

61:18:01:02.02. Hearing requests. To request a hearing, the person shall submit a written request to the department. A mailed hearing request must be postmarked or a faxed hearing request received within ~~ten~~ fifteen days following the date of the department's notice of intent to withdraw the person's driving privileges pursuant to SDCL 32-12-49 or 32-12-49.4. Upon receipt of a request for hearing, the department shall issue a notice of hearing pursuant to SDCL chapter 1-26.

Source: 25 SDR 34, effective September 15, 1998; 26 SDR 9, effective August 2, 1999.

General Authority: SDCL 32-12-49, 32-12-49.4.

Law Implemented: SDCL 32-12-49, 32-12-49.4, 32-23-11(3)(5).

~~61:18:08:01. Documents required for applicant of a first-time driver license or identification card. A South Dakota resident making application for a South Dakota driver license, permit, or identification card shall present evidence of identity, date of birth, lawful status, social security number, and address of principal residence as specified in SDCL chapter 32-12. Repealed.~~

Source: 25 SDR 34, effective September 15, 1998; 35 SDR 305, effective July 1, 2009.

General Authority: ~~SDCL 32-12-3.2.~~

Law Implemented: ~~SDCL 32-12-3.1.~~

~~61:18:08:03. Documents required for applicant holding South Dakota identification card. A South Dakota resident making application for a South Dakota driver license, permit, or identification card while holding a valid South Dakota driver license or identification card that meets the requirements of 6 C.F.R. Part 37 as amended through January 1, 2009, and is acceptable by federal agencies for official purposes shall present evidence of lawful status if the applicant is not a United States Citizen and address as specified in SDCL chapter 32-12. A South Dakota resident making application for a South Dakota driver license, permit, or identification card with a valid South Dakota driver license or identification card that does not meet the requirements of 6 C.F.R. Part 37 as amended through January 1, 2009, and is not acceptable by federal agencies for official purposes shall present evidence of identity, date of birth, lawful status, social security number, and address of principal residence as specified in SDCL chapter 32-12. Repealed.~~

Source: 25 SDR 34, effective September 15, 1998; 35 SDR 305, effective July 1, 2009.

General Authority: ~~SDCL 32-12-3.2.~~

Law Implemented: ~~SDCL 32-12-3.1.~~

61:19:04:01. Limitations. A restricted license shall clearly state the restrictions and provide sufficient information to enable law enforcement personnel to determine whether the licensee is in compliance, including the following information:

- (1) The licensee's resident address;
- (2) The name, address, and telephone number of the licensee's employer or school;
- (3) Whether the licensee is permitted to drive ~~to and from work or school, or for purposes of work, for purposes of employment, 24/7 sobriety testing, attendance at school, or attendance at counseling programs,~~ or a combination of purposes;
- (4) The permitted hours and areas of operation;
- (5) Notice that the restricted license is subject to revocation if the licensee commits any moving traffic violation or operates a vehicle after having consumed any alcohol or any illegal drug; and
- (6) Any additional information the department deems relevant.

A restricted license may not be issued for more than 12 hours a day.

Source: 3 SDR 10, effective August 11, 1976; 8 SDR 87, 8 SDR 134, effective July 1, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 25 SDR 34, effective September 15, 1998; 26 SDR 9, effective August 2, 1999; 33 SDR 108, effective December 27, 2006.

General Authority: SDCL 32-12-49.4, 32-23-11(4).

Law Implemented: SDCL 32-12-49.4, 32-23-11(4).

61:25:04:02. Employment of department employees prohibited. No third-party tester licensed certified under the provisions of this chapter may engage the service of an employee of the department as an examiner, agent, or employee without prior approval of the department secretary.

Source: 16 SDR 88, effective November 16, 1989; 33 SDR 108, effective December 27, 2006.

General Authority: SDCL 32-12A-48(6).

Law Implemented: SDCL 32-12A-11, 32-12A-49.

61:25:04:03. Requirements for driver testing record. Each driver testing record must include the following:

- (1) The complete name ~~and address~~ of the driver;
- (2) The driver's ~~social security number, other driver's~~ license number, and the name of the state or jurisdiction that issued the license held by the driver at the time of the test;
- (3) The date the driver took the skills test;
- (4) The test score sheets showing the results of the skills test;
- (5) The name and identification number of the third-party examiner conducting the skills test and location the test was performed;
- ~~(6) The record of all receipts and disbursements;~~
- ~~(7)~~ (6) The make, model, and license number of the commercial motor vehicle or vehicles used to conduct the testing; and
- ~~(8)~~ (7) A copy of the written contract, if applicable, with any person or group of persons being tested, including the amount of payment.

Source: 16 SDR 88, effective November 16, 1989; 25 SDR 34, effective September 15, 1998; 33 SDR 108, effective December 27, 2006.

General Authority: SDCL 32-12A-48(6).

Law Implemented: SDCL 32-12A-11, 32-12A-49.

61:25:04:04. Requirements for third-party examiner records. Each third-party examiner record must include the following:

(1) A valid examiner ~~identification card~~ certificate issued by the department upon meeting qualifications as indicated in § 61:25:04:06, including name, and residential address, ~~and social security number~~;

(2) A copy of the third-party examiner's current driving record, which must be updated annually; and

(3) Evidence that the third-party examiner is under the direction or control of the third-party tester who filed his or her third-party examiner application, either as an independent contractor or an employee.

Source: 16 SDR 88, effective November 16, 1989; 25 SDR 34, effective September 15, 1998; 33 SDR 108, effective December 27, 2006.

General Authority: SDCL 32-12A-48(6).

Law Implemented: SDCL 32-12A-11, 32-12A-49.

61:25:04:09. Application for third-party examiner ~~identification card~~ certificate.

Application for an examiner ~~identification card~~ certificate must be made on a form supplied by the department. The form must include at least the following information:

- (1) The full name, home and business addresses, and telephone numbers of the applicant;
- (2) The applicant's driving history, including the class of the applicant's current license and any endorsements and restrictions;
- (3) The name, address, and telephone number of the third-party tester under whose direction or control the applicant will operate; and
- (4) The third-party tester's recommendation of the applicant for an examiner identification card and certification that the applicant is under the direction or control of the third-party tester, either as an independent contractor or as an employee.

An applicant shall submit with the application a completed and signed third-party examiner's qualification questionnaire.

Source: 16 SDR 88, effective November 16, 1989; 25 SDR 34, effective September 15, 1998; 33 SDR 108, effective December 27, 2006.

General Authority: SDCL 32-12A-48(6).

Law Implemented: SDCL 32-12A-11, 32-12A-49.

61:25:04:11. Application for third-party tester license certificate. Before a third-party tester license certificate is issued, the tester shall apply for a license certificate in writing to the department on a form furnished by the department. The application must include the following:

(1) The official name, address, and telephone number of the principal office or headquarters;

(2) The name, title, address, and telephone number of the individual who is the applicant's contact person with the department;

(3) A description of the type of organization that is applying, such as governmental entity, an association, motor carrier, proprietary training school, or educational institution, and the length of time the applicant has been in business in South Dakota;

(4) If applicable, a description of the vehicle fleet owned or leased by the applicant, including the number of commercial motor vehicles by class and type;

(5) The class of testing which the applicant is applying for;

(6) If applicable, the total number of South Dakota licensed drivers employed to operate commercial motor vehicles and the number of such drivers who are full-time, part-time, and seasonal;

(7) The name, driver's license number, and home address of any third-party examiners or third-party examiner applicants who would be under the direction or control of the third-party tester; and

(8) The address of a South Dakota location where the applicant intends to conduct the skills tests, including a description of the off-road facilities and a map, drawing, or written description of the test route that will be used for the on-road portion

of the skills test. If other locations are selected for the skill testing, the third-party examiner shall display knowledge necessary on the examiner's ability to select a test route for compliance on the skills testing in accordance with the requirements of § 61:25:04:18.

Educational institutions and proprietary schools shall also submit with their application a description of their facilities, equipment, and training curriculum and the number of student applications for the previous year and the percentage of graduates.

Source: 16 SDR 88, effective November 16, 1989; 25 SDR 34, effective September 15, 1998; 33 SDR 108, effective December 27, 2006.

General Authority: SDCL 32-12A-48(6).

Law Implemented: SDCL 32-12A-11, 32-12A-49.

61:25:04:12. Third-party tester agreement. An applicant for a third-party tester or third-party examiner license certificate shall execute an agreement form provided by the department in which the applicant agrees, at a minimum, to comply with the requirements of this chapter for third-party testers, including the audit procedures in § 61:25:04:13, and agrees to hold the department harmless from liability resulting from the third-party tester's administration of the commercial driver licensing skills test program.

Source: 16 SDR 88, effective November 16, 1989; 25 SDR 34, effective September 15, 1998; 33 SDR 108, effective December 27, 2006.

General Authority: SDCL 32-12A-48(6).

Law Implemented: SDCL 32-12A-11, 32-12A-49.

61:25:04:13. On-site inspections and audits. Each applicant for a third-party tester license certificate shall permit the FMCSA or the department to inspect and audit its operations, facilities, and records that relate to its third-party testing program for the purpose of determining whether the applicant is qualified to be ~~licensed~~ certified.

Any third-party tester who has been ~~licensed~~ certified shall permit the department or FMCSA to inspect and audit its third-party testing program at least annually to determine whether it remains in compliance with the ~~licensing~~ certification requirements.

The department and FMCSA may perform their inspections and audits with or without prior notice to the third-party tester. The department shall conduct on-site inspections at least annually.

Each inspection and audit must include, at a minimum, an examination of the following:

- (1) Records relating to the third-party testing program;
- (2) Evidence of compliance with the FMCSRs;
- (3) Skills testing procedures, practices, and operations;
- (4) Vehicles used for testing;
- (5) Qualifications of third-party examiners;
- (6) Effectiveness of the skills test program by either testing a sample of drivers who have been issued skill test certificates by the third-party tester or having department employees take the skill tests from the third-party examiner; and
- (7) Any other aspect of the third-party tester's operation that the department determines is necessary to verify that the third-party tester meets the requirements for the ~~license~~ certificate.

The department shall prepare a written report of the results of each inspection and audit and provide a copy of the report of the third-party tester.

Source: 16 SDR 88, effective November 16, 1989; 33 SDR 108, effective December 27, 2006.

General Authority: SDCL 32-12A-48(6).

Law Implemented: SDCL 32-12A-11, 32-12A-49.

61:26:02:01. Fees. Fees for new, ~~existing,~~ or renewed licenses or identification cards issued pursuant to SDCL 32-12-42.1 shall be prorated as follows:

(1) One year, ~~five dollars;~~ twenty-five percent of the total application fee in SDCL 32-12-16

(2) Two years, ~~ten dollars;~~ fifty percent of the total application fee in SDCL 32-12-16

(3) Three or four years, ~~fifteen dollars;~~ seventy-five percent of the total application fee in SDCL 32-12-16.

Source: 18 SDR 233, effective July 12, 1992; 35 SDR 305, effective July 1, 2009.

General Authority: SDCL 32-12-42.1.

Law Implemented: SDCL 32-12-42.1.

61:23:01:04. Adoption of Commercial Vehicle Safety Alliance (CVSA) North American Standard Out-of-Service Criteria. Enforcement criteria for motor carrier safety regulations and for the safe transportation of hazardous materials in South Dakota shall be in accordance with the "North American Standard Out-of-Service Criteria," Part I-IV, inclusive, Strategic Plan, and Appendix, Commercial Vehicle Safety Alliance (CVSA), April 1, ~~2013~~ 2015.

Source: 26 SDR 57, effective September 9, 1998; 35 SDR 305, effective July 1, 2009; 40 SDR 39, effective September 9, 2013.

General Authority: SDCL 49-28A-2.

Law Implemented: SDCL 49-28A-3.

Reference: North American Standard Out-of-Service Criteria, Copyright 1997-~~2013~~ 2015, Revised as of April 1, ~~2013~~ 2015, Commercial Vehicle Safety Alliance, 6303 Ivy Lane, Suite 310, Greenbelt, MD 20770. Cost: \$45 each.