

4501-47-01

**Definitions and general provisions.**

(A) Materials incorporated by reference:

- (1) "Application for Certification of Commercial Driver License Third Party Examiner," form "BMV5812," (~~February, 2015~~May 2016) may be obtained by writing to the "Ohio Bureau of Motor Vehicles, 1970 West Broad Street, Columbus, Ohio 43223." ~~or at <http://www.bmv.ohio.gov>.~~
- (2) "Application for Certification of Commercial Driver License Third Party Tester," form "BMV5811," (~~February, 2015~~May 2016) may be obtained by writing to the "Ohio Bureau of Motor Vehicles, 1970 West Broad Street, Columbus, Ohio 43223" or at <http://www.bmv.ohio.gov>.
- (3) Code of Federal Regulations (C.F.R.) provisions may be obtained by writing to "U.S. Government Printing Office, 400 7th Street SW, Washington D.C. 20590" or at <http://www.ecfr.gov>. Chapter 4501-47 of the Administrative Code incorporates the following C.F.R. provisions:
  - (a) 49 C.F.R. 383.75 (~~March 25, 2013~~TBD);
  - (b) 49 C.F.R. 383.77 (~~May 9, 2011~~TBD);
  - (c) 49 C.F.R. 383.3 (~~September 24, 2013~~TBD).
  - (d) 49 C.F.R. 384.228 (TBD).
  - (e) 49 C.F.R. 384.229 (TBD).

(B) Definitions:

- (1) "Applicant" - Any person authorized by the department of public safety as eligible to take the skills test required for commercial ~~drivers~~driver by Chapter 4506. of the Revised Code.
- (2) "Audit" - An examination by the department or the federal motor carrier safety administration of records of a third-party tester's transactions involving administration of the skills test, in order to verify and authenticate the accuracy of the disbursement or procedures and determine compliance with this chapter ~~and~~, 49 C.F.R. 384.229 and 49 C.F.R. 383.75.
- (3) "Chargeable accident" - Any violation of a state or local law relating to motor vehicle traffic control other than a parking violation arising in connection

with any traffic accident.

- (4) "Class A commercial ~~driver's~~driver license" - License required to operate any vehicle or combination of vehicles with a gross vehicle weight rating of twenty-six thousand one pounds or more, if the gross vehicle weight rating of the vehicles being towed is in excess of ten thousand pounds.
- (5) "Class B commercial ~~driver's~~driver license" - License required to operate any school bus; any vehicle designed to transport manufactured homes; any single vehicle with two or more axles and a gross vehicle weight rating of twenty-six thousand one pounds or more; and any vehicle or combination of vehicles with two or more axles and a gross vehicle weight rating of twenty-six thousand one pounds or more, if the gross vehicle weight rating of the vehicle being towed is less than ten thousand pounds.
- (6) "Class C commercial ~~driver's~~driver license" - License required to operate any vehicle with a gross vehicle weight rating of less than twenty-six thousand one pounds used in the transportation of hazardous materials or any vehicle designed to transport sixteen or more passengers including the driver.
- (7) "Commercial ~~driver's~~driver license or CDL" - A license, including a probationary commercial ~~driver's~~driver license, issued in accordance with this chapter that authorizes an individual to drive a commercial motor vehicle.
- (8) "Commercial motor vehicle" - Any motor vehicle designed or used to transport persons or property that meets any of the qualifications set forth in division (D) of section 4506.01 of the Revised Code.
- (9) "Department" - The Ohio department of public safety.
- (10) "Director" - The chief officer of the Ohio department of public safety.
- (11) "Inspection" - A review of test administration and related documents and records of the third-party tester by the department or its representatives or the federal motor carrier safety administration as required by 49 C.F.R. 383.75.
- (12) "Third-party agreement" - The contract that defines the terms of the third-party tester's responsibilities and authorizes the third-party tester to administer skills tests to applicants.
- (13) "Third-party examiner" - Any person trained in a course approved by the

department of public safety who has been certified as an approved third-party examiner, to conduct skills testing of applicants for a commercial ~~driver's~~driver license.

- (14) "Third-party ~~facility manager~~primary representative" - The person designated by the third-party tester to be responsible for maintenance and recording of documents required to be kept by each third-party tester.
- (15) "Third-party tester" - Any person, an agency of this state or another state, an agency, department, or instrumentality of local government, authorized by the department of public safety to administer a third-party skills test program specified for commercial drivers by Chapter 4506. of the Revised Code.
- (16) "Third-party testing facility" - Facility approved by the department of public safety to be used for third-party testing which is owned, leased or under the control of the third-party tester.
- (17) "Skills test" - The test of an applicant's ability to drive the type of commercial motor vehicle for which the applicant seeks a commercial ~~driver's~~driver license, or endorsement, by having the applicant perform the pretrip, basic control, and road test maneuvers under the supervision of an approved third-party examiner or state ~~driver's~~driver license examiner; the pretrip, basic control, and road test administered by the Ohio department of public safety or an approved third-party examiner to an applicant for a commercial driver license.

4501-47-03

**Requirements for third-party examiners.**

[Comment: For dates and availability of material incorporated by reference in this rule, see paragraph (A) of rule 4501-47-01 of the Administrative Code.]

(A) No person shall conduct or administer a "skills test" for CDL applicants unless such person first obtains a third-party examiner certification from the director. ~~Each person applying~~ Applying for or maintaining certification as a third-party examiner ~~must meet all of~~ includes the following ~~requirements~~:

- (1) Be at least twenty-one years of age, with a minimum of five years experience as a holder of any type of driver's license and at least three years experience as a holder of a commercial driver's license (unless waived by the department).
- (2) Successfully complete a third-party examiner training program approved by the department of public safety in accordance with 49 C.F.R. 383.75.
- (3) Demonstrate a comprehensive understanding of all information in the commercial driver's license manual and the commercial driver's license examiner's manual. Applicants must also demonstrate the ability to correctly administer and score each of the CDL skills tests. Examiners maintaining certification must correctly administer and score each of the CDL skills tests.
- (4) Demonstrate a criminal conviction history free of any felony as defined in the Revised Code or under the laws of any other state or jurisdiction, or a misdemeanor I or II as defined in the Revised Code that is reasonably related to a person's ability to serve safely and honestly as a third-party examiner or equivalent conviction from another jurisdiction. The director shall have the discretion to revoke the certification of a person as a third-party examiner upon notice of an offense, determined by the director to be of a nature or severity inconsistent with the standards expected of third-party examiners.

~~(5) Be physically and mentally qualified to carry out the duties of a third-party examiner as certified by a licensed physician legally qualified to practice medicine.~~

~~(6)~~(5) Have a driving record free of any of the following:

- (a) Two or more chargeable accidents within the three years preceding the date of application;
- (b) Three or more moving violations, or an accumulation of six points or more under Chapter 4510. of the Revised Code, or equivalent action from another jurisdiction, within the preceding three years;

- (c) A twelve-point administrative suspension under Chapter 4510. of the Revised Code, or equivalent action from another jurisdiction within the preceding ten years.
  - (d) Any conviction for an offense described in section 4506.15 of the Revised Code within the past three years.
  - (e) Conviction of two or more serious violations as defined in section 4506.01 of the Revised Code within the three years preceding the application.
  - ~~(7)~~(6) Maintain the proper CDL class and endorsements for the type of testing to be conducted.
- (B) Applications for certification as a commercial driver's license third-party examiner ~~shall contain~~include the following:
  - (1) A completed "Application for Certification of Commercial Driver License Third Party Examiner" signed by the third-party examiner and the third party testing facility manager;
  - (2) A photocopy of the certificate issued to the examiner in accordance with completion of a third-party examiner training program approved by the department of public safety in accordance with 49 C.F.R. 383.75.
  - (3) A criminal abstract provided by the bureau of criminal identification and investigation and dated by the bureau of criminal identification and investigation not more than sixty days prior to the date of the application. After initial certification as a third-party examiner, each examiner shall submit a new criminal abstract every four years thereafter.
  - (4) A driving record abstract provided by the bureau of motor vehicles and dated not more than sixty days prior to the date of the application. After initial certification as a third-party examiner, each examiner shall submit a new driving record abstract every two years thereafter.
  - (5) A photocopy of the applicant's commercial driver's license. After initial certification as a third-party examiner, each examiner shall submit a new photocopy of his/her commercial driver's license each time the commercial driver's license must be renewed.
  - ~~(6) A photocopy of the current United States department of transportation physical~~

~~examination form indicating that the applicant is medically and physically qualified to operate commercial motor vehicles. After initial certification as a third-party examiner, each examiner shall submit a new photocopy of the current United States department of transportation physical examination form every two years thereafter.~~

- (C) The third-party examiner certification shall be displayed in the third-party location where the examiner is authorized to test. If the examiner gives skills tests in more than one location, a photocopy of the certificate shall be displayed.
- (D) Authorized third-party examiners shall attend any advanced training courses, workshops or seminars conducted or required by the department.
- (E) No third-party examiner shall be eligible to administer CDL testing unless employed by a third-party tester facility approved by the department.
- (F) No third-party examiner shall conduct testing at a site or facility that has not been approved by the department.
- (G) Each licensed third-party examiner may only administer testing at a single third-party test facility, unless prior written authorization to administer testing at more than one location is obtained from the department.
- (H) An examiner ~~shall~~is to notify the facility manager within ten days if any of the following occur:
  - (1) The examiner receives a moving traffic violation conviction;
  - (2) The examiner is involved in a chargeable crash;
  - (3) The examiner is convicted of a charge that assesses points against the applicant's license;
  - (4) The examiner receives any driver license suspension, cancellation, disqualification, or revocation;
  - (5) The examiner is charged or convicted of any criminal charge listed in this rule.
- (I) The ~~facility manager~~third party primary representative shall notify the director in writing within ten days of the manager's receipt of notice that an examiner's criminal or traffic conviction, crash, or driver license suspension, revocation or

cancellation may disqualify the examiner's certification to administer CDL testing.

- (J) The facility manager shall notify the director in writing within ten days of the termination of employment of any examiner assigned to the facility and shall return the examiner's license to the department. If the actual license is unavailable to return to the department, a photocopy of the license may be returned in lieu of the original.
- (K) The director may refuse to issue, or may suspend, revoke, or place on probation the certification of any examiner upon notice of that person's conviction for any offense for which that person may be disqualified under this rule.
- (L) The director may refuse to issue, or may suspend, revoke, or place on probation a certification upon notice of an offense determined by the director ~~to be of a nature or severity inconsistent with the standards expected of an examiner~~ for any violation of federal, state, oand local law which is committed beyond the periods provided herein.
- (M) No person shall submit an "Application for Certification of Commercial Driver License Third Party Examiner" that is incomplete or incorrect or that contains false or misleading information. An incomplete or incorrect application may be rejected or returned to the applicant. An application containing false or misleading information may be denied.

4501-47-04

**Qualifications for third-party testers.**

[Comment: For dates and availability of material incorporated by reference in this rule, see paragraph (A) of rule 4501-47-01 of the Administrative Code.]

- (A) Each entity that applies for authorization as a third-party tester shall submit a completed "Application for Certification of Commercial Driver License Third Party Tester". The third-party tester shall also submit an "Application for Certification of Commercial Driver License Third Party Examiner" for each examiner who will conduct skills tests.

No person or entity shall act as a third-party tester unless approved by the department.

- (B) Upon the award of a third-party tester contract, the third-party tester shall receive a certificate of authorization as an "official Ohio commercial driver's license third-party tester" and a certificate of authorization and examiner identification card for each third-party examiner who is approved to administer skills tests by meeting the requirements in this rule.

- (C) An "Application for Certification of Commercial Driver License Third Party Tester" that does not contain applications for examiners is ineligible to receive a contract as a third-party tester.

- (D) Each entity authorized as a third-party tester shall meet the following criteria:

- (1) The organization or person shall maintain an established place of business in Ohio, with at least one permanent, regularly occupied structure, in Ohio.
- (2) The established place of business shall have a permanent mailing address that must include a street address.
- (3) The organization or person shall designate a safety officer or other individual as a manager who will be responsible for their third-party testing operation.

~~(4) No third-party tester may administer commercial driver's license skills tests to its employees.~~

~~(5)~~(4) The organization or person shall maintain a department of transportation safety rating of satisfactory if subject to the federal motor carrier safety regulations.

~~(6)~~(5) The third-party tester shall maintain accurate records in accordance with the requirements of rule 4501-47-08 of the Administrative Code pertaining to the



skills test program.

~~(7)~~(6) A skills test examiner who is also a skills instructor as a part of a school, training program, or otherwise is prohibited from administering a skills test to an applicant who received skills training by that skills test examiner.

(7) The third-party tester who is authorized by the department to conduct testing exclusively of their own employees shall operate as a motor carrier unless exempted, as defined in section 4901:2-5-01 of the Administrative Code.

(8) The organization or person shall sign a written agreement with the department that outlines the contractual duties and responsibilities of a third-party tester and that is subject to termination by the department upon breach of any of its terms by the third-party tester.

(9) The third-party tester shall permit representatives of the department, state of Ohio, and the federal motor carrier safety administration to conduct random examinations, inspections and audits without prior notice.

(10) The third-party tester shall give the same skills test as the department and shall acknowledge that the department may take prompt action against it in the event the tester fails to comply with state of Ohio or federal standards for the commercial driver testing program or with any other terms of the third-party agreement.

(11) The department shall deny any proposal for third-party tester or examiner authorization, if the proposer does not meet all the requirements of this chapter or the proposed examiners identified in the tester's proposal do not meet the requirements of this chapter.

(12) Any misrepresentations or omissions in the "Application for Certification of Commercial Driver License Third Party Tester" shall be grounds for denying certification.

(13) The organization or person shall ensure that the skills tests are conducted in accordance with the requirements of this chapter and the instructions provided by the department.

4501-47-05

**Third-party testing facility.**

- (A) All third-party testing facilities shall be open to the general public to conduct tests for a minimum of forty hours per week, unless authorized by the department to conduct testing for fewer than forty hours per week, or authorized by the department to conduct testing exclusively of their own employees. There is not a maximum number of hours of operation unless specifically determined by the department, based upon an inspection of the facility.
- (B) Each third-party testing facility and test route shall be physically inspected by the department or its representatives prior to receipt of authorization as a third-party testing facility. The skills test area of the testing facility must be of sufficient size to conduct all required CDL skills tests as determined by the director.
- (C) The facility structure shall be in good condition and in compliance with all applicable provisions of state law and local ordinances.
- (D) Each third-party tester shall maintain or provide immediate access to test records at the testing facility where the pretrip inspection and basic controls portion of the skills test is given. A copy of the most recent rental or lease agreement or deed for the property shall be kept on file with the site records and be made available to the department upon request.
- (E) Each third-party testing facility shall maintain a personal computer with internet access for reporting test results to, and accessing test records from the department via the world wide web. It shall be the responsibility of the third-party tester to ensure that its computer system and internet access are sufficient to meet department requirements.
- ~~(F) No third-party tester may share any office space or skills test area with any other third-party tester, any driver training school or enterprise, or any commercial motor carrier or commercial bus company.~~
- ~~(G)~~(F) No third-party tester, or its owners, employees, facility manager, or examiners, or any entity affiliated with such persons or the third-party tester, may provide training of any type unless that person or entity is also a driver training school licensed pursuant to Chapter 4508. of the Revised Code.

4501-47-06

**Skills test administration.**

(A) All skills tests conducted by third-party testers shall be performed strictly in accordance with the requirements of the department as presented in this chapter, the third-party tester agreement, and any current test instructions provided by the department. Such instructions may include information on skills test content, route selection or revision, test forms, examiner procedures and administrative procedures and/or changes.

(B) Skills tests shall be conducted:

(1) On test routes approved by the department;

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

(3) Using forms, scoring, and test content as provided or authorized by the department.

~~(C) Each third-party examiner certified to conduct skills testing is required to conduct a minimum of thirty-two complete skills tests per year as required in this paragraph. The following bi-annual requirements apply:~~

~~(1) Each examiner shall conduct a minimum of sixteen pre-trip tests, sixteen off-road skills tests, and sixteen road tests from the period of January first to June thirtieth.~~

~~(2) Each examiner shall conduct a minimum of sixteen pre-trip tests, sixteen off-road skills tests, and sixteen road tests from the period of July first to December thirty-first.~~

~~(D)~~(C) Should any third-party examiner fail to conduct the minimum number of required tests during any period, the examiner will be ineligible to conduct further testing until he or she has been evaluated by a department of public safety examiner and approved by the department to resume testing.

~~(E)~~(D) The third-party ~~facility manager~~primary representative shall be responsible for ensuring that any third-party examiner employed by the third-party tester adheres to these requirements. The ~~facility manager~~third party primary representative shall notify the department immediately if any examiner fails to meet the minimum number of required tests and shall prohibit that examiner from further testing until that examiner has been evaluated and approved by the department.

## \*\*\* DRAFT - NOT YET FILED \*\*\*

4501-47-07

**Advertising.**

- (A) No third-party tester shall advertise or indicate in any way that a program can issue or guarantee the issuance of a commercial driver's license, or imply that the program can in any way influence the department in the issuance of commercial driver's licenses, or imply that preferential or advantageous treatment from the department can be obtained.
- (B) Programs that are in fact licensed by the department may in their advertising state that they are "authorized testers" but shall not indicate that a program is approved, sanctioned, or in any other way endorsed by the department over another program.
- (C) No individual, association, partnership, or corporation shall advertise in any manner that it is or is going to be an authorized third-party tester prior to being certified by the department.
- (D) No third-party tester may advertise any information concerning applicant test scores or pass/fail rates of skills tests.

4501-47-08

**Records.**

- (A) Each third-party tester shall be required to maintain at each approved third-party testing location, for a minimum of ~~two~~three years including the current year and the two preceding calendar years, a record of each driver whom the third-party tester gives a skills test, whether or not the driver passes or fails the test. Each ~~such~~ record shall ~~include~~includes:
- (1) The complete name and address of the driver;
  - (2) The date that the driver took the skills test;
  - (3) The test score sheet(s) showing the results of the skills test;
  - (4) The name and identification number of the third-party examiner conducting the skills test;
  - (5) The record of all receipts and disbursements;
  - (6) The make, model and registration number of the commercial motor vehicle(s) used to conduct the testing; and
  - (7) The written contract (copy), if applicable, with any person or group of persons being tested, including amount of payment.
- (B) Each third-party tester shall maintain at each approved testing location a record of each third-party examiner in the employ of the third-party tester at that location. Each record ~~shall include~~includes:
- (1) A copy of the examiner's current and valid commercial driver's license;
  - (2) A copy of the third-party examiner's current driving record, which must be updated annually.
- (C) Each third-party tester shall retain all third-party examiner records for at least ~~two~~three years including the current year and the two preceding calendar years after the third-party examiner leaves the employ of the third-party tester.
- (D) All records required to be maintained by a tester, including those maintained on a computer data base, shall be made available for inspection by the director or his representative at any and all reasonable times. Any records required to be maintained that are in a computer data base must be accessible and capable of being

distinguished from nonrelated records. Copies of all records shall be made available to the director or his representatives upon request.

4501-47-09

**Character.**

- (A) Every examiner, employee, or agent of the third-party tester participating in the testing program shall be of good character and reputation.
- (B) The conviction of an examiner, manager or owner of a third-party testing facility of any ~~of the following~~ disqualifying offense shall be grounds to withhold issuing certification or grounds for terminating a third-party tester agreement. Disqualifying offenses include:
  - (1) A conviction of a felony as defined in the Revised Code,
  - (2) A conviction of a misdemeanor I or II as defined in the Revised Code,
  - (3) A conviction of a felony or equivalent conviction under the laws of another jurisdiction, or
  - (4) A conviction of a misdemeanor I or II or equivalent conviction under the laws of another jurisdiction.
- (C) Every person connected in any manner with a third-party test facility, including but not limited to an owner, partner, facility manager, office manager, or examiner shall comply with all applicable state and federal laws which prohibit discrimination based upon race, color, national origin, sex, age, handicap, disability, ancestry or religion.
- (D) No third-party facility manager or owner shall knowingly permit any third-party examiner who is physically or mentally unfit to conduct CDL testing.
- (E) Any person who applies for or holds a CDL examiner's certification shall notify the facility manager where the person is employed of any injury, any physical or mental impairment, or any drug or medicine the person is taking that gives good cause to believe such injury, impairment, drug, or medicine may affect that examiner's ability to drive safely or to effectively evaluate CDL applicants.

## \*\*\* DRAFT - NOT YET FILED \*\*\*

4501-47-10

**Fees.**

- (A) A third-party tester authorized by the department to conduct skills tests shall not charge any applicant for a commercial driver's license skills test more than the amount specified in division (B) of section 4506.09 of the Ohio Revised Code for each skills test given.
- (B) If a third-party tester provides a commercial motor vehicle to an applicant for use in performing a skills test, it may establish its own fee for rental of the vehicle as follows:
  - (1) A fee for use of a rental vehicle shall be a reasonable fee related to the actual cost incurred by the tester in providing the vehicle for use.
  - (2) A fee for use of a rental vehicle shall be included in a rental contract with an applicant and a copy of such rental contract shall be provided to the applicant.
- (C) No third-party tester may charge an administrative fee, a site usage fee, or any other non-voluntary fee except as described in paragraphs (A) and (B) of this rule.



4501-47-11

**Termination of third-party testing agreement.**

[Comment: For dates and availability of material incorporated by reference in this rule, see paragraph (A) of rule 4501-47-01 of the Administrative Code.]

- (A) The department reserves the right to cancel the third-party testing agreement in its entirety as required by 49 C.F.R. 383.75.
- (B) The department shall terminate the agreement of a third-party tester for a disqualifying reason. ~~upon the following grounds~~ Disqualifying reasons include:
- (1) Failure to comply with or satisfy any of the provisions of this chapter, the department's instructions or the third-party tester agreement;
  - (2) Falsification of any records or information relating to the third-party testing program;
  - (3) Commission of any ~~act which compromises the integrity of the third party program~~ violation of local, state, or federal law; and
  - (4) For third-party examiner driver's license suspension, revocation, recall, disqualification or commission of an offense proscribed by rules 4501-47-03, 4501-47-04, and 4501-47-09 of the Administrative Code.
- (C) If the department determines that grounds for cancellation exists for failure to comply with or satisfy any of these requirements or violation of the third-party tester agreement, the department may postpone cancellation and allow the third-party tester or examiner up to thirty days to correct the deficiency.

## \*\*\* DRAFT - NOT YET FILED \*\*\*

4501-47-12

**Insurance and bond requirements.**

- (A) It is the responsibility of the third-party tester to provide and maintain evidence of insurance coverage for every vehicle it provides for driver skills testing as well as coverage for the commercial driver's license applicants using the vehicles to take the skills test.
- (B) If a third-party tester provides vehicle for rental, it shall include the state of Ohio, department of public safety, as an additional named insured on their certificate of insurance and shall file a copy of the certificate of insurance with the department. The certificate of insurance shall stipulate that the director shall be notified ten days before the policy expires, or if it is cancelled or is not maintained in full force.
- (C) The insurance shall be provided by an insurance company licensed to do business within this state, in the amount of at least:
- (1) One million dollars for bodily injury or death of any one person in any one crash or collision;
  - (2) One million dollars because of bodily injury or death of two or more persons in any one crash or collision;
  - (3) Fifty thousand dollars because of destruction of property in any one crash or collision.
- (D) In the alternative, a third-party tester who provides vehicles for rental to skills test applicants may provide evidence that it is self-insured. Proof of self-insurance shall be provided to the department prior to the receipt of authorization as a third-party tester.
- (E) In addition, the third-party tester shall provide and maintain evidence of a bond in the amount of no less than twenty thousand dollars and shall file a copy of the bond with the department.

## \*\*\* DRAFT - NOT YET FILED \*\*\*

4501-47-13

**Authority of Ohio highway patrol and the department of public safety to investigate, evaluate and conduct inspections.**

- (A) Upon the request of the director, the Ohio highway patrol or the department shall conduct investigations into any acts by the third-party tester or examiner alleged to be in violation of this chapter, of the testing instructions, or the third-party tester agreement.
- (B) The department shall conduct ongoing evaluations of the operation of third-party testing programs and shall regulate the third-party testing programs.
- (C) The department shall conduct on-site inspections, scheduled and random retesting of commercial driver license applicants, and audits of records and procedures.
- (D) The third-party testers and examiners shall provide assistance to the Ohio highway patrol, and other representatives of the department in the performance of these matters.

## \*\*\* DRAFT - NOT YET FILED \*\*\*

4501-47-14

**Termination of third-party examiners.**

[Comment: For dates and availability of material incorporated by reference in this rule, see paragraph (A) of rule 4501-47-01 of the Administrative Code.]

- (A) Upon notification that a third-party examiner is ineligible to remain certified by the department because of a violation of the requirements of this chapter or because of other termination of employment, the third-party tester shall immediately notify the department. The third-party examiner's certificate of authorization shall be returned to the department immediately and the tester shall prohibit the examiner from performing further skills test instruction.
- (B) If the third-party tester needs to replace the examiner, it may submit an "Application for Certification of Commercial Driver License Third Party Examiner" for a new third-party examiner.

4501-47-15

**Third-party testing by the department of education.**

- (A) The director shall enter into an agreement with the department of education authorizing the skills test specified in this rule to be administered by the department for purposes of training and testing school bus drivers, provided that the agreement requires that the department of education [and workforce](#) comply with the following:
- (1) Allows the director or his or her representatives and the federal motor carrier safety administration or its representatives to conduct random examinations, inspections and audits of its test facilities without prior notice.
  - (2) Requires that all examiners of the department of education meet the same qualifications and training standards as examiners of the department to the extent necessary to administer skills tests for a commercial driver's license with a school bus endorsement.
  - (3) For purposes of complying with the requirements of this chapter, the Ohio highway patrol, [or the department](#) will establish instructions for training and testing required for the department of education.
- (B) The department may enter into an agreement with the department of education in order to have training of third-party examiners conducted. The department of education employees shall receive training, in a program approved by the director, to administer the commercial driver's license skills test to applicants for a class "~~A~~," "B" or "C" commercial driver's license, [and/or school bus, and passenger endorsements](#).

4501-47-16

**Military waiver of commercial driver's license skills test.**

[Comment: For dates and availability of material incorporated by reference in this rule, see paragraph (A) of rule 4501-47-01 of the Administrative Code.]

(A) The registrar of motor vehicles shall waive the skills test for any applicant for a commercial driver's license (CDL) who meets all of the following requirements:

(1) Meets the exemptions provided in 49 C.F.R. 383.3(c) as active duty military personnel; members of the military reserves; members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty U.S. coast guard personnel. This exception is not applicable to U.S. reserve technicians.

(2) Certifies that, during the two-year period immediately preceding application for a commercial driver's license, all of the following apply:

(a) The applicant has not had more than one license, excluding any military license;

(b) The applicant has not had any license suspended, revoked, or canceled;

(c) The applicant has not had any convictions for any type of motor vehicle for the offenses for which disqualification is prescribed in section 4506.16 of the Revised Code;

(d) The applicant has not had more than one conviction for any type of motor vehicle for a serious traffic violation; and,

(e) The applicant has not had any violation of a state or local law relating to motor vehicle traffic control other than a parking violation arising in connection with any traffic accident and has no record of an accident in which the applicant was at fault.

(3) The applicant shall certify and also provide evidence of all of the following:

(a) That the applicant is or was regularly employed in a military position requiring operation of a commercial motor vehicle. In ~~additional~~addition to the applicant's own certification, the applicant shall provide evidence from the applicant's commanding officer or other appropriate military official certifying the applicant's experience operating a commercial

motor vehicle and the type of commercial motor vehicle the applicant operated;

- (b) That the applicant was exempt from the requirements of Chapter 4506. under division (B)(6) of section 4506.03 of the Revised Code; and,
  - (c) That, for at least two years immediately preceding the date of application or at least two years immediately preceding the date the applicant separated from military service or employment, the applicant regularly operated a vehicle representative of the commercial motor vehicle type that the applicant operates or expects to operate.
- (B) As used in this rule, "skills test" means a test of an applicant's ability to drive the type of commercial motor vehicle for which the applicant seeks a commercial driver's license by having the applicant drive such a motor vehicle while under the supervision of an authorized state driver's license examiner or tester.
  - (C) Acceptable documentation of military status or service shall include the applicant's official military identification card, official DD-214 separation document, or other official military document approved by the registrar of motor vehicles.
  - (D) The bureau of motor vehicles (BMV) shall track and monitor all applications for military waiver of commercial driver's license skills tests through its business applications service system (BASS). The registrar of motor vehicles shall prescribe the information contained in BASS as necessary to track and monitor all applications.
  - (E) The BMV shall establish and maintain processes for prioritizing and expediting commercial driver licensing applications for qualified military personnel, including special accommodations for applicants subject to imminent deployment. The processes shall include provisions for accepting necessary information in support of the applications by electronic, telephonic, and any other appropriate means.