

Rules Amending Title 19
Hawaii Administrative Rules

_____, 2023

1. Chapter 19-123, Hawaii Administrative Rules, entitled "Statewide Motorcycle, Moped and Motor Scooter Education Courses and Licensing Skill Test Waiver" is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 19

DEPARTMENT OF TRANSPORTATION

SUBTITLE 5

MOTOR VEHICLE SAFETY OFFICE

CHAPTER 123

STATEWIDE MOTORCYCLE, MOPED, AND MOTOR SCOOTER
EDUCATION COURSES AND LICENSING SKILL TEST WAIVER

Subchapter 1 General Provisions

§19-123-101	Purpose
§19-123-102	Definitions
§19-123-103	Rider education student completion certificate for persons under eighteen years of age
§19-123-104	Fees
§19-123-105	Severability

Subchapter 2 Requirements for Rider Education
Instructors

§19-123-150	General provisions
§19-123-151	Certification courses for instructors
§19-123-152	Duties and responsibilities of rider education instructors
§19-123-153	Rider education instructor certificate
§19-123-154	Display of rider education instructor certificate
§19-123-155	Denial, suspension, or termination of rider education instructor certificate
§19-123-156	Motorcycle, moped, motor scooter and operator requirements
§19-123-157	Rider education seal

Subchapter 3 Rider Education Instructor Applicants; Criminal History Record; Employment History; Background Check

§19-123-200	Definitions
§19-123-201	General rule
§19-123-202	Applicant duty to provide information
§19-123-203	Fingerprinting requirement
§19-123-204	Use of criminal history records results

Subchapter 4 Certification Standards for Rider Education Student Curriculum

§19-123-250	Rider education curriculum task force
§19-123-251	Administration of program
§19-123-252	General provisions
§19-123-253	Range curriculum
§19-123-254	Monitoring of rider education programs
§19-123-255	Training site standards
§19-123-256	Rider education instructional materials

Subchapter 5 Certification Standards for Rider Education Instructor Curriculum

§19-123-101

- §19-123-300 Rider education instructor curriculum task force
- §19-123-301 Objectives of instructor curriculum
- §19-123-302 Rider education instructor preparation course
- §19-123-303 Monitoring the rider education instructor preparation course

Subchapter 6 Licensing Skill Test Waiver

- §19-123-351 Instructor requirements to administer licensing skill test waiver
- §19-123-352 Option to waive motorcycle operator skills test procedure
- §19-123-353 Test administration
- §19-123-354 Skill performance
- §19-123-355 Conducting the Skill Evaluation

SUBCHAPTER 1

GENERAL PROVISIONS

§19-123-101 Purpose. This subchapter establishes policies and procedures to establish statewide motorcycle, moped, and motor scooter education courses for persons seeking to comply with sections 286-108, 286-108.4, or 431:10G-104, Hawaii Revised Statutes. [Eff 3/4/02; comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-102 Definitions. As used in this chapter, unless a different meaning clearly appears from the context:

~~["Motorcycle Safety Foundation (MSF) Rider Skill Test for Motorcycles and 3-Wheel Motorcycles" "Rider Skill Test (RST)" is a test designed by the Motorcycle Safety Foundation as described in chapter 19-122-13, Hawaii Administrative Rules.]~~

"Category 1 driver's license" and "Category 2 driver's license" are as defined and specified in section 286-102(b), Hawaii Revised Statutes.

"County" means the county agency having the responsibility for administering the driver licensing program.

"Curriculum" means the course of instruction certified by the department for use in motorcycle, moped and motor scooter education courses. This curriculum may also include distance or electronic learning methods.

"Department" means the state department of transportation.

"Director" means the state director of transportation.

"Instructor" means an individual who has been issued a rider education instructor certificate by the department to administer motorcycle, moped or motor scooter education courses in accordance with the requirements of this chapter.

"Moped" shall be as described in section 286-2, Hawaii Revised Statutes.

"Motorcycle" shall be as described in section 286-2, Hawaii Revised Statutes.

"Motorcycle skills test certificate for waiver" means the form provided to students who have successfully completed and passed a rider education course that meets the requirements established for license test waivers in section 286-108(a), Hawaii Revised Statutes.

"Motor scooter" shall be as described in Section 266-2, Hawaii Revised Statutes.

"Primary instructor" is the instructor who is principally responsible for assuring that all program components of the rider education curriculum are delivered to students.

"Rider education" means certified formal instruction, on how to operate a motorcycle, moped, or motor scooter.

"Rider education instructor" means an instructor who has been certified by the department to conduct motorcycle, moped or motor scooter education programs.

"Rider education instructor certificate" means the card issued to a rider education instructor.

"Rider education student completion certificate" means the form given to the student who has successfully completed all prerequisites for a category 1 or 2 driver's license.

"Rider Skill Test (RST)" is a test designed by the Motorcycle Safety Foundation as described in chapter 19-122-13, Hawaii Administrative Rules.

"School" is the agency and/or site providing a rider education program operating as a recognized function of a federal, state or county government agency or a program that is sponsored by that agency.
[Eff 3/4/02; am and comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-103 Rider education student completion certificate for persons under eighteen years of age.
All persons under the age of eighteen, wishing to receive a category 1 or 2 driver's license, must first complete a driver education course in compliance with chapter 286, Hawaii Revised Statutes. The Driver Education Student Completion Certificate as defined in section 19-122-151 must be shown to the instructor prior to the issuance of a rider education student completion certificate. [Eff 3/4/02; comp]
(Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-104 Fees. (a) Students shall be responsible for paying all fees for rider education courses.

(b) The maximum fee [~~charged by an instructor~~] for each student shall not exceed \$[~~2~~]500 per person, indexable to inflation as determined by the Consumer Price Index for the Urban Honolulu area, for a

group course, or \$~~6~~1000 per person for an individual course, indexable to inflation as determined by the Consumer Price Index for the Urban Honolulu area, to meet the requirements of section 286-108, 286-108.4, or 431:10G-104, Hawaii Revised Statutes.

(c) The ~~F~~fees charged for rider education courses shall be reviewed by the ~~department~~ Rider Education Curriculum Task Force bi-annually, or by request by the certified motorcycle safety training provider site or agency, by the Rider Education Curriculum Task Force set forth at §19-123-250 and subject to approval of the Director~~and shall be adjusted when the consumer price index for transportation in the State of Hawaii rises more than two per cent in the previous two years~~. [Eff 3/4/02; am and comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-105 Severability. If any section of this chapter is held invalid for any reason, the invalidity shall not affect the validity of the remaining sections of this chapter. [Eff 3/4/02; comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

SUBCHAPTER 2

REQUIREMENTS FOR RIDER EDUCATION INSTRUCTORS

§19-123-150 General provisions. (a) No person shall be certified as a rider education instructor unless the applicant satisfies the following conditions:

- (1) Possesses a valid driver's license recognized by the State of Hawaii with the classification and endorsements required for operation of the class and type of vehicle or device that will be used in rider education;

- (2) Has successfully completed a training course certified, or subsequently certified, by the department in subchapter 5;
- (3) Subject to section 19-123-153(h), applicant has not had more than one moving traffic violation within one year prior to obtaining certification; not more than two moving traffic violations within three years prior to obtaining certification; and not more than three moving traffic violations within five years prior to obtaining certification;
- (4) Has no driving under the influence of alcohol or drugs conviction within ten years prior to obtaining certification;
- (5) Has no driver's license suspension, revocation, cancellation, or disqualification within five years prior to obtaining certification;
- (6) Is at least twenty-one years of age;
- (7) Possesses the equivalent of a high school diploma;
- (8) Has had a valid driver's license recognized by the State of Hawaii for at least three consecutive years immediately prior to submission of application;
- (9) Meets the requirements of subchapter 3; and
- (10) Has effective communication skills; is capable of assessing and observing appropriate student behavior; is capable of engaging students in meaningful rider education activities; and models positive riding behaviors.
- (11) Present evidence showing at least three years of consistent motorcycle riding experience in Hawaii or acceptable substitution for the three years of riding experience.

(b) Application for instructor certification shall be made on a form supplied by the department which shall require the following information and attachments:

- (1) Full name, residence and business address(es), telephone and fax number(s), and e-mail and website address (if any);
- (2) A copy of original Social Security card;
- (3) A certified copy of the applicant's birth certificate;

- (4) A copy of the person's:
 - (A) Driver's license; and
 - (B) A certified ~~[original or notarized]~~ copy of ~~[High]~~ high school diploma, transcript ~~[or equivalent]~~, official college transcript, or acceptable alternative documentation~~[.]~~ to the department.
- (5) Proof of completion of a rider education instructor course certified, or subsequently certified, by the department in accordance with 19-123-151, HAR.
 - (A) ~~[Chief -]~~ Instructor trainers who are currently certified by nationally recognized standards, shall be deemed to have met this requirement by submitting proof of their certification.
 - (B) Instructors who have previously taken an instructor course, and are currently certified by a nationally recognized standard, shall be deemed to have met this requirement by submitting proof of successful completion of the course, and proof of an instructor update within the past two years.
- (6) An original traffic abstract dated within one month of the date of submission;
- (7) Proof of insurance in the amounts described in sections 19-123-153(g) and 19-123-156, aside from self-insured State and County agencies already subscribed to the amounts described at 19-123-153(g) and 19-123-156;
- (8) A certified or sealed copy of a Hawaii criminal history record check showing convictions;
- (9) Proof of application for a FBI Criminal History Record Check as defined in subchapter 3;
- (10) A statement agreeing to indemnify, defend and hold harmless the department and the counties of the State from liability resulting from the instructor's teaching of rider's education courses;

- (11) Employment history for the ten years prior to the date of the application, with names, addresses, and telephone numbers of current and former employers that are listed;
- (12) State general excise tax number, if required;
- (13) State tax clearance, if required;
- (14) Two 2" x 2" photos; and
- (15) A sworn statement indicating:
 - (A) Whether the person ever had a teaching certificate or other professional license revoked or not renewed;
 - (B) Whether the person within the past ten years was suspended, fired, asked to resign from employment, or separated from military service under conditions other than honorable;
 - (C) Whether the person had been convicted of a crime, other than a minor traffic offense involving a fine of \$50 or less;
 - (D) Whether the person had been diagnosed as having a mental or emotional condition which may affect the person's ability to responsibly manage, supervise, control and interact with students;
 - (E) A detailed explanation for subparagraphs (A) through (D) when applicable; and
 - (F) Names, addresses, and phone numbers of at least five persons (non-relatives) who can attest to the good character of the applicant. [Eff 3/4/02; am and comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

(16) 19-123-151 Certification courses for instructors. All applicants for certification as instructors must satisfactorily complete courses in rider education that have been certified, or subsequently certified, by the department. The courses shall meet or exceed nationally accepted and recognized

standards. The curricula for instructor courses shall be submitted to the department for review by a task force established by the department and certification by the director, as provided in subchapter 5. [~~No instructor course shall contain less than seventy-two hours of instruction.~~][Eff 3/4/02; am and comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-152 Duties and responsibilities of rider education instructors. (a) The duties and responsibilities of rider education instructors shall be as follows:

- (1) Conduct instruction in accordance with the requirements of this chapter;
- (2) [~~Maintain~~]Provide records of all students taught for five years to site or agency for recordkeeping. Each record shall include:
 - (A) Student's complete name, address, and birth date;
 - (B) Student's permit or driver license number;
 - (C) Dates the student took and completed the course and attendance record;
 - (D) A copy of the written contract, if applicable, with any person being taught, including amounts charged for the course(s); and
 - (E) A notarized statement from a parent or guardian, if the student is less than eighteen years of age, received by the rider education instructor prior to the issuance of the rider education student completion certificate, stating that the applicant has completed forty hours of daytime riding observed by a licensed driver over the age of eighteen;
- (3) Issue a rider education student completion certificate, as appropriate, when all

requirements of this chapter have been successfully completed;

- (4) If qualified as described in section 19-123-351, issue a motorcycle skills test certificate for waiver to all students who successfully complete and pass a rider education course that meets the requirements established for license test waivers in section 286-108(a), of the Hawaii Revised Statutes;
- (5) Be in full compliance with all department rules;
- (6) Cooperate fully with the department in the investigation of any complaint relating to their certification as an instructor under this chapter. Failure to do so will result in the termination of the rider education instructor certificate pursuant to section 19-123-155; and
- (7) Notify the department of any changes that would disqualify them from meeting the requirements of this chapter. Failure to do so shall result in termination of the rider education instructor certificate pursuant to section 19-123-155.

(b) The duties and responsibilities of rider education instructors shall also be as follows:

- (1) Exhibit a professional appearance and conduct in personal riding habits, both on the rider training range, and on the street, while always observing the rules of the road;
- (2) Wear the proper riding apparel, as weather, time of day, and riding conditions may dictate, including as a minimum, a U.S. Department of Transportation approved helmet, eye protection, long pants, long-sleeved shirt or jacket of sturdy material, leather or sturdy equivalent over-the-ankle boots and full-fingered leather or sturdy equivalent gloves;
- (3) Operate a motorcycle on a regular basis to maintain a high level of riding proficiency,

- thereby enabling the instructor to correctly demonstrate all range exercises;
- (4) Be capable of successfully passing motorcycle rider skills evaluations;
 - (5) Maintain a high degree of proficiency in evaluating and coaching student abilities and correcting technique errors;
 - (6) Maintain the safest possible learning environment for students;
 - (7) Maintain a current and up-to-date working knowledge of the latest methods and techniques pertaining to rider education, training and curriculum; motor vehicle laws specifically as they relate to motorcycles, mopeds and motor scooters; and changes in the industry relating to design and safety, protective riding apparel and accessories;
 - (8) Successfully complete an instructor update or refresher course relating to rider education at least once every two years that meets or exceeds nationally recognized standards; and
 - (9) Teach a minimum of three rider education courses each year. [Eff 3/4/02; am and comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-153 Rider education instructor certificate. (a) A rider education instructor certificate will be issued authorizing the instructor to conduct rider education courses.

(b) The rider education instructor certificate will be granted upon satisfactory completion of a training course certified, or subsequently certified, under section 19-123-151 and when all requirements in section 19-123-150, have been met.

(c) The rider education instructor certificate shall be non-transferable.

(d) Subject to subsection (h), the rider education instructor certificate is renewable annually

for four years with the submittal of a traffic abstract that records no more than one moving traffic violation within the past year, not more than two moving traffic violations within the past three years; and not more than three moving violations within the past five years; a state tax clearance (if required); completion of a professional development course approved by the department, and proof of general liability and liability insurance. Proof of general liability and liability insurance shall not be provided if instructor is employed by either a self-insured State or County agency already subscribed to the amounts described at 19-123-153(g) and 19-123-156.

(e) Every fifth year, the certificate will be renewed:

- (1) Upon completion of all requirements, in section 19-123-150, with the exception of section(s) 19-123-150(b) (2), (3), (4), and (11), [in section 19-123-150]; and
- (2) Upon completion of a professional development course approved by the department.

(f) It is the responsibility of the certificate holder to initiate the renewal process.

(g) The instructor shall provide the department a certificate of liability insurance covering commercial general liability in the sum of one million dollars, in a form and with provisions satisfactory to the department, listing the State of Hawaii and the counties of the State as additional insureds. A certificate of liability insurance shall not be provided if instructor is employed by either a self-insured State or County agency already subscribed to the amounts described at 19-123-153(g) and 19-123-156.

(h) If a certified instructor receives:

- (1) One moving traffic violation in one year, the instructor shall be sent a warning letter by the department;
- (2) If the instructor receives two moving traffic violations within three years, the instructor's certificate shall be suspended for three months;

- (3) If the instructor receives three moving traffic violations within five years, the instructor's certificate shall be suspended for six months;
- (4) If the instructor receives four moving traffic violations within ten years, the instructor's certificate shall be terminated. [Eff 3/4/02; am and comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-154 Display of rider education instructor certificate. All instructors shall display their rider education instructor certificate to their students during the time of instruction. [Eff 3/4/02; comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-155 Denial, suspension, or termination of rider education instructor certificate. (a) The department may deny any application for a rider education instructor certificate upon any of the following grounds:

- (1) Failure to comply with or satisfy any of the requirements of this chapter; or
- (2) Falsification of any information provided to the department.

(b) Any instructor may voluntarily surrender a rider education instructor certificate by returning the certificate to the department with a signed letter of explanation.

(c) The department may revoke, suspend, cancel, or terminate the rider education instructor certificate and require the return of the certificate upon any of the following grounds:

- (1) Failure to comply with or satisfy any of the requirements of this chapter;

- (2) Falsification of any records or information required by this chapter or otherwise relating to rider education;
- (3) Commission of any negligent or otherwise wrongful act which endangers the student;
- (4) Driver license suspension, revocation, cancellation or disqualification;
- (5) Inappropriate behavior directed toward a student by the instructor;
- (6) Mental or physical incapacity of the instructor which would prevent the instructor from performing the instructor's duties and responsibilities as described in section 19-123-152;
- (7) Unsatisfactory criminal history record check;
or
- (8) Moving traffic violations as described in section 19-123-153(h).

(d) The department may allow the instructor to cure any deficiency, if curable, within thirty days of receipt of notice-by the department.

(e) Any applicant whose application has been denied by the department or whose rider education instructor certificate has been suspended, revoked, canceled, or terminated and who has not cured the deficiency may within ten calendar days after receiving the notice of denial, suspension, revocation, cancellation, or termination appeal the department's action by submitting to the department a written request for an administrative review of the decision by the department. The request shall state the reasons why the application should not be denied, or the rider education instructor certificate suspended, revoked, canceled, or terminated. Upon such request, the department shall respond in writing with an administrative review decision within thirty calendar days. Failure to request a review within ten calendar days after receiving the notice of denial, suspension, revocation, cancellation, or termination of the application or rider education instructor certificate shall be deemed a waiver of a right to appeal.

(f) Any person aggrieved by the administrative review decision of the department may, within ten calendar days of the date of the decision, submit a written appeal of that decision to the department. The department may hold hearings on a timely appeal in accordance with chapter 91, Hawaii Revised Statutes. [Eff 3/4/02; am and comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-156 Motorcycle, moped, motor scooter and operator requirements. (a) All motorcycles used in rider education courses must meet the following minimum standards:

- (1) The motorcycle must have a current registration and safety check, if required;
- (2) The motorcycle must be in good working condition;
- (3) The motorcycle must be covered by insurance as required in a form and with provisions satisfactory to the department. If the instructor teaches for a school that is self-insured, a statement to that effect, signed by a legally authorized representative, may be submitted to meet this requirement. Minimum insurance requirements are:
 - (A) Bodily Injury--\$20,000 per person, \$40,000 per occurrence; and
 - (B) Property Damage--\$10,000 per occurrence.

- (4) If a student supplies the student's own motorcycle for the course, the instructor will assure that all requirements of this section are in force;

(b) All mopeds and motor scooters used in rider education courses must meet the following minimum requirements:

- (1) The moped or motor scooter must have a current registration and safety check, if required;

- (2) The moped or motor scooter must be in good working condition;
- (3) The moped or motor scooter must be covered by insurance as required in a form and with provisions satisfactory to the department. If the instructor teaches for a school that is self-insured, a statement to that effect, signed by a legally authorized representative, may be submitted to meet this requirement. Minimum insurance requirements are:
 - (A) Bodily Injury--\$20,000 per person, \$40,000 per occurrence; and
 - (B) Property Damage--\$10,000 per occurrence; and
- (4) If a student supplies the student's own moped or motor scooter for the course, the instructor will assure that all requirements of this section are in force.

(c) All persons riding the motorcycle, moped or motor scooter must use protective gear, including a U.S. Department of Transportation approved helmet, eye protection, sturdy long pants, long-sleeved shirt or jacket of sturdy material, full-fingered [~~leather~~] sturdy gloves, and [~~leather~~] sturdy over-the-ankle boots at all times. [Eff 3/4/02; am and comp]
(Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-157 Rider education seal. The department will issue each certified instructor a seal which they shall use to place a seal upon the rider education student completion certificate. The director may charge instructors a refundable deposit of up to \$100 for the seal. The deposit, if any, shall be returned without interest when the seal is returned to the department. [Eff 3/4/02; comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

SUBCHAPTER 3

RIDER EDUCATION INSTRUCTOR APPLICANTS; CRIMINAL HISTORY RECORD; EMPLOYMENT HISTORY; BACKGROUND CHECK

§19-123-200 Definitions. As used in this subchapter:

"Affected individual" means the person to which a Federal Bureau of Investigation (FBI) identification record pertains.

"Applicant" means a person seeking certification as a certified rider education instructor according to the requirements of subchapter 2.

"Arrest records" means criminal history information obtained from sources other than the FBI pertaining to arrests for alleged criminal behavior.

"Background information" means information pertaining to a person's behavioral history that may indicate a significant risk to the health, safety, or well-being of students.

"Children" means students under the age of eighteen who are enrolled in rider education courses certified by the department in subchapter 4.

"Clean criminal history record" means that an individual's criminal history record check shows no indication of criminal behavior.

"Criminal conviction record" means criminal history information obtained from sources other than the FBI pertaining to an individual's conviction of a crime.

"Criminal history" means information about a person's actual or alleged criminal offense(s).

"Criminal history record" means evidence of a person's actual or alleged criminal offense(s) (arrests, convictions, and supporting information) on file with law enforcement agencies, courts, the Hawaii criminal justice data center, or in the national criminal history record files.

"Criminal history record check" means an examination or search for evidence of an individual's criminal history by means of:

- (1) A search for the individual's fingerprints in the national criminal history record files and, if found, an analysis and any other information available pertaining thereto; and
- (2) A criminal history record check conducted through the files maintained by the Hawaii criminal justice data center.

"Department" means the department of transportation.

"Employment history" means information relating to a person's past work experiences.

"FBI identification record" means a listing of certain information taken from fingerprint cards submitted to and retained by the FBI in connection with arrests and, in some instances, includes information taken from fingerprint cards submitted in connection with federal employment, naturalization, or military service. The FBI identification record is often referred to as a "rap sheet". The identification record includes the name of the agency or institution which submitted the fingerprint card to the FBI. If the fingerprint card concerns a criminal offense, the identification record includes the date arrested or received, the arrest charge, and the disposition of the arrest if known to the FBI. All arrest data included in an identification record are obtained from fingerprint cards, disposition reports, and other reports submitted by agencies having criminal justice responsibilities. Therefore, the FBI Identification Division is not the source of the arrest data reflected on an identification record.

"FBI rules to correct the FBI identification record" means rules and regulations published in the Federal Register by the FBI pertaining to the procedure for the affected individual to obtain, review, and request change, correction, or updating of any alleged deficiency in the FBI identification record.

"Fingerprinting" means the recording of a person's fingerprints using conventionally accepted equipment

and procedures to satisfy the quality, readability, and specifications of the FBI's criminal history record checking requirements. [Eff 3/4/02; comp]
 (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-201 General rule. (a) Applicants who work in close proximity to students shall be of reputable and responsible character.

(b) The department may refuse to issue a rider education instructor certificate to, may terminate the rider education instructor certificate of, or may revoke the rider education instructor certificate of any applicant who has a criminal history record, employment history, or background involving violence, alcohol or drug abuse, sex offense, offense involving children or any other circumstance which indicates that the applicant may pose a risk to the health, safety, or well-being of students. The refusal, termination, or revocation action may be based on:

- (1) Conviction of a crime which indicates that the person poses a risk to the health, safety, or well-being of students (the type of criminal offense, when it occurred, and evidence of rehabilitation may be considered in determining whether the criminal history record indicates a risk to students);
- (2) Other information or evidence which reflect upon the character and fitness of the person which indicates that the person poses a risk to students;
- (3) Failure to accurately and fully complete and submit certification application documents;
or
- (4) Failure to declare, concealment, or falsification of criminal history, employment history, or background information to the department. [Eff 3/4/02; comp]
 (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-202 Applicant duty to provide information. (a) Except as otherwise specified or exempted from criminal history record check requirements, any person who teaches rider education or seeks certification as a rider education instructor with the department in a position which places that person in close proximity to students is required to provide to the department:

- (1) An accurately and fully completed certification application with all requested information and documents including employment references; and
- (2) A written consent for the department to obtain information from current and past employers and references.

(b) Applicants shall cooperate fully and make every reasonable effort to provide information and comply with fingerprinting and other related requirements when so notified and instructed by the department or its representative agents. The department may refuse to certify, or may suspend or terminate the rider education instructor certificate or both of any person who willfully fails to cooperate or fails to provide the requested information. [Eff 3/4/02; comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-203 Fingerprinting requirement. The department shall require all applicants to undergo fingerprinting to conduct criminal history record checks as may be accommodated by the Hawaii criminal justice data center. Applicants must pay all charges for fingerprinting and for the criminal history record. Applicants shall cooperate fully and make every reasonable effort to comply with fingerprinting and other requirements when so notified and instructed by

the department or its representative agents. The department may refuse to certify and may suspend or terminate the rider education instructor certificate of any person who willfully fails to comply or cooperate fully with fingerprinting requirements. [Eff 3/4/02; comp] ((Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-204 Use of criminal history records results. (a) Information obtained from criminal history record checks shall be used exclusively by the department for the purpose of determining whether or not a person is suitable for working in close proximity to students. Use and release of such information obtained from the FBI shall be subject to federal laws and regulations.

(b) The department may disclose information that an affected individual's criminal history record check shows a "clean criminal history record". Federal law (28 U.S.C. §534) otherwise prohibits the disclosure of criminal history information obtained from the FBI. An FBI identification record and information contained therein, however, may be disclosed to the affected individual when explaining decisions or contemplated decisions resulting in refusal to certify an applicant for a rider education instructor certificate or termination of a rider education instructor certificate. Information from an FBI identification record may also be disclosed to a legal representative of the applicant with the consent of the affected individual and may also be displayed, with the consent of the affected individual, at an administrative hearing to resolve issues concerning the record's content and use. If desired, the affected individual may also request the correction of FBI criminal history information by following FBI rules to correct the FBI identification record.

(c) Criminal history information obtained from sources other than the FBI may be categorized into criminal convictions and arrest records. Criminal

convictions are considered public records and may be disclosed to the general public. Arrest records are private and shall not be released by the department except in the process of verifying the disposition of the arrests, or as otherwise required by law. Information regarding a person's arrest records for offenses that may pose a risk to the health, safety, or well-being of students may be used as the basis to delay rider education instructor certificate decisions or for the suspension of a rider education instructor certificate pending further inquiry and investigation. Arrest records shall not be used as the sole basis to refuse a rider education instructor certificate. [Eff 3/4/02; comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

SUBCHAPTER 4

CERTIFICATION STANDARDS FOR RIDER EDUCATION STUDENT CURRICULUM

§19-123-250 Rider education curriculum task force. A task force appointed by the director shall establish minimum requirements for rider education student curricula and recommend to the director the certification of rider education curricula. The director may certify such curricula. The task force shall be composed of an individual with a category 2 license, a chief instructor, a representative of the University of Hawaii, a representative of a military motorcycle safety program, a representative of the motorcycle industry, a county police department, a county examiner of drivers, and the department. All curricula shall be reviewed by the department every five years to assure that they are relevant. [Eff 3/4/02; comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-251 Administration of program. No rider education student curriculum shall be certified unless:

- (1) Curriculum is available and in use during all training phases;
- (2) Lesson plans are clearly written with student centered activities;
- (3) ~~[Curriculum is administered during a minimum of seven hours of classroom instruction and nine hours of on-cycle or range instruction;]~~ All modules are introduced ~~[during classroom sessions]~~ and reinforced during all training phases;
- (4) All modules consist of concepts that are structured and presented in simple to complex building blocks;
- (5) A student cannot progress to the next module of instruction until the student reaches a minimum objective of proficiency;
- (6) Appropriate evaluation shall occur throughout all courses to test the knowledge of the student;
- (7) Students must present [a] valid identification with a picture of the student affixed ~~[instruction permit or valid driver's license]~~ to the instructor before the rider education course completion certificate is issued;
- (8) If using the student's own motorcycle, moped or motor scooter, the student must provide proof of insurance, in the minimum required by statute, before using the motorcycle, moped or motor scooter in class;
- (9) Upon the satisfactory completion of the rider education course, the student shall be given a rider education student completion certificate sealed by the instructor; and
- (10) Upon the satisfactory completion of the skill test, the instructor shall provide a sealed motorcycle skills test certificate for waiver to the student. [Eff 3/4/02; am and comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104)

(Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-252 General provisions. (a) Classroom instruction shall not exceed twenty-four students. On-cycle classes shall not exceed eight students if there is one instructor, or twelve students if there are two instructors.

(b) To obtain certification by the department, all rider education course curricula shall contain the following instructional elements:

- (1) The curriculum prepares students for achievements in social wellness, visual skills for awareness, information-processing and decision-making, risk prevention management, vehicle control, vehicle correction skills, and performance excellence;
- (2) The development and habitualization of positive behavioral patterns is emphasized;
- (3) Basic riding skills are introduced and practiced through classroom training to ensure operator success;
- (4) Students may also learn riding skills often referred to as advanced, such as off-road recovery and skid control, detection and correction;
- (5) Students learn how to evaluate riding situations and make low-risk decisions;
- (6) Risk versus gain relationships associated with riding are defined and explored;
- (7) Risk perception, prevention, and management are presented as a function of time and space control;
- (8) Activities are utilized to promote effective student involvement in risk management and - problem solving;
- (9) Students learn how behavioral, sociological, and psychological factors influence riding;
- (10) The physiological effects of alcohol and other drugs, including nicotine and caffeine, on rider performance are explored;

- (11) The effects of fatigue and other physical impairments on rider performance are studied;
- (12) Conflict resolution skills are presented in relation to on-road situations;
- (13) Activities are conducted to demonstrate the problems associated with rider inattentiveness;
- (14) Activities are conducted to help students recognize the stages of anger and how to manage them;
- (15) Various forms of technology and media are used to reinforce rider behavioral patterns;
- (16) Students learn how to positively influence their peers and how to avoid negative peer influence;
- (17) Students learn the value of safety gear and vehicle readiness;
- (18) Classroom activities demonstrate the importance of a student's responsibility both as a citizen and a rider;
- (19) Students participate in activities to learn the limitations of their vehicles or devices and of drivers; and
- (20) All rider education course curricula must contain, at a minimum, instruction on riding responsibilities, basic vehicle or device control, making safe riding decisions, controlling the vehicle or device, basic maneuvers, negotiating intersections, sharing the roadway, riding in different environments and situations, riding in urban and rural areas and high speed highways or freeways, adverse conditions, emergencies, being a responsible rider, effects of rider condition on risk taking, alcohol and other drugs, and street riding strategies. [Eff 3/4/02; comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-

104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-253 Range curriculum. (a) Range curricula shall contain, at a minimum, instruction in the following skills:

- (1) Introduction to riding--pre-start, starting the engine, putting the vehicle in motion, shifting gears, stopping, turns;
- (2) Basic maneuvers including lane control, lateral maneuver-move into traffic, lane changing, negotiating intersections;
- (3) Scanning skills, blind spots; and
- (4) Following distance, passing.

(b) The curriculum shall also contain, at a minimum, the following instructional elements:

- (1) The development of rider behavioral patterns is reinforced;
- (2) Techniques for emergency collision avoidance maneuvers are taught;
- (3) Range instruction is structured and used to effectively experience behavioral-patterns and to demonstrate various driving situations and circumstances; and
- (4) The student is sufficiently prepared to demonstrate the correct modeling of riding behaviors for the instructor. [Eff 3/4/02; comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-254 Monitoring of rider education programs. The department has the right to monitor all State-certified rider education agencies, sites, and their curricula[~~courses~~] and certified instructors at any time to assure compliance with the regulations of this chapter. Anyone found to not be in compliance with the requirements of this chapter may have their certificate suspended or terminated in accordance with

section 19-123-155. [Eff 3/4/02; am and comp]
 (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-
 108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-
 108.4, 431-10G-104)

§19-123-255 Training site standards. (a) All facilities in which rider education courses are taught shall be clean, safe, appropriate, and maintain a comfortable climate. [~~All training sites shall be equipped with a fire extinguisher (minimum type A, B, C) and a first-aid kit.~~]

(b) The riding range area shall meet the following minimum standards:

- (1) In accordance with approved curriculum[~~Shall measure at least 150 feet by 300 feet~~];
- (2) Shall be paved with asphalt or concrete;
- (3) Shall be free of obstacles (potholes, gratings, weeds, gravel, light poles, parking barriers, curbing, fencing, athletic equipment, or any other potential surface hazard);
- (4) Shall be as level as possible (not more than a five-degree slope);
- (5) Shall have adequate "run off" area (minimum twenty feet); and
- (6) Shall be free of all pedestrian and vehicular traffic during all on-cycle activities;
- (7) All range sites shall have one staff person who is currently certified in cardiopulmonary resuscitation and first aid readily available during all on-vehicle activities;
- (8) All training sites shall be equipped with a fire extinguisher (minimum type A, B, C) and first aid kit readily available during all hands-on activities;
- (9) Any exceptions to items in this subsection must have prior written approval of the department. [Eff 3/4/02; am and comp]
 (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-256 Rider education instructional materials. All rider education instructional materials shall be curriculum appropriate and available to all students. [~~Textbooks and videos shall be effective and relevant resources used to enhance the curriculum. A variety of materials shall be utilized and may include computer generated slides, videos and transparencies.~~] [Eff 3/4/02; am and comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

SUBCHAPTER 5

CERTIFICATION STANDARDS FOR RIDER EDUCATION INSTRUCTOR CURRICULUM

§19-123-300 Rider education instructor curriculum task force. A task force appointed by the director of transportation shall establish minimum requirements for rider education instructor curricula and recommend certification to the director. The director may certify such curricula. The task force shall be composed of an individual with a category 2 license, a chief instructor, a representative of the University of Hawaii, a representative of a military motorcycle safety program, a representative of the motorcycle industry, a county police department, a county examiner of drivers, and the department. All curricula shall be reviewed by the department every five years to assure that they are relevant. [Eff 3/4/02; am and comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-301 Objectives of instructor curriculum.
(a) All rider education instructor classroom curricula shall contain content in classroom methods and

principles in teaching rider education to prepare an instructor to carry out the rider education program as described in this chapter. The content shall prepare the instructor to:

- (1) List the purposes of, and convey the concepts of traffic and safety education to others;
- (2) Demonstrate the use of various educational methods, theories, and concepts in teaching a rider education course;
- (3) Demonstrate knowledge of the many and varied aspects of the riding task;
- (4) Conduct units of instruction, based upon the state regulations for rider education, which are in psychologically sound sequence, and meet student needs in the classroom;
- (5) Utilize instructional materials and activities which facilitate the attainment of the performance sought in the classroom;
- (6) Define and describe the nature of the riding task in the highway transportation system;
- (7) Solve administrative problems after an analysis of such problems are presented in the classroom;
- (8) Select, utilize, and evaluate devices which measure the effectiveness of classroom and range instruction;
- (9) Establish and maintain a viable program organization including enrollment, scheduling, records, and reports;
- (10) Manage traffic and safety education facilities and appropriate budget allocations for model programs;
- (11) Identify means by which rider education programs may positively influence public opinion concerning traffic and safety education;
- (12) Plan a complete course of instruction with outlines, lesson plans, and evaluation instruments; and
- (13) All curricula should contain specific information on the value of personal safety gear, concepts of crash causation and

countermeasures, traffic safety education classroom instruction techniques, and administration of a rider education program.

(b) All range curricula shall prepare instructors to teach the on-cycle phases of rider education, including the aims, objectives, methods, materials, and techniques of teaching traffic simulation. The content shall prepare the instructor to:

- (1) Define and explain in depth the philosophy and rationale of the various laboratory concepts presented in the course;
- (2) Verbalize the on-cycle sequence and identify the objectives, rationale, and management forces that influence lesson preparation;
- (3) Utilize lesson plans using behavioral objectives and teach effectively from these lesson plans in all phases of the course; and
- (4) The curriculum should specifically cover the aims and purposes of rider instruction, including development of rider competencies, range management, controlled and sequential nature of instruction, entry level proficiencies, perception skills, human functions, driving strategies, understanding limitations, basic control tasks, traffic flow tasks, teaching methods and techniques, lesson plan development, instructional aids, selection of instructional experience, planning and implementing instruction, role of the instructor, student and teacher interaction a teaching activities. [Eff 3/4/02; comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-302 Rider education instructor preparation course. The director shall certify the curricula for a rider education instructor preparation course for rider education instructors. The curricula

shall meet or exceed minimum national standards. [Eff 3/4/02; comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-303 Monitoring the rider education instructor preparation course. The department has the right to monitor all rider education instructor preparation courses and certified instructors at any time to assure compliance with the regulations of this chapter. Anyone found to not be in compliance with the requirements of this chapter may have their certificate suspended or terminated in accordance with section 19-123-155. [Eff 3/4/02; comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

SUBCHAPTER 6

LICENSING SKILL TEST WAIVER

§19-123-351 Instructor requirements to administer licensing skill test waiver. Instructors seeking authorization to administer the testing procedure for the purpose of enabling the licensing skill test waiver shall provide proof that the instructor:

- (1) Is a primary instructor in the school's rider education program;
- (2) Has successfully completed a state-sanctioned license examiner training course or is certified to administer the Rider Skill Test (RST) or equivalent national certification [in the administration of the "[Alternate MOST] Motorcycle Safety Foundation (MSF) Rider Skill Test for Motorcycles and 3-Wheel Motorcycles" licensing test procedure]; and
- (3) Agrees to attend all refresher programs offered by the department for such examiners. [Eff 3/4/02; am and comp]

((Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-352 Option to waive [alternate] motorcycle operator skills test procedure. The examiner of drivers may waive the actual demonstration of ability of operate a motorcycle or motor scooter for any applicant who provides proof of completion of a rider education course approved by the department. Such proof of completion must be submitted by the license applicant to the examiner of drivers within ninety days of the date of course completion. Such waiver may be appropriate, provided the following criteria are met:

- (1) The applicant has passed the prescribed eyesight examination;
- (2) Any other physical examinations determined necessary to assess the applicant's fitness to operate a motor vehicle safely upon the highway have been successfully completed;
- (3) The applicant has successfully completed the motorcycle written permit test resulting in the issuance of an instruction permit for the operation of a motorcycle or motor scooter;
- (4) The applicant produces a completed State of Hawaii student completion certificate as described in this chapter bearing the name of the applicant or student, as it appears on the driver's license or instruction permit, the date of course completion, the signature of the certified primary instructor, [~~and~~] the instructor's certification number, and all other required fields noted on the document; and
- (5) The applicant furnishes a "notice of satisfactory course completion" to the examiner of drivers. [Eff 3/4/02; am and comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-353 Test administration. The skill test shall be administered to evaluate the rider's control of the motorcycle while maneuvering the motorcycle through a variety of successively more complex exercises. Painted lines and cone markers shall delineate the test exercises, which are superimposed on the practice riding area.

- ~~[(1)] [The instructor shall score the student with the aid of a stopwatch and timing distance chart similar to that used in administration of the Motorcycle Safety Foundation (MSF) Rider Skill Test for Motorcycles and 3-Wheel Motorcycles licensing test procedures[.]];~~
- ~~[(2)] [The instructor shall utilize a clipboard and an individual score sheet for each student to be tested. A copy of the score sheet is shown at the end of this chapter[.]];]~~
- (1) ~~[Four-inch]~~ Small, soft traffic cones shall be used to mark specific points on the test exercises, and to clearly delineate the exercise path. Cones should not encroach onto the path of travel;
- (2) A passing score is ~~[0-20 penalty points]~~ assessed in accordance to the approved curriculum. The student is scored on his or her ability to perform the skill test without incurring assessment of penalty points;
- (A) Speed, stopping distances, and other observable events, such as a tire crossing or hitting a line or cone, are used in scoring the student's performance;
- (B) Foot-down errors, improper riding techniques, and failure to achieve performance standards also result in the assessment of penalty points; and
- (C) The student's errors are scored objectively using specific scoring procedures, and penalty points are assessed on a standard score sheet.

All [~~primary~~]certified rider education instructors who are qualified to issue the skills test shall be subject to random examinations, inspections and audits, without prior notice, by the state or the licensing authority within each county to assure that test integrity is maintained; and

- (3) The skills test shall be stopped by the [~~primary~~]certified rider education instructor if the student becomes a hazard to him or herself or the other students, or commits an unsafe act during the testing procedure.
[Eff 3/4/02; am and comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-354 Skill Performance. All students shall successfully demonstrate these skills according to the license test procedure described in chapter 19-122-13, Hawaii Administrative Rules. ~~{, as exhibited at the end of this chapter, and shall include:~~

- ~~(1) Cone weave;~~
~~(2) Sharp turns (left and right);~~
~~(3) Quick stop;~~
~~(4) Turning speed selection; and~~
~~(5) Quick lane change.]~~ [Eff 3/4/02; am and comp] (Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

§19-123-355 Conducting the Skill Evaluation. Instructions and scoring for the skill test shall be carried out in accordance with §19-122-13, Hawaii Administrative Rules, and the [~~test administration instructions~~] Motorcycle Safety Foundation (MSF) Rider Skill Test for Motorcycles and 3-Wheel Motorcycles as shown in Exhibit A, dated 9/1/15, located at the end of this chapter." [Eff 3/4/02; am and comp]

(Auth: HRS §§286-16, 286-17, 286-18, 286-108, 286-108.4, 431:10G-104) (Imp: HRS §§286-18, 286-108, 286-108.4, 431-10G-104)

2. Material, except source notes, to be repealed is bracketed. New material is underscored.

3. Additions to update source notes to reflect these amendments and compilation are not underscored.

4. These amendments to and compilation of chapter 19-123, Hawaii Administrative Rules, shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format, pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____, and filed with the Office of the Lieutenant Governor.

EDWIN H. SNIFFEN
Director of Transportation

APPROVED AS TO FORM:

Deputy Attorney General