

**AGENCY OF EDUCATION**  
**Montpelier, Vermont**

**TEAM:** Legal

**ACTION ITEM:** Will the State Board of Education waive, for the duration of the State of Emergency first declared by Governor Phil Scott on March 13, 2020, the requirement laid out in State Board Rule 2351 that, to be approved, a driver education course must include at least 6 hours of behind-the-wheel instruction by a certified driver education instructor?

**SECRETARY'S RECOMMENDED ACTION:**

That, pursuant to its power to waive Rules under State Board Rule 1260, the State Board waive for the duration of the State of Emergency the requirement in State Board Rule 2351 that, to be approved, a driver education course must include at least 6 hours of behind-the-wheel instruction by a certified driver education instructor.

**STATUTORY AUTHORITY:** 16 V.S.A. § 1045, State Board Rule 1260.

**BACKGROUND INFORMATION:**

State statute provides that “[a] driver education and training course, approved by the Agency of Education and the Department of Motor Vehicles shall be made available to students whose parent or guardian is a resident of Vermont and who have reached their 15th birthday and who are regularly enrolled in a public or independent high school approved by the State Board.” 16 V.S.A. § 1045(a). Under State Board Rule 2351, “[t]o be approved by the Department of Education, a driver education course must consist of at least 30 clock-hours of class instruction and at least 6 hours of behind-the-wheel instruction by a certified driver education instructor” and “[c]ourses provided by secondary schools for persons above high school age, who are unlicensed beginners, shall consist of at least 20 clock hours of classroom instruction plus 6 or more clock hours per student of behind-the-wheel instruction or its equivalent.”

The Department of Motor Vehicles is under significant pressure from legislators to waive the in-person requirements for driver education courses, and has asked that the Agency of Education and State Board of Education work with it to waive the requirement that approved courses include behind-the-wheel instruction by a driving instructor.

On March 17, the Department of Motor Vehicles issued the following guidance:

Greetings Driver Educators,

With the COVID-19 Pandemic occurring, the Vermont Department of Motor Vehicles is evaluating daily how we can accomplish our mission while keeping the citizens of Vermont safe. As we do this, it becomes necessary to temporarily adjust the way we do business.

VT DMV Rule 11 requires that Driver's Education classroom, observation and behind the wheel training be done with the Instructor present and the classroom and road work be done concurrently. The rule also allows the Commissioner of Motor Vehicles to make an exemption.

As you are already aware, as Commissioner, I have permitted the classroom component to be taught in a virtual format while the State confronts COVID-19. As of today, Vermont DMV will provide a blanket exemption to the concurrent requirement found in VT DMV Rule 11(r)(6). What this means is, you can provide the classroom component via a virtual platform and once the Emergency Declaration has been lifted provide the on the road component.

The DMV would like to allow driver education courses to be completed without the behind-the-wheel component during the State of Emergency. DMV rules do not require the behind-the-wheel component; only State Board of Education rules contain that requirement.

**POLICY IMPLICATIONS:** None.

**EDUCATION IMPLICATIONS:** None. It is anticipated that driver education courses will give students checklists of driving activities to complete under the supervision of a licensed driver in their household, to approximate the experience of the behind-the-wheel training with a licensed instructor.

**FISCAL IMPLICATIONS:** None.

**STAFF AVAILABLE:** Rachel Smith, Assistant Attorney General for the Agency of Education