



Virginia  
Regulatory  
Town Hall

## Proposed Regulation Agency Background Document

<b>Agency Name:</b>	Department of Education -- 20
<b>VAC Chapter Number:</b>	8 VAC20-340-10 seq.
<b>Regulation Title:</b>	Regulations Governing Driver Education
<b>Action Title:</b>	Required Code and procedural changes
<b>Date:</b>	October 2002

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

### Summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

Classroom and in-car driver education instruction shall be a standardized program of study established by the Board of Education in accordance with §22.1-205 of the Code of Virginia. Such program shall be outlined in a curriculum and administrative guide for driver education in Virginia. The program shall consist of 36 periods of classroom instruction and 14 periods of in-car instruction, which shall include seven periods of actual driving, and seven periods of observation time. Students must drive a minimum of 50 miles and a maximum of 150 miles during the in-car phase of instruction.

## Basis

*Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.*

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In accordance with provisions of the National Highway Safety Act of 1966 (23 USC §401 et seq.) and §§22.1-205, 46.2-340, 46.2-334, and 46.2-335 of the Code of Virginia, local school boards shall determine whether to offer a driver education program, and, if offered, whether it will be taught in lieu of 10<sup>th</sup> grade health education or as an elective course.

The Board of Education has specific authority over driver education programs under Title 22.1, Chapter 13, Article 1 of the *Code of Virginia*. Section 22.1-205 provides:

- A. The Board of Education shall establish for the public school system a standardized program of driver education in the safe operation of motor vehicles. Such program shall consist of classroom training and behind-the-wheel driver training. However, any student who participates in such a program of driver education shall meet the academic requirements established by the Board, and no student in a course shall be permitted to operate a motor vehicle without a license or permit to do so issued by the Department of Motor Vehicles. The program shall include instruction concerning (i) alcohol and drug abuse, (ii) aggressive driving, (iii) distracted driving, (iv) motorcycle awareness, and (v) organ and tissue donor awareness. Such instruction shall be developed by the Department in cooperation with the Virginia Alcohol Safety Action Program and the Department of Mental Health, Mental Retardation and Substance Abuse Services. Such program shall require a minimum number of miles driven during the behind-the-wheel driver training.
- B. The Board shall assist school divisions by preparation, publication and distribution of competent driver education instructional materials to ensure a more complete understanding of the responsibilities and duties of motor vehicle operators.
- C. Each school board shall determine whether to offer the program of driver education in the safe operation of motor vehicles and, if offered, whether such program shall be an elective or a required course. Only school divisions complying with the standardized program and regulations established by the Board of Education and the provisions of § 46.2-335 shall be entitled to participate in the distribution of state funds appropriated for driver education.
- D. The actual initial driving instruction shall be conducted, with motor vehicles equipped as may be required by regulation of the Board of Education, on private or public property removed from public highways if practicable; if impracticable, then, at the request of the school board,

the Commonwealth Transportation Board shall designate a suitable section of road near the school to be used for such instruction. Such section of road shall be marked with signs, which the Commonwealth Transportation Board shall supply, giving notice of its use for driving instruction. Such signs shall be removed at the close of the instruction period. No vehicle other than those used for driver training shall be operated between such signs at a speed in excess of twenty-five miles per hour. Violation of this limit shall be a Class 4 misdemeanor.

- E. The Board of Education may, in its discretion, promulgate regulations for the use and certification of paraprofessionals as teaching assistants in the driver education programs of school divisions.
- F. The Board of Education shall approve correspondence courses for the classroom training component of driver education. These correspondence courses shall be consistent in quality with instructional programs developed by the Board for classroom training in the public schools. Students completing the correspondence courses for classroom training, who are eligible to take behind-the-wheel driver training, may receive behind-the-wheel driver training (i) from a public school, upon payment of the required fee, if the school division offers behind-the-wheel driver training and space is available or (ii) from a commercial driver training school licensed by the Department of Motor Vehicles. Nothing herein shall be construed to require any school division to provide behind-the-wheel driver training to nonpublic school students.

### Purpose

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.*

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The current Regulations Governing Driver Education programs were last reviewed in 1980.

Since that time two major factors have affected the need to revise the regulation:

- 1) The 2001 General Assembly amended § 22.1-205 to require a minimum number of miles driven during the behind-the-wheel phase of driver education instruction as prescribed by the Board of Education. This amendment prompted the need for a revision.
- 2) The Department of Education, in cooperation with the Department of Motor Vehicles, has in recent years developed administrative guidelines for the operation of driver education programs. The present revisions incorporate the regulatory language that was previously contained in the administrative manual, thus giving these provisions regulatory impact on the regulated entities.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.*

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Successful completion of a state-approved driver education program is a prerequisite to obtain a Virginia driver's license. The driver education program is designed to meet the future transportation safety needs of young drivers in the commonwealth. Significant attention is given to risk-awareness, driver alertness, and responsible actions relative to occupant protection devices, positive interaction with other roadway users, and the physical and psychological conditions that affect driver performance.

Upon successful completion of the driver education program, and with parent/guardian approval, the school will issue the student a 90-day temporary license. The provisional license is then awarded to the student at a judicial licensing ceremony as required by §46.2-336. In addition, the Virginia standardized program of 36 periods of classroom and 14 periods of in-car instruction meets the minimum educational requirements for a minor to obtain a driver's license in another state, U.S. Territory, or Canadian province.

## Issues

*Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.*

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The primary issue to be addressed in the proposed revised regulations will be establishing a minimum number of miles driven during the behind-the-wheel phase of instruction as necessitated by the amendment to § 22.1-205. This code section directs the Board of Education to establish a standardized program of driver education in the safe operation of motor vehicles. Also, for the past several years, the Department of Education has enforced provisions currently contained in the administrative guidelines for driver education programs. It is imperative that these provisions be incorporated into the amended regulations in order to properly establish that the provisions are to be enforced as regulation.

## Fiscal Impact

*Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.*

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Essentially, the proposed regulation will not affect the cost of the program. Approximately 2,300 driver education teachers will monitor the number of miles driven during the behind-the-wheel phase of instruction, and 80,000 students, their families and the commonwealth will benefit from a higher level of accountability.

## Detail of Changes

*Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.*

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Primary changes are as follows:

- 1) Local school boards shall determine whether to offer a driver education program;
- 2) Students must drive a minimum of 50 miles during the in-car phase of instruction;
- 3) The new provisions define the length of class periods and contents of a state-approved driver education program; application of regulations to private schools; collection of fees; specialized requirements for driver education teachers; requirement for completion of program prior to the school issuing the 90-day provisional license to a student; requirement that successful completion of a standardized end-of-course road skills assessment must be achieved prior to the school issuing a 90-day provisional license; and minimum requirements for the driver education vehicles.

**Alternatives**

*Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

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Alternatives from the public will be given significant consideration during the review process. Ultimately, the Board of Education must establish the minimum number of miles driven during the behind-the-wheel instruction phase of driver education.

**Public Comment**

*Please summarize all public comment received during the NOIRA comment period and provide the agency response.*

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No public comments were received during the 30-day comment period.

**Clarity of the Regulation**

*Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.*

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The proposed text has been reviewed by other professionals in the field to ensure they understand the purpose and intent.

**Periodic Review**

*Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.*

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The Board of Education will be asked to review the regulations in three years.

## Family Impact Statement

*Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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The proposed revisions will have no impact on the institution of the family or family stability.