

NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by first submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule. (A.R.S. §§ 41-1013 and 41-1022)

NOTICE OF PROPOSED RULEMAKING

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION TITLE, REGISTRATION, AND DRIVER LICENSES

[R07-26]

PREAMBLE

- 1. Sections affected:** R17-4-413
Rulemaking Action: New Section
- 2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rule is implementing (specific):**
Authorizing statute: A.R.S. § 28-366
Implementing statute: A.R.S. § 28-3312(J)
- 3. A list of all previous notices appearing in the *Register* addressing the proposed rule:**
Notice of Rulemaking Docket Opening: 12 A.A.R. 3569, September 29, 2006
- 4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
Name: Celeste M. Cook, Administrative Rules Analyst
Address: Department of Transportation, Motor Vehicle Division
1801 W. Jefferson St., Mail Drop 530M
Phoenix, AZ 85007
Telephone: (602) 712-7624
Fax: (602) 712-3081
E-mail: ccook@azdot.gov
Please visit the ADOT web site to track progress of this rule and any other agency rulemaking matters at <http://mvd.azdot.gov/mvd/MVDRules/rules.asp>.
- 5. An explanation of the rule, including the agency's reasons for initiating the rule:**
A.R.S. 28-3312(J) authorizes the Arizona Department of Transportation, Motor Vehicle Division, to adopt rules to establish guidelines and conditions under which the Division may reduce a lifetime disqualification. The Division proposes to promulgate rules to prescribe requirements for reinstatement after a lifetime Commercial Driver License Disqualification.
- 6. A reference to any study relevant to the rules that the agency reviewed and either proposes to rely on or not to rely on in its evaluation of or justification for the rules, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**
None
- 7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
Not applicable
- 8. The preliminary summary of the economic, small business, and consumer impact:**

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In accordance with 49 CFR 383.51, the Division is allowing a person with a lifetime commercial driver license disqualification to reinstate his or her commercial driving privilege, thereby benefiting all concerned parties, without decreasing public safety. There will be some costs to the Division for establishing a review process and training. These costs are minimal. Businesses and members of the public that do not apply will have no costs. Those that do apply will see no change in costs associated with obtaining a commercial driver license. Regulated persons will however benefit by being able to return to a career as a commercial motor vehicle operator. The costs of this rulemaking to the Department, the Governor's Regulatory Review Council, and the Secretary of State are minimal clerical costs incurred in preparation, review, editing, and publishing of the rule.

9. The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:

Name: Celeste M. Cook, Administrative Rules Analyst
Address: Department of Transportation, Motor Vehicle Division
1801 W. Jefferson St., Mail Drop 530M
Phoenix, AZ 85007
Telephone: (602) 712-7624
Fax: (602) 712-3081
E-mail: ccook@azdot.gov

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10. The time, place, and nature of the proceedings for the making, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:

Date: March 30, 2007
Time: 9:00 a.m.
Location: 1801 W. Jefferson St., Room 410
Nature: Oral Proceeding
Close of record: March 12, 2007

11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

None

12. Incorporations by reference and their location in the rules:

None

13. The full text of the rules follows:

TITLE 17. TRANSPORTATION

CHAPTER 4. DEPARTMENT OF TRANSPORTATION
TITLE, REGISTRATION, AND DRIVER LICENSES

ARTICLE 4. DRIVER LICENSES

Section

R17-4-413. Lifetime Disqualification Reinstatement

ARTICLE 4. DRIVER LICENSES

R17-4-413. Lifetime Disqualification Reinstatement

A. Definitions. In addition to the definitions prescribed under A.R.S. §§ 28-101 and 28-3001, the following definitions apply to this Section, unless otherwise specified

"CDL" means Commercial Driver License.

"Permanently disqualified" means the individual will never be able to obtain a commercial driver license.

B. Eligibility. An individual with a lifetime disqualification may request reinstatement of the individual's commercial driving privilege if:

1. Ten years have passed since the date of the lifetime disqualification.

2. The individual:

a. Is otherwise eligible for licensure.

b. Has continuously been eligible for a driver license during the most recent 10-year period.

- c. Has never been disqualified for life and reinstated.
- d. Has no record of a conviction for any of the following violations, in any state, within the previous 10-year period:
 - i. Driving while under the influence of alcohol or a controlled substance.
 - ii. Having a blood alcohol concentration of .04 or greater while driving a commercial motor vehicle.
 - iii. Refusal to submit to a blood alcohol concentration test.
 - iv. Leaving the scene of an accident.
 - v. Using a vehicle in the commission of a felony.
 - vi. Operating a commercial motor vehicle as defined under A.R.S. § 28-3001 while his or her commercial driving privileges are canceled, disqualified, suspended, or revoked.
 - vii. Causing a fatality through the negligent operation of a commercial motor vehicle.
- C. Application after disqualification. If it is determined that the individual is eligible to reinstate his or her commercial driving privilege, the individual may obtain a new CDL by paying all required fees, submitting the medical examination form prescribed under Section R17-4-508(A)(1), and successfully completing all applicable CDL original-application written, vision, and demonstration-skill testing.
- D. Permanent disqualification.
 - 1. An individual who reinstated his or her commercial driving privilege in accordance with this Section and who is subsequently disqualified for life under A.R.S. § 28-3312 is permanently disqualified.
 - 2. An individual convicted of using any vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance is permanently disqualified.