

DEPARTMENT OF FINANCE
COUNTY OF HAWAI'I
STATE OF HAWAI'I

RULES AND REGULATIONS OF THE DIRECTOR OF FINANCE

RULE 11

RULES AND REGULATIONS RELATING TO THE ADMINISTRATION
OF THE HIGHWAY SAFETY ACT, CHAPTER 286, PART VI,
MOTOR VEHICLE DRIVER LICENSING, HAWAI'I REVISED STATUTES

Rule 11.1 Scope of Rules.

These rules and regulations govern the requirements and procedures for the issuance of a learner's instruction permit and driver's license.

Rule 11.2 Definitions.

As used in these rules, unless the context clearly requires otherwise:

- (a) "Administrator" shall mean the Director of Finance of the County of Hawai'i, or the Administrator's authorized representative or subordinates.
- (b) "Driver" shall mean every person who drives or is in actual physical control of a motor vehicle upon a highway or who is exercising control over or steering a vehicle being towed or pushed by a motor vehicle.
- (c) "Driver's License" means any license to operate a motor vehicle issued under the laws of this state.
- (d) "Examiner of Drivers" means the person or persons appointed under Section 286-101, Hawai'i Revised Statutes.
- (e) "Motor Vehicle" means every vehicle, that is self-propelled, and every vehicle which is propelled by electric power but which is not operated upon rails, but excludes a moped.
- (f) "Out-of-state, U.S. territorial or Canadian driver's license" shall mean those drivers' license issued by any other state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, a province of the Dominion of Canada, or the Commonwealth of the Northern Mariana Islands, as listed in Section 286-108 (c), Hawai'i Revised Statutes.

- (g) "Party" shall mean each person named or admitted as a party or properly seeking and entitled as a right to be admitted as a party in any hearing under these rules.
- (h) "Person" includes individuals, partnerships, corporations, associations or public or private organizations of any character other than agencies as defined in Section 91-1 (1), Hawai'i Revised Statutes.
- (i) "Rule" shall mean any statement of the Examiner of Drivers constituting a rule under Chapter 91, Hawai'i Revised Statutes.
- (j) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Rule 11.3 Acceptable Forms of Identification for All Applicants (Class 1 - 4, CDL A, B, and C).

All documents must be originals or certified copies. No photocopies will be accepted.

- (a) Proof of Social Security number:
 - (1) Social Security card in name of applicant (no copies or metal plates).
 - (2) Driver's license with number and photo.
 - (3) State of Hawai'i identification card with number and photo.
 - (4) Military identification card or DD-214.
 - (5) Medicare identification card (Suffix "A" only).
 - (6) W-2 tax form (issued from previous year).
 - (7) Other document as deemed necessary by the Examiners of Drivers for such proof including, but not limited to, verification of social security number by the Social Security Administration.
- (b) Proof of name and birth date:
 - (1) Out-of-state, U.S. territorial or Canadian driver's license (valid or expired) with photo.
 - (2) U.S. passport.
 - (3) Foreign passport with English translation.

- (4) U.S. Immigration and Naturalization documents.
 - (5) Alien registration/refugee identification card.
 - (6) State of Hawai'i identification card with photo.
 - (7) Military documents: Consular report of birth and U.S. military issued certificate of birth (SF-240/SF-545).
 - (8) State certified birth certificate with both parents listed or State certified birth identification card.
- (c) Proof of change of name, change of sex:
- (1) Certified divorce decree with legal name change.
 - (2) Certified decree of name change issued by the courts or the Lieutenant Governor's Office, State of Hawai'i.
 - (3) Hawai'i marriage certificate (Department of Health document only).
 - (4) Out-of-state marriage certificate (state issued with seal).
 - (5) Certified statement by physician stating sex change is valid.
 - (6) Other document as deemed necessary by the Examiner of Drivers for proof including, but not limited to, verification of documents from issuing government agency.

Rule 11.4 Acceptable Signatories for Filing Instruction Permits for Minors; Documents Required.

- (a) If parents share custody, both parents must sign (parents married, separated or divorced with joint custody).
- (b) Divorced parent with certified court custody papers may sign; or, if divorce decree does not indicate who has legal custody, parent with physical custody may sign with a sworn affidavit as shown in Exhibit A.
- (c) If parents were never legally married, one parent may sign with a sworn affidavit as shown in Exhibit A.

- (d) If parents are living, not legally divorced or separated, and whereabouts of one parent is unknown, parent with physical custody may sign with a sworn affidavit as shown in Exhibit A.
- (e) If one parent deceased, surviving parent may sign with deceased parent's death certificate.
- (f) Legal guardian(s) may sign with certified court documents.
- (g) Foster parents(s) may sign with certified court documents. A minor applicant in foster care shall present verification of foster care on Department of Human Services letterhead signed by the Director or his designee pursuant to Hawai'i Revised Statutes Section 286-112 (a)(3).
- (h) Next of kin may sign if both parents are deceased. Must provide death certificate for both parents.
- (i) Responsible adult(s) may sign if both parents are deceased. Responsible adult(s) must be willing to assume financial responsibility of the minor and must provide death certificate for both parents.
- (j) Legally emancipated minor may sign for himself/herself with court documents showing grant of emancipation.
- (k) Adult spouse of minor applicant may sign with proof of age and marriage certificate.

The Examiner of Drivers shall determine the acceptability of all documents submitted and may require additional supporting documents as deemed necessary.

Rule 11.5 Application.

All applicants for a driver license shall provide their social security number, date of birth, name, mailing address, home address, height, weight, hair color, eye color, sex, place of birth, organ donor indicator, advanced health care indicator, thumbprint and any other information required by the Examiner of Drivers which is reasonably necessary to confirm the identity of the applicant.

Rule 11.6 Written and Performance Examination Scores.

- (a) The written and performance examinations are issued to determine whether an applicant has a reasonably complete understanding of the rules of the road, ordinary safe driving practices and the laws relating to licensing of drivers and vehicles.

- (b) All scores shall be valid for thirty days after passing such exams for the following requirements:
- (1) Financial responsibility requirements.
 - (2) Eye-medical certification.
 - (3) Other required documents as deemed necessary by the Examiner of Drivers including, but not limited to, notarized signature(s) of parent(s), documents showing name change for parent and any other supporting government document required for proof.

Rule 11.7 Payments for All Transactions.

- (a) All payments to the County Director of Finance shall be made within two working days (i.e. forty-eight hours). If payment is not received and transaction processed within two working days, all test scores and performance tests or licenses shall be voided. Any applicant who has not paid the prescribed fee shall be treated as a new applicant.
- (b) Payments returned due to "Insufficient Funds," or other reason, must be settled within ten working days. If payment is not received and transaction processed within ten working days, all test scores and performance tests or licenses shall be voided.
- (c) Any applicant who has not paid the prescribed fee shall be treated as a new applicant.

Rule 11.8 Road Test Procedures for Mopeds, Motorcycles, Motor Scooters, and Three-Wheeled Vehicles.

- (a) Applicants who desire to obtain a State of Hawai'i driver's license for the purpose of operating a moped, motor scooter, motorcycle or three-wheeled vehicle are required to:
 - (1) Possess a valid instruction permit.
 - (2) Provide proof of liability insurance coverage by insurance card showing the name, make, year, factor or serial number of the vehicle, policy number, names of insured, and the effective dates of coverage including the expiration date as provided in Section 431:10C-104, Hawai'i Revised Statutes. Photocopied liability insurance identification cards are not acceptable.
 - (3) Provide a current Hawai'i certificate of registration and current safety inspection certificate. Photocopied certificates are not acceptable.
 - (4) Provide a helmet with safety shield or with safety glasses.

- (5) Provide a rental contract for rented motorcycles or motor scooters with the applicant's name listed and the rental company's liability insurance card. Photocopied liability insurance cards are not acceptable.
 - (6) Wear covered shoes (no slippers or bare feet).
 - (7) Wear a long-sleeved jacket or shirt.
 - (8) Wear full-length trousers (no shorts).
- (b) Every operator applying for a Type 1 or 2 performance examination shall be required to successfully complete an off-street skill test, the alternate MOST, or, if eighteen years of age or older, may submit a valid motorcycle skills test certification for waiver, DOT Form 4-810 (HWY- V 11/97) within ninety days of the completion date printed on the certificate.
 - (c) Applicants utilizing a three-wheeled vehicle shall successfully complete an off-street skill test to include the figure eight and weaving capability. Upon successful completion, applicants shall be issued a driver's license with restriction to three-wheeled vehicle only.
 - (d) Applicants utilizing an automatic Type 1 or 2 vehicle shall be issued a license with restriction to automatic Type 1 or 2 vehicle only.

Rule 11.9 Motorcycle Road Test Cancellation.

Both the off-street skill test and on-street road test may be cancelled by the Examiner of Drivers due to inclement weather, unforeseen emergencies, and as deemed necessary WITHOUT NOTICE to the general public. Permits of applicants who appeared for a road test may be renewed for motorcycle, motor scooter or mopeds WITHOUT a road test providing the permittee's name appears on the daily log and road test cancellation is noted. Examiner of Drivers shall also note on instruction permit the cancellation of the performance test.

Rule 11.10 Automobile Road Test Requirements.

Every road test applicant shall be required to meet the following requirements:

- (a) Applicant shall provide a vehicle meeting all safety standards.
- (b) Applicant shall provide the vehicle's current certificate of registration and certificate of safety inspection. Photocopies are not acceptable.
- (c) Applicant shall provide a valid insurance identification card as described in 431:10C-107, Hawai'i Revised Statutes. Photocopied insurance identification cards are not acceptable.

Photocopies of certificate of self insurance, issued by the Hawai'i State Insurance Commission, are acceptable. Information must match certificate of registration.

- (1) If there are two registered owners, the insurance card must show at least one of the names.
 - (2) If none of the names on the certificate of registration and insurance card match, a letter from the insurance company will be required acknowledging that they are aware that the insured is not one of the registered owners and that the vehicle is still covered by a valid insurance policy.
 - (3) If the vehicle is leased, the insurance card may be in the name of either the leasing company or the lessee. If insurance card shows the name of lessor, proof of the lease agreement is required.
 - (4) If a company has five or more vehicles registered to the company, the insurance card is not required to indicate the make and serial number (VIN) of each vehicle.
- (d) If the vehicle being used for the road test is a rented vehicle, the road test applicant must be listed on the rental agreement as a driver. And, the rental agreement or separate letter from the rental company must authorize the applicant to use the rental vehicle for the road test.
 - (e) Applicant must be accompanied by a duly licensed driver who shall be at least twenty-one years of age.
 - (f) Applicant must be at least sixteen years of age.
 - (g) If applicant is less than eighteen years of age, applicant must possess permit for at least one hundred eighty days and must present DOT approved Driver's Education Student Completion Certificate and a Behind-the-Wheel Completion Certificate.

Rule 11.11 Road Test Cancellation.

The road test may be cancelled by the Examiner of Driver due to inclement weather, unforeseen emergencies, and as deemed necessary WITHOUT NOTICE to the general public.

Rule 11.12 Off-Street Skill and On-Street Road Test of Class 4, and CDL A, B, and C.

- (a) All applicants shall be tested according to Sections 286-108 and 286-108.5, Hawai'i Revised Statutes. The off-street skill test and on-street road test shall be administered to the applicant as described in the Hawai'i Administrative Rules, Title 19, Subtitle 5, Chapter 122-17, Category 4, and commercial driver license skill tests.

- (b) The skill test is a three-part test consisting of 1) pre-trip vehicle inspection; 2) basic skill control; and 3) on-street road test. The tests shall be administered sequentially by category of license without omitting any test.
- (c) Applicants shall also be required to provide the following:
 - (1) Vehicle in the category in which the applicant desires a license.
 - (2) Current Certificate of Registration. Photocopies not acceptable.
 - (3) DOT Safety Inspection Certificate of test vehicle (and trailer, if applicable).
 - (4) Insurance card for test vehicle as listed in Section 431:10C-107, Hawai'i Revised Statutes. Photocopies not acceptable.
 - (5) Valid instruction permit with endorsements for category being tested.
 - (6) Valid Hawai'i driver's license (minimum of Class 3).
 - (7) Current medical examination certificate, DOT 4-766 or facsimile thereof in accordance with the Motor Carrier Regulations (391.41 - 391.49).
- (d) All applicants shall be accompanied by a licensed driver with a valid Hawai'i driver's license of equal category or higher of the license sought by the applicant.

Rule 11.13 Driver License Photographs.

- (a) A photograph is required of any applicant renewing a Hawai'i driver's license or applying for a new driver's license, for the exchange of an out-of-state or foreign driver's license, or for a duplicate driver's license.
- (b) All applicants shall remove any hats, headdress, etc., so as not to obscure more than two-thirds of their full-faced photograph. Exceptions to the removal of headgear will only be allowed for religious beliefs as protected by the First Amendment of the Constitution of the United States and Article I, Section 4, of the Constitution of the State of Hawai'i. Such applicants shall, upon request, submit a written explanation as to why he/she is unable to comply based on his/her religion, and shall include the name and sect of his/her religious belief. He/she may be required to obtain a letter from the University of Hawai'i Religion Department, which confirms the religious position he/she is taking. Each applicant is advised that the Corporation Counsel and the Finance Department, prior to the release of the plastic license, will review these letters. If the photograph taken is determined to be unacceptable, the temporary license will be revoked, the application denied and the applicant will be contacted within thirty days of such determination.

Rule 11.14 Duplicate Hawai'i Driver's License.

- (a) A duplicate driver's license may be obtained if the plastic license is lost, stolen or mutilated, or to change the address, sex, name of the licensee or to correct the social security number or date of birth. All applicants applying for a duplicate license shall be required to produce two identification cards which reflect the applicants' name and social security number.
- (b) Any person presenting a driver's license that appears to have been altered or defaced shall be instructed to obtain a duplicate license or apply for a renewal if they are within the renewal period. The altered or defaced license shall be confiscated.

Rule 11.15 Oral Instruction Permit Examinations.

All applicants who apply for an oral examination for an instruction permit must call to secure an appointment date and time.

Rule 11.16 Restrictions.

- (a) Subsequent to completion of the examinations required by State statute, the Examiner of Drivers shall explain to the applicant the reasons for any restriction. The following indicate some of the restrictions, which may be required for various deficiencies:
 - (1) Pedal extensions; special manual brakes, power brakes, special clutch or accelerator controls.
 - (2) Special seat adjustments.
 - (3) Special knob on steering wheel, power steering, mechanical arm signaling device, gear lever on steering columns, automatic transmission.
- (b) Any restrictions and the reason therefore shall be entered on the Hawai'i driver's license and the restriction shall be noted on the respective license according to the following code:
 - (A) Corrective Lenses.
 - (B) Outside mirror.
 - (C) Automatic transmission.
 - (D) Daylight hours only.
 - (E) Full hand equipment.

- (F) Mechanical signals.
- (G) Taxi.
- (H) Power steering.
- (J) Power brakes.
- (K) Vehicle without air brakes.
- (L) Steering knob.
- (M) Cushion.
- (N) Medical.
- (O) Any other restrictions.
- (P) Three wheel motorcycle.
- (Q) Mechanical aid.
- (R) Prosthetic aid.
- (S) Limit to employment.
- (T) Limited other.
- (V) CDL intrastate only.
- (X) Except Class A bus.
- (Y) Except Class A & B bus.
- (Z) Except tractor trailer.

Rule 11.17 Expiration and Renewal.

- (a) All drivers' licenses and instruction permits shall expire at 12:00 midnight on the expiration dates.
- (b) An instruction permit for Class 2 licenses may be renewed only after attempting a practical examination. If no examination is attempted, a three-month waiting period is required before another permit can be issued.

- (c) An instruction permit for Class 3 and 4 may be renewed on or before the expiration date. The first day of the next one-year period shall begin with the first day after the expiration of the current instruction permit. If a permit is not renewed within ninety days after the expiration date, the applicant shall be treated as a new applicant for an instruction permit.
- (d) A driver's license may be renewed WITHIN six months prior to the date of expiration. The last day of this six-month period shall be the expiration date. An applicant with an expired driver's license may renew the expired driver's license within one year after the expiration date. Pursuant to Section 286-107.5, Hawai'i Revised Statutes, a reactivation fee shall be assessed after ninety days following the date of expiration. The first day of this one-year period shall begin with the first day after the expiration date and shall end at 12:00 midnight one year after the expiration date. Applicants appearing after the one-year period, shall be treated as a new applicant and examined as provided in Section 286-108, Hawai'i Revised Statutes.
- (e) If the one-year period ends on a weekend or holiday, the renewal, which includes payment of the required fees, must take place by the last working day prior to end of the one-year period.
- (f) CDL
 - (1) An instruction permit for a CDL shall not be valid for a period in excess of one year. The permit is not renewable. An applicant who does not successfully complete the skills examination in one year, must reapply as a new applicant.
 - (2) The general knowledge test scores are valid for six months from the date of the test. Endorsement tests taken after the general knowledge test will remain valid only through the six-month period starting from the date of the general knowledge test.
 - (3) To retain a hazardous materials endorsement, an applicant must take and pass (every five years), an additional special knowledge examination (in the English language) on how to recognize, handle, and transport hazardous materials. In addition, applicant must pass a background check through the Transportation Security Administration's Hazmat Threat Assessment Program.

Rule 11.18 Out-of-State or Foreign Driver's License.

- (a) All applicants holding a valid out-of-state driver's license must surrender their license to obtain a Hawai'i driver's license. Applicants who do not have their out-of-state license to surrender shall be required to complete all required skills tests (written and road test).
- (b) Foreign licenses are valid for use in the United States for one year from the date of first port of entry. Foreign license will be invalidated for use in the United States upon receipt

of a Hawai'i driver's license. Foreign driver's license applicants are required to complete all required skills tests.

Rule 11.19 Right of Applicant or Licensee to Notice and a Hearing.

- (a) Whenever the Examiner of Drivers denies, cancels, revokes or suspends a permit or license, pursuant to the Hawai'i Revised Statutes or these Rules and Regulations of the Director, the applicant or licensee shall have thirty days to file a notice of appeal for a hearing with the Director or the Director's authorized representative or subordinate.
- (b) Within twenty working days from the filing of such notice of appeal, the Director or a designated hearing officer shall conduct a hearing. The hearing shall be conducted in conformity with the provisions of Section 91-9, Hawai'i Revised Statutes, relating to contested cases.

Rule 11.20 Decision and Order.

After the hearing, the Administrator may rescind or affirm the denial, cancellation, suspension or revocation of the permit or license. Each decision or order adverse to the applicant or licensee shall be in writing or stated in the record and shall be accompanied by separate findings of fact and conclusions of law. A certified copy of the decision and order and accompanying findings of fact and conclusions of law shall be mailed to the applicant or licensee, or to his/her attorney of record, within ten days of such order being issued.

Rule 11.21 Reconsideration.

Any applicant or licensee to whom an adverse decision and order has been rendered by the Administrator may request a reconsideration of such adverse decision and order provided that such request shall be based on new evidence which was not considered by the Administrator during the original hearing.

Rule 11.22 Appeal to Circuit Court.

Appeal of the decision and order rendered in the hearing shall be as provided by Section 286-129, Hawai'i Revised Statutes.

Rule 11.23 Cancellation of Licenses and Permits.

- (a) In addition to the provisions contained in Section 286-120, Hawai'i Revised Statutes, the following shall be reasons for cancellation of licenses or permits by the Examiner of Drivers:

- (1) Cheating on any administered test.
 - (2) Switching testing material.
 - (3) Substitution of another person during the processing and/or testing phases.
 - (4) Use of non-authorized written materials which provide answers to test questions in English or other language (dictionaries are allowed).
- (b) The cancellation for any infraction under this section shall be for a thirty-day period, and re-application shall be permitted after such period.

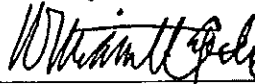
Rule 11.24 Severability.

If any portion of these rules or the applicability thereof should be held invalid for any reason, such invalidity shall not affect other provisions or applications and to this end these rules are declared to be severable.

Rule 11.25 Effective Date.

These rules and regulations shall take effect ten days after filing with the County Clerk.

DATED: Hilo, Hawai'i, October 10, 2008



WILLIAM T. TAKABA
Finance Director
County of Hawai'i

Notice of Public Hearing:

Hawai'i Tribune-Herald: September 1, 2008
West Hawai'i Today: September 1, 2008

Date and Place of Public Hearing:

October 2, 2008, 10:00 a.m.
County Council Room
Ben Franklin Building
333 Kilauea Avenue, Second Floor
Hilo, Hawai'i 96720

Kona Mayor's Office (via video conferencing)
Hanama Place
75-5706 Kuakini Highway
Kailua-Kona, Hawai'i 96740

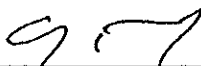
APPROVED:



Dixie Kaetsu, Acting Mayor
County of Hawai'i

Date: OCT 13 2008

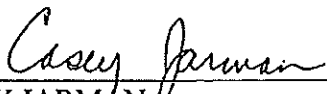
APPROVED AS TO FORM:



CRAIG T. MASUDA
Deputy Corporation Counsel

Date: 10/10/08

I hereby certify that the foregoing Rules and Regulations of the Director of Finance,
Department of Finance, County of Hawai'i, were received and filed in my office this 16th day
of October, 2008.



CASEY JARMAN
County Clerk