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Regulatory
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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Motor Vehicles
Virginia Administrative Code (VAC) citation	24VAC20-120
Regulation title	Virginia Driver Training School Regulations
Action title	Repeal current regulations and promulgate new regulations to reflect recent statutory changes to the program
Document preparation date	14 June 04

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The driving environment in Virginia and the rest of the nation has changed substantially over recent years: more vehicular traffic, more drivers, an increase in the number of larger, heavier weight vehicles (both private and commercial), an increase in the number and type of in-car distractions that confront the driver and an increase in the incidence of road rage.

The Department of Motor Vehicles (DMV) licenses Class A (commercial vehicle training) and Class B (passenger vehicle training) driver training schools. Instruction and curriculum standards and practices as well as overall business practices at driver training schools for commercial and passenger vehicle drivers must effectively respond to these changes in order to provide thorough, up-to-date driver education and maintain the safest driving environment possible. Without proper, reasonable oversight, driver training schools could very well produce inadequately trained commercial and passenger vehicle drivers. These inadequately trained drivers could then end up operating vehicles throughout the Commonwealth, posing a significant health and safety threat to themselves and other drivers.

Through recent statutory changes (Chapter 587 of the 2004 Virginia Acts of Assembly) and these proposed regulatory changes, DMV's oversight activities are intended to ensure that graduates of these schools are adequately prepared to safely and independently operate motor vehicles on the public roadways. The overall goals are to:

- Strengthen DMV training school standards and develop additional standards to ensure that the instruction provided is uniform and meets all established requirements;
- Strengthen DMV's oversight process to ensure that reviews of training documentation are consistent, evaluation of school curriculums are expanded, and school audits are more comprehensive and less burdensome on driver training course providers; and
- Implement additional changes intended to ensure that consistently high quality instruction is provided across the driver training school system and that the learning environment for younger students is safe, secure and peer-oriented.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The statutory authority for promulgating the amendments to these regulations is Va. Code §§ 46.2-203 and 46.2-1703. The scope of the regulatory authority is general in § 46.2-203 and specific in § 46.2-1703. Va. Code § 46.2-203 allows for the Department of Motor Vehicles to “adopt reasonable administrative regulations necessary to carry out the laws” it administers and may designate other agencies of the Commonwealth to enforce them. Va. Code § 46.2-1703 allows the Commissioner to “promulgate regulations necessary to enforce [and carry out] the provisions of [the commercial driver training school statutes and] to provide adequate training for [commercial driver training school] students.... These regulations shall include but need not be limited to curriculum requirements, contractual arrangements with students, obligations to students, facilities and equipment, qualifications of instructors, and financial stability of schools.” In both cases, the rulemaking authority is discretionary. The recent statutory changes expanded this authority to include protections for students and public safety in general as well as specific requirements for instructors, school ownership and surety bonds. See Chapter 587 of the 2004 Virginia Acts of Assembly (Senate Bill 288) for all the recent statutory changes.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

The proposed regulations will establish and maintain an oversight process that ensures services provided by driver training schools licensed by DMV are uniform and of high quality. These oversight activities are intended to ensure that graduates of these schools are adequately prepared to safely and independently operate commercial and passenger vehicles on the public roadways after obtaining a driver's license. DMV's enhanced oversight activities also will help provide for a safer, more secure and peer-oriented learning environment for those younger students attending these schools.

Perhaps the most important element to preparing students to drive safely is the in-car training they receive. To enable DMV to properly verify that the required types and amount of in-car training are being provided to students under 19 years of age, the standard for training documentation should require information on the type of training provided and the skills covered during the session. Training also should be with other students in the same age group.

Instructor requirements also should be expanded to help ensure safe, qualified instruction. DMV currently has a number of requirements that instructors must meet in order to be licensed to teach in a driver training school. DMV has identified ways to enhance the current requirements to provide additional safeguards for students. These enhancements include: (1) requiring a national criminal background check instead of a state or local criminal background check, (2) increasing the scope of the criminal convictions that could enable DMV to refuse to approve a license, and (3) revising the requirements related to demerit points for traffic infractions.

Insight into the operations and instructional practices of driver training schools statewide is provided primarily through the oversight activities of DMV. Areas that DMV believes need regulatory enhancements include the review of the schools' classroom and in-car instructional programs, vehicle inspections, and the use of monitoring visits between school audits.

Poorly trained drivers only add to the increasing number of possible safety concerns faced by drivers when they take to the highways. In today's burgeoning transportation system, the safer each driver operates their vehicle, the safer the roads are for everyone. Since a significantly larger group of people is receiving their driver training from driver training schools, the regulation of these schools is essential to protect the public's health, safety and welfare. This is especially true for the commercial vehicle training schools. Considering the nature of the vehicles operated by these drivers (i.e. tractor trailers weighing upwards of 100,000 pounds, vehicles carrying hazardous materials, vehicles carrying 50 or more passengers), the risks and consequences of poor training can be catastrophic.

Although other issues are expected to arise in the promulgation of this regulation, DMV expects that the main issues that may need to be addressed will be (i) the impact of the sanctions being proposed under the amended regulation, and (ii) the perceived differences in public and private sector instructor standards.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

DMV has statutory responsibility for oversight of the driver training schools it licenses. This oversight is accomplished primarily through three mechanisms: regulations governing the operation of driver training schools, a school and instructor licensing process to verify compliance with applicable standards at the time of licensing, and systematic audits of the schools for compliance with the promulgated regulations. The guiding mechanism for this oversight process is the regulations governing the operation of driver training schools.

DMV believes the proposed regulation is currently the only approach to take in order to maintain the most effective safeguards for the citizens of the Commonwealth and provide for the least intrusive and least burdensome means of achieving this purpose. Making specific, detailed changes in statute is unwanted and unnecessary since DMV's regulatory authority in this area has already been established. Guidelines would have much the same effect as regulations, but would require legislative changes in order to be as effective as the proposed regulations.

The Joint Legislative Audit and Review Commission (JLARC) issued a report several years ago pertaining to the oversight of commercial driver training schools. This report included a number of recommendations that support DMV's proposed regulations.

Perhaps the greatest benefit of the proposed regulations is the review process associated with its promulgation. An advisory panel composed of school owners and operators, law enforcement and other interested parties will be established for both Class A (commercial vehicle training) and Class B (passenger vehicle training) licensed schools. Owners of driver training schools, their instructors, their students and other interested parties that are not part of the advisory panels will have ample time and opportunity to review and comment on the proposed regulations during the regulatory process, including public hearings. Should other alternatives become available in the future, DMV will consider them in light of the proposed regulations to determine the most effective, least intrusive and least burdensome means of achieving its purpose.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

This proposed regulatory activity is expected to enhance the institution of the family and generally improve family stability. In general, parents will be able to have a better comfort level about sending their children to safer, more secure and peer-oriented driving schools. Students should feel better about these enhancements as well. The regulations will strengthen the authority and rights of parents by improving their means and opportunities to educate their children about safe driving techniques at driver training schools licensed by DMV. This safe driver education will, in part, help encourage

economic self-sufficiency and allow for participants in these driver training school programs to assume greater responsibility for themselves, their families and their communities.

Overall, impacts on marital commitment are expected to be minimal. However, under certain circumstances, a strengthening of those commitments could result from the positive impacts of these programs on their participants and their parents. Maintaining a well trained, safe driving population should decrease automobile accidents, which, in turn, should decrease the overall costs to families and society as a whole that are associated with automobile accidents and injuries. Lower overall costs associated with automobile accidents and injuries should be expected to at least minimally increase disposable family incomes throughout the Commonwealth.