



EMERGENCY RULE-MAKING FINDINGS OF NEED [G.S. 150B-21.1A]

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VOLUME:

ISSUE:

1. Rule-Making Agency: NC Division of Motor Vehicles	
2. Rule citation(s): 19A NCAC 03B .0201	
3. Adoption by agency on: July 14, 2020	4. Date agency requests entry of emergency rule in the Code: July 22, 2020
5. What is the need for an emergency rule? 19A NCAC 03B .0201(A) (4) ROAD TEST as currently written, requires the Driver's License Examiner and the applicant to ride in the applicant's vehicle together to perform the road test and rate the required maneuvers. To conduct a road test requires driver license examiners to be in close proximity with the driver in a confined vehicle cabin where social distancing is not possible, exposing the examiner to potentially health compromising or life-threatening positions. In order to promote social distancing and hygiene during the COVID-19 pandemic and ensure driver's license employees and customer safety, on June 19, 2020 House Bill 158 was ratified, temporarily waiving the road test requirement for level II limited provisional licenses for young drivers under the age of 18. The division has consulted with DHHS and has determined that road tests should not be reinitiated until the Governor institutes Phase III of his reopening plan. DMV is seeking to waive road tests for a select group of adult drivers where training and/or safe driving records have been established. These drivers are either new drivers who need a license for livelihood or household purposes and have some indicia of driving proficiency satisfactory to the Division of Motor Vehicles. Drivers will still be required to pass a knowledge test, sign test and visual examination.	
6. Has the agency provided the public with abbreviated notice? If so, describe. The agency has notified our interested parties list and has published the proposed emergency and temporary rules on the agency's web page at https://www.ncdot.gov/about-us/how-we-operate/policy-process/Pages/default.aspx .	

7. Why is adherence to notice and hearing requirements contrary to the public interest and that the immediate adoption of the rule required by a serious and unforeseen threat to the public health or safety?

On March 10, 2020, Governor Roy Cooper issued Executive Order No. 116 and declared a state of emergency to coordinate a response and enact protective measures to help prevent the spread of Coronavirus Disease 2019 (COVID - 19), a respiratory disease that results from the coronavirus. Governor Cooper issued Executive Order 119 on March 20, 2020 directing the NC Division of Motor Vehicles (DMV) to “Suspend all road tests for applicants seeking learner’s permits, provisional driver licenses, or unrestricted Class C licenses until such a time as it is determined that such tests can be conducted with minimal risk of transmission of COVID-19. On June 19, 2020 House Bill 158 was ratified, temporarily waiving the road test requirement for level II limited provisional licenses for young drivers under the age of 18. DMV has consulted with the NC Department of Health and Human Services and has determined that road tests should not be reinstated until the Governor institutes Phase III of his reopening plan. As currently written, 19A NCAC 03B .0201(a)(4) states that applicants for a driver’s license are subject to a road test. An emergency amendment is needed for this Rule to adhere to the Governor’s Executive Order.

The Division would like to expand road tests waivers and is seeking to temporarily suspend the road test requirement to obtain a Class C license for adult drivers 18 and older under the following circumstances:

- Drivers who currently hold a Level I permit, turned 18 years of age and meet all requirements to obtain the Level II Limited Provisional License including not being convicted of a motor vehicle moving violation, seat belt infraction or unlawful use of a mobile phone (G.S. 20-137.3).
- Drivers who have received training and passed a driving course from a certified NC Driving School approved by the Division within the previous 12 months and have not been convicted of a motor vehicle moving violation, seat belt infraction or unlawful use of a mobile phone (G.S. 20-137.3).
- Drivers who previously held a NC driver’s license and the license has not been expired more than one renewal cycle and DL was in good standing at the time of expiration.
 - Drivers 18 years old and less than 66 years old – Not expired more than 8 years.
 - Drivers 66+ years – Not expired more than 5 years.
- Drivers from another state, district or territory that has NC reciprocity. Drivers must provide their most recent license held and a certified 5-year driving record from that state, district or territory. DL cannot be expired more than 5 years and DL was in good standing at the time of expiration.
- Road tests requirement for these drivers will be suspended and the driver will be issued a driver license with the appropriate expiration. Unlike the Level II waiver, these drivers will not be required to return later to take a road test.

The suspended road test requirement under this special provision does not apply to drivers who are governed by Legal Presence or Lawful Status or drivers in the Medical Review program.



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[Emergency Rule-making Findings of Need Continued]

8. Does the agency have specific statutory authority for the adoption of an emergency rule? If so, has the agency met the statutory criteria for adoption? (attach copy of statutory authority)

§NCGS 20-7

(c) The examination may include road tests, vision tests, oral tests, and, in the case of literate applicants, written tests, as the Division may require. The tests must ensure that an applicant recognizes the handicapped international symbol of access, as defined in G.S. 20-37.5. The Division may not require a person who applies to renew a license that has not expired to take a written test or a road test unless one or more of the following applies:

- (1) The person has been convicted of a traffic violation since the person's license was last issued.
- (2) The applicant suffers from a mental or physical condition that impairs the person's ability to drive a motor vehicle."

9. Has the agency submitted the proposed temporary rule for publication on the Internet in accordance with G.S. 150B-21.1(a3)?

Yes

No

10. Rule establishes or increases a fee? (See G.S. 12-3.1)

Yes

Agency submitted request for consultation on:
Consultation not required. Cite authority:

No

11. Rule-making Coordinator: Helen Landi

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Agency contact, if any: Hannah Jernigan

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E-Mail: Rulemaking@ncdot.gov

12. Signature of Agency Head*:

DocuSigned by:

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*** If this function has been delegated (reassigned) pursuant to G.S. 143B-10(a), submit a copy of the delegation with this form.**

Typed Name: Torre Jessup

Title: Commissioner of Motor Vehicles

E-Mail: Rulemaking@ncdot.gov

REVIEW BY THE CODIFIER OF RULES

Approved. Entered into the North Carolina Administrative Code on: _____

Reviewed By: _____

Date: _____

Comments:

Statement does not meet the criteria.

Reviewed By: _____

Date: _____

Comments: