

RULE REVIEW

Department of Motor Vehicles

FIVE YEAR REVIEW OF RULES ADOPTED BY THE DEPARTMENT OF MOTOR VEHICLES IN CALENDAR YEARS 1998, 2003 and 2008 REQUIRED TO BE REVIEWED IN CALENDAR YEAR 2013

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 years 1998, 2003 and 2008 which must be reviewed in calendar year 2013. Public comment on the continuation or modification of these rules is invited and will be accepted for 45 days from the date of publication in the State Register. Comments may be directed to: The Department of Motor Vehicles, Counsel's Office, 6 ESP, Room 522A, Albany, NY 12228.

This notice revises the Department's submission, posted in the January 23, 2013 State Register, and includes a review of the rules adopted in 1998 and 2003.

2008

MTV-26-07-00006 Part 141

Analysis of the need for the rule: Article 12-C of the Vehicle and Traffic Law required the Commissioner of Motor Vehicles to establish a pilot program to review alternate technologies, including the internet, as a means to offer the accident prevention course. Prior to the pilot program, the course, commonly known as the Point Insurance Reduction Program, was classroom based. Part 141 set forth the criteria for the internet based course and the requirements for course approval. Since the pilot program is still in effect, Part 141 remains necessary.

Legal basis for the rule: Vehicle and Traffic Law Sections 215(a), 399-l and 399-n.

MTV-47-07-00002 Part 79 Motor Vehicle Inspections-Clarification

Analysis of the need for the rule: This amendment made technical changes to Part 79 in order to clarify several provisions regarding the inspection of motor vehicles. For example, the amendments clarified that any municipality within a county could inspect its vehicles, other municipalities' vehicles or the county's vehicles. The amendment also clarified the appropriate fees to be charged if a vehicle passed only a portion of the inspection, e.g., passed the safety portion but failed the emissions inspection. These amendments are still applicable and should remain in effect.

Legal basis for the rule: Vehicle and Traffic Law Sections 215(a), 301(a), 301(c), 301(d), 301(f), 302(a), 302(e), 302(f), 304(b) and 304-a.

MTV-30-08-0006 Part 79 Motor Vehicle Inspections- Shared Network

Analysis of the need for the rule: The amendments to Part 79 established a shared network for inspection stations in New York State. The Shared Network addressed the problem of the dramatic decrease in the number of pre-1996 vehicles subject to a dynamometer based emissions inspection. Due to federal requirements, New York was required to continue the dynamometer based program even though

maintaining the equipment was unduly burdensome for many stations. These amendments allowed inspection stations to share the cost of the equipment by directing customers to other stations that would conduct the inspections. Since dynamometer based inspections are no longer required under federal and state law, these amendments have been repealed.

Legal basis for the rule: Vehicle and Traffic Law Sections 215(a), 301(a), 301(c), 301(d), 301(f), 302(a), 302(e), 302(f), 304(b), and 304-a.

MTV-25-08-00012- Part 3-Fingerprinting of employees

This regulation was adopted to comply with Department of Homeland Security guidelines, issued pursuant to the Western Hemisphere Travel Initiative, which permits only employees who are United States citizens and who have been subject to a criminal history check to issue an Enhanced Driver's License. The EDL is a secure document that assists US citizens crossing the border from Canada into the United States. Since DHS's policy has not changed, this regulation remains necessary.

Legal basis for the rule: Vehicle and Traffic Law Sections 215(a), 508(1) and 508(4).

MTV- 38-08-0002 Part 3 Enhanced Driver's Licenses-Off cycle renewal

The regulation was adopted to permit licensees the option of "off cycle" driver license renewals when they apply for an Enhanced Driver's License. This effectively resets the current eight year license renewal term so that licensees would receive an EDL for the full eight years for the \$30.00 fee as well as receive a proration of the license renewal fee based upon the number of years remaining in their current cycle. This regulation remains necessary.

Legal basis for the rule: Vehicle and Traffic Law Sections 215(a) and 502(6).

2005

MTV-08-05-00012 Part 79 Motor Vehicle Inspections

Analysis of the need for the rule: This regulation was necessary to comply with the Federal Clean Air Act of 1990 and the accompanying regulations at 40 CFR Part 51.351 in order to avoid the loss of two billion dollars in federal highway funding. This regulation implements a statewide OBD II (on board diagnostics) emissions testing program for all 1996 and later light-duty vehicles. Since the OBD II testing is still mandated by federal law, the essence regulation remains necessary. Subsequent amendments to Part 79 have made minor revisions to the OBD II regulations.

Legal basis for rule: Vehicle and Traffic Law sections 215(a), 301(c), 301(d), 301(f), 302(a), 302(e), 304(b) and 304-a.

MTV-17-05-00008 Part 134 Conditional license eligibility

Analysis of the need for the rule: This regulation provides that provides that a person is not eligible for a conditional license if he or she has a prior administrative finding of section 1192-a of the Vehicle and Traffic Law, commonly known as the Zero Tolerance Law. This amendment was necessary to conform to Chapter 196 of the Laws of 1996 that established such law, which in part established conditional

license eligibility for Zero Tolerance offenders. Since the pertinent statutory provisions remain in effect, this regulation is still valid.

Legal basis for rule: Vehicle and Traffic Law sections 215(a), 1196(4) and 1196(7)(a).

1998

MTV-21-98-0010-RXC Part 6 Bus Driver Qualifications

Establishes qualifications and disqualifications for bus and school bus drivers.

Analysis of the need for the rule: Article 19-A of the Vehicle and Traffic Rule provides for the qualifications and disqualifications of school bus drivers. It grants the Commissioner broad authority to promulgate regulations governing such qualifications and disqualifications. In 1998, the Department repealed Part 6 and reenacted the entire part. This gave the Department the opportunity to clarify procedures, definitions and requirements for bus drivers and motor carriers. Part 6 was also amended to incorporate recent statutory amendments to Article 19-A. Since these regulations reflect current law and procedure, and are essential to the Department's efforts to insure the highest quality of bus drivers in the State, the regulations should be maintained.

Legal basis for rule: Vehicle and Traffic Law section 215(a) and Article 19-A.

MTV-09-98-00009 Part 8 Road Tests, Waiver and Effect

Analysis of the need for the rule: Part 8 sets forth criteria for the waiver of written and road tests. The Department amended Part 8 in 1998 to conform the regulation to State and Federal law, and to Departmental procedures. In addition, Part 8 was amended to authorize a DMV hearing officer to require a motorist to take a road test if such officer finds that the motorist has a history of accidents, convictions or series of incidents that deem him or her a highway risk. Since this regulation reflects current law and procedure, it should be maintained.

Legal basis for rule: Vehicle and Traffic Law sections 215(a), 502, 506 and 508.

MTV-08-98-0001 Part 24 Registration of Motor Vehicles of Severely Disabled Persons

Analysis of the need for the rule: In 1998, the Department conducted a thorough review of Part 24 to assess its compliance with Federal and State law, as well as DMV procedure. We determined that the regulation required several amendments to reflect changes to law and procedure that had been adopted over the past several years. For example, the regulation was amended to reflect the statutory change allowing podiatrists to certify an individual's disability, so long as such disability is related to the practice of podiatry. Since this regulation reflects current law and procedure, it should be maintained.

Legal basis for rule: Vehicle and Traffic Law sections 215(a) and 404-a.

MTV-42-97-00013 Part 26 Vanpool Registration

Chapter 843 of the Laws of 1984 authorized the issuance vanpool plates for vehicles engaged in vanpool operations, i.e., the prearranged transportation of persons to and from their places of employment on a regular, daily basis. The regulation had required vanpool plate applicants to submit an affidavit attesting to the proper use of the plates. Since only six applications had been received by DMV in 1998, we amended the regulation to allow self-certification in lieu of an affidavit. Since this amendment streamlined the application process, it is appropriate that it be maintained in its current form.

Legal basis for rule: Vehicle and Traffic Law sections 215(a) and 401(7)(J).

MTV-19-98-00013 Parts 34 and 35 Termination of Liability Coverage and Enforcement of Motor Vehicle Liability Insurance Laws

In 1998, the Department amended Parts 34 and 35 simultaneously. The amendments served two purposes: 1) reflect statutory changes in the Vehicle and Traffic Law, e.g., the civil penalty for operating without insurance; and 2) reflect current Departmental procedures. In 2000, the Department repealed and re-enacted Part 34 as part of the implementation of the Insurance Information Enforcement System (IIES). Although Part 34 still contains the amendments made in 1998

that reflect statutory changes, the procedures have been completely revised. Whereas in 1998 the Department received information from insurers on paper, since the implementation of IIES, insurers verify coverage and cancellations via electronic transmissions. These procedures are reflected in the new Part 34.

Part 35 was also amended to reflect the IIES program. Again, although the 1998 amendments incorporated statutory changes that remain intact, some of the procedures were revised in accordance with IIES.

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

MTV-52-97-00008 Parts 79, 81 and 82 Inflatable Restraint Systems

The "Airbag Safety and Anti-Theft Act" of 1996 imposed various regulations on inspection stations, repair shops and dismantlers. These regulations largely affected paperwork requirements for each of the regulated parties. The amended language virtually mirrors the statutory language. Parts 81 and 82 must be updated to reflect the fact that salvage airbags shall not be sold in NYS on or after March 1, 1999; the regulation currently states 1998. Otherwise, the regulation reflects current law and should be maintained.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a), 301, 398-g, 415-a(15), and 430(1).

MTV-19-98-00014 Parts 79 and 80 Motor Vehicle Inspections

This amendment repealed Part 80, Motorcycle Inspections, and incorporated the provisions of Part 80 into Part 79, which deals with motor vehicle inspections. Previously, inspection stations were required to pay one fee to inspect motor vehicles and another fee to inspect motorcycles. This amendment removed a financial burden on dual inspection stations by allowing one inspection license to serve as authorization for motor vehicle and motorcycle inspections. It also streamlined the application process. This regulation continues to benefit the inspection industry and should be maintained.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a), 301(c)(1)(a), 301(d)(1), 301-a, 302-e, 304, 304-a, and 305(c).

MTV-03-98-00002 Part 135 Restricted Use Licenses

This amendment was promulgated to update Part 135 to reflect statutory and procedural changes. For example, since holders of a restricted use license are no longer required to participate in a driver rehabilitation program, references to such program were deleted. In addition, the regulation was amended to reflect statutory changes that expanded the use of the restricted use license. The amendments made in 1998 are still valid.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a) and 530(9).

MTV-42-97-00012 Part 171 Non-Driver Identification Cards

This amendment provides that if false documents are submitted in connection with an application for a non-driver ID card, the applicant shall be deemed to be in violation of section 392 of the Vehicle and Traffic Law, resulting in a one year revocation of his or her privilege to obtain a card. This regulation should be maintained since it is a useful tool to both prevent and sanction obtaining ID cards by fraudulent means.

Legal basis for the rule: Vehicle and Traffic Law sections 215(a) 493, and 494.

MTV-38-97-00001-A All terrain vehicles.

The rule is needed to reflect current DMV practices concerning the provision of ATV safety training courses and safety certificates. In particular, the lack of a formal application process for entities desiring to become course providers, or a formal approval process for those seeking to be course instructors is reflected in the rule.

Legal basis for the rule: Vehicle and Traffic Law §§ 215(a), 2402 and 2409.

MTV-17-98-00001-A Declaratory rulings.

The rule is necessary in order to comply with SAPA § 204 to prescribe the form for petitions for declaratory rulings to be issued by the Department and the procedure for the submission of such petitions.

Legal basis for the rule: Vehicle and Traffic Law § 215(a) and SAPA § 204(1).