

**Title 12 – DEPARTMENT OF REVENUE  
Division 10 – Director of Revenue  
Chapter 24 – Driver License Bureau Rules**

**PROPOSED AMENDMENT**

**12 CSR 10-24.326 Third Party Tester and Examiner Sanction and Hearing**

**Guidelines** The director proposes to amend section (9) and amend the table describing third party testing program sanctions.

*PURPOSE: This proposed amendment will update the guidelines and sanctioning requirements of third party testers and examiners to conform to Missouri statutes and federal regulations.*

(9) Further review of the action of the director as a result of an administrative hearing may be taken pursuant to *[section 302.311]* **Chapter 536**, RSMo.

MISSOURI DEPARTMENT OF REVENUE THIRD PARTY TESTING PROGRAM  
SANCTIONS

EXAMINER

VIOLATIONS	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	FOURTH OFFENSE
<b>EXAMINER RECORDKEEPING AND BUSINESS PRACTICES</b>				
Examiner conducts test while non-certified, suspended or decertified.	Decertification			
Examiner conducts tests without DOR approval or conducts tests for more than one tester.	Decertification			
<i>[Examiner does not adhere to fee schedule.]</i>	<i>[Warning letter]</i>	<i>[30-day suspension]</i>	<i>[60-day suspension]</i>	<i>[Decertification]</i>
Examiner fails to maintain or complete records as required.	Warning letter	30-day suspension	60-day suspension	Decertification
Examiner fails to respond to DOR/MSHP request for information or fails to comply with DOR/MSHP instruction, directive or ruling.	Suspension until complies	Decertification		
<b>EXAMINER QUALIFICATIONS</b>				
Examiner application indicates felony conviction in last five years.	Denial/Decertification			
Examiner driving history indicates conviction for any alcohol related enforcement contacts (DWI, DUI, BAC, DUID, etc) in MO or any other state within last five years.	Denial/Decertification			
Examiner driving history indicates a suspension, revocation, cancellation or disqualification in MO or any other state within last five years.	Denial/Decertification			
Examiner fails to attend required re-certification courses as required by the Director <i>[every three (3) years or when required based upon audit findings].</i>	Suspension until recertification course completed.	Decertification		
Examiner fails to report suspension, revocation, cancellation or disqualification.	Suspension up to one year or decertification.			

<b>SKILLS TEST ADMINISTRATION</b>				
Examiner encourages or accepts bribe or gratuity.	Decertification			
Examiner falsifies records or information or misrepresents by omitting any test requirement or procedure.	Suspension up to one year and/or decertification.			
Examiner fails to inform DOR/MSHP concerning civil or criminal actions related to skills test	Suspension up to one year and/or decertification.			
Examiner administers skills test without proper CDL License and appropriate endorsements and/or restrictions.	30-day minimum suspension and re-audit.	Decertification		
Examiner knowingly retests failed applicant within same day.	<i>[Warning]</i> <b>30-day suspension</b>	<i>[30-day suspension]</i> <b>60-day suspension</b>	<i>[60-day suspension]</i> <b>Decertification</b>	<i>[Decertification]</i>
Examiner allows unauthorized passengers in the test vehicle during skills testing.	Warning <b>letter</b> and possible re-audit.	30-day suspension	60-day suspension.	Decertification
Audit of examiner finds scoring and form completions inconsistent with TPT manual guidelines.	Re-audit and/or 30 day suspension	60 day suspension	Decertification	

MISSOURI DEPARTMENT OF REVENUE THIRD PARTY TESTING PROGRAM  
SANCTIONS

TESTER

VIOLATIONS	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	FOURTH OFFENSE
<b>TESTER RECORDS AND BUSINESS PRACTICES</b>				
Tester operates without Department of Revenue authorization.	Application denied for minimum of five (5) years			
Tester does not maintain insurance as required per C-3 in tester contract.	Suspended until Department receives proof of required insurance.	30 day suspension and must submit proof of required insurance to Department of Revenue.	Decertification	
<b>Tester does not maintain security bond as required in tester contract.</b>	<b>Suspended until Department receives proof of required bond</b>	<b>Decertification</b>		
Tester does not maintain certificate of authorization for use of test site(s) as required.	Suspended until receipt of authorization and posting of certificate.	30 day suspension and must receive authorization and post certificate	Decertification	
Tester uses non-certified, suspended or decertified examiner.	Decertification			
Tester uses examiner without Department of Revenue approval or allows examiner to test for more than one tester.	Decertification			
<i>[Tester does not adhere to fee scheduling.]</i>	<i>[Warning letter to TPT]</i>	<i>[30-day suspension]</i>	<i>[60-day suspension]</i>	<i>[Decertification]</i>
Tester representative fails to attend audit/inspection without notification.	30-day suspension	60-day suspension	Decertification	
Tester fails to comply with monthly reporting requirements.	Warning letter <i>[to TPT]</i>	30-day suspension	60-day suspension	Decertification
Tester fails to respond to DOR/MSHP request for information or fails to comply with DOR/MSHP instruction, directive or ruling.	Suspension until complies	Decertification		
Tester fails to maintain permanent structure and business street address.	Suspension until complies	Decertification		

Tester records not maintained at each test site in centralized location.	If audit can be completed, warning letter <i>[to TPT]</i> . If audit cannot be completed, warning letter <i>[to TPT]</i> and reschedule audit.	30-day suspension	Indefinite suspension until complies	Decertification
Tester fails to notify DOR of any changes to tester or examiner status.	Warning <b>letter</b>	30-day suspension	Decertification	
<b>TEST SITE FACILITIES</b>				
Site does not comply with <i>[basic control, pre-trip]</i> <b>pre-trip, basic control</b> and skills course layout or space requirements.	Warning <b>letter</b> and/or up to 30 day suspension	Warning <b>letter</b> and/or up to 60 day suspension	<i>[One (1) year suspension or possible decertification.]</i> <b>Decertification</b>	<i>[Decertification]</i>
<b>TEST ADMINISTRATION</b>				
Tester encourages or accepts bribe or gratuity.	Decertification			
Tester falsifies records or information, or misrepresents by omitting, any test requirement or procedure or encourages/requires examiner to do the same.	Decertification			
Tester fails to inform DOR/MSHP concerning civil or criminal actions related to complaints regarding skills testing.	Suspension up to one year pending additional action or decertification.			
Tester allows examiner to administer skills test without proper CDL license and appropriate restrictions or endorsements.	30-day suspension and re-audit.	Decertification		
Tester allows examiner to administer tests during non-daylight hours.	30 day suspension	60 day suspension	Decertification	
Tester allows examiner to knowingly re-test failed applicant within same day.	Warning <b>letter</b>	30 day suspension	60 day suspension	Decertification
Tester allows examiner to administer skills tests with unauthorized passengers in test vehicle.	Warning <b>letter</b>	30 day suspension	60 day suspension	Decertification

*AUTHORITY: sections 302.720 and **302.721, RSMo Supp. 2014 and** 302.765, RSMo 2000. Original rule filed Sept. 27, 2001, effective April 30, 2002. Emergency amendment filed April 12, 2002, effective April 30, 2002, expired Oct. 26, 2002. Amended: Filed April 12, 2002, effective Sept. 30, 2002. Amended: Filed Feb. 17, 2015.*

*PUBLIC COST: This proposed amendment will not cost state agencies or political subdivisions more than five hundred dollars (\$500) in the aggregate.*

*PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500) in the aggregate.*

*NOTICE TO SUBMIT COMMENTS: Anyone may file a statement in support of or in opposition to this proposed amendment with the Missouri Department of Revenue, Legal Services Division, PO Box 475, Jefferson City, MO 65105-0475. To be considered comments must be received within thirty (30) days after publication of this notice in the **Missouri Register**. No public hearing is scheduled.*