

Regulatory Analysis Form

(Completed by Promulgating Agency)

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency: Department of Transportation

(2) Agency Number: 18-424

Identification Number:

INDEPENDENT REGULATORY
REVIEW COMMISSION

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IRRC Number:

2953

(3) PA Code Cite: 67 Pa. Code Chapter 84

(4) Short Title: Dual Control Learner's Permit

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Janet L. Dolan, Director, Bureau of Driver Licensing, (717) 787-4701,
JDOLAN@pa.gov

Secondary Contact: R. Scott Shenk, Division Manager, Driver Safety Division, Bureau of Driver
Licensing, (717) 787-5958, RSHENK@pa.gov

(6) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The purpose of these amendments is to update the dual control learner's permit process. A dual control learner's permit authorizes the permit holder to drive a motor vehicle equipped with a second operable brake pedal accessible to a trained instructor in the front passenger seat. The Chapter has not been revised since 1982.

Amendments are needed to expand the criteria which determine eligibility. The current regulation only authorizes the issuance of the dual control learner's permit to an applicant who fails a driving exam. There have been a number of instances where an applicant with a medical condition turned 16 years of age; however, because a driving exam has never been failed, s/he does not qualify. In addition, the physician of a driver who has had a stroke or other medical condition that requires rehabilitation may recommend driver training and testing in order to determine competency. In these situations, the drivers would benefit from the one-on-one training and instruction.

(8) State the statutory authority for the regulation. Include specific statutory citation.

Authority for this regulation is found in Sections 1504(c), 1505 – 1507, 1514(b), 1514(c), and 6103, of the Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, *as amended* (75 Pa.C.S. §§ 1504(c), 1505 – 1507, 1514(c) and 6103).

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Amendments are needed to expand the criteria used to determine eligibility. The current regulation only authorizes the issuance of the dual control learner's permit to a driver or applicant who fails a driving exam. There have been a number of instances where an applicant with a medical condition turned 16 years of age and would benefit from this type of instruction; however, because a driving exam has never been failed, s/he does not qualify. In addition, we receive requests for a dual control permit from drivers that have had a stroke or another medical condition that requires rehabilitation. The driver's physician may recommend driver training and testing in order to determine competency. In these situations, the drivers would benefit from the one-on-one training and instruction available under the dual control permit.

(11) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Data was not the basis for this regulation.

(12) Describe who and how many people will be adversely affected by the regulation. How are they affected?

There should be no adverse affects to anyone from the promulgation of these amendments, only benefits.

While it is difficult to determine the precise number of individuals that will directly benefit from these amendments, we can presume that everyone in the motoring public will indirectly benefit from the safety enhancement of training and testing of medically impaired drivers.

(13) 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.

The exact number of people who will take advantage of this expanded eligibility is not known.

(14) 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. Explain how the dollar estimates were derived.

There should be no cost or savings impact on the regulated community. Entities providing dual-control instruction may see increased business and thus greater revenues from the expansion of eligibility. .

(15) 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. Explain how the dollar estimates were derived.

There should be no costs or savings to local governments as a result of these amendments

(16) 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. Explain how the dollar estimates were derived.

There should be only marginal additional administrative costs state government as a result of the issuance of more dual control permits

(17) 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 +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	None					
Local Government	None					
State Government	None					
Total Savings	None					
COSTS:						
Regulated Community	None					
Local Government	None					
State Government	Marginal					
Total Costs	Marginal					
REVENUE LOSSES:						
Regulated Community	None					
Local Government	None					
State Government	None					
Total Revenue Losses	None					

(17a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Safety Administration	\$ 132,828,000	\$ 117,842,000	\$ 112,747,000	\$ 124,420,000

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

The benefits of providing appropriate dual-control instruction to a greater number of eligible drivers outweigh the marginal administrative costs of expanding eligibility.

(19) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

These amendments were developed in consultation with members of the Department's Medical Advisory Board.

(20) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

There were no alternatives to these provisions considered.

(21) 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 regulations.

There are no applicable Federal standards.

(22) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

These amendments will not affect the Commonwealth's ability to compete with other states.

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

No.

(24) Submit a statement of legal, accounting or consulting procedures and additional reporting.

recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The only additional paperwork that will be required by this regulation is the additional paperwork associated with issuance of a greater number of this type of learner's permit.

(25) 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.

No special provisions have been developed to meet the needs of any special group.

(26) Include a schedule for review of the regulation including:

- | | |
|---|--------------------------|
| A. The date by which the agency must receive public comments: | _____ |
| B. The date or dates on which public meetings or hearings will be held: | <u> N/A </u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>November 10, 2012</u> |
| D. The expected effective date of the final-form regulation: | <u>November 10, 2012</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>November 10, 2012</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u> N/A </u> |

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

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 in consultation with the Department's Medical Advisory Board.

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**FACE SHEET
FOR FILING DOCUMENTS
WITH THE
LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality.
Attorney General.

By: _____
(Deputy Attorney General)

Date of Approval

Check if applicable
Copy not approved. Objections attached.

Copy of below is hereby certified to be true and
correct copy of a document issued, prescribed or
promulgated by:

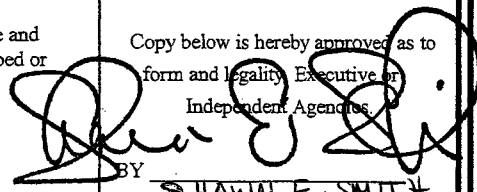
Department
of
Transportation
(Agency)

DOCUMENT/FISCAL NOTE NO. 18-424

DATE OF ADOPTION _____

BY Bruce J. Lehman
Secretary of Transportation

Copy below is hereby approved as to
form and legality. Executive or
Independent Agencies.



BY SHAWN E. SMITH

OCT 10 2012

(Date of Approval)

(Deputy General Counsel)
(Chief Counsel, Independent Agency)
(Strike Inapplicable Title)

Check if applicable. No attorney
General Approval or Objection within
30 days after submission.

NOTICE OF FINAL RULEMAKING
DEPARTMENT OF TRANSPORTATION
Title 67. Transportation
Part I. Department of Transportation
Subpart A. Vehicle Code Provisions
Article IV. Licensing
Chapter 84. Dual Control Learner's Permit

Title 67. Transportation

Part I. Department of Transportation

Subpart A. Vehicle Code Provisions

Article IV. Licensing

Chapter 84. Dual Control Learner's Permit

Notice of Final Rulemaking

Preamble

Notice is hereby given that the Department of Transportation, pursuant to the authority contained in Sections 1504(c), 1505 – 1507, 1514(b), 1514(c), and 6103 of the Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, *as amended* (75 Pa. C.S. §§ 1504(c), 1505 – 1507, 1514(b), 1514(c) and 6103), hereby adopts amendments to Title 67, Chapter 84 of the Department of Transportation Regulations (relating to dual control learner's permits) to read as set forth in Annex A.

Purpose of Chapter

The purpose of Chapter 84 is to establish a procedure for issuance of a dual-control learner's permit to a driver or applicant.

Purpose of the Proposed Amendments

The purpose of these amendments to Chapter 84 is to update the process and expand the eligibility for obtaining a dual control learner's permit. A dual control learner's permit authorizes the permit holder to drive a motor vehicle equipped with a

second operable brake pedal accessible to a trained instructor in the front passenger seat. The Chapter has not been revised since 1982.

Amendments need to be made to expand the criteria used to determine eligibility. The current regulation only authorizes the issuance of the dual control learner's permit only to a driver or applicant who fails a driving exam. There have been a number of instances where an applicant with a medical condition has turned 16 years of age; however, because a driving exam has never been failed, s/he does not qualify. In addition, requests are received for a dual control permit from drivers that have had a stroke or another medical condition that requires rehabilitation. The driver's physician may recommend driver training and testing in order to determine competency. In these situations, the drivers would benefit from the one-on-one training and instruction.

Summary of Comments and Changes in the Final Adopted Regulation

The amendments to the regulation were published as a proposed rulemaking in the June 30, 2012 issue of the *Pennsylvania Bulletin*. The proposed rulemaking was also submitted to the Independent Regulatory Review Commission (IRRC) and the House and Senate Transportation Committees of the Pennsylvania General Assembly.

No comments or objections were received from the public, the Committees or IRRC. Consequently, no changes have been made in the Final Adopted Regulation.

Persons and Entities Affected

These regulations affect all persons who, because of their medical condition or otherwise are required to obtain one-on-one instruction with a certified driver training in a dual control vehicle in order to become licensed.

Fiscal Impact

Implementation of these regulations will not require the expenditure of any significant additional funds by the Commonwealth or local municipalities. These regulations will not impose any additional costs on the medical community.

Regulatory Review

Under Section 5(a) of the Regulatory Review Act, Act of June 25, 1982 (P.L. 633, No. 181), *as amended*, 71 P.S. 745.5(a), on June 20, 2012, the Department submitted a copy of this proposed rulemaking, published at 42 Pa. B. 3746, to the Independent Regulatory Review Commission and to the Chairpersons of the House and Senate Transportation Committees. No comments were received from the public, IRRC or the Committees.

Under Section 5.1(j.2) of the Regulatory Review Act, on _____, 2012, the final rulemaking was deemed approved by the House and Senate Transportation Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on _____, 2012 and approved the final rulemaking.

Sunset Provisions

The Department of Transportation will make these regulations effective upon publication in the Pennsylvania Bulletin 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. §§ 101 *et seq.*). The Department, however, will continue to closely monitor these regulations for their effectiveness.

Contact Person

The contact person for technical questions about this rulemaking is Scott Shenk, Manager, Driver Safety Division, Bureau of Driver Licensing, P.O. Box 68676, Harrisburg, Pennsylvania 17106-8676, telephone number: (717) 787-2977.

Order

The Department of Transportation orders that:

- (A) The regulations of the Department of Transportation, 67 PA. Code, Chapter 84, are amended as set forth in Annex A.
- (B) The Secretary of the Department of Transportation shall submit this order and Annex A hereto to the Office of General Counsel and the Office of Attorney General for approval as to legality and from, as required by law.
- (C) The Secretary shall certify this Order and Annex A and deposit the same with the Legislative Reference Bureau, as required by law.
- (D) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

Barry J. Schoch, P.E.
Secretary of Transportation

ANNEX A

Title 67. Transportation

Part I. Department of Transportation

Subpart A. Vehicle Code Provisions

Article IV. Licensing

Chapter 84. Dual Control Learner's Permit

Final Rulemaking

§ 84.1. Purpose.

The purpose of this chapter is to establish a procedure for issuance of a [dual-control] dual control learner's permit to a driver or applicant [who fails] under one of the following circumstances:

(1) The driver failed a driving examination required or authorized under 75 Pa. C.S. § 1514(b) or (c) (relating to expiration and renewal of drivers' licenses).

(2) The driver's license has been recalled as authorized under 75 Pa. C.S. §1519(c) (relating to determination of incompetency).

(3) A non-driver was reported as required under 75 Pa. C.S §1518(b) (relating to reports on mental or physical disabilities or disorders) and the health care provider determines that the potential driver may benefit from training only available through a dual control learner's permit.

* * * * *

(4) As required by 75 Pa. C.S. § 1508 (relating to examination of applicant for driver's license), a driver who has not been licensed shall successfully pass the general knowledge test prior to being issued a dual control learner's permit.

(b) *Examination.* Upon successful completion of an approved driving training program, the permittee may undergo a driver's examination no more than three times [within a 120-day period] on one dual control learner's permit. The driver's examination will be conducted by a person authorized by the Department. Upon successful completion of the examination, the driver's operating privilege will be renewed or restored, or a driver's license will be issued to the applicant.

§ 84.3. Application.

(a) General rule. A request for a [dual-control] dual control learner's permit shall be submitted on the appropriate form to the Bureau of Driver Licensing, together with the required fee and letter of enrollment from the approved driver training program.

(b) Retention. Upon issuance, the dual control learner's permit will be mailed directly to the approved driver training program. The driver training program will retain the dual control learner's permit. During in-vehicle instruction, the driver trainer will be in possession of the learner's permit at all times.

(c) Cancellation. Upon removal or withdrawal from the program, the driver trainer shall return the learner's permit to the Department for cancellation.



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

October 11, 2012

David Sumner, Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, Pennsylvania 17101

**Re: Final Rulemaking
18-424 — 67 Pa. Code, Chapter 84
Dual Control Learner's Permit**

Dear Mr. Sumner:

Enclosed please find a copy of the Face Sheet, Preamble, Annex A and Regulatory Analysis Form, for amendments to Chapter 84 of Department regulations which the Department of Transportation intends to adopt in accordance with the provisions of Section 5 of the Regulatory Review Act, Act of June 25, 1982, P.L. 633, *as amended* 71 P.S. § 745.5.

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 IRRC 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



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

I.D. NUMBER: #18-424
 SUBJECT: Dual Control Learner's Permit
 67 Pa. Code, Chapter 84
 AGENCY: Department of Transportation


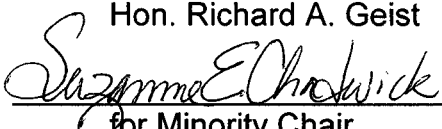
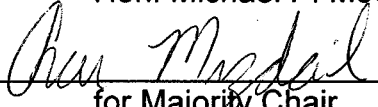
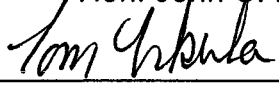

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TYPE OF REGULATION

- 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

FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
<u>10-11-12</u>	<u></u> for Majority Chair Hon. Richard A. Geist	HOUSE COMMITTEE ON TRANSPORTATION
<u>10/11/12</u>	<u></u> for Minority Chair Hon. Michael P. McGeehan	
<u>10/11/12</u>	<u></u> for Majority Chair Hon. John G. Rafferty, Jr.	SENATE COMMITTEE ON TRANSPORTATION
<u>10-11-12</u>	<u></u> for Minority Chair Hon. John N. Wozniak	
		OFFICE OF ATTORNEY GENERAL
<u>10/11/12</u>	<u></u>	INDEPENDENT REGULATORY REVIEW COMMISSION
	<u>N/A</u>	LEGISLATIVE REFERENCE BUREAU

Date: October 11, 2012