

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 3226

(SENATE AUTHORS: HOUSLEY, Hall, Anderson, P., Limmer and Relph)

DATE
02/17/2020

D-PG

Introduction and first reading
Referred to Transportation Finance and Policy

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to motor vehicles; authorizing third-party testers to conduct
1.3 behind-the-wheel driving exams; authorizing rulemaking; amending Minnesota
1.4 Statutes 2018, section 171.13, subdivision 1; proposing coding for new law in
1.5 Minnesota Statutes, chapter 171.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2018, section 171.13, subdivision 1, is amended to read:

1.8 Subdivision 1. **Examination subjects and locations; provisions for color blindness,**
1.9 **disabled veterans.** (a) Each applicant for a driver's license must pass the examination
1.10 required by this section. Except as otherwise provided ~~in this~~ by section 171.135, the
1.11 commissioner ~~shall examine each applicant for a driver's license by such agency as the~~
1.12 ~~commissioner directs~~ must conduct the examination. This examination must include:

1.13 (1) a test of the applicant's eyesight;

1.14 (2) a test of the applicant's ability to read and understand highway signs regulating,
1.15 warning, and directing traffic;

1.16 (3) a test of the applicant's knowledge of (i) traffic laws; (ii) the effects of alcohol and
1.17 drugs on a driver's ability to operate a motor vehicle safely and legally, and of the legal
1.18 penalties and financial consequences resulting from violations of laws prohibiting the
1.19 operation of a motor vehicle while under the influence of alcohol or drugs; (iii) railroad
1.20 grade crossing safety; (iv) slow-moving vehicle safety; (v) laws relating to pupil
1.21 transportation safety, including the significance of school bus lights, signals, stop arm, and
1.22 passing a school bus; (vi) traffic laws related to bicycles; and (vii) the circumstances and
1.23 dangers of carbon monoxide poisoning;

2.1 (4) an actual demonstration of ability to exercise ordinary and reasonable control in the
2.2 operation of a motor vehicle; and

2.3 (5) other physical and mental examinations as the commissioner finds necessary to
2.4 determine the applicant's fitness to operate a motor vehicle safely upon the highways.

2.5 (b) Notwithstanding paragraph (a), no driver's license may be denied an applicant on
2.6 the exclusive grounds that the applicant's eyesight is deficient in color perception. War
2.7 veterans operating motor vehicles especially equipped for disabled persons, if otherwise
2.8 entitled to a license, must be granted such license.

2.9 (c) The commissioner shall make provision for giving the examinations under this
2.10 subdivision either in the county where the applicant resides or at a place adjacent thereto
2.11 reasonably convenient to the applicant.

2.12 (d) The commissioner shall ensure that an applicant is able to obtain an appointment for
2.13 an examination to demonstrate ability under paragraph (a), clause (4), within 14 days of the
2.14 applicant's request if, under the applicable statutes and rules of the commissioner, the
2.15 applicant is eligible to take the examination.

2.16 **EFFECTIVE DATE.** This section is effective January 1, 2022.

2.17 Sec. 2. **[171.135] THIRD-PARTY TESTER; BEHIND-THE-WHEEL**
2.18 **EXAMINATION.**

2.19 **Subdivision 1. Definitions.** (a) For purposes of this section, the following definitions
2.20 have the meanings given.

2.21 (b) **"Behind-the-wheel examination"** means the demonstration of ability to exercise
2.22 ordinary and reasonable control in the operation of a motor vehicle as required by section
2.23 171.13, subdivision 1, paragraph (a), clause (4).

2.24 (c) **"Third-party tester"** is a person who is authorized by the commissioner to conduct
2.25 behind-the-wheel examinations.

2.26 (d) **"Applicant"** means the individual taking the behind-the-wheel examination as part
2.27 of an application for a driver's license.

2.28 **Subd. 2. Third-party tester; authority.** (a) An authorized third-party tester may conduct
2.29 Class D behind-the-wheel examinations pursuant to this section. This section does not apply
2.30 to the commissioner or employees of the state that conduct behind-the-wheel examinations.

3.1 (b) The commissioner must provide a training process that allows an individual to become
3.2 an authorized third-party tester. Once a third-party tester satisfactorily completes the training,
3.3 the third-party tester is authorized to conduct behind-the-wheel examinations.

3.4 (c) A third-party tester is subject to the same rules and regulations as examiners employed
3.5 by the state, including but not limited to background checks. The third-party tester must
3.6 pay the cost for a required background check. An examination conducted by a third-party
3.7 tester has the same force and effect as an examination conducted by the commissioner.

3.8 Subd. 3. **Examination.** (a) The third-party tester must conduct the examination in the
3.9 same manner and subject to the same requirements as an examination conducted by the
3.10 commissioner. The commissioner must provide to each third-party tester all relevant
3.11 information on how the commissioner conducts behind-the-wheel examinations and at a
3.12 minimum must provide:

3.13 (1) the criteria on which applicants must be tested during the behind-the-wheel
3.14 examination;

3.15 (2) the method of scoring and evaluating the applicant;

3.16 (3) the method and criteria for determining test routes; and

3.17 (4) the necessary forms or paperwork to conduct the examination.

3.18 (b) If the third-party tester also provides behind-the-wheel instruction for student drivers,
3.19 the third-party tester must not use the same routes for training and conducting the
3.20 behind-the-wheel examination.

3.21 (c) A third-party tester who conducts an examination for a restricted license for farm
3.22 work must satisfy the same conditions that are required of the commissioner by section
3.23 171.041. The third-party tester must document that the requirements are met and include
3.24 that documentation as part of the applicant's record required by subdivision 4.

3.25 (d) Upon an applicant passing the examination, the third-party tester must provide the
3.26 applicant with certification of passing the examination. The certification must be in a form
3.27 prescribed by the commissioner. The applicant must present this certification to the
3.28 commissioner when submitting an application for a driver's license.

3.29 Subd. 4. **Records; data.** (a) The third-party tester must maintain a record for each
3.30 applicant that takes the examination. The applicant record must include at a minimum: (1)
3.31 the applicant's name and age; (2) the date of the examination; (3) the form used to score the
3.32 applicant's performance on the examination; (4) whether the applicant passed or failed the
3.33 examination; and (5) all documentation related to the examination. Immediately after

4.1 completing an examination, the third-party tester must submit to the commissioner the
4.2 record for the applicant that took the examination. The third-party tester must also submit
4.3 a monthly report to the commissioner including applicant records for each applicant that
4.4 was examined in the previous month.

4.5 (b) All third-party testers are subject to section 13.05, subdivision 11.

4.6 Subd. 5. **Prohibitions.** The third-party tester must not conduct a behind-the-wheel
4.7 examination of a person whom the tester knows personally. Providing driving instruction
4.8 to an individual does not, by itself, constitute a personal relationship between that person
4.9 and the third-party tester.

4.10 Subd. 6. **Oversight.** (a) The commissioner must monitor and audit the examinations
4.11 conducted by third-party testers. The commissioner must share the results of any audit with
4.12 the third-party tester.

4.13 (b) The commissioner must establish a process to investigate violations of the law and
4.14 complaints made against third-party testers. The commissioner may investigate complaints,
4.15 issue corrective actions, and discontinue authorization of a third-party tester if the tester
4.16 fails to comply with state laws and regulations. The third-party tester must be given notice
4.17 of the investigation and be allowed to participate in the investigation.

4.18 Subd. 7. **Indemnification.** An applicant shall agree to indemnify and hold harmless the
4.19 third-party tester and the tester's employer, the state and all state officers, employees, and
4.20 agents of the state from and against all claims, losses, damages, costs, and other proceedings
4.21 made, sustained, brought, or prosecuted in any manner based on or occasioned by or
4.22 attributive to any injury, infringement, or damage rising from any act or omission of the
4.23 third-party tester or the tester's employer in the performance of examination duties.

4.24 **EFFECTIVE DATE.** This section is effective January 1, 2022.

4.25 Sec. 3. **RULEMAKING.**

4.26 For the purposes of implementing the requirements of this act, the commissioner of
4.27 public safety may amend existing rules or adopt permanent rules. If the commissioner does
4.28 not adopt rules by January 1, 2022, rulemaking authority under this section is repealed.
4.29 Rulemaking authority under this section is not continuing authority to amend or repeal rules.
4.30 Notwithstanding Minnesota Statutes, section 14.125, any additional action on rules after
4.31 adoption must be under specific statutory authority to take the additional action.

4.32 **EFFECTIVE DATE.** This section is effective the day following final enactment.