**Section 1030.60 Third-Party Certification Program**

a) For purposes of this Section, the following definitions shall apply:

"Cancellation of Third-Party Certifying Entity License" − the annulment or termination by formal action of the Secretary of State of a Third-Party Certifying Entity License because of some error or defect in the license or because the licensee is no longer entitled to the license.

"Cancellation of Third-Party Certification Safety Officer License" − the annulment or termination by formal action of the Secretary of State of a Third-Party Certification Safety Officer License because of some error or defect in the license or because the licensee is no longer entitled to the license.

"Certify" – transmittal to the Department by a third-party certifying entity that an employee or member of the entity has successfully passed the CDL skills tests.

"Denial of Third-Party Certifying Entity License" − to prohibit or disallow the privilege to obtain a Third-Party Certifying Entity License by the Secretary of State.

"Denial of Third-Party Certification Safety Officer License" − to prohibit or disallow the privilege to obtain a Third-Party Certification Safety Officer License by the Secretary of State.

"Department" − the Department of Driver Services within the Office of the Secretary of State.

"Federal Motor Carrier Safety Administration" or "FMCSA" − a separate administration within the U. S. Department of Transportation dedicated to improving the safety of commercial motor vehicles and saving lives.

"Revocation of Third-Party Certifying Entity License" − the termination by formal action of the Secretary of State of a Third-Party Certifying Entity License; the termination shall not be subject to renewal or restoration.

"Revocation of Third-Party Certification Safety Officer License" − the termination by formal action of the Secretary of State of a Third-Party Certification Safety Officer License; the termination shall not be subject to renewal or restoration.

"Safety Officer" – any individual employed by a third-party certifying entity who is licensed by the Department to administer the CDL skills tests specified in subparts G and H of 49 CFR 383 (October 1, 2018) to the entities' employees and members. A safety officer is equivalent to a Third Party Skills Test Examiner as defined in 49 CFR 383.5 (October 1, 2018).

"Skills Tests" – Those tests specified in subparts G and H of 49 CFR 383 (October 1, 2018).

"Suspension of Third-Party Certifying Entity License" − the temporary withdrawal by formal action of the Secretary of State of a Third-Party Certifying Entity License for a period specifically designated by the Secretary.

"Suspension of Third-Party Certification Safety Officer License" − the temporary withdrawal by formal action of the Secretary of State of a Third-Party Certification Safety Officer License for a period specifically designated by the Secretary.

"Third-Party Certification License" − a license issued by the Secretary of State to a third-party certifying entity that allows the entity to participate in the third-party certification program.

"Third-Party Certification Program" − a Secretary of State program that allows a third-party entity to administer the CDL skills tests specified in subparts G and H of 49 CFR 383 (October 1, 2018) to its employees or members.

"Third-Party Certifying Entity" or "Entity" – an entity licensed by the Secretary of State to participate in the third-party certification program. A third-party certifying entity is equivalent to a third party tester as defined in 49 CFR 383.5 (October 1, 2018).

b) The Department shall not require an actual demonstration of the ability of the driver applicant to operate and exercise ordinary and reasonable control of a motor vehicle when the driver applicant has successfully completed the CDL skills tests administered by a safety officer of a third-party certifying entity, if the entity complies with the following requirements:

1) License Required – No person, firm, association, partnership or corporation shall operate a third-party certification program unless a license has been issued by the Secretary of State. When an application is submitted for an original third-party certification license or Safety Officer License, the applicant or applicants shall not conduct any business as a third-party certifying entity or safety officer until a license is issued by the Department pursuant to the requirements of subsections (d) and (i).

2) Certify Only Employees or Members – A third-party certifying entity shall certify only those driver applicants who are employed by and on the payroll of the entity at the time of certification. Third-party entities that are unions or fire departments shall certify only those driver applicants who are members at the time of certification.

3) A third-party certifying entity shall not enter into any agreement with employees/members it certifies that provides for compensation, reimbursement or any form of consideration, including but not limited to monies, credits, services or payroll withholding, payable to the third-party entity, in exchange for training and/or testing from the employee/member who is certified.

4) A third-party certifying entity shall not accept compensation, reimbursement or any form of consideration, including but not limited to monies, credits, services or payroll withholding, in exchange for training and/or testing from any employee/member who is certified.

5) A third-party certifying entity shall not engage in or permit any type of fraudulent activity, with reference to either any certified individual or the Secretary of State.

6) A third-party certifying entity must enter into a written agreement with the Secretary of State that delineates the responsibilities and requirements the entity must meet and adhere to.

c) Licenses May Not Be Assigned. No individual, partnership, association or corporation may sell, assign, barter or trade a third-party certification license or Safety Officer License issued by the Department.

d) Requirements – Third-Party Certifying Entities

1) The entity shall have at least one employee who is licensed as a safety officer for the entity. A Safety Officer License may only test and certify employees or members in the classification indicated on the Safety Officer License.

2) The entity shall have a regularly established place of business in the State of Illinois, with the exception of entities having a regular place of business in a contiguous state (Indiana, Missouri, Wisconsin, Iowa and Kentucky). Any entity having its headquarters in a contiguous state that wishes to participate in the third-party certification program shall have an appointed agent, for purposes of this program, who is licensed as a safety officer and holds a valid Illinois driver's license or a CDL issued by a contiguous state.

A) The established place of business of each entity must consist of at least the following permanent facilities:

i) an office facility;

ii) appropriate space to conduct all basic control skills tests pursuant to Section 1030.85 as follows:

● For Class B and Class C vehicles, an area of at least 15 feet wide by 100 feet long;

● For Class A vehicles, areas of 240 feet long by 12 feet wide to conduct straight-line backing, 180 feet long by 24 feet wide to conduct offset backing, and 180 feet long by 12 feet wide to conduct parallel parking. All skills tests do not need to be conducted in one space/lot.

B) An entity that has an established place of business may operate a branch facility, provided the branch facility meets all requirements of the main facility pursuant to subsections (d)(2)(A) and (d)(2)(D).

C) Upon receipt by the Secretary of State of a written request to open a branch facility, an authorized representative of the Secretary of State shall inspect the branch facility and, if the facility meets the provisions of this Section, shall issue the appropriate license that must be displayed in a visibly prominent place in the branch facility.

D) Each location must comply with public health and safety standards contained in the Public Building Egress Act [415 ILCS 55], the Natural Gas Odor Injection Act [430 ILCS 25], and the Environmental Barriers Act [410 ILCS 25].

3) The entity shall submit to the Department a copy of any subcontract of services described in this Part.

4) The entity shall have a prescribed physical driving course for each location and be required to meet a driving skills test with the same minimum standards as the course used for testing by the Department pursuant to Section 1030.85.

5) The entity shall have access to a properly registered motor vehicle of the representative classification that the employee/member operates or expects to operate.

6) The entity shall provide the employee/member who takes and passes the skills tests with a fully completed Certification of Drive Test By Third Party Certifying Entity that certifies the individual has successfully passed the skills tests administered by the safety officer of the third-party certifying entity.

7) The entity shall collectively submit completed application forms to the Department for each main office, branch office and safety officer.

8) The entity shall have and use a business telephone listing for all business purposes.

9) If a licensed safety officer is temporarily suspended, laid-off or discharged by a third-party certifying entity, the entity shall immediately notify the Department, on forms furnished by the Department, of the name, address and license number of the safety officer, the officer's termination date and reason for termination. In all cases in which a safety officer has ceased working for the third-party certifying entity, the safety officer must surrender the third-party Safety Officer License to the Department.

10) Records – All entities licensed by the Secretary of State must maintain the following records for a period of four years, at the licensed location where the testing took place:

A) The name and address of each employee/member certified by the entity, the instruction permit or driver's license number of every employee/member, the results of the final skills test, including endorsements, given to each employee/member, the name of the safety officer who administered the skills test, and the license plate number of the vehicle used in the test.

B) Proof of eligibility for certification of each employee/member certified.

C) Proof of proper training for each CDL certified employee/member, who did not hold a valid CDL at the time of testing or has never held a valid CDL, including dates of training and the names of all trainers that provided training, shown on the form provided by the Department or an equivalent form approved by the Department.

D) Documentation, including dates of training and the names of the trainers, of any training provided to each CDL certified employee/member who held a valid CDL at the time of testing or has ever held a CDL.

E) Failure to maintain the required records, and/or the maintenance of incomplete records, shall be prima facie evidence that the required testing was not administered.

11) Auditing – CDL Skills Test

A) Entities shall allow the Department and FMCSA or its representatives to conduct random examinations, inspections and audits without prior notice pursuant to 49 CFR 383.75 and 384.229 (October 1, 2018), including audits of employment records of individuals certified by the third-party certification entity and any and all agreements or contracts governing the employer/employee relationship or entity/member relationship as it pertains to training or testing.

B) The Department shall conduct on-site inspections at least biennially, but is authorized to conduct inspections more frequently.

C) Entities shall allow Department employees to co-score, along with the safety officer, during skills tests administered to the entity's employees or members to compare pass/fail results.

D) At least once every 2 years, the Department shall either:

i) Have Department employees covertly take the skills test administered by the entity's safety officer as if the Department employee were a test applicant;

ii) Have Department employees co-score along with each third-party examiner during CDL skills tests to compare pass/fail results; or

iii) Retest a sample of drivers who were examined by the entity to compare pass/fail results. The Department may reexamine any individual who was tested and certified by a third-party entity. If the results of the random examination reflect a failure rate greater than the Department's current acceptable failure rate of 20 percent, the Department shall notify the entity in writing of the need to retrain the failed applicants. The retraining must be completed within 30 days after the random examination. The Department shall administer the skills tests for the retrained applicants. The Department's Commercial Driving Training School Section will determine the location and time of the retesting.

12) Entities shall display in a prominent place at the established place of business the following:

A) The license issued by the Department to the entity; and

B) The Safety Officer Licenses of all safety officers employed by the entity.

13) Prior to administering the skills tests, the entity must provide training on the CDL skills tests as specified in Section 1030.85 to each employee/member who does not currently hold, or has never held, a valid CDL. The training shall be given in equally scheduled intervals over a period of at least 14 days.

14) The entity must provide the Department with the names of all employees or members it tested and certified from a non-CDL classification to a CDL classification whose employment/membership terminated within six months after the date of certification.

A) The Department shall cite these individuals to be retested by the Secretary of State in a properly classified vehicle. If the individual passes the skills test, the individual may maintain the driver's license classification originally certified by the entity. If the individual fails any part of the skills test, the individual shall be downgraded to the non-CDL classification held prior to being certified.

B) The Department shall provide each entity with a Verification of Continual Employment form to assist the entity in determining the names of the employees or members who have terminated their employment/membership within six months after being certified.

15) The entity may not have a current unsatisfactory safety rating from FMCSA as defined in 49 CFR 385.3 (October 1, 2018).

16) The entity must submit a schedule of CDL skills tests appointments, in a manner prescribed by the Department, including but not limited to dates, times and locations of testing, to the Department, no later than two business days prior to each test.

17) Unless the entity is a governmental agency, the entity must secure and maintain a continuous surety bond in the Principal sum of $10,000, underwritten by a company authorized to do business in the State of Illinois, which represents a sufficient amount to pay for re-testing drivers in the event that the entity or one or more of its safety officers is involved in fraudulent activities related to the skills testing of its employees or members. However, the aggregate liability of the surety for all breaches of the condition of the bond in no event shall exceed the Principal sum of $10,000. The surety on any bond may cancel the bond on giving 30 days' notice in writing to the Secretary of State and shall be relieved of liability for any breach of any conditions of the bond that occurs after the effective date of cancellation. All bonds filed pursuant to this provision shall be in substantially the following form:

|  |  |
| --- | --- |
| Know All Persons by These Presents, That We, |  |
|  |  | , of |
|  |  | , |
|  | hereinafter referred to as Principal and  |  | , a  |
|  | corporation organized and existing to do business in the State of Illinois, for the use and benefit of all persons who may be damaged by breach of this bond, as Obligees, in the penal sum of $10,000, lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, our executors, administrators, successors and assigns, firmly by these presents. The condition of this obligation is such that the Principal has made application to the Illinois Secretary of State for licensure as a third-party certifying entity for the purpose of administering CDL skills tests to employees or members of the Principal. Therefore, if the Principal faithfully complies with the Illinois Vehicle Code and all State and federal rules and regulations that have been or may hereafter be in force concerning the license, and shall save and keep harmless the Illinois Secretary of State, the Obligee, from all loss or damage that may be sustained as a result of re-testing drivers in the event that the Principal or one or more of its safety officers is involved in fraudulent activities related to conducting skills testing of applicants for a commercial driver's license this obligation shall be void; otherwise, this obligation shall remain in full force and effect. The bond will expire but may be continued by renewal certificate signed by Principal and Surety. Regardless of the number of years this bond is in effect, the number of third-party certifying entity license renewals, the number of premiums paid or the number of claims made, the Surety's aggregate liability shall not be more than the penal sum of this bond. The Surety may at any time terminate its liability by giving 30 days' written notice to the SOS Commercial Driver Training School Section of the Driver Services Department, 1800 W. Hawthorne Lane, West Chicago, Illinois 60185, and the Surety shall not be liable for any default after that 30-day notice period, except for defaults occurring prior thereto. |
|  |  |  |  |  |  |  |
|  |  |  |  |  |
| Signed, Sealed and Dated this |  | day of |  | , 20 |  |
|  |  |  |  |  |
|  | Principal  |  |
|  | Surety |  |
|  | By |  |
|  |  | Attorney-in-fact |

18) Within three days after an employee or member passes the CDL skills tests administered by the entity, the entity shall transmit the score sheet to the Department through secure electronic means prescribed by the Department.

e) Skills Tests

1) Any CDL or school bus skills tests administered by an entity must be conducted by a safety officer as specified in 49 CFR 383.75 (October 1, 2018). A safety officer licensed to administer skills tests is prohibited from administering a skills test to an individual who received skills training from that safety officer.

2) Driving Skills – The entity shall have a prescribed physical driving course for each location and is required to administer a skills test with the same minimum standards used by the Department as provided in Section 1030.85.

3) Pre-Trip Inspection – When applicable, the entity shall test and the employee/member shall demonstrate skills necessary to conduct a pre-trip inspection, which include the ability to:

A) locate and verbally identify air brake operating controls and monitoring devices;

B) determine the motor vehicle's brake system condition for proper adjustments and that the air system connections between vehicles have been properly made and secured;

C) inspect low pressure warning devices to ensure they will activate in emergency situations;

D) ascertain, with the engine running, that the system contains an adequate supply of compressed air;

E) determine that the required minimum air pressure build up at the time is within acceptable limits and that required alarms and emergency devices automatically deactivate at the proper pressure level; and

F) operationally check the brake system for proper performance.

4) Restrictions and/or Endorsements − Entities – conducting skills tests for restrictions, passenger endorsements and/or school bus endorsements must administer a skills test with the same minimum standards as a test administered by the Department as provided in Section 1030.92.

5) Entities conducting road tests for motorcycle and non-CDL A, B or C classifications are not bound by subsections (e)(1) through (4), but instead must administer a road test prescribed by the Department as provided in Section 1030.85.

A) Motorcycle skills tests must include at least the following:

i) basic vehicle control skills;

ii) safe driving skills;

iii) visual search;

iv) speed and space management; and

v) mounting and dismounting.

B) Non-CDL A, B or C classification road tests must include at least the following:

i) basic vehicle operation;

ii) safe driving skills;

iii) speed and attention;

iv) lane and right of way observance;

v) obeying traffic control devices; and

vi) use of special equipment.

6) Require Instruction Permit – Before an employee/member may be skills tested and certified by an entity, the employee/member must obtain an instruction permit from the Department for the specific vehicle classification in which the employee/member intends to be licensed. The employee/member must hold a valid instruction permit for a period of at least two weeks prior to being skills tested and certified by an entity, if not currently licensed in the classification representative of the vehicle the employee/member intends to drive.

f) Issuance of Third-Party Certifying Entity Licenses

1) The Department shall issue a license to conduct business as a third-party certification program when it is satisfied the entity applying for a third-party certification license has met the requirements.

2) All licenses issued to any third-party certifying entity shall remain valid unless canceled, suspended or revoked. The Department shall send affidavits to, and conduct audits of, each licensee annually to determine that the licensee remains in compliance with the requirements.

g) Denial, Cancellation, Suspension and Revocation of Third-Party Certifying Entity Licenses

1) The Secretary of State shall deny an application for a third-party certifying entity license:

A) to any entity that submits a fraudulent application.

B) to any entity that currently employs individuals currently employed by the Secretary of State.

C) to any entity that owes outstanding fees to the Secretary of State.

D) to any third-party certifying entity that lacks a safety officer.

E) when an entity's physical location:

i) fails to comply with public health and safety standards contained in the Public Building Egress Act, the Natural Gas Odor Injection Act, and/or the Environmental Barriers Act.

ii) fails to have a telephone that is registered to the entity.

F) to any entity with a current unsatisfactory rating from FMCSA.

G) to any commercial driver training school.

H) to any entity that enters into any agreement with employees/members it certifies that provides for compensation or any form of consideration, including but not limited to monies, credits, services or payroll withholding, in exchange for training and/or testing from the certified employee/member.

I) to any entity that accepts compensation or any form of consideration, including but not limited to monies, credits, services or payroll withholding, in exchange for training and/or testing from any certified employee/member who is certified.

J) to any entity that fails to maintain a continuous surety bond.

2) The Department may cancel a third-party certifying entity license for failing to correct, after five business days, any of the following violations:

A) the entity employs individuals currently employed by the Secretary of State.

B) the entity owes outstanding fees to the Secretary of State.

C) the entity lacks a safety officer.

D) the entity fails to meet location standards by:

i) failing to comply with public health and safety standards contained in the Public Building Egress Act, the Natural Gas Odor Injection Act, and the Environmental Barriers Act.

ii) failing to have a telephone that registers to the third-party certification entity.

E) the entity currently has an unsatisfactory rating from FMCSA.

F) the entity is a commercial driver training school.

G) the entity fails to maintain a continuous surety bond.

3) The Department may suspend for up to one year or revoke an entity's license for any violation of this Section, depending on the seriousness of the violation, whether the violation has been corrected, and how long the violation was unremediated.

h) Issuance of Safety Officer License

1) The Department shall issue a license to each safety officer when satisfied that the person has met the qualifications required under this Section. Each Safety Officer License shall authorize the licensee to administer tests solely for the employer indicated on the license, except when the safety officer is employed by an entity providing contractual services to the third-party certification entity.

2) An individual may be issued two safety officer licenses in the following combinations:

A) as a safety officer for two governmental agencies; or

B) as a safety officer for a private entity and a governmental agency.

3) All licenses issued to any safety officer shall remain valid unless canceled, suspended or revoked.

i) Safety Officer

1) Requirements

A) A safety officer may only test and certify employees or members in the class that is indicated on the officer's Safety Officer License.

B) A safety officer who applies to administer skills tests to individuals for CDLs must complete a CDL skills test examiner training course and examination in accordance with 49 CFR 384.228(d) and (e) (October 1, 2014) and submit to a nationwide criminal background check in accordance with 49 CFR 384.228 (October 1, 2014). Fingerprints shall be submitted to the Illinois State Police in accordance with 20 Ill. Adm. Code 1265.30.

C) A safety officer must conduct skills testing in accordance with subsection (e).

D) A safety officer shall not engage in or permit any type of fraudulent activity, either with reference to any certified employee or member or the Secretary of State.

E) A safety officer must maintain records in accordance with subsection (d)(10).

F) If a safety officer does not administer at least 10 separate skills tests per calendar year, the entity shall allow a Department employee to accompany the safety officer to observe the safety officer successfully administer at least one skills test or the safety officer may take the refresher training specified in 49 CFR 384.228, including, but not limited to, overviews of the third-party certification process, how to submit test results electronically, testing protocols/procedures, the score sheet, scoring standards, and required recordkeeping.

G) If a safety officer licensed to administer CDL skills tests to employees or members must successfully complete a refresher training course and written examination every four years to maintain the CDL Safety Officer License.

2) Denial of License. The Department shall deny a safety officer's license upon evidence the individual:

A) has been convicted of driving under the influence of alcohol and/or other drugs (see IVC Section 11-501), leaving the scene of a fatal accident (see IVC Section 11-401), reckless homicide (see Section 9-3 of the Criminal Code of 2012 [720 ILCS 5/9-3]), reckless driving (see IVC Section 11-503), or similar out-of-state offenses within 10 years prior to the date of application; or has been convicted two or more times of any of these offenses or combination of these offenses within 20 years prior to the date of application.

B) fails to properly make application for the license.

C) is not employed by a third-party certifying entity.

D) is currently a salaried employee of the Secretary of State.

E) is not at least 21 years of age.

F) submits a fraudulent application.

G) owes outstanding fees to the Secretary of State.

H) holds a driver's license that is currently canceled, suspended or revoked.

I) holds a driver's license that was suspended or revoked within a period of five years prior to the date of application. However, suspensions related to auto emissions, failure to pay child support and unpaid parking tickets will not be considered.

J) has not held, for at least two years immediately preceding application, a valid Illinois driver's license or a driver's license from a contiguous state in the classification and/or endorsement in which the individual intends to administer skills tests.

K) does not meet the training, testing and background check requirements of subsection (i)(1)(B).

L) is an owner or instructor of a commercial driver training school.

M) has been suspended pursuant to IVC Section 11-501.1, 11-501.6 or 11-501.8 within the 10 years prior to the date of application, or has had two or more suspensions pursuant to IVC Section 11-501.1, 11-501.6 or 11-501.8, or combination thereof, within the 20 years prior to the date of application.

N) violated any subsection of this Section.

O) has any felony conviction within the last 10 years (applies only to persons applying to administer CDL skills tests).

P) has any conviction involving fraudulent activities (applies only to persons applying to administer CDL skills tests).

3) The Department shall immediately cancel a safety officer's license upon evidence that the individual:

A) holds a driver's license that is currently canceled, suspended or revoked.

B) has not held, for at least two years immediately preceding application, a valid license in the classification and/or endorsement in which the individual intends to test.

C) administers CDL skills tests to employees/members, but has not completed the training and testing specified in subsection (i)(1)(B).

D) is no longer employed by the third-party certification entity or no longer has a valid license.

E) is currently a salaried employee of the Secretary of State.

F) owes outstanding fees to the Secretary of State.

G) is an owner or instructor of a commercial driver training school.

H) has a felony conviction within the last 10 years (applies only to persons administering CDL skills tests).

I) has any conviction involving fraudulent activities (applies only to persons administering CDL skills tests).

J) fails to successfully complete a refresher training course and examination every four years (applies only to persons administering CDL skills tests).

4) The Department may suspend for up to one year or revoke a safety officer's license for any violation of this Section, depending on the seriousness of the violation, whether the violation has been corrected, and how long the violation was unremediated.

5) The Department shall have the discretionary authority to issue warning letters to third-party certifying entities or safety officers for violations of this Section.

j) Hearings

1) Prior to the denial of a third-party certifying entity and/or safety officer's license, the Department shall send written notice to the entity and/or person. The third-party entity and/or safety officer may request a formal hearing to contest the denial. The basis for denial of a license is stated in subsections (g)(1) through (3) and (i)(2)(A) through (O).

2) Prior to the suspension or revocation of the license or accreditation of a third-party certifying entity or safety officer, the Department will conduct a hearing in accordance with 92 Ill. Adm. Code 1001, Subpart A and IVC Section 2-118, in which the Department will present competent evidence to establish violations of any regulations or laws governing third-party entities and/or safety officers and seek the appropriate sanctions.

k) Review Under Administrative Law. Judicial Review − The action of the Secretary of State in canceling, suspending, revoking or denying any license under this Act shall be subject to judicial review in accordance with IVC Section 2-118 and the provisions of the Administrative Review Law [735 ILCS 5/Art. III].

(Source: Amended at 46 Ill. Reg. 7823, effective April 27, 2022)