

PROPOSED RULEMAKINGS

DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 84]

Dual Control Learner's Permit

The Department of Transportation (Department), under the authority in 75 Pa.C.S. §§ 1504(c), 1505—1507, 1514(b), 1514(c) and 6103, proposes to amend §§ 84.1, 84.2 and 84.3 (relating to purpose; issuance of special learner's permit; and application) to read as set forth in Annex A.

Purpose of Chapter

The purpose of Chapter 84 (relating to dual control learner's permit) is to establish a procedure for issuance of a dual control learner's permit to a driver or applicant.

Purpose of the Proposed Rulemaking

The purpose of this proposed rulemaking is to update the process and expand the eligibility for obtaining a dual control learner's permit. A dual control learner's permit authorizes the permit holder to drive a motor vehicle equipped with a second operable brake pedal accessible to a trained instructor in the front passenger seat. This chapter has not been amended since 1982.

Amendments need to be made to expand the criteria used to determine eligibility. The current regulations authorize the issuance of the dual control learner's permit only to a driver or applicant who fails a driving exam. There have been a number of instances when an applicant with a medical condition has turned 16 years of age and he does not qualify because a driving exam has never been failed. In addition, requests are received for a dual control learner's permit from drivers that have had a stroke or another medical condition that requires rehabilitation. The driver's physician may recommend driver training and testing to determine competency. In these situations, the drivers would benefit from the one-on-one training and instruction.

Summary of Significant Amendments

Proposed amendments to § 84.1 authorize the issuance of a dual control learner's permit to a driver or applicant that failed a driving exam or had his driver's license recalled or to a nondriver who may benefit from training only available through a dual control learner's permit process.

Proposed amendments to § 84.2(a)(1) extend the validity of a dual control learner's permit from 120 days to 12 months, which is consistent with the validity of other learner's permits. This proposed amendment also requires the applicant to be enrolled in a driver training program and outlines that a driver will only be issued two dual control learner's permits within a 5-year period.

Proposed amendments to § 84.2(a)(2) clarify that a driver whose license has expired or is suspended will be required to pay the applicable fees to renew his license before the dual control learner's permit will be issued so that a license can be issued when the required tests have been passed.

Proposed amendments to § 84.2(a)(3) require a driver that has never been licensed to successfully pass the general knowledge test prior to being issued the dual control learner's permit.

Proposed amendments to § 84.2(b) specify that the dual control learner's permit holder may only take three driver's tests on one permit. This is consistent with the issuance of other learner's permits.

Proposed amendments to § 84.3(a) require a letter of enrollment from the approved driver training program to accompany the dual control learner's permit application and fee.

Proposed amendments to § 84.3(b) require the permit to be mailed directly to the approved driver training program. The driver training program will retain the dual control learner's permit and the permit will be in the possession of the trainer during the in-vehicle training.

Proposed amendments to § 84.3(c) require the driver trainer to return the permit to the Department for cancellation if the permit holder is removed or withdraws from the training program.

Persons and Entities Affected

These regulations affect persons who, because of their medical conditions or otherwise, are required to obtain one-on-one instruction with a certified driver training in a dual control vehicle to become licensed.

Fiscal Impact

Implementation of these regulations will not require the expenditure of significant additional funds by the Commonwealth or local municipalities. These regulations will not impose additional costs on the medical community.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on June 20, 2012, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

Effective Date

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin* following appropriate evaluation of comments, suggestions or objections received during the public comment period.

Sunset Provisions

The Department is not establishing a sunset date for these regulations. These regulations are needed to administer provisions required under 75 Pa.C.S. (relating to Vehicle Code). The Department will continue to closely monitor these regulations for their effectiveness.

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Janet L. Dolan, Director, Bureau of Driver Licensing, Department of Transportation, P. O. Box 68676, Harrisburg, PA 17106-8676 within 30 days of the publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

Contact Person

The contact person for technical questions about the proposed rulemaking is Scott Shenk, Manager, Driver Safety Division, Bureau of Driver Licensing, Department of Transportation, P. O. Box 68676, Harrisburg, PA 17106-8676, (717) 787-2977.

BARRY J. SCHOCH, P.E.,
Secretary

Fiscal Note: 18-424. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 67. TRANSPORTATION

PART I. DEPARTMENT OF TRANSPORTATION

Subpart A. VEHICLE CODE PROVISIONS

ARTICLE IV. LICENSING

CHAPTER 84. [DUAL-CONTROL] DUAL CONTROL LEARNER'S PERMIT

§ 84.1. Purpose.

The purpose of this chapter is to establish a procedure for issuance of a [**dual-control**] **dual control** learner's permit to a driver or applicant [**who fails**] **under one of the following circumstances:**

(1) **The driver failed a driving examination required or authorized under 75 Pa.C.S. § 1514(b) or (c) (relating to expiration and renewal of drivers' licenses).**

(2) **The driver's license has been recalled as authorized under 75 Pa.C.S. § 1519(c) (relating to determination of incompetency).**

(3) **A nondriver was reported as required under 75 Pa.C.S. § 1518(b) (relating to reports on mental or physical disabilities or disorders) and the health care provider determines that the potential driver may benefit from training only available through a dual control learner's permit.**

§ 84.2. Issuance of special learner's permit.

(a) *General rule.* Upon application of a driver or applicant [**who had failed a driving examination required or authorized under 75 Pa.C.S. § 1514(b) or (c) (relating to expiration and renewal of driver's license)**], the Department will issue a special learner's permit authorizing the permittee to drive only a dual control motor vehicle while accompanied by and under the immediate supervision of an instructor of an approved driver training program [**if the driver or applicant**

satisfies the Department that there is a reasonable likelihood that he will be able to pass the driving examination with additional driver training].

(1) The special learner's permit will be valid for [**a period of 120 days**] **12 months**. It will be reissuable for an additional [**120-day period unless the permittee has failed the three examinations authorized in subsection (b)**] **12 months provided the applicant is enrolled and remains enrolled in an approved driver training program. [No further reissuance will be made without a showing of good cause.] A driver will only be issued two dual control learner's permits within a 5-year period.**

(2) The driver's operating privileges, which will have been recalled under 75 Pa.C.S. § 1519(c) (relating to determination of incompetency), will be temporarily restored only for the limited purpose and term of the special learner's permit.

(3) **A driver whose license has expired or is suspended will be required to pay the applicable fees before the dual control learner's permit will be issued to ensure that a license can be issued when all required tests have been passed.**

(4) **As required under 75 Pa.C.S. § 1508 (relating to examination of applicant for driver's license), a driver who has not been licensed shall successfully pass the general knowledge test prior to being issued a dual control learner's permit.**

(b) *Examination.* Upon successful completion of an approved driving training program, the permittee may undergo a driver's examination no more than three times [**within a 120-day period**] **on one dual control learner's permit**. The driver's examination will be conducted by a person authorized by the Department. Upon successful completion of the examination, the driver's operating privilege will be renewed or restored, or a driver's license will be issued to the applicant.

§ 84.3. Application.

(a) *General rule.* A request for a [**dual-control**] **dual control** learner's permit shall be submitted on the appropriate form to the Bureau of Driver Licensing, together with the required fee **and letter of enrollment from the approved driver training program.**

(b) *Retention.* Upon issuance, the dual control learner's permit will be mailed directly to the approved driver training program. The driver training program will retain the dual control learner's permit. During in-vehicle instruction, the driver trainer will be in possession of the dual control learner's permit at all times.

(c) *Cancellation.* Upon removal or withdrawal from the program, the driver trainer will return the dual control learner's permit to the Department for cancellation.

[Pa.B. Doc. No. 12-1199. Filed for public inspection June 29, 2012, 9:00 a.m.]