

STATE OF NEW YORK
DEPARTMENT OF MOTOR VEHICLES

Pursuant to the authority contained in Sections 215 and 394 of the Vehicle and Traffic Law, the Commissioner of Motor Vehicles hereby amends the Regulations of the Commissioner of Motor Vehicles as follows:

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Subdivision (a) of section 76.1 is amended to read as follows:

(a) Every person desiring to engage in the business of conducting a drivers' school, shall, prior to engaging in such business, secure a license for such purpose. Applications for a license, either original or renewal, must be made on forms prescribed therefore by the Commissioner of Motor Vehicles. Such forms may be obtained from the [drivers' school unit in the central office of the] Department of Motor Vehicles public website [,Albany, New York].

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Paragraphs (3) and (5) of subdivision (c) of section 76.1 are amended to read as follows:

(3) The application must be fully completed, including the names and addresses of all [licensed] certified instructors and, if the applicant, officer, partner, manager or other person signing the same as required has ever used or has ever been known by another name, such name or names must be listed on the application.

(5) [On] As part of an original application, a certified copy of certificate of assumed business name, a certified copy of business entity formation documents, or copy of the filing receipt having been obtained from the Secretary of State's office must be submitted. If none of the above documents apply to the applicant, a certified copy of a business certificate having been obtained from the County Clerk's Office must be submitted with the application [in the event that the business is to be conducted under an assumed name. On]As part of a renewal application, such certificate or filing receipt must be submitted only in the event that the business is to be conducted under an assumed name different than the name under which the business was previously conducted.

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Paragraphs (3) and (4) of subdivision (d) of section 76.1 are amended to read as follows:

(3) The appropriate fee for a renewal of a license must accompany the renewal application. [Such renewal of a license shall be for the period ending on the second 30th day of June following expiration of the last preceding license or renewal.] If such application is made prior to the expiration of the last license issued or renewed and such application results in approval by the Department, the license shall be valid through the last day of the twenty-fourth month starting from the expiration date of the last license issued or renewed. If application for renewal is made within six (6) months following the expiration date of the last license issued or

renewed and such application results in approval by the Department, such license shall be valid from its issuance date through the last day of the twenty-third month after issuance.

(4) All fees must be paid by check, [or] money order, or other payment method as specified by the commissioner.

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Subdivision (e) of section 76.1 is amended to read as follows:

(e) A drivers' school, which has been licensed for at least five years without any suspension or revocation of its license by this department and which has conducted the [three hour prelicensing] Pre-Licensing course or other governmental authorized educational program, in each of the five years preceding the date of application to self-certify and to offer the 30-hour course, may apply to administer the instructor's written test, road sign and road tests, to collect a visual acuity report conducted by a health care professional listed in section 5.2(d) of this Title, and to certify that an applicant for a Drivers' School Instructor's Certificate (MV-524) has passed such tests. Such application shall list the names and addresses of all instructors who shall administer such tests and shall be amended whenever an instructor is added to or deleted from such list. The 30-hour course shall be conducted according to a curriculum supplied and monitored by the department.

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Subdivision (a) of section 76.2 is amended to read as follows:

(a) Upon approval of an application and of the place of business of the applicant, the commissioner will issue a license to the applicant. Such original license shall be valid until the [30th] last day of [June] the twelfth month following the date of its issuance. Such license document or current renewal [thereof] license document must be conspicuously displayed in the licensee's principal place of business at all times. At the time of issuance of [such] an original license document or [of the first] renewal [of a] license document, a [permanent] license number will be assigned to the [applicant] licensee which will be inscribed on such license [or renewal license and thereafter on each and every renewal of the same] and subsequent renewal documents.

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Subdivision (f) of section 76.2 is amended to read as follows:

(f) No [original] application [nor] including an application for change of location, will be approved unless the place of business has adequate office space, a minimum of 50 square feet. If classroom facilities are combined with office space, such total space must be at least 200 square feet. Maximum capacity will be calculated on the basis of [200] 150 square feet for the first 10 or fewer students and [20] 15 square feet for each additional student, with no more than 36 students in any class.

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Paragraphs (1), (2), (3) and (4) of subdivision (j) of section 76.2 are amended to read as follows:

(1) In the event of any change of ownership or interest in a business licensed as a sole proprietorship or partnership which enlarges or brings new persons into the business, a new application for a license must be filed immediately. Such application shall be considered as an application for renewal so long as one or more of the original licensees remains a part owner of the business. [There shall be payable upon the filing of such application a license fee at the rate of \$5 for each month or fraction thereof from the date of issuance to the second 30th day of June thereafter, which shall not, however, exceed in total amount the sum of \$100, against which there shall be credited, if such application is considered an application for renewal as hereinbefore provided, such amount if any as is arrived at by multiplying by \$5 the number of full months remaining to the date of expiration of the current prior license or renewal issued after November 1, 1977.]

(2) In the event of a change through a death or dissolution of a partnership and there is no replacement made, the remaining partner or partners may, upon notifying the [district office] drivers' school unit in the central office of the Department of Motor Vehicles, Albany, New York, continue in business under the current license. If a new partner or partners are subsequently added, the provisions of paragraph (1) of this subdivision shall apply.

(3) The [district office] drivers' school unit in the central office of the Department of Motor Vehicles, Albany, New York must be notified immediately in the event that arrangements are made for the disposal of the business or the controlling interests therein, by sale or transfer of shares or otherwise, to any person or persons not named in the application for the last current license or renewal license of the business as the owner or co-owner or a controlling shareholder or managing member thereof. The commissioner in a proper case may permit continuance of the business by the current licensee, pending processing of the application made by the person or persons to whom the business or any such license therein is to be transferred. Such application by the transferee of such business or interest therein shall be considered as an original application for license and shall comply with all of the provisions of these regulations regarding the application for and issuance of an original license.

(4) Upon the issuance of the new license, the prior license, together with all instructors' certificates issued thereunder will become void and must be immediately surrendered to the [district office] drivers' school unit in the central office of the Department of Motor Vehicles, Albany, New York [immediately]. With such surrender of license, there shall also be filed a notice on form MV-526 signed by the school manager for each and every instructor whose certificate is so voided, setting forth the name, address and certificate number of such instructor and the total amount of logged time rendered by such instructor in behind-the-wheel instruction for the account of the school.

Subdivision (k) of section 76.2 is amended to read as follows:

(k) If the license is lost or destroyed, a duplicate will be issued by the [district office] drivers' school unit in the central office of the Department of Motor Vehicles, Albany, New York upon proof of the facts and payment of the fee of \$2. Such proof shall consist of an affidavit indicating:

Subdivision (l) of section 76.2 is amended to read as follows:

(l) In case of mutilation of a license, a duplicate will be issued by the [district office] drivers' school unit in the central office of the Department of Motor Vehicles, Albany, New York upon surrender of such mutilated license and the payment of a fee of \$2.

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Subdivision (m) of section 76.2 is amended to read as follows:

(m) In order to ensure continuity of licenses, a renewal application must be submitted not more than 60 days but at least 30 days prior to the date of expiration of the license being renewed. Failure to file a renewal application within the period specified herein may result in a delay in the issuance of the renewal license, and a period of time in which the applicant would be unlicensed. [No renewal application will be accepted after the expiration date of the expiring license.] Applications for renewal of driving school licenses may be submitted for review up to six (6) months after the expiration of the last license issued. However, no renewal application will be accepted more than six (6) months after the expiration date of the expiring license. A driving school must have a valid license at the time that any services are provided or business is transacted.

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Subdivision (n) of section 76.2 is amended to read as follows:

(n) A license may be surrendered for cancellation, or deposited for safe-keeping, at the [district office] drivers' school unit in the central office of the Department of Motor Vehicles, Albany, New York issuing the license or other location specified by the commissioner. In all such cases the licensee is required to state in writing the reason for such surrender or deposit.

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Subdivision (a) of section 76.3 is amended to read as follows:

(a) The [district office] drivers' school unit in the central office of the Department of Motor Vehicles, Albany, New York must be notified by the licensee in writing within 10 days [if there is] of a change in the residence address of any individual owner, partner, officer, manager, director, majority shareholder or employee of any drivers' school.

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Subdivision (b) of section 76.3 is amended to read as follows:

(b) The [district office] drivers' school unit in the central office of the Department of Motor Vehicles, Albany, New York must be notified by the licensee in writing within 10 days of any change in the officers, directors or shareholders of any corporation holding a license. Such [district office] drivers' school unit shall also be notified in writing within 10 days of any change in the identity of the manager of the business of the licensee or of a branch office of the licensee. In such case, there shall be supplied in writing with such notice and as to each new officer, director, shareholder or manager the same information as would be required on an original application for a license.

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Subdivision (a) of section 76.4 is amended to read as follows:

(a) A branch office of a drivers' school is an office in a building other than the main office, utilizing the same business name, where some of the business functions of the drivers' school are transacted. A drivers' school desiring to open one or more branch offices, must do so by filing an application for permission to operate a branch office. If the application is approved, the commissioner will issue a branch office license which must be permanently displayed in such office at all times. Such branch office license will be issued for a period expiring at the same time as the license of such drivers' school; and for the issuance and each renewal thereof there shall be paid a fee of \$1.50 for each full year or any part thereof. [Such branch office license shall bear the same permanent number assigned to such school and appearing on such school's original license.]

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Subdivision (c) of section 76.4 is amended to read as follows:

(c) No branch office may be removed to a new location without prior permission from the commissioner. If a branch office is discontinued, the license must be surrendered within 10 days after termination of business to the [district office] drivers' school unit in the central office of the Department of Motor Vehicles, Albany, New York which issued such license, together with all certificates of instructors, if any, whose employment by or association with the licensee has been terminated upon the discontinuance of such branch office; there should also be filed a notice on form MV-526 signed by the school manager for each and every instructor whose certificate is so voided, setting forth his name, address and certificate number and the total amount of logged time rendered by such instructor in behind-the-wheel instruction for the account of the school.

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Paragraphs (1), (2), and (4) of subdivision (a) of section 76.8 are amended to read as follows:

(1) A student record [card], which may include either electronic or hardcopy media, for each student [which] must contain the complete name, address and telephone number, if any, of such student, the number of each written contract entered into by him, if any, description of services rendered with date and time thereof, name of the instructor performing such services, and number of each receipt given to the student. Such [cards] records must be filed and maintained in alphabetic order, but may be maintained in two parts, active and inactive. The student record [card] may not be removed from such file except for posting transactions.

(2) [A permanently bound book, with pages consecutively numbered, to be known as the cashbook, to record receipts and disbursements.] A system to record receipts and disbursements. Such [book] system may be maintained either electronically or in paper form. [as one or two volumes. If maintained in two volumes, one volume must be maintained for receipts and the other for disbursements.] Tracking must clearly identify whether the entry was a receipt or disbursement. The date of each receipt, name of the student from whom received, receipt number, and amount received must be entered therein; and the date of disbursement, name of payee, description of each disbursement, and the amount of payment must be entered therein. All copies of

receipts, and the invoices relating to such disbursement must be retained by the licensee in support of such entries for a period of at least three years. In the case of a school with one or more branch offices, disbursements and invoices may be maintained at the main office and not at each branch office.

(4) A licensee may substitute for the entries [in the cash book] with respect to receipts, as required by paragraph (2) of this subdivision, consolidated entries showing the totals of named instructor's or receiver's duplicate receipts for any one day, provided the entry shows the first and last number of the receipts so issued by any one instructor or receiver. Only one system of record keeping of receipts [in the cash book], either as provided for by paragraph (2) of this subdivision or as provided for by this paragraph, may be used by any one licensee.

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Paragraph (3) of subdivision (c) of section 76.8 is amended to read as follows:

(3) a statement concerning the number and duration of classroom and behind-the-wheel lessons to be given, other than the [three-hour prelicensing] Pre-Licensing course, except that spaces may be provided for those portions which may vary on each individual contract. If the school offers a [three-hour prelicensing] Pre-Licensing course, the contract must state that the contract price does not include the fee for the [three-hour prelicensing] Pre-Licensing course;

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Subdivisions (e), (f), (g), (h), (i), (j), (k), (l), (m), and (n) of section 76.8 are amended to read as follows:

[(e) A duplicating process such as ditto or mimeograph will not be considered to constitute preprinting for the purposes of this section.]

[(f)e] The instructor is required to ascertain, before giving behind-the-wheel training, that a student possesses a learner's permit or a driving license.

[(g)f] If behind-the-wheel instruction is carried on in groups rather than with individual students, all contracts and advertisements of the driver training school must so indicate. No more than four persons, including the instructor, may occupy any motor vehicle during a behind-the-wheel instruction period.

[(h)g] No school shall represent or agree, orally or in writing, to give instructions until a license is obtained by the applicant, as a part of an inducement to perform.

[(i)h] If the licensee performs the functions of a private service bureau, records as required in section 77.5 of this Title, with respect to private service bureaus, must be maintained.

[(j)i] The loss, mutilation or destruction of any records which a drivers' school is required to maintain under this Part must be reported to the commissioner immediately by affidavit stating:

(1) the date such records were lost, destroyed or mutilated;

(2) the circumstances involving such loss, destruction or mutilation; and

(3) the name of the precinct, police officer or police department to which such loss or destruction was reported, and the date of such report.

([k]j) All records and contracts must be retained for three years during which period they shall be subject to inspection by the commissioner, or his duly authorized representative at all times during regular stated hours or upon the department's request.

([l]k) A contract entered into by a drivers' school and by a veteran or other eligible person receiving benefits pursuant to article 34, title 38 of the United States Code, whereby such veteran or other eligible person is a current holder of a certificate of eligibility issued by the Veterans Administration, for a specific course of instruction to be given at such drivers' school, must contain the following statements:

"If a student fails to enter, withdraws, or is discontinued before completion of the course, the sum charged for tuition (fees and other charges) for the completed portion of the course will be: (a) \$10 of the established registration fee; and, (b) the stated cost of such textbooks, tools, etc. as have been issued by the school and accepted by the student; and (c) an amount derived from the actual hours of attendance, multiplied by the hourly rate; and (d) an amount derived from such absences as have occurred up to 20 percent of the length of the course multiplied by the hourly rate, except that the hourly rate shall be substituted for such absences as have been made up by scheduled work; and, (e) 10 percent of the tuition charged for that portion of the course completed by the student and described in (c) and (d) above. Any money paid to the school by the student, in excess of this sum, will be refunded promptly. A transcript of the student's record will be issued to the student provided all payments have been made in accordance with (a) - (e) above."

The refund provisions so contained in such veteran's contract shall be exclusively applicable thereto and in lieu of the refund provisions otherwise provided for by subdivision (d) of this section.

([m]l) A licensee may use [substitute for the cash book required by paragraph (a)(2) of this section,] a computer printout showing receipts and disbursements and all other information required by paragraph (a)(2) of this section. If the licensee has one or more branch offices, the printout must distinguish the receipts and disbursements of the main office from each branch. A copy of such computer printout must be maintained at the main office. If the licensee maintains its main office out-of-state, a computer printout pertaining to any branch office located in this State must be maintained at such branch office.

([n]m) A licensee, who is certified to administer the written, road sign and road tests to instructor applicants, must maintain the applicant's written test, report of road test and visual acuity report for three years.

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Subdivisions (a), (b), and (c) of section 76.11 are amended to read as follows:

(a) No vehicle owned or controlled by a drivers' school may be used for the purposes of giving driving instruction until the licensee has [obtained from the commissioner a school vehicle identification certificate,

which certificate shall be carried in such vehicle or, in the case of a motorcycle, on the instructor's person, at all times while such vehicle is being used either for driving instructions or road tests. When a vehicle owned by an instructor is no longer used for instruction, the school vehicle identification certificate must be surrendered to the licensee who shall surrender it to the district office of the Department of Motor Vehicles.] reported such vehicle information as is required by the commissioner.

(b) [An application for a record of [drivers'] Drivers' school [certified]vehicles must be [made] reported to the drivers' school unit in the central office of the Department of Motor Vehicles, Albany, New York on a form prescribed for such purpose by the commissioner.

(c) A record of drivers' school [certified] vehicles is required for all additional or substitute vehicles.

Paragraph (2) of subdivision (d) of section 76.11 is amended to read as follows:

(2) with dual controls on foot brakes. [tractor] Tractor trailer combinations owned or controlled by a drivers' school need not be equipped with dual controls on foot brakes. However, such combination must be equipped with some type of device, such as a trolley brake, which will permit the instructor to bring the vehicle to a halt;

Section 76.12 is amended to read as follows:

76.12 Training facilities. If a school is approved to conduct the [three-hour prelicensing] Pre-Licensing course, it must meet the requirements of Part 7 of this Title with regard to training facilities.

Paragraphs (2) and (3) of subdivision (c) of section 76.15 are amended to read as follows:

(2) Every original application for an instructor's certificate shall be accompanied by the appropriate [annual] fee, which shall not be refunded and shall be subject to payment of an [annual] appropriate renewal fee [in cash,] by check, [or] money order, or other payment method as prescribed by the commissioner.

(3) Applicants for an instructor's certificate will be required to submit [two] one photograph[s] at least 1 ½ inches by 1 ½ inches in size taken not more than 30 days prior to the date of such application or renewal thereof, and also will be subject to an investigation or required to submit additional information as the commissioner may prescribe.

Paragraph (2) of subdivision (d) of section 76.15 is amended to read as follows:

(2) [If an instructor wishes to instruct in a vehicle that requires a higher class license than that which he possesses, he must pass all test requirements in order to obtain the appropriate license.] An applicant for an

instructor's certificate must be licensed, for a minimum of two years immediately prior to the date of application, to operate the type of vehicle in which they will give driving instruction. Such license must include all endorsements for the operation of such vehicle. The applicant must not have any restrictions on such license that would prohibit operating such vehicle. Qualification on the instructor's road test for an appropriate type of vehicle is also required, in all cases, before an instructor's certificate (MV-524) endorsed for instructing on vehicles requiring this license class [1, 2, 3, 7, 7A, 8 or 8A licenses] may be issued.

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Subdivisions (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p) and (q) of section 76.15 are amended to read as follows:

(e) [Instructors'] Original instructors' certificates shall be valid from the date of issuance and will expire on the last day of the twelfth month [until the 30th day of September next] following the date of issuance. Upon [renewal] approval of an application to renew an instructor's certificate, the commissioner [may, in his discretion,] will issue a renewal which shall be valid for a two-year period from the date of issuance, except in the case where the instructor's driver license is issued by a state other than New York. In such case, the instructor's certificate shall be valid from the date of the New York issuance and will expire on the last day of the twelfth month following the date of issuance.

(f) An instructor's certificate must be surrendered by the instructor to the drivers' school employer who shall surrender it to the proper [district office] drivers' school unit in the central office of the Department of Motor Vehicles, Albany, New York immediately upon termination of an instructor's services with or by any drivers' school designated on such certificate.

[(g) A drivers' school desiring to employ an instructor previously licensed may upon application and payment of a fee of one dollar for each, obtain a copy of the face of any and all notices on form MV-526 previously filed by any other school or schools with respect to the termination of such instructor's services; however, the school may not obtain a copy of the endorsement on any such form or forms setting forth the particulars of the termination of such instructor's services.]

[(h) g) Any instructor who loses his certificate must report the loss thereof immediately, in writing, to the proper [district office] drivers' school unit in the central office of the Department of Motor Vehicles, Albany, New York and a duplicate will be issued to replace a lost current certificate.

[(i)h) The instructor's certificate must be carried by the instructor at all times while driving instructions are being given or when an instructor is accompanying an applicant for a license to the road test line in a motor vehicle or motorcycle.

[(j)i) The commissioner shall not issue an instructor's certificate to any person who is not employed by or associated with a drivers' school licensed by the commissioner.

[(k)j) No instructor's certificate shall be valid except for the purpose of the giving of instruction by the holder thereof in the course of his employment or association with the drivers' school designated thereon and for the account of such school. The giving of any instruction for hire in violation of the foregoing provisions shall

render such instructor's certificate invalid and subject to forfeiture and immediate surrender to the driver's school employer for subsequent surrender to the Department of Motor Vehicles.

([l]k) Any instructor whose certificate shall be subject to surrender by reason of termination of his services by the drivers' school designated thereon or whose certificate shall be invalidated by reason of violation of the provisions of subdivision (k) of this section, and who shall not promptly surrender such certificate shall be subject to proceedings upon reasonable notice and departmental hearing for the suspension or revocation of his instructor's certificate.

([m]l) Qualified and recognized experts in the field of driver training, traffic regulation or motor vehicles may give occasional classroom lectures (not including the [three-hour prelicensing] Pre-Licensing course lectures) without holding a valid instructor's certificate. The school shall maintain a record, indicating the name, address, qualifications of the extent and lecture date, and shall make all such records available for inspection by the commissioner if he desires to inspect them.

([n]m) Denials of instructor's certificate. (1) No applicant, except in the discretion of the commissioner, will be issued an instructor's certificate, or a renewal thereof, who has had his driver's license or his out-of-state driver's privilege suspended or revoked within the 24 months immediately prior to the date of application either in New York State or any other state, except that this provision shall not apply to a temporary suspension. No renewal of an instructor's certificate will be issued to an applicant whose last preceding instructor's certificate or any last preceding instructor's certificate if he held more than one was not surrendered in pursuance of the provisions of paragraph (f) or (k) of this section.

(2) An application for instructor's certificate or a renewal thereof may be denied, if in the discretion of the commissioner, such applicant's driving record indicates a lack of the qualities or competence desirable for a driving instructor. No such denial shall be made for a period of less than 30 days nor more than one year, based upon the same occurrences. Any such denial shall not become final until after a hearing if the applicant requests in writing within five days after receipt of notice of such denial a hearing.

([o]n) Holders of instructors' certificates may be required to attend a group session at which time the Department of Motor Vehicles will brief applicants on any new changes in the regulations and laws or new training techniques, or it may inform them with printed materials through the mail. The applicants for a renewal of an instructor's certificate may also be required to submit to psycho-physical tests or to a test of their teaching ability. This will be done at the discretion of the commissioner based on the applicant's past record as an instructor.

([p]o) If an instructor possessing a current instructor's certificate desires to be employed by an additional school or schools, an additional certificate or certificates will be issued for such purpose without fee.

([q]p) An applicant who does not possess a high school or high school equivalency diploma, but who possesses a military general equivalency diploma, may file an application for an instructor's certificate, provided such application is accompanied by proof that the applicant has filed for a New York State high school equivalency diploma. An instructor's certificate may be issued to such an applicant which shall be conditional upon the applicant submitting proof of having obtained a New York State high school equivalency diploma within six months from the issuance of such certificate.

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Subdivision (a) of section 76.21 is amended to read as follows:

(a) Schools must not publish, advertise or intimate that a driver's license is guaranteed or assured. The display of signs such as "License or Plates Secured Here" is forbidden, but the words *License Plates Secured* or *License Renewals Secured* may be used, if the intent to operate a private service bureau has been filed with the proper [district office] drivers' school unit in the central office of the Department of Motor Vehicles, Albany, New York.

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Subdivisions (a), (c) and (d) of section 76.30 are amended to read as follows:

(a) The provisions of this Part with respect to required records of a drivers' school shall not be applicable with respect to any student who is taking only the [three-hour prelicensing] Pre-Licensing course.

(c) Any classroom used in conjunction with the [three-hour prelicensing] Pre-Licensing course must meet the requirements of Part 7 of this Title.

(d) An instructor of the [three-hour prelicensing] Pre-Licensing course must also meet the requirements of Part 7 of this Title.

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