

**R129-18 DRAFT**

**Section 1.** Chapter 486 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 19, inclusive, of this regulation.

**Sec. 2.** *As used in this chapter, unless the context otherwise requires, the words and terms defined in sections 3 to 6, inclusive, of this regulation have the meanings ascribed to them in those sections.*

**Sec. 3.** *“Administrator” means the person appointed by the Director pursuant to NRS 486.372 to carry out the Program.*

**Sec. 4.** *“Curriculum organization” means a nationally recognized public or private organization approved by the Director to develop curriculum for courses of instruction offered to persons enrolled in the Program [courses] or to certify instructors for the Program.*

**Sec. 5.** *“On-cycle instruction” means the portion of a course of instruction in motorcycle education that is taught through the actual operation of a motorcycle under real conditions and includes, without limitation, driving on a practice range or on a public roadway under the direction of an instructor.*

**Sec. 6.** *“Provider” means a [contracted] public or private organization that provides [a] course[s] of instruction in motorcycle education for persons enrolled in [Program courses approved by the Director the Program].*

**Sec. 7.** *The Administrator [or his designee] shall:*

- 1. Inspect providers to ensure that each provider:
  - (a) Adheres to the requirements of the Program;*
  - (b) Provides instruction using curriculum developed by a curriculum organization;*and
  - (c) Adheres to any requirements of the contract between the provider and the Department;**
- 2. Provide technical assistance to a provider;*
- 3. Compile statistics on motorcycle safety and make such information publicly available on an Internet website maintained by the Department;*
- 4. Apply for and manage grants for motorcycle safety;*
- 5. Periodically provide training events to instructors licensed pursuant to NRS 486.375 and notify instructors of any required training event;*
- 6. Encourage cooperation between public agencies, private persons and businesses who have an interest in promoting motorcycle safety;*
- 7. Prepare or distribute, or both, publications to improve motorcycle safety;*

8. *Implement media campaigns and conduct outreach to improve motorcycle safety; and*
9. *Participate in statewide traffic safety meetings and activities to promote motorcycle safety.*

**Sec. 8.** *In addition to the expenses authorized by NRS 486.372, authorized expenses of the Program include:*

1. *Personnel costs of the Program;*
2. *Travel expenses of instructors for courses of instruction in motorcycle education offered in rural areas;*
3. *Costs associated with training of the staff of the Program [and instructors];*
4. *Financial assistance provided to a non-profit organization to provide a course of instruction in motorcycle education to pupils enrolled in the Program [courses];*
5. *Costs associated with purchasing[~~,-maintaining and repairing~~] training motorcycles and other vehicles used by [the Program] and costs associated with maintaining and repairing training motorcycles used by the Department] providers for the Program;*
6. *Costs associated with supplies related to the operation of the Program; and*
7. *Costs associated with carrying out any duty of the Administrator, including, without limitation, conducting the media outreach events required by subsection 8 of section 7 of this regulation.*

**Sec. 9.** *The [Program Providers may Department will] charge a fee [not to exceed] of \$150 to each person who wishes to enroll in the Program [courses].*

**Sec. 10. 1.** *To provide a course of instruction for persons enrolled in the Program [courses], a public or private organization must apply to the Department for approval [to contract with the Department of the course] on a form prescribed by the Department.*

2. *If the applicant is a private organization, an application submitted pursuant to subsection 1 must include, without limitation:*

- (a) *A detailed business plan.*
- (b) *If the applicant does not own the property on which the applicant plans to conduct a course of instruction, a copy of the proposed lease between the applicant and the owner of the property.*
- (c) *A copy of the state business license of the applicant and, if applicable, a copy of the current business license issued for the applicant's business by the county, city or town in which the applicant's business is located or written verification that the applicant is exempt from any requirement to obtain a business license.*
- (d) *The resume of each owner of the applicant or, if the applicant is a:*

- (1) *Corporation, each officer of the corporation.*
  - (2) *Limited-liability company, each manager or managing member of the limited liability company.*
  - (3) *Limited-liability partnership, each managing partner of the limited liability partnership.*
- (e) *The street address, telephone number and, if applicable, the electronic mail address of the applicant and any other contact information of the applicant.*
  - (f) *A diagram of the area in which the applicant plans to provide on-cycle instruction.*
  - (g) *A diagram of the area in which the applicant plans to provide classroom instruction. Such an area may not be located in a private residence.*
  - (h) *A description of the process that the applicant intends to use for enrolling and registering students.*
  - (i) *If the applicant is a non-profit [private]organization [or a governmental agency], a request, if applicable:*
    - (1) *For financial assistance from the Account for the Program for the Education of Motorcycle Riders established by NRS 486.372 to provide a course of instruction to pupils enrolled in the Program; and*
    - (2) *To use state-owned training motorcycles and a description of the manner in which the applicant intends to securely store such motorcycles.*
3. *If the applicant is a public organization, an application submitted pursuant to subsection 1 must include, without limitation:*
- (a) *The street address, telephone number and, if applicable, the electronic mail address and any other contact information of the applicant.*
  - (b) *A diagram of the area in which the applicant plans to provide on-cycle instruction.*
  - (c) *A diagram of the area in which the applicant plans to provide classroom instruction. Such an area may not be located in a private residence.*
  - (d) *A description of the process that the applicant intends to use for enrolling and registering students.*
  - (e) *A description of the manner in which the applicant intends to securely store any state-owned training motorcycles.*

**Sec. 11. 1.** *As soon as practicable after the Department approves or denies an application for a [provider to offer] course[s] of instruction in motorcycle education submitted pursuant to section 10 of this regulation, the Department will notify the applicant in writing of its decision.*

2. Upon notification of the approval of its application, a provider must, before enrolling students in the course[s], enter into a contract with the Department to offer the course of instruction in motorcycle education which requires that the provider:

- (a) Provide instruction using an instructor licensed pursuant to NRS 486.375;
- (b) Have a current written agreement with a curriculum provider; and
- (c) Adhere to any policies and procedures adopted by the curriculum provider.

**Sec. 12.** The Department may revoke approval [to conduct of a] course[s] of instruction in motorcycle education granted pursuant to section 11 of this regulation if the Administrator determines that:

1. The area in which the provider provides on-cycle instruction is not suitable to provide such instruction.
2. The provider is not adhering to the requirements of the Program.
3. The provider is not adhering to any of the requirements of the contract with the Department.
4. The provider is not providing instruction using curriculum developed by a curriculum provider.

**Sec. 13.** A provider who uses state-owned training motorcycles as part of a course of instruction for persons enrolled in the Program shall:

1. Maintain liability insurance on the motorcycles used in the course of instruction that insures the liability of the provider, the instructor and any person enrolled in the Program;
2. Maintain such motorcycles in safe operating conditions at all times; and
3. Securely store such motorcycles.

**Sec. 14.** 1. Each applicant for licensure as an instructor for the Program must provide to the Department in the form prescribed by the Department:

(a) Proof acceptable to the Department that the applicant meets the qualifications for licensure prescribed in NRS 486.375;

(b) The applicant's:

- (1) Full legal name;
- (2) Date of birth;
- (3) Motorcycle driver's license number or number of his or her driver's license that has a motorcy[c]le endorsement; and
- (4) Address of principal residence;

- (c) *A copy of the driving record of the applicant for the 10 years immediately preceding the date on which he or she submits the application;*
- (d) *A signed document attesting that the applicant will comply with the rules of conduct set forth in section 19 of this regulation;*
- (e) *Proof acceptable to the Department that the applicant is certified in the administration of cardiopulmonary resuscitation and:*
- (1) *Trained in the administration of first aid; or*
  - (2) *Certified in an another area approved by the Administrator;*
- (f) *Proof acceptable to the Department that the applicant is physically able to safely operate a motorcycle and train others in the operation of a motorcycle;*
- (g) *Written consent authorizing the Department to conduct a background investigation of the applicant to verify compliance with the requirements prescribed in NRS 486.375; and*
- (h) *Any other information concerning the applicant that the Department considers necessary to determine whether the applicant is qualified for licensure.*
2. *A representative of the Department may interview an applicant to evaluate his or her knowledge, skill, ability and fitness to receive a license as an instructor for the Program.*
3. *The Department may issue a license as an instructor for the Program to a person who meets the qualifications prescribed in NRS 486.375 and submits the information required by subsection 1.*
4. *The Department may deny an application for a license as an instructor for the Program if the applicant is convicted of:*
- (a) *A felony in this State or any other jurisdiction;*
  - (b) *A crime involving fraud, deceptive trade practices, dishonesty or moral turpitude in this State or any other jurisdiction; or*
  - (c) *A sexual offense, as defined in NRS 179D.097, in this State or any other jurisdiction.*
5. *If the Department determines that an application for licensure as an instructor for the Program is incomplete, the Department will notify the applicant that the application is incomplete and authorize the applicant to submit any information or documentation required to complete the application.*

**Sec. 15. 1. A license issued pursuant to section 14 of this regulation:**

- (a) *Is not transferrable;*
- (b) *Authorizes a licensee to teach a course of instruction in motorcycle education for the Program; and*

(c) *Is valid for 2 years.*

2. *The Department will issue a duplicate license if a licensee submits a request on a form prescribed by the Department.*

3. *A licensee shall notify the Administrator of a change of address, electronic mail address, telephone number or other contact information within a reasonable time after the change.*

**Sec. 16. 1.** *To renew a license issued pursuant to section 14 of this regulation, a licensee must submit to the Department:*

(a) *A completed application for renewal on a form provided by the Department;*

(b) *Except as otherwise provided in subsection 2, proof acceptable to the Department that the licensee attended any training event required by the Department for instructors for the Program;*

(c) *Proof acceptable to the Department that the licensee meets the qualifications prescribed in NRS 486.375;*

(d) *A signed document attesting that the licensee will comply with the rules of conduct prescribed in section 19 of this regulation; and*

(e) *Proof acceptable to the Department that the licensee is certified in the administration of cardiopulmonary resuscitation and:*

(1) *Trained in the administration of first aid; or*

(2) *Certified in an another area approved by the Administrator of the Program.*

2. *The Department may grant a waiver of the requirement prescribed in paragraph (b) of subsection 1.*

3. *If the Department determines that an application for renewal is incomplete, the Department will notify the licensee that the application is incomplete and authorize the licensee to submit any required information or documentation to complete the application.*

**Sec. 17. 1.** *The Director may suspend, revoke or refuse to renew any license issued pursuant to section 14 of this regulation if:*

(a) *The licensee:*

(1) *Submits an incomplete application;*

(2) *Is no longer certified in the administration of cardiopulmonary resuscitation and:*

(1) *Trained in the administration of first aid; or*

*(II) Certified in another area approved by the Administrator of the Program;*

*(3) Had a license suspended or revoked by the Department and not reissued or reinstated for any cause;*

*(4) Fails to attend any required training event sponsored by the Program unless the Department grants a waiver pursuant to subsection 2 of section 16 of this regulation;*

*(5) Is convicted of:*

*(I) A felony in this State or any other jurisdiction;*

*(II) A crime involving fraud, deceptive trade practices, dishonesty or moral turpitude; or*

*(III) A sexual offense, as defined in NRS 179D.097;*

*(6) Willfully fails to comply with any directive issued by the Director;*

*(7) Fails to cooperate with the Department in any investigation;*

*(8) Makes any changes to the curriculum developed by the curriculum provider without written approval from the Director or his or her designee and the curriculum provider; or*

*(9) Issues a course completion card to a student who does not successfully complete a course of instruction in motorcycle education.*

*(b) The Director determines that:*

*(1) The licensee knowingly made a false or misleading statement or concealed a material fact in connection with his or her application for the license;*

*(2) The licensee taught a course of instruction in motorcycle education while under the influence of alcohol[,] or any controlled substance[or any impairing medication];*

*(3) The licensee knowingly allowed [~~an~~ substance impaired intoxicated] student to participate in a course of instruction on motorcycle education;*

*(4) The licensee is no longer physically able to safely operate a motorcycle and train other persons in the operation of a motorcycle;*

*(5) The licensee willfully violated a rule of conduct prescribed in section 19 of this regulation; or*

*(6) Suspending, revoking or refusing to renew the license of the applicant is in the best interest of the public.*

2. *The Director will suspend or revoke a license issued pursuant to section 14 of this regulation if the licensee no longer meets the qualifications prescribed by NRS 486.375.*

3. *If the Director revokes the license of an instructor, the Department will not issue to that person a new license as an instructor for the Program until 1 year after the date on which the license was revoked.*

4. *For the purposes of this section, the failure of a licensee to comply with a directive of the Director shall be deemed to be willful if the licensee fails to comply with the directive within 10 days after the licensee's receipt of the directive.*

**Sec. 18.** 1. *The holder of a license issued pursuant to section 14 of this regulation may, within 14 calendar days after receipt of a notice of the suspension or revocation of, or the refusal to renew, the license, petition the Department in writing for a hearing conducted by a hearing officer of the Department.*

2. *A request for a hearing will be denied if the Department determines that the issues raised by the request do not entitle the petitioner to relief by means of an administrative hearing. [\*\*\*NOTE: THIS SUBSECTION MAY REQUIRE REVISION. DRAFTER IS RESEARCHING IT.]*

3. *If the request for a hearing is granted:*

(a) *A date for the hearing must be fixed no later than 30 days after the receipt of the request for hearing or as soon thereafter as practicable; and*

(b) *The Director will appoint a hearing officer who was not involved in the decision of the Department to suspend, revoke or refuse to renew the license or any investigation relating to this decision.*

4. *If the request for a hearing is denied, the petitioner will be notified in writing, stating the reason for the denial. [\*\*\*NOTE: THIS SUBSECTION MAY REQUIRE REVISION. DRAFTER IS RESEARCHING IT.]*

5. *Evidence offered at the hearing that the hearing officer determines is not material or relevant to the determination of issues at the hearing must not be considered.*

6. *The hearing must be conducted in accordance with the procedures set forth in chapter 233B of NRS.*

7. *Within 30 days after the hearing, the hearing officer of the Department shall make a final determination.*

**Sec. 19.** *An instructor who has been issued a license pursuant to section 14 of this regulation shall:*

1. *Teach a course of instruction in motorcycle education to persons enrolled in the Program [courses] in a manner that complies with the requirements prescribed in NRS 486.374.*

2. *Maintain a positive environment for enrolled students.*

3. *Teach in a manner that fosters interactive learning [and is consistent with the curriculum organization's policies and standards].*
4. *Demonstrate the correct manner in which to perform any exercise included as a part of on-cycle instruction in a course of instruction.*
5. *Evaluate and coach students during the on-cycle instruction in a course of instruction to ensure students meet learning objectives.*
6. *Ensure the safety of students enrolled in a course of instruction to the highest degree practicable.*
7. *Demonstrate safe habits by wearing protective gear when riding a motorcycle during a course of instruction, to and from such a course, or to and from any activity at which the instructor represents the Program.*
8. *Operate a motorcycle on a frequent basis outside of teaching a course of instruction.*
9. *Refrain from operating a motorcycle while under the influence of alcohol[,] or a controlled substance[, or any impairing medication].*
10. *Discontinue any behavior the Administrator determines is negative or injurious to the Program.*
11. *While he or she is instructing a course of instruction or otherwise representing the Program, conduct himself or herself in a professional manner, including, without limitation, maintaining an appropriate appearance, using appropriate language, delivering positive verbal and written messages, being positive in interactions with persons and refraining from behavior that could be construed as intimidating or threatening.*
12. *Refrain from presenting himself or herself as speaking on behalf of the Program when addressing a public policy forum or taking a public position on issues relating to safety or legislation. Nothing in this subsection shall be construed to prohibit an instructor from speaking to the media, participating in the legislative process or any legal process, expressing his or her opinion as a private citizen or serving as an expert witness regarding motorcycle safety issues.*

**Sec. 20.** This regulation becomes effective on [xx/xx/xxxx] January 1, 2019, or upon filing with the Secretary of State, whichever occurs later.