

DEPARTMENT OF TRANSPORTATION
DIVISION OF MOTOR VEHICLES

Statutory Authority: 21 Delaware Code, Sections 302, 2708, 2709, 4362, 4363 and 4364
(21 **Del.C.** §§302, 2708, 2709, 4362, 4363 & 4364)
2 **DE Admin. Code** 2222

PROPOSED

PUBLIC NOTICE

The Delaware Division of Motor Vehicles gives notice of intent to adopt proposed Division of Motor Vehicles Regulation 2222 relating to school bus driver qualifications and endorsements.

Any person who wishes to make written suggestions, briefs or other written materials concerning this proposed new regulation must submit the same to Scott Vien, CDL Program Manager, Delaware Division of Motor Vehicles, P.O. Box 698, Dover, Delaware 19903, or by fax to (302) 739-2602 by August 31, 2008.

2222 School Bus Driver Qualifications and Endorsements
(Formerly Regulation No. 35)

1.0 Authority

The authority to promulgate this regulation is 21 **Del.C.** §302, 21 **Del.C.** §2708, 21 **Del.C.** §2709, 21 **Del.C.** §4362, 21 **Del.C.** §4363, and 21 **Del.C.** §4364.

2.0 Purpose

- 2.1 This regulation establishes administrative procedures for the issuance, renewal, removal, and reinstatement of the school bus (S) endorsement on a Delaware commercial driver licenses.
- 2.2 The Division of Motor Vehicles (DMV) uses this regulation to initiate program requirements.

3.0 Applicability

This regulation interprets §2708 and §2709 of Title 21 of the **Delaware Code**.

4.0 Definitions.

The following words and terms, when used in the regulation, should have the following meaning unless the context clearly states otherwise:

“**Air Brake Restriction**” means a restriction that prohibits the CDL holder from operating a school bus (or any commercial motor vehicle) which is equipped with air brakes. The CDL will be marked with an “L”.

“**Commercial Driver License (CDL)**” means a driver license issued in accordance with the requirements of 21 **Del.C.** Chapter 26 which authorizes the holder to operate a certain class or classes of a commercial motor vehicle. The classes of a CDL are as follows:

CDL CLASS A - Required for the operation of vehicles with a registered, actual or gross vehicle weight rating (GVWR) of 26,001 or more pounds and the vehicle is towing a vehicle with a registered, actual or GVWR of 10,000 or more pounds. The holder of a Class A CDL may, with proper endorsement, operate any Class B or Class C vehicle.

CDL CLASS B - Required for the operation of vehicles with a registered, actual or GVWR of 26,001 or more pounds and not towing a vehicle with a GVWR of 10,000 or more pounds. The holder of a Class B CDL may, with proper endorsement, operate any Class C vehicle.

CDL CLASS C - Required for vehicles with a GVWR less than 26,001 pounds when the vehicle is designed to transport 16 or more passengers, including the driver, or for vehicles required to be placarded for carrying hazardous materials.

“Commercial Motor Vehicle (CMV)” means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- Has a gross combination weight rating (GCWR) of 26,001 pounds or more inclusive of a towed unit(s) with a gross vehicle weight rating (GVWR) of more than 10,000 pounds; or
- Has a gross vehicle weight rating (GVWR) of 26,001 pounds or more; or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is required to be placarded for the transportation of hazardous materials.

“Green Card” means a card issued by the district/school transportation supervisor that certifies satisfactory completion of an annual Department of Education (DOE) physical certification. The Green Card is to be in the immediate possession of the school bus driver at all times, while operating or in control of a school bus except when in possession of a CDL permit and undergoing training or evaluation and accompanied by a Certified Delaware School Bus Driver Trainer.

“P” Endorsement” means an endorsement that authorizes a driver to transport passengers in all classes of commercial motor vehicles.

“Q” Endorsement” means an endorsement that authorizes a driver to transport passengers in only Class B and Class C commercial motor vehicles.

“R” Endorsement” means an endorsement that authorizes a driver to transport passengers in only Class C commercial motor vehicles.

“S” Endorsement” means an endorsement that indicates the CDL holder meets the requirements of 21 Del.C. §2708 and this regulation and is authorized to operate a school bus. The CDL must also display a passenger (P, Q or R) endorsement to specify the class of commercial vehicle the driver may operate when transporting passengers.

“School Bus” means every motor vehicle which has the words “School Bus” displayed on the front and rear of the vehicle as specified in 21 Del.C. §4362(a) and which is painted the uniform color “national school bus chrome yellow” as specified in 21 Del.C. §4363(a), which is equipped with flashing lamps as specified in 21 Del.C. §4364(a), which meets the minimum size requirements as specified in 21 Del.C. §4363(b), and which meets other regulations as required by the Department of Transportation (DOT) and the Department of Education.

“Yellow Card” means a card issued by the district/school transportation supervisor that certifies satisfactory completion of DOE requirements for an S endorsement as specified in 21 Del.C. §2708 (b)(3). The applicant will surrender the Yellow Card to DMV when the applicant’s CDL and/or school bus endorsement is issued. The DMV will forward the Yellow Cards to DOE.

5.0 Substance of Policy

5.1 Procedures.

5.1.1 Basic Requirements:

5.1.1.1 Basic. School bus drivers are required to have been issued and have in their possession, while driving a school bus, a CDL with an S endorsement, a passenger endorsement (P, Q or R), and a valid physical examination certification (Green Card).

5.1.1.2 Exceptions. These exceptions are only for drivers undergoing school bus training and evaluation.

5.1.1.2.1 Basic Training. For training and evaluation a driver may drive a school bus with a CDL permit or a valid CDL with the proper passenger endorsements (P, Q or R), but only when accompanied by a DOE Certified Delaware School Bus Driver Trainer (CDSBDT) or a DMV Examiner. In addition, for vehicle maneuvering skills training, a driver may drive a school bus with a CDL permit or a valid CDL with the proper passenger endorsements (P, Q or R) when accompanied by a driver with a valid CDL with an S endorsement and other proper endorsements.

- 5.1.2.11.1 Transferring S endorsement holders shall provide a five year motor vehicle driving record from his/her previous jurisdiction or jurisdictions to DMV. DMV will electronically check transferring S endorsement holders' motor vehicle records. If the electronic check is unable to be performed, transferring S endorsement holders will need to provide an official certified copy of their motor vehicle driving records to DMV. DMV will ensure these driving records meet the requirements in 5.1.2.6 and 5.1.2.7.
- 5.1.2.11.2 In accordance with 5.1.2.10, applicants will be issued a School Bus Driver's Certificate (Yellow Card) by district/school transportation supervisors.
- 5.1.2.11.3 All transferring S endorsement holders will be required to pass a DMV-administered road test in a school bus per 5.1.2.5, regardless of past experience, training or qualifications.
- 5.1.2.11.4 All transferring S endorsement holders will be required to pass a school bus knowledge test administered by DMV per 5.1.2.4, regardless of past experience, training or qualifications.
- 5.1.3 Removal of School Bus Endorsements:
 - 5.1.3.1 All school bus (S) endorsement removals, except those under 5.1.3.8 below, will be approved by the Chief of Driver Services, the CDL Program Manager or the CDL Management Analyst.
 - 5.1.3.2 The school bus (S) endorsement will be removed when driving privileges are withdrawn.
 - 5.1.3.3 The school bus (S) endorsement will be removed when a driver's record exceeds eight (8) points (full point value) for moving violations on the driver's three (3) year driving record. NOTE: Recalculated points and the Defensive Driving Course three (3) point credits do not apply to S endorsement holders in meeting this requirement.
 - 5.1.3.4 The school bus (S) endorsement will be removed when the DMV is made aware of a conviction of a disqualifying crime as specified in 21 **Del.C.** §2708(b)(7).
 - 5.1.3.5 The school bus (S) endorsement will be removed when the DMV receives in writing, a report from a physician that a driver is not medically qualified to operate a motor vehicle and/or commercial motor vehicle as specified in 21 **Del.C.** §2733(a)(3).
 - 5.1.3.6 The school bus (S) endorsement will be removed if a driver downgrades from a CDL to a Class D license.
 - 5.1.3.7 Any driver that has a school bus (S) endorsement and is required to register as a sex offender with DMV pursuant to 11 **Del.C.** §4120 and § 4121, shall have the school bus (S) endorsement removed.
 - 5.1.3.8 DMV will notify the S endorsement holder and DOE, in writing, when an S endorsement is removed from a license including the reason for removal. This notification will entitle the S endorsement holder to request a DMV hearing and will also require the S endorsement holder to notify his/her employer.
- 5.1.4 School Bus Endorsement Reinstatement: A school bus (S) endorsement, once removed, may be reinstated if all other licensing requirements are met. If the school bus (S) endorsement is withdrawn for one year or more, then the driver will need to retake all DMV school bus (S) endorsement testing requirements, pay appropriate fees, and provide DMV with a new School Bus Driver's Certificate (Yellow Card).
 - 5.1.4.1 If the school bus (S) endorsement was removed for points, the driver shall be eligible for reinstatement once the full point total on his/her three (3) year driving record falls to eight (8) points or below. NOTE: Recalculated points and the Defensive Driving Course three (3) point credits do not apply to school bus drivers in meeting this eligibility.
 - 5.1.4.2 If the school bus (S) endorsement was removed due to a suspension, revocation or disqualification for moving violations, the driver shall be eligible to reapply for the school bus (S) endorsement five (5) years from the date the suspension, revocation or disqualification has been cleared, as long as there are no further violations incurred affecting eligibility during this time period.

- 5.1.4.3 If the school bus (S) endorsement was removed due to a medical reason, the driver may be eligible for reinstatement once approved by the DMV.
- 5.1.4.4 If the driver voluntarily downgrades from an S endorsed CDL to a Class D license and then the driver wishes to reinstate the S endorsed CDL, the driver will be required to meet the initial issue requirements in accordance with 5.1.2 of this regulation, if the downgrade has been over one (1) year, including providing a new School Bus Driver's Certificate (Yellow Card).
- 5.1.4.5 Any driver that has been convicted of a disqualifying crime as outlined in 21 **Del.C.** §2708(b)(7)(a-f) will never be eligible for a school bus (S) endorsement or reinstatement regardless of the amount of time since the conviction.
- 5.1.4.6 After five (5) years has passed since the completion of all sentencing requirements resulting from the conviction of any other felony crime, other than those listed in 21 **Del.C.** §2708(b)(7)(a) through (f), and which have not been pardoned, then 21 **Del.C.** §2708(b)(7)(g) applies, and the driver must reapply as a new applicant for a school bus (S) endorsement. DMV may seek DOT Deputy Attorney General guidance/clarification in these situations.
- 5.2 **Driver's Status, Records and Record's Review:** The following shall apply concerning the driving records and the status of all Delaware-licensed school bus drivers.
- 5.2.1 Upon a request from DOE, a school district or a school bus contractor, DMV shall provide a copy of a school bus driver's Delaware driving record free of charge. These agencies shall certify on DMV forms that they understand and will comply with the Delaware Privacy Act provisions as found in 21 **Del.C.** §305.
- 5.2.2 DMV shall at any time review the driving records of all Delaware-licensed school bus drivers to ensure they continually meet school bus qualification requirements. This review is accomplished through a computerized search of records for violations, which may result in the removal of a school bus (S) endorsement and notification to the driver and the DOE. Although not a prerequisite to a suspension, revocation or removal of an endorsement or a license, DMV will attempt to send warning letters to S endorsement holder's with copies of such letters being sent to DOE, when a S endorsement holders driving record indicates a situation where additional violations could readily result in the withdrawal of driving authority or school bus (S) endorsement.
- 5.2.3 Drivers moving to Delaware and requesting a school bus (S) endorsement shall provide to the DMV a copy of their driving records for the previous five (5) years from the driver's former state(s) of record. DMV will electronically check the drivers' motor vehicle records. If the electronic check is unable to be performed, the driver will need to provide an official certified copy of his/her motor vehicle driving record to DMV.

6.0 **Severability**

If any part of this regulation is held to be unconstitutional or otherwise contrary to law by a court of competent jurisdiction, said portion shall be severed, and the remaining portions shall remain in full force and effect under Delaware law.

7.0 **Effective Date**

This regulation shall be effective 10 days from the date the order is signed and it is published in its final form in the Register of Regulations in accordance with 29 **Del.C.** §10118(e) or October 1, 2008, whichever is later.