipt of the report.

### **735-060-0055**

#### **Responsibilities of a CDL Third Party Tester**

- (1) A CDL Third Party Tester must do all of the following:
- (a) Notify DMV in writing within 10 calendar days of any change in:
    - (A) The address of the CDL Third Party Tester's business office, facility or campus;
    - (B) The location where the testing is conducted or a change in the drive test route(s);
    - (C) The status of a CDL Third Party Examiner, including an individual who is hired or who has discontinued employment;
    - (D) The name and address of the designated or registered agent, an owner, partner or shareholder owning 20% or more of the business or officer, director, agent or manager; or
    - (E) The testing services offered to the public and all fees charged for those services.
  - (b) Notify DMV in writing within 10 calendar days if:
    - (A) The CDL Third Party Tester goes out of business;
    - (B) The CDL Third Party Tester no longer meets the qualification requirements set forth in OAR 735-060-0030; or
    - (C) A CDL Third Party Examiner employed by the CDL Third Party Tester no longer meets the qualification requirements set forth in OAR 735-060-0090 including notification that the CDL Examiner has discontinued employment with the CDL Tester.
  - (c) Ensure that all CDL Third Party Examiners employed by the CDL Third Party Tester remain in compliance with all statutes, administrative rules and regulations pertaining to the qualifications and responsibilities of CDL Third Party Examiners.
  - (d) Make any and all business records, vehicles and facilities related to the operation of the CDL Third Party Tester's testing program available for inspection by representatives of DMV, the Oregon Secretary of State or the Federal Motor Carrier Safety Administration with or without prior notice.
  - (e) Correct any deficiencies specified in an inspection report with 30 days of receipt of the report.
  - (f) Ensure that vehicles provided by the CDL Third Party Tester for testing purposes meet the safety equipment standards of the Oregon Vehicle Code and federal regulations, are maintained in good mechanical condition, and are equipped with the following emergency equipment:
    - (A) Fire extinguisher; and
    - (B) Three flares or three approved reflectors.
  - (g) Comply with all statutes, administrative rules and regulations related to the CDL Third Party Testing program and with all terms of the CDL Third Party Testing Agreement.
  - (h) Notify DMV within 24 hours of any:
    - (A) Notice of a civil legal action filed against the CDL Third Party Tester or a CDL Third Party Examiner employed by the tester which is related to the administration of a test;
    - (B) Criminal investigation, arrest or conviction for an offense described in OAR 735-060-0030(2)(e)(C), a crime involving moral turpitude or any fraudulent activity related to CDL testing; or
    - (C) A complaint concerning the CDL Third Party Tester or a CDL Examiner employed by the CDL Tester related to CDL testing.
  - (i) Maintain the eligibility requirements set forth in OAR 735-060-0030 as applicable.

(j) Maintain and submit records as required by OAR 735-060-0057.

(k) Ensure that each CDL Third Party Examiner employed maintain a Third Party Tester Log documenting all CDL certification drive tests conducted by the Third Party Examiner.

(L) Maintain a record, by form control number, showing the disposition of all CDL Certificates of Test Completion issued to the CDL Third Party Tester by DMV.

(m) Ensure that before issuing a CDL Certificate of Test Completion each CDL Third Party Examiner employed:

(A) Obtain either a copy of the applicant's Oregon CDL instruction permit and Class C driver license, or the applicant's Oregon CDL; and

(B) Provide the applicant with a receipt for all fees paid for services related to the certification drive test.

(2) A CDL Third Party Tester must not:

(a) Falsify any records or fraudulently issue a CDL Certificate of Test Completion to any person who has not passed a CDL certification drive test;

(b) Permit anyone except a certified CDL third party examiner to conduct a CDL drive test or issue a CDL Certificate of Completion;

(c) Transfer its CDL Third Party Tester Certificate to any other person, employer, or publicly-owned and operated educational facility;

(d) Permit a CDL Third Party Examiner to issue a CDL Certificate of Test Completion to any person who:

(A) Was not tested in accordance with the requirements set forth in OAR 735-060-0120; or

(B) Failed the CDL certification drive test;

(e) Permit an Oregon Department of Education CDL Third Party Examiner to test a person who has not applied for an Oregon Department of Education School Bus Driver's Certificate or Permit;

(f) Knowingly assist a person in fraudulently obtaining driving privileges from DMV;

(g) Violate the Code of Ethics and Rules of Conduct set forth in OAR 735-060-0115;

(h) Knowingly allow a CDL Examiner to conduct a CDL certification drive test while under the influence of intoxicants; or

(i) Permit a CDL Third Party Examiner employed by a commercial driver training school to test an applicant who has been trained by the CDL Examiner or trained by anyone employed by the school.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.080

Stat. Implemented: ORS 807.040, 807.070 & 807.100

## **735-060-0057**

### **Record Requirements**

(1) The CDL Third Party Tester must ensure records are maintained at the CDL Tester's primary place of business or by each CDL Examiner at each testing location(s) for no less than two years from the date of the test as follows:

(a) A fully completed copy of the CDL test score sheet for each applicant tested, regardless of whether the individual passed or failed the test. To be fully completed the CDL test score sheet must contain the applicant's full name and driver license number, the drive test location and route identifier, the CDL Examiner's name as well as the test date and test results.

(b) A copy of either the valid Oregon CDL instruction permit and Oregon Class C driver license or valid Oregon CDL presented by the applicant at the time of testing. The applicant's

identifying information, including the photo, must be legible on the copy. A CDL Tester and CDL Examiner may not use a copy of the applicant's Oregon CDL instruction permit and driver license or Oregon CDL except to identify the driver for testing purposes and may not redisclose a copy for any purpose except as provided in subsection (3) of this rule, OAR 735-060-0040 and the CDL Third Party Tester Agreement.

(c) A copy of the receipt provided to the applicant showing all fees paid to the CDL Tester and CDL Examiner for services related to a certification drive test as provided in OAR 735-060-0130(2).

(d) A fully completed copy of the CDL Certificate of Test Completion that was issued to each applicant who passed the test. To be fully completed the CDL Certificate of Test completion must contain: the applicant's full name, date of birth, and driver license number; the CDL Examiner's name, certificate number, signature and date signed; the CDL Tester's name; the type of vehicle used for the test; the date of the test and whether the test vehicle had airbrakes, was a passenger carrying vehicle or a school bus.

(e) Copies of all CDL Certificates of Test Completion that have been voided by the examiner.

(f) Fully completed copies of all CDL Tester Logs for each CDL Examiner. To be fully completed:

(A) Each log must contain the month and year of tests included on the log, the CDL Tester name and city, the CDL Examiner and certificate number and the test route, location and number; and

(B) Each log entry must contain: the start and stop time of the test; the test date; the name and driver license number of the applicant tested; the class of vehicle used for testing and the vehicle's plate number(s), gross vehicle weight rating(s) and brake type; the test results, including the test score; and whether the applicant was a retest due to a previous failure.

(2) The CDL Third Party Tester must maintain documentation to show the disposition, by form control number, of all CDL Certificates of Test Completion issued to the CDL Tester. This documentation must be maintained for a minimum of two years after the date the certificate was issued or voided by the CDL Examiner or by DMV.

(3) All records subject to this rule must be available for inspection by an authorized representative(s) of DMV, the Oregon Secretary of State, or the Federal Motor Carrier Safety Administration, Monday through Friday between the hours of 8:30 a.m. to 4:30 p.m. Although DMV will normally arrange an appointment prior to an inspection, records must be available for inspection without an appointment or prior notice. Records may be retained in paper format or electronically but must be maintained in a manner allowing for timely and efficient retrieval and review. DMV may require that any record printed or completed in a language other than English be accompanied by a copy translated into English.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.080

Stat. Implemented: ORS 807.040, 807.070 & 807.100

## **735-060-0065**

### **Matrix for Tester Sanctions**

DMV adopts the matrix of sanctions in Table 1 for CDL Third Party Tester violations. Table 1, Tester Sanctions, is hereby adopted and made a part of this rule. As used in this rule, an offense will be considered a second or subsequent offense if the CDL Third Party Tester was notified orally or in writing within the three previous years of the occurrence of the same or a

substantially similar offense. If more than three years have passed between sanctions for the same or similar offense, DMV will sanction as a first offense.

Table 1  
Tester Sanctions  
(OAR 735-060-0065)

Tester Record Keeping and Business Practices

Violations	Reference	First Offense	Second Offense	Third or Subsequent Offense	Code
Tester does not maintain proper general business liability and/or auto liability insurance as required	OAR 735-060-0055(1)(g)	Immediate suspension until receipt of valid insurance certificate	Immediate 30 day suspension and until receipt of valid insurance certificate.	Immediate suspension and revocation for 5 years.	①③
Tester fails to respond to messages by the following business day	OAR 735-060-0055(1)(i)	Written warning.	5-day suspension	30-day suspension	②④
Tester knowingly uses non-certified, suspended or decertified examiner.	OAR 735-060-0055 (2)(b)	Immediate suspension and revocation for 5 years.	N/A	N/A	①④
Tester uses unsafe vehicle(s) (when using organization's vehicles) for skills test.	OAR 735-060-0055(1)(f)	Immediate suspension until vehicles are repaired.	Immediate 30 day suspension and no reinstatement until vehicle(s) are repaired.	Immediate suspension and revocation for 5 years.	①③
Tester fails to provide access to pertinent records during inspections or audits.	OAR 735-060-0055(1)(d)	Immediate suspension until compliance. Revocation after 30 days without compliance.	Revocation for 5 years.	N/A	①③
Tester does not allow inspections by DMV, the Oregon Secretary of State or Federal Motor Carrier Administration	OAR 735-060-0040(2)	Immediate suspension until compliance. Revocation after 30 days without compliance.	Revocation for 5 years.	N/A	①③
Tester fails to notify Oregon DMV of changes to tester or examiner information as required.	OAR 735-060-0055 (1)(a) & (b)	Written warning.	5-day suspension	30-day suspension	②④
Tester records not maintained or not completed as required. This includes not being able to account for all the inventoried Certificate of Test Completion Forms received by tester.	OAR 735-060-0057	Written warning.	5-day suspension	30-day suspension	②④
Tester knowingly allows examiners to test students who have been enrolled in their own training program if the tester is a private commercial truck driver training	OAR 735-060-0055 (2)(i)	30-day suspension	Revocation for 5 years.	N/A	②④

Violations	Reference	First Offense	Second Offense	Third or Subsequent Offense	Code
school.					
Tester knowingly allows examiners to test those who have not applied for a school bus driver certificate if the tester is the Oregon Department of Education.	OAR 735-060-0055 (2)(e)	30-day suspension	Revocation for 5 years	N/A	②④
Tester violates any terms of the third party tester agreement not otherwise specified in this table.	OAR 735-060-0030 (1)(a)	Written warning	30-day suspension	60-day suspension	②④
Tester fails to maintain certification qualifications or to fulfill responsibilities not otherwise specified in this table.	OAR 735-060-0030, 0055 through 0057	Written warning	30-day suspension	60-day suspension	②④

#### Skills Test Administration

Violations	Reference	First Offense	Second Offense	Third or Subsequent Offense	Code
Tester encourages or accepts bribe, or other financial gratuity or benefit for issuance of CDL Certificate of Test Completion.	OAR 735-060-0115(3)	Immediate suspension and permanent revocation	N/A	N/A	①③
Tester knowingly falsifies records or information or misrepresents by omission any test requirement or procedure or encourages/ requires examiner to do the same.	OAR 735-060-0115(7)	Immediate suspension and permanent revocation	N/A	N/A	①③
Tester assists or encourages examiner to assist the CDL applicant to fraudulently obtain driving privileges.	OAR 735-060-0115(1)	Immediate suspension and permanent revocation	N/A	N/A	①③
Tester discriminates against or sexually harasses customer.	OAR 735-060-0115(2) & (4)	Immediate suspension for 1 year	Revocation for 5 years	N/A	①③
Tester unjustifiably uses force or threatens applicant.	OAR 735-060-0115(5)	Immediate suspension for 1 year	Revocation for 5 years	N/A	①③
Tester fails to notify Oregon DMV concerning civil, criminal or skills testing complaints.	OAR 735-060-0055 (1)(h)	Written warning	30-day suspension	60-day suspension	②④

- ① Suspension or revocation order is effective 5 days after the date of the order.
- ② Suspension or revocation order is effective 30 days after the date of the order.
- ③ Hearing conducted by the Office of Administrative Hearings under the Administrative Procedures Act. Action is not withdrawn pending outcome of the hearing.
- ④ Hearing conducted by the Office of Administrative Hearings under the Administrative Procedures Act. Action is withdrawn pending outcome of the hearing.

#### **735-060-0105**

#### **Responsibilities of a CDL Third Party Examiner**

(1) A CDL Third Party Examiner must:

- (a) Remain in compliance with the eligibility requirements set for in OAR 735-060-0090;
- (b) Properly complete all forms required by DMV;
- (c) Conduct all certification drive tests as set forth in OAR 735-060-0120;
- (d) Conduct drive tests and issue CDL Certificates of Test Completion only for the class of vehicles authorized on the Third Party Examiner Certificate by DMV;
- (e) Issue CDL Certificates of Test Completion only for the class of commercial license for which the applicant is tested;
- (f) Maintain a CDL Third Party Tester Log of all CDL tests conducted. A copy of the log must be kept at the CDL third party tester's business office or facility and the original must be submitted by the CDL Examiner to DMV by the 10th day of the following month;
- (g) Comply with the following requirements before issuing a CDL Certificate of Test Completion:
  - (A) Obtain either a copy of the applicant's Oregon CDL instruction permit and Oregon Class C driver license or the applicant's Oregon CDL. The applicant's identifying information, including the photo, must be legible on the copy; and
  - (B) Provide the applicant a receipt for the fees the applicant paid for all services relating to the certification drive test, including but not limited to fees for the drive test, travel time or distance, and vehicle rental. A fee may be collected only for those services listed on the schedule submitted to DMV under OAR 735-060-0030(1)(e). The receipt must be on a standard receipt form provided to the CDL Tester by DMV or if not on the DMV form, must contain the same information. A receipt need not be provided when:
    - (i) The CDL Examiner is conducting a test for the Oregon Department of Education; or
    - (ii) The CDL Examiner is conducting a test for an employee of the CDL Tester.
  - (C) Place the CDL Certificate of Test Completion in an envelope and seal the envelope. The outside of the envelope must have the signature of the CDL Tester or CDL Examiner across the seal of the envelope; and
  - (D) Verbally instruct the applicant that the envelope containing the certificate must be submitted to DMV within two years of the date it is issued and will not be accepted if the envelope is opened prior to its delivery to DMV.
- (h) Successfully complete any additional training when required by DMV;
- (i) Comply with all statutes, administrative rules, and federal regulations pertaining to the qualifications and responsibilities of a CDL Third Party Examiner;
- (j) Except as provided in section (2) of this rule, conduct a minimum of 12 certification drive tests during each 12-month period after the initial issuance date of the CDL Third Party Examiner Certificate;
- (k) Be present during any DMV, Oregon Secretary of State, or Federal Motor Carrier Administration inspection of CDL Third Party Tester records if requested by DMV;
- (L) Only conduct certification drive tests for the CDL Third Party Tester on the CDL Examiner's Third Party Examiner Certificate;
- (m) Notify the CDL Third Party Tester within 24 hours of any notice of a civil legal action, a criminal investigation or arrest, or any complaint concerning administration of a certification drive test or issuance of a certificate of test completion by the CDL Examiner;
- (n) Unless prior written approval is obtained from DMV, only conduct a certification drive test that has been scheduled at least 48 hours prior to the administration of the test; and
- (o) Submit a list of all certification drive tests scheduled, by facsimile or e-mail, to DMV at least 48 hours prior to administration of the test. The schedule must include the applicant's name,

Oregon driver license number, the date and time of the test, the class and type of vehicle to be used for the test and identification of the drive test route. DMV must be notified of changes to the test location, test time, or additions that occur after submission of the schedule. DMV must also be notified of any cancellations that occur more than two hours before a scheduled test. A schedule need not be submitted when:

- (A) The Examiner conducts tests only for the Oregon Department of Education; or
- (B) The Examiner conducts tests only for employees of the CDL Third Party Tester.

(2) A CDL Third Party Examiner employed by the Oregon Department of Education is not required to conduct a minimum number of certification drive tests in a 12-month period.

(3) A CDL Third Party Examiner must not:

(a) Issue a CDL Certificate of Test Completion to any person:

(A) If the CDL Third Party Examiner did not administer a certification drive test to the person;

(B) If the CDL Third Party Examiner did not administer a certification drive test meeting the requirements of OAR 735-060-0120 to the person;

(C) If the person did not pass the certification drive test; or

(D) Who is known to not have valid driving privileges. Acceptable evidence of valid driving privileges requires that the applicant present an Oregon driver license and CDL instruction permit or Oregon CDL that are not expired.

(b) Falsify any records;

(c) Conduct certification drive tests without a valid CDL Third Party Examiner Certificate issued by DMV;

(d) Transfer his or her CDL Third Party Examiner Certificate to any other person;

(e) Knowingly assist a person in fraudulently obtaining driving privileges from DMV;

(f) Violate the Code of Ethics and Rules of Conduct set forth in OAR 735-060-0115;

(g) Allow any person to take a certification drive test if the CDL Examiner has reason to believe the person is under the influence of intoxicants;

(h) Knowingly test a relative or friend of the CDL Tester or a relative or friend of any employee of the CDL Tester; or

(i) Except as provided in section (4) of this rule, conduct a drive test with an applicant who does not possess either:

(A) A valid Oregon CDL instruction permit along with a valid Oregon driver license that was issued at least 21 days prior to the date of the test; or

(B) A valid Oregon CDL.

(4) A CDL Third Party Examiner that conducts tests only for the Oregon Department of Education or a CDL Third Party Examiner that conducts tests only for employees of the CDL Third Party Tester is exempt from the requirements of section (3)(i) of this rule except that he or she must not conduct a drive test with an individual who does not possess a valid Oregon CDL instruction permit along with a valid Oregon driver license or a valid Oregon CDL.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.080

Stats. Implemented: ORS 807.040, 807.070 & 807.100

## **735-060-0110**

### **Matrix Third Party Examiner Sanctions**

DMV adopts the matrix of sanctions in Table 2 for CDL third party examiner violations. Table 2, Examiner Sanctions, is hereby adopted and made a part of this rule. As used in this rule,

an offense will be considered a second or subsequent offense if the CDL Third Party Examiner was notified in writing within the three previous years of the occurrence of the same or a substantially similar offense. If more than three years have passed between sanctions for the same or similar offense, DMV will sanction as a first offense.

Table 2  
Examiner Sanctions  
(OAR 735-060-0110)

Examiner Record Keeping and Business Practices

Violations	Reference	First Offense	Second Offense	Third or Subsequent Offense	Code
Examiner knowingly conducts tests while non-certified or suspended.	OAR 735-060-0105 (3)(c)	Revocation for 5 years	N/A	N/A	②④
Examiner conducts tests without Oregon DMV approval or conducts tests for more than one organization when not authorized by DMV.	OAR 735-060-0105 (1)(l)	30-day suspension	Revocation for 5 years	N/A	②④
Examiner uses unsafe or illegal vehicle for road test. (Vehicle doesn't pass equipment check or tester-provided vehicle is used when the examiner knows it is unsafe or illegal.)	OAR 735-060-0120 (3)(b)(B)	Written warning	60-day suspension	Revocation for 5 years	②④
Examiner fails to maintain or complete records as required.	OAR 735-060-0105 (1)(b), (f), (g) or (n)	Written warning	30-day suspension	60-day suspension	②④
Examiner conducts drive test scheduled less than 48 hours before it is administered.	OAR 735-060-0105 (1)(n)	Written warning	30-day suspension	60-day suspension	②④
Examiner fails to attend scheduled inspection when requested.	OAR 735-060-0105(1)(k)	5-day suspension	30-day suspension	Revocation for 5 years	②④
Examiner fails to conduct the required number of drive tests within a year.	OAR 735-060-0105 (1)(j)	Written warning at or about 6 months if not meeting quota.	Revocation for 1 year.	N/A	②④
Examiner knowingly falsifies records including submission of fraudulent information on the Examiner Application.	OAR 735-060-0105 (3)(b) & 735-060-0115 (7)	Immediate suspension and permanent revocation	N/A	N/A	①③

Driving Records

Violations	Reference	First Offense	Second Offense	Third or Subsequent Offense	Code
Driving privileges revoked for conviction of traffic crime.	OAR 735-060-0105 (1)(a)	Immediate suspension and revocation for 5 years	N/A	N/A	①④
Driving privileges suspended for conviction of traffic crime.	OAR 735-060-0105 (1)(a)	Immediate suspension and revocation for 5	N/A	N/A	①④

Violations	Reference	First Offense	Second Offense	Third or Subsequent Offense	Code
		years			
Fleeing or attempting to elude police. (ORS 811.540)	OAR 735-060-0090 (1)(c)	Immediate suspension and revocation for 5 years	N/A	N/A	①④
Failure to perform the duties of a driver in an accident after a personal injury. (ORS 811.705)	OAR 735-060-0090 (1)(c)	Immediate suspension and revocation for 5 years	N/A	N/A	①④

#### Examiner Qualifications

Violations	Reference	First Offense	Second Offense	Third or Subsequent Offense	Code
Examiner fails to successfully complete any training required by DMV.	OAR 735-060-0105 (1)(h)	Revocation for two years	N/A	N/A	②④
Examiner's driving privileges are suspended, revoked or cancelled.	OAR 735-060-0105 (1)(a)	Immediate suspension and revocation until end of suspension or for 2 years after conviction for the offense that led to the suspension, whichever is greater.	N/A	N/A	①③
Examiner is sanctioned under DMV's driver improvement program.	OAR 735-060-0105 (1)(a)	Revocation for 1 year from date of conviction for the offense that put the driver in the program	N/A	N/A	②④

#### Skills Test Administration

Violations	Reference	First Offense	Second Offense	Third or Subsequent Offense	Code
Examiner possesses; consumes; or is under the influence of controlled substances during certification drive test.	OAR 735-060-0105 (3)(f) & 735-060-0115 (6)	Immediate suspension and revocation for 5 years	N/A	N/A	①③
Examiner consumes alcohol within (6) hours before certification drive test.	OAR 735-060-0105 (3)(f) & 735-060-0115 (6)	60-day suspension	N/A	N/A	②④
Examiner encourages or accepts bribe or gratuity.	OAR 735-060-0105 (3)(f) & 735-060-0115 (3)	Immediate suspension and revocation for 5 years	N/A	N/A	①③
Examiner discriminates against or sexually harasses customer.	OAR 735-060-0105 (3)(f) & 735-060-0115 (2) & (4)	Immediate suspension for 1 year	Revocation for 5 years	N/A	①③
Examiner assists a CDL applicant to fraudulently obtain driving privileges.	OAR 735-060-0105 (3)(f) & 735-060-0115	Immediate suspension and permanent revocation	N/A	N/A	①③

Violations	Reference	First Offense	Second Offense	Third or Subsequent Offense	Code
	(1)				
Examiner unjustifiably uses force or threatens an applicant.	OAR 735-060-0105 (3)(f) & 735-060-0115 (5)	Immediate suspension for 1 year	Revocation for 5 years	N/A	②④
Examiner administers road test without valid license or endorsement.	OAR 735-060-0105 (1)(a)	30-day suspension	Revocation for 1 year	N/A	②④
Examiner conducts any portion of a test outside the state of Oregon.	OAR 735-060-0105 (1)(c) & 735-060-0120 (2)(d)	30-day suspension	Revocation for 1 year	N/A	②④
Examiner administers drive test without checking driver documents.	OAR 735-060-0105 (1)(c) & 735-060-0120 (3)(a) &(b)	Written warning	5-day suspension	30-day suspension	②④
Examiner administers drive test to applicant with CDL instruction permit who does not have an Oregon license issued at least 21 days prior to test.	OAR 735-060-0105 (3)(i)	30-day suspension	Revocation for 1 year	N/A	②④
Examiner conducts pre-trip test and drive test on different calendar days or in dissimilar vehicles.	OAR 735-060-0105 (1)(c) & 735-060-0120 (2)(e)	Written warning	5-day suspension	30-day suspension	②④
Examiner administers over the maximum (8) tests per day or conducts tests during non-daylight hours.	OAR 735-060-0105 (1)(c) & 735-060-0120 (2)(b)	30-day suspension	Revocation for 1 year	N/A	②④
Examiner re-tests failed applicant prior to the wait times defined in OAR 735-062-0070.	OAR 735-060-0105 (1)(c) & 735-060-0120 (2)(f)	Written warning	5-day suspension	30-day suspension	②④
Examiner uses an unapproved drive test route.	OAR 735-060-0105 (1)(c) & 735-060-0120 (4)(b)(A)	Suspended until route is submitted and approved.	30-day suspension	60-day suspension	②④
Examiner fails to conduct the drive test according to the procedures in the ODOT CDL Examiner Manual.	OAR 735-060-0120 (4)	Written warning	30-day suspension	Revocation for 1 year	②④
Examiner allows unauthorized passengers in the test vehicle during skills testing.	OAR 735-060-0105 (1)(c) & 735-060-0120 (2)(h)	Written warning	5-day suspension	30-day suspension	②④
Examiner fails to notify tester of civil, criminal or skills testing complaints	OAR 735-060-0105 (1)(m)	Written warning	30-day suspension	Revocation for 1 year	②④
Examiner fails to maintain eligibility requirements, or fails to fulfill responsibilities	OAR 735-060-0090 through 735-060-0120	Written warning	30-day suspension	60-day suspension	②④

Violations	Reference	First Offense	Second Offense	Third or Subsequent Offense	Code
not otherwise specified in this table.					
Examiner conducts tests in a language other than English	OAR 735-060-0120 (2)(i)	Written warning	30-day suspension	60-day suspension	②④

- ① Suspension or revocation order is effective 5 days after the date of the order.
- ② Suspension or revocation order is effective 30 days after the date of the order.
- ③ Hearing conducted by the Office of Administrative Hearings under the Administrative Procedures Act. Action is not withdrawn pending outcome of the hearing.
- ④ Hearing conducted by the Office of Administrative Hearings under the Administrative Procedures Act. Action is withdrawn pending outcome of the hearing.

Stat. Auth.: ORS 184.616, 814.619, 802.010 & 807.080  
 Stats. Implemented: ORS 807.040, 807.070 & 807.100

### **735-060-0120**

#### **The Certification Drive Test**

(1) DMV adopts the following Federal Motor Carrier Safety Administration regulations in effect on July 1, 2008 and prescribes that these regulations establish the standards that must be followed in the testing for a commercial driver license:

- (a) 49 CFR sec. 383.75, Third Party Testing; and
- (b) 49 CFR sec. 383.131 through sec. 383.135.

(2) The certification drive test conducted under the CDL Third Party Tester program must be by a CDL Third Party Examiner. The CDL Third Party Examiner must:

- (a) Be certified by DMV; and
- (b) Not conduct more than eight CDL Class A, B, or C pre-trip inspection tests and on-road drive tests within a single calendar day;
- (c) Begin and end all pre-trip inspection and on-road drive tests during daylight hours;
- (d) Conduct all pre-trip inspection and on-road drive tests within the State of Oregon;
- (e) Conduct both the pre-trip inspection and on-road drive tests in the same type and class of commercial vehicle. Both the pre-trip inspection and on-road drive tests must be completed on the same calendar day unless the applicant tested has previously failed the on-road drive test;
- (f) Not conduct another on-road drive test until after the minimum waiting period set forth in OAR 735-062-0070(5) has passed, if the applicant fails a pre-trip inspection test or an on-road drive test;
- (g) Conduct the same pre-trip inspection tests and on-road drive tests that are administered by DMV examiners and use test scoring sheets approved by DMV;
- (h) Not permit any person who is not a certified examiner, an official with DMV, an official with the Federal Motor Carrier Safety Administration or the applicant being tested to observe or participate in CDL pre-trip inspection tests or the on-road drive tests without the prior approval of DMV; and
- (i) Conduct both the pre-trip inspection and on-road drive tests in English as required by OAR 735-062-0075(2)(d) and (e).

(3) The CDL Third Party Examiner must do the following before administering a drive test:

- (a) Ensure the applicant being tested has a valid Oregon CDL instruction permit and Oregon Class C driver license or a valid Oregon CDL and, if the applicant does not have a CDL, the

Oregon driver license was issued at least 21 days prior to the test as required by OAR 735-060-0105(3)(i). A certification drive test must not be administered if the CDL Examiner has reason to believe that the applicant's driving privileges are suspended, revoked, canceled or have otherwise been withdrawn; and

(b) View the applicant's Medical Certificate and any required medical waiver as described in OAR 735-063-0060.

(4) The certification drive test must be conducted in accordance with the federal regulations adopted by section (1) of this rule and the methods and procedures set forth in the Oregon Department of Transportation CDL Examiner's Manual, incorporated herein. The certification drive test must include, but is not limited to, the following:

(a) A pre-trip inspection test. This test is designed to evaluate the applicant's ability to identify and operate the equipment on the vehicle in which he or she is being tested and to detect and identify unsafe vehicle equipment items. The specific items that must be inspected during a pre-trip inspection are those listed in the Oregon Department of Transportation CDL Examiner's Manual; and

(b) An on-road drive test. This test is designed to evaluate the applicant's competency to safely operate a commercial motor vehicle or combination of commercial vehicles under actual driving conditions. The applicant must demonstrate safe and proper driving methods and procedures and knowledge of the traffic laws. The following apply to an on-road drive test:

(A) It must be conducted on a drive test route approved by DMV and meeting the specifications set forth in section (5) of this rule;

(B) The commercial motor vehicle or combination of commercial motor vehicles must be of the class for which the applicant seeks a license or endorsement and must have the proper equipment in safe working order so that the vehicle(s) can be operated safely and legally. The CDL Examiner is not required to verify the safe condition of any commercial motor vehicle provided by the applicant for an on-road test, but must not conduct the test if it is apparent the vehicle cannot be operated safely and legally; and

(C) The commercial motor vehicle or combination of vehicles need not be loaded, but the test must be conducted and scored as if the vehicle or combination of vehicles is loaded.

(5) The on-road drive test route must:

(a) Be designed to enable the CDL Third Party Examiner to evaluate the ability of the applicant to perform the maneuvers listed in the Oregon Department of Transportation CDL Examiner's Manual, incorporated by reference herein; and

(b) Meet the specifications for an on-road drive test for commercial driver licensing set forth in the Oregon Department of Transportation CDL Examiner's Manual, incorporated by reference herein.

(6) The Oregon Department of Education may establish additional requirement for the pre-trip inspection and on-road drive test for applicants for a school bus driver certificate, but may not modify or omit any of the testing requirements set forth in these rules, including those in the Oregon Department of Transportation CDL Examiner Manual, incorporated by reference herein, without the prior approval of DMV.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.080  
Stats. Implemented: ORS 807.040, 807.070 & 807.100

## **735-060-0130**

### **The CDL Certificate(s) of Test Completion**

(1) DMV will accept as the actual demonstration of an applicant's ability to drive a Class A, B, or C commercial motor vehicle under ORS 807.070(3)(b) a CDL Certificate(s) of Test Completion issued by a DMV certified CDL Third Party Examiner.

(2) Before issuing a CDL Certificate of Test Completion, the CDL Examiner must:

(a) Obtain a copy of the applicant's Oregon CDL instruction permit and Oregon driver license or the applicant's Oregon CDL. The applicant's identifying information, including the photo, must be legible on the copy; and

(b) Provide the applicant a receipt for the fees the applicant paid for all services relating to the certification drive test, including but not limited to fees for the drive test, travel time or distance, and vehicle rental. A fee may be collected only for those services listed on the schedule submitted to DMV under OAR 735-060-0030(1)(e). The receipt must be on a standard receipt form provided to the CDL Tester by DMV or if not on the DMV form, must contain the same information. A receipt need not be provided when:

(A) The CDL Examiner is conducting a test for the Oregon Department of Education; or

(B) The CDL Examiner is conducting a test for an employee of the CDL Tester.

(3) A CDL Certificate(s) of Test Completion, DMV Form 6771, will be accepted only when it is submitted by an applicant who:

(a) Has passed a Commercial A, B, or C or endorsement drive test meeting the standards set forth in OAR 735-060-0120;

(b) Has valid driving privileges and has passed the necessary CDL knowledge tests and vision screening. A hardship or probationary permit does not constitute valid driving privileges; and

(c) Is applying for a Class A, B, or C commercial driver license or endorsement related to a commercial driver license.

(4) The CDL Certificate(s) of Test Completion must be:

(a) On DMV Form 6771 CDL Certificate(s) of Test Completion;

(b) Completed in its entirety by a CDL Third Party Examiner with a valid Examiner Certificate issued by DMV; and

(c) Submitted to DMV within two years of the date of the certification drive test in an unopened envelope sealed by the CDL Third Party Examiner.

(5) DMV will not accept a CDL Certificate(s) of Test Completion, DMV Form 6771, when:

(a) The applicant for a CDL failed a drive test(s) for CDL of the same class or a lower class and did not wait the required waiting period under OAR 735-062-0070 before taking a certification drive test from a CDL Third Party Examiner.

(b) The applicant submits a CDL Certificate(s) of Test Completion in an envelope that has been opened prior to its being submitted to DMV;

(c) The applicant submits a CDL Certificate(s) of Test Completion that includes any alterations;

(d) The applicant submits a CDL Certificate(s) of Test Completion that is more than 2 years after the date of the drive test; or

(e) The applicant was not tested by a CDL Third Party Examiner who is certified by DMV.

Stat. Auth.: ORS 184.616, 184.619, 802.010 & 807.080

Stats. Implemented: ORS 807.040, 807.070 & 807.100

**735-062-0080**

**Waiving Drive Test Portion of Driver License Examination**

(1) The Driver and Motor Vehicle Services Division of the Department of Transportation (DMV) will waive the actual demonstration of an applicant's ability to drive a Class C vehicle required by ORS 807.070(3) if all of the following apply:

(a) The applicant surrenders to DMV a driver license issued to the applicant by another state, the District of Columbia, a United States Territory or a Canadian Province that has not been expired for more than one year, or if the person's driver license issued by another jurisdiction, has been lost or stolen, the applicant submits a letter of clearance, as required in OAR 735-062-0007;

(b) The surrendered, lost or stolen license authorizes the driving of a vehicle other than a moped or motorcycle;

(c) The surrendered, lost or stolen license includes no restrictions other than a single restriction or a combination of restrictions comparable to restrictions imposed on an Oregon driver license;

(d) The applicant has no physical disabilities or impairments which may necessitate any restrictions other than:

(A) "With corrective lenses";

(B) "Outside or side-view mirror(s)"; or

(C) The restriction(s) imposed on the applicant's surrendered, lost or stolen driver license issued by another jurisdiction.

(e) The applicant has no physical or mental condition that provides DMV with reason to question the applicant's ability to drive a motor vehicle without endangering the safety of persons or property.

(2) DMV may waive the actual demonstration of an applicant's ability to drive a Class A, B, or C commercial motor vehicle or any endorsement related to a commercial driver license if the applicant satisfies the requirements in subsection (a) or (b) of this section:

(a) The applicant must meet the qualifications set forth in subsections (1)(a) through (e) of this rule and surrender an out-of-state commercial driver license approved by the Federal Motor Carrier Safety Administration that authorizes the driving of a commercial motor vehicle included in the Oregon classification for which the application is made; or

(b) The applicant submits to DMV a CDL Certificate of Test Completion, Form 6771, in accordance with OAR 735-060-0130.

(3) DMV will waive the actual demonstration of an applicant's ability to drive a motorcycle if:

(a) The applicant surrenders to DMV a motor-cycle-endorsed driver license issued to the applicant by another state, the District of Columbia, a United States Territory or a Canadian Province, or submits a clearance letter as provided for in subsection (1)(a) of this rule; and

(b) The applicant meets the qualifications in subsections (1)(c), (d) and (e) of this rule.

(4) In addition to section (3) of this rule, DMV will waive the actual demonstration of an applicant's ability to drive a motorcycle if:

(a) The applicant passes a motorcycle skills test given during a motorcycle rider education course established by the Transportation Safety Division under ORS 802.320; and

(b) The motorcycle skills test administered during the motorcycle education course meets or exceeds the motorcycle skills test administered by DMV.

(5) Evidence of passing the motorcycle skills test identified in section (4) of this rule is a motorcycle education course completion card as provided for in OAR 735-062-0140. The completion card must have been issued within two years of application to be considered valid for waiver of the skills test.

Stat. Auth.: ORS 184.616, 184.619, 802.010, 807.070, 807.080 & 807.170

Stats. Implemented: ORS 807.070, 807.080 & 807.170