

61:25:04:05. Requirements for third-party testers. To be licensed, a third-party tester shall meet the following requirements:

- (1) Apply to the department as provided in § 61:25:04:08 and enter into an agreement with the department;
- (2) Maintain a place of business with at least one permanent regularly occupied structure in this state;
- (3) Direct or control at least one qualified third-party examiner approved by the department. A third-party tester may also be a third-party examiner;
- (4) Agree to allow the department to set a ceiling, up to \$890, on the fee that the third-party tester can charge an applicant for each attempt to successfully complete the skill tests;
- (5) Allow FMCSA, its representatives, and the department to conduct random examinations, inspections, and audits without prior notice;
- (6) Allow the department to conduct annual on-site inspections;
- (7) Maintain for four years the original record of each driver for whom the third-party tester conducts a skills test, whether or not the driver passes or fails the test at an approved location within the state;
- (8) Maintain a record of each third-party examiner under the direction or control of the third-party tester at an approved location and retain the record for at least two years after the third-party examiner leaves the direction or control of the third-party tester;
- (9) Ensure that the skill tests are conducted in accordance with the requirements of § 61:25:04:18;
- (10) Provide documented proof, using a form provided by the department, to each driver applicant who takes and passes the required skill tests that the applicant can present to the department as evidence that the applicant has successfully passed the driving tests administered by the third party;

(11) Meet all requirements of state law, federal law, and local ordinances; and

(12) Send a copy of testing records to the department by the 15th day of each month.

Source: 16 SDR 88, effective November 16, 1989; 25 SDR 34, effective September 15, 1998; 33 SDR 108, effective December 27, 2006.

General Authority: SDCL [32-12A-48\(6\)](#).

Law Implemented: SDCL [32-12A-11](#), [32-12A-49](#)



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61:25:01:01. Commercial driver license standards, requirements, and penalties. The commercial driver license standards, requirements, and penalties adopted by the U.S. Department of Transportation in 49 C.F.R. Parts 383, 390, 391, and 392 (January 1, ~~2007~~ 2011) and amendments to 49 C.F.R. Parts 383, 390, 391, and 392 as published in 53 Federal Register 39,044 to 39,052, inclusive (January 1, 2007), are the rules of South Dakota Department of Public Safety to the extent authorized by SDCL [32-12A-48](#) for the licensing of commercial motor vehicle operators. The rules provide for definitions, single license requirements, testing and licensing procedures, vehicle groups and endorsements, required knowledge and skills, tests, commercial driver license documents, disqualification, and penalties.

Source: 16 SDR 88, effective November 16, 1989; 33 SDR 108, effective December 27, 2006; 35 SDR 305, effective July 1, 2009.

General Authority: SDCL [32-12A-48\(12\)](#).

Law Implemented: SDCL [32-12A-7](#).



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61:25:04:01. Definitions. Terms used in this chapter mean:

- (1) "Department," South Dakota Department of Public Safety;
- (2) "CDL," commercial driver license;
- (3) "FMCSA," Federal Motor Carrier Safety Administration;
- (4) "FMCSR," federal motor carrier safety regulations promulgated by the U. S. Department of

Transportation in 49 C.F.R. 390 (January 1, ~~2007~~ 2012);

(5) "Approved testing program," the skill tests for a CDL required by 49 C.F.R. 383 Subpart E (January 1, ~~2007~~ 2011);

(6) "License," the document issued to a third-party tester authorizing the tester to administer the approved testing program on behalf of the department;

(7) "Third-party tester," an employer, a government entity, an association, or educational institution which is licensed by the department to administer the approved testing program for CDL applicants in accordance with this chapter;

(8) "Examiner identification card," a card issued to an individual approved by the department as a qualified examiner, which authorizes the individual to conduct the approved testing program;

(9) "Third-party examiner," an individual who is on the payroll of a third-party tester and who has been issued an examiner identification card by the department.

Source: 16 SDR 88, effective November 16, 1989; 33 SDR 108, effective December 27, 2006; 35 SDR 305, effective July 1, 2009.

General Authority: SDCL 32-12A-48(6).

Law Implemented: SDCL 32-12A-11, 32-12A-49.



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61:25:04:07. Specific requirements for certain third-party testers. In addition to the requirements listed in § 61:25:04:05, all third-party testers who are not governmental entities or an association shall meet the following requirements:

(1) Entities other than proprietary schools and other educational institutions:

- (a) Employ a safety officer or designate an official who is responsible for the third-party testing operation;
- (b) Have been in operation in South Dakota for a minimum of two years; and
- (c) If subject to the FMCSR, maintain a safety rating of satisfactory as provided in 49 C.F.R.

385.1(b)(1) (January 1, ~~2007~~ 2013);

(2) Proprietary schools and other educational institutions:

- (a) Have an established commercial motor vehicle training program; and
- (b) Have been in operation in South Dakota for a minimum of two years.

Source: 16 SDR 88, effective November 16, 1989; 25 SDR 34, effective September 15, 1998; 33 SDR 108, effective December 27, 2006; 35 SDR 305, effective July 1, 2009.

General Authority: SDCL 32-12A-48(6).

Law Implemented: SDCL 32-12A-11, 32-12A-49.



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61:25:04:18. Test administration. Skill tests must be conducted in accordance with the provisions in 49 C.F.R. 383, Subparts G and H (January 1, ~~2007~~ 2011).

Skill tests must be conducted as follows:

(1) On test routes approved by the department as indicated in § 61:25:04:11;

(2) In a vehicle that is representative of the class and type of vehicle for which the commercial driver license applicant seeks to be licensed and for which the third-party examiner is qualified to test; and

(3) With approved content, forms, and scoring procedures provided by the department.

A person who trains a commercial driver license applicant to drive a commercial motor vehicle may not also act as the third-party tester or third-party examiner for that applicant. The department reserves the right to test or re-examine any applicant certified by a third-party examiner.

Source: 16 SDR 88, effective November 16, 1989; 25 SDR 34, effective September 15, 1998; 33 SDR 108, effective December 27, 2006; 35 SDR 305, effective July 1, 2009.

General Authority: SDCL 32-12A-48(6).

Law Implemented: SDCL 32-12A-11, 32-12A-49.



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61:16:01:02. Instruction standards. MSF-RETS shall follow these curricula standards:

(1) A basic rider course shall follow the ~~RiderCoach Guide, Basic RiderCourse~~ of the Motorcycle Safety Foundation a curriculum approved by the Director of the Office of Highway Safety;

(2) Rider coach/instructor training shall follow ~~The Motorcycle Safety Foundation's RiderCoach Trainer Guide~~ a curriculum approved by the Director of the Office of Highway Safety; and

(3) An experienced rider course shall follow the ~~Experienced RiderCourse Suite Kit~~ of the Motorcycle Safety Foundation a curriculum approved by the Director of the Office of Highway Safety.

Source: 9 SDR 105, effective February 13, 1983; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 13 SDR 73, effective December 16, 1986; 20 SDR 210, effective June 15, 1994; 36 SDR 27, effective August 23, 2009.

General Authority: SDCL 32-20-14.

Law Implemented: SDCL 32-20-14.

References:

RiderCoach Guide, Basic RiderCourse, June 2001, Motorcycle Safety Foundation. Copies may be obtained from Motorcycle Safety Foundation, 2 Jenner Street, Suite 150, Irvine, CA 92718-3800. \$50.

The Motorcycle Safety Foundation's RiderCoach Trainer Guide, June 2001, Motorcycle Safety

Foundation. Copies may be obtained from Motorcycle Safety Foundation, 2 Jenner Street, Suite 150, Irvine, CA 92718-3800. \$35.

Experienced RiderCourse Suite Kit, May 2003, Motorcycle Safety Foundation. Copies may be obtained from Motorcycle Safety Foundation, 2 Jenner Street, Suite 150, Irvine, CA 92718-3800. \$250



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61:16:01:02.01. Course approval. Motorcycle course curricula may be submitted to the Director of the Office of Highway Safety for approval. The Director shall approve or deny approval based on industry standards of educational methods and substantive content. The Director may request additional information regarding the proposed curricula. The Director shall make a written decision on all submitted curricula within sixty days of the request for approval or receipt of all requested information, whichever is later.

Source:

General Authority: SDCL 32-20-14.

Law Implemented: SDCL 32-20-14.



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44:05:01:02. Definition of unprofessional or dishonorable conduct. The term, unprofessional or dishonorable conduct, as used in this chapter includes:

(1) Willfully betraying a professional confidence;

(2) Conviction of any felony offense, any conviction of a criminal offense arising out of the practice of pre-hospital emergency medical care, or one in connection with any criminal offense involving moral turpitude;

(3) Habits of intemperance or drug addiction, calculated in the opinion of the department to affect the licensee's practice of the profession; or any conviction, including suspended impositions of sentence, for any offense pertaining to illegal or controlled substances, or driving under the influence.

(4) Sustaining any physical or mental disability that renders the further practice of a licensee's profession dangerous;

(5) Failure to comply with state or federal laws on keeping records regarding possessing and dispensing of narcotics, barbiturates, and habit-forming drugs;

(6) Falsifying the medical records of a patient or any official record regarding possession and dispensing of narcotics, barbiturates, and habit-forming drugs or regarding any phase of medical treatment of a patient;

(7) Presenting to the department any license, certificate, or diploma which was obtained by fraud or deception practiced in passing a required examination or which was obtained by the giving of false statements or information on applying for the license;

(8) Illegally, fraudulently, or wrongfully obtaining a license required by this article by the use of any means, device, deception, or help in passing any examination or by making any false statement or misrepresentation in any application or information presented;

(9) The exercise of influence within the EMT-patient relationship for the purposes of engaging a patient in sexual activity. For the purpose of this subdivision, the patient is presumed incapable of giving free, full, and informed consent to sexual activity with the EMT;

(10) Engaging in gross or immoral sexual harassment or sexual contact; any conviction requiring registration as a sex offender, or activity which threatens the peace or well-being of another, including but not limited to stalking or verbal or physical threats.

(11) Consistently providing or prescribing medical services or treatments which are inappropriate or unnecessary;

(12) Any practice or conduct that tends to constitute a danger to the health, welfare, or safety of the public or patients or engaging in conduct which is unbecoming a person certified to practice as an EMT;

(13) Discipline by another state, territorial, or provincial licensing board or the licensing board of the District of Columbia; and

(14) Violation of any state or federal statute or rule pertaining to the practice of pre-hospital emergency care; or conviction of any misdemeanor or felony offense, which indicates an inability to properly discharge the duties of practice as an EMT.

Source: 30 SDR 125, effective February 22, 2004; 34 SDR 201, effective January 31, 2008.

General Authority: SDCL 34-11-5, 34-11-6.1.

Law Implemented: SDCL 34-11-6.1.



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44:05:03:10. Revocation of License. The Department shall revoke the license of any Emergency Medical Technician licensed in the State of South Dakota found by the Department to have engaged in any unprofessional or dishonorable conduct as defined in ARSD 44:05:01:02. Persons whose licenses have been revoked pursuant to this rule, shall be eligible to retest for their license only upon a satisfactory showing to the Department that the person has completed any rehabilitation, counseling, retraining, or other action deemed necessary by the Department. No person whose license has been revoked pursuant to this rule shall be eligible to retest for their license until all court-ordered sanctions or requirements, including but not limited to incarceration or participation in the 24/7 program, have been discharged.

Source:

General Authority: SDCL 34-11-6.1

Law Implemented: SDCL 34-11-6.1



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44:05:02:01.01. Transfer only services not allowed. The Department shall only issue ground or air ambulance licenses for services receiving and responding to emergency 911 calls. Ambulance services which only provide patient transfer services are not allowed to operate in South Dakota.

Source:

General Authority: SDCL 34-11-5

Law Implemented: SDCL 34-11-5



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24:06:09. Certification of School Bus Inspectors. Any person who performs annual school bus inspections must be at least 18 years of age and certified by the Highway Patrol. Certification is earned by successfully completing a minimum sixteen hour training course provided by the Highway Patrol. Certification is maintained by completing a minimum four hour recertification course provided by the Highway Patrol. Recertification must be completed within one year of publication of updated National School Transportation Specifications and Procedures. National School Transportation Specifications and Procedures are published every five years.

Source:

General Authority: SDCL 13-29-6

Law Implemented: SDCL 13-29-6



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24:06:10. Revocation of Certification. Upon a determination by the Highway Patrol that any person certified as a school bus inspector has failed to exercise an acceptable level of care in performing school bus inspections, the Highway Patrol shall revoke that person’s certification. A person whose certification has been revoked may not perform school bus inspections until they have repeated and successfully completed the sixteen hour training course and have complied with any other requirements deemed necessary by the Highway Patrol

Source:

General Authority: SDCL 13-29-6

Law Implemented: SDCL 13-29-6



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61:23:01:04. Adoption of Commercial Vehicle Safety Alliance (CVSA) North American Standard Out-of-Service

Criteria. Enforcement criteria for motor carrier safety regulations and for the safe transportation of hazardous materials in South Dakota shall be in accordance with the "North American Standard Out-of-Service Criteria," Part I-IV, inclusive, Strategic Plan, and Appendix, Commercial Vehicle Safety Alliance (CVSA). April 1, ~~2009~~ 2013.

Source: 26 SDR 57, effective September 9, 1998; 35 SDR 305, effective July 1, 2009.

General Authority: SDCL 49-28A-2.

Law Implemented: SDCL 49-28A-3.

Reference: North American Standard Out-of-Service Criteria, Copyright 1997-2008, Revised as of April 1, 2009, Commercial Vehicle Safety Alliance, 1101 17th Street NW, Suite 803, Washington, DC 20036. Cost: \$37 each.