



These amendments to the regulation are not mandated by any federal or state law or court order or federal regulation.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

Advances in the practice of medicine and in medical research have caused medical providers to reevaluate the risk to the public safety posed by drivers diagnosed with diabetes mellitus, including the most severe manifestations of the disease caused by hypoglycemia and hyperglycemia. Medical advances have improved disease management and improved testing to ensure that in all but rare cases, the disease is controlled or otherwise not an impediment to the safe operation of a motor vehicle. By recognizing medical advancements, requiring drivers to provide certain test results to the Department and providing a waiver to drivers who experienced temporary or isolated episodes that would otherwise prohibit operation of a motor vehicle, these amendments will permit individuals heretofore prohibited from driving a school bus to obtain a driver's license, without risk to the safety of children or of the motoring public.

(12) State the public health, safety, environmental or general welfare risks associated with non-regulation.

Failure to amend these regulations would prohibit individuals who are capable of operating a school bus from obtaining the necessary license. These amendments make the regulation consistent with current treatment and terminology and help ensure that medically qualified individuals are licensed to transport children in busses to and from school and school events.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Individuals with diabetes mellitus controlled by medication or appropriate disease management techniques will benefit from clear medical standards that will not restrict their ability to operate a school bus, except in rare circumstances where such operation would pose a safety threat. Individuals with diabetes mellitus, along with those who may have had past episodes that would have otherwise prohibited operation of a school bus, but who are nevertheless able to safely drive, will also benefit from the more current medical standards in the amendments to the regulation and its waiver provisions. There are nearly 41,000 school bus operators licensed in the Commonwealth, The precise number of individuals who will benefit cannot be determined.

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as

completely as possible and approximate the number of people who will be adversely affected.)

There should be no adverse impact on any individuals from these amendments to the regulation. Individuals with severe forms of diabetes mellitus will be prohibited from operating a school bus; this inconvenience, however, is easily outweighed by the grant of the operating privilege to a broader group of persons with diabetes mellitus.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

It is not known precisely how many individuals with diabetes mellitus will seek to obtain a license to operate a school bus. Presently, approximately 41,000 individuals are currently so licensed.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

The proposed regulatory changes were discussed during three Medical Advisory Board meetings and approved. These public meetings were attended by representatives from the Pennsylvania Medical Society and the Pennsylvania Osteopathic Medical Association. The proposed regulations were also shared with the American Diabetic Association.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

The proposed change should have no additional costs to school bus drivers or the healthcare providers.

(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

There should be no costs and/or savings to local governments or school districts resulting from these amendments to the regulation.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

There should be no costs and/or savings to state government resulting from these amendments to the regulation.

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY + 1 Year	FY + 1 Year	FY + 3 Year	FY + 4 Year	FY + 5 Year
SAVINGS:	\$ N/A	\$	\$	\$	\$	\$
Regulated Community:	N/A					
Local Government:	N/A					
State Government:	N/A					
Total Savings	N/A					
COSTS:	N/A					
Regulated Community	N/A					
Local Government	N/A					
State Government	N/A					
Total Costs	N/A					
REVENUE LOSSES:	N/A					
Regulated Community	N/A					
Local Government	N/A					
State Government	N/A					
Total Revenue Losses	N/A					

(20a) Explain how the cost estimates listed above were derived.

(20b) Provide the three year expenditure history for programs affected by the regulation.

Program	FY-3	FY-2	FY-1	Current FY
Safety Administration and Licensing (Approp. 183)	\$ 124,925,000	\$ 125,958,000	\$ 127,459,000	\$ 132,028,000


(21) Using cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

N/A

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There were no nonregulatory alternatives considered.

(23) Describe alternative regulatory schemes and the costs associated with those schemes. Provide the reasons for their dismissal.

No alternative regulatory schemes were considered.

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

School bus drivers that are employed by a school district are exempt from the Federal regulations for commercial drivers. School bus drivers that are employed by a school bus contractor are exempt from the Federal regulations for commercial drivers when transporting students from home to school and school to home. If they are transporting students for other reasons they may be required to meet the Federal regulations. The Federal regulations for commercial drivers do not allow for a driver to be dependant on insulin.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

This regulation will not put Pennsylvania at a competitive disadvantage vis a vis other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

These amendments will not affect other Department regulations or the regulations of any other Commonwealth agency.

(27) Will any public hearings or informal meetings be scheduled? Please provide the dates, times and locations, if available.

No public hearings on these amendments are scheduled at this time. Should public comment on these proposed amendments warrant, public hearings may be held.

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

These amendments will not change any paperwork requirements.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

These amendments are limited to school bus drivers with diabetic mellitus and their healthcare providers. These groups already are impacted by the current regulations.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

These amendments will become effective upon publication in final form in the *Pennsylvania Bulletin*.

(31) Provide the schedule for continual review of the regulation.

These provisions will be reviewed periodically as appropriate by the Department and the Department's Medical Advisory Board.

<p><b>FACE SHEET FOR FILING DOCUMENTS WITH THE LEGISLATIVE REFERENCE BUREAU</b></p> <p>(Pursuant to Commonwealth Documents Law)</p>	<p><b>DO NOT WRITE IN THIS SPACE</b></p>
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<p>Copy below is hereby approved as to form and legality. Attorney General.</p> <p><i>[Signature]</i> By: _____ (Deputy Attorney General)</p> <p><b>MAY 23 2008</b> Date of Approval</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy of below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:</p> <p style="text-align: center;"><b>Department of Transportation</b> (Agency)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>18-411</u></p> <p>DATE OF ADOPTION _____</p> <p>BY <i>Allen D. Seidler</i> Secretary of Transportation</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p><i>[Signature]</i> BY _____ <b>Andrew C. Clark</b> <b>APR 30 2008</b> (Date of Approval)</p> <p>(Deputy General Counsel) (Chief Counsel, Independent Agency) (Strike Inapplicable Title)</p> <p><input type="checkbox"/> Check if applicable. No attorney General Approval or Objection within 30 days after submission.</p>
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**NOTICE OF PROPOSED RULEMAKING**  
**DEPARTMENT OF TRANSPORTATION**  
**Title 67. Transportation**  
**Part I. Department of Transportation**  
**Subpart A. Vehicle Code Provisions**  
**Article IV. Licensing**  
**Chapter 71. School Bus Drivers**

**RECEIVED**  
 2008 JUN 18 PM 3:42  
 INDEPENDENT REGULATORY  
 REVIEW COMMISSION

**Title 67. Transportation**

**Part I. Department of Transportation**

**Subpart A. Vehicle Code Provisions**

**Article IV. Licensing**

**Chapter 71. School Bus Drivers**

**Notice of Proposed Rulemaking**

**Preamble**

Notice is hereby given that the Department of Transportation, pursuant to the authority contained in Section 1509 of the Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, *as amended* (75 Pa.C.S. §1509, proposes to amend Chapter 71 of the Department of Transportation Regulations, Title 67, by amending §§ 71.2 and 71.3, as set forth in Annex A to this Notice.

***Purpose of Chapter***

The purpose of Chapter 71 is to define more fully the requirements of 75 Pa.C.S. § 1509 by listing minimum medical requirements for school bus drivers.

***Purpose of the Proposed Amendments***

The purpose of these amendments to Chapter 71 is to update the medical requirements and standards for school bus drivers that are being treated for diabetes mellitus. Diabetes management and testing continues to evolve. We are updating our minimum standards to ensure that only school bus drivers under good control are qualified for the waiver to transport children.



### ***Summary of Significant Amendments***

Section 71.2 (Definitions) has been amended to correct the term “CRNP – Certified Registered Nurse Practitioner”. This certification is obtained solely by the State Board of Nursing; the State Board of Medicine is no longer involved.

We have also added the terms “HbA1C, Hyperglycemia, Hypoglycemia, Symptomatic Hyperglycemia, Type I Diabetes mellitus and Type II Diabetes mellitus”. In addition, we have also categorized “Hypoglycemia Reactions” by different degrees of severity. These additions reflect current guidelines established by the American Diabetes Association.

Section 71.3 has been amended to include the categories of hypoglycemic reactions established by the American Diabetes Association. We are adding the requirement for school bus drivers to submit their average Hemoglobin A1C (HbA1C) readings. Our minimum standard is an average of 8% or lower, which indicates that the diabetes is under good control. We are also adding the requirement for the driver to have an annual dilated eye examination.

In addition, we have added a waiver provision for individuals that have experienced an episode that would disqualify them from the waiver if the episode was as a result of a nonrecurring transient illness, toxic ingestion or metabolic imbalance as long as the treating physician verifies that it is a temporary condition or isolated incident not likely to recur.

### ***Persons and Entities Affected***

These regulations affect all licensed school bus drivers or persons interested in becoming a school bus driver that are currently being treated for diabetes mellitus.

### ***Fiscal Impact***

Implementation of these regulations will not require the expenditure of any additional funds by the Commonwealth or local municipalities. These regulations will not impose any additional costs on the medical community, licensed school bus drivers or applicants for a school bus learner's permit.

### ***Regulatory Review***

Under Section 5(a) of the Regulatory Review Act, the Act of June 25, 1982 (P.L. 633, No. 181), *as amended*, 71 P.S. § 745.5(a), the agency submitted a copy of these proposed regulations, on June 18, 2008 to the Independent Regulatory Review Commission and to the Chairpersons of the House and Senate Transportation Committees. In addition to submitting the regulations, the agency has provided the Commission and the Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

Under Section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed regulations within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria that have not been met. The Act specifies detailed procedures for review, prior to final publication of the regulation, by the Department, the General Assembly and the Governor of comments recommendation, or objections.

### ***Sunset Provisions***

The Department of Transportation will make these regulations effective upon publication in final form following appropriate evaluation of any comments, suggestions

or objections received during the period allowed for public comment. The Department is not establishing a sunset date for these regulations, since these regulations are needed to administer provisions required pursuant to the Vehicle Code (75 Pa. C.S. 1.01, et seq.). The Department, however, will continue to closely monitor these regulations for their effectiveness.

***Public Comments***

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed amendments to the regulations to Janet L. Dolan, Director, Bureau of Driver Licensing, P.O. Box 68676, Harrisburg, Pennsylvania 17106-8676 within thirty days of the publication of this notice in the *Pennsylvania Bulletin*.

***Contact Person***

The contact person for technical questions about the proposed amendments to the regulations is Scott Shenk, Manager, Driver Safety Division, Department of Transportation, Bureau of Driver Licensing, P.O. Box 68676, Harrisburg, Pennsylvania 17106-8676, telephone number: (717) 783-4534.

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Allen D. Biehler, P.E.  
Secretary of Transportation

ANNEX A

Title 67. Transportation

Part I. Department of Transportation

Subpart A. Vehicle Code Provisions

Article IV. Licensing

Chapter 71. School Bus Drivers

Notice of Proposed Rulemaking

§ 71.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

\* \* \* \* \*

*CRNP—Certified registered nurse practitioner*—A registered nurse licensed in this Commonwealth who is certified[, ] by [both] the State Board of Nursing [and the State Board of Medicine,] in a particular clinical specialty area and who, while functioning in the expanded role as a professional nurse, performs acts of medical diagnosis or prescription of medical therapeutic or corrective measures in collaboration with and under the direction of a physician licensed to practice medicine in this Commonwealth.

\* \* \* \* \*

*HbA1C test* – A Hemoglobin A1C test monitors the long-term control of diabetes mellitus.

Hyperglycemia – When the level of glucose (sugar) in the blood is too high based on current guidelines established by the American Diabetes Association.

Hypoglycemic Reactions – Different degrees of hypoglycemia which are classified as follows:

Mild – Hypoglycemia that signals a blood glucose drop, which the individual can self-correct with oral carbohydrates.

Severe – Hypoglycemia that requires outside intervention and/or assistance of others or that produces confusion, loss of attention or a loss of consciousness.

Hypoglycemia Unawareness – A condition when the individual no longer recognizes the body's usual signals of low blood glucose so the first sign of hypoglycemia will often be confusion or loss of consciousness.

\* \* \* \* \*

Symptomatic Hyperglycemia – High glucose levels in the blood that may cause a loss of consciousness or an altered state of perception, including but not limited to decreased reaction time, impaired vision and/or hearing, or confusion.

Type I Diabetes mellitus– A chronic disease caused by the pancreas producing too little insulin to regulate blood sugar levels.

Type II Diabetes mellitus– A chronic disease marked by high levels of sugar in the blood caused by the body failing to respond correctly to natural insulin.

**§ 71.3. Physical examination.**

\* \* \* \* \*

(b) *Requirements of physical examination.* A person is physically qualified to drive a school bus if the person:

\* \* \* \* \*

(4) Has no established medical history or clinical diagnosis of diabetes mellitus currently requiring use of insulin or other hypoglycemic medication.

(i) A waiver may be granted to an individual requiring the use of [oral hypoglycemic]diabetic medication(s) provided:

(A) The individual's physician verifies in writing that there has been no incident of a severe hypoglycemic reaction, hypoglycemia unawareness or symptomatic hyperglycemia and the individual has been free from insulin reaction resulting in loss of consciousness, attention or awareness or the requirement of assistance from another person, for the preceding [2 years] 12 months.

(B) The driver submits to a HbA1C test every 3 months and submits to a diabetic examination every 6 months, and submits the results of the examination and the results of 2 consecutive HbA1C tests, on a form provided by the Department, showing an average HbA1C of 8% or lower indicating that the diabetes is under good control. The physician reviewing the diabetic

examination shall be familiar with the individual's past diabetic history for 24 months or have access to that history.

(C) The driver submits to an annual dilated eye examination and submits the results of the examination on a form provided by the Department.

[(ii) A waiver may be granted to a person requiring the use of insulin provided:

(A) The person's physician verifies in writing to the Department that there has been no incident of hypoglycemic or hyperglycemic reaction and the person has been free from insulin reaction (including loss of consciousness, attention or awareness) or the requirement of assistance from another person, for the preceding 2 years.

(B) The person submits to a diabetic examination every 6 months, including a Hemoglobin A1C, and to a review of the prior 6-month history of blood glucose monitoring. The physician conducting the diabetic examination shall be familiar with the person's past diabetic history for 24 months or have access to that history.]

[(C)](D) [The person,] Individuals, upon hire to drive a school bus, shall [demonstrate his willingness to] manage [his] their diabetes by complying with the following requirements:

(I) Self-monitoring blood glucose 1 hour before driving, and at least every 4 hours while driving or while otherwise on duty, by using a

portable blood glucose monitoring device with a computerized memory. If blood glucose is below 80 mg/dL or above 350 mg/dL the [person] individual may not drive until [he takes] appropriate measures are taken and the individual retests within this acceptable range.

(II) Submit[ting monthly] the computerized glucometer results of blood glucose self-monitoring for review by the treating physician or a school transportation physician. [a physician, certified nurse practitioner, physician's assistant, registered nurse or other health care provider selected by the school district.] The results shall also be submitted to the physician conducting the 6-month diabetic examination required by clause (B).

(III) Maintaining a manual blood glucose monitoring log and submitting it, together with the glucose monitoring device's computerized log, every 6 months to the physician conducting the [person's] 6-month diabetic examination.

(IV) [Having in his possession] Carrying a source of rapidly absorbable glucose at all times while driving a school bus.

(ii) Notwithstanding the foregoing, a waiver may be granted to an individual who has recently suffered from a severe hypoglycemic reaction, hypoglycemia unawareness or symptomatic hyperglycemia as long as the individual has been free from severe hypoglycemic reactions, hypoglycemia unawareness or



symptomatic hyperglycemia for the preceding 12 months and the subsequent severe hypoglycemic reaction, hypoglycemia unawareness or symptomatic hyperglycemia occurred while the individual was under the care of a treating physician, during or concurrent with a nonrecurring transient illness, toxic ingestion or metabolic imbalance. The above waiver will only be granted if the treating physician submits written certification indicating it is a temporary condition or isolated incident not likely to recur.

(iii) A reviewing physician finding that [a person] the individual previously qualified for a waiver is not complying with the requirements in subparagraph [(ii)(C)](b)(4)(i), (b)(4)(ii) or is otherwise no longer qualified for the waiver shall promptly report these findings to the Department and the waiver shall be rescinded.

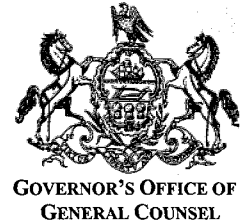
(iv) If [a person] the individual requiring the use of oral hypoglycemic medication or [a person requiring the use of] insulin does not qualify for a waiver, that [person] individual may request an independent review of [his] the individual's medical records. The review will be conducted by a member of the Medical Advisory Board or by another physician designated by the Department.

(v) Submissions to the Department by physicians or other health care providers, including physician verifications and the results of diabetic examinations, shall be made on forms provided by the Department.



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF TRANSPORTATION

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June 18, 2007

Kim Kaufman  
Executive Director  
14<sup>th</sup> Floor Harrisstown 2  
333 Market Street  
Harrisburg, PA 17101

RECEIVED  
2008 JUN 18 PM 3:42  
INDEPENDENT REGULATORY  
REVIEW COMMISSION

**Re: Proposed Rulemaking  
Regulation # 18-411, 67 Pa. Code Chapter 71 —  
School Bus Drivers**

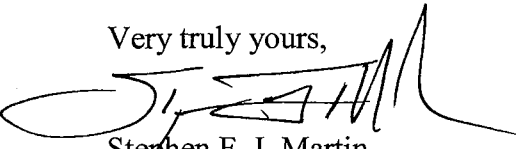
Dear Mr. Kaufman:

Enclosed please find a copy of the Face Sheet, Preamble, Annex A and Regulatory Analysis Form for amendment to Chapter 71 of Department regulations which the Department of Transportation intends to adopt in accordance with the provisions of Section 204 of the Commonwealth Documents Law, Act of July 31, 1968, P.L. 769, 45 P.S. § 1204.

Copies of these materials were also delivered today to the majority and minority chairpersons of the Pennsylvania House and Senate Transportation Committees.

The Department of Transportation will provide you with any assistance you require to facilitate a thorough review of this regulation. Thank you for your attention.

Very truly yours,



Stephen F. J. Martin  
Regulatory Counsel

cc: Danielle J. Guyer, Governor's Office of the Budget w/o attachments  
Judith Bailets, Staff Assistant, Governor's Policy Office w/o attachments  
Danielle K. Spila, Director, Department of Transportation Policy Office w/o  
attachments

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

I.D. NUMBER: #18-411  
 SUBJECT: School Bus Drivers, 67 Pa. Code, Chapter 71  
 AGENCY: Department of Transportation

**TYPE OF REGULATION**

- X Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

INDEPENDENT REGULATORY  
REVIEW COMMISSION

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**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
6/18/08	<u>Patricia E. Gilroy</u> for Majority Chair	SENATE COMMITTEE ON TRANSPORTATION The Honorable Roger Madigan Majority Chairman
6/18/08	<u>Mary E. Flaherty</u> for Minority Chair	
6.18.08	<u>Amanda L. Wolfe</u> for Majority Chair	HOUSE COMMITTEE ON TRANSPORTATION The Honorable Joseph F. Markosek Majority Chairman
6/18/08	<u>Shelly K. Weaver</u> for Minority Chair	
6/18/08	<u>Cheryl York</u>	INDEPENDENT REGULATORY REVIEW COMMISSION
6/18	<u>Bubaly</u>	LEGISLATIVE REFERENCE BUREAU

Date: June 18, 2008