



NOTICES OF FINAL EXEMPT RULEMAKING

This section of the Arizona Administrative Register contains Notices of Final Exempt Rulemaking.

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the

interpretation of the final exempt rule should be addressed to the agency proposing them. Refer to Item #5 to contact the person charged with the rulemaking.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 9. HEALTH SERVICES

CHAPTER 13. DEPARTMENT OF HEALTH SERVICES
HEALTH PROGRAMS SERVICES

[R15-64]

PREAMBLE

- 1. Article, Part or Sections affected (as applicable) Rulemaking Action
R9-13-201 Amend
R9-13-202 Amend
R9-13-203 Amend
R9-13-207 Amend
2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific) and the statute or session law authorizing the exemption:
Authorizing statutes: A.R.S. § 36-136(F)
Implementing statutes: A.R.S. § 36-694, as amended by Laws 2014, Ch. 171, § 1
Statutes or session laws authorizing the exemption: Laws 2014, Ch. 171, § 2
3. The effective date of the rules and the agency's reason it selected the effective date:
July 1, 2015
4. A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:
Notice of Public Information: 21 A.A.R. 611, May 1, 2015
5. The agency's contact person who can answer questions about the rulemaking:
Name: Ward Jacox, Office Chief
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6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:
Arizona Revised Statutes (A.R.S.) § 36-694 authorizes the Arizona Department of Health Services (Department) to establish rules for a newborn screening program to ensure that testing for congenital disorders and the reporting of



hearing test results are conducted. Current rules in Arizona Administrative Code (A.A.C.) Title 9, Chapter 13, Article 2, for Newborn and Infant Screening specify the congenital disorders being tested for, the information required to be submitted when submitting a specimen for a bloodspot test, and reporting requirements for hearing tests. To comply with Laws 2014, Ch. 171, the Department requested and received an exception from the Governor's rulemaking moratorium, established by Executive Order 2015-01. Under this exception, the Department amended the rules in A.A.C. Title 9, Chapter 13, Article 2, to require a physician or other person who is required to make a report of a birth to order or cause to be ordered a critical congenital heart defect (CCHD) screening using pulse oximetry, and to report the results of the CCHD screening to the Department. The Department also added requirements for ordering, or causing to be ordered, tests for hearing disorders. The amended rules include notice that the Department may include screening for severe combined immunodeficiency in a bloodspot test when the Department has funding available to cover the Department's costs for Department activities related to the severe combined immunodeficiency screening. Laws 2014, Ch. 171, provides the Department with exempt rulemaking authority to amend the rules for newborn and infant screening until July 1, 2015. Additionally as required by Laws 2014, Ch. 171, the Department provided an opportunity for public comment on amended rules, posted on the Department's rulemaking website, from May 1, 2015, to May 30, 2015.

7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None
8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
9. **The summary of the economic, small business, and consumer impact, if applicable:**
Not applicable
10. **A description of the changes between the proposed rules, including supplemental notices, and final rules, (if applicable):**
Not applicable
11. **An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**
Not applicable
12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**
 - a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**
Not applicable
 - b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of the federal law:**
Not applicable
 - c. **Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**
Not applicable
13. **A list of any incorporated by reference material and its location in the rules:**
None
14. **Whether this rule previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**
The rule was not previously made, amended, repealed or renumbered as an emergency rule.
15. **The full text of the rules follows:**

TITLE 9. HEALTH SERVICES

CHAPTER 13. DEPARTMENT OF HEALTH SERVICES HEALTH PROGRAMS SERVICES

ARTICLE 2. NEWBORN AND INFANT SCREENING

Section	
R9-13-201.	Definitions
R9-13-202.	Bloodspot Tests for Congenital Disorders Newborn and Infant Critical Congenital Heart Defect Screening



R9-13-203. General Requirements for Newborn and Infant Bloodspot Tests
R9-13-207. Reporting Requirements for Hearing Test Results Newborn and Infant Hearing Tests

ARTICLE 2. NEWBORN AND INFANT SCREENING

R9-13-201. Definitions

In this Article, unless otherwise specified:

1. "Abnormal result" means an outcome that deviates from the range of values established by:
 - a. ~~the~~ The Department for an analysis performed as part of a bloodspot test; or for a hearing test; or
 - b. A health care facility or health care provider for critical congenital heart defect screening.
2. "Admission" or "admitted" means the same as in A.A.C. R9-10-101.
3. "AHCCCS" means the Arizona Health Care Cost Containment System.
4. "Argininosuccinic acidemia" means a congenital disorder characterized by an inability to metabolize the amino acid argininosuccinic acid due to defective argininosuccinate lyase activity.
5. "Arizona State Laboratory" means the entity operated according to A.R.S. § 36-251.
6. "Audiological equipment" means an instrument used to help determine the presence, type, or degree of hearing loss by:
 - a. Providing ear-specific and frequency-specific stimuli to an individual; or
 - b. Measuring an individual's physiological response to stimuli.
7. "Audiologist" means the same as in A.R.S. § 36-1901.
8. "Beta-ketothiolase deficiency" means a congenital disorder characterized by an inability to metabolize 2-methyl-acetoacetyl-CoA due to defective mitochondrial acetoacetyl-CoA thiolase activity.
9. "Biotinidase deficiency" means a congenital disorder characterized by defective biotinidase activity that causes abnormal biotin metabolism.
10. "Birth center" means a health care facility that is not a hospital and is organized for the ~~sole~~ purpose of delivering newborns.
11. "Blood sample" means capillary or venous blood, but not cord blood, applied to the filter paper of a specimen collection kit.
12. "Bloodspot test" means multiple laboratory analyses performed on a blood sample to screen for the presence of congenital disorders listed in ~~R9-13-202~~ R9-13-203.
13. "Carnitine uptake defect" means a congenital disorder characterized by a decrease in the amount of free carnitine due to defective sodium ion-dependent carnitine transporter OCTN2 activity.
14. "Citrullinemia" means a congenital disorder characterized by an inability to convert the amino acid citrulline and aspartic acid into argininosuccinic acid due to defective argininosuccinate synthetase activity.
15. "Classic galactosemia" means a congenital disorder characterized by abnormal galactose metabolism due to defective galactose-1-phosphate uridylyltransferase activity.
16. "Congenital adrenal hyperplasia" means a congenital disorder characterized by decreased cortisol production and increased androgen production due to defective 21-hydroxylase activity.
17. "Congenital disorder" means an abnormal condition present at birth, as a result of heredity or environmental factors, that impairs normal physiological functioning of a human body.
18. "Congenital hypothyroidism" means a congenital disorder characterized by deficient thyroid hormone production.
19. "Critical congenital heart defect" means a heart abnormality or condition present at birth that places a newborn or infant at significant risk of disability or death if not diagnosed soon after birth.
- ~~19-20.~~ "Cystic fibrosis" means a congenital disorder caused by defective functioning of a transmembrane regulator protein and characterized by damage to and dysfunction of various organs, such as the lungs, pancreas, and reproductive organs.
- ~~20-21.~~ "Department" means the Arizona Department of Health Services.
22. "Diagnostic evaluation" means a hearing test performed by an audiologist or a physician to determine whether hearing loss exists, and, if applicable, determine the type or degree of hearing loss.
- ~~21-23.~~ "Discharge" means the termination of inpatient services to a newborn or an infant.
- ~~22-24.~~ "Disorder" means a disease or medical condition that may be identified by a laboratory analysis.
- ~~23-25.~~ "Document" means to establish and maintain information in written, photographic, electronic, or other permanent form.



- ~~24-26~~. “Educational materials” means printed or electronic information provided by the Department, explaining newborn and infant screening, any of the congenital disorders listed in ~~R9-13-202~~ R9-13-203, ~~or hearing loss, or critical congenital heart defect.~~
- ~~25-27~~. “Electronic” means the same as in A.R.S. § 44-7002.
- ~~26-28~~. “First specimen” means the initial specimen that is collected from a newborn who is less than five days of age and sent to the Arizona State Laboratory for testing and recording of demographic information.
- ~~27-29~~. “Glutaric acidemia type I” means a congenital disorder characterized by an accumulation of glutaric acid due to defective glutaryl-CoA dehydrogenase activity.
- ~~28-30~~. “Guardian” means an individual appointed by a court under A.R.S. Title 14, Chapter 5, Article 2.
- ~~29-31~~. “Health care facility²” means a health care institution defined in A.R.S. § 36-401 where obstetrical care or newborn care is provided.
- ~~30-32~~. “Health care provider” means a physician, physician assistant, registered nurse practitioner, or midwife.
- ~~31-33~~. “Health-related services” means the same as in A.R.S. § 36-401.
34. “Hearing screening” means a hearing test to determine the likelihood of hearing loss in a newborn or infant.
- ~~32-35~~. “Hearing test” means an evaluation of each of a newborn’s or an infant’s ears, using audiological equipment to:
- Screen the newborn or infant for a possible hearing loss;
 - Determine that the newborn or infant does not have a hearing loss; or
 - Diagnose a hearing loss in the newborn or infant, including, ~~if applicable~~, determining the type or degree of hearing loss.
- ~~33-36~~. “Hemoglobin S/Beta-thalassemia” means a sickle cell disease in which an individual has one sickle cell gene and one gene for beta thalassemia, another inherited hemoglobinopathy.
- ~~34-37~~. “Hemoglobin S/C disease” means a sickle cell disease in which an individual has one sickle cell gene and one gene for another inherited hemoglobinopathy called hemoglobin C.
- ~~35-38~~. “Hemoglobinopathy” means a congenital disorder characterized by abnormal production, structure, or functioning of hemoglobin.
- ~~36-39~~. “Home birth” means delivery of a newborn, outside a health care facility, when the newborn is not hospitalized within 72 hours of delivery.
- ~~37-40~~. “Homocystinuria” means a congenital disorder characterized by abnormal methionine and homocysteine metabolism due to defective cystathione-β-synthase activity.
- ~~38-41~~. “Hospital” means the same as in A.A.C. R9-10-101.
- ~~39-42~~. “Hospital services” means the same as in A.A.C. R9-10-201.
- ~~40-43~~. “3-Hydroxy-3-methylglutaric aciduria” means a congenital disorder characterized by the accumulation of 3-hydroxy-3-methylglutaric acid due to a defective 3-hydroxy-3-methylglutaryl-CoA lyase activity.
- ~~41-44~~. “Identification code” means a unique set of numbers or letters, or a unique set of both numbers and letters, assigned by the Department to a health care facility, a health care provider, an audiologist, or another person submitting specimen collection kits to the Arizona State Laboratory or hearing test results to the Department.
- ~~42-45~~. “Infant” means the same as in A.R.S. § 36-694.
- ~~43-46~~. “Inpatient” means an individual who:
- Is admitted to a hospital,
 - Receives hospital services for 24 consecutive hours, or
 - Is admitted to a birth center.
- ~~44-47~~. “Inpatient services²” means medical services, nursing services, or other health-related services provided to an inpatient in a health care facility.
- ~~45-48~~. “Isovaleric acidemia” means a congenital disorder characterized by an accumulation of isovaleric acid due to defective isovaleryl-CoA dehydrogenase activity.
- ~~46-49~~. “Long-chain 3-hydroxy acyl-CoA dehydrogenase deficiency” means a congenital disorder characterized by an inability to metabolize fatty acids that are 12 to 16 carbon atoms in length due to defective long-chain 3-hydroxy acyl-CoA dehydrogenase activity.
- ~~47-50~~. “Maple syrup urine disease” means a congenital disorder of branched chain amino acid metabolism due to defective branched chain-keto acid dehydrogenase activity.
- ~~48-51~~. “Medical services” means the same as in A.R.S. § 36-401.



- 49-52. “Medium chain acyl-CoA dehydrogenase deficiency” means a congenital disorder characterized by an inability to metabolize fatty acids that are 6 to 10 carbon atoms in length due to defective medium-chain acyl-CoA dehydrogenase activity.
- 50-53. “3-Methylcrotonyl-CoA carboxylase deficiency” means a congenital disorder characterized by an accumulation of 3-methylcrotonyl-glycine due to defective 3-methylcrotonyl-CoA carboxylase activity.
- 51-54. “Methylmalonic acidemia (Cbl A,B)” means a congenital disorder characterized by an accumulation of methylmalonic acid due to defective activity of methylmalonyl-CoA racemase or adenosylcobalamin synthetase.
- 52-55. “Methylmalonic acidemia (mutase deficiency)” means a congenital disorder characterized by an accumulation of methylmalonic acid due to defective methylmalonyl-CoA mutase activity.
- 53-56. “Midwife” means an individual licensed under A.R.S. Title 36, Chapter 6, Article 7, or certified under A.R.S. Title 32, Chapter 15.
- 54-57. “Multiple carboxylase deficiency” means a congenital disorder characterized by an inability to transport or metabolize biotin that leads to defective activity of propionyl-CoA carboxylase, beta-methylcrotonyl-CoA carboxylase, and pyruvate carboxylase.
- 55-58. “Newborn” means the same as in A.R.S. § 36-694.
- 56-59. “Newborn care” means medical services, nursing services, and health-related services provided to a newborn.
- 57-60. “Nursing services” means the same as in A.R.S. § 36-401.
- 58-61. “Obstetrical care” means medical services, nursing services, and health-related services provided to a woman throughout her pregnancy, labor, delivery, and postpartum.
- 59-62. “Organ” means a somewhat independent part of a human body, such as a salivary gland, kidney, or pancreas, which performs a specific function.
- 60-63. “Parent” means a natural, adoptive, or custodial mother or father of a newborn or an infant.
- 61-64. “Parenteral nutrition” means the feeding of an individual intravenously through the administration of a formula containing glucose, amino acids, lipids, vitamins, and minerals.
- 62-65. “Person” means the state, a municipality, district, or other political subdivision, a cooperative, institution, corporation, company, firm, partnership, individual, or other legal entity.
- 63-66. “Phenylketonuria” means a congenital disorder characterized by abnormal phenylalanine metabolism due to defective phenylalanine hydroxylase activity.
- 64-67. “Physician” means an individual licensed under A.R.S. Title 32, Chapters 13, 14, 17, or 29.
- 65-68. “Physician assistant” means an individual licensed under A.R.S. Title 32, Chapter 25.
- 66-69. “Propionic acidemia” means a congenital disorder characterized by an accumulation of glycine and 3-hydroxypropionic acid due to defective propionyl-CoA carboxylase activity.
70. “Pulse oximetry” means a non-invasive method of measuring the percentage of hemoglobin in the blood that is saturated with oxygen using a device approved by the U.S. Food and Drug Administration for use with newborns or infants less than six weeks of age.
- 67-71. “Registered nurse practitioner” means the same as in A.R.S. § 32-1601.
- 68-72. “Second specimen” means a specimen that is sent to the Arizona State Laboratory for testing and recording of demographic information, after being collected:
- a. From a newborn after a first specimen; or
 - b. From an individual at least five days and not older than one year of age, regardless of whether a first specimen was collected.
73. “Severe combined immunodeficiency” means a congenital disorder usually characterized by a defect in both the T- and B-lymphocyte systems, which typically results in the onset of one or more serious infections within the first few months of life.
- 69-74. “Sickle cell anemia” means a sickle cell disease in which an individual has two sickle cell genes.
- 70-75. “Sickle cell disease” means a hemoglobinopathy characterized by an abnormally shaped red blood cell resulting from the abnormal structure of the protein hemoglobin.
- 71-76. “Sickle cell gene” means a unit of inheritance that is involved in producing an abnormal type of the protein hemoglobin, in which the amino acid valine is substituted for the amino acid glutamic acid at a specific location in the hemoglobin.
- 72-77. “Specimen” means a blood sample obtained from and demographic information about a newborn or an infant.
- 73-78. “Specimen collection kit” means a strip of filter paper for collecting a blood sample attached to a form for obtaining the information specified in ~~R9-13-203(A)(3)~~ R9-13-203(C)(3) about a newborn or an infant.



74-79. “Transfer” means a health care facility or health care provider discharging a newborn and sending the newborn to a hospital for inpatient medical services without the intent that the patient will be returned to the sending health care facility or health care provider.

75-80. “Transfusion” means the infusion of blood or blood products into the body of an individual.

76-81. “Trifunctional protein deficiency” means a congenital disorder characterized by an inability to metabolize fatty acids that are 12 to 18 carbon atoms in length due to defective mitochondrial trifunctional protein activity.

77-82. “Tyrosinemia type I” means a congenital disorder characterized by an accumulation of the amino acid tyrosine due to defective fumarylacetoacetate hydrolase activity.

78-83. “Verify” means to confirm by obtaining information through a source such as the newborn screening program, a health care provider, a health care facility, or a documented record.

79-84. “Very long-chain acyl-CoA dehydrogenase deficiency” means a congenital disorder characterized by an inability to metabolize fatty acids that are 14 to 18 carbon atoms in length due to defective very long-chain acyl-CoA dehydrogenase activity.

80-85. “Working day” means 8:00 a.m. through 5:00 p.m. Monday through Friday, excluding state holidays.

R9-13-202. ~~Bloodspot Tests for Congenital Disorders~~ Newborn and Infant Critical Congenital Heart Defect Screening

A bloodspot test shall screen for the following congenital disorders:

1. 3-Hydroxy-3-methylglutaric aciduria;
2. 3-Methylcrotonyl-CoA carboxylase deficiency;
3. Argininosuccinic acidemia;
4. Beta-ketothiolase deficiency;
5. Biotinidase deficiency;
6. Carnitine uptake defect;
7. Citrullinemia;
8. Classic galactosemia;
9. Congenital adrenal hyperplasia;
10. Congenital hypothyroidism;
11. Cystic fibrosis;
12. Glutaric acidemia type I;
13. Hemoglobin S/Beta-thalassemia;
14. Hemoglobin S/C disease;
15. Homocystinuria;
16. Isovaleric acidemia;
17. Long chain 3-hydroxy acyl-CoA dehydrogenase deficiency;
18. Maple syrup urine disease;
19. Medium chain acyl-CoA dehydrogenase deficiency;
20. Methylmalonic acidemia (Cbl A,B);
21. Methylmalonic acidemia (mutase deficiency);
22. Multiple carboxylase deficiency;
23. Phenylketonuria;
24. Propionic acidemia;
25. Sickle cell anemia;
26. Trifunctional protein deficiency;
27. Tyrosinemia type I; and
28. Very long-chain acyl-CoA dehydrogenase deficiency.

A. A health care facility’s designee, a health care provider, or a health care provider’s designee shall order critical congenital heart defect screening using pulse oximetry for a newborn to be performed:

1. Between 24 and 48 hours after birth according to the health care facility’s or health care provider’s policies and procedures, or
2. As late as possible before discharge according to the health care facility’s or health care provider’s policies and procedures if the newborn is discharged earlier than 24 hours after birth.

B. Before critical congenital heart defect screening is performed on a newborn, a health care facility’s designee, a health care provider, or a health care provider’s designee shall provide educational materials to the newborn’s parent or guardian.

C. When critical congenital heart defect screening is ordered for a newborn, a health care facility’s designee, a health care provider, or a health care provider’s designee shall submit, in a format specified by the Department, the following information:

1. The newborn’s name, gender, race, ethnicity, medical record number, and, if applicable, AHCCCS identification number;



- 2. Whether the newborn is from a single or multiple birth;
 - 3. If the newborn is from a multiple birth, the birth order of the newborn;
 - 4. The date and time of birth, and the newborn's weight at birth;
 - 5. The identification code or the name and address of the health care facility or health care provider submitting the information;
 - 6. Except as provided in subsection (C)(7), the mother's first and last names, date of birth, name before first marriage, mailing address, telephone number, and, if applicable, AHCCCS identification number;
 - 7. If the newborn's mother does not have physical custody of the newborn, the first and last names, mailing address, and telephone number of the person who has physical custody of the newborn;
 - 8. The date, time, and result of the critical congenital heart defect screening;
 - 9. If critical congenital heart defect screening was not performed, the reason critical congenital heart defect screening was not performed;
 - 10. If the newborn was transferred to another health care facility or health care provider before the critical congenital heart defect screening was performed, the name, address, and telephone number of the health care facility or health care provider to which the newborn was transferred; and
 - 11. Whether the newborn has a medical condition that may affect the critical congenital heart defect screening results.
- D.** In addition to the information in subsection (C), if the reported result of critical congenital heart defect screening for a newborn or infant is abnormal, a health care facility's designee, a health care provider, or a health care provider's designee shall submit to the Department, upon request and in a format specified by the Department, the following information:
- 1. The dates, times, values of all critical congenital heart defect screening results;
 - 2. The dates, times, and results of any subsequent tests performed as a result of critical congenital heart defect screening;
 - 3. The name, address, and telephone number of the contact person for the health care facility, health care provider, or other person performing the subsequent tests; and
 - 4. If a medical condition is found as a result of critical congenital heart defect screening or subsequent tests, the type of medical condition found and the name of the health care provider who will be responsible for the coordination of medical services for the newborn or infant after the newborn or infant is discharged.

R9-13-203. General Requirements for Newborn and Infant Bloodspot Tests

- A.** A bloodspot test shall screen for the following congenital disorders:
- 1. 3-Hydroxy-3-methylglutaric aciduria,
 - 2. 3-Methylcrotonyl-CoA carboxylase deficiency,
 - 3. Argininosuccinic acidemia,
 - 4. Beta-ketothiolase deficiency,
 - 5. Biotinidase deficiency,
 - 6. Carnitine uptake defect,
 - 7. Citrullinemia,
 - 8. Classic galactosemia,
 - 9. Congenital adrenal hyperplasia,
 - 10. Congenital hypothyroidism,
 - 11. Cystic fibrosis,
 - 12. Glutaric acidemia type I,
 - 13. Hemoglobin S/Beta-thalassemia,
 - 14. Hemoglobin S/C disease,
 - 15. Homocystinuria,
 - 16. Isovaleric acidemia,
 - 17. Long-chain 3-hydroxy acyl-CoA dehydrogenase deficiency,
 - 18. Maple syrup urine disease,
 - 19. Medium chain acyl-CoA dehydrogenase deficiency,
 - 20. Methylmalonic acidemia (Cbl A,B),
 - 21. Methylmalonic acidemia (mutase deficiency),
 - 22. Multiple carboxylase deficiency,
 - 23. Phenylketonuria,
 - 24. Propionic acidemia,
 - 25. Sickle cell anemia,
 - 26. Trifunctional protein deficiency,
 - 27. Tyrosinemia type I, and
 - 28. Very long-chain acyl-CoA dehydrogenase deficiency.
- B.** In addition to the congenital disorders listed in subsection (A), a bloodspot test may screen for severe combined immunodeficiency when sufficient funding is available to the Department to cover the cost of the Department's activities



related to the screening for severe combined immunodeficiency.

A.C. When a bloodspot test is ordered for a newborn or an infant, a health care facility's designee, a health care provider, or the health care provider's designee shall:

1. Only use a specimen collection kit supplied by the Department;
2. Collect a blood sample from the newborn or infant on a specimen collection kit;
3. Complete the following information on the specimen collection kit:
 - a. The newborn's or infant's name, gender, race, ethnicity, medical record number, and, if applicable, AHCCCS identification number;
 - b. The newborn's or infant's type of food or food source;
 - c. Whether the newborn or infant is from a single or multiple birth;
 - d. If the newborn or infant is from a multiple birth, the birth order of the newborn or infant;
 - e. Whether the newborn or infant has a medical condition that may affect the bloodspot test results;
 - f. Whether the newborn or infant received a blood transfusion and, if applicable, the date of the last blood transfusion;
 - g. The date and time of birth, and the newborn's or infant's weight at birth;
 - h. The date and time of blood sample collection, and the newborn's or infant's weight when the blood sample is collected;
 - i. The identification code or the name and address of the health care facility or health care provider submitting the specimen collection kit;
 - j. The name, address, and telephone number or the identification code of the health care provider responsible for the management of medical services provided to the newborn or infant;
 - k. Except as provided in subsection ~~(A)(3)(4)~~ (C)(3)(1), the mother's first and last names, date of birth, name before first marriage, mailing address, telephone number, and if applicable, AHCCCS identification number; and
 - l. If the newborn's or infant's mother does not have physical custody of the newborn or infant, the first and last names, mailing address, and telephone number of the person who has physical custody of the newborn or infant; and
4. Submit the specimen collection kit to the Arizona State Laboratory no later than 24 hours or the next working day after the blood sample is collected.

B.D. A health care facility or a health care provider submitting a first specimen to the Arizona State Laboratory shall pay the Department the fee in R9-13-208(A).

C.E. A person who submits a second specimen to the Arizona State Laboratory shall:

1. Pay the fee in R9-13-208(B) to the Department, or
2. Provide the following information to the Arizona State Laboratory for billing purposes:
 - a. The name, mailing address, and telephone number of the newborn's or infant's parent or the individual responsible for paying, if not the parent; and
 - b. If the individual responsible for paying has health care insurance for the newborn or infant, information about the health care insurance, including:
 - i. The policyholder's name;
 - ii. The name and billing address of the health care insurance company;
 - iii. The member identification number;
 - iv. The group number, if applicable; and
 - v. The effective date of the health care insurance; or
 - c. That the individual responsible for paying has no health care insurance for the newborn or infant.

D.F. When a health care insurance company or an individual responsible for paying is identified as specified in subsection ~~(C)(2)~~ (E)(2), the health care insurance company or the individual responsible for paying shall pay the Department the fee in R9-13-208(B).

E.G. When a home birth not attended by a health care provider is reported to a local registrar, a deputy local registrar, or the state registrar under A.R.S. § 36-333:

1. The local registrar, deputy local registrar, or state registrar shall notify the local health department of the county where the birth occurred; and
2. The local health department's designee shall collect a specimen from the newborn or infant according to the requirements in R9-13-204(A)(2) or R9-13-205(C).

F.H. A health care facility's designee, a health care provider, or the health care provider's designee shall ensure that:

1. Educational materials are provided to the parent or guardian of a newborn or an infant for whom a bloodspot test is ordered, and
2. The newborn's or infant's parent or guardian is informed of the requirement for a second specimen if the second specimen has not been collected.

G.I. For a home birth, a health care provider or the health care provider's designee shall provide educational materials to the parent or guardian of a newborn or an infant for whom a bloodspot test is ordered.

R9-13-207. ~~Reporting Requirements for Hearing Test Results~~ Newborn and Infant Hearing Tests



- A. Before a hearing test is performed on a newborn or infant, a health care facility's designee, a health care provider, or the health care provider's designee shall provide educational materials to the newborn's or infant's parent or guardian.
- B. A health care facility's designee, a health care provider, or the health care provider's designee shall order hearing testing for a newborn or infant to be performed according to the health care facility's or health care provider's policies and procedures that includes:
 - 1. An initial hearing screening ordered to be performed within 30 days after birth or before discharge;
 - 2. A second hearing screening ordered to be performed within 30 days after birth if an abnormal result is obtained in one or both of a newborn's or infant's ears on the initial hearing screening; and
 - 3. Diagnostic evaluation ordered to be performed:
 - a. If a newborn or infant has an abnormal result in one or both ears on the second hearing screening;
 - b. If a newborn or infant has been admitted to the Neonatal Intensive Care Unit for five days or more and has an abnormal initial hearing screening;
 - c. If a newborn or infant has a medical condition that makes diagnostic evaluation more appropriate; or
 - d. As clinically indicated.
- ~~A.C.~~ When an initial hearing test is performed on a newborn or infant, a health care facility's designee, a health care provider, or the health care provider's designee shall ~~provide~~ submit to the Department, as specified in subsection ~~(E)~~ (G), the following information:
 - 1. The newborn's or infant's name, date of birth, gender, and medical record number;
 - 2. Whether the newborn or infant is from a single or multiple birth;
 - 3. If the newborn or infant is from a multiple birth, the birth order of the newborn or infant;
 - 4. The first and last names and date of birth of the newborn's or infant's mother;
 - 5. The name and identification code of the health care facility of birth;
 - 6. If the initial hearing test was not performed by the health care facility of birth, either:
 - a. The name and identification code of the health care facility where the initial hearing test was performed; or of the health care provider who performed the initial hearing test;
 - b. The name and telephone number of the health care provider who performed the initial hearing test;
 - ~~7.~~ The name of the health care provider responsible for the coordination of medical services for the newborn;
 - ~~8-7.~~ The date of the initial hearing test;
 - ~~9-8.~~ Whether or not the initial hearing test was performed when the newborn or infant was an inpatient;
 - ~~10-9.~~ The audiological equipment used for the initial hearing test and the type of initial hearing test performed; and
 - ~~11-10.~~ The initial hearing test result for each of the newborn's or infant's ears; and
 - ~~11.~~ The name, address, and telephone number of the contact person for the health care facility or health care provider.
- ~~B.D.~~ In addition to the information in subsection ~~(A)~~ (C), if the reported results of an initial hearing test on a newborn or infant include an abnormal result, a health care facility's designee, a health care provider, or the health care provider's designee shall ~~provide~~ submit to the Department, as specified in subsection ~~(E)~~ (G), the following information:
 - ~~1.~~ The newborn's race, ethnicity, and if applicable, AHCCCS identification number;
 - ~~2-1.~~ Except as provided in subsection ~~(B)~~(3) (D)(2), the mother's name before first marriage, mailing address, and telephone number;
 - ~~3-2.~~ If the newborn's or infant's mother does not have physical custody of the newborn or infant, the first and last names, mailing address, and telephone number of the person who has physical custody of the newborn or infant;
 - ~~4-3.~~ The name of the health care provider who will be responsible for the coordination of medical services for the newborn or infant after the newborn or infant is discharged from the health care facility, if different from the health care provider specified in subsection ~~(A)~~(7) (D)(7); and
 - ~~5-4.~~ The name and telephone number of the person to whom the newborn's or infant's mother or other person who has physical custody of the newborn or infant was referred for a subsequent hearing test;
 - 5. The date of the appointment for a subsequent hearing test, if available; and
 - 6. The health care facility where a subsequent hearing test is scheduled to be performed or the name and address of the health care provider who is scheduled to perform the subsequent test, if available.
- ~~C.E.~~ When a subsequent hearing test is performed on a newborn or an infant after an initial hearing test, the designee of the health care facility, health care provider, or other person that performs the subsequent hearing test shall ~~provide~~ submit to the Department, as specified in subsection ~~(E)~~ (G), the following information:
 - 1. The newborn's or infant's name, date of birth, and gender;
 - 2. Whether the newborn or infant is from a single or multiple birth;
 - 3. If the newborn or infant is from a multiple birth, the birth order of the newborn or infant;
 - 4. The first and last names and date of birth of the newborn's or infant's mother;
 - 5. The name of the health care facility of birth, if known;
 - 6. If the initial hearing test was not performed by the health care facility of birth, either:
 - a. The name of the health care facility where the initial hearing test was performed, or
 - b. The name and telephone number of the health care provider who performed the initial hearing test;
 - 6. The name of the health care facility where the subsequent hearing test was performed, or the name and address of the health care provider who performed the subsequent hearing test;
 - ~~7.~~ The name, telephone number, and identification code of the person submitting the subsequent hearing test results;



4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:

None

5. The agency’s contact person who can answer questions about the rulemaking:

Name: Candace Olson, Rules Analyst
Address: Government Relations and Policy Development Office
Department of Transportation
206 S. 17th Ave., Mail Drop 140A
Phoenix, AZ 85007
Telephone: (602) 712-4534
Fax: (602) 712-3232
E-mail: COlson2@azdot.gov
Web site: <http://azdot.gov/about/GovernmentRelations>

6. An agency’s justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:

Laws 2013, Ch. 129, redefined a professional driving school to exclude non-commercial driver license training and traffic survival schools, placed the licensing of traffic survival schools under A.R.S. Title 28, and removed the licensing requirement of traffic survival school instructors. While this legislation removed the license-specific statute, it does allow the Department to adopt rules for the requirements of the instructors, including the character and reputation of the instructors. Pursuant to Laws 2013, Ch. 129, § 27, the Department engages in this exempt rulemaking to remove traffic survival school regulations concerning the licensing of the schools and qualifications of the instructors from Chapter 4, Article 4, and relocate them to Chapter 5, Article 3. This move will help consolidate all the applicable traffic survival schools rules as they relate to the schools and instructors into one location. In addition, the term “Division” is being removed and replaced by “Department” within some definitions, except the actual term and definition of “Division” is still being retained since it is still in use by other sections within this Article.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Department did not review or rely on any study relevant to the rules.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact, if applicable:

Laws 2013, Ch. 129, § 27, authorizes an exemption from the rulemaking requirements of A.R.S. Title 41, Chapter 6, thus this rulemaking is exempt from the requirements of the Administrative Procedures Act and no economic, small business, and consumer impact statement is required.

10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and the final rulemaking package (if applicable):

The Department has not made any changes.

11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:

The Department received no stakeholder comments regarding this rulemaking.

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

There are no other matters prescribed by statute applicable to the Department or to any specific rule or class of rules.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The amended rule will no longer require a general permit since that relevant requirement is being relocated to 17 A.A.C. Chapter 5, Article 3.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

The rule is not more stringent than any applicable federal law because federal law is not applicable to this rule.

c. Whether a person submitted an analysis to the agency that compares the rule’s impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted to the Department.

**13. A list of any incorporated by reference material and its location in the rule:**

This rulemaking incorporates no materials by reference.

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

Not applicable

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES

ARTICLE 4. DRIVER LICENSES

Section

R17-7-401. Definitions

R17-7-404. Driver Point Assessment; Traffic Survival Schools

ARTICLE 4. DRIVER LICENSES

R17-4-401. Definitions

In addition to the definitions provided under A.R.S. §§ 28-101, 28-1301, and 28-3001, the following definitions apply to this Article unless otherwise specified:

~~“Director” means the Division Director or the Division Director’s designee.~~

“Division” means the Arizona Department of Transportation, Motor Vehicle Division.

“Financial responsibility (accident) suspension” means a suspension, by the ~~Division~~ Department, of:

The Arizona driver license or driving privilege of an owner of a vehicle that:

Lacks the coverage required under A.R.S. § 28-4135, and

Is involved in an accident in Arizona; and

The Arizona registration of a vehicle, unless the ~~Division~~ Department receives proof the vehicle was sold.

“Gore area” is defined under A.R.S. § 28-644.

“Proof the vehicle was sold” means a written statement to the ~~Division~~ Department from an owner that includes the following:

The seller’s name;

The VIN;

The sale date; and

The purchaser’s name and address.

“Restricted permit” means written permission from the ~~Division~~ Department for:

A person subject to a financial responsibility (accident) suspension to operate a motor vehicle only:

Between the person’s home and workplace,

During the person’s work-related activities, or

Between the person’s home and school; and

A vehicle with an Arizona registration subject to a financial responsibility (accident) suspension to be operated by a person specified under R17-4-402 only:

Between the person’s home and workplace;

During the person’s work-related activities; or

Between the person’s home and school.

“State” means a state, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

“SR22” means a certificate of insurance that complies with requirements under A.R.S. § 28-4077(A).

“Thirty-six-month period” means the time measured from the date of the most recent violation with assigned points for which a driver has a conviction or judgment to that day and month three years before the date of the violation.

~~“Traffic survival school” means a Division-licensed business that offers training and educational sessions to improve the safety and habits of drivers required to successfully complete the training and educational sessions under Arizona Revised Statutes, Title 28.~~

“Twelve-month period” means the time measured from the date of the most recent violation with assigned points for which a driver has a conviction or judgment to that day and month one year before the date of the violation.

“Twenty-four-month period” means the time measured from the date of the most recent violation with assigned points for which a driver has a conviction or judgment to that day and month two years before the date of the violation.



“VIN” or “vehicle identification number” is defined under A.R.S. § 13-4701(4).

“Withdrawal action” means a ~~Division~~ Department action that invalidates a person’s Arizona driving privilege or a vehicle’s Arizona registration, which includes:

- A cancellation;
- A suspension;
- A revocation;
- Any outstanding warrant; or
- Any unresolved citation.

R17-4-404. Driver Point Assessment; Traffic Survival Schools

- A. Point assessment. The Department shall assign points to a driver, as prescribed under Table 1, Driver Point Valuation, for each violation resulting in a conviction or judgment.
- B. Actions after point assessment. Under A.R.S. § 28-3306(A)(3), if a driver accumulates eight or more points in a twelve-month period, the Department shall:
 - 1. Order the driver to successfully complete the curriculum of a licensed traffic survival school; or
 - 2. Suspend the driver's Arizona driver license or driving privilege.
- C. Traffic survival school order of assignment. The Department or the private entity under contract with the Department shall send a dated order of assignment to traffic survival school, as prescribed under A.R.S. § 28-3318, to a driver who accumulates 8 to 12 points in a twelve-month period, and who did not complete a traffic survival school course in the previous twenty-four-month period.
 - 1. The order of assignment shall:
 - a. Instruct the driver to submit any hearing request to the Department within 15 days after the date of the order of assignment; and
 - b. Instruct the driver that failure to successfully complete traffic survival school within 60 days after the date of the order of assignment will result in the Department issuing a six-month order of suspension.
 - 2. The Department shall record that a driver completed traffic survival school if:
 - a. A licensed traffic survival school reports that the driver successfully completed the curriculum; or
 - b. The driver presents to the Department an original certificate of completion issued by a licensed traffic survival school, within 30 days of issuance of the certificate.
- D. Suspension for failure to complete traffic survival school. The Department or the private entity under contract with the Department shall mail a driver a six-month order of suspension, as prescribed under A.R.S. § 28-3318, if the driver failed to establish completion of traffic survival school in accordance with subsection (C). The order of suspension shall:
 - 1. Specify the period within which the driver may submit a hearing request to the Department, and
 - 2. Specify the effective date of the suspension.
- E. Suspension for accumulation of excessive points. The Department shall mail an order of suspension as prescribed under A.R.S. § 28-3318 to a driver who accumulates an excessive amount of points. The order of suspension shall:
 - 1. Specify the length of the suspension as follows:
 - a. A three-month suspension for accumulation of 8 to 12 points in a twelve-month period if a traffic survival school course was successfully completed in the previous twenty-four-month period
 - b. A three-month suspension for accumulation of 13 to 17 points in a twelve-month period;
 - c. A six-month suspension for accumulation of 18 to 23 points in a twelve-month period; and
 - d. A twelve-month suspension for accumulation of 24 or more points in a thirty-six-month period;
 - 2. Specify the period within which the driver may submit a hearing request to the Department; and
 - 3. Specify the effective date of the suspension.
- ~~F. Licensed schools-~~
 - ~~1. The Department shall assign an individual only to a traffic survival school licensed by the Director.~~
 - ~~2. On enrollment of an individual in, or on an individual’s attendance of, a traffic survival school course, a licensed traffic survival school shall collect the statutory enrollee fee, unless the individual has paid the enrollee fee in advance. The licensed traffic survival school also shall collect the records fee prescribed by A.R.S. § 28-446, if applicable, before the individual attends the traffic survival school course. The licensed traffic survival school shall fully remit these fees to the private entity under contract with the Department within four business days after an individual completes the traffic survival school course. If a licensed traffic survival school does not timely remit the enrollee fees, the Department may notify the traffic survival school that its prospective future enrollees will be required to prepay the enrollee fees until remittances are current. The amount of the enrollee fee charged by the private entity shall be negotiated by the Department and the private entity and shall be set forth in the contract.~~
 - ~~3. Immediately following each enrollee’s satisfactory completion of a traffic survival school course, a licensed traffic survival school shall electronically transmit proof of course completion to the Department for the enrollee in a manner and with the basic computer equipment prescribed by the Department and shall provide a record of satisfactory completion to the enrollee at the conclusion of class, printed from the web site of the Department’s private entity contractor or the Department’s website as applicable. At a minimum, the computer equipment must be able to tem-~~



- porarily store, and electronically transmit over the internet, the certificates of course completion required by the Department.
4. The private entity under contract with the Department may monitor the performance of any licensed traffic survival school and report results to the Department. The Department or the private entity may conduct audits and inspections the Director deems necessary to determine a licensed traffic survival school's compliance with applicable statutes and rules.
 5. The private entity under contract with the Department may develop and administer a web site that allows individuals who are assigned to traffic survival school to locate and enroll in traffic survival school courses.
- G.** Approved curriculum. The Director shall approve, and may modify, in writing a uniform curriculum that the traffic survival school shall teach to individuals assigned to school. The curriculum shall be selected and approved on the basis of effectiveness in improving the safety and habits of drivers. Each licensed traffic survival school must use all equipment required by the Department to present the uniform curriculum to individuals assigned to the school, including a computer, a PowerPoint compatible projector, a DVD player, and a display monitor.
- H.** Qualified instructors. Only those persons who meet the following qualifications may be deemed qualified instructors and allowed to teach individuals assigned by the Department to licensed schools:
1. An instructor shall be a high school graduate and shall have successfully completed an examination given for qualifications of instructors by the Department.
 2. An instructor shall complete a curriculum workshop approved by the Director. An instructor may be temporarily certified if the instructor successfully completes, as a student, a course using the Department approved curriculum and agrees to attend the next available curriculum workshop for complete orientation.
 3. An instructor shall be at least 21 years of age, be accepted for employment by a licensed school, have a driving record clear of suspensions, revocations, and traffic survival school assignments, and be of good moral character.
- I.** Cancellation, suspension and revocation of licenses. After conducting a hearing, the Director may suspend, cancel or revoke a traffic survival school license or instructor license if satisfactory evidence shows that a school or instructor, individually or collectively, has failed to comply with the licensing standards provided under applicable statutes or rules, or has provided false or misleading information to the Department in either the school's or instructor's application for licensure or in response to an audit or inspection conducted pursuant to subsection (F)(4).
- J.** Conflict of interest. A full-time employee of the state of Arizona shall not receive any direct pecuniary payments from any fees paid by those who attend a licensed school.

NOTICE OF FINAL EXEMPT RULEMAKING

TITLE 17. TRANSPORTATION

**CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS**

[R15-69]

PREAMBLE

<u>I. Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
R17-5-301	Amend
R17-5-302	Amend
R17-5-303	New Section
R17-5-304	New Section
R17-5-305	New Section
R17-5-306	New Section
R17-5-307	New Section
R17-5-308	New Section
R17-5-309	New Section
R17-5-310	New Section
R17-5-311	New Section
R17-5-312	New Section
R17-5-313	New Section
R17-5-314	New Section
R17-5-315	New Section
R17-5-316	New Section
R17-5-317	New Section
R17-5-318	New Section
R17-5-319	New Section
R17-5-320	New Section
R17-5-321	New Section



R17-5-322
R17-5-323

New Section
New Section

2. Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific), and the statute or session law authorizing the exemption:

Authorizing statutes: A.R.S. §§ 28-366, 28-3411, 28-3413, 28-3415, 32-2352, 32-2371, 32-2371.01, 32-2372, and 32-2374

Implementing statutes: A.R.S. Title 28, Chapter 8, Article 7.1, Title 32, Chapter 23, and §§ 41-1001, 41-1009, 41-1064, and 41-1065

Statute or session law authorizing the exemption: Laws 2013, Ch. 129, § 27

3. The effective date of the rule and the agency’s reason it selected the effective date:

September 1, 2015. The Department believes the standard 60 days will serve and will help to address the current conflict between existing rules and statute since Laws 2013, Ch. 129, became effective on June 30, 2014.

4. A list of all notices published in the Register as specified in R1-1-409(A) that pertain to the record of the exempt rulemaking:

None

5. The agency’s contact person who can answer questions about the rulemaking:

Name: Candace Olson, Rules Analyst
Address: Government Relations and Policy Development Office
Department of Transportation
206 S. 17th Ave., Mail Drop 140A
Phoenix, AZ 85007
Telephone: (602) 712-4534
Fax: (602) 712-3232
E-mail: COlson2@azdot.gov
Web site: <http://azdot.gov/about/GovernmentRelations>

6. An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, to include an explanation about the rulemaking:

Laws 2013, Ch. 129, redefined a professional driver training school to exclude non-commercial driver license training and traffic survival schools, placed the licensing of traffic survival schools under A.R.S. Title 28, and removed the licensing requirement of traffic survival school instructors. While this legislation removed the license-specific statute, it does allow the Department to adopt rules for the requirements of the instructors, including the character and reputation of the instructors. Pursuant to Laws 2013, Ch. 129, § 27, the Department engages in this exempt rulemaking to correct the inconsistency created between current rules and statutes by incorporating the new and applicable legislation. This rulemaking also relocates the traffic survival school regulations concerning the licensing of the schools and qualifications of the instructors from Chapter 4, Article 4 into Chapter 5, Article 3. This move will help consolidate all the applicable traffic survival schools rules as they relate to the schools and instructors into one location.

In addition, the Department is dividing R17-5-302 into new sections in an effort to clarify and better delineate the regulatory processes of the schools, instructors, and the private contracted entity. Changes are also being made in order to clarify the verbiage regarding the term “Division,” update definitions, and update business processes to reflect current business needs. These amendments will also ensure conformity with the Arizona Administrative Procedure Act and Secretary of State rulemaking format and style requirements. This rulemaking will help to facilitate the inclusion of additional businesses and ensure successful participation by the schools and instructors.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Department did not review or rely on any study relevant to the rules.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact, if applicable:

Laws 2013, Ch. 129, § 27, authorizes an exemption from the rulemaking requirements of A.R.S. Title 41, Chapter 6, thus this rulemaking is exempt from the requirements of the Administrative Procedures Act and no economic, small business, and consumer impact statement is required.



10. A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking and the final rulemaking package (if applicable):

In R17-5-301, “established place of business,” replaced “authorized activity” with “licensed activity” to clarify and be consistent since the schools are licensed entities.

In R17-5-309(B)(1)(a), added “who are responsible for Arizona school operations if there has been any changes since the last renewal or original application” to the end of the subsection to clarify that the Department is only concerned with the company’s personnel responsible for Arizona operations.

In R17-5-311(A)(1), replaced the verbiage “applicant” with “student” to clarify that the Department intends the restriction to be towards applicants who are the school’s students.

In R17-5-311(A)(1) and R17-5-311(A)(2), removed the verbiage “another school” to clarify that the Department intends the restriction to be towards Department property and the offices of an authorized third party driver license or driver license training provider.

In R17-5-312(A)(1), reduced the timeframe from five business days to 72 hours in an effort to provide the schools more time but still provide the public some time to make other arrangements if their class has been cancelled.

In R17-5-314(A), amended the beginning of the subsection to “A qualified instructor for traffic survival school or high school driver education program” to clarify that it is the instructors of both the traffic survival schools and high school driver education program that must meet the requirements of that subsection.

In R17-5-316(A)(1), removed the requirement of the schools to secure all Department-approved inventory at all times in a locked cabinet or safe at the licensee’s principal place of business, unless being used on the day of a class due to comments received.

In R17-5-317(1), removed the verbiage “such as qualified sign language interpreters for the hearing impaired” to clarify the statement and remove any confusion that it is the only option the schools had.

In R17-5-318(5), reduced the number of courses needing to be conducted from six to two in an effort to ease the requirement but still allow the Department to have some level of quality assurance of the instructors.

In R17-5-319(B)(2), revised the beginning of the subsection to “An order from a court or other appropriate tribunal from Arizona or another state indicating” to clarify an allow for other states that may not classify the traffic survival school assignment as a court order.

In R17-5-319(H), reduced the requirement from once a month to once every 60 days in effort to assist the schools while also helping the Department to ensure the school locations are valid and active.

11. An agency’s summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:



Company/Individual	Comment	Department's Response
<p>A Crash Course in TSS/ Brad and Kimberly Webb, TSS Central Phoenix English y Espanol/Robert Grossman and Debra Grossman, Arrowhead-Deer Valley TSS/Steve Schmidt And Yavapai T.S.S./Melissa J. Caraker</p>	<p>R17-5-301, "Established Place of Business" The Department received comments from four schools against the requirement of an established place of business not being a residential location. The reasons included:</p> <ul style="list-style-type: none"> • Students only attend schools on scheduled days and do not have a reason to come into an office and most of the business is conducted via the internet or the phone. • This will increase costs significantly and would be an unnecessary financial burden and unfair to have an established place of business in a rented facility for day-to-day business. • Seems contrary to the economic impact outlined in the Notice of Proposed Rule Making – Transportation, dated July 26, 2013. • Dedicated "home office" for clerical responsibilities and is also used for the clerical responsibilities of their defensive driving school business and is never used for training classes. • Reconsider since businesses are moving to a "virtual" office space and that it is unduly burdensome to pay an exorbitant amount in rent for a physical office that receives no "foot traffic." • State contradicting its pro-business, non-infringement attitude and this is grounds for infringement on State business practices. • There is a limited number of students assigned to traffic survival school and thus you can only hold a limited number of classes in a given area in a given time period. This is why the existing business model for most schools calls for renting commercial space for a class (hotel meeting rooms, for example) on a daily basis, not monthly, or yearly. Requiring schools to lease a commercial space on a permanent basis to hold classes serves no purpose, other than adding an unnecessary expense. 	<p>Comments provided by the schools and from the locations of existing branch licenses indicated that the established places of business are held in hotels, schools, and other vendors sites that are not considered a residence. There does appear to have been some misunderstanding that the established place of business is the home office. The established place of business can be the same location as a principal place of business but the principal place of business is viewed as the base office where the administrative work is done whereas the established place of business and branches are where the authorized activity (the classes) occur. The definition of established place of business retains the same intent as of the existing requirements of an established place of business under the current R17-5-302. The Department believes students are best served by having the location of the classes in a site that is not used as a residence. For better clarity, the Department is replacing "authorized" with "licensed." The economic impact from Notice of Proposed Rule Making – Transportation, dated July 26, 2013, concerned only the changes made with that rulemaking.</p>



<p>Tucson Fun Traffic Survival School/Catherine Morrow, AJML and associated schools/Kirsten Hatchcock and Anastasia Keller, All Valley Wide Traffic Survival School/Jennifer Adkinson, National Traffic Safety Institute/Alex Smith, TSS Central Phoenix English y Espanol/Robert Grossman and Debra Grossman, At Scottsdale and Shea TSS/Jim Marrion, Arrowhead-Deer Valley TSS/Steve Schmidt, AZ Traffic School/Dave Worley, And AZ Driving School/Lorena Schmit</p>	<p>R17-5-301, “Principal Place of Business” The Department received comments from seven schools against the requirement of a principal place of business not being a residential location. The reasons included:</p> <ul style="list-style-type: none"> • A question over the legality of the rule. • The public does not come into the administrative offices and most of the public interaction is handled via the internet (their websites, which they try to put as much information as needed for the public) and the phone. • Small businesses would be hurt financially by this and in some rural areas the income coming in would not be enough for a commercial office, which could mean less school options for the customers, and impact their tax liability options. • Majority of school administrative headquarters consist of a desk, chair, telephone, computer, and a couple file cabinets in a spare room of their residence. • A comparison to defensive driving schools that are allowed to be home-based. • Neither the Arizona Secretary of State, nor the Arizona Corporation Commission provide for such exclusion and that the business while in good standing with those agencies will be considered non-compliant by the Department. • A question over what is the value added by this and how does it protect the public. • Small businesses use their home office, so as to maintain the work/home balance that being self-employed offers and that this would impact their quality of life. • Existing home-based schools should be grandfathered in. • Classes are conducted in approved leased locations. • Increased costs to the schools could mean increased fees to the students. <p>The Department received comments from two school owners in favor of the provision. The comments in approval of the provision included:</p> <ul style="list-style-type: none"> • An advocate for brick and mortar and that this is more fair. • It can be weird to go into someone’s home. • People do come in to the office for questions. • Ability to hold classes at the same location. 	<p>The requirement to operate the business outside of one’s personal residence is being applied to the Department’s licensees and third parties (including the driving schools) alike. By its very nature as an educational provider for the general public, a traffic survival school is not a home-based business. When circumstances warrant, the Department must send personnel into the business offices of the schools to obtain records and to conduct interviews. On those occasions, it often creates a safety issue to have Department personnel enter a private residence and moreover, the Department does not wish to disturb the owner’s home environment to perform Department functions. The same considerations would apply to any public member that has a need to go to the business office and who may currently be hesitant to do so since the location is a personal residence.</p>
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<p>AJML and associated schools/Kirsten Hatchcock and Anastasia Keller And National Traffic Safety Institute/Alex Smith</p>	<p>R17-5-305(B)(7) The Department received comments from two schools against this subsection. The reasons include:</p> <ul style="list-style-type: none"> • Instructor fees are no longer in statute and should not be negotiated. • Ongoing training costs negotiated should be deleted because contract ADOT12-00001210 does not allow for this either. • Contradicts the Department’s previous response to Question #6 and #8 at the January 26th, 2012 Questions and Answers meeting put on by the Department for Solicitation ADOT12-00001210. • The statute that provides the Contractor a means of collecting their fee indicates a single fee for all services as was pointed out by the department at the onset of the contract that resulted from the previously mentioned solicitation. 	<p>Whereas Laws 2013, Chapter 129, did remove the licensing requirement of the traffic survival school instructors and the associated licensing fee, A.R.S. § 28-3413(B) allows for the Department to set the requirements for the instructors. The Department requires the instructors to be current on the education they provide and on current trends. These materials are provided by the contracted private entity and those materials have a cost. The Department is allowing for the collection of a fee by the private entity as is deemed necessary for the administration and continuing education of the instructors and as set forth in the private entity’s contract. The contract has had an addendum to that effect. The current private entity’s fee provides the instructor:</p> <ul style="list-style-type: none"> • An updated certification card; • A one-year subscription to Safety and Health Magazine; and • Access to the DDC Information Highway, a 24/7 online resource exchange for instructors to access and download: <ul style="list-style-type: none"> • Traffic Safety and Driver Trainer e-newsletters; • Training Center administrative documents, rules, and procedures; • Course material updates and statistics; • Product offers and traffic news; and • Links to state-specific rules, regulations, and more.
<p>National Traffic Safety Institute/Alex Smith</p>	<p>R17-5-309(B)(1)(a) The Department received the following comment: This line should be specific to only the personnel directly involved with services provided in and operations of Arizona. For a nation-wide organization such as NTSI, requesting a list of all principals, contracted personnel, and employees of the school would be as cumbersome as having the Department provide a list of all Directors, contracted personnel, and employees of any Arizona Government Agency not related or associated with Professional Driver Training School; that information is available, but voluminous and unnecessary to the oversight of this chapter.</p>	<p>The Department agrees and to help clarify, the Department has amended this subsection by adding, “who are responsible for Arizona school operations if there has been any changes since the last renewal or original application” to the end of the subsection.</p>
<p>National Traffic Safety Institute/Alex Smith</p>	<p>R17-5-310(B) The Department received the following comment: This provision should be amended to remove the language “a principal or” as requiring a new application for an entire organization and its instructors based on the position of one employee is too burdensome. The language should be specific to corporate structure change which would also require new applications to the Arizona Secretary of State or the Arizona Corporation Commission.</p>	<p>The Department requires a new application for principal changes since all principals are required to undergo a fingerprint clearance check and submit all the same requirements of the original principal(s). It also ensures the current owners and business structure is on file with the Department and the contracted private entity.</p>
<p>National Traffic Safety Institute/Alex Smith</p>	<p>R17-5-311(A)(1) The Department received the following comment: The language “or another school” should be struck. The stipulation that representatives cannot accompany an applicant into “another school” is a misplaced regulation. This would mean that no school representative could accompany any instructor into their established place of business or principal place of business during renewals. This specific rule gets even more complicated when considering locations that facilitate multiple schools’ classes, instructors working for several schools, and multiple schools under one designated principal place of business.</p>	<p>The Department has amended R17-5-311(A)(1) and R17-5-311(A)(2) by removing “another school.” The Department also replaced “applicant” with “student.” The changes are to clarify the restrictions and that the applicant is the school’s student.</p>



<p>AJML and associated schools/Kirsten Hatchcock and Anastasia Keller, National Traffic Safety Institute/Alex Smith, Tucson Fun Traffic Survival School/Catherine Morrow, AZ Traffic Survival/Dave Worley, And AZ Driving School/Lorena Schmit</p>	<p>R17-5-312(A)(1) The Department received the following concerns over this requirement: <ul style="list-style-type: none"> • Tremendous impact on small businesses. • Schools carefully plan schedules based upon prior experience of success at a certain location, date, etc. and tend to self-regulate. • Aware that there are schools that will advertise more classes than they actually can pull, and have left students stranded at the door by canceling said class at the last minute. Also heard of students that are cancelled and re-routed at the last minute. • Support a rule/law that would require at least a 48 hour notice of a school cancellation. However, we ask for consideration of schools and/or classes that tend to have sufficient last minute registrations enough to make a class/location financially viable. • Most people schedule and take the class within a few days. • This may hurt the public by giving them less class options. • Typically has students that sign up for classes at the last minute. <p>The Department also received a request for an amendment to include a provision for unforeseen circumstances.</p> </p>	<p>The Department has received numerous complaints from students regarding last minute cancellations and cases of being re-routed to locations much further from the class's original location. For calendar year 2014, 53% of all scheduled classes were cancelled. After further evaluation and taking in consideration the public comments, the Department has decreased the time to 72 hours.</p>
<p>AJML and associated schools/Kirsten Hatchcock and Anastasia Keller And National Traffic Safety Institute/Alex Smith</p>	<p>R17-5-314(A) The Department received comments from two schools to insert "instructor" with "traffic survival school" since it is too ambiguous and could be seen as to apply to a traffic survival school and not its instructor as written. In addition, one school felt the change may help the definition of "certificate of completion" in R17-5-301.</p>	<p>The Department agrees and to clarify, the Department went with the suggested change of amending the beginning of the subsection to, "A qualified instructor for traffic survival school or high school driver education program."</p>
<p>National Traffic Safety Institute/Alex Smith</p>	<p>R17-5-315(A) The Department received the following suggested change: The language "A licensed traffic survival school..." should be changed to "a licensed traffic survival school instructor..." as the Department's approved procedures require the traffic survival school instructors to submit, retrieve, and sign certificates upon completion of the class. Aside from providing the equipment, the participation of the school is not existent unless there is an unforeseen issue that must be dealt with through the Department's Contractor.</p>	<p>The Department understands that it may be the instructors who will be submitting the proof of course completion, but it is the school that will be held responsible for ensuring the student is taken care of and ensuring those records are electronically transmitted. This is not a new requirement of the traffic survival schools and is a transfer from R17-4-404, which was approved by the Governor's Regulatory Review Council on November 5, 2013.</p>
<p>National Traffic Safety Institute/Alex Smith</p>	<p>R17-5-315(B) The Department received the following suggested change: This rule should be amended to allow for secure, electronic storing of records. Such parameters are industry standard around the nation in this digital age and would be a cost saving measure for both state record audits and the school.</p>	<p>The Department does not believe the current language prohibits or prevents the schools from utilizing an electronic method of record storage.</p>
<p>At Scottsdale and Shea TSS/Jim Marrion, TSS Central Phoenix English y Espanol/ Robert Grossman and Debra Grossman, AJML and associated schools/Kirsten Hatchcock and Anastasia Keller, National Traffic Safety Institute/Alex Smith, And Tucson Fun Traffic Survival School/Catherine Morrow</p>	<p>R17-5-316(A)(1) The Department received comments from five schools against this requirement to have Department-approved inventory secured in a locked cabinet and safe. The reasons include: <ul style="list-style-type: none"> • A question of why and what purpose does this serve. • Unnecessary and burdensome. • Schools no longer have any MVD-owned property or accountable inventory. • Schools purchase the materials from the contracted private entity, so feel it is their stuff. • Confiscating training material after class would not benefit the students. • Schools are already obligated to be personally accountable for these materials and guard against lost or theft since they are closely monitored by the contracted private entity. • Requiring storage of the materials right before class would be cumbersome for instructors who have to travel far off for classes. • Nothing anyone would want to steal. </p>	<p>The Department has removed the requirement of storing the department-approved inventory in a locked cabinet or safe.</p>



<p>TSS Central Phoenix English y Espanol/ Robert Grossman and Debra Grossman, Arrowhead-Deer Valley TSS/Steve Schmidt, AZ Traffic Survival/Dave Worley, And AZ Driving School/Lorena Schmit</p>	<p>R17-5-317(1) The Department received comments from three schools that had the following concerns over the language, “such as a qualified sign language interpreters for the hearing impaired.”</p> <ul style="list-style-type: none"> • This can and will be interpreted to mean that sign language interpreters are the required accommodation. • Americans with Disabilities Act (ADA) requires reasonable accommodation that does not impose a “unique hardship” on the business and the cost of a sign language interpreter, which can be in the thousands of dollars, would cause a hardship for small businesses. • A question on whether there was a more common solution like closed captions. <p>One school did attest that it did pay for an interpreter and did not see how the complaints would hold up with the Supreme Court. It is an issue and try to deal with it.</p>	<p>The language, “such as qualified sign language interpreters for the hearing impaired,” was merely meant as an example of the applicable type of appropriate auxiliary aid and service the school can provide; it was not meant as the only available type. To remove the confusion, the Department has removed that language. Just as the businesses are required in general to be in compliance with ADA requirements, the Department also has an obligation to have oversight and monitor entities we contract and license. The Department will be working to compile resources and options to assist the businesses. It still remains the responsibility of the school to meet the needs of the student.</p>
<p>TSS Central Phoenix English y Espanol/ Robert Grossman and Debra Grossman, A Crash Course in TSS/ Brad and Kimberly Webb, Arrowhead-Deer Valley TSS/Steve Schmidt, And Instructor/Bruce Thornhill</p>	<p>R17-5-317(2)(b) The Department received comments from three schools against this provision. The reasons include:</p> <ul style="list-style-type: none"> • This is not a school responsibility since the schools do not own or have copyright to the course material. • A translation by the school of the copyrighted material would be a violation of copyright law and would require approval and no school would take it upon themselves to translate the materials into another language. • There are over 6,000 languages spoken and this rule would require performance under all of them or just one additional language and what is the responsibility of the school if that student speaks Mandarin Chinese. • Contracted private entity only allows for English or Spanish materials to be selected. • This is unclear and unfair to the school owners and a financial and administrative burden. • A question on why the translation is not a requirement of the private entity providing the required curriculum. • MVD does not provide translators on the written driving test in languages other than English or Spanish for customers trying to get a driver’s license. <p>One commenter did question what type of support can be provided by the Department and is there an ability to provide materials in advance.</p> <p>There was also a comment indicating that typically the students bring in a translator.</p>	<p>The Department believes this requirement is in keeping with the requirements of Title VI of the Civil Rights Act of 1964. The Department’s contracted private entity does provide the required curriculum and student handbooks in Spanish. As for the other languages a student may need, in keeping with the Federal requirement, the Department expects only for the schools to take reasonable steps to assist their non-English speaking students. The Department does not expect the schools to translate the copyrighted material, but does expect the schools to accommodate students that bring interpreters with them or work with potentially providing an interpreter, as is reasonable. The Department can provide the school a resource list of interpreters. The cost of the interpretation is the responsibility of the business (school) providing the service.</p>
<p>AJML and associated schools/Kirsten Hatchcock and Anastasia Keller, National Traffic Safety Institute/Alex Smith, At Scottsdale and Shea TSS/Jim Marrion, Tucson Fun Traffic Survival School/Catherine Morrow, And AZ Driving School/Lorena Schmit</p>	<p>R17-5-318(5) The Department received comments from five schools against this provision. The reasons include:</p> <ul style="list-style-type: none"> • This would take owners away from managing the companies to maintain the established high standards and public better served when the owner is overseeing the enrollment process and not in front of a classroom when an instructor or student needs guidance. • Owners are instructors mainly to serve as back-up for unexpected instructor scheduling issues. <p>This would become a financial hardship for the instructors since it takes money out of the hands of the independent contracted “employees.”</p> <ul style="list-style-type: none"> • Only the market can determine which scheduled classes are going to be held. • A question on how this will protect the public. • A question on whether it is the school or instructor. 	<p>To ensure the students are receiving the same level of quality of instruction by a qualified instructor, the Department needs to ensure that all instructors are held to the same standards and are active. The Department does not require owners to be instructors, but if an owner wants to act in that capacity they need to keep active and current with their qualification. In effort to ease this requirement, the Department has reduced the amount to two courses in a calendar year.</p>
<p>AZ Traffic Survival/Dave Worley</p>	<p>R17-5-319(B)(2) The Department received a comment indicating that for this provision, court orders are not same from other states; they do not have our terminology.</p>	<p>In an effort to clarify, the Department has amended the language to, “An order from a court or other appropriate tribunal from Arizona or another state indicating.”</p>



<p>National Traffic Safety Institute/Alex Smith, Tucson Fun Traffic Survival School/Catherine Morrow, And AZ Driving School/Lorena Schmit</p>	<p>R17-5-319(B)(2) The Department received the following comments concerning this provision: <ul style="list-style-type: none"> • A suggestion to amend it to “Conduct courses with no more than the prescribed limit of the Department approved curriculum.” The language as written is too specific to the Department’s current Contractor. Additionally, educational standards allow for larger amounts of students per instructor; capped only by fire code and the abilities of the instructor. • Defensive driving schools are allowed 60 students per class; 30 would be burdensome. • The owner wished the school had 30 students per class and a need for fairness. </p>	<p>This is a Department requirement that would also be in place regardless of the private entity the Department is contracted with. The Department believes this is the appropriate instructor to student ratio to ensure the appropriate control of the class and is the most conducive to learning. Exceeding this ratio would compromise the quality of the instruction and have the potential of failing the purpose of the education which is designed to improve the safety and habits of drivers.</p>
<p>AJML and associated schools/Kirsten Hatchcock and Anastasia Keller, National Traffic Safety Institute/Alex Smith, At Scottsdale and Shea TSS/Jim Marrion, And Tucson Fun Traffic Survival School/Catherine Morrow</p>	<p>R17-5-319(F) The Department received comments from three schools with concerns over this provision. The concerns include: <ul style="list-style-type: none"> • This is the most bothersome issue with traffic survival schools and is neither fair to the public or to the contracted schools. • Schools have no chance to gain student’s business without manipulating their site location and every school has exact address. • Students are frustrated by a cumbersome process of re-entering information due to the zip code center point query. • The zip code query has made it difficult and students should be required to put in their whole address rather than just a zip code, which would give the students a more accurate choice and locations to choose from. • Allowing for the private entity to post time, date, and location of the schools on their site is essentially not allowing for competitiveness among the schools. • This rule should be amended to include an ethical and unbiased provision that instructs the private entity to not harm the public or the schools. It is not the Department’s job nor its Contractor’s job to ensure that students are directed to any particular school or location based on any bias whatsoever; such as a preference by the Contractor to ensure prospective students are referred to “the closest” school. The best way to impartially refer students is to provide a randomized list of school names and phone numbers to allow students to contact and register with the prospective schools. The current method of referral (map-based referrals) has caused a spike in Branch filings and class cancellations. • The current web site is poorly designed and creates confusion. • The website rewards laziness as any school with no website or other advertising expenses will be able to get students just by random selection. Those of us who are heavily invested in websites have no opportunity to see our advertising dollars come to fruition. </p>	<p>This is not a new requirement and is being transferred from R17-4-404. The purpose of the website is to provide potential students a place to quickly and conveniently locate schools and enroll. The website is not designed to interfere with a school’s right to market. To better assist the customers and the schools, the contracted private entity has modified their website for a full address search. The Department and its contracted private entity will monitor the website and wait to see how the new modification will affect the schools and enrollment.</p>
<p>At Scottsdale and Shea TSS/Jim Marrion, TSS Central Phoenix English y Espanol/ Robert Grossman and Debra Grossman, AJML and associated schools/Kirsten Hatchcock and Anastasia Keller, National Traffic Safety Institute/Alex Smith, And Arrowhead-Deer Valley TSS/Steve Schmidt</p>	<p>R17-5-319 (H) The Department received comments from five schools against this provision. The reasons include: <ul style="list-style-type: none"> • One class per month is anti-competitive and arbitrary. • A question over what purpose does this serve. • The business should decide how often a school teaches; there are a limited number of potential students in a given area in a given time period and through experience and business sense, schools schedule classes at a given site with this in mind. • In no way can schools or the private entity determine how many students are going to sign up each month. • This is ambiguous in that one can interpret to mean a set point in each month or at any date within a month. • Some locations cannot support one class per month and to do so could be financially burdensome. <p>There was also a comment requesting the removal of established place of business since few if any traffic survival schools hold classes at their business office and instead hold classes at rented venues.</p> </p>	<p>This requirement was seen as a way to ensure that the locations being licensed are valid and active locations. The Department has received complaints regarding classes being cancelled and in some cases being re-routed to location much further from the original location. In calendar year 2014, 53% of all scheduled classes were cancelled, with 118 school sites having a cancellation rate greater than 50%, and 27 school sites with 100% cancellation rate. The Department is reducing the requirement to once every 60 days.</p>



<p>National Traffic Safety Institute/Alex Smith</p>	<p>R17-5-320 The Department received the following comment: Traffic survival school instructors and schools should be allowed enough time to submit accurate information to the Department. Currently proposed language allows high school qualified instructors to submit information once a month as long as it is no later than the fifth day of each month. Ensuring accuracy of information reported regarding one's license should be of higher priority to the Department than the immediacy of that reporting that is currently in place. Additionally, similar programs around the nation allow for proper review and submission with a three-business day or five-calendar day time frame. The rules governing reporting for traffic survival school should likewise have an allotted time for review before submission to the Department through its Contractor.</p>	<p>The requirement under R17-5-320(E) for high school qualified instructors to submit their certified instructor reports and certificates of completion issued is not the same requirement of the traffic survival schools. This requirement has to do with keeping track of the accountable forms and activity of the high school driver education program and has no direct bearing on the students who receive the certificates of completion and is a paper process. The traffic survival schools are immediately reporting the outcome of the traffic survival school students to the Department so that the students can immediately reinstate their driving privileges or prevent a suspension from occurring and is an electronic process that allows for immediate updating of the student's record. The immediate reporting requirement of the traffic survival school is not new and is a transfer from R17-4-404, which was approved by the Governor's Regulatory Review Council on November 5, 2013. To change this requirement would not better serve the public.</p>
<p>TSS Central Phoenix English y Espanol/ Robert Grossman and Debra Grossman And AZ Driving School/Lorena Schmit</p>	<p>R17-5-321(I)(3) The Department received the following comments of concern for this provision and requested it be removed or amended: • The rule seems to have nothing to do with audits, monitoring, inspections, and investigations. • Most or all traffic survival school businesses teach classes and meet the public at rented venues such as schools or hotels and have no sites open to the public and the owner or manager of the rented sites would likely not allow posting of office hours at a conspicuous location and the school cannot dictate the hotel to post the school's office hours on their front window. • Many hotels will post the time and locations of any meeting being held in the lobby. Persons attending a class would be able to locate the class using such a notice. For the duration of classes held at other types of venues, it would be possible to have a temporary notice providing the same type of information. There was also a request to exclude principal place of business, unless open to the public, and approved/rented training locations from unreasonable notices One commenter had no problem with inspections.</p>	<p>The posting of office hours is not a new requirement and is required under the current version of R17-5-302. While the posting of hours is beneficial to the public, the Department chose to place the requirement under this section since there is a connection for the auditors and inspectors, as they will need to know when the offices are available for monitoring, inspections, and interviews.</p>
<p>Arizona Alliance Traffic Survival Schools LLC/ Mark Fowler</p>	<p>"I Mark D. Fowler fully and completely support the proposed changes to the rules regarding traffic survival school operations, licensee requirements, instructor requirements, potential disciplinary actions, all definitions, and all inclusive support for rule making changes proposed."</p>	<p>The Department appreciates the comment in support of the rulemaking.</p>

12. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:

There are no other matters prescribed by statute applicable to the Department or to any specific rule or class of rules.

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

The rules contain provisions for the licensing of traffic survival schools, professional driver training schools, and professional driver training school instructors, and the qualifying of traffic survival school instructors. These licenses and qualifications do fall under the definition of general permits since the activities and practices licensed or qualified are substantially similar in nature for all to perform that specified activity or function.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:



The rule is not more stringent than any applicable federal law and is in keeping with the requirements of Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) as the rules require reasonable steps and accommodation by the schools to serve their customers.

c. Whether a person submitted an analysis to the agency that compares a rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted to the Department.

13. A list of any incorporated by reference material and its location in the rule:

This rulemaking incorporates no materials by reference.

14. Whether the rule was previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:

Not applicable

15. The full text of the rules follows:

TITLE 17. TRANSPORTATION

**CHAPTER 5. DEPARTMENT OF TRANSPORTATION
COMMERCIAL PROGRAMS**

ARTICLE 3. PROFESSIONAL DRIVER TRAINING SCHOOLS SERVICES

Section

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R17-5-303.	Professional Driver Training School Instructor Licensing; Eligibility and Application Requirements; Temporary Professional Driver Training Instructor License
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R17-5-315.	Record Retention
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R17-5-319.	Traffic Survival Schools
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R17-5-322.	Cease and Desist Order; Hearing and Appeal
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ARTICLE 3. PROFESSIONAL DRIVER TRAINING SCHOOLS SERVICES

R17-5-301. Reserved Definitions

In addition to the definitions under A.R.S. §§ 28-101 and 32-2351, the following definitions apply to this Article, unless otherwise specified:

“Activity” means a function or service that is provided by a licensed professional driver training school pursuant to A.R.S. Title 32, Chapter 23 or licensed traffic survival school pursuant to A.R.S. Title 28, Chapter 8, Article 7.1 and that is performed by a licensed instructor or qualified instructor as defined in this Article.

“Applicant” means an individual or school, including principals, requesting in the manner set forth in this Article the issuance or renewal of a license or to become a qualified instructor under A.R.S. Title 28, Chapter 8, Article 7.1 or Title 32, Chapter 23 and this Article.

“Application date” means the date the Department or private entity receives a signed application from an applicant.



“Audit” means a review of the operations, facilities, equipment, and records of a licensee under this Article, which is performed by the Department or private entity under A.R.S. § 28-3411 or 32-2352 to assess and ensure compliance with all applicable federal and state laws and rules.

“Branch” means a licensed professional driver training school’s or licensed traffic survival school’s business location that is an additional established place of business, but not the school’s principal place of business.

“Business day” means a day other than a Saturday, Sunday, or legal state holiday.

“Business manager” means an owner or employee of a licensed school who has primary and sufficient oversight, supervision, and responsibility for all operations necessary to ensure full compliance with all applicable federal or state laws, rules, and school guidelines.

“Certificate of completion” means an electronic or paper document that is approved by the Department or private entity and that is issued by a traffic survival school or high school qualified instructor to a student who has demonstrated successful completion of a training or educational session or both conducted under this Article.

“Department-approved inventory” means educational media and related items or other resources provided and approved by the Department or private entity that are deemed necessary or useful for traffic survival school instruction, which includes curriculum, computer disks or drives, classroom training materials, instructor workbooks, instructor training manuals, or other materials, whether stored in paper or electronic formats.

“Established place of business” means a licensed professional driver training school’s or licensed traffic survival school’s business location that is:

- Approved by the Department.
- Located in Arizona.
- Not used as a residence, and
- Where the licensed school performs licensed activities.

“Good moral character” means a person:

- Has not been convicted of a class 1 or 2 felony by a court of competent jurisdiction;
- Has not within five years of application date been convicted of any other felony or misdemeanor offense having a reasonable relationship to the functions of the activity or the employment or category for which the qualification is sought;
- Has not within five years of application committed any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence or incompetence if the act has a reasonable relationship to the person’s proposed area of license or qualification;
- Has not within 12 months engaged in fraud or misrepresentation in connection with an application or an examination required for license or qualification under this Chapter;

“Good standing” means an applicant:

- Has not had a similar business license, qualification, or approval suspended, revoked, canceled, or denied within the previous three years of the application date;
- Does not have any pending corrective action, as defined under R17-5-323, relating to a Department-issued business license, qualification, or approval;
- Has not had a fingerprint clearance card required for licensure under this Article suspended, revoked, or canceled;
- Does not owe delinquent fees, taxes, or unpaid balances to the Department or private entity;
- Has not had any substantiated derogatory information relevant to the requested license reported to the Department about the applicant from any state agency or from any consumer protection agency contacted by the Department; or
- Has not been dismissed, or resigned in lieu of dismissal, from a position for cause following allegations of misconduct having a reasonable relationship to the person’s proposed area of licensure or qualification, if the applicant is a former Department employee or a former principal or employee of a licensed professional driver training school or licensed traffic survival school.

“Immediate family member” has the same meaning as prescribed in A.R.S. § 28-2401.

“Inactivation” or “inactive” means a temporary or permanent status, assigned by the Department to a school or professional driver training school instructor previously licensed under this Article, which prohibits the school or instructor from further engaging in the previously licensed activity after the occurrence of any of the following actions:

- Cancellation of license, as defined in R17-5-323;
- Suspension of license, as defined in R17-5-323;
- Revocation of license, as defined in R17-5-323;
- Non-renewal of license; or
- Relinquishment of license.

“Licensee” means a school or instructor licensed by the Department or private entity under A.R.S. § 28-3413, 32-2371, or 32-2372, and this Article, to perform a licensed activity.

“Principal” means any of the following:



If a sole proprietorship, the sole proprietor:

If a partnership, limited partnership, limited liability partnership, limited liability company or corporation, the:

Partner;

Manager;

Member;

Officer;

Director;

Agent; or

If a limited liability company or corporation, each stockholder owning 20 percent or more of the limited liability company or corporation; or

If a political subdivision or government agency, the political subdivision or agency head.

“Principal place of business” means a licensed professional driver training school’s or licensed traffic survival school’s administrative headquarters, which shall not be used as a residence.

“Private entity” means an entity that contracts with the Department under A.R.S. § 28-3411 or 32-2352.

“Professional driver training school instructor license” means an annual license issued by the Department or private entity under A.R.S. § 32-2372, and renewable under A.R.S. § 32-2374, which authorizes a person to present specific training and educational curriculum to students as provided under this Article.

“Satisfactory driver record” means an applicant has not had within the past 39 months:

A conviction for driving under the influence, reckless or aggressive driving, racing on a highway, or leaving the scene of an accident;

A driver license previously canceled, suspended, revoked, or disqualified; and

More than three previous assignments to attend traffic survival school and no pending assignment.

“Temporary professional driver training school instructor license” means the preliminary license issued to an instructor applicant by the Director or private entity under A.R.S. § 32-2372, which authorizes the applicant to perform school activities under this Article.

“Traffic survival school qualified instructor” means an individual deemed qualified by the Department or private entity under this Article to conduct instruction of an education session on behalf of a licensed traffic survival school.

R17-5-302. Commercial driving schools and instruction licensing Professional Driver Training School and Traffic Survival School Licensing; Eligibility and Application Requirements

A. Definitions. The following words and phrases have been defined as follows:

1. “Commission”: The Arizona Highway Commission.
2. “Instructor”: Any person, whether acting for himself as operator of a professional driver training school or for any such school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises practice of persons learning to operate or drive motor vehicles or preparing to take an examination for an operator or chauffeur’s license or learner’s permit; and any person who supervises the work of any other such instructor.
3. “Professional driver training school or school”: A business enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles, to prepare an applicant for an examination given by the state for an operator’s or chauffeur’s license or learner’s permit and charging a consideration or tuition for such services.
4. “Superintendent”: The superintendent of the Motor Vehicle Division.
5. “Suspension”: The licensee’s privilege to operate a professional driving school or to instruct (as provided in these rules) is temporarily withdrawn.
6. “Revocation”: The licensee’s privilege to operate a professional driving school or to instruct (as provided in these rules) is terminated indefinitely.
7. “Operator”: The owner of a professional driver training school or one who holds himself out as offering, or one who otherwise offers, for a consideration or tuition, any service or services enumerated in A.R.S. § 32-2351, subsection (3).
8. “Doing business”: Soliciting for the purpose of offering, or performing any or all of the Acts set forth in A.R.S. § 32-2351(2) and (3).

B. General provisions:

1. Administration and enforcement. The Commission, through the Superintendent of Motor Vehicle Division, shall administer and enforce the provisions of this Chapter.
2. Schools and instruction subject to licensing and rules. Section 1, Title 32, Chapter 23 and these rules shall apply to driving schools of all kinds as defined in these rules and to all persons giving instruction in driving schools or giving instruction in the operation of motor vehicle as defined in “instructor.”
3. Use of driver training vehicle. No operator of a driving school shall lease, rent, or by any other arrangement permit the use of a vehicle used in driver training by another person when said vehicle is being operated by a student.
4. Employment of Motor Vehicle Division or Traffic Safety employees. No school will be permitted to engage the service of an employee of the Motor Vehicle Division or Traffic Safety as an instructor, agent or employee.



C. Licenses:

1. Requirements for an original license to operate a professional driver training school and a license to give driving instructions:
 - a. In general two types of licenses will be issued. A license to operate a driving school and a license for an individual to give driving instruction as an employee of a school.
 - b. A license to operate a driving school shall include the right to give driving instruction only when the licensee is licensed as an instructor or employs a person who is licensed as an instructor in accordance with all the requirements of law.
 - c. A copy of the instructor's license must be displayed in the office of each school he may represent.
 - d. The license issued by the Division to operate a driving school shall be prominently displayed in the place of business of the driving school.
 - e. The instructor's identification card shall be in the possession of the licensee at all times that he instructs or actually accompanies a student. The instructor must surrender this card to the Division upon becoming inactive or when his license is cancelled, suspended or revoked.
 - f. A license certificate shall be issued to each driving school for each instructor employed by such school. This certificate shall be prominently displayed in the place of business along with the license to operate such school.
 - g. In case of loss or mutilation, duplicate license or instructor's identification card may be issued by the Division upon submission of a properly signed and completed application accompanied by the required fee and an affidavit setting forth the circumstances. The affidavit must show the date the license or identification card was lost, mutilated, or destroyed, and the circumstances involving the loss, mutilation, or destruction.
 - h. A license to operate a driving school and any instructor's license shall be nontransferable.
 - i. Each license will be effective on the date of issuance and will expire on the last day of the calendar year.
 - j. No license fee will be prorated in the event the license is issued less than 12 calendar months prior to expiration.
2. Application for original professional driving school license.
 - a. Before any license is issued an application shall be made in writing to the Division on a form prepared and furnished by the Division, which shall include the following:
 - i. The name of the school together with ownership and controlling officers thereof.
 - ii. The application for a driving school license shall include the official name of the school and the location of its established place of business.
 - iii. The specified course of instruction which will be offered.
 - iv. The place or places where such instruction will be given.
 - v. The qualifications of the instructors and supervisors in each specific field together with their names, addresses and other information which may be required by the superintendent.
 - vi. Samples of any and all contracts to be used by the school.
 - vii. Sample copies of all forms of receipts to be used by the school.
 - viii. Copies of all forms used by the school which will be furnished or delivered to students.
 - ix. Driver training schools proposing to give instructions pertaining to the operation of motorcycles, buses, and trucks other than 1/2- or 3/4-ton pickups must submit their complete curriculum for approval along with their application.
 - b. Every application for a license to operate driver training school must be accompanied by a fee of \$200.00. An applicant doing business in more than one location must secure a license for each branch office. An application for a branch license must be accompanied by a fee of \$50.00.
 - c. All renewal application forms must be submitted to the Division not less than 30 days prior to the time the present school license expires. The Division will not be responsible for the timely issuance of any renewal license when application is not received at least 30 days prior to the expiration date.
 - d. Each driving school shall submit to the Division, upon application for a license or a renewal license, a complete list of all personnel in its organization and shall indicate those in the staff who will be instructing. When changes are made in instructor personnel, notification shall be made to the Division within 10 days thereafter.
 - e. An individual, association, partnership, or corporation may qualify for a license to operate a professional driver training school through himself, one of its partners, officer of the corporation or managing employee. The qualifying party shall be a regular and bona fide employee whose principal employment is with the employer for whom he has qualified and must have active and direct supervision and control of all operations necessary to secure full compliance with all the provisions of Arizona Revised Statutes Title 32, Chapter 23 and these rules.
3. Application for driving school instructor's license.
 - a. Application for an instructor's license shall be made upon a form supplied by the Division, which form may require the following disclosures and information:
 - i. True full names
 - ii. Residence addresses
 - iii. Fingerprint card



- iv. Employment histories
 - v. Personal references
 - vi. Such other information which the Division deems pertinent to determine the applicant's good moral character. No instructor's license shall be issued except upon compliance with all the provisions of these rules and the provisions of A.R.S. §§ 32-2351 through 32-2391.
- b. The application for an instructor's license shall include the official name of the school at which the applicant will be an instructor. The licensed instructor shall notify the Division of his initial employment or of any change of employer within 10 days thereafter.
- e. Every application for a license as a driving school instructor must be accompanied by a fee of \$10.00.
- d. All renewal application forms must be submitted to the Division not less than 30 days prior to the time the previous license expires. The Division will not be responsible for the timely issuance of any renewal license when application is not received at least 30 days prior to expiration date.
- D. Requirements of applicants for driver training school license and driver training instructors.** Every applicant for a license to operate a driving school and every applicant for a license to give instructions in driving motor vehicles shall meet the requirements as set forth below:
- a. Each applicant shall pass an examination given by the Division which may consist of an actual demonstration or a written test or both covering:
 - i. Traffic laws
 - ii. Safe driving practices
 - iii. Operation of motor vehicles
 - iv. Knowledge of teaching methods, techniques, and practices
 - v. Driving school statutes and regulations, business ethics, office procedures, elementary recordkeeping.
 - b. Each applicant must be of good moral character, at least 21 years of age and have the minimum of a high school education or the equivalent.
 - e. Each applicant must hold a valid Arizona driver license.
 - d. Each applicant must have a satisfactory driving record.
 - e. All instructors shall be physically and mentally able to safely operate a motor vehicle and to train others in the operation of motor vehicles. To substantiate this, the superintendent may require a properly signed and completed certificate of medical examination conducted by a person qualified and licensed to practice medicine in Arizona.
- E. Insurance and safety requirements:**
- 1. All professional school operators shall maintain bodily injury and property damage liability insurance on motor vehicles while being used in driving instruction, insuring the liability of the driving school, the driving instructor, and any person taking instruction in at least the following amounts: \$10,000.00 for bodily injury to or death of any one person in any one accident and, subject to said limit for one person, \$20,000.00 for bodily injury to or death of two or more persons in any one accident, and the amount of \$5,000.00 for damage to property of others in any one accident.
 - 2. Evidence of such insurance coverage in the form of a certificate from the insurance carrier shall be filed by the school with the Division and the certificate shall stipulate that the insurance contract carried by the school provides for cancellation only upon 30 days prior written notice to the Division and shall further include the make, model, year and motor or serial number of every vehicle which will be used for instruction.
 - 3. When a vehicle is added to or exchanged in a driving school fleet covered under a fleet insurance plan, the licensee shall provide the Superintendent a copy of a policy rider issued by the insurance carrier showing the addition or exchange, with complete descriptions of the vehicles involved.
- F. Place of business:**
- 1. The established place of business of each driver training school must be regularly occupied and primarily used by that driver training school for the business of giving driving instructions for hire and the business of preparing members of the public for the examination given by the Division for a motor vehicle operator's license.
 - 2. Each place of business shall be safe and meet all requirements of state law and local ordinances, and the superintendent may require applicants and licenses to provide proof of compliance with local zoning ordinances.
 - 3. Each school shall post its office hours in a conspicuous place and shall be open to the public during these hours. In the absence of the operator, the person left in charge of the office during the posted office hours shall be fully qualified and authorized to give pertinent information to the public concerning lessons and accounts, and to give information to any representative of the Division concerning the operation of the school.
 - 4. When a driving school office is located in an office building, store, or any other physical structure which is not a part of a dwelling, there shall be a clear separation between the driving school business and any other activity housed in the building.
 - 5. The school's license must be conspicuously displayed.
 - 6. All records pertaining to the operation of the school shall be maintained in the established place of business and available for inspection during normal business hours.



7. Every place of business used by each driving school shall provide adequate facilities for any student being given instructions in other than behind the wheel driver training.

G. Branch offices:

- 1. A driver training school desiring to open a branch office shall make application on a form prescribed by the Division and accompanied by the required fee of \$50.00. If application is approved, the Division will issue a copy of the license of the principal place of business, appropriately endorsed, for use in the branch office.
- 2. This copy must be conspicuously displayed in such branch office at all times.
- 3. A branch office may not be removed to a new location without prior approval of the Division.
- 4. Should a branch office be discontinued, the branch office copy of the license must be surrendered immediately to the Division.
- 5. The branch office must meet all of the requirements of the licensed principal place of business and must be equipped to, and shall perform, substantially the same services apply to the principal place of business.
- 6. Branch offices are restricted to the county wherein the principal place of business is located.

H. Advertising:

- 1. A school shall not use any name other than its licensed name for advertising or publicity purposes. Nor shall the school use the word "State" in any part of the school name. A licensed school which advertises, solicits patrons, or conducts the business regulated by A.R.S. § 32-2351 et seq., by the use of or under a name other than the name by which the school was licensed, must apply for and obtain an original license for such school before it may lawfully operate.
- 2. No driving school advertisement shall indicate in any way that a school can issue or guarantee the issuance of a driver's license, or imply that the school can in any way influence the Division in the issuance of a driver's license or imply that preferential or advantageous treatment from the Division can be obtained.
- 3. Schools that are in fact licensed by the Division may in their advertising state they are "LICENSED" but shall not indicate that a school is approved, sanctioned, or in any other way endorsed by the Division.

I. Professional conduct:

- 1. No driving school instructor, employee, or agent will be permitted to accompany any student into any examining office rented, leased, or owned by the Division of Motor Vehicles for the purpose of taking a driver license examination.
- 2. No driving school instructor, employee, or agent will be permitted to personally solicit any individual on the premises rented, leased, or owned by the Division of Motor Vehicles for the purpose of enrolling them in any professional driving school.
- 3. Violation of any of the provisions of this Article may be grounds for the cancellation, suspension or revocation of an instructor's license or a school's license, subject to the provisions of A.R.S. §§ 32-2373 and 32-2391 and these rules.

J. Records and contracts: Every licensee shall maintain the following records:

- 1. A permanently bound book or a card file setting forth the name, address, contract number, and terms of payment with respect to every person receiving lessons, lectures, tutoring, instructions of any kind or any other service relating to instructions in the operations of a motor vehicle. The book or card file shall also contain records showing the date, type, and duration of all lessons, lectures, tutoring and instructions including the name of the instructor giving such lessons and the tag number, make and model of vehicle used to conduct the training.
- 2. A record of all receipts and disbursements.
- 3. If a licensee enters into written contracts with any person or group of persons receiving lessons, lectures, tutoring or instructions relating to the operation of a motor vehicle, the original contract must be given to the student or his agent who executes the contract, and a carbon copy of the contract retained as part of the records of the license.
- 4. All records must be retained for three years.

K. Equipment:

- 1. All vehicles used for driver training must be equipped with the following:
 - a. Any motor vehicle with an automatic transmission must be equipped with at least a dual braking device which will enable an accompanying instructor to bring the car under control in case of an emergency.
 - b. Any motor vehicle equipped with a standard transmission must have at least a dual clutch and braking device which will enable an accompanying instructor to bring the car under control in case of an emergency.
- 2. All vehicles must be maintained in safe operating conditions at all times.

L. Suspension, revocation, cancellation and denial of driver training school and driver training instructor licenses:

- 1. The superintendent may suspend or revoke the license of any driver training school or driver training instructor:
 - a. If the licensee fails to do anything which is required by the provisions of A.R.S. Title 32, Chapter 23, or these rules relating to driver training schools and driver training instructors.
 - b. If the licensee does anything which is prohibited by the provisions of A.R.S. Title 32, Chapter 23, or these rules relating to driver training schools or driver training instructors.
 - e. If the application contains any misstatements or misrepresentations.
- 2. No license fee will be refunded in the event a license is suspended or revoked.



3. The superintendent may deny any application for a driver training school or driver training instructor's license, if the applicant does not qualify for the license under the provisions of A.R.S. Title 32, Chapter 23, or these rules relating to driver training schools and driver training instructors. Previous revocation, misstatements or misrepresentations may be grounds for denying a license.
- M.** ~~The superintendent, upon determining that grounds for cancellation of a license exist, shall give notice thereof to the licensee in writing, and by the notice shall require the licensee to appear before him at a specified time and place, then and there to show cause why his license should not be cancelled. At the time and place fixed by the superintendent, which shall be not less than 10 days after notice, the licensee shall appear and be heard and may have other persons he desires present and testify at the hearing.~~
- A.** An applicant for a professional driver training school or traffic survival school license, issued by the Department or private entity under A.R.S. § 28-3411 or 32-2371 and this Section, shall be at least 21 years of age and meet all applicable licensing requirements under state law and this Article when applying for an original or renewal license.
- B.** An applicant for a professional driver training school or traffic survival school license shall complete and submit to the Department or private entity an application packet that contains all of the following:
 1. An application, completed on a form approved by the Department;
 2. Certification that each classroom used for the instruction of students is maintained in compliance with all applicable fire codes and local zoning ordinances;
 3. Certification that each classroom used for the instruction of students meets the accessibility requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), as amended;
 4. A copy of the following documents relating to the applicant's business if the applicant is a:
 - a. Corporation:
 - i. A copy of the articles of incorporation, including any amendments filed with the Arizona Corporation Commission; and
 - ii. Any other official documents, including copies of board meeting minutes and annual reports that reflect the most recent change to the corporate name, structure, or officers;
 - b. Limited liability company:
 - i. A copy of the articles of organization, including any amendments filed with the Arizona Corporation Commission; or
 - ii. A copy of the application for registration as a foreign limited liability company filed with the Arizona Corporation Commission and a copy of the certificate of registration issued by the Arizona Corporation Commission to a foreign limited liability company;
 - c. Limited partnership or a limited liability partnership:
 - i. A copy of a valid certificate of existence issued by the Arizona Office of the Secretary of State;
 - ii. A copy, stamped "filed" by the Arizona Office of the Secretary of State, of a certificate of limited partnership, certificate of foreign limited partnership, limited liability partnership form, foreign limited liability partnership form, or statement of qualification for conversion of limited partnership or limited liability partnership; or
 - iii. A copy of a valid trade name certificate issued by the Arizona Office of the Secretary of State; or
 - d. Sole proprietor:
 - i. A copy of a valid certificate of existence issued by the Arizona Office of the Secretary of State, or
 - ii. A copy of a valid trade name certificate issued by the Arizona Office of the Secretary of State;
 5. A copy of a high school diploma or equivalent for each applicant;
 6. Documentation prescribed under A.R.S. § 41-1080 indicating that each applicant's presence in the United States is authorized under federal law if the applicant is an individual, a sole proprietor, or part of a general partnership;
 7. Payment of the license fees prescribed under A.R.S. § 28-3415 or 32-2374 for each activity requested; and
 8. A form, approved by the Department, completed for each branch license, if applicable, and accompanied by payment of any applicable branch license fees prescribed under A.R.S. § 28-3415 or 32-2374.
- C.** An applicant shall not use the following in any part of its school name, which are subject to approval by the Department or private entity:
 1. The terms "Arizona Department of Transportation," "Department of Transportation," "Motor Vehicle Division," "Motor Vehicle Department," "Division of Motor Vehicles," or "Department of Motor Vehicles;" or
 2. The acronyms "ADOT," "DOT," "MVD," or "DMV."
- D.** Professional driver training school applicants must provide the following additional documents with the school's application packet:
 1. A copy of the school's complete curriculum, including a sample of all written examinations and answer keys, unless the curriculum is provided by the Department or private entity;
 2. Verification of liability insurance coverage reflecting at least the minimum amount prescribed under A.R.S. § 32-2393 for each motor vehicle used to provide instruction; and
 3. Diagrams detailing a minimum of three separate road skills test routes with narrative indicating all required maneuvers, if the applicant will be providing behind-the-wheel driver training.



R17-5-303. Professional Driver Training School Instructor Licensing; Eligibility and Application Requirements; Temporary Professional Driver Training Instructor License

- A.** An applicant for a professional driver training school instructor license shall:
 - 1. Apply through a professional driver training school licensed by the Department or private entity under A.R.S. § 32-2371 and R17-5-302.
 - 2. Be at least 21 years of age.
 - 3. Be of good moral character, and
 - 4. Meet all applicable licensing requirements under state law and this Article.
- B.** Each professional driver training instructor applicant shall complete an application packet that contains the following:
 - 1. An application, completed on a form approved by the Department;
 - 2. A copy of a high school diploma or equivalent;
 - 3. A copy of a valid Arizona driver license with endorsements representative of the vehicle to be used in training;
 - 4. Documentation prescribed under A.R.S. § 41-1080 indicating that the applicant’s presence in the United States is authorized under federal law;
 - 5. A motor vehicle record, dated within 30 days of the application date, which indicates that within the previous 39 months the applicant maintained a satisfactory driver record as defined in R17-5-301;
 - 6. Payment of license fees prescribed under A.R.S. § 32-2374 for each activity requested;
 - 7. Statements of positive endorsement or recommendation from at least three character references indicating each reference’s:
 - a. Name,
 - b. Address,
 - c. Contact phone number and email address,
 - d. Relationship to the instructor applicant, and
 - e. Number of years associated with the instructor applicant;
 - 8. An affidavit, as provided under A.R.S. § 32-2372, from the business manager of the professional driver training school certifying that the instructor applicant:
 - a. Has the necessary skills and abilities to give instruction on driver training at a professional level, and
 - b. Has completed at least 100 hours of combined classroom and vehicle training representative of the class of vehicle appropriate to the activity; and
 - 9. A copy of the fingerprint clearance card as required of the applicant under A.R.S. § 32-2372 and R17-5-304.
- C.** A business manager of a professional driver training school licensed under A.R.S. § 32-2371 and this Article shall submit to the Department or private entity the application packet for each instructor applicant.
- D.** Temporary Professional Driver Training Instructor License. The Department or private entity shall issue a temporary professional driver training instructor license to an instructor applicant after receiving a fully completed application packet with all of the required content and information, as provided under subsection (B).
- E.** The Department or private entity may issue an annual professional driver training school instructor license to an instructor applicant, if:
 - 1. The applicant successfully completes the training session and examination required under R17-5-306 prior to expiration of the temporary instructor license issued under subsection (D), and
 - 2. The applicant is otherwise qualified under this Article and state law to receive an annual professional driver training school instructor license.
- F.** The professional driver training school shall withdraw an application for a professional driver training school instructor license or the Department or private entity shall deny issuance of a license for an instructor applicant who fails to successfully complete the requirements under subsection (E) prior to expiration of the temporary professional driver training instructor license.

R17-5-304. Fingerprint Background Check; Fingerprint Clearance Card

- A.** An applicant for a license issued under A.R.S. Title 28, Chapter 8, Article 7.1 or Title 32, Chapter 23, Article 2 and this Article, as applicable, shall:
 - 1. Successfully complete a fingerprint background check conducted by the Arizona Department of Public Safety under A.R.S. § 41-1758.01, and
 - 2. Submit to the Department or private entity a copy of the fingerprint clearance card issued to the applicant under A.R.S. § 41-1758.03 as part of the application packet.
- B.** An applicant is responsible for all costs associated with obtaining the fingerprint clearance card.
- C.** A licensee, as applicable, shall maintain a valid fingerprint clearance card while licensed under this Article, and shall provide written notice to the Department or private entity within 10 calendar days if the fingerprint clearance card is cancelled, suspended, or revoked.

R17-5-305. Traffic Survival School Qualified Instructor Status; Eligibility and Application Requirements

- A.** An applicant for traffic survival school qualified instructor status shall:
 - 1. Apply through a traffic survival school licensed by the Department or private entity under A.R.S. § 28-3413 and this Article,
 - 2. Be at least 21 years of age,



3. Meet all applicable requirements under this Article, and
 4. Be of good moral character.
- B.** Each traffic survival school qualified instructor applicant shall complete an application packet that contains the following:
1. An application, completed on a form approved by the Department;
 2. A copy of a high school diploma or equivalent;
 3. A copy of a valid Arizona driver license;
 4. Documentation prescribed under A.R.S. § 41-1080 indicating that the applicant's presence in the United States is authorized under federal law;
 5. A motor vehicle record, dated within 30 days of the application date, which indicates that within the previous 39 months the applicant maintained a satisfactory driver record as defined under R17-5-301;
 6. An affidavit from the business manager of the traffic survival school certifying that the qualified instructor applicant has the necessary skills and abilities to give instruction at a professional level; and
 7. Payment of authorized fees as required by the private entity for application and administration of the instructor qualification process and for required instructor continuing education, which shall be negotiated by the Department and the private entity and shall be set forth in their contract.
- C.** An applicant for instructor qualification shall have successfully completed a traffic survival school educational workshop or similar curriculum approved by the Department or private entity before being permitted to instruct any traffic survival school course.
- D.** An applicant for instructor qualification shall have successfully completed an examination given for qualification of instructors by the Department or private entity as required under R17-5-306 before being permitted to instruct any traffic survival school course.
- E.** A business manager of a traffic survival school licensed under A.R.S. § 28-3413 and this Article shall submit to the Department or private entity the complete application packet for each qualified instructor applicant.

R17-5-306. Required Training and Examination of School and Instructor Applicants

- A.** An applicant for a school or instructor license or for instructor qualification under this Article shall attend Department-approved training and shall pass one or more required examinations administered by the Department or private entity before:
1. Issuance of an applicable school or instructor license, or
 2. Approval of the status as a traffic survival school qualified instructor.
- B.** The Department or private entity shall limit a professional driver training school instructor applicant to three opportunities within 90 days, based on scheduling, to successfully complete and achieve a passing score or grade on each examination required under this Section.

R17-5-307. Approval or Denial of Application; Hearing; Appeal

- A.** An application will not be approved by the Department or private entity unless it is properly and fully completed with all required supporting documents and applicable fees as identified in this Article.
- B.** The Department or private entity shall provide written notification to the professional driver training school or traffic survival school of the approval or denial of a license or qualification. A notice denying the applicant a license or qualification under this Article shall specify the basis for denial and indicate that the applicant may request a hearing on the denial with the Department's Executive Hearing Office within 30 calendar days of the date on the notice unless the application is withdrawn by the applicant.
- C.** The Department or private entity may issue a license to the school or professional driver training instructor applicant or deem a traffic survival school instructor applicant qualified when a completed application is received and the applicant has successfully completed all required training and examinations.
- D.** Unless the application is withdrawn by the applicant, the Department or private entity may deny an application in which the applicant has:
1. Failed to have or to document a satisfactory driver record as defined in R17-5-301;
 2. Failed to meet the good standing requirement of the Department as defined in R17-5-301;
 3. Failed to meet the fingerprint clearance card requirement under R17-5-304, as applicable;
 4. Made a material misrepresentation or misstatement on the application;
 5. Violated a federal or state law or rule; or
 6. Failed to complete all applicable application requirements under this Article.
- E.** If timely requested by an applicant under subsection (B), the Department shall schedule and conduct a hearing as prescribed under A.R.S. Title 41, Chapter 6, Article 6 and 17 A.A.C. 1, Article 5 for denial of a license.
- F.** An applicant whose application was previously denied by the Department or private entity for making a material misrepresentation or misstatement on the application is not eligible to reapply for 12 months from the date of previous denial.

R17-5-308. License Issuance; Effective Date; Expiration; Display

- A.** The Department or private entity may issue the following licenses upon determining an applicant meets all eligibility and application requirements provided under A.R.S. Title 28, Chapter 8, Article 7.1 or Title 32, Chapter 23 and this Article:
1. Professional driver training school.



- 2. Professional driver training school instructor.
- 3. Professional driver training school temporary instructor.
- 4. Traffic survival school, and
- 5. Established place of business (branch).
- B.** The Department or private entity shall license only a school that employs or contracts at least one professional driver training school instructor currently licensed under this Article or at least one currently qualified traffic survival school instructor, as applicable.
- C.** A license issued under this Article is:
 - 1. Effective on the date of issuance;
 - 2. Effective until its expiration on the last day of each calendar year, except:
 - a. A temporary instructor license issued under R17-5-303 shall expire 90 calendar days from the date of issuance or shall expire immediately if the applicant fails to meet a licensing requirement under this Article.
 - b. A license subject to an active duty military extension shall expire as provided under A.R.S. § 32-4301, and
 - c. A license subject to an individual’s limited length of authorized stay shall expire immediately if the individual’s presence in the United States is no longer authorized under federal law; and
 - 3. Nontransferable under any circumstances.
- D.** A licensed school shall prominently and publicly display all licenses currently in effect at the school’s principal places of business.
- E.** A professional driver training school instructor shall prominently display copies of all appropriate licenses during instruction.
- F.** A school shall surrender to the Department or private entity within three business days after the date of any license inactivation, as defined under R17-5-301, all:
 - 1. Licenses;
 - 2. Records pertaining to the school’s operations and the training of students; and
 - 3. Department-approved inventory, as applicable and as defined in this Article.

R17-5-309. Renewal of License

- A.** A completed renewal packet shall be submitted to the Department or private entity a minimum of 30 calendar days prior to license expiration. Notwithstanding A.A.C. R17-1-102, failure to submit a renewal packet prior to December 1st shall result in the applicant being subject to all original licensing requirements.
- B.** A school license renewal application packet shall include:
 - 1. A renewal application, completed on a form approved by the Department, including:
 - a. A list of all principals, contracted personnel, and employees of the school who are responsible for Arizona school operations if there have been any changes since the last renewal or original application; and
 - b. The signature of all principals on the completed application; and
 - 2. Payment of applicable license fees prescribed under A.R.S. § 28-3415 or 32-2374, for each activity, branch, and professional driver training school instructor.
- C.** Notwithstanding A.R.S. § 28-3415 or 32-2374, an annual license issued by the Department or private entity under this Article during the month of December shall not expire until the last day of the subsequent calendar year.

R17-5-310. Modifications of Original Application Information

- A.** A licensee or traffic survival school qualified instructor, making or learning of any change in the content of its original application information, other than ownership, shall provide written notification of the change, completed on a form approved by the Department and signed by a principal or business manager, to the Department or private entity within two business days of making the change.
- B.** A licensed school making a change to a principal or corporate structure shall submit to the Department or private entity a new application for licensing under this Article and all applicable fees, as a new applicant for licensure, within 10 calendar days of making the change.
- C.** A licensed school submitting a new application to the Department or private entity, as provided under subsection (B), is subject to the fingerprint clearance card requirement under R17-5-304 unless a valid fingerprint clearance card is already on file with the Department.
- D.** A licensed school shall provide written or electronic notification on a form, approved by the Department, to the Department or private entity within 10 calendar days of making any changes to the licensee’s contact person, business manager, or instructors.

R17-5-311. Professional Conduct; Conflicts of Interest; Advertising

- A.** A professional driver training school or traffic survival school representative or instructor shall not:
 - 1. Accompany a student into any Department office or office of an authorized third party driver license or driver license training provider; or
 - 2. Solicit an individual for any purpose on any premises rented, leased, operated, or owned by the Department or by an authorized third party driver license or driver license training provider.
- B.** A licensee or traffic survival school qualified instructor shall maintain good standing with the Department at all times while licensed or qualified under this Article.
- C.** A licensee shall not delegate or subcontract any licensed activity authorized by the Department or private entity under this Article.



- D.** The Department may take corrective action as provided under R17-5-321 and R17-5-323 if the Department or private entity determines or has reason to believe that a licensee or traffic survival school qualified instructor has demonstrated unethical conduct in the performance of official duties, including:
1. Verbally abusing, intimidating, or sexually harassing a student or potential student; or
 2. Making a false statement that is material to the activities regulated in this Article to any personnel of the Department or private entity.
- E.** A school shall use for all licensed activities and related advertising purposes only its official business name or its doing-business-as name as indicated on the license issued under this Article.
- F.** A licensee shall not represent or imply that it is the state of Arizona, the Department, the Motor Vehicle Division, or any government agency in any printed or electronic advertising or promotional material, except to the extent expressly authorized by the Department.
- G.** Licensee advertising shall not in any way:
1. Contain false, deceptive, or misleading information;
 2. Imply that the licensee can issue or guarantee issuance of a driver license or endorsement;
 3. Imply that the licensee can influence the Department or an authorized third party provider in the issuance of a driver license or endorsement;
 4. Imply that the licensee can provide any activity the licensee is not licensed by the Department or private entity to perform;
 5. Imply that preferential or advantageous treatment by the Department can be obtained; or
 6. Use or contain a term prohibited under R17-5-302(C).
- H.** A school licensed by the Department or private entity under this Article may state in its advertising that it is “licensed” by the Department, but shall not indicate that the school is approved, sanctioned, or in any other way endorsed or recommended by the Department.
- I.** All printed or electronic advertising or promotional material used, issued, or published by a licensee must be pre-approved by the Department or private entity.
- J.** An instructor, in any official capacity as an instructor or for compensation, shall not provide any classroom instruction or skills training for an immediate family member or a principal or employee of any school that employs the instructor.
- K.** A full-time employee of the state of Arizona shall not receive any direct pecuniary payments from any fees paid by those who attend a licensed school.

R17-5-312. Cancellation and Continuity of Services to Participants

- A.** A principal of a school ceasing operations or cancelling courses for any reason shall ensure continuity of services to each student currently enrolled in courses as follows:
1. A principal shall notify each student currently scheduled for, or enrolled in, a course that the school will be unable to provide the services previously offered 72 hours before the scheduled course; and
 2. A principal shall refund within four business days any payment received by the school for a course not yet provided.
- B.** A principal of a school ceasing operations shall provide to the Department or private entity, upon request, a written list of all students notified under subsection (A) with an explanation of the final resolution reached as a result of the principal’s contact with the student.
- C.** A principal’s failure to provide continuity of services to enrolled students as provided under this Section may result in the loss of the principal’s status of good standing with the Department.

R17-5-313. Method of Instruction; Curriculum

- A.** A licensed or qualified instructor shall teach only curriculum approved by the Department or private entity to a student attending a class.
- B.** A licensed or qualified instructor shall not conduct personal business during a time designated for instruction.
- C.** An instructor shall not solicit students during training classes for businesses other than those licensed by the Department or private entity.
- D.** A school or instructor shall ensure that a student has both fully attended and successfully completed a course before issuing a certificate of completion to the student.
- E.** A licensed traffic survival school must use all equipment required by the Department or private entity to present the curriculum to the students, including at a minimum, a computer, a PowerPoint compatible projector, a DVD player, and a display monitor visible to all students.
- F.** Professional driver training school approved curriculum. The Department shall approve, and may modify, in writing, a uniform curriculum that the professional driver training school shall teach as applicable for each activity the licensee is authorized to perform. The curriculum shall be a standard course of instruction used by a professional driver training school for the training and education of students.
- G.** Traffic survival school approved curriculum. The Department shall approve, and may modify, in writing a uniform curriculum that the traffic survival school shall teach. The curriculum shall be selected and approved on the basis of effectiveness in improving the safety and habits of drivers.

R17-5-314. Certificate of Completion

- A.** A qualified instructor for traffic survival school or high school driver education program shall accurately complete all required information on a certificate of completion:



1. The instructor providing the training listed on the certificate of completion shall sign the document once training is complete, or
 2. The instructor providing the final instruction or test shall sign the certificate of completion if training is provided by multiple instructors.
- B.** A qualified instructor shall provide a certificate of completion to the student at the conclusion of the course. A traffic survival school qualified instructor shall print the certificate of completion from the web site of the Department’s private entity or the Department’s web site, as applicable.
- C.** A high school qualified instructor shall not make a correction to a certificate of completion. If an error is made, the high school qualified instructor shall:
1. Void the certificate of completion.
 2. Write the word “VOID” or “VOIDED” clearly on the face of each voided certificate of completion, and
 3. Issue a new certificate of completion.
- D.** The Department may elect not to accept a certificate of completion that contains an alteration, erasure, correction, or illegible information.
- E.** A school or qualified instructor shall not withhold timely issuance of a certificate of completion due to a payment dispute between the school and the student.

R17-5-315. Record Retention

- A.** A licensed traffic survival school shall electronically transmit proof of course completion to the Department immediately following each student’s satisfactory completion of a traffic survival school course in a manner and with the basic computer equipment prescribed by the Department or private entity. At a minimum, the computer equipment must be able to temporarily store, and electronically transmit over the internet, the certificates of completion required by the Department or private entity.
- B.** All records pertaining to a licensed school’s operations and training of students shall be:
1. Stored and securely maintained at the licensee’s principal place of business.
 2. Available for inspection by the Department or private entity during business hours, and
 3. Retained by the school for three years from the date of course completion.
- C.** A licensed school shall establish and maintain separate records for each authorized activity.
- D.** A licensed school shall maintain, for three years, attendance records for each class conducted.

R17-5-316. Traffic Survival School Department-Approved Inventory

- A.** A traffic survival school licensed under this Article shall:
1. Prohibit public or other unauthorized access to all Department-approved inventory, and
 2. Submit to the Department or private entity a written report detailing the circumstances surrounding the loss or theft of any missing or stolen Department-approved inventory.
- B.** A licensee shall use only Department-approved inventory.
- C.** A school principal or business manager shall submit to the Department or private entity a written or electronic request for any additional Department-approved inventory the school may require.

R17-5-317. School Responsibilities

- While licensed by the Department or private entity under A.R.S. § 28-3413 or 32-2371 and this Article, the school shall:
1. Comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and applicable federal regulations by providing appropriate auxiliary aids and services to students with disabilities requesting reasonable accommodation;
 2. Comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and applicable federal regulations. As a requirement of compliance, the school shall:
 - a. Provide public notification of its compliance with Title VI by displaying a Department-approved notice to the public;
 - b. Take reasonable steps to ensure that Limited English Proficient (non-English speaking) customers have meaningful access to the services or activities performed under this Article, which includes, providing the school’s services and authorized transactions in languages other than English and providing these services at no additional cost to the customer or student;
 - c. Report promptly any customer complaints alleging discrimination or failure to meet the requirements of this Section to the Department’s Civil Rights office for processing and investigation. The school shall immediately upon receipt of such complaints provide access to its facilities, books, records, accounts, and other sources of information as may be determined or requested by the Department to be pertinent, in order to ascertain compliance with Title VI; and
 - d. Inform and formally train all school officers, principals, employees, and contractors on the requirements to comply with Title VI; and
 3. Provide written notice to the Department or private entity within twenty-four hours if the driver license of any of the school’s principals, managers, or instructors is suspended, revoked, cancelled, or disqualified.

R17-5-318. Instructor Responsibilities

While licensed or qualified by the Department or private entity under A.R.S. § 32-2372 and this Article to give instruction, an instructor shall:



1. Attend all ongoing training and continuing education as required by the Department or private entity;
2. Provide written notice to the licensed professional driver training school or traffic survival school within twenty-four hours if the instructor's driver license is suspended, revoked, cancelled, or disqualified;
3. Conduct training and courses only at training sites and on driver road training routes approved by the Department or private entity;
4. Follow and complete the curriculum approved by the Department or private entity for each course conducted; and
5. Conduct at least two courses in a calendar year.

R17-5-319. Traffic Survival Schools

- A.** The Department shall assign an individual only to a traffic survival school licensed by the Director under this Article.
- B.** A traffic survival school or qualified instructor shall allow only students who provide acceptable proof of traffic survival school assignment to register for and attend a traffic survival school course. The following documents are acceptable proof of assignment:
1. Notice of traffic survival school assignment or suspension for failure to attend traffic survival school.
 2. An order from a court or other appropriate tribunal from Arizona or another state indicating traffic survival school assignment.
 3. Traffic survival school proof of assignment form obtained from the Department.
 4. Electronic verification of traffic survival school assignment through the Department's private entity, or
 5. Motor vehicle record.
- C.** On enrollment of a student in, or on a student's attendance of, a traffic survival school course, a licensed traffic survival school shall collect the statutory enrollee fee provided in A.R.S. § 28-3411, unless the student has paid the enrollee fee in advance. The licensed traffic survival school also shall collect the records fee prescribed by A.R.S. § 28-446, if applicable, before the student attends the traffic survival school course. The licensed traffic survival school shall fully remit these fees to the private entity within four business days after a student completes the traffic survival school course. If a licensed traffic survival school does not timely remit the enrollee fees, the Department or private entity may notify the traffic survival school that its prospective future students will be required to prepay the enrollee fees until remittances are current. The amount of the enrollee fee charged by the private entity shall be negotiated by the Department and the private entity and shall be set forth in their contract.
- D.** A traffic survival school or qualified instructor shall not:
1. Conduct courses with a number of students in excess of the classroom's fire safety capacity reported to the Department or private entity by the licensee under R17-5-321;
 2. Conduct courses with more than 30 students per qualified instructor;
 3. Exclude a translator, the Director, the private entity, or Department personnel from attending courses;
 4. Issue a certificate of completion to a student who has not fully completed the required curriculum; or
 5. Issue a certificate of completion for a student whom the instructor did not personally instruct.
- E.** A licensee shall retain for three years all copies of the student's acceptable proof of assignment and the signed class roster of attending students.
- F.** The private entity may develop and administer a web site that allows individuals who are assigned to traffic survival school to locate and enroll online in traffic survival school courses.
- G.** Only an individual who meets the qualifications under R17-5-305, remains in compliance with this Article, and who is granted and retains traffic survival school qualified instructor status, may be allowed to teach individuals assigned by the Department to attend a licensed traffic survival school.
- H.** A licensed traffic survival school must hold at least one course every 60 days at the school's established place of business and each branch, as applicable.

R17-5-320. High School Driver Education Program

- A.** The following definitions apply to this Section:
1. "Accountable forms inventory" means a series of distinctly and consecutively numbered documents provided by the Department to an instructor qualified under this Section for:
 - a. Recording in a log, the assigned number of each document completed, issued, or voided by a high school qualified instructor; and
 - b. Reporting to the Department the assigned number of each document completed, issued, or voided by a high school qualified instructor.
 2. "Certified instructor report" means a report prepared and certified monthly by each high school qualified instructor listing all certificates of completion that were issued and voided.
- B.** The Department shall cooperate with the Arizona Department of Education, under A.R.S. §§ 28-3174 and 32-2353, to enable the issuance of a certificate of completion to a regularly enrolled full-time student as part of a high school driver education program.
- C.** The Director or private entity shall qualify an instructor approved by the Arizona Department of Education to issue a certificate of completion.
- D.** A high school qualified instructor may issue a certificate of completion to a regularly enrolled full-time student who:
1. Successfully completes the classroom course of instruction required by the Arizona Department of Education, which may waive the student's requirement to take the Department's written test; or



- 2. Successfully completes the skills course of instruction required by the Arizona Department of Education, which may waive the student’s requirement to take the Department’s skills test.
- E. A high school qualified instructor shall submit to the Department, no later than the fifth day of each month, all certified instructor reports and certificates of completion issued by the school during the preceding month. A high school qualified instructor who does not issue any certificates of completion during the preceding month shall submit to the Department a certified instructor report indicating “no activity.”
- F. A high school qualified instructor shall provide the status of certificates of completion to the Department, upon request, by identifying the certificates by number as either issued, not issued, lost, or stolen.
- G. A high school representative shall promptly return all unused or un-issued certificates of completion to the Department, upon request.
- H. A certificate of completion constitutes accountable forms inventory to be secured at all times by the high school qualified instructor or other designee of the high school and any misuse, fraud, or negligence by a high school qualified instructor involving the form in consultation with the Arizona Department of Education pursuant to A.R.S. § 28-3174 may lead to Department disqualification of the instructor’s authorization to issue the form.
- I. A high school qualified instructor shall submit to the Department all reports required under this Article by regular mail, certified mail, registered mail, electronic mail, or personal delivery. The following dates shall be used to determine whether a report was received within the required timeframes established under this Section:
 - 1. For regular mail, the postmark date;
 - 2. For certified or registered mail, the date of receipt by the designated delivery service;
 - 3. For electronic mail, the send date; and
 - 4. For personal delivery, the Department’s time and date stamp of receipt.
- J. If a high school qualified instructor fails to timely or accurately submit to the Department a certified instructor report required under this Section, the Department may initiate corrective action. The Department may:
 - 1. Provide an oral or written warning for a first untimely or inaccurate report.
 - 2. Send a letter of concern for a second untimely or inaccurate report in a 12-month period, and
 - 3. Request that the Arizona Department of Education disqualify a high school qualified instructor from issuing a certificate of completion under this Article for a third untimely or inaccurate report in a 12-month period.
- K. A high school shall develop and maintain a driver education class training record for each student, which shall include at least the following information:
 - 1. Student’s name;
 - 2. Student’s phone number;
 - 3. Student’s driver license or instruction permit number and its expiration date;
 - 4. Fee amounts collected for any related services;
 - 5. Date, type, and duration of all classroom lessons and practical instruction;
 - 6. Make, model, and license plate number of any motor vehicle used to conduct training, as applicable;
 - 7. Date and results of all tests administered;
 - 8. Number of certificates of completion issued; and
 - 9. Name and Department-issued number of each instructor who conducted a lesson or test.

R17-5-321. Periodic Audits, Monitoring, Inspections, and Investigations

- A. To determine compliance with license requirements, qualification requirements and applicable federal and state laws and rules, the Department or private entity may:
 - 1. Monitor for compliance by attending any licensed school’s course or other activities on a scheduled or unscheduled basis;
 - 2. Audit for compliance by performing periodic reviews of the operations, facilities, equipment, and records;
 - 3. Inspect for compliance by making random, on-site visits during posted business hours; or
 - 4. Investigate for compliance by interviewing or submitting questions to school owners, instructors, and former or current students.
- B. Failure of a school or instructor to allow or cooperate in an audit, monitoring, inspection, or investigation may result in the Department issuing an immediate cease and desist order or requesting a hearing for suspension or revocation of a license issued under this Article.
- C. During an audit, monitoring, inspection, or investigation of a licensee, the Department, the private entity, a law enforcement agency, or employee of the Federal Motor Carrier Safety Administration may:
 - 1. Review and copy paper and electronic records;
 - 2. Examine the licensee’s principal and established place of business, all branches, training, or road training sites; and
 - 3. Interview the school’s employees, instructors, and customers.
- D. A licensee shall make records available for audit, monitoring, inspection, or investigation at the licensee’s principal place of business.
- E. After an audit or monitoring, the Department or private entity shall send a report of the results in writing to the school.
- F. If instances of non-compliance are found as a result of an audit, monitoring, inspection, or investigation, the Department or private entity may determine if either of the following actions is required:
 - 1. An informal meeting to discuss findings, or
 - 2. A written compliance plan addressing findings.
- G. If greater instances of non-compliance are found as a result of an audit, monitoring, inspection, or investigation, the



Department may determine if either of the following actions is required:

1. A probationary period; or
 2. A request for a hearing to cancel, suspend, or revoke a license to operate a school or conduct instruction under this Article.
- H.** The Department or private entity may issue a notice of corrective action to a licensee if the licensee fails to comply with a warning letter, with an audit, inspection or investigation request, a monitoring request, or with written findings provided by the Department or private entity. Only the Department may initiate a corrective action provided under subsection (G).
- I.** Each site used by a school as an office, training location, or classroom location shall:
1. Be inspected and approved by the Department or private entity prior to initial use or relocation.
 2. Be licensed by the Department or private entity, and
 3. Have office hours displayed in a conspicuous location at each site open to the public during the posted hours.
- J.** There shall be a clearly defined and visible separation between a school and any other business if a professional driver training school or traffic survival school is located in an office building, store, or other physical structure shared with any other business or enterprise.
- K.** Any request by a school for inspection and approval of a site on a recognized Indian reservation shall contain the written permission of the appropriate Tribal authority.
- L.** Any request by a school for inspection and approval of a site on a military base shall contain the written permission of the appropriate military authority.
- M.** A school shall submit to the Department or private entity a copy of the written lease or contract agreement or deed of ownership, if the site is owned by the school, for each site, as applicable.
- N.** Any request by a traffic survival school for inspection and approval of a site to be used for educational sessions shall include the approved fire safety capacity of the classroom(s) at that site and shall be signed by a principal of the traffic survival school.

R17-5-322. Cease and Desist Order; Hearing and Appeal

- A.** The Department may immediately issue and serve a cease and desist order on a licensee, as prescribed under A.R.S. § 28-3417 or 32-2394, if the Department or private entity has reasonable cause to believe that the licensee has violated or is violating a federal or state law or rule relating to a duty prescribed under this Article.
- B.** A cease and desist order issued by the Department to a licensee under this Article shall:
1. Require the person on receipt of the order to cease and desist from further engaging in the prohibited conduct or in any activity authorized under this Article as specified in the cease and desist order, and
 2. Provide information regarding the person's right to request a hearing to show cause as to why the Department's order should not be upheld.
- C.** On failure or refusal of a licensee to comply with a cease and desist order, or after a requested hearing, the Department may cancel, suspend, or revoke the license of the licensee under A.R.S. § 28-3416 or 32-2391 and R17-5-323.

R17-5-323. Non-compliance; Notice of Corrective Action; Cancellation, Suspension, or Revocation of a Professional Driver Training School or Instructor License or Traffic Survival School License; Hearing and Appeal

- A.** The following definitions apply to this Section:
1. "Cancellation" means a Department action that withdraws a license issued under A.R.S. Title 28, Chapter 8, Article 7.1 or Title 32, Chapter 23 and this Article.
 2. "Revocation" means a Department action that terminates, for an indefinite period of time, a licensee's privilege to operate a school or conduct instruction under this Article.
 3. "Suspension" means a Department action that prohibits, for a stated period of time, a licensee from operating as a school or instructor under this Article.
- B.** The Department or private entity may initiate corrective action on a licensee or a traffic survival school qualified instructor as provided under A.R.S. Title 28, Chapter 8, Article 7.1, Title 32, Chapter 23, Article 3, or Title 41, Chapter 6, Article 6, and this Article, if satisfactory evidence shows that a licensee or traffic survival school qualified instructor, individually or collectively:
1. Violated a federal or state law or rule relating to a duty prescribed under this Article;
 2. Failed to maintain a status of good standing as defined under R17-5-301; or
 3. Provided false, deceptive, or misleading information to the Department or private entity in either an application or in response to an audit or inspection conducted pursuant to R17-5-321.
- C.** Corrective action initiated under subsection (A), depending on the severity or number of violations, may result in an action by the Department to impose a term of probation; issue a cease and desist order under A.R.S. § 28-3417 or 32-2394; or request a hearing to cancel, suspend, or revoke an existing license under A.R.S. § 28-3416 or 32-2391.
- D.** A notice of corrective action issued by the Department requesting a hearing to cancel, suspend, or revoke an existing license shall include:
1. The grounds for the Department's action and its request for a hearing before the Department's Executive Hearing Office; and
 2. A brief written statement of the hearing and appeal rights for the cancellation, suspension, or revocation of a professional driver training school or instructor license or a traffic survival school license, as provided under A.R.S. § 28-3416 or 32-2391.



- E.** A notice of corrective action issued by the Department to cancel, suspend, or revoke an existing qualification of a traffic survival school instructor shall include:
 - 1. The grounds for the Department's action; and
 - 2. A brief written statement of the hearing and appeal rights for the cancellation, suspension, or revocation of the qualification of a traffic survival school instructor, as provided in A.R.S. §§ 41-1001(12) and 41-1064.
- F.** The Department shall provide notice and conduct hearings as prescribed under A.R.S. Title 41, Chapter 6, Article 6, and 17 A.A.C. 1, Article 5, as applicable.