

S.F. No. 276 – Third-party Driver’s License Testing (2nd Engrossment)

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Section 1. Examination subjects and locations; provisions for color blindness, disabled veterans. The commissioner of public safety must conduct exams relating to driver’s licenses except as provided in **sections 2 to 14**.

Section 2. Definitions. This section provides definitions for **sections 2 to 14**.

Section 3. Third-party tester; authorization. The commissioner must allow third-party testers that comply with **sections 2 to 14** to conduct road tests for class D driver’s licenses.

Section 4. Program application; approval. An entity may apply to the commissioner of public safety for approval to be a third-party testing program. The contents of the application are specified. The third-party testing program must be located in the state. The program must employ one or more certified third-party testers. If the application is satisfactory, the commissioner must approve the application to become a program. The commissioner must not impose any criteria or requirements on the applicant beyond what is included in this section. Upon approving an application, the commissioner must issue a letter of approval to the program. The letter constitutes an agreement between the state and the program administering road tests for class D driver’s licenses.

Section 5. Indemnification. A program must agree to indemnify and hold harmless the state from all claims brought that are in any manner based on an act of the third-party testing program or third-party testers in the performance of testing duties.

Section 6. Use of certified third-party testers. The testing program must only allow certified third-party testers to conduct tests. The program must maintain a copy of each tester’s certificate.

Section 7. Third-party tester qualifications. An individual must apply to the commissioner to become a certified third-party tester. The requirements for becoming a third-party tester are specified. A third-party tester may work for more than one program, but must be certified separately for each program. To maintain certification, the tester must conduct a minimum number of tests per

year, submit to evaluations, attend required trainings, submit reports, and keep certain records. The commissioner is prohibited from imposing any additional criteria or requirements.

Section 8. Certificates and letter of approval. The commissioner must issue a certificate to each approved third-party tester. The program must keep a copy of each tester's certificate on file. The certificate is effective for four years. A tester must not conduct road tests without a valid certificate.

Section 9. Test proof. A third-party testing program must provide a record of the exam to an individual who has passed a road test. The record must be presented at the time of application for a driver's license.

Section 10. Audits. A third-party testing program must allow representatives of the commissioner to conduct random examinations, inspections, and audits of the tests without prior notice. Upon request of the commissioner, the third-party testing program must provide scheduled times and dates for upcoming tests. At least annually, the commissioner must be permitted to examine the administration of tests.

Section 11. Test administration. Third-party testers must meet the same requirements as state testers. The commissioner is prohibited from imposing additional test administration criteria or requirements on third-party testers. A third-party tester is prohibited from delegating testing to another person; testing a relative; testing anyone with a physical disability who may need an individualized restriction added to the person's license; or testing anyone who has not completed all required coursework or training.

Section 12. Record keeping; reporting requirements. A third-party testing program must maintain specified records relating to tests performed and the testers employed by the program. The program must report annually to the commissioner on the number of tests administered by the program. The program and testers are subject to the Data Practices Act.

Section 13. Notification requirements. The program must ensure that the commissioner is notified when there are changes in the program or testers employed by the program or when there are changes to the test route.

Section 14. Denial, cancellation, or suspension of program or tester certificate. The commissioner may deny an application for a program or tester if the applicant does not qualify. The commissioner may cancel the approval of a program or tester for specified reasons. The commissioner may also issue correction orders. The program or tester can appeal a cancellation or correction order either to the commissioner or by initiating a contested case proceeding. If a correction order is appealed, the commissioner must not enforce the order until the appeal is complete.

Section 15. Implementation. The commissioner of public safety must implement the requirements of this act within existing resources and using existing staff.

Section 16. Effective date. This act is effective August 1, 2021.