

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

**Proposing rule making related to motorcycle rider education
and providing an opportunity for public comment**

The Department of Transportation hereby proposes to amend Chapter 602, “Classes of Driver’s Licenses,” and Chapter 635, “Motorcycle Rider Education (MRE),” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.179.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 321.179 and 321.180B(5).

Purpose and Summary

This proposed rule making relates to motorcycle rider education; aligns with existing legal authority and Department practice; eliminates outdated or irrelevant requirements or options; and accommodates modern, electronic procedures and terminology. The following paragraphs explain the amendments in more detail:

The proposed amendments make a conforming change to subrule 602.2(1) to provide that a certificate of completion of an approved motorcycle rider education course may be submitted electronically through the Department’s online reporting system by a participating Iowa-approved motorcycle rider education provider.

This proposed rule making aligns rule 761—635.2(321), which relates to an approved course in motorcycle rider education, with current Department practice and terminology, including specifying the length of validity of the course approval and renewal procedures, as well as identifying the criteria that a motorcycle must meet to be eligible for use during the on-cycle instruction portion of an approved course.

The proposed amendments update rule 761—635.3(321), which governs motorcycle rider education instructors, to specify the length of validity of the instructor’s license and renewal procedures and to allow an instructor an additional way to qualify for an instructor’s license if the instructor teaches at least one course in another state, as long as the other state’s course is the same nationally recognized course that Iowa uses. The proposed amendments also incorporate the clear driving record standards used by the Department for behind-the-wheel driver education instructors and revise subrule 635.3(3) on license suspensions to reflect the Department’s current practice of either canceling or denying the instructor’s license if the instructor does not have a clear driving record or meet other qualifications specified in the rules.

Finally, the proposed amendments revise subrule 635.4(1), encompassing motorcycle rider education sponsors; rule 761—635.5(321), the motorcycle rider education fund; and rule 761—635.7(321), license issuance for sponsors, to align with current Department practice and terminology.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person’s circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on August 18, 2020. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy Bureau
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

If requested, a public hearing to hear requested oral presentations will be held via conference call. Persons who wish to participate in the conference call should contact Tracy George before 4:30 p.m. on August 18, 2020, to facilitate an orderly hearing. A conference call number will be provided to participants prior to the hearing.

August 20, 2020
1 to 2 p.m.

Department of Transportation
Motor Vehicle Division
6310 SE Convenience Boulevard
Ankeny, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department’s rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 602.2(1), introductory paragraph, as follows:

602.2(1) Certificate of completion. Form 430036 shall be used to submit proof of successful completion of an Iowa-approved course in driver education, motorcycle rider education or motorized bicycle education, except that proof of successful completion of an Iowa-approved course in driver education or motorcycle rider education may instead be submitted through an online reporting system used by participating Iowa-approved driver education schools or motorcycle rider education providers.

ITEM 2. Amend rule 761—635.2(321) as follows:

761—635.2(321) Approved course in motorcycle rider education.

635.2(1) No change.

635.2(2) A sponsor must receive approval from the department prior to the beginning of the first class offered and annually thereafter. Private or commercial sponsors must also be licensed by the department prior to the beginning of the first class that is offered and annually thereafter. Application for license issuance or renewal shall be made to the department ~~on forms provided~~ in a manner determined by the department. The fee for a license or the renewal of a license is \$25 for a private or a commercial sponsor. The fee must be paid by cash, money order or check unless the department approves payment of the fee by electronic means. A money order or check must be for the exact amount and should be made payable to the Treasurer, State of Iowa, or the Department of Transportation.

635.2(3) A license to provide motorcycle rider education shall be issued for a calendar year or remainder of a calendar year. The license expires on December 31 but remains valid for an additional 30 days after the expiration date. The application for renewal shall be submitted to the department within 60 days of the expiration date, unless otherwise approved by the department.

635.2(4) The approved course uses a nationally recognized, research-based curriculum. Only persons successfully completing all elements of the approved course shall be issued an Iowa certificate of completion for motorcycle rider education. The certificate of completion shall be submitted to the department by the methods provided in 761—subrule 602.2(1). Issuance of an Iowa certificate of completion to persons who do not successfully complete the approved course is cause for revocation of the instructor's license and denial of reimbursement to the sponsor for each student involved.

635.2(4) 635.2(5) Prior to the beginning of on-cycle instruction, a student enrolled in the approved course must be at least 14 years of age, possess a valid driver's license as defined in Iowa Code section 321.1, be able to touch the ground with the balls of both feet while sitting astride the training motorcycle, and complete the motorcycle safety course waiver form, including the signature of a parent or legal guardian if the student is under the age of 18.

635.2(5) 635.2(6) The scheduled time for instruction—classroom, on-cycle, or a combination of both—shall not exceed eight hours in any one calendar day. During on-cycle instruction, a student shall wear a U.S. DOT-approved helmet, an eye-protective device, and protective clothing, including gloves, a long-sleeved shirt or jacket, long pants, and shoes or boots that cover the feet and ankles.

635.2(6) 635.2(7) The student-instructor ratio for classroom instruction shall not exceed 36 to 1. No more than 12 students may receive on-cycle instruction at one time on a single full-size range. The student-instructor ratio for on-cycle instruction shall not exceed 6 to 1.

635.2(7) 635.2(8) A driving range used for on-cycle instruction must be paved, free of hazards to motorcycle travel, and have an unobstructed, paved runoff of at least 20 feet in all directions.

~~a. and b. Rescinded IAB 9/4/02, effective 10/9/02.~~

635.2(8) 635.2(9) The sponsor shall provide for each student engaged in on-cycle instruction one fully operational motorcycle manufactured for highway use.

a. Each motorcycle must meet two of the following three criteria:

~~a. (1)~~ Have an engine displacement that does not exceed of 500 cubic centimeters or less, or an electric motor of 30 kW or less.

~~b. (2)~~ Have an unladen weight that does not exceed 400 pounds a curb (wet) weight of 440 pounds or less.

~~c. (3)~~ Have a seat height that does not exceed of 30 inches or less.

b. A motorcycle that has been modified or contains aftermarket equipment for the purposes of meeting the criteria under paragraph 635.2(9) "a" shall not be used for instruction under this subrule.

635.2(9) 635.2(10) The driving test for a Class M driver's license or a motorcycle endorsement may be waived under 761—subrule 604.31(2) provided the applicant has successfully completed the approved course.

ITEM 3. Amend rule 761—635.3(321) as follows:

761—635.3(321) Instructors.

635.3(1) License. An instructor of the approved course must be licensed by the department. However, an individual who meets the qualifications for a license except for paragraph 635.3(2) “d” or ~~who is suspended whose license is denied~~ under paragraph 635.3(3) “c” may teach the approved course as provided in those paragraphs.

~~a. and b. Rescinded IAB 9/4/02, effective 10/9/02.~~

635.3(2) Licensing provisions. A motorcycle rider education instructor’s license shall be issued for a calendar year or remainder of a calendar year. The license expires on December 31 but remains valid for an additional 30 days after the expiration date of the year it is issued. The application for renewal shall be submitted to the department within 60 days of the expiration date, unless otherwise approved by the department. To obtain and retain an MRE instructor’s license, an individual must:

a. to d. No change.

e. After the year in which a license is granted, teach at least one class nationally recognized, research-based motorcycle rider preparation course approved by the department in Iowa or another state each calendar year.

f. No change.

g. ~~Possess a high school diploma or equivalent. This is not required for a licensed instructor who trained as an MRE instructor before July 1, 1998, and who has taught for an Iowa sponsor after January 1, 1996.~~ Have a clear driving record for the previous two years. A clear driving record means the individual has:

(1) Not been identified as a candidate for driver’s license suspension under the habitual violator provisions of rule 761—615.13(321) or the serious violation provisions of rule 761—615.17(321).

(2) No driver’s license suspensions, revocations, denials, cancellations, disqualifications or bars.

(3) Not committed an offense that would result in driver’s license suspension, revocation, denial, cancellation, disqualification or bar.

(4) No record of a law enforcement investigative report indicating a contributive motor vehicle accident that caused the death or serious injury of another person.

(5) No record of two or more contributive motor vehicle accidents in a two-year period.

635.3(3) License ~~suspension~~ cancellations and denials.

a. The department shall ~~suspend~~ cancel or deny the MRE license of an MRE instructor ~~whose driving privilege is suspended, revoked, canceled, denied or barred.~~ who does not have a clear driving record under paragraph 635.3(2) “g.” ~~The suspension cancellation or denial shall remain in effect until the individual’s driving privilege is restored.~~ individual has a clear driving record, as defined in paragraph 635.3(2) “g.”

b. The department shall ~~suspend~~ cancel or deny the MRE license of an MRE instructor who fails to maintain a current instructor certification from a nationally recognized motorcycle safety organization approved by the department. ~~The suspension cancellation or denial shall remain in effect until the certification is current.~~

c. Each January, the department shall review each MRE instructor’s teaching activity and update completion. The department shall ~~suspend~~ deny renewal of the MRE license of an MRE instructor who fails to meet these licensing provisions. ~~The suspension denial shall remain in effect until the individual has done one of the following:~~

~~(1) Taught two classes of the approved course under the guidance of an experienced, licensed instructor approved by the department.~~

~~(2) Attended the first instruction component of an instructor preparation weekend.~~

~~(3) Completed an Iowa technical assistance review with an instructor trainer.~~

(1) Obtained instructor certification from a nationally recognized motorcycle safety organization approved by the department.

(2) Taught one class of the approved course under the guidance of an experienced, licensed instructor approved by the department.

ITEM 4. Amend subrule 635.4(1) as follows:

635.4(1) Sponsors shall:

a. No change.

b. Use only instructors licensed by the department to teach the approved course. However, an individual who meets the qualifications for a license except for paragraph 635.3(2)“d” or ~~who is suspended~~ whose license is denied under paragraph 635.3(3)“c” may teach the approved course as provided in those paragraphs.

c. Maintain liability insurance in an amount of not less than \$1 million, combined single limit, with an aggregate limit of not less than \$2 million, and file a certificate of this insurance with the department. The certificate shall verify coverage for scheduled courses of instruction. The certificate shall name the department and its officers, agents, representatives and employees as additional insureds with respect to all work, deliveries or services performed for them by the named insured, and shall specify that the department of transportation, ~~office of driver and identification services bureau~~, shall be given at least 30 days’ prior notice of any material change in or cancellation of the insurance.

A sponsor who is a state agency or public educational institution shall provide written verification of self-insurance to the department.

d. Maintain complete instructional accident report files and furnish this information to the department ~~on forms provided~~ in a manner determined by the department.

e. No change.

f. Allow the department or the department’s designee to audit any class of the approved course, either announced or unannounced.

g. No change.

~~h. Participate in the department’s centralized motorcycle rider education master schedule.~~

~~i. h.~~ Provide and maintain adequate instructional facilities and equipment to accommodate all components—lecture, audio-visual, and on-cycle—of the approved course.

ITEM 5. Amend rule 761—635.5(321) as follows:

761—635.5(321) Use of motorcycle rider education fund. The motorcycle rider education fund may be used for the following purposes:

635.5(1) Course development. New or current sponsors may apply to the department for funds to establish delivery of the approved course at an unserved site. Current sponsors may apply for funds to expand delivery at an existing site.

a. No change.

b. Application for funds shall be ~~on forms provided~~ made in a manner determined by the department. Departmental approval shall be based on the geographical area, the number of students to be served and the availability of moneys in the motorcycle rider education fund. The number of students to be served is determined by range size, the number of courses to be offered, and the number of sponsors providing the course.

c. No change.

635.5(2) Instructor preparation. The department shall sponsor ~~beginning~~ initial instructor preparation courses.

a. and b. No change.

c. Applications for enrollment shall be made ~~on forms provided~~ in a manner determined by the department.

635.5(3) and 635.5(4) No change.

635.5(5) Reimbursement of per pupil costs. The department shall reimburse a sponsor for each student who completes the approved course contingent upon the availability of moneys in the motorcycle rider education fund.

a. and b. No change.

c. Claims for reimbursement shall include a summary of courses taught with site, date, and instructor information, and a report for each class taught that provides the name, age, and driver's license number and gender of each student, and any other information required by the department. Claims for reimbursement shall be submitted ~~on forms provided~~ in a manner determined by the department.

d. No change.

ITEM 6. Amend rule 761—635.6(321) as follows:

761—635.6(321) Information and location. Applications, forms and information regarding this chapter are available by mail from the ~~Office of Driver and Identification Services Bureau~~, Iowa Department of Transportation, P.O. Box 9204, Des Moines, Iowa 50306-9204; in person at 6310 SE Convenience Blvd., Ankeny, Iowa; by telephone at ~~(515)237-3153~~ (515)244-8725; ~~or~~ by facsimile at ~~(515)237-3071~~ (515)239-1837; or by email at mre.dot@iowadot.us.

ITEM 7. Amend rule 761—635.7(321) as follows:

761—635.7(321) License issuance. To be licensed to ~~teach~~ provide MRE, the sponsor's course and instructors must be approved by the department in accordance with this chapter.

635.7(1) Issuance and renewal. A license to ~~teach~~ provide MRE shall be issued for a calendar year or remainder of a calendar year. The license expires on December 31 and must be renewed annually.

635.7(2) Cancellation. A license to ~~teach~~ provide MRE shall be canceled if the course or instructors are no longer approved. Also, a license to ~~teach~~ provide MRE shall be canceled if the sponsor does not comply with this chapter.