

RULE REVIEW

State Commission of Correction

As required by Chapter 262 of the Laws of 1996, the following is a list of rules which were adopted by the State Commission of Correction in calendar year 2001 which must be reviewed in calendar year 2006. Public comment on the continuation or modification of these rules is invited. Comments should be received by April 1, 2006. Comments may be directed to: Brian Callahan, Office of Counsel, 80 Wolf Road, 4th Floor, Albany, New York 12205-2670.

CMC-03-01-00002 Amendment of sections 7028.2(a) and 7028.4 (c) of Title 9 NYCRR.

Analysis of the need for the rule: The rule is needed to clarify the conditions upon which outdoor exercise may be cancelled and to provide inmates appropriate outer garments when exercising in inclement weather.

Legal basis for the rule: Correction Law section 45(6).

Department of Motor Vehicles

As required by Chapter 262 of the Laws of 1996, the following is a list of rules that were adopted by the Department of Motor Vehicles in calendar year 2001 which must be reviewed in calendar year 2006. Public comment on the continuation or modification of these rules is invited. Comments may be directed to: The Department of Motor Vehicles, Counsel's Office, 6 ESP, Room 526, Albany, NY 12228.

MTV-47-00-00009 Part 48 Transportation of Logs

Analysis of the need for the rule: This regulation adopted federal regulations related to securing logs and other loads on motor vehicles. The federal regulations are far more comprehensive and specific than the State regulation. In addition, since all commercial vehicle operators are required to comply with the federal standards, this regulation insures uniformity between the State and federal laws. This regulation is still necessary.

Legal basis for rule: Vehicle and Traffic Law sections 215(a) and 377(2).

MTV-52-00-00001 Part 91 Electronic Ticketing

Analysis of the need for the rule: This regulation was and is necessary as part of the Department's efforts, in conjunction with the Division of State Police, to develop an electronic ticketing system. This permits officers to generate tickets in their police vehicles and either mail or electronically transfer key data to the courts and to DMV. This is part of a continuing effort to more efficiently and accurately transfer data between the police, the courts and DMV.

Legal basis for rule: Vehicle and Traffic Law sections 215(a) and 207(1).

MTV-26-01-00005 Part 91 Electronic Transmittal of Dispositions and Scofflaw Reports

Analysis of the need for the rule: This regulation establishes procedures for courts to electronically transmit dispositions and

scofflaw reports to the Department. This produces more timely and accurate data and greatly reduces the paper work processed by both the courts and the Department. This also protects motorists who may be the unintended victims of an illegible disposition. For these reasons, the regulation should continue in effect.

Legal basis for rule: Vehicle and Traffic Law sections 215(a), 207(1), 207(3), and 514(1).

MTV-52-00-00002 Part 46 Reflective Tape on School Buses

Analysis of the need for the rule: This regulation is still necessary to comply with the statutory mandate set forth in Vehicle and Traffic Law section 375(21-h), which requires reflective tape on school buses. Chapter 525 of the Laws of 1999 required reflective tape on certain school buses, in order to enhance the visibility of these vehicles. These regulations established the standards and specifications for the reflective tape.

Legal basis for rule: Vehicle and Traffic Law sections 215(a) and 375(21-h).

MTV-04-01-00009 Part 17 Number Plates/20 Dollar Fee

Analysis of the need for the rule: This regulation was promulgated pursuant to section 403(3) of the Vehicle and Traffic Law, which allows a motorist to receive a number plate or plates bearing the same distinctive numerals and/or letters as the number plate being replaced upon the payment of a one-time \$20 fee. Although DMV has completed the transition from the "Liberty" plates to the "Empire" plates, this regulation should remain in effect in anticipation of the next time the Department implements a plate re-issuance program since, by its terms, section 403-3 would be applicable to future plate reissuances.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a) and 403(3).

MTV-06-01-00001 Part 174 Display of Windshield Stickers

Analysis of the need for the rule: This regulation permits the placement of stickers on windshields in connection with a program in Onondaga County called "STOPPED," a parental notification program designed to reduce young driver accidents. Since this program is still in effect, the regulation is still necessary.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a) and 375(1).

MTV-22-01-00003 Part 127 Time Frames for Hearings

Analysis of the need for the rule: Part 127 sets forth time frames in which the Department's "Safety Hearings" must be held. These involve hearings related to chemical test refusals, fatal accidents and regulated parties. This amendment extended the time from six months to a year in which a fatal accident hearing must be held. It also made conforming technical amendments in relation to temporary suspensions pending hearing for dealers. Since these regulations still reflect current procedures and statutes, the regulation should remain in effect.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a), 398-f(1)(b), 398-g(2), 415(9-a) and 510(3).

MTV-25-01-00001 Part 79 Eliminates Headlight Aiming Procedure from Annual Inspection

Analysis of the need for the rule: This regulation eliminated the headlight aiming procedure from the annual safety inspection. The Department determined that most headlight aiming devices were rendered obsolete by dramatic changes to headlight configurations. Although photo-optical devices exist that can test all headlight systems, such devices cost at least \$1,500, a significant burden on the inspection industry. In addition, DMV found no evidence that the dazzle and glare from improperly aimed headlights contributed significantly to motor vehicle accidents. Finally, much of the glare is produced by SUVs, vans and trucks that have dazzling but legal lights. Although after market parts may produce illegal glare, this is a law enforcement matter, not one for a safety inspection. Since this justification remains valid today, the regulation should remain in effect.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a), 301(a), 301(c)(1)(a), 302(a) and 302(e).

MTV-26-01-00005 Parts 16 and 78 Sale of Distinctive Plates by Dealers

Analysis of the need for the rule: Chapter 452 of the Laws of 2000 added a new section 403-b to the Vehicle and Traffic Law to allow dealers to directly assist customers in obtaining "custom plates," such as sports plates, regional plates or Council of the Arts plates. The statute and regulation provide that the dealer may charge five dollars for assisting the customer and that the dealer must disclose the cost of the plates to the customer. Since this law is still in effect, the regulation is necessary.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a) and 403-b(2).

MTV-32-01-00001 Parts 121-125 Adjudication of Traffic Tickets

Analysis of the need for the rule: These regulations clarified the procedures in the Traffic Violations Bureaus and amended certain provisions to conform to statute. The regulations provided that pleas must be entered within 15 days after the receipt of a traffic ticket, set forth the fines for red light violations in New York City (in light of statutory changes), established procedures for motorists to answer summonses by mail, telephone or in person, provided that a motorist must post bond for no more than \$160 when issued multiple tickets, and established procedures for rescheduling a hearing by telephone, by mail or in person. Since these amendments reflect current law and procedure, the regulation is necessary.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a), 225(3), 226(2) and 227(1).

MTV-33-01-00004 Part 32 Insurance Identification Cards

Analysis of the need for the rule: This regulation made comprehensive changes to insurance identification card requirements to reflect the Department's efforts to reduce the use of fraudulent ID cards. The amendments included: 2D bar code security features, formatting of names and other data elements, who could issue the ID cards, requirements for cards used for historical vehicles and tow trucks, and rules for ID cards used in the Assigned Risk Plan. Since these amendments remain integral to the Department's financial security enforcement program, the regulation is necessary.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a), 311(10), 312(4) and (5), 319(3) and 370(1).

MTV-39-01-00025 Part 35 Enforcement of Motor Vehicle Liability Insurance Laws

Analysis of the need for the rule: With the inception of the Insurance Implementation and Enforcement System, which provides for the electronic transmission of insurance information between insurers and DMV, the Department substantially revised Part 35. The regulations notify motorists about the consequences of failing to maintain continuous financial security and what steps they may take if their license/registration is suspended or revoked. Since the procedures

and statutory provisions relating to enforcement of the insurance laws are still valid, this regulation is necessary.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a), 312(4), 313(2)(c), 313(4), and 318(1)(e).

MTV-39-01-00025 Parts 92, 93, 121, 123 and 124 Conviction Stub Repeal

Analysis of the need for the rule: Chapter 406 of the Laws of 2001 repealed all requirements relating to maintaining and endorsing a conviction stub. These regulations made conforming amendments to reflect the statutory changes. Since the conviction stub is no longer in use, the regulatory amendments are still necessary.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a), 504(1)(b), and 514(6).