

### **Proposed Text for 24VAC20-120**

There is no text for the proposed regulation number 24VAC20-120 because the purpose of the action is to repeal the regulation in its entirety.

The text for the proposed regulation number 24VAC20-121 follows.

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Part I.

General Provisions

**24VAC20-121-10 Definitions.**

The terms "Class A licensee," "Class B licensee," "Driver training school" or "school," and "Instructor" are defined in § 46.2-1700 of the Code of Virginia. In addition to those definitions, the following words and terms, when used in this regulation, shall have the following meanings unless the context clearly indicates otherwise:

"Class A license" means a license issued by the Department of Motor Vehicles to a driver training school which provides training in the operation of any type of commercial motor vehicle as defined in § 46.2-341.4 of the Code of Virginia.

"Class B license" means a license issued by the Department of Motor Vehicles to a driver training school which provides training in the operation of any type of motor vehicle other than motorcycles and commercial motor vehicles as defined in § 46.2-341.4 of the Code of Virginia.

"Commissioner" means the Commissioner of the Virginia Department of Motor Vehicles.

"Curriculum" means the courses of instruction and other relevant materials related to driver training offered by driver training schools.

"Department" means the Virginia Department of Motor Vehicles. For notification and document submission purposes, department shall specifically mean the

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Commercial Licensing Division at the headquarters office of the Virginia Department of Motor Vehicles in Richmond.

“General compliance review” means a formal review by the department of a driver training school’s operations, facilities and records to determine compliance with statutory and regulatory requirements.

“In-vehicle instruction” means the delivery of information and experience by an instructor to a student who is in or driving a motor vehicle, and where observing the driving skills and actual driving experiences of other students is a major component.

“National criminal records check” means a criminal background check performed by the Department of State Police that includes all participating states and jurisdictions.

“Normal business hours” shall mean the normal business hours of the department, which are Monday through Friday, 8:00 AM to 5:00 PM, and Saturdays, 8:00 AM to 12 Noon.

“Owner” means a person or persons, including a partnership, corporation or other business entities, that have a vested interest in and control over a school.

“Period of instruction” means 50 minutes of in-vehicle or classroom instruction.

“Revoke “ or “revocation” means that school or instructor licenses revoked are not subject to renewal or restoration except through reapplication after (i) the expiration of the revocation period and (ii) any outstanding compliance requirements have been met.

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“Safe mechanical condition” means the continual compliance with safety requirements of vehicles which are used to train school students, and have passed either a Virginia state safety inspection or a Federal Motor Carrier Safety Administration inspection, and for vehicles used to train the disabled, be certified by the National Mobility Equipment Vendors Association, whichever is applicable based on the type of training provided by the school.

“Suspend” or “suspension” means that the school or instructor licenses suspended have been temporarily withdrawn, but may be reinstated after (i) the expiration of the suspension period and (ii) the licensee has met all outstanding compliance requirements.

**24VAC20-121-20 Business office and classroom requirements.**

A. No school license shall be issued unless the school has an established place of business in the Commonwealth which is owned, rented or leased by the school. Such established place of business shall:

1. Be the premises of the licensed location of the school;
2. Satisfy all local business licensing and zoning regulations;
3. Have office space devoted exclusively to the driver training school;
4. Contain all records that are required to be maintained under the provisions of these regulations, unless the school has been permitted to maintain them elsewhere pursuant to Section 40 of these regulations;

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5. Be equipped with a desk, chairs, filing space, working utilities and a working telephone listed in the name of the school;
6. Comply with federal, state and local health, fire and building code requirements, including the Americans with Disabilities Act;
7. Be open to the general public a minimum of eight hours per week during normal business hours; and
8. Not share space with a school classroom.

The school shall also provide to the department the street address and physical address of any other business offices maintained by the school in addition to the licensed location office.

In addition to business office addresses, all addresses and physical locations of classrooms, driving ranges, driving simulators or any other facilities used by the school shall be provided to the department in writing. Schools shall not use classrooms, driving ranges, driving simulators or other driver training facilities prior to receiving approval for their use from the department.

A school owner's residence may, in part, be used as the licensed location of a school if it qualifies for a federal tax deduction of expenses related to the business use of part of the residence and meets the established place of business requirements set forth in these regulations.

B. Any school that engages in classroom instruction shall provide a classroom with the following:

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1. Seating arrangements and writing surfaces for each student and a minimum of 10 square feet per student attending at any given time;
2. Blackboards or other visual aids which shall be visible from all seating positions;
3. Driver education reference books, including current curriculum guides and appropriate text books for each student;
4. Appropriate audio/video equipment and screen in good working order; and
5. Restroom facilities which are clean, accessible and in good working order.

C. Office and instruction hours shall be posted in a conspicuous location outside the licensed location and any other business office and shall be easily accessible to the public.

D. The school license and any notice of the department that limits or restricts training shall be prominently posted at the licensed location office. A copy of the school license and notice, if applicable, also shall be prominently posted in each school classroom and any other business office maintained by the school.

In addition, schools shall display, in a conspicuous location in all their classrooms and their business offices, signs provided by the department that notify students and the public about the department's toll-free hotline.

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E. Any school licensed by the department shall notify the department, in writing, 30 days prior to a change of address for the licensed location, any other business office or classroom or other instructional facility. The department will issue a revised license reflecting such changes. The school shall return the current license to the department upon receipt of a revised school license. All school-related business, classroom and instructional locations are subject to approval by the department, as required in these regulations.

F. The location of a school's licensed location, other business offices, classrooms or practice driver training areas shall be a distance of at least 1500 feet from any property owned, leased or maintained by the department for examining motor vehicle operators. Such distance shall be measured in a straight line from the nearest point of the primary building of the department's property to the nearest point of the school licensed location, business office, classroom or practice driver training area, whichever is closest. This distance requirement may be waived by the department if the licensed location, other business office, classroom or practice driver training area has been previously allowed to be within the 1500 foot limit as a result of an action or omission on the part of the department. All school-related business, classroom or instructional locations must be approved by the department prior to use.

**24VAC20-121-30 Business practices.**

A. A school shall not use any name other than that shown on its school license. Schools using the same or similar name of another current or former school or similar

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business, or using names considered to be offensive in nature, as determined by the department, shall not be licensed by the department.

B. A school that utilizes "Department of Motor Vehicles" or "DMV" in any form of advertising including, but not limited to, telephone directories and web sites shall use only the words "Licensed by the Department of Motor Vehicles (DMV) of the Commonwealth of Virginia." A school shall not refer to any other State agency or board in any documentation or advertisement. Schools with web sites shall notify the department of their web addresses when applying for or renewing their license or when the site becomes operational, whichever is sooner.

C. A school shall not use false, deceptive or misleading information in any advertisement or provide this type of information to prospective students.

D. A school, instructor, owner or any other person employed by or otherwise associated with a school shall not:

1. Assert or imply that it will guarantee that any student will pass the state driver's license examination;
2. Assert or imply that the student can secure a driver's license;
3. Assert or imply that the student will be guaranteed employment upon completion of any course of instruction;
4. Transact or solicit driver training school business on property owned, leased or maintained by the department;

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5. Provide translation services for any individual who is taking the department's driver's license knowledge examination;
6. Falsify forms, certificates or other documents for use by students or other individuals in order to obtain a driver's license;
7. Possess, use, provide, sell or give the department's driver licensing test questions to students or other individuals;
8. Assist or facilitate the creation of false identification documents of any kind or false residency certification for any individual;
9. Provide instruction at a site not formally approved by the department;
10. Contract or subcontract, without written approval of the parents or legal guardians, with other driver training schools or driver training organizations to provide classroom or in-vehicle instruction for students under 18 years of age who are not married or emancipated;
11. Have, use, keep or be under the influence of alcohol, illegal drugs or other substances, legal or illegal, on the premises of or in vehicles used by the school that would affect a person's ability to drive a vehicle or provide or receive instruction; or
12. Conduct themselves in a manner not suitable or compatible with school-related activities. Such prohibited conduct includes, but is not limited to:

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- a. Touching in a manner that would be considered inappropriate by a reasonable person;
- b. Telling jokes or making statements or comments that a reasonable person would consider (i) to be hateful or demeaning to a particular race or ethnicity, or (ii) to have sexual or otherwise vulgar content or connotation;
- c. Displaying objects or materials that a reasonable person would consider unpleasant, distasteful, nasty, disgusting, hateful or otherwise unsuitable;
- d. Berating or otherwise harassing students or other persons;
- e. Running errands;
- f. Except for emergency situations, using telecommunications or any other audio or video equipment during periods of in-vehicle or classroom instruction which are not part of the course of instruction. If an emergency situation occurs during in-vehicle instruction, such use should, whenever possible, be made once the vehicle is safely off the road and stopped;
- g. Eating during periods of instruction;
- h. Use of tobacco products during periods of instruction;
- i. Creating a training environment considered hostile or otherwise intimidating to a reasonable person; or

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j. Allowing any student to engage in such prohibited conduct outlined above.

E. Except when full tuition has not been satisfied, a school shall provide, within five business days of the successful completion of program requirements, an original certificate of completion needed by the student (i) to obtain a driver's license, (ii) for insurance verification purposes or (iii) for employment purposes. No fee shall be charged by the school for the original certificate.

F. Schools shall operate in accordance with the driver training school operations manual as provided and updated by the department.

G. No school vehicles shall park on the department's owned, leased or maintained property except for the purposes of conducting official business with the department during normal business hours. At no time whatsoever shall a school provide training to a student on the department's owned, leased or maintained property or over its test routes.

**24VAC20-121-40 Records to be maintained.**

Except as otherwise provided in this section, all records shall be maintained at the licensed location of the school. The Commissioner may, on written request from a school, permit records to be maintained at a location other than the licensed location for good cause shown.

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Schools shall maintain accurate, complete, legible and up-to-date records, as required under §§ 46.2-1701.2 and 46.2-1071.3 of the Code of Virginia. Such records shall include:

1. All student records;
2. All business records;
3. All records relating to:
  - a. Compliance with or proof of exemption from local business licensing and zoning regulations;
  - b. Federal, state and local health, fire and building code requirements; and
  - c. Size and space requirements for places of business and classrooms; and
4. Any other records required by the department in a manner prescribed by the department.

All records shall be retained by the school for a minimum of three years after their creation. Copies of such records shall be provided to the department upon request.

**24VAC20-121-50 Availability of records; inspections and compliance reviews.**

A. All records shall be open and available for inspection by any employee of the department during normal business hours or at a reasonable time agreeable to the department employee. Schools shall have someone, who is employed by or otherwise

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associated with the school and who can access all records, available to assist the department employee, as necessary. If copies of such records are not readily available, the department employee may secure and remove these records in order to review, photocopy them or use them in a hearing. The department shall return those records it removes after the review or photocopying is completed, or at the conclusion of the hearing process, including any related court action, when used for that purpose.

B. Each applicant for licensing as a driver training school shall permit the department to inspect its operations, facilities and records as they relate to its driver training program for the purpose of determining whether the applicant is qualified for licensing.

The department shall perform its inspections during normal business hours with or without prior notice to the driver training schools. The department shall prepare a written report on the results of each inspection, and provide a copy of the report to and review it with the applicant. At the conclusion of the review of the report, the applicant shall provide signed written documentation to the representative of the department conducting the inspection that indicates the school has received and reviewed the report.

C. Each school shall permit the department, from time to time, to inspect and conduct a general compliance review of its business offices, classrooms, vehicles and any other records or properties associated with the operation of the school to determine whether the school remains in compliance with licensing requirements.

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D. The department shall perform its inspections and general compliance reviews during normal business hours with or without prior notice to the driver training schools. The department shall prepare a written report on the results of each inspection and general compliance review, and provide a copy of the report to and review it with the owner or business manager of the school. At the conclusion of the review of the report, the owner or business manager of the school shall provide signed written documentation to the representative of the department conducting the inspection or general compliance review that indicates the school has received and reviewed the report.

E. Any school owner, employee or instructor who meets with department employees for the purposes of inspecting or otherwise obtaining records is subject to the conduct requirements set forth in these regulations. Any school owner, employee or instructor who violates the conduct requirements set forth in these regulations during such meetings shall be subject to the sanctions set forth in these regulations.

F. Each student's record shall be open and available for inspection by the respective current or former student 18 years of age or older and by the parents and legal guardians of current or former students under 18 years of age during normal business hours or at a reasonable time agreeable to both the school and the student or parents or legal guardians of students under 18 years of age.

Under no circumstances shall a school owner, employee or instructor meet, for the purposes of inspecting records, or for any other purpose, with current or former

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students under 18 years of age at the time of the meeting without a parent or legal guardian being present unless the student is married or emancipated. Any school owner, employee or instructor who meets with students, parents or legal guardians for the purposes of inspecting records is subject to the conduct requirements set forth in these regulations. Any school owner, employee or instructor who violates the conduct requirements set forth in these regulations during such meetings with students, parents or legal guardians shall be subject to the sanctions set forth in these regulations.

**24VAC20-121-60 School licensing requirements.**

A. Schools seeking a license shall file with the department, as required by these regulations, a completed application for a driver training school license along with any associated fees and other documentation required by the department. In addition, each school shall collect and submit to the department, as required by these regulations, the instructor applications for those instructors that they employ along with any associated fees and other documentation required by the department.

B. The following shall accompany the school licensing application and shall be in addition to any other application requirements of the department:

1. An application fee;
2. A certificate of insurance;
3. A surety bond;
4. Instructor applications;

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5. A local business license or zoning document, or a letter from local authorities indicating none is required; and

6. A national criminal records check completed within 60 days of the application deadline for each individual providing instruction or otherwise employed by or managing the school.

In addition, each owner or principal of the owner of a driver training school shall submit a national criminal records check with the school license application package.

C. The application package shall be submitted to the department at the address shown on the application. All proper applications will be either approved or denied within 30 business days of receipt by the department.

D. School licenses shall be valid for a period of 12 months and shall display the validity period on the face of the license. The school license shall expire on the last day of the last valid month of the license period.

E. Schools seeking a license shall file with the department evidence of insurance, with a company authorized to do business in the Commonwealth of Virginia, on all vehicles used by schools to provide instruction, in the minimum amounts as required by § 46.2-472 of the Code of Virginia.

The school shall provide and maintain evidence of insurance coverage on a certificate of insurance form provided by the department. The certificate shall be filed upon application and at other times of the licensure period as requested by the department. The certificate shall stipulate the make, model, year, vehicle identification

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number, vehicle color and license plate number for all vehicles and shall also stipulate that the department will be notified by the insurance carrier (i) 10 calendar days before the school's insurance policy expires or (ii) on the same day that the policy is canceled or not maintained in full force.

Schools shall provide to the department written verification from their insurance company that the insurance company is aware the vehicles are used for driver training instruction and are operated by student drivers. Schools shall notify the department in writing of any change in liability insurance coverage not later than the effective date of the change.

Each school shall provide written notice to the department's driver training school section in the event that any motor vehicle is added to or deleted from the insurance policy during the coverage period. The notice shall include the make, model, year, vehicle identification number, vehicle color and the license plate number. The notice shall be received by the department prior to using any added motor vehicle for driver education instruction. Failure to maintain required liability insurance for school vehicles or failure to comply with insurance certification requirements shall result in the suspension or revocation of the school's license or the imposition of other sanctions, or both, as set forth in these regulations.

F. All licensed schools shall file with the department a surety bond in the sum set by statute for Class A and Class B schools, payable to the Commonwealth of Virginia, issued by a corporation licensed to transact surety business in the Commonwealth. The

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surety bond shall be filed with each application and must provide coverage for the entire licensure period.

G. The department may refuse to approve any application, including originals or renewals, in which the owner or any principal of the owner, or any of the school's employees or instructors (i) have previously been or would be subject to any sanctions prescribed by these regulations or (ii) has been convicted of a felony, including but not limited to bribery, forgery, fraud or embezzlement under the laws of the Commonwealth or any other jurisdiction, or a conviction of any offense included in Article 7 (§18.2-61 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia (Criminal Sexual Assault) or of any similar laws of any other jurisdiction, or any misdemeanor or felony involving:

1. Sexual assault as established in Article 7, (§ 18.2-61 et. seq.) of Chapter 4 of Title 18.2, Code of Virginia;
2. Obscenity and related offenses as established in Article 5 (§ 18.2-372 et. seq.) of Chapter 8 of title 18.2, Code of Virginia;
3. Drugs as established in Article 1 (§ 18.2-247 et. seq.) of Chapter 7 of Title 18.2, Code of Virginia;
4. Crimes of moral turpitude;
5. Contributing to the delinquency of a minor;
6. Taking indecent liberties with a minor;
7. The physical or sexual abuse or neglect of a child;
8. Similar offenses in other jurisdictions; or

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9. Other offenses, as determined by the department, which would impact ownership, operation or instruction by a school.

Any school license issued may be suspended or revoked if such a conviction occurs during any licensure period.

H. To avoid any conflict of interest, the department will not approve any Class A school license for any applicant that is certified by DMV as a Third Party Tester for the commercial driver's license (CDL) skills testing.

I. Requests to change (i) the name or address of a school, or (ii) a school license to add to or eliminate a licensed location, or any other business offices, classrooms or other instructional facilities during the licensure period shall be made to the department at least 30 days prior to such change and shall be subject to a licensing fee set by the department and the issuance of a modified license, The expiration on any modified license issued shall be the same as the current license.

**24VAC20-121-70 School license renewal required.**

A. Every licensed school applying for renewal shall return the following to the department at the address shown on the application on or before the 15th day of the month in which the current license expires:

1. A renewal application;
2. A certificate of insurance, as required under these regulations;
3. A photocopy of a current business license, if required by the locality, or a letter from the locality that indicates no business license is required;

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4. National criminal records checks completed within 60 days of the application deadline for each individual providing instruction or otherwise employed by or managing the school, as required by these regulations;

and

5. A processing fee for each license renewal application.

If the original surety bond is no longer in force, a new surety bond must also accompany the renewal application.

B. The department will make every effort to mail a renewal notice to the licensee outlining the procedures for renewal at least 90 days prior to the expiration of their license and to mail a follow-up reminder notice 45 days prior to the expiration of their license. Failure to receive these notices shall not relieve the licensee of the obligation to apply if a continuation of the license is desired.

**24VAC20-121-80 Transferability of school licenses.**

A. A change in ownership shall require an application for an original license along with the documents and fees required under these regulations, which shall be submitted to the department at least 30 days in advance of the effective date of the change. The school shall not operate under the change in ownership until an original license has been issued by the department reflecting the new ownership.

B. School licenses are not transferable; they shall not be sold, loaned, bartered or given by a licensee or an agent of a licensee to another school, individual, association, partnership or corporation.

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A. All contracts between any school and any individual or group attending the school shall be in a standard format approved by the department. A school shall not make any changes to the format without review and approval by the department. A copy of the signed contract must be provided to each student who signs the contract for those students 18 years of age or older and those students under 18 years of age who are either married or emancipated. For students under 18 years of age who are not married or emancipated, a copy of the signed contract must be provided to the parents or legal guardians who sign the contract.

Excluding transcripts and certificates of completion, all written correspondence from schools to current or former students and their parents or legal guardians related in any way to course work or the contract between the school and the student shall include standard information about the department's toll-free telephone hotline. The department shall specify to the schools, as part of the school license application package, the content and the font requirements for this hotline information.

Schools may not include any statements in their contracts that place the financial responsibility for accidents occurring in school-owned vehicles during periods of instruction on the student or on the parents or legal guardians of students operating the vehicles.

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B. The required elements for all contracts between schools and their independent contractors shall be provided by the department as part of the school license application package.

C. Addenda to any contracts between a school and its students or a school and its independent contractors shall be approved by the department.

D. Licensed driver training schools may conduct training courses at private schools, subject to existing statutory and regulatory requirements. Driver training schools offering such training shall provide the department with a copy of the written contract between the driver training school and the private school that includes the dates and times for the courses along with written confirmation that the classroom portion of the training is being conducted at the private school.

**24VAC20-121-100 General instructor licensing requirements.**

A. Individuals seeking an instructor's license shall submit a completed application, as required by these regulations, along with any associated fees and other appropriate documentation to the school with which they are employed. Schools shall be responsible for submitting the instructor applications, along with any associated fees and other appropriate documentation, to the department, as required by these regulations. Applicants seeking an original or a renewal of an instructor's license shall submit with their application a national criminal records check completed within 60 days of the submission date of the application.

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B. Applicants must be at least 21 years of age and must be able to document with driving records at least five years of licensed driving experience, two years of which shall be experience in the United States or a territory thereof. These driving records must exhibit the individual's name, the driver's license number, the date of issue, the issuing jurisdiction, the date of expiration and notations of any convictions, license withdrawals, suspensions, revocations, cancellations, disqualifications or restrictions. In the event an applicant uses driving records from a foreign country to substantiate licensed driving experience, such records must be translated into English by an appropriate authority, as approved by the department, at the applicant's expense.

C. Individuals seeking an instructor's license must be employed by a licensed school. No instructor shall be employed by more than one school unless all the schools are owned by the same person. Instructors employed by more than one school shall have an application and other appropriate documentation and fees submitted to the department by each school that employs them.

D. Individuals licensed as instructors or seeking an instructor's license must be able to effectively communicate in English in an easily understood and comprehensible manner to their students and the department, as determined by the department.

E. Individuals seeking an instructor's license to teach in-vehicle instruction shall hold a valid driver's license from their state of domicile at the time of licensing and throughout the entire licensure period. If such driver's licenses are from another state or jurisdiction, the applicant must provide to the department a copy of their driving record

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from that jurisdiction with their application and every three months thereafter if they receive an instructor's license. Such driving record must be produced within 30 days of its submission to the department

All applicants for a license to teach in-vehicle instruction and those persons who are currently licensed to teach in-vehicle instruction must also provide written notice to the department of any traffic accidents, convictions of traffic infractions, misdemeanors, or felonies, as well as any administrative actions relating to driving or any driver's license revocation, suspension, cancellation, disqualification or other loss of driving privileges within 15 calendar days of the conviction or administrative action, or within 15 calendar days of the imposition of the revocation, suspension, cancellation, disqualification or other loss of driving privileges.

Applicants for a license to teach in-vehicle instruction shall not be approved if their current driving privileges are expired, suspended, revoked, cancelled or disqualified. Persons required to submit to periodic medical reviews may also be denied an in-vehicle instructor's license if, as determined by the department, their conditions are considered to pose a threat to the safety, health or welfare of driver training students or the public while these persons operate a motor vehicle.

F. Individuals who obtain an instructor's license shall at the time of licensing have a driving record with no more than six demerit points. After licensing, instructors shall maintain a driving record with no more than six demerit points. If during the licensure period the driving record of such individual accumulates more than six demerit points

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based on violations occurring in a 12 month period, the department shall suspend the person's instructor license and shall notify the instructor and the driver training school where the instructor is employed of such suspension. Safe driving points shall not be used to reduce the accumulated demerit points. In the event that the driving record is from another state, the department will apply Virginia's equivalent demerit points to convictions noted on such record.

Whenever the driver's license of such individual is suspended or revoked, or such person is convicted in any court of reckless driving, driving under the influence or driving while intoxicated, the department shall suspend the person's instructor license and shall notify the person and the driver training school where the instructor is employed of the suspension.

G. The department may refuse to approve any application, including originals or renewals, in which the applicant has been convicted of a felony, including but not limited to bribery, forgery, fraud or embezzlement under the laws of the Commonwealth or any other jurisdiction, or a conviction of any offense included in Article 7 (§18.2-61 et seq.) of Chapter 4 of Title 18.2 of the Code of Virginia (Criminal Sexual Assault) or of any similar laws of any other jurisdiction, or any misdemeanor or felony conviction involving:

1. Sexual assault as established in Article 7, (§ 18.2-61 et. seq.) of Chapter 4 of title 18.2, Code of Virginia;
2. Obscenity and related offenses as established in Article 5 (§ 18.2-372 et. seq.) of Chapter 8 of title 18.2, Code of Virginia;

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3. Drugs as established in Article 1 (§ 18.2-247 et. seq.) of Chapter 7 of Title 18.2, Code of Virginia;
4. Crimes of moral turpitude;
5. Contributing to the delinquency of a minor;
6. Taking indecent liberties with a minor;
7. The physical or sexual abuse or neglect of a child;
8. Similar offenses in other jurisdictions; or
9. Other offenses, as determined by the department, which would indicate that the applicant may present a danger to the safety of students or the public.

Instructor licenses may be suspended or revoked if a conviction for any of the offenses outlined in this subsection occurs during any licensure period.

H. Instructor applicants shall not be issued a license if they have a conviction of driving under the influence, reckless driving, refusal to submit to a breath or blood test under §18.2-268.2 of the Code of Virginia, or vehicular or involuntary manslaughter, or of any similar offense from any other jurisdiction within a period of five years prior to the date of the application. If the applicant's driving privileges were revoked for any such conviction, then the five-year period shall be measured from the license restoration date rather than the conviction date. Instructor licenses issued shall be revoked if a conviction, as outlined in this subsection, occurs during the licensure period.

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I. Except as otherwise provided in these regulations, an individual seeking an instructor's license shall have at least a high school diploma or equivalent. Once licensed, instructors shall attend, as required by the department, continuing education classes approved by the department.

J. All instructors shall complete training on the current curriculum and other course work, as required and approved by the department, prior to instructing students. Evidence of such training shall be maintained by the school employing the instructor and provided to the department upon request.

K. The fee for an instructor license shall be set by the department. The instructor's license period shall expire when the respective school license expires. At the discretion of the department, fees may be prorated on a monthly basis.

L. The instructor license application package shall be submitted by the school employing the instructor to the department at the address shown on the application. All proper applications will be either approved or denied by the department within 30 business days of receipt from the school employing the instructor.

M. All licensed instructors shall have their instructor's license in their possession at all times while providing instruction.

N. Each instructor licensed by the department shall notify the department in writing within 30 days of establishing a new residential address.

O. In the event that a school licensed by the department changes its name or address, the school shall, no later than 30 days prior to such change: (i) notify the

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department of the school's name or address change, (ii) request revised instructor's licenses for the instructors it employs reflecting the change and (iii) submit to the department the licensing fees established by the department for revising and reissuing an instructor's license for each of its instructors.

After receiving the licensing fees, the department will revise and reissue the instructor's licenses, as requested, and will cancel the previously issued licenses. Once it receives the revised licenses from the department, the school shall return the cancelled instructor's licenses to the department.

**24VAC20-121-110 Instructor license renewal.**

A. Each school employing a licensed instructor applying for renewal shall return to the department for each of its instructors a renewal application, a current national criminal records check completed within 60 days of the application and the instructor license fee to the department at the address shown on the application, on or before the 15th day of the month in which the current license expires. Each instructor's license shall expire when the respective school license expires. Thirty days prior to the end of the 12 months of the licensure period, each instructor's license renewal applicant shall provide to the school employing them, for submission to the department, a national criminal records check completed within 60 days of the application deadline.

B. No instructor shall be permitted to continue instructing students upon the expiration of the instructor's license. The department shall not renew the instructor's license if the school license of the school employing an instructor is not renewed.

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C. The department will make every effort to mail a renewal notice outlining the procedures for renewal at least 45 days prior to the expiration of an instructor's license to the licensee at the school's licensed location. Failure to receive this notice shall not relieve the licensee of the obligation to apply for renewal of the license through the school if continuation is desired.

**24VAC20-121-120 Change in instructor employment.**

Instructor licenses shall not be transferred from one licensed school to another licensed school. If an instructor changes schools, a new license application and the appropriate processing fee shall be submitted to the department.

**24VAC20-121-130 Notice required to the department.**

A. Each school shall notify the department in writing no later than 15 calendar days after the termination of employment of any licensed instructor. The school shall make every reasonable attempt to return to the department the instructor's license.

B. In the event of cessation of business, the school shall submit to the department, within 15 calendar days of such date, a written statement indicating the business is closing, and forward to the department within 30 calendar days after cessation of business the school license, all instructors' licenses, all student records and any materials furnished to the school by the department. The department will retain such records for a period of three years from the date they are received to ensure such records are available to students and other persons or entities who may want or need access to them.

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C. All schools shall notify the department of any proposed structural or other modifications to an existing school, classroom or driving range 30 days prior to initiating such modifications.

**24VAC20-121-140 Fees.**

All fees related to school and instructor licensing under the driver training program shall be, as determined by the department, set at levels that will provide reasonable fiscal support for the operations and activities of the Commercial Licensing Division of the department. Such fees may be modified every two years, as necessary. Such licensing fees shall be based, in part, on the number of business office, classroom and instructional locations that are part of the license or license application at a given time. A schedule of such fees shall be provided to (i) all school license applicants at time of initial application, and (ii) all licensed schools at least 30 days prior to their license renewal date.

All such fees shall be nonrefundable. All check payments for fees shall be made on an active account containing sufficient funds for the amount of the payment.

**24VAC20-121-150 General equipment requirements.**

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A. Each school shall provide all necessary equipment and materials required for classroom and in-vehicle instruction, including motor vehicles that are in safe mechanical condition and that are properly registered and insured.

B. Each vehicle shall also carry minimum safety equipment as determined by the department, including, but not limited to: reflective triangles and flares, first aid kit, flashlight, secured fire extinguisher, jumper cables or a battery charger, towel, blanket, safety vest, while used for training students.

**24VAC20-121-160 Sanctions for violations of statutes and regulations.**

A. The department may cancel, suspend, revoke or deny renewal for any license issued pursuant to these regulations, refuse to license a school or instructor or may limit the type of driver training instruction provided and impose a civil penalty up to \$1,000, as outlined in § 46.2-1701 et seq. of the Code of Virginia, for any licensee who violates any provisions of such statutes or these regulations.

The department may take action to cancel, suspend, revoke or deny renewal for any license without first offering the licensee the opportunity for a hearing if the Commissioner has made a determination pursuant to § 46.2-1705 (E) or (G) of the Code of Virginia that the violation poses a danger to the safety of students or to public safety or indicates that an instructor is no longer qualified to act as an instructor. The department may also limit the privileges of a school or an instructor pursuant to § 46.2-1705 (F) of the Code of Virginia.

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B. For the purposes of this section, if a school licensee is an association, partnership, corporation or other business entity, it shall be sufficient cause for the suspension, cancellation, revocation or refusal to renew a school license in the event that any officer, director, instructor, employee, or any trustee or member of a partnership or corporation has committed any act or omitted any duty which would be cause for suspending, canceling, revoking, or refusing to renew a license issued to him as an individual under the laws and regulations pertaining to driver training schools.

In addition, each school owner shall be responsible for the acts of any instructor while acting as the owner's agent when (i) the owner approved of those acts, or had knowledge of those acts or other similar acts, and (ii) after such knowledge retained the benefit, proceeds, profits or advantages accruing from those acts or otherwise ratified those acts.

C. Upon revocation or refusal to renew a school license, all school and instructor licenses, forms, documents and all records relating to the school operation, including all student records, and any materials furnished to the school by the department shall be forwarded to the department by the school within 30 calendar days of the action.

Part II.Specific Requirements Related to Class A Licensure**24VAC20-121-170 Curriculum requirements for Class A licensed schools,**

Course curriculum requirements will be established and made available by the department to Class A licensed schools, Class A license applicants and the public. A

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course curriculum meeting the established requirements must be submitted to the department at the time of Class A license application or renewal application, and must be approved by the department prior to the beginning of course instruction.

The department shall provide and update the list of course curriculum requirements from time to time, as deemed appropriate and necessary by the department, in consultation with all affected schools that are licensed by the department at the time of the update and other interested parties as identified by the department.

The department shall notify the affected schools when and if new relevant topics are added to the course curriculum. Schools shall have 45 calendar days after such notice is issued to update their course curriculum and to certify to the department in writing that the school has added the new topics to the course curriculum.

**24VAC20-121-180 Class A instructor license requirements.**

A. Applicants for a Class A instructor's license shall possess a valid Virginia nonrestricted interstate commercial driver's license, with the appropriate vehicle classes and endorsements for the type of instruction they intend to provide, and which has been held by the applicant for at least 3 years.

Applicants for a Class A instructor's license who do not have a high school diploma may nevertheless be licensed if they provide written evidence that they (i) have at least one year of previous Class A instructing experience or (ii) have successfully completed a Class A driver training course and a minimum of 160 hours of Class A instructor training provided by the hiring school.

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Instructor applicants shall provide with their applications certifications that they meet the physical requirements, and any alcohol and drug screening requirements for commercial drivers as specified in the federal motor carrier safety regulations. A copy of such certification shall be kept in the instructor's file maintained by the driver training school employing the instructor.

If applicants for a Class A instructor's license hold a valid commercial driver's license from a state other than Virginia at the time of licensing, they shall maintain its validity throughout the entire licensure period and shall provide to the department a copy of their driving record from that other state upon application and, if licensed as a Class A instructor by the department, on a quarterly basis thereafter.

Those applicants for and holders of a Class A instructor's license shall also provide written notice to the department of any conviction of traffic infractions, misdemeanors, or felonies, any administrative actions relating to driving or any driver's license revocation, suspension, cancellation, disqualification or other loss of driving privilege within 15 calendar days of the conviction or administrative action, or within 15 calendar days of the imposition of the revocation, suspension, cancellation, disqualification or other loss of driving privilege.

B. Instructors shall complete in-service instructor training provided by the school prior to offering student instruction. The requirements of such in-service instructor training shall be established and made available to licensed Class A schools by the department and shall include, but not be limited to, the following topic areas:

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1. Basic instructional skills;
2. Student teaching with a mentor;
3. Background in federal, state and local laws and ordinances;
4. Basic skills for operating commercial motor vehicles;
5. Safe operating practices;
6. Maintenance of commercial motor vehicles; and
7. Safe trip planning.

**24VAC20-121-190 Equipment requirements for Class A licensed schools.**

A. All vehicles used for driver education or testing purposes shall be marked by signs affixed to the sides and the rear of the vehicle, in bold letters not less than four inches in height, clearly visible from 100 feet, stating one of the following: "Student Driver," "Learner," "New Driver," "Driver Education" or "Caution-Student."

All vehicles used by a school shall display the name of the school, as shown on the school license, on the outside of the vehicle when engaged in driver education or when the vehicle is being used for testing purposes. The name of the school shall be included on the signs affixed to the sides of the vehicle.

B. The cabs of such vehicles shall be designed to have safety belts for each individual.

C. No motor vehicle may be used for driver education unless it displays a valid safety inspection sticker or Federal Motor Carrier Safety Administration inspection sticker.

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Part III.

Specific Requirements Related to Class B Licensure

**24VAC20-121-200 Curriculum requirements for Class B licensed schools.**

A. Course curriculum shall comply with the provisions of the current "Curriculum and Administrative Guide for Driver Education in Virginia" and these regulations. A copy of the current guide may be obtained from the Virginia Department of Education at the following Internet link: [http://www.pen.k12.va.us/VDOE/Instruction/PE/ca\\_guide.html](http://www.pen.k12.va.us/VDOE/Instruction/PE/ca_guide.html)

B. The department shall provide and update the list of course curriculum requirements from time to time, as deemed appropriate and necessary by the department, in consultation with all affected schools that are licensed by the department at the time of the update and other interested parties as identified by the department.

The department shall notify the affected schools when and if new relevant topics are added to the course curriculum. Schools shall have 45 calendar days after such notice is issued to update their course curriculum and to certify to the department in writing that the school has added the new topics to the course curriculum.

C. The length of daily instruction shall comply with the provisions of the current "Curriculum and Administrative Guide for Driver Education in Virginia" and these regulations.

D. The number of students in a driver training vehicle during in-vehicle instruction shall be no more than three and no less than two students. The only exception to the two-student minimum is to have the student's parents or legal guardians for students

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under 18 years of age who are not married or emancipated sign a written release, an original to be maintained with the student's record, allowing for one-on-one driver training with an instructor.

E. Except when one-on-one driver training is being provided with the consent of the student's parents or legal guardians, a student under 19 years of age riding alone with the instructor shall ride in the back seat of the driver training vehicle until other students are present in the vehicle.

F. Except when a student is driving the vehicle, the time during which a student is being transported in a driver training vehicle for the purposes of picking up a student or other students prior to the beginning of a period of instruction or dropping that student or other students off after the end of a period of instruction shall not count as observation time. Any student involved in one-on-one training with an instructor as permitted under subsection C of this section shall meet the observation requirements with at least one other student in the vehicle during in-vehicle training.

G. Students under 19 years of age shall only receive in-vehicle instruction with other students under 19 years of age.

**24VAC20-121-210 Class B instructor requirements.**

Any instructor relying on a valid Virginia teaching license with a driver's education endorsement shall submit either the original license or a certified copy of the original license and an unexpired endorsement upon original application and renewal of the

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license. If submitted, the original license shall be returned to the instructor after review by the department.

**24VAC20-121-220 Equipment requirements for Class B licensed schools.**

A. All vehicles used for driver education or used for testing purposes shall be marked by a rooftop sign, in bold letters not less than two and one-half inches in height, clearly visible 100 feet from the front and rear, stating one of the following: "Student Driver," "Learner," "New Driver," "Driver Education" or "Caution-Student."

All vehicles used by a school shall display the name of the school, as shown on the school license, on the outside of the vehicle when engaged in driver education or when the vehicle is being used for testing purposes. The name of the school shall be included either on the rooftop sign or affixed to both sides of the vehicle.

B. No motor vehicle may be used for driver education unless it is in safe mechanical condition as defined in these regulations. Each vehicle used for driver education in a school shall have dual controls consisting of dual brakes, dual inside rearview mirror and right-hand and left-hand outside mirrors. Any training vehicle or vehicles used for instruction shall not be more than nine model years old. This model year requirement may be waived or altered on a case-by-case basis for vehicles specially equipped to accommodate disabled individuals. The driver training vehicle shall be equipped with a minimum of four safety belts.

C. The department may exempt any school teaching disabled individuals from the requirement to provide motor vehicles, on a case-by-case basis. The school may

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use a vehicle provided by the disabled student for their in-vehicle instruction in the event that it is cost prohibitive for the school to maintain certain specialized equipment or if such equipment is not readily installed and removed or if it provides necessary practical experience for the student in their own vehicle. When using a student's vehicle, the school shall require that the disabled student provide written verification from the company insuring the vehicle that it is aware that the vehicle will be used for driver training instruction and the insurance is in full force during such use.

The school shall also require the disabled student to provide a copy of the current liability insurance policy for the vehicle. The school shall maintain a copy of the current liability insurance policy covering such vehicle in the student's file. The school shall also send prior to beginning instruction a written notice to the department stipulating the reasons for using the student's vehicle and the anticipated dates of instruction as well as a copy of the current liability insurance policy on the vehicle.

Any school that uses a disabled student's motor vehicle must ensure that such vehicle is in safe mechanical condition as defined in these regulations, and displays signage as specified under these regulations.

D. Except as otherwise provided in this section, no motor vehicle may be used for driver training purposes unless it is owned or leased in the name of the licensed school or the school owner as indicated on the application for the school license.

E. All motor vehicles used by a licensed school for in-vehicle instruction shall be inspected and approved by the department based on the criteria outlined in these

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regulations before being used for student instruction. All motor vehicles used by a licensed school for the purpose of taking the driving examination shall have a valid registration in the vehicle and be in safe mechanical condition, as defined in these regulations.