

April 27, 2020

RE: Temporary Waiver of certain Driver's Education instruction permit requirements as a result of the Governor's March 17 Proclamation of Disaster Emergency due to the Coronavirus (COVID-19) outbreak.

To whom it may concern:

On March 17, 2020, Governor Reynolds issued a Proclamation of Disaster Emergency due to the Coronavirus (COVID-19) outbreak.

As a result of the emergency referenced above, driver's education instructors have requested suspension of Iowa Administrative Rule 761-634.4(2)(k), requiring the driver's education instructor to verify at the beginning of each course that each student possesses a valid instruction permit or driver's license. Because of the recommended social distancing measures under this disaster emergency, issuance of instruction permits and driver's licenses for minors are not considered an essential Department of Transportation service at this time.

On behalf of the Iowa Department of Transportation, I am accepting this request as a petition for rule waiver under 761 Iowa Administrative Code chapter 11, which allows me to grant a waiver when application of a rule would pose a hardship that is undue, when the waiver would not prejudice the substantial legal rights of any person, when the rule provisions are not mandated by statute or other provisions of law and when equal protection of the public health, safety, and welfare will be afforded by a means other than that prescribed in the rule for which the waiver or variance is requested.

This rule implements Iowa Code § 321.178, which governs the requirements for an approved driver's education course, including behind-the-wheel instruction, and requires us to adopt administrative rules related to certification of behind-the-wheel instructors. The requirement the driver's education instructor verifies at the beginning of each course that each student possesses a valid instruction permit or driver's license is a requirement of administrative rule 761—634.4(2)(k), but is not mandated by statute or other provision of law.

Accordingly, as director, I find that under the authority cited, I may take the following action to provide relief from the following administrative rule applicable to behind-the-wheel driver's education instruction:

- Iowa Administrative Rule 761-634.4(2)(k) stating that "The driver education teacher or instructor shall verify at the beginning of each course that each student possesses a valid instruction permit or driver's license."

I hereby waive the portion of above-referenced rule specifically related to the requirement that the driver's education instructor verifies at the beginning of each course that each student possesses a valid instruction permit or driver's license, as that requirement would be an undue hardship because the Department is not currently issuing instruction permits or driver's licenses to minors at this time. I find that equal protection of the public health, safety, and welfare can be met by the student providing valid proof that they have passed the required instructional permit knowledge test prior to beginning the classroom portion of the course, and by providing proof of having been issued an instruction permit or driver's license prior to beginning the behind-the-wheel portion of the driver's education course.

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This decision does not waive the portion of above-referenced rule requiring the student to possess and maintain a valid instruction permit or driver's license throughout all the behind-the-wheel instruction and for the student to report any suspension, revocation, or cancellation of the instruction permit or driver's license to the instructor. This decision does not waive any other provisions of administrative rule or Iowa law related to driver's education requirements.

This waiver shall become effective immediately and shall end 90 days after April 30, 2020, which is the expiration of the Governor's Proclamation of Disaster Emergency dated March 17, 2020 and extended on April 2, 2020. If Governor Reynolds extends in writing the March 17 Proclamation of Disaster Emergency, this waiver shall similarly be extended to 90 days after the date indicated in the extension.

Please contact Steve Stonehocker, by email at [steven.stonehocker@iowadot.us](mailto:steven.stonehocker@iowadot.us) or by telephone at (515)237-3220 if you have any questions about this decision

Sincerely,



Scott Marler, Director