

APA-1

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. 381 Department or Agency Alabama Law Enforcement Agency

Rule No. 760-X-1-24

Rule Title: Hardship Driver License

New Amend Repeal Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? No

Is there another, less restrictive method of regulation available that could adequately protect the public? No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? n/a

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? n/a

Does the proposed rule have an economic impact? No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Services Agency.

Signature of certifying officer Hal Taylor

Date 2/14/18

(DATE FILED)
(STAMP)

APA-2

Alabama Law Enforcement Agency

NOTICE OF INTENDED ACTION

AGENCY NAME:

Alabama Law Enforcement Agency

RULE NO. & TITLE:

760-X-1.-24
Hardship Driver License

INTENDED ACTION:

New Rule

SUBSTANCE OF PROPOSED ACTION:

Develop and implement a Class D hardship driver license program with specified and limited driving privileges for inmates in work release programs or community corrections programs and for persons released from incarceration from the Department of Corrections.

TIME, PLACE, MANNER OF PRESENTING VIEWS:

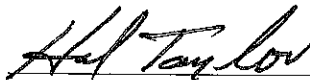
Written comments may be directed to Jason Swann, ALEA, P.O. Box 304115, Montgomery, Alabama 36130-4115.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:

April 4, 2018

CONTACT PERSON AT AGENCY:

J. Jason Swann
Assistant Attorney General
P.O. Box 304115
Montgomery, Alabama 36130-4115



Hal Taylor

NEW RULE

760-X-1-.24 Hardship Driver License

(1) Definitions:

- a. Hardship Applicant – A person disqualified by state law from having a driver license, but is otherwise eligible for a driver license; and is:
 - i. Currently participating in a work release program run, regulated, or recognized by the Alabama Department of Corrections (“ADOC”) and is in good standing by way of a notarized affidavit from the program director or designee; or
 - ii. Currently participating in a community corrections program recognized by an Alabama Circuit, District, or Municipal court, regulated by Alabama Department of Corrections and is in good standing by way of a notarized affidavit from the program director or designee; or
 - iii. An Individual released from a period of confinement served in the custody of the ADOC to parole, mandatory release pursuant to 15-22-26.2, or as otherwise defined by law, including persons returned to probation supervision following a period of confinement (“dunk”) imposed by the sentencing court of up to 45 days in the custody population of the ADOC “on or after the effective date of Alabama Act 2015-185” and can provide supporting documentation as requested by ALEA.
- b. Hardship License – A driver license that strictly limits the operation of a motor vehicle to the following circumstances:
 - i. For the purpose of driving to or from his or her place of employment.
 - ii. For purpose of driving to or from a religious service or affiliated religious function.
 - iii. For the purpose of driving to or from a sanctioned educational institution recognized by the State of Alabama where the individual is a regularly enrolled student.
 - iv. For the purpose of driving to or from any court ordered program, treatment, or event, including, but not limited to, drug or alcohol counseling, AA/NA, court appearance, reporting to the supervising probation and parole field office, community corrections program, or work release program.
 - v. For the purpose of driving to or from a scheduled medical or mental health treatment appointment or in the event of a medical emergency.

- c. Disqualified to Hold a Driver License— A person who has received a suspension, cancellation, or revocation of their driver license due to a criminal conviction, adjudication, or a finding of delinquency as provided by law.
- (2) Upon receiving an application for a hardship driver license from a hardship applicant, ALEA may issue a hardship license to a person disqualified from holding a driver license as a result of state law, but is otherwise eligible for a driver license.
- (3) Application for a hardship license must include:
 - a. The driver license and/or file number that was suspended, revoked or cancelled.
 - b. A notarized letter from the applicable authorized official that the applicant is eligible and meets the criteria pursuant to § 32-6-12.1, Code of Alabama, 1975.
 - c. Relevant driver information required by ALEA, including but not limited to, the Alabama Administrative Code Rules 760-X-1-.19 and 760-X-1-.20 and any amendments thereto.
 - d. Any other required designation or restriction required by law including but not limited to a sex offender designation or veteran's recognition.
- (4) A hardship license shall only be valid for 6 months from the date of issuance or until such time the individual becomes eligible for reinstatement pursuant to state law if such time occurs prior to renewal. Upon expiration of the initial issuance an individual may seek one (1) 6-month renewal. An Individual shall only be eligible for one (1) initial issuance and one (1) renewal of a hardship license in one's lifetime. Any individual may only possess a hardship license for a maximum of one (1) year.
- (5) A hardship license will not be issued:
 - a. To a driver convicted or adjudicated guilty of four or more DUIs as provided by law.
 - b. To a driver that has four or more violations of law related to any statute involving impaired driving; regardless of the timeframe.
 - c. To a driver that has any moving violation involving or resulting in serious physical injury or death of another person.
 - d. At the discretion of the Secretary of Law Enforcement or his or her designee.
 - e. To a driver that is medically ineligible for a Class D Driver License as provided by law.
 - f. For commercial driving privileges.

(6) Revocation:

a. A hardship driver license shall be revoked for the conviction, adjudication or finding of guilt of any felony or misdemeanor offense occurring after issuance of the hardship driver license.

b. Notwithstanding subsection (a), a hardship driver license shall be revoked for any serious moving violation as defined by law or for non-compliance with any requirement herein.

c. Any sworn law enforcement officer shall have the full and complete discretion to determine whether a driver is in compliance with all hardship license restrictions. The burden shall rest solely on the driver to prove he or she is in compliance with all hardship license restrictions. If non-compliance is determined by the officer, the officer shall confiscate the restricted license and return the license to ALEA DL Division. If an individual is found to be in violation of any provision of the hardship license ALEA may immediately revoke said license.

d. A hardship driver license may be revoked at any time subject to the discretion of the Secretary of Law Enforcement.

(7) Appeal Process: An applicant may appeal a revocation or renewal of a hardship driver license in the same manner and method as proscribed in Alabama Code Section 32-5a-195.

(8) Fees: The cost of each hardship license issued shall be fixed at the cost of production of the hardship license and shall be paid and remitted to ALEA.

(9) Additional Provisions: Neither ALEA nor its employees or assigns shall bear any legal liability for the use or improper use of a hardship driver license. In addition to the provisions herein, a hardship applicant shall comply with any other existing restrictions and/or requirements under the law related to the acquisition of a driver license in Alabama.

Author: J. Jason Swann, Deena Pregno, Jon Archer

Statutory Authority: Code of Alabama, 1975 § 32-6-12.1

History: Filed February 14, 2018.