

STATE OF DELAWARE

MOTOR VEHICLE RECORD POLICY

Overview: The purpose of this policy is to set forth a minimum driver qualification requirement for those employees or other authorized individuals that drive state owned vehicles. Operators of any state owned vehicles must possess a valid driver's license for the class of vehicle they will operate before being authorized to operate the vehicle by Fleet Services.

Statutory Basis: The Motor Vehicle Record Policy is being implemented by the Director, Office of Management and Budget based upon the Director's statutory authority as established in Title 29 §6303A(16). The policy is established in accordance with Delaware statutory requirements as set forth in Title 21 §2754 and §2755. Fleet Services will work with the Delaware Division of Motor Vehicles to ensure that currently licensed employees are operating state vehicles based upon the statutory authority granted Fleet Management in Title 29 §6308A(m), §7105, §7106 and §7107. (The applicable statutory code subsections are included as attachments to this policy. Attachment #1: Title 21; Attachment #2: Title 29.)

Purpose: This policy is being implemented in an effort to maximize state compliance to the statutory requirements listed above, while minimizing the insurance costs and negligent entrustment issues that can arise when vehicles are entrusted to individuals that do not have a valid operator's license.

Policy Statement: It is the State of Delaware's policy requirement that drivers of all state vehicles must possess a valid driver's license issued in the state of residence for the class of vehicle being operated before being authorized by Fleet Services to operate a state owned vehicle. This authorization applies to all state owned vehicles, whether the vehicle is in the control of Fleet Management or a state agency.

Policy Implementation: In order to implement this policy the following actions must take place before an employee is authorized to operate a state vehicle:

- (1) All state employees who are required to use a state vehicle as part of their job responsibilities will be required to complete and forward to Fleet Services an Authorized Driver Designation Application approved by their Division Director or Agency Head.
- (2) Upon receipt of the Authorized Driver Designation Application by Fleet Services, Fleet Services will determine if the state employee has a valid driver's license. This information will be obtained by examining the employee's current Motor Vehicle Record (MVR).
- (3) If a valid license is in effect for the employee, Fleet Services will approve the employee to operate a state vehicle and advise the employee and the agency's Fleet Services representative of this approval.

- (4) Once approved, the employee may operate any type vehicle covered by the driver's license held by the individual and as required by the employee's job duties.
- (5) If a valid license is in effect for the state employee but there has been a class code change (ie: employee possessed a CDL, but the CDL class has expired, etc.) or any endorsements (such as Hazmat, Tanker, etc.) have been removed or revoked, then written notification of this change, via a Driver License – Status Change letter, will be provided to the employee, the State of Delaware Insurance Coverage Office, the agency's Fleet Service representative and the appropriate agency Human Resources department representative. How this class change affects the application will be so noted on the written notification form. (A sample copy of the Driver License – Status Change Letter is included as Attachment # 3.)
- (6) If the class change has no affect on the application the employee may continue to operate the class vehicle they have been approved to operate.
- (7) If the class change does affect the application and the employee is prohibited from driving the class vehicle for which they made application to drive, then Human Resources will work in conjunction with the employee's supervisor to determine the appropriate course of action for the employee involved. At this point the employee is not permitted to drive a state vehicle in the class that they made application to drive until the reason for the invalid license has been addressed and the employee's MVR shows a valid license in effect for the class vehicle for which the original application was made.
- (8) If a valid license is not in effect for the state employee, due to expiration, suspension, revocation or for any other reason, the Fleet Services Administrator will provide written notification, via a Driver License Status Notice letter, to the employee, the State of Delaware Insurance Coverage Office, the agency's Fleet Service representative and the appropriate agency Human Resources department representative. Human Resources will then work in conjunction with the employee's supervisor to determine the appropriate course of action for the employee involved. (A sample copy of the Driver License Status Notice has been included as Attachment # 4.)
- (9) At this point the employee is not permitted to drive a state vehicle until the reason for the invalid license has been addressed and the employee's MVR shows a valid license in effect.

Policy Adherence: Motor Vehicle Records will be obtained for all employees authorized to drive state vehicles on a consistent, regular basis as deemed appropriate by the Fleet Services Administrator to ensure that all operators of state vehicles remain in possession of a valid operator's license. Motor Vehicle Records will be reviewed at a minimum of once every six months.

Policy Violations: All state agencies and their representatives are required to adhere to the guidelines set forth in this policy. If an agency or its representative should knowingly violate this policy and allow a state employee to operate a state owned vehicle without following the steps set forth in this policy, any insurance costs associated with that

employee's operation of the state vehicle will be solely borne by the agency which allowed the state employee to drive the state owned vehicle.

ATTACHMENT # 1

TITLE 21

Motor Vehicles

PART II

Registration, Title and Licenses

CHAPTER 27. DRIVER'S LICENSE

Subchapter IV. Penalties

§ 2754. Employment of unlicensed person.

No person shall employ any person to operate a motor vehicle who is not licensed as provided in this chapter. (36 Del. Laws, c. 10, § 76; Code 1935, § 5614; 21 Del. C. 1953, § 2744; 62 Del. Laws, c. 237, § 28.)

§ 2755. Authorizing or permitting the operation of a motor vehicle by another.

No person shall authorize or permit a motor vehicle owned by that person or under that person's control to be driven by any person knowing that said person has no legal right to do so or shall authorize or permit said motor vehicle to be driven in violation of this title. (36 Del. Laws, c. 10, § 77; Code 1935, § 5615; 21 Del. C. 1953, § 2745; 50 Del. Laws, c. 570, § 1; 70 Del. Laws, c. 186, § 1.)

ATTACHMENT # 2

TITLE 29

State Government

PART VI

Budget, Fiscal, Procurement and Contracting Regulations

CHAPTER 63A. OFFICE OF MANAGEMENT AND BUDGET

§ 6303A. General powers and duties.

The Director of the Office of Management and Budget shall have the following powers, duties and functions:

(16) To establish and to promulgate such rules and regulations governing the administration and operation of the Office as may be deemed necessary by the Director and which are not inconsistent with the laws of this State;

§ 6308A. Government Support Services

(m) The Office of Fleet Services is hereby established within the Government Support Services Section and shall have the following powers, duties and functions. The Office of Fleet Services shall:

(1) Have the administrative, ministerial, budgetary and clerical functions of Fleet Services;

(2) Establish and operate a statewide fleet management system, as established by § 7105 of this title;

(3) Investigate and resolve all citizens' complaints relating to abuse or misuse of all agency/school district owned vehicles;

(4) Recommend to the Director of the Office of Management and Budget appropriate funding levels for all agency/school districts for in-state travel requirements;

(5) Be the sole agency to receive the proceeds from the disposal of vehicles and vehicle parts, including all non-general funds except those funds that, as a basis for their authorization, require the proceeds of such disposal to be returned to the original source of the funds; and

(6) Establish an appropriated special fund account to sustain the total cost and operation of the Office of Fleet Services and its function, including staff salaries and the statewide fleet management system.

§ 7105. Establishment and use of a statewide fleet management system.

(a) The Office of Management and Budget, Government Support Services shall establish and operate a Statewide Fleet Management System ("fleet system"). This fleet system shall be composed of all passenger vehicles used by every agency, except for those vehicles exempted by the Director of the Office of Management and Budget. Passenger vehicles as used in this section includes sedans, station wagons, passenger and utility vans, off-road vehicles and trucks rated 10,000 GVW or less.

(b) Each agency shall, within 30 days of a request from the Director of the Office of Management and Budget, deliver to Government Support Services any passenger vehicle and its title for inclusion in the fleet system. If such vehicles were purchased with nonappropriated special funds that require the proceeds of the disposition of the vehicle to be returned to the agency or nonappropriated special funds source, the Director of the Office of Management and Budget shall provide the agency with credits in the amount of the then current value of the vehicle to be used toward the agency's vehicle lease expenses.

(c) No agency shall lease passenger vehicles except from Government Support Services. Exempt from this subsection are the Governor's car, agency employees traveling on out-of-state business, and Government Support Services.

(d) Government Support Services, in cooperation with the Department of Technology and Information and the Division of Accounting, shall implement the systems and procedures to enable the direct, electronic transfer of funds from customers of the fleet system to an account designated by Government Support Services. Customers shall be required to furnish Government Support Services with a Purchase Order by August 1 of each year that encumbers funds for the rental of vehicles for that entire fiscal year. The Director of the Office of Management and Budget may exempt agencies from this subsection.

(e) Each agency shall appoint 1 individual to serve as the agency's vehicle representative. It is the responsibility of the head of each agency to ensure that the vehicle representative completes and submits all vehicle reports as required by the Director of the Office of Management and Budget. It is also the responsibility of each agency head to ensure that the employees of his or her respective agency follow the policies concerning the fleet system.

(f) Law enforcement vehicles and vessels of State agency law enforcement personnel covered under the provisions of the Delaware Council on Police Training, owned by school districts shall be exempt from subsections (a) and (b) of this section. (69 Del. Laws, c. 136, § 4; 70 Del. Laws, c. 274, § 4; 73 Del. Laws, c. 143, §§ 6, 15; 74 Del. Laws, c. 128, § 6; 75 Del. Laws, c. 88, §§ 16(5), 22(4).)

§ 7106. Use of state-owned vehicles; penalty; exemptions.

(a) No motor vehicle owned by any agency/school district, except as otherwise indicated herein, shall be driven by an employee before or after the prescribed working hours of that employee.

(b) When not on official State business, every motor vehicle owned by any agency/school district, with the exception of those vehicles exempted under subsection (c) of this section, shall be parked at the agency or motor pool location to which the vehicle is assigned.

(c) Specifically exempted from subsections (a) and (b) of this section are the Governor's car, law enforcement vehicles and vessels of State agency law enforcement personnel covered under the provisions of the Delaware Council on Police Training, and those vehicles exempted by the Director of the Office of Management and Budget. The Director of the Office of Management and Budget shall promulgate a policy concerning these exemptions. This policy shall include rules which allow certain vehicles to be parked at locations other than a motor pool or agency site if warranted by emergency or business activities of certain employees and/or security requirements of certain vehicles.

(d) Those vehicles designated by the Governor or the Governor's designee for the transportation of State employees commuting to and from their prescribed places of employment, provided that the vehicles are part of a specific pooling program, shall also be exempt from subsection (b) of this section. Each such vehicle pooling program and costs thereof shall be approved by the Secretary of Transportation prior to starting operations and shall provide that the State be reimbursed for the entire cost of the vehicle and all operating costs thereof by its users. After the initial year of operation, and on each successive August 1, the Secretary of Finance shall determine an appropriate cost factor for each approved pooling program.

(e) Whoever violates this section, for the first offense, shall be fined not less than \$10 nor more than \$25. For each subsequent like offense, the violator shall be fined not less than \$25 nor more than \$50. Justice of the Peace Courts shall have jurisdiction over offenses under this section. (60 Del. Laws, c. 660, § 1; 63 Del. Laws, c. 57, §§ 1, 2; 65 Del. Laws, c. 87, § 40; 69 Del. Laws, c. 136, § 5; 70 Del. Laws, c. 186, § 1; 75 Del. Laws, c. 88, § 16(5).)

§ 7107. Identification of state-owned vehicles and boats.

All state-owned motor vehicles shall bear on the rear license plates issued by the Division of Motor Vehicles the notation "STATE OWNED." All state-owned boats shall bear prominent identification on the rear thereof identifying such boats as state-owned. The automobile used by the Governor, and law enforcement vehicles and vessels of State agency law enforcement personnel covered under the provisions of the Delaware Council on Police Training, are exempted from the requirements of this section. Other exemptions from this section must be approved by the Director of the Office of Management and Budget. (62 Del. Laws, c. 68, § 48; 63 Del. Laws,

c. 336, § 2; 65 Del. Laws, c. 87, § 187; 69 Del. Laws, c. 136, § 6; 75 Del. Laws, c. 88, § 16(5)

Attachment # 3

Memorandum

Date:

To: Agency HR Office

From: Fleet Services – Driver Safety

Re: Driver License – Status Change

This is to advise that as a result of a routine review of employee license status employee's name has appeared on an exception report indicating there has been a change from CDL A, B, C, School Bus Endorsement, Hazmat, etc. to (no) CDL, CDL A, B, C, (no) School Bus Endorsement, (no) Hazmat, etc. as of month-day-year. Pursuant to 21 Delaware Code §2154, the State as an employer may not permit any employee to operate a state-owned vehicle without a valid license. This class change may affect the ability to operate a vehicle used in the performance of the employee's job duties and the determination should be made based on the organizational need and type of vehicle driven in the course of employment as it relates to the new license class.

Since license class changes may or may not impact an employee's ability to drive a vehicle they are assigned for work purposes Fleet Services will take no action with regard to driving privileges of this employee unless contacted by the agency HR representative. Please contact this office at 739-3039 should you have questions or require additional information.

Cc: Agency Fleet Representative
Risk Management

Attachment # 4

MEMORANDUM

Date:

To: Agency HR Office

From: Fleet Services – Driver Safety

Re: Driver License Status Notice

This is to advise that as a result of a routine review of employee license status employee's name has appeared on an exception report indicating that their driver's license has been suspended for fifteen days/suspended/revoked/expired as of month-day-year. Pursuant to 21 Delaware Code §2154, the State as an employer may not permit any employee to operate a state-owned vehicle without a valid license. You are requested to review this matter and report your findings to this office in five business days.

Until a conclusive determination is made concerning the driving status of this individual, permission to use a State vehicle should be suspended immediately. Please contact this office at 739-3039 should you have questions or require additional information.

Cc: Agency Fleet Representative
Risk Management