

**ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672**

**8808 HOUSE TRANSPORTATION**

**HB**

**203**

FISCAL NOTE

No. 1  
 Bill Version: 04-13  
 (H) Publiish Date: 2-27-95

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to the meaning of 'previously convicted' in determining repeat drunk drivers..."  
 Sponsor: Governor  
 Requestor: \_\_\_\_\_

Department Affected: Administration  
 BRU: Office of Public Advocacy  
 Component: Office of Public Advocacy  
 COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ( )	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact.

Prepared by: Brant McGee  
 Division: Office of Public Advocacy

Phone: 274-1684  
 Date: 2-7-95

Approved by Commissioner: Mark Boyer  
 Agency: Department of Administration

Date: 2-7-95

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FISCAL NOTE

No. 2

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

Bill Version: HB 203  
(H) Publish Date: 2/27/95

Revision Date: \_\_\_\_\_  
Title: "An Act relating to the meaning of 'previously convicted' in determining repeat drunk drivers . . ."  
Sponsor: \_\_\_\_\_  
Requestor: \_\_\_\_\_

Department Affected: Administration  
BRU: Public Defender Agency  
Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact.

Prepared by: John B. Salemi, Director  
Division: Public Defender Agency

Phone: (907) 264-4412  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
Agency: Department of Administration

Date: 2-19-95

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Rev: 01/95

0L 95/17/0030FN

# FISCAL NOTE

No. 3  
 Bill Version: HB 203  
 (H) Publish Date: 2/27/95

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: An Act relating to the meaning of the phrase BRU: \_\_\_\_\_  
"previously convicted"..... Component: \_\_\_\_\_  
 Sponsor: \_\_\_\_\_  
 Requester: Governors Office COMPONENT SERIAL NO. \_\_\_\_\_

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY95) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

This bill would succeed in clarifying the meaning of "previously convicted" and the intent of including conviction of similar offenses in other jurisdictions. The Department of Corrections is impacted only to the extent that offenders convicted in other states were convicted under statutes requiring less than a .10 BAC and to the extent that those convictions are discovered at the time of conviction in Alaska.

No data is available to test the impact of this bill on DOC, however, prior to 1991 these cases would have been included in the conviction data without reference to the BAC. Therefore, in any average case numbers would include some years in which these added cases would be included. The numbers are small and the impact, if any will be negligible.

Prepared by: Jerry Shriner  
 Division: \_\_\_\_\_

Phone: 465-5582  
 Date: 2/16/95

Approved by Commissioner: *W. Stewart M. Paul*  
 Agency: Department of Corrections

Date: 2/16/95

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# FISCAL NOTE

No. 4  
 Bill Version: HB 203  
 (H) Publish Date: 2/27/95

**STATE OF ALASKA  
 1995 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "...revocation of a minor's license to drive...  
 illegal use or possession of a firearm." BRU: Prosecution  
 Sponsor: Rules By the Governor's Request Component: All  
 Requester: Governor's Office/OMB COMPONENT SERIAL NO. 0085-0030

**Expenditures/Revenues (Thousands of Dollars)**

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

**POSITIONS**

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

This bill amends the state's "use it, lose it" law, AS 28.15.185, to provide for the revocation of a juvenile's driver's license, privilege to drive, or privilege to obtain a driver's license if the juvenile is convicted or adjudicated of an offense that involves the illegal use or possession of a firearm. The revocation of a license is primarily an administrative process within the Department of Public Safety. The Department of Law's involvement consists of representing the Department of Public Safety (when needed) in an appeals hearing to review a revocation. Such involvement, since the state's revocation penalties took effect, regarding alcohol and drugs, has been minimal. Consequently, a fiscal impact is not expected.

Prepared by: Richard I. Peques, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 2/16/95  
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/16/95  
 Agency: Department of Law

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# FISCAL NOTE

**STATE OF ALASKA**  
**1995 LEGISLATIVE SESSION**

No. 5  
 Bill Version: HB 203  
 (H) Publish Date: 2/27/95

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: "An Act clarifying 'previously convicted' for determining repeat offenders of the D.W.I. Laws. DPS Statewide Support  
 Component: Commissioner's Office  
 Sponsor: Governor  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 0523

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	0-	-0-	-0-	-0-
<small>Revenue Code</small>						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	0-	-0-	-0-	-0-

Estimate of current year (FY 95) impact: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS: (Attach a separate page if necessary )**  
 No fiscal impact is anticipated to the Department of Public Safety

Prepared By: Lee J. in Lucas, Special Assistant to the Commissioner Phone: 465-4322  
 Division: Commissioner's Office Date: 2/16/95  
 Approved by Commissioner: *Ronald L. Otte* Date: 2-17-95  
 Agency: Ronald L. Otte, Dept. of Public Safety

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TONY KNOWLES  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

HB 203  
P O Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500  
Fax (907) 465-3532

February 27, 1995

The Honorable Gail Phillips  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Phillips:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the meaning of the phrase "previously convicted" for purposes of this state's driving while intoxicated (DWI) laws. Alaska law tries to discourage repeat offenders by treating them more harshly than first offenders. In keeping with this public policy, the mandatory minimum sentences for second, third, and subsequent drunk driving offenses require more jail time, higher fines, and longer revocations of driving privileges. A repeat DWI offender also is subject to forfeiture of the vehicle or aircraft involved in the commission of the offense, and is precluded from being granted limited license privileges during the time that person's driver's license is revoked.

In Bumette v. Municipality of Anchorage, 823 P.2d 10 (Alaska App. 1991), an Alaska court held that a defendant who had a prior DWI conviction from Oregon was not subject to Alaska's enhanced mandatory minimum sentence for second offenses because Oregon's DWI law was less restrictive than Alaska's law. In Oregon, and many other states, a person is presumed intoxicated if there is more than .08 percent by weight of alcohol in the person's blood (BAC). Alaska still uses the .10 percent BAC standard. Because it is possible for a person in Oregon or one of these other states to be convicted of drunk driving with a lower BAC than that required in Alaska, our courts have held that convictions from these states cannot be counted when deciding what is the proper mandatory minimum sentence to impose. This result occurs even if the court records from the other state show that the person's BAC was not .08 or .09 percent, but was actually .10 percent or higher at the time of the offense.

TRANSMITTAL LETTER

The Honorable Gail Phillips  
February 27, 1995  
Page 2

This is not fair. A person who has been convicted of drunk driving in one state should be treated like a repeat offender when convicted of drunk driving in another state. The person should not be treated like a first offender over and over again because of technical differences between the states' laws. Drunk drivers are dangerous and need to be kept off of our roads.

This bill will help do that. It amends DWI-related provisions in AS 28 to make clear that the phrase "previously convicted" includes a conviction under a law of another state even if that law allows conviction with a lower BAC level than that used in Alaska. Whether another state's law allows a DWI conviction for .08 or .09 BAC levels, it is still a conviction for drunk driving and it should count as one.

I urge your favorable action on this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Knowles". The signature is written in a cursive style with a large initial "T".

Tony Knowles  
Governor

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION  
February 28, 1995

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

CRIMINAL DIVISION CENTRAL  
OFFICE  
P.O. BOX 11030  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3428  
FAX: (907) 465-4043

OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
310 K STREET, SUITE 308  
ANCHORAGE, ALASKA 99501-2064  
PHONE: (907) 269-6250  
FAX: (907) 239-6270

The Hon. Gary Davis, Chair  
House Transportation Committee  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801

Re: HB 203 (An Act relating to the meaning of the phrase  
"previously convicted"); HB 204 ("MOVACA")

Dear Representative Davis:

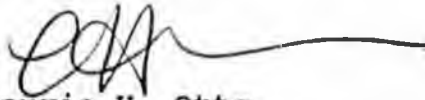
Two of the Governor's crime bills, HB 203 and HB 204,  
have been referred to your committee. This is ask that the bills  
be scheduled for a hearing at the committee's earliest convenience.

HB 203 amends the definition of "previously convicted"  
for purposes of the state's DWI laws so that convictions from  
jurisdictions that use a blood-alcohol content ("BAC") level below  
Alaska's .10% will still count as prior convictions under  
AS 28.35.030. HB 204 creates a new violation for minors who  
operate a vehicle after consuming alcohol.

If you have any questions or desire any further  
information, please do not hesitate to contact my office.

Very Truly Yours,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:   
Laurie H. Otto  
Deputy Attorney General

LHO:jf

**HB**

**204**

# FISCAL NOTE

No. 5

Bill Version: HB 204

STATE OF ALASKA

BILL NO:

(H) Publish Date: 2/27/95

## 1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_

Dept. Affected: Public Safety

Title: An Act relating to alcohol related driving offenses of minors...

BRU: Motor Vehicles

Component: Driver Services

Sponsor: Governor

Requestor: \_\_\_\_\_

COMPONENT SERIAL NO. 0500

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
<b>OPERATING</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GE Match						
1004 GE						
1005 GE/Program Receipts						
1006 GE/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 95) impact: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS: (Attach a separate page if necessary.)**

This bill will not impact the programs of the Division of Motor Vehicles. Current law requires DMV to administratively revoke the driver's license for the offense of minor in possession or consumption of alcohol.

Prepared By: Juanita M. Henlsey

Phone: 465-2650

Division: Motor Vehicles

Date: 2/21/95

Approved by Commissioner: *Ronald L. Otto*

Date: 2/21/95

Agency: Ronald L. Otto, Dept. of Public Safety

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# FISCAL NOTE

No. 4  
 Bill Version: HB 204  
 (H) Publish Date: 2/27/95

## STATE OF ALASKA 1995 LEGISLATIVE SESSION

## BILL NO

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: An Act relating to alcohol related driving  
offenses of minors.... BRU: Alaska State Troopers  
 Sponsor: Governor Component: Detachments  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 0799

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
<b>OPERATING</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

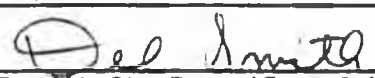
Estimate of current year (FY 95) impact: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS: (Attach a separate page if necessary.)**

This bill would not impact the programs of the Alaska State Troopers. Currently, troopers are enforcing the alcohol laws as they pertain to minors including serving revocation notices to drivers.

Prepared By: 1st Sgt. Joe D'Amico Phone: 269-5412  
 Division: Alaska State Troopers Date: 2/21/95  
 Approved by Commissioner:  Date: 2/21/95  
 Agency: Ronald L. Otte, Dept. of Public Safety

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# FISCAL NOTE

lo. 3  
 Bill Version: HB 204  
 (H) Publish Date: 2/27/95

**STATE OF ALASKA  
1995 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "...administrative revocation of a minor's license to drive...operating a motor vehicle after consuming alcohol..." BRU: Prosecution  
 Sponsor: Rules on Request of the Governor Component: All  
 Requester: Office of the Governor/OMB COMPONENT SERIAL NO. 0085-0090

**Expenditures/Revenues (Thousands of Dollars)**

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY95) cost: \$ 0.0

**POSITIONS**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

**ANALYSIS: (Attach a separate page if necessary)**

This bill amends As 28 to establishes a "zero tolerance level" for minors who consume alcohol and then operate a motor vehicle, aircraft, or watercraft by creating three new criminal violations: "minor operating a vehicle after consuming alcohol", "minor's refusal to submit to a chemical test," and "driving within the 24 hours after being cited for minor operating a vehicle after consuming alcohol." These new offenses would be infractions and would not result in jail time being imposed. However, the penalty would be a fine of not more than \$1,000, an order that the minor perform community work service, or a combination of the two. The bill also provides that a minor convicted of these violations will also be subject to administrative revocation of the minor's driver's license under the state's "use it, lose it" statutes. The bill will not have a fiscal impact for the Department of Law because infractions are presented in district court by the arresting officer, which does not require the presence or assistance of a prosecutor.

Prepared by: Richard I. Peques, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 2/17/95  
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 2/17/95  
 Agency: Department of Law

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FISCAL NOTE

No. 2  
 S /ersion: HB 204  
 (H) Publish Date: 2/27/95

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to the administrative revocation of a minor's license to drive ..."  
 Sponsor: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

Department Affected: Administration  
 BRU: Public Defender Agency  
 Component: Public Defender Agency  
 COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ( )	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.) There are two variables which will determine impact: 1) the number of projected arrests related to these newly created infractions and 2) a legal determination regarding the right to legal representation for said infractions. Ordinarily an individual is not entitled to public counsel services for mere infractions. On the other hand, the possible sanctions go beyond the normal range for infractions to include loss of driver's license. As such, it is an open question regarding court-appointed legal representation and therefore fiscal impact, if any.

Prepared by: John B. Salvo Director  
 Division: Public Defender Agency

Phone: (907) 264-4412  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
 Agency: Department of Administration

Date: 2/22/95

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FISCAL NOTE

No. 1

Bill Version: HA 204

(H) Publish Date: 2/27/95

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: "An Act relating to a minor operating vehicle after alcohol consumption ..."  
Sponsor: Governor  
Requestor: \_\_\_\_\_

Department Affected: Administration  
BRU: Office of Public Advocacy  
Component: Office of Public Advocacy

COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ( )	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 95) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact.

Prepared by: Brant McGee *But*  
Division: Office of Public Advocacy

Phone: 274-1684  
Date: 2-17-95

Approved by Commissioner: Mark Boyer *Boyer*  
Agency: Department of Administration

Date: 2-17-95

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**COMMITTEE COPY**

**Alaskans For Drug-Free Youth**

Statewide Headquarters  
 2417 Tongass, Suite #114  
 Ketchikan, Alaska 99901  
 Tel 907 247-2273  
 1-800-478-2273  
 Fax 907 247-2232

Post-It™ brand fax transmittal memo 7671		# of pages	1
To	Gary Davis	From	Mimi Tucker
Co.		Co.	ADFY
Dept.		Phone #	247-2273
Fax #	465-3835	Fax #	247-2232

March 7, 1995

Representative Gary Davis  
 Chairman, House Transportation Committee  
 State Capitol, Room 420  
 Juneau, AK 99801

Dear Representative Davis:

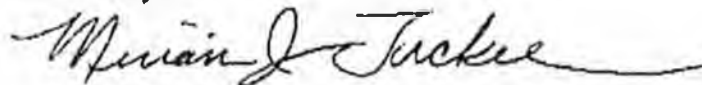
Alaskans For Drug-Free Youth, Ketchikan Partner, supports passage of HB204. We feel this bill offers an opportunity to intervene early with minors who operate a motor vehicle after consuming alcohol. This piece of legislation establishes a zero tolerance level for minors who consume alcohol and then drive.

An additional preventative feature of this bill is the provision that any minor who is cited for driving after consuming alcohol will be prohibited from operating a motor vehicle, aircraft, or watercraft during the 24 hours after the citation is issued. This will ensure that the minor does not drive while under the influence of alcohol.

The "zero tolerance" level for minors within this piece of legislation reinforces the support for no use of alcohol by anyone under the age of 21 and will make a positive impact in support of nurturing drug-free youth and their potential.

Please pass this early intervention legislation to help youth refuse the use of alcohol. This violation tool before a traffic judge can prevent future road tragedies for our young people.

Sincerely,



Miriam Tucker, President  
 Ketchikan Partner



**Community Partners**

Anchorage  
 Fairbanks  
 Juneau  
 Ketchikan  
 Nome  
 Petersburg  
 Wrangell

**Advisory Board**

Mrs. Emalee Hickel

Tom Pool, Special Agent  
 Drug Enforcement Administration

Mrs. Nancy Muskowsky  
 Congressional Families for  
 Drug-Free Youth

My G. Andrews  
 FBI Demand Reduction Coordinator

**Corporation Sponsors**  
 Alascom  
 Alyeska Pipeline Service Company  
 Exxon Company, U.S.A.  
 Hymes Group  
 Ketchikan Pulp Company  
 The Landing/Gilmore/Annabelle's  
 Louisiana Pacific Foundation  
 A United Way Southeast Agency



LETTER OF SUPPORT

A Partner of National Family Partnership®  
 Dedicated to Healthy, Drug Free Youth



March 6, 1995

Rep. Gary Davis, Chair  
House Transportation Committee  
State Capitol  
Room 420  
Juneau, AK 99801

Dear Representative Davis:

On behalf of the Alaska Council on Prevention of Alcohol and Drug Abuse, I would like to offer our complete support for HB 204 as it was introduced on February 27, 1995, by Governor Tony Knowles.

This important bill provides the state with new tools to respond to the problem of drunk driving by establishing a "zero tolerance level" for minors who consume alcohol and then operate a motor vehicle, aircraft or watercraft.

The Alaska Council supports this intolerance for underage drinking and wholeheartedly believes that lives will be saved as a result of its strict enforcement. We are aware that drunk driving statistics continue to rise in Alaska despite the tireless efforts of law enforcement, and we believe the passage of this bill will help prevent the presence of additional drunk drivers on our streets and highways.

We support the bill's amendments to AS 28.15.183 and 28.15.184 which would give police officers and the appropriate officials the right to revoke a minor's driver's license or permit, privilege to drive and privilege to obtain a license, if the minor is found to be intoxicated while driving.

We support all other aspects of this bill as it is written, and urge your favorable action on it. Thank you, Gary, for your time and attention to this important matter.

Sincerely,

Joseph DiMatteo  
Executive Director

March 7, 1995

Rep. Gary Davis, Chair  
House Transportation Committee  
State Capitol  
Room 420  
Juneau, AK 99801

Dear Representative Davis:

I, would like to offer my complete support for HB 204 as it was introduced on February 27, 1995, by Governor Tony Knowles.

This bill is important to me because it provides the state with new tools to respond to the problem of drunk driving by establishing a "zero tolerance level" for minors and I also believe this should apply to adults who consume alcohol and then operate a motor vehicle, aircraft or watercraft.

I, support the intolerance for underage drinking and believe that lives will be saved as a result of this bill's enforcement. As a parent of three teenagers I have a difficult time going to sleep on the weekends that the kids are out on the highways and by ways of Anchorage. I believe the passage of this bill will help prevent the presence of additional drunk drivers on our streets and highways.

I, support the bill's amendments to AS 28.15 183 and 28.15 184 which would give police officers and the appropriate officials the right to revoke a minor's driver's license or permit, privilege to drive and privilege to obtain a license, if the minor is found to be intoxicated while driving.

I, urge your favorable action on this bill.

Sincerely,

*Sam Lambull*

Sam Lambull

*7431 Tangle Ct.*

*Anch. AK 99504*

LETTER OF SUPPORT

Rep. Gary Davis, Chair  
House Transportation Committee  
State Capitol  
Room 420  
Juneau, AK 99801

March 7, 1995

Dear Representative Davis:

I am writing in support of HB 204 as it was introduced on February 27, 1995 by Governor Tony Knowles. If this sort of bill had been in effect when I was in high school, I believe many of the car crashes and drinking and driving that occurred unchecked might have been prevented.


Kids are smart and will react to a law that will effect them if they are caught in a car where alcohol or other drugs are present. This important bill gives the state stronger tools to combat impaired driving and sends a clear and consistent message that "zero-tolerance" is the standard for minors who consume alcohol and attempt to operate a motor vehicle, aircraft, or watercraft.

I support this intolerance for underage drinking and strong'y believe that it will get young people thinking about the consequences and directly save lives by keeping kids accountable for drinking or being in the presence of those drinking while driving.

I support the bill's amendments to AS 28.15.184 and 28.15.184 which gives police officers and the appropriate officials the right to revoke a minor's driver's license or permit, privilege to drive and privilege to obtain a license, if the minor is found to be intoxicated while driving.

Representative Davis, I urge your favorable action on this bill. Thank you for your time and attention.

Sincerely,

  
Tim S. McGrath  
Alaskan

5889 Kensington Dr.  
Anchorage AK 99504-3734

TONY KNOWLES  
GOVERNOR



HB204  
P O Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500  
Fax (907) 465-3532

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 27, 1995

The Honorable Gail Phillips  
Speaker of the House  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Speaker Phillips:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to minors operating vehicles after consuming alcohol. Despite our best efforts to date, the number of drunk drivers continues to rise in Alaska. The state needs new tools to respond to the problem of drunk driving.

An important step in making our roads and other avenues of transportation safe is to focus on high-risk drivers and let the police take them off the road before tragedy strikes. Two particularly high-risk groups of drivers are those who operate commercial motor vehicles and minors. The legislature addressed commercial motor vehicle operators in 1992, passing stringent laws that keep commercial drivers off the roads when they are under the influence of alcohol. The time has come to do the same with underage drivers, who generally are not allowed under the law to possess or consume any alcohol.

This bill establishes a "zero tolerance level" for minors who consume alcohol and then operate a motor vehicle, aircraft, or watercraft. It does this by creating three new criminal violations: "minor operating a vehicle after consuming alcohol," "minor's refusal to submit to a chemical test," and "driving within the 24 hours after being cited for minor operating a vehicle after consuming alcohol."

These new offenses are only infractions and cannot result in jail time being imposed. Instead, the penalty is a fine of not more than \$1,000, an order that the minor perform community work service, or a combination of the two. An important feature of the proposed new law is that the minor can be taken off the road and to a police station or other location for the administration of a chemical test to determine the presence of

The Honorable Gail Phillips  
February 27, 1995  
Page 2

alcohol in the minor's blood or breath. If the minor refuses to take the test, that is a separate infraction, much like the misdemeanor crime of refusal we have for driving-while-intoxicated cases.

This bill's amendments to AS 28.15.183 and 28.15.184 would make the minor's driver's license or permit, privilege to drive, or privilege to obtain a license subject to administrative revocation under those "use it, lose it" statutes.

Under the bill, a minor who is cited for driving after consuming alcohol is prohibited from operating a motor vehicle, aircraft, or watercraft during the 24 hours after the citation is issued. This will help ensure that the minor stays off the road or other avenues of transportation while under the influence of alcohol.

I urge your favorable action on this bill.

Sincerely,



Tony Knowles  
Governor

USE COMMITTEE REPORT

3/17/95

(7)

Date Referred: February 27, 1995

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 3/15

The TRANSPORTATION Committee considered:

HB 204

HOUSE BILL NO. 204

NO DRINK BEFORE DRIVING IF UNDER 21

"An Act relating to the administrative revocation of a minor's license to drive; creating criminal offenses of minor operating a vehicle after consuming alcohol, a minor's refusal to submit to chemical test, and driving during the 24 hours after being cited for minor operating a vehicle after consuming alcohol; establishing penalties for these offenses; and relating to implied consent to certain testing if operating a motor vehicle, aircraft, or watercraft."

recommends it be replaced with the following committee substitute \_\_\_\_\_ [ ] the same title [ ] a new title

[ ] additional referral to \_\_\_\_\_ Committee [ ] attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal note(s) \_\_\_\_\_ [ ] fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note(s) (5) zero fiscal note(s) (2) Admin, Law, (2) Public Safety

SIGNING WIT' RECOMMENDATIONS	DP	DNP	NR	AM
<i>Jerry Sanders</i> Sanders	✓			
<i>Frank Williams</i> Williams	✓			
<i>Donelle James</i> James	✓			
<i>Sileen P. MacLellan</i> MacLellan	✓			
<i>Bronko Masek</i> MASEK	✓			
<i>John A. Davis</i> G. Davis			✓	
	(5)		(1)	

CHAIR'S SIGNATURE

*[Handwritten Signature]*

**HB**

**210**

# FISCAL NOTE

**STATE OF ALASKA**  
**1995 LEGISLATIVE SESSION**

**BILL NO: CSHB 210(TRA)**

Revision Date: 4/22/95 Dept. Affected: Public Safety  
 Title: An act relating to issuance of motor vehicle BRU: Motor Vehicles  
registrations and titles, and to licenses..... Component: Field Services  
 Sponsor: Representative Vezey  
 Requestor: H. TRA COMPONENT SERIAL NO. 0502

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL EXPENDITURES</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CHANGE IN REVENUES ( )</b>	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

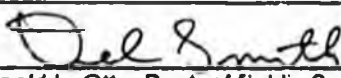
Estimate of current year (FY 95) impact: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

**ANALYSIS: (Attach a separate page if necessary.)**

See Attached

Prepared By: Charles R. Hosack Phone: 269-5559  
 Division: Motor Vehicles Date: 4/22/95  
 Approved by Commissioner:  Date: 4/22/95  
 Agency: Ronald L. Otte, Dept. of Public Safety

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO: CSHB 210(TRA)

Revision Date: 4/22/95

Dept. Affected: Public Safety

## ANALYSIS CONTINUED:

This bill gives the Division the authority to utilize contract agents to provide services. The Division already has in place a number of contract agents to provide service in smaller communities where there is no Division office and recently the Division has started a new program to allow emission test stations to register vehicles in Anchorage and Fairbanks. The new program is currently in operation in Anchorage and in the very near future it will be expanded to Fairbanks.

The \$0 amount in this fiscal note is based on the assumption that the Division will maintain the existing agents although the contracts and method of payment may be modified to conform with this bill. The Division will also continue with the existing emission test station program in the Anchorage and Fairbanks areas. These programs are already in the Division's budget plan and the only funding needed is an RPL currently before the LB&A committee to allow the Division to receive and expend funds for the DP costs associated with the new stations.

The Division will continue to explore the feasibility of adding additional contract agents where justified by the workload or where cost efficiencies can be shown. It is recognized that in future years there may be start up costs associated with the training and administrative requirements for new agents. These costs will be addressed as budget increments in the years the agents are established.

# Alaska State Legislature

State Capitol Building  
Juneau, Alaska 99801-1182  
(907) 465-3719

Intern  
219 N. Cushman  
Suite 211  
Fairbanks, Alaska 99701  
(907) 456-7181

Representative Al Vezey

## *SPONSOR STATEMENT*

HB-210, "An Act relating to issuance of motor vehicle registrations and titles, and to licenses and permits to operate a motor vehicle", was drafted in response to many constituent complaints about the quality of service received from the Division of Motor Vehicles. This bill is complete as is and you will notice I have added language that prohibits the department from writing regulations to implement the bill. This bill is a statute with all the required regulations built in. If, in the future, we discover problems, the bill can be amended. To carry out the purposes of this legislation, I feel the third party agents need to know exactly what is required of them. That is the reason for the comprehensive language and the prohibition of regulatory authority. What you see is what you will get.

We, in the legislature, are faced with revenue shortfalls and would have difficulty funding the additional positions in the Department of Motor Vehicles necessary to elevate the service level to that demanded by the public. Therefore, another approach to solving the problem of public complaints of poor service, long lines and excessive time spent waiting in line to renew a license seemed to be in order.

In order not to reinvent the wheel, I inquired how privatizing of these functions, now performed by DMV, has been accomplished in other states. Various states have privatized all or portions of the services found in HB-210. A majority of states use third parties for testing the driving skills of operators of commercial vehicles. Nine states use state employees exclusively to process motor vehicle transactions. Another seventeen states use a combination of state employees and private agents. Twenty-five states delegate much of the motor vehicle function to local government, usually counties, twelve of these states also use private agents in some capacity. The Federal Aviation Administration has used designated pilot examiners to issue pilots licenses from student through flight instructor and airline transport pilot since its inception in 1958.

This bill will ensure that the public receives the service required. It potentially would allow the state to save money by not having to absorb the total cost associated with maintaining the functions of the department. Most of the functions now performed by the Department of Motor Vehicles would be performed by the private sector.

We feel we have accomplished two goals. The first, having the private sector provide expanded services to the voting public that the state may not be able to afford to provide. The second goal is offering the legislature the opportunity to reduce the state operating budget. I urge your support for this bill.

DIVISION OF LEGAL SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2430  
TDD (907) 465-2029  
Mail Stop 3101


50 Seneca Street, Suite 409  
Juneau, Alaska 99801-2105

MEMORANDUM

March 2, 1995

**SUBJECT:** Sectional Summary of HB 210 (Work Order No. 9-LS0343/O)

**TO:** Representative Al Vezev  
Attn: Joe Ryan

**FROM:** Michael F. Ford   
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Requires the Department of Public Safety to establish a program authorizing private third-party agents, registrars, and examiners to perform duties related to motor vehicle registration, issuance of titles, licenses, and permits and driver's license skill tests. Establishes criteria for certification of individuals as third-party agents, registrars or examiners. Establishes professional conduct requirements, notification requirements and requirements for driving skills tests. Provides for termination of a third-party agent, registrar, or examiner certificate, for collection of fees and for compensation to third-party agents, registrars, and examiners. Establishes a required contract between the department and the agent, registrar, or examiner. Establishes a program for certifying a person's experience qualifications for a commercial driver's license. Provides for on-site inspections and audits. Limits certain types of advertising by agents or examiners. Imposes insurance requirements for agents and examiners. Limits the civil liability of an agent, examiner, or registrar, and of the state. Prohibits the Department of Public Safety from adopting further administrative regulations to implement the chapter.

Section 2. Exempts a contract under AS 28.12 from the provisions of the State Procurement Code (AS 36.30).

Representative Aj Vezev

March 2, 1995

Page 2

Section 3. Transition section requiring implementation within six months after this Act becomes law

MFF pl.kib

95-055 plm

# OBITUARIES

## ALICE SCOTT

Wasilla resident and lifelong Alaskan Alice M. Walker Scott, 73, died Feb. 22, 1995, at Alaska Native Medical Center after a lengthy illness.

A funeral will be held at 4 p.m. Monday at Evangelical Covenant Church with the Revs. Hank Pearson and Ralph Fongell officiating.

Ms. Scott was born Oct. 12, 1921, in Scott White Mountain to Frederick and Alice Kochookin Walker. She met her husband, Douglas Scott, at the North Pole Cafe in Nome in 1947. They were married in 1949 in Seattle. "It all started over coffee," the family said.

They lived in Nome, Seat-



le. Juneau and Anchorage. Mrs. Scott enjoyed spending summers in Nome at Pilgrim River, fishing, trapping, berry picking, spending time at hot springs, visiting, nuna-kking, her grandchildren and making gifts for family and friends.

Her family said, "Alice will be missed by all."

Mrs. Scott is survived by her husband, Douglas of Eagle River; two sons, Allan of Anchorage and Douglas of Seian, Wash.; four daughters, Dariene Seilie and Irene Douthitt of Anchorage, Loretta Bullard of Nome, and Alice Scherb of Eugene, Ore.; brother, Francis Walker, and four sisters, Laura Johnson, Irene Green, and Martha Apck, all of Nome, and Cantia Urickson of Soldotna; 16 grandchildren; and one great-grandson. She was preceded in death by an infant son, Darrell James Scott; brother, Edward

Walker, and two sisters, Rose Olson and Julia Nelson.

Arrangements were handled by Evergreen Memorial Chapel.

## PAMELA J. BLANKENSHIP

Palmer resident Pamela Jan Blankenship, 39, died Feb. 22, 1995, at home.

Visitation will be held at 5 p.m. Monday followed by a funeral at 5 p.m. at Kehl's Forest Lawn Mortuary.

The Rev. Glenn Clary of Anchorage Baptist Temple will officiate.

Burial will be in the spring at Angelus Memorial Park Cemetery.

Ms. Blankenship was born Nov. 13, 1955, in Fort Worth.



Blankenship

# DMV to launch one-stop pilot program

Anchorage drivers soon will be able to take care of the registering and emission testing of their vehicles at one location.

Next month, the Department of Public Safety's Division of Motor Vehicles

will launch a 90-day pilot program to allow vehicles to be registered at certified emission testing centers, according to a press release issued by the department.

"If this partnership between the state and private

business works out, it could save car owners some hassle when registering their vehicles and free up DMV employees for other functions," said Public Safety Commissioner Ron Otte.

# for registration/emissions testing

The pilot program will start with Kwik Lube's emission test center at 36th Avenue and Old Seward Highway. It will be equipped to update DMV files and issue new license tags, and will offer on-the-

spot registration for any vehicle that has passed emission testing.

To register cars at the center, drivers need only supply their DMV registration renewal cards received in the mail and a cash

check or credit-card payment.

If the pilot project proves feasible, the concept could be extended to other certified emission testing facilities in Anchorage and Fairbanks.

# Legislative Research Agency

Alaska State Legislature



100 Seward Street, Suite 213  
Juneau, Alaska 99801-2196

Phone: 907 463-3991  
Fax: 907 463-3351

November 25, 1994

## MEMORANDUM

TO: Representative Al Vezev

FROM: Patricia Young *p. Young*  
Legislative Analyst

RE: Privatizing Motor Vehicle Registration and Drivers' Licensing  
Research Request 95 032

You asked for samples of pertinent statutes and regulations from states that have privatized motor vehicle registration and drivers' licensing. You also wished to know if such privatization is considered successful.

### Drivers' Licensing Services

A majority of states use third parties for testing the driving skills of operators of *commercial* vehicles, as authorized under the Commercial Motor Vehicle Safety Act of 1986.<sup>1</sup> Additionally, many states use third parties or private agents for noncommercial drivers' license *renewals*. According to David Hugel, director of government affairs with the American Association of Motor Vehicle Administrators, however, the use of third-party or private agents for the original

---

<sup>1</sup>The Commercial Motor Vehicle Safety Act of 1986 (43 CFR Section 383) was passed by Congress in an attempt to reduce truck and bus accidents by requiring all commercial drivers to meet standards for procedures, methods, and minimum passing scores. To this end, each commercial driver must qualify for and carry a single commercial driver's license (CDL). The Act requires an inspection of commercial vehicles, an off-road driving test (such as in a parking or loading area), and an on-road test over a predetermined route. Although states generally administer applicant screening and knowledge testing, many state drivers' bureaus are neither trained to inspect commercial vehicles, nor equipped to administer the driving skills tests. States are authorized under the Act to use third parties to administer commercial driving skills tests. *Third party* is defined as "another state, an employer, a private driver training facility or other private institution, or a department, agency or instrumentality of a local government."

Representative Al Vezey

November 15 1994

Page 2

testing and issuance of noncommercial drivers' licenses has only recently been considered in some states.

Arizona relies heavily on third parties for commercial drivers' license (CDL) testing and is considering their use for licensing of noncommercial drivers as well. Statutory language was added last year to allow for third-party testing for noncommercial drivers' licenses. According to a representative of Arizona's Division of Motor Vehicles, the provision is due to go into effect on an experimental basis soon. The intent is to allow high school drivers' training programs to administer "all tests required" in order to determine an applicant's eligibility for a regular passenger automobile or motorcycle driving license. Copies of the pertinent statutes are attached.

Michigan is another state making extensive use of third-party CDL testing. According to Bill Charron, Michigan Office of Traffic Safety, the state screens applicants and administers the knowledge tests, but relies on private agents to administer the vehicle inspections and actual driving tests. Mr. Charron considers the private CDL testing as very successful, and he believes the program could be expanded to noncommercial drivers' licensing as long as the state maintains a strict auditing practice. The pertinent statute in Michigan simply specifies that the state may enter into third-party agreements for driver testing services. A new contract for third-party agents is currently being developed. Mr. Charron is sending a draft copy of the contract, and that contract will be forwarded to your office upon its arrival.

### Motor Vehicle Registration

A survey conducted this year by the Office of Legislative Auditor in Minnesota, entitled *Motor Vehicle Deputy Registrars*, suggests that although nearly all states use a central office to regulate motor vehicle registration and title services, many also employ third parties to perform a variety of services.<sup>2</sup> The survey contains a useful synopsis of current state regulation and potential approaches for streamlining motor vehicle services of all kinds. The survey is attached along with statutes from Washington and North Dakota. A copy of the contract used in North Dakota is also included.

I hope you find this information useful. Please let us know if we can be of further help.

Attachments

---

<sup>2</sup>Office of the Legislative Auditor, State of Minnesota, *Motor Vehicle Deputy Registrars*, March 1994, attached.

THE  
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DOCUMENTS  
ARE  
POOR  
ORIGINAL  
COPIES

used to transport hazardous materials in a quantity requiring placarding under regulations issued by the Secretary under the Hazardous Materials Transportation Act as amended (49 U.S.C. app. 1801 et seq.).

**DRIVER QUALIFICATIONS**

Require a driver to be properly licensed to drive a motor vehicle; require a driver to be in good physical health, at least 21 years of age, able to operate a vehicle safely, and maintain a good driving record, prohibit drug and alcohol abuse; require a motor carrier to maintain a driver qualification file for each driver; require a motor carrier to ensure that a driver is medically qualified, and require a motor carrier to establish an anti-drug program with testing of drivers prior to employment, periodically, based on reasonable cause, after reportable accidents, and by random selection.

*Note.* The requirements for testing apply only to drivers of commercial motor vehicles as defined in 49 CFR part 383.

**DRIVING OF MOTOR VEHICLES**

Prohibit possession, use, or driving under the influence of alcohol or other controlled substances (while on duty), and establish 0.04 percent as the level of alcohol in the blood at which a driver is considered under the influence of alcohol.

**PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION**

Require operational lights and reflectors, require systematically arranged and installed wiring, and require brakes working at the required performance level, and other key components included in 49 CFR part 393.

**HOURS OF SERVICE**

Prohibit a motor carrier from allowing or requiring any driver to drive more than 10 hours following 8 consecutive hours off duty, after being on duty 15 hours, after being on duty more than 60 hours in any 7 consecutive days, or after being on duty more than 70 hours in any 8 consecutive days.

Require a driver to prepare a record-of-duty status for each 24-hour period. The driver and motor carrier must retain the records.

**INSPECTION AND MAINTENANCE**

Prohibit a commercial motor vehicle from being operated when it is likely to cause an accident or a breakdown; require the driver to conduct a walk-around inspection of the vehicle before driving it to ensure that it can be safely operated; require the driver to prepare a driver vehicle inspection report

and require commercial motor vehicles to be inspected at least annually.

**HAZARDOUS MATERIALS**

Require a motor carrier or a person operating a commercial motor vehicle transporting hazardous materials to follow the safety and hazardous materials requirements.

**STATE DETERMINATIONS**

1. Each State must determine whether its requirements affecting interstate motor carriers are "less stringent" than the Federal requirements. "Less stringent" requirements represent either gaps in the State requirements in relation to the Federal requirements as summarized under item number one in this appendix or State requirements which are less restrictive than the Federal requirements.

a. An example of a gap is when a State does not have the authority to regulate the safety of for hire carriers of passengers or has the authority but chooses to exempt the carrier.

b. An example of a less restrictive State requirement is when a State allows a person under 21 years of age to operate a commercial motor vehicle in interstate commerce.

2. Each State must determine whether its requirements affecting interstate motor carriers are "more stringent" than the Federal requirements. "More stringent" requirements are more restrictive or inclusive in relation to the Federal requirements as summarized under item number one in this appendix. For example, a requirement that a driver must have 2 days off after working 5 consecutive days. The State would demonstrate that its more stringent requirements:

a. Have a "safety benefit," for example, result in fewer accidents or reduce the risk of accidents;

b. do not create "an undue burden on interstate commerce," e.g., do not delay, interfere with or increase that cost or the administrative burden for a motor carrier transporting property or passengers in interstate commerce; and

c. are otherwise compatible with Federal safety requirements.

3. A State must adopt and enforce in a consistent manner the requirements referenced in the above guidelines in order for the FHWA to accept the State's determination that it has compatible safety requirements affecting interstate motor carrier operations. Generally, the States would have up to 3 years from the effective date of the new Federal requirement to adopt and enforce compatible requirements. The FHWA would specify the deadline when promulgating future Federal safety requirements. The requirements are considered of equal importance.

**PART 383—COMMERCIAL DRIVER'S LICENSE STANDARDS, REQUIREMENTS AND PENALTIES**

See

- 383.101 Testing methods
- 383.105 Minimum passing score

**Subject I—[Reserved]**

**Subject J—Commercial Driver's License Document**

- 383.151 General
- 383.153 Information on the document and application
- 383.155 Tamperproofing requirements

Authority: 49 U.S.C. 3102, 49 U.S.C. app. 12701 et seq. (19 C.F.R. 101)

Source: 52 FR 20507, June 1, 1987, unless otherwise noted.

**Subject A—General**

**383.1 Purpose and scope.**

(a) The purpose of this part is to help reduce or prevent truck and bus accidents, fatalities, and injuries by requiring drivers to have a single commercial motor vehicle driver's license and by disqualifying drivers who operate commercial motor vehicles in an unsafe manner.

(b) This part:

(1) Prohibits a commercial motor vehicle driver from having more than one commercial motor vehicle driver's license;

(2) Requires a driver to notify the driver's current employer and the driver's State of domicile of certain convictions;

(3) Requires that a driver provide previous employment information when applying for employment as an operator of a commercial motor vehicle;

(4) Prohibits an employer from allowing a person with a suspended license to operate a commercial motor vehicle;

(5) Establishes periods of disqualification and penalties for those persons convicted of certain criminal and other offenses and serious traffic violations, or subject to any suspensions, revocations, or cancellations of certain driving privileges;

(6) Establishes testing and licensing requirements for commercial motor vehicle operators;

(7) Requires States to give knowledge and skills tests to all qualified applicants for commercial driver's li-

**Subject A—General**

See

- 383.1 Purpose and scope
- 383.3 Applicability
- 383.5 Definitions
- 383.7 Waiver provisions

**Subject B—Single License Requirement**

- 383.21 Number of driver's licenses
- 383.23 Commercial driver's license

**Subject C—Notification Requirements and Employer Responsibilities**

- 383.31 Notification of convictions for driver violations
- 383.33 Notification of driver's license suspensions
- 383.35 Notification of previous employment
- 383.37 Employer responsibilities

**Subject D—Driver Disqualifications and Penalties**

- 383.51 Disqualification of drivers
- 383.53 Penalties

**Subject E—Testing and Licensing Procedures**

- 383.71 Driver application procedures
- 383.72 Implied consent to alcohol testing
- 383.73 State procedures
- 383.75 Third party testing
- 383.77 Substitute for driving skills tests

**Subject F—Vehicle Groups and Endorsements**

- 383.91 Commercial motor vehicle groups
- 383.93 Endorsements
- 383.95 Air brake restrictions

**Subject G—Required Knowledge and Skills**

- 383.110 General requirement
  - 383.111 Required knowledge
  - 383.113 Required skills
  - 383.115 Requirements for double/triple trailers endorsement
  - 383.117 Requirements for passenger endorsement
  - 383.119 Requirements for tank vehicle endorsement
  - 383.121 Requirements for hazardous materials endorsement
- Accounts to Section 15, Required Knowledge and Skills, Section 15, General Information

**Subject H—Tests**

- 383.113 Test procedures

rules which meet the Federal standard.

(8) Sets forth commercial motor vehicle groups and endorsements;

(9) Sets forth the knowledge and skills test requirements for the motor vehicle groups and endorsements;

(10) Sets forth the Federal standard for procedures, methods, and minimum passing scores for States and others to use in testing and licensing commercial motor vehicle operators; and

(11) Establishes requirements for the State issued commercial license documentation.

(52 FR 26507, June 1, 1987, as amended at 51 FR 27610, July 21, 1986, 54 FR 10767, Oct. 1, 1989)

#### § 381.1 Applicability.

The rules in this part apply to every person who operates a commercial motor vehicle in interstate, foreign, or intrastate commerce, and to all employers of such persons.

#### § 381.5 Definitions.

As used in this part:

**Administrator** means the Federal Highway Administrator, the chief executive of the Federal Highway Administration, an agency within the Department of Transportation.

**Alcohol or alcoholic beverage** means (a) beer as defined in 26 U.S.C. 5052(a), of the Internal Revenue Code of 1954, (b) wine of not less than one-half of one per centum of alcohol by volume, or (c) distilled spirits as defined in section 5002(a)(10), of such Code.

**Alcohol concentration (AC)** means the concentration of alcohol in a person's blood or breath. When expressed as a percentage, it means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

**Commerce** means (a) any trade, traffic, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States, and (b) trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in paragraph (a) of this definition.

**Commercial driver's license (CDL)** means a license issued by a State or other jurisdiction, in accordance with the standards contained in 49 CFR part 383, to an individual which authorizes the individual to operate a class of a commercial motor vehicle.

**Commercial driver's license information system (CDLIS)** means the CDLIS established by FHWA pursuant to section 12007 of the Commercial Motor Vehicle Safety Act of 1986.

**Commercial motor vehicle (CMV)** means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or

(b) Has a gross vehicle weight rating of 26,001 or more pounds; or

(c) Is designed to transport 10 or more passengers, including the driver, or

(d) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, subpart F).

**Controlled substance** has the meaning such term has under section 102(a), of the Controlled Substances Act (21 U.S.C. 802(a)) and includes all substances listed on schedules I through V of 21 CFR part 1308, as they may be revised from time to time. Schedule I substances are identified in appendix D of this subchapter and schedule II through V are identified in appendix E of this subchapter.

**Conviction** means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or

not the penalty is related, suspended, or probated."

**Disqualification** means either:

(a) The suspension, revocation, cancellation, or any other withdrawal by a State of a person's privileges to drive a commercial motor vehicle; or

(b) A determination by the FHWA, under the rules of practice for motor carrier safety contained in part 386 of this title, that a person is no longer qualified to operate a commercial motor vehicle under part 391, or

(c) The loss of qualification which automatically follows conviction of an offense listed in § 381.51.

**Driver applicant** means an individual who applies to a State to obtain, transfer, upgrade, or renew a CDL.

**Driver's license** means a license issued by a State or other jurisdiction, to an individual which authorizes the individual to operate a motor vehicle on the highways.

**Driving a commercial motor vehicle while under the influence of alcohol** means committing any one or more of the following acts in a CMV driving a CMV while the person's alcohol concentration is 0.04 percent or more, driving under the influence of alcohol, as prescribed by State law, or refusal to undergo such testing as is required by any State or jurisdiction in the enforcement of § 381.51(b)(2)(B)(A) or (D), or § 392.2(a)(2).

**Employee** means any operator of a commercial motor vehicle, including full-time, regularly employed drivers, casual, intermittent or occasional drivers, leased drivers and independent, owner operator contractors (while in the course of operating a commercial motor vehicle) who are either directly employed by or under lease to an employer.

**Employer** means any person (including the United States, a State, District of Columbia or a political subdivision of a State) who owns or leases a commercial motor vehicle or assigns an employer to operate such a vehicle.

**Enforcement** means an authority that to an individual's CDL, required to permit the individual to operate certain types of commercial motor vehicles.

**Felony** means an offense under State or Federal law that is punishable by

death or imprisonment for a term exceeding 1 year.

**Foreign** means outside the 48 United States and the District of Columbia.

**Gross combination weight rating (GCWR)** means the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

**Gross vehicle weight rating (GVWR)** means the value specified by the manufacturer as the loaded weight of a single vehicle.

**Hazardous materials** has the meaning such term has under section 101 of the Hazardous Materials Transportation Act.

**Motor vehicle** means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, except that such term does not include a vehicle, machine, tractor, trailer, semitrailer operated exclusively on a rail.

**Nonresident CDL** means a CDL issued by a State to an individual domiciled in a foreign country.

**Representative vehicle** means a motor vehicle which represents the type of motor vehicle that a driver applicant operates or expects to operate.

**Serious traffic violation** means conviction when operating a commercial motor vehicle of:

(a) Excessive speeding, involving any single offense for any speed of 15 miles per hour or more above the posted speed limit;

(b) Reckless driving, as defined by State or local law or regulation, including but not limited to offenses of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property;

(c) Impaired or erratic traffic law changes;

(d) Following the vehicle closely too closely; or

(e) A violation arising in connection with a fatal accident of State or local law relating to motor vehicle traffic control (other than a parking violation) that causes the violation of

(A) Check with the CDLIS to determine whether the driver applicant already has a CDL, whether the applicant's license has been suspended, reeled, or canceled, or if the applicant has been disqualified from operating a commercial motor vehicle; and

(B) A check with the National Driver Register (NDR), when it is deemed to be operational by the Federal Highway Traffic Safety Administrator, to determine whether the driver applicant has:

(1) Been disqualified from operating a motor vehicle (other than a commercial motor vehicle);

(2) Had a license (other than CDL) pending, revoked, or canceled for use in the 3 year period ending on date of application; or

(3) Been convicted of any offenses defined in section 205(a)(3) of the final Drivers Register Act of 1982 (5 S.C. 104 note), and

(4) Require the driver applicant, if she has moved from another State, to surrender his/her driver's license issued by another State.

(C) *License transfers.* Prior to issuing a CDL to a person who has a CDL in another State, a State shall:

(1) Require the driver applicant to take the certifications contained in § 383.71(a);

(2) Complete a check of the driver applicant's record as contained in § 383.73(a)(3);

(3) Request and receive updates of information specified in subpart J of this part;

(4) If such applicant wishes to retain a hazardous materials endorsement, ensure that the driver has, within the 90 days preceding the transfer, either:

(i) Passed the test for such endorsement specified in § 383.121; or

(ii) Successfully completed a hazardous materials test or training that is given by a third party and that is given by the State to substantially the same knowledge base as that required by § 383.121; and

(5) Obtain the CDL issued by the applicant's previous State of domicile.

(D) *License renewals.* Prior to renewing any CDL, a State shall:

(1) Require the driver applicant to take the certifications contained in § 383.71(a).

(2) Complete a check of the driver applicant's record as contained in § 383.73(a)(3);

(3) Request and receive updates of information specified in subpart J of this part; and

(4) If such applicant wishes to retain a hazardous materials endorsement, require the driver to pass the test for such endorsement specified in § 383.121.

(E) *License upgrades.* Prior to issuing an upgrade of a CDL, a State shall:

(1) Require such driver applicant to provide certifications and pass tests as described in § 383.71(a); and

(2) Complete a check of the driver applicant's record as described in § 383.73(a)(3).

(F) *Nonresident CDL.* A State may issue a Nonresident CDL to a person domiciled in a foreign country if the Administrator has determined that the commercial motor vehicle testing and licensing standards in the foreign jurisdiction of domicile do not meet the standards contained in this part. State procedures for the issuance of a nonresident CDL, for any modifications thereto, and for notifications to the CDLIS shall be a minimum be identical to those pertaining to any other CDL, with the following exceptions:

(1) If the applicant is requesting a transfer of his/her Nonresident CDL, the State shall obtain the Nonresident CDL currently held by the applicant and issued by another State;

(2) The State shall add the word "Nonresident" to the face of the CDL, in accordance with § 383.153(b); and

(3) The State shall have established, prior to issuing any Nonresident CDL, the practical capability of disqualifying the holder of any Nonresident CDL, by withdrawing, suspending, canceling, and revoking his/her Nonresident CDL, as if the Nonresident CDL were a CDL issued to a resident of the State.

(G) *License issuance.* After the State has completed the procedures described in § 383.73 (a), (b) (i), (d) or (e), it may issue a CDL to the driver applicant. The State shall notify the operator of the CDLIS of such issuance, transfer, renewal, or upgrade

within the 10 day period beginning on the date of license issuance.

(G) *Penalties for false information.* If a State determines, in its check of an applicant's license status and record prior to issuing a CDL, or at any time after the CDL is issued, that the applicant has falsified information contained in subpart J of this part or any of the certifications required in § 383.71(a), the State shall at a minimum suspend, cancel, or revoke the person's CDL, or his/her pending application, or disqualify the person from operating a commercial motor vehicle for a period of at least 60 consecutive days.

(H) *Reciprocity.* A State shall allow any person who has a valid CDL which is not suspended, revoked, or canceled, and who is not disqualified from operating a commercial motor vehicle, to operate a commercial motor vehicle in the State.

(I) *Alternative procedures.* A State may implement alternative procedures to the certification requirements of § 383.71(a) (1), (4), and (6), provided those procedures ensure that the driver meets the requirements of those paragraphs.

153 FR 29649, July 21, 1988, as amended at 54 FR 40788 (Oct 3, 1989)

#### § 383.75 Third party testing

(a) *Third party tests.* A State may authorize a person (including another State, an employer, a private driver training facility or other private institution, or a department, agency or instrumentality of a local government) to administer the skills tests as specified in subparts G and H of this part, if the following conditions are met:

(1) The tests given by the third party are the same as those which would otherwise be given by the State; and

(2) The third party, as an agreement with the State containing, at a minimum, provisions that:

(i) Allow the FHWA, or its representative, and the State, to conduct random examinations, inspections and audits without prior notice;

(ii) Require the State to conduct on-site inspections at least annually;

(iii) Require that all third party examiners meet the same qualification

and training standards as State examiners, to the extent necessary to conduct skills tests in compliance with subparts G and H;

(iv) Require that, at least on an annual basis, State employees take the tests actually administered by the third party as if the State employee were a test applicant, or that State test a sample of drivers who were examined by the third party to compare pass/fail results; and

(v) Reserve unto the State the right to take prompt and appropriate remedial action against the third party testers in the event that the third party fails to comply with State or Federal standards for the CDL testing program, or with any other terms of the third party contract.

(b) *Proof of testing by a third party.* A driver applicant who takes and passes driving tests administered by an authorized third party shall provide evidence to the State licensing agency that he/she has successfully passed the driving tests administered by the third party.

#### § 383.77 Substitute for driving skills tests

At the discretion of a State, the driving skills test as specified in § 383.114 may be waived for a CMV operator who is currently licensed at the time of his/her application for a CDL, and substituted with either an applicant's driving record and previous passage of an acceptable skills test, or an applicant's driving record in combination with certain driving experience. The State shall impose conditions and limitations to restrict the applicants from whom a State may accept alternative requirements for the skills test described in § 383.114. Such conditions must require at least the following:

(1) An applicant must certify that during the two year period immediately prior to applying for a CDL, he/she:

(i) Has not had more than one license (except in the instances specified in § 383.216(d));

(ii) Has not had any license suspended, revoked, or canceled;

(iii) Has not had any conviction for any type of motor vehicle for the disqualifying offenses contained in § 383.216(a)(2).

1989 Reviser's Note:

Prior to the 1991 amendment, this section contained the amendments made by Laws 1989, Ch

162, § 2 and Ch 220, § 31 which were blended together pursuant to authority of § 41 130101

§ 28-127. Notice of change of address or name; record update

A. When a person after applying for or receiving a driver's license or a nonoperating identification license moves from the address named in the application or in the license issued to him or when the name of a licensee, as stated on the driver's license or nonoperating identification license, is changed by marriage or otherwise, the person shall within ten days thereafter notify the department of his new address, complete name, date of birth and the number of each license held by him or a statement that each license is suspended, revoked or cancelled. A person may notify the department of an address change by telephone, in writing or in person. A person may notify the department of a name change in person or in writing.

B. The department may update the address in a driver's license record if a traffic citation received by the department or records of another consenting government agency indicate an address change after the date the address was stated in the department records.

Amended by Laws 1989, Ch 220, § 36, eff. Jan. 1, 1990; Laws 1992, Ch 34, § 3, Laws 1993, Ch 178, § 16, eff. April 29, 1993

Historical and Statutory Notes

Amendment of this section by Laws 1988, c 109, § 2 (see § 28-427 in the main volume) was repealed by Laws 1989, Ch 220, § 37, subsec. A, effective January 1, 1990

Laws 1989, Ch 220, § 64 provides:

"This act is effective from and after December 31, 1989"

The 1989 amendment of this section by Ch 220 explicitly amended the 1987 amendment of this section by Ch 148.

Laws 1993, Ch 178, § 33 provides:

"Requirements for enactment

"Pursuant to article IX, § 22, Constitution of Arizona, this act is effective only on the affirmative vote of at least two thirds of the members of each house of the legislature and is effective immediately on the signature of the governor [act signed by the governor on April 20, 1993] or, if the governor vetoes this act, on the subsequent affirmative vote of at least three fourths of the members of each house of the legislature"

Cross References

Motor vehicle registration or title, notice of change of address, see § 28-310

Notice of revocation, suspension, or cancellation of license, see § 28-210

§ 28-128. Records to be kept by the department

A. The department shall file every application for a license received by it and shall maintain suitable indexes containing, in alphabetical order:

1. All applications denied and on each application a note of the reasons for the denial.
2. All applications granted.

3. The name of every licensee whose license has been suspended or revoked by the department and after each name a note of the reasons for the action.

B. Notwithstanding subsection A, paragraph 3 of this section, the director shall expunge from the public records maintained by the department the fact of any suspension or revocation made pursuant to section 28-694 if, after the period of suspension or revocation has terminated, the licensee submits a certified copy of the court record indicating the dismissal or finding of not guilty of the violation on which the suspension or revocation is based. The director shall not expunge the record or shall rescind the expungement of the record in those instances in which the licensee has been convicted of or found responsible for any violation of chapter 6 of this title<sup>1</sup> which occurred during the period of the suspension or revocation.

C. The department shall also file all abstracts of court records of convictions received by it under the laws of this state and in connection therewith maintain convenient records of suitable notations in order that an individual record of each licensee showing the name of the licensee and the traffic accidents in which he has been involved is

ascertainable and available for the consideration of the department upon an application for renewal of a license and at other suitable times.

D. The department shall maintain all such records for a period of five years after the application, suspension, revocation or abstract of a court record of conviction has become inactive.

Amended by Laws 1990, Ch 376, § 4, eff. June 28, 1990.

<sup>1</sup> Section 601 et seq.

Historical and Statutory Notes

The 1990 amendment inserted subsec. B; and For application provision of Laws 1990, Ch 376, redesignated former subsecs. B and C as subsecs. see Historical and Statutory Notes following § 4-241

§ 28-129. Physician or psychologist; reports to department; immunity from personal liability; definitions

A. A physician, psychologist or certified substance abuse counselor who, in good faith, provides at the written request of a driver's license applicant or licensee information to the director concerning a person's medical or psychological condition with respect to operation of a motor vehicle is immune from personal liability with respect to the information provided.

B. Notwithstanding the physician-patient confidentiality relationship, a physician or psychologist may voluntarily report a patient to the department who, in the opinion of the physician or psychologist, has a medical or psychological condition which could significantly impair the person's ability to safely operate a motor vehicle. If a report is made, the physician or psychologist shall make the report in writing and include the name, address and date of birth of the patient. On receiving the report the department may require the person reported to be examined in the manner provided for in § 28-417. No action may be brought against a physician or psychologist for not making a report pursuant to this section. The physician or psychologist submitting the report in good faith is immune from civil or criminal liability that otherwise may result by reason of the physician's or psychologist's actions pursuant to this section. The physician's or psychologist's report is subject to subpoena in order to produce in any action except an action against the physician submitting the report.

C. In this section:

1. "Certified substance abuse counselor" means a person certified by the Arizona board of behavioral health in this state or certified in a contiguous state or is employed by the federal government and who practices in this state.
2. "Medical or psychological condition" means a condition which could affect a person's functional ability to safely operate a motor vehicle.
3. "Physician" means a medical doctor, optometrist, chiropractor, naturopath, doctor of osteopathy or doctor of homeopathy licensed to practice in this state or a state contiguous to this state or employed by the federal government and practicing in this state or their agents.
4. "Psychologist" means a person who is licensed to practice in this state or a state contiguous to this state or who is employed by the federal government and who practices in this state.

Amended by Laws 1989, Ch 261, § 3, Laws 1992, Ch 116, § 2, Laws 1992, Ch 300, § 12

Historical and Statutory Notes

The amendment of this section by Laws 1992, Ch 116, § 2 was repealed by Laws 1992, Ch 300, § 35, subsec. A.

§ 28-430. Employer certification

A. The department may establish a program designating employees of persons in control of the motor vehicle division and authorizing those persons to verify the applicant's driving experience in exercising ordinary and reasonable control in the operation of a vehicle requiring a class A, B or C driver's license.

B. In order to qualify under the employer certification program, an employer shall meet and maintain the minimum standards required by this section and any rule adopted to carry out this section.

C. If the department determines that the employer is qualified for the employer certification program, the department shall issue a certificate to the employer evidencing qualification and authorizing the employer to sign the department's prescribed certification form that the applicant is qualified by experience in behind the wheel driving in the class of vehicle for which licensing is sought.

D. In order for an applicant to use an employer certification, the applicant shall be or shall have been employed or on contract with the employer and the certification shall certify that the applicant is able to drive a vehicle requiring a class A, B or C driver's license.

E. A certification for an applicant must have been issued within thirty days of the date of application for licensing.

F. The department may reject an applicant's certification and administer a driving examination if the department has reason to question the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

G. If a political subdivision qualifies under the employer certification program established under this section, a political subdivision may enter into an Intergovernmental agreement with the qualifying political subdivision pursuant to title 11, chapter 7, article 3<sup>1</sup> to provide for certification of its drivers under the program.

H. The department may revoke the certification issued to an employer for one year if the department finds that the employer is not in compliance with the provisions of this section or any rule adopted to carry out the duties required by this section. If cause exists, the department may order a reexamination of a licensee who was certified by an employer whose certification was revoked.

I. An employer who was authorized to certify an employee under this section shall not be criminally or civilly liable for the certification unless the employer issued the certification in a grossly negligent manner.

Added by Laws 1989, Ch. 220, § 38, eff. Jan. 1, 1990

<sup>1</sup>Section 11-951 et seq.

**Historical and Statutory Notes**

This section, as added by Laws 1987, Ch. 118, § 31 (see § 28-130 in the main volume) was repealed by Laws 1989, Ch. 220, § 37, subsec. B, effective January 1, 1990.

Another purported § 28-430, added as § 28-429 by Laws 1989, Ch. 118, § 31, eff. January 1, 1990,

renumbered as § 28-130, and relating to similar subject matter, was repealed by Laws 1989, Ch. 220, § 37, eff. January 1, 1990.

Laws 1989, Ch. 220, § 61 provides: "This act is effective from and after December 31, 1989."

**§ 28-430.01. Third party testing**

A. The department may establish a program designating third party testers limited to administering a driving examination to determine an applicant's actual demonstrated ability to perform a pretrip inspection and to exercise ordinary and reasonable control in the operation of a vehicle requiring a class A, B or C driver's license and limited to determining an applicant's full or partial eligibility for a class D or M license. The third party testers shall administer the examinations as prescribed by the department, and the third party testers shall meet the minimum standards and qualifications established by the department. The department may certify a third party tester to administer all tests required to obtain a class D or M license pursuant to this chapter. The department shall annually review and recertify third party testers to insure compliance with departmental rules and standards.

B. In order to qualify under the third party tester program, the tester shall meet and maintain the minimum standards required by this section and any rule adopted to carry out this section.

C. If the department determines that the contract agent is qualified for the contract agent program, the department shall issue a certificate to the contract agent evidencing qualification

tion and authorizing the tester to sign the department's prescribed certification form that the applicant has satisfactorily completed the prescribed course in pretrip inspections and behind the wheel driving in the class of vehicle for which licensing is sought.

D. The third party tester shall prominently display in the place of business of the third party tester the certificate issued by the department authorizing the third party tester to administer the testing.

E. Third party testers that are certified by the department and that conduct such testing are entitled to collect a fee reasonable and commensurate for the testing but not more than fifty dollars.

F. The department, during regular business hours, may make on-site inspections at locations the department deems appropriate to determine qualification of ongoing compliance by third party testers with the requirements prescribed under this section. If the inspection is conducted at a place located outside this state the third party tester shall reimburse the reasonable per diem and travel costs incurred by the department's inspectors. The department may revoke the certification issued to a third party tester for one year if the department finds that the third party tester is not in compliance with the provisions of this section or a rule adopted to carry out the duties required by this section. If cause exists, the department may order a reexamination of a licensee who was certified by a third party tester whose certification was revoked.

G. A certification for an applicant must have been issued within thirty days of the date of application for licensing.

H. The department may reject an applicant's certification and administer a driving examination if the department has reason to question the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle.

I. A third party tester authorized under this section to administer a driving examination shall not be criminally or civilly liable for the administration of the examination unless the third party tester administered the examination in a grossly negligent manner.

Added by Laws 1989, Ch. 220, § 38, eff. Jan. 1, 1990. Amended by Laws 1993, Ch. 178, § 17, eff. April 20, 1993.

**Historical and Statutory Notes**

Laws 1989, Ch. 220, § 61 provides:

"This act is effective from and after December 31, 1989."

The 1994 amendment, in subsec. A, in the first sentence, inserted "limited to determining an applicant's full or partial eligibility for a class E or M license, and inserted the third sentence relating to certification of testers.

Laws 1994, Ch. 178, § 34 provides:

**"Requirements for enactment**

"Pursuant to article 18, § 25, Constitution of Arizona, this act is effective only on the affirmative vote of at least two-thirds of the members of each house of the legislature and is effective immediately on the signature of the governor (and signed by the governor on April 20, 1994) or, if the governor vetoes this act, on the subsequent affirmative vote of at least three-fourths of the members of each house of the legislature."

**ARTICLE 3. CANCELLATION, SUSPENSION OR REVOCATION OF LICENSES**

**§ 28-441. Authority of department to cancel license or permit**

A. The department may cancel a driver's license or permit upon determining any of the following:

1. The licensee was not entitled to the issuance of the license or permit under the chapter.

2. The licensee failed to give the required or correct information in his application or committed any fraud in making the application.

3. A person who signed an application for a license or permit or who was issued a license or permit files a written request with the department for cancellation of the license or permit that includes all of the following information:

(a) The name of the licensee or permittee

10. "Farm vehicle" means a vehicle which is used for commercial farming or commercial stock raising and which meets all of the following requirements:

(a) Is controlled and operated by the farm vehicle owner, the owner's family member or an employee of the owner.

(b) Is used to transport agricultural products, machinery or supplies to or from a commercial farming or a commercial stock raising operation.

(c) Is not used in the operations of a common or contract motor carrier.

(d) Is used within one hundred fifty miles of the farm vehicle owner's commercial farming or commercial stock raising operation.

11. "Foreign" means outside the United States.

12. "Gross vehicle weight rating" means the weight which is assigned by the vehicle manufacturer to a vehicle and which represents the maximum recommended total weight including vehicle and load for the vehicle.

13. "License class" means, for the purpose of determining the appropriate class of driver's license required for the type of motor vehicle or vehicle combination a driver intends to or is operating, the class of driver's license prescribed in § 28-103.

14. "Nonresident commercial driver's license" means a commercial driver's license issued to an individual domiciled in a foreign country.

15. "Recreational vehicle" means a motor vehicle or vehicle combination that is in excess of twenty-six thousand pounds gross vehicle weight and that is designed and exclusively used for private pleasure use and includes vehicles commonly called motor homes, pickup trucks with campers, travel trailers, boat trailers and horse trailers used exclusively to transport personal possessions or persons for noncommercial purposes.

16. "Revocation" means that the driver's license and privilege to drive a motor vehicle on the public highways are terminated and shall not be renewed or restored, except that an application for a new license may be presented and acted upon by the department after the expiration of at least one year after the date of revocation.

17. "Suspension" means that the driver's license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn but only during the period of the suspension and until application for reinstatement is made.

18. "Tank vehicle" means a commercial motor vehicle that is designed to transport a liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or chassis. Tank vehicle includes a cargo tank and a portable tank. Tank vehicle does not mean a portable tank having a rated capacity under one thousand gallons.

19. "Vehicle combination" means a motor vehicle and any vehicle in excess of ten thousand pounds gross vehicle weight which it tows, if the gross combined weight rating is more than twenty-six thousand pounds.

Amended by Laws 1989, Ch. 220, § 11, eff. Jan. 1, 1990; Laws 1991, Ch. 101, § 2; Laws 1993, Ch. 178, § 8, eff. April 20, 1993

<sup>1</sup>Section 28-2101 et seq.

#### Historical and Statutory Notes

Laws 1989, Ch. 220, § 64 provides:

"This act is effective from and after December 31, 1989."

The 1989 amendment of this section by Ch. 220 explicitly amended the 1987 amendment of this section by Ch. 148.

Laws 1991, Ch. 101, § 33 provides:

"Requirements for enactment

"To article 18, § 22, Constitution of Arizona" act is effective only on the affirmative vote of at least two thirds of the members of each

house of the legislature and is effective immediately on the signature of the governor (act signed by the governor on April 20, 1991) or, if the governor vetoes this act, on the subsequent affirmative vote of at least three fourths of the members of each house of the legislature."

#### 1993 Reviser's Note:

In the chapter version, in paragraph 4, subdivision (c) the second "and" was shown as "AND" but it is statutory law. Pursuant to authority § 41-130102, in the chapter version "and" is inserted as a correction of a manifest clerical error.

#### Cross References

Dealers and wreckers, procedure for licensing and issuing permits, see § 28-1301

Procedure for licensing and issuing permits, recreational vehicles, exhibitions, see § 28-1301  
Windshield sticker, farm vehicles, see § 28-310

§ 28-102.01. Repealed by Laws 1989, Ch. 220, § 65, eff. April 1, 1992

#### Historical and Statutory Notes

Laws 1989, Ch. 220, § 64 provides:

"This act is effective from and after December 31, 1989."

Laws 1989, Ch. 220, § 66 provides:

"Sec. 65. Delayed repeal

"Section 28-102.01 and 28-10101, Arizona Revised Statutes, as added by this act, are repealed from and after March 31, 1992."

Laws 1991, Ch. 113, §§ 3 and 4 provided for temporary windshield stickers on farm vehicles and for the repeal of the provision authorizing such stickers effective April 1, 1992.

The repealed section, added by Laws 1989, Ch. 220, § 12, related to an additional definition of farm vehicles.

#### § 28-103. Driver's license classes

1. Class A. A class A license is valid for operating a vehicle combination with a gross combined weight rating of twenty six thousand one or more pounds, if the gross vehicle weight rating of the vehicle being towed is in excess of ten thousand pounds, including all vehicles requiring a class B, C or D license, but not including a vehicle requiring a class M license or a vehicle or vehicle combination which requires a special endorsement unless the proper endorsement appears on the license.

2. Class B. A class B license is valid for operating a single motor vehicle with a gross vehicle weight rating of twenty six thousand one or more pounds, or any such vehicle towing a vehicle not in excess of ten thousand pounds gross vehicle weight rating, including all vehicles requiring a class C or D license, but not including vehicles requiring a class M license or vehicles which require a special endorsement unless the proper endorsement appears on the license.

3. Class C. A class C license is valid for operating a single motor vehicle with a gross vehicle weight rating of twenty six thousand pounds or less or any such vehicle towing a vehicle not in excess of a ten thousand pound gross vehicle weight rating if the gross combined weight rating is less than twenty six thousand one pounds and if the vehicle is required to be placarded for hazardous materials or is a bus or school bus and all vehicles requiring a class D license, but not vehicles requiring a class M license or vehicles which require a special endorsement unless the proper endorsement appears on the license.

4. Class D. A class D license is valid for operating a single motor vehicle with a gross vehicle weight rating of twenty six thousand pounds or less or any such vehicle towing a vehicle not in excess of a ten thousand pound gross vehicle weight rating, or any such vehicle towing a unit in excess of a ten thousand pound gross vehicle weight rating if the gross combined weight rating is less than twenty six thousand one pounds but not vehicles requiring a class M license or vehicles which require a special endorsement unless the proper endorsement appears on the license.

6. Class M. A class M license is valid for operating a motorcycle, motor driven cycle or pedal bicycle with helper motor. For the purposes of driver's licensing, this license classification may be embossed on a valid class A, B, C or D license.

Added by Laws 1989, Ch. 220, § 10, eff. Jan. 1, 1990

#### Historical and Statutory Notes

Laws 1989, Ch. 220, § 64 provides:

"This act is effective from and after December 31, 1989."

Another purported § 28-101, added by Laws 1987, Ch. 148, § 9, eff. January 1, 1990, relating to

the same subject matter, was repealed by Laws 1989, Ch. 220, § 43, eff. January 1, 1990.

# Motor Vehicle Deputy Registrars

March 1994  
94-05

Program Evaluation Division  
Office of the Legislative Auditor  
State of Minnesota

## METHODS

Each year, Minnesota residents make about 5.6 million motor vehicle, driver's license and DNR transactions at deputy registrars and spend about \$18.3 million in administrative fees to support the deputy registrar system. Our research focused on two important indicators of how well the system is functioning: customer service and cost. Since deputy registrars collect over \$600 million per year in motor vehicle registration fees and excise taxes, we also considered the security of state funds when discussing policy options for the state.

To analyze customer service, we used several measures, including customer waiting time, geographic access, days and hours that a deputy registrar is open, and how often deputy registrars make errors. We made 205 visits to deputy registrars to measure customer waiting times during the summer and fall of 1993. We also interviewed deputy registrars and DPS field representatives who monitor deputy registrars. To analyze customer access, we mapped the location of deputy registrars in Minnesota and compared the number of registrars in Minnesota with the number of agents in other states, taking into account population and land area. We collected data on hours and error rates from the Department of Public Safety.

To analyze cost, we obtained financial data from a sample of 101 deputy registrars. We also collected financial data for the front counter and mail operations of the Department of Public Safety. We examined the cost per transaction for public and non-profit deputies, and the profitability of private deputies. To analyze the economies of scale, we examined how cost per transaction, profits, and transactions per employee varied by size of deputy.

We interviewed deputy registrars, officials from the Department of Public Safety, the Department of Natural Resources, and the Pollution Control Agency. Finally, to obtain perspective on how other states provide motor vehicle registration and driver's license services, we conducted telephone interviews with officials from the other 49 states and the District of Columbia.

## COMPARISON BETWEEN MINNESOTA AND OTHER STATES

To examine how other states provide motor vehicle and driver's license services, we surveyed all states and the District of Columbia.<sup>11</sup> We conducted in-depth interviews with several states, including neighboring states and states that use private agents to provide tabs, titles, and driver's license renewals. Overall, we consider the information to be reliable, but it is likely that some data represent "best-guess" estimates of interviewees. In several instances, we were unable to obtain information about fees or specific number of public and private agents, because the state office had limited information. This usually occurred when

<sup>11</sup> In all analyses, we treat the District of Columbia as a state.

counties controlled the process (such as Florida or Texas) or when private agents set their own fees (such as Pennsylvania, California, and Maryland).

## Registration and Renewal Systems

To provide motor vehicle and driver's license services, Minnesota uses a central state office and a system of county, municipal, and private agents. We asked officials in all states to describe their system for titling and registering motor vehicles and renewing drivers' licenses. We found that:

- States have developed a wide variety of systems to process motor vehicle transactions and driver's license renewals.

With the exception of Hawaii, all states have a central office that regulates motor vehicle registration and titles. In some states, the same state agency regulates drivers' licenses; in other states, a different state agency is responsible.

As shown in Table 1.2, nine states use state employees exclusively to process motor vehicle transactions. Another 17 states use a combination of state employees and private agents.<sup>12</sup> Twenty-five states delegate much of the motor vehicle function to local government, usually counties.<sup>13</sup> Twelve of these states, including Minnesota, also use private agents in some capacity.

Twenty-nine states use private agents to provide some motor vehicle or driver's license services.

Altogether, we identified 29 states that use private agents to provide motor vehicle or driver's license services. The specific services performed by private agents, however, varies widely among states, and in several cases these services are provided on a limited basis. Private agents in nine states process motor vehicle titles and license plate tabs, and renew drivers' licenses.<sup>14</sup> Agents in 13 states process two of these services, usually titles and tabs.<sup>15</sup> Agents in seven other states have a single function: four do only titles, two do only tabs, and one does only driver's license renewal. For example, North Dakota has a single state office and 13 full-service private agents. Illinois has 102 full-service state offices and over 2,000 private agents that process registration renewals. Figure 1.7 shows states using private agents for none, one, or two or more of these functions.

In many states, including Minnesota, deputy registrars vary widely in size, and small deputies must often be part of another business to survive financially. States

<sup>12</sup> Several states told us that automobile dealers, leasing companies, and car rental agencies performed some motor vehicle functions. Most often, automobile dealers completed part of the title paperwork for new cars or a transfer on a used car. We did not collect information on the number of states in which dealers perform these functions.

<sup>13</sup> Four of these states use multiple state and local government offices to register and title motor vehicles. Nevada and New York operate state and county offices; New Hampshire uses state and municipality offices. In Maryland, state offices, county treasurers, and private agents provide motor vehicle services.

<sup>14</sup> Connecticut has two types of private agents. Leasing companies process vehicle titles and tabs for their own fleet; AAA processes driver's license renewals.

<sup>15</sup> In eleven of these states, private agents process titles and tabs. In Ohio, private agents process motor vehicle registration renewals and driver licenses. In Connecticut, private agents process titles and driver's license renewals.

**Table 1.2: Responsible Governmental Entity, Number of Public and Private Agents, and Type of Transactions Processed by Private Agents for Fifty States and the District of Columbia, 1993**

State	Number & Type of Agents		Number of Agents		Private Agents Process		Driver's License Renewal
	State or Branch Offices	Other Public Offices	Public	Private <sup>1</sup>	Titles	Tasks	
Alabama	No	Counties	77	Car dealers	Car dealers		
Alaska	Yes	Counties	32	2	Yes	Yes	Yes
Arizona	Yes	Branches in 1 county	31	Car dealers	Car dealers do paperwork		
Arkansas	Yes	No	150				
California	Yes	No	172	Car rental AAA, Registration service #7	Car rental, AAA, Registration service	AAA, Registration service	
Colorado	No	Counties	107				
Connecticut	Yes	No	11	Leasing companies, AAA(5)	Leasing companies		AAA
Delaware	Yes	No	4				
Dist. of Columbia	Yes	No	2				
Florida	No	Counties	67	28	Yes	Yes	
Georgia	No	Counties	159				
Hawaii	No	Counties	13	Registration services	Yes	Yes	
Idaho	No	Counties	50				
Illinois	Yes	No	102	Licensed remitters 1008, Financial institutions 2248	Licensed remitters	Yes	
Indiana	Yes	No	168	4 banks	Yes	Yes	Yes
Iowa	No	Counties	103				
Kansas	No	Counties	115				
Kentucky	No	Counties	140				
Louisiana	Yes	No	83	Title service company, Car dealers	Yes		
Maine	Yes	Some municipalities	444				
Maryland	Yes	Some counties	32	60	Yes	Yes	
Massachusetts	Yes	No	32				
Michigan	Yes	A few police stations	185; Some sheriffs do DL renewal	Fleets, Car rental	Fleets, Car rental	Fleets, Car rental	
MINNESOTA	No	Some counties and cities	91	78	Yes	Yes	Yes, Selected agents
Mississippi	No	Counties	32	Application form at car dealers, financial	Application form at car dealers, financial		
Missouri	Yes	3 in city	14	165	Yes	Yes	Yes

**Table 1.2: Responsible Governmental Entity, Number of Public and Private Agents, and Type of Transactions Processed by Private Agents for Fifty States and the District of Columbia, 1993, continued**

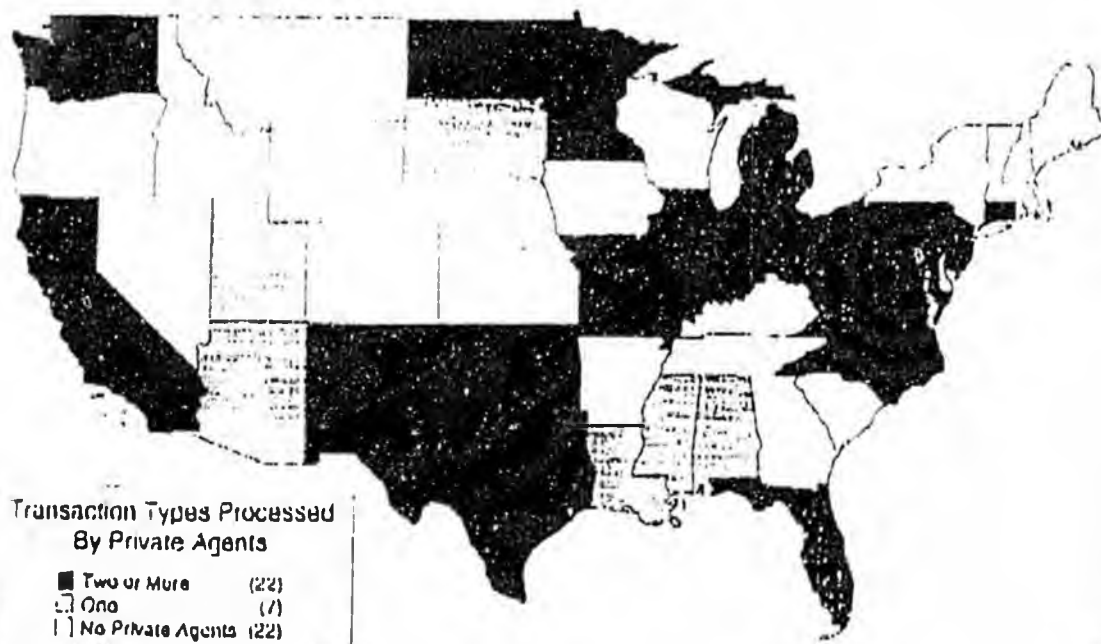
State	Number & Type of Agents		Number of Agents		Private Agents Process		Driver's License Renewal
	State or Branch Offices	Other Public Offices	Public	Private <sup>1</sup>	Titles	Tags	
Montana	Yes	No	57				
Nebraska	No	Counties	98				
Nevada	Yes	Some counties	27				
New Hampshire	Yes	Some municipalities	157				
New Jersey	Yes	1 county	28	22	Yes	Yes	Yes
New Mexico	Yes	Some municipalities	84	5	Yes	Yes	Yes
New York	Yes	Counties	101				
North Carolina <sup>2</sup>	Yes	No	2	124	Yes	Yes	
North Dakota	No	No	1	13	Yes	Yes	Yes
Ohio	No	Counties	88	208		Yes	Yes
Oklahoma	No	No	2	294	Yes	Yes	Yes
Oregon	Yes	No	66				
Pennsylvania	No	No	1	187 Messenger Services, 100 AAA, 1950 Tag Agents	Car Dealers, AAA, Messenger Services	Tag Agents Messenger Services	Messenger Services
Rhode Island	Yes	No	9	AAA tags & plate cancellation		AAA tags & plate cancellation	
South Carolina	Yes	No	76				
South Dakota	No	Counties	66	6 agents go to private companies for CL renewal			Yes
Tennessee	No	Counties	95				
Texas	No	Counties	254	177 substations 350 deputized by counties	Yes	Yes	
Utah	Yes	Counties	27	10		AAA Drop-off	
Vermont	Yes	No	8				
Virginia	Yes	A few cities or counties	98	35	Yes	Yes	
Washington	No	Counties	39	147+	Yes	Yes	
West Virginia	Yes	No	3	License services	Yes	Yes	
Wisconsin	Yes	No	27				
Wyoming	No	Counties	23				

Source: OLA Phone Survey, AAA Motor Guide.

<sup>1</sup>If number of private agents is not known, type of agent is specified.

<sup>2</sup>Additional title process driver's license renewals.

**Figure 1.7: States Using Private Agents to Process Titles, Automobile Registration, Or Driver's License Renewals**



Source: Office of the Legislative Auditor.

Note: Agents in Alaska and Hawaii process three types.

often use private agents to improve access to motor vehicle services. For example, Alaska mostly uses public agents, but uses private agents in remote areas of the state.

Officials from several states said the design of their system is based on tradition or tax policy. Longstanding patronage systems are used in Missouri, New Jersey, North Carolina, and North Dakota. Many states in which counties assess personal property taxes on motor vehicles delegate registration of motor vehicles to the counties.

### State Regulation

In Minnesota, the state or county may appoint private individuals or corporations as deputy registrars based on geographic and economic criteria. Once appointed, they cannot be removed without cause. The state Department of Public Safety closely regulates each deputy.

**Unlike Minnesota, some states appoint private agents under a formal contract.**

States vary considerably in the way they regulate private agents. Many states regulate the number and location of private agents according to geographic or economic factors similar to those used in Minnesota, such as sparsity, population of the county, and projected financial impact on or distance to the nearest agent.

Unlike Minnesota, the agent is often appointed under a formal contract. In Ohio, private agents bid on a two-year contract.<sup>16</sup> Selection of Ohio agents involves comparing their bids against a point system based on economic and demographic factors and applicant qualifications. About 20 percent of agents turn over each year, and they have an ongoing training program using a network of field representatives. Ohio also loans each agent a computer, incorporating an automated system for calculation, forms completion, and reporting.

Almost 300 private agents in Oklahoma work under a continuing contract, but they may be removed for any reason. Agents in the metropolitan areas must be three miles apart, and elsewhere the state limits the number of agents per town. Oklahoma has a \$30,000 cap on net agent fees based on IRS reimbursable expenses and agents are subject to multiple state audits.

Some states identify agents by their occupation or business. In a few states, only car dealers, car rental agencies, leasing companies, and fleets process their own titles and registration. In Illinois, over 2,000 financial institutions process tab renewals. Officials in Wisconsin told us that they are considering authorizing currency exchanges to issue tabs.<sup>17</sup> Some states delegate part or all of the appointment function to counties, which regulate their own sub-agents.

We identified six states (California, Pennsylvania, Maryland, Illinois, Hawaii and West Virginia) who register and bond registration services that act as an agent for the customer. These agents may pick up the paperwork, help complete forms, deliver applications to a central or branch office, complete payment, and return the tab or plate to the customer, charging a fee for each level of service. In Pennsylvania, only the central state office issues tabs and titles, and 187 private agents assist citizens with registration or title applications.

We asked officials from other states whether the right to be an agent could be sold to another private party. We found that:

- Minnesota is the only state where the right to provide motor vehicle and driver's license services in a protected, restricted environment can be sold to a private agent.

Officials from other states told us that the right to provide motor vehicle and driver's license services could not be sold. In states where the agents are self-selected and operate in an open environment, the agents may incorporate and sell their business, but there is no exclusive right to provide these services. Officials from most states told us that they wanted a person designated as the agent, even

<sup>16</sup> Three years in 1994.

<sup>17</sup> Currency exchanges perform various functions, such as check cashing, and are most often found in urban areas.

when the true agent was a non-profit corporation such as AAA, a Chamber of Commerce, or a Rotary Club.

Officials from several other states said that they were concerned about staff continuity because the work requires considerable knowledge of the motor vehicle and driver's license renewal systems. Missouri requires new agents to attend, at their own cost, a one-week training program, and work at their site with field representatives for two weeks. New Jersey pays all site costs for political appointees, but they also specify staffing and salary levels and require agents to be on site 35 hours per week. Most importantly, the staff is not automatically replaced when a new agent is appointed.

### Administrative Fees

In Minnesota, deputy registrars collect an administrative fee of \$3.50 for each motor vehicle title and tab transaction, and driver's license renewal. Fees for DNR transactions are less; \$3.25 for each boat title and \$.50 for each boat, snowmobile, and ATV registration.

We compared Minnesota's administrative fees with fees in other states for three types of transactions: motor vehicle registration renewals (tabs), motor vehicle titles, and driver's license renewals. We excluded from our analysis fees that were not comparable to Minnesota's fees. First, we excluded states that did not distinguish the administrative fee from the tax or user fee. We also excluded walk-in fees charged by four states because they were not designed to compensate agents for their administrative costs. For example, Alaska and Rhode Island have walk-in fees of \$10, but private agents must give this fee revenue back to the state.<sup>18</sup>

We excluded fees charged by registration services that are agents of the customer because they do not provide the same type of service as Minnesota's deputy registrars.<sup>19</sup> Unlike Minnesota, these agents provide pick-up and delivery service, but do not process the transaction or issue tabs. Since they are not agents of the state, they are minimally regulated. Their fees may be higher than most administrative fees, but since their fees are unregulated, we could not obtain reliable data.

Finally, we excluded fees in a few states in which agents (such as AAA or grocery stores) provided tab renewal as a customer service at no additional cost. Altogether, our comparison group included 32 states that had administrative fees for tabs, 30 states for titles, and 13 states for drivers' licenses. For each type of transaction, we used the higher of the fees charged by public or private agents in a state. We found:

- Minnesota's administrative fees for motor vehicle titles, tabs, and driver's license renewal are higher than fees in most other states.

<sup>18</sup> Wisconsin and Arkansas have walk-in fees of \$3 and \$2 respectively, but officials said that these fees are designed to encourage service by mail rather than cover the transaction cost.

<sup>19</sup> California, Illinois, Pennsylvania, Maryland, Hawaii, and West Virginia have licensed but minimally regulated registration services.

The median administrative fee was \$2.00 for license plate tabs, \$2.50 for titles, and \$3.00 for driver's license renewals.

The median administrative fee was \$2.00 for tabs, \$2.50 for titles, and \$3.00 for driver's license renewal.<sup>20</sup> Fees ranged from \$.75 to \$5.25 for tabs, from \$.75 to \$5.50 for titles, and from \$1.00 to \$7.50 for drivers' licenses. Compared to Minnesota, three states had the same or higher fees for tabs, six states had higher fees for titles, and three states had higher fees for driver's license renewals.

For each category, the median fee for private agents was slightly higher than that for public agents. In many states, private agents charged the same fee as public agents, most often because fees were limited legislatively. Officials in several states with relatively low fees told us that they felt their fees were too low, restricting the ability of private agents to hire and retain adequate staff.

### Use of Technology

Minnesota lags behind most other states in its use of technology. One area in which Minnesota is behind other states involves how it enters motor vehicle registration and title records into the state's data base. We found:

- Most other states upload information electronically from agents to the central database, while Minnesota duplicates data entry already performed by the deputy registrars.

Minnesota lags behind most states in use of computer technology.

Minnesota uses bar coding to scan information from unaltered bills for registration renewal. However, each year, DPS clerical staff manually enter into the state's database about 1.5 million title transactions and about 1 million registration renewals that cannot be electronically scanned. Most of this data entry duplicates work already performed by deputy registrars on their own computers. Many states upload this information electronically from agents to their central database. We believe that Minnesota could save substantial resources by electronically processing this information. In addition, motor vehicle records would be updated more quickly. The Department of Public Safety plans to test this approach for registration renewals in 1994 with the deputy registrar in Faribault. It plans to fully implement this approach in about two years.

Less than one-fourth of Minnesota's deputy registrars can retrieve information electronically from the state's motor vehicle data base. In most states, most public and private agents have computers that are connected to the central database. Most of these states either loan or lease computer equipment to agents or require anyone interested in being an agent to buy their own computers.

Agents in these states typically use computers to perform calculations, complete forms, and generate reports. States where private agents perform multiple motor vehicle functions for the public, such as Ohio and Oklahoma, are more likely to use computers extensively. Private agents with limited functions, such as financial institutions in Illinois, are not similarly automated. Many states are planning system upgrades to expand the use of computers. Officials in several states told us

<sup>20</sup> The median is the midpoint of the sample; half of the agents have higher fees and half have lower fees.

that they were planning to integrate motor vehicle and driver's license databases or currently have such a system in place.

System automation may increase agent productivity by streamlining access to state databases, calculating fees owed, and processing forms. We were also told that the need for centralized audits of agent paperwork is also reduced by the use of automation. We collected limited data on how other states review agent transactions for errors. Several states use a system similar to Minnesota's. In other states, officials told us that increased automation reduced their need to manually enter and review agent work. Officials in North Carolina told us that under their new system, error verification will be done by taking a random sample of all agents, although at a higher rate (10 percent) for new offices. They feel comfortable doing this, because the new computer system will perform all calculations and generate the forms. Database integration allows states to access information on drivers' licenses and vehicle registrations simultaneously, or link this information to other data.

### Kiosk Technology

Some states are experimenting with kiosk technology for processing motor vehicle transactions. Kiosks are stand-alone units, similar to automated teller machines, and often use appealing graphics and touchscreen technology.

We were told that the location of kiosks and the extent and variety of information and services offered are important determinants of success. Virginia's unsuccessful pilot test was in part due to the cost of placing a kiosk in a high traffic shopping mall. The Social Security Administration has kiosks in several branch office lobbies, minimizing security concerns. California's InfoCalifornia project provides 24-hour access to information about government services from 15 kiosks in two counties. The program recently won a 1993 Innovations in State and Local Government Award from Harvard University. We were told that citizens will eventually be able to obtain tabs and renew drivers' licenses. Other states are also studying this technology, including Washington, Wisconsin, Alaska, and South Dakota.

### Integrating Emissions Testing and Registration Renewal

Minnesota is one of several states that require automobile emissions tests, either statewide or in designated metropolitan areas, as a prerequisite to registration renewal. Residents of the Twin Cities metropolitan area must make two stops to renew their automobile registration. To allow one-stop registration renewal, some states have looked at providing renewals at the emission test sites. Oregon has run an award-winning pilot program in the city of Medford (population 67,000) for several years. No staff were added at the state-run emission test site and there was a 20 percent increase in emissions test waiting time. However, we were told by Oregon officials that customers are happier because they make only one stop. The paperwork for tabs must still be entered into the motor vehicle database at a local state-run motor vehicle office, since they do not as yet have an integrated system. The workload in that office has not decreased overall, although it is easier to

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**Some other states are experimenting with kiosk technology and integrating emission testing with registration renewal.**

schedule. However, when the two systems are integrated, it is likely that workload in the motor vehicle office will decrease. Since they have had long waiting times previously, no staff will probably be released. They plan to expand to Portland when the entire system is automated and integrated. Washington, Wisconsin, Connecticut, and New Hampshire are also studying integrating emission testing and registration renewal.

Arizona introduced emission testing on a voluntary basis at several sites that processed registration renewals. When it fully implemented emission testing, it chose not to offer registration renewals at its permanent emission test stations. A state official told us that combining these two functions would increase transaction and waiting times.

New Jersey requires emissions tests statewide. Most of their motor vehicle offices, including private agents, are located near an inspection station. In addition, there are five full service facilities which combine motor vehicle agents (two of which are private), driver's license testing, and a state-run inspection station.

Wisconsin officials told us that their contract for emissions testing services is currently up for renewal. They have written the specifications for the new contract to include an option for the state to require the emissions contractor to issue tabs. Contractors are to provide specific "mini-proposals" for integrating tab renewal with emissions testing as part of their bid for the state contract.

## Renewal by Mail and Phone

Minnesota and almost every other state allow residents to renew their vehicle registration by mail. Minnesota charges the same fee for mail service as it does for walk-in service and it processes about 9 percent of license plate tab renewals by mail. Comparable data from 18 other states indicate that:

- Other states process more registration renewals by mail than Minnesota.

States with non-mandatory mail renewal process an average of 53 percent of registration renewals by mail, about six times Minnesota's percentage. A few states, such as Connecticut and New York, require tab renewal by mail.

One reason that other states process more tabs by mail may be that most states do not charge an administrative fee for mail renewal. Some states (Alaska, Arkansas, Maine, Wisconsin, and Rhode Island) encourage mail renewal by charging a "walk-in" fee of up to \$10.00. Another reason may be that, unlike Minnesota, some states include a return envelope with their registration bill. In a few states with county systems, renewals may be done by mail directly to the county.

A few states, such as Wisconsin and Oklahoma, permit tab renewal by phone with payment by credit card and others, such as Massachusetts and Pennsylvania, are studying this option. Michigan and Indiana permit credit card payment for mail renewals. Some state officials said that they have not implemented credit card pay-

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**On average,  
other states  
process about  
half of  
registration  
renewals by  
mail.**

ments because they were told that they cannot charge customers for using credit card services. Wisconsin officials told us that this was not an issue for them because they have a legislatively designated service fee and a similar fee may be charged for credit card transactions.

## SUMMARY

States use a wide variety of systems to register and title motor vehicles and to renew drivers' licenses. To provide access to the public, states supplement the central state office with state branch offices, county or municipal offices, or private agents. Minnesota's system of public and private agents, regulated by a central state office, is fairly typical of the states using public and private agents. Like private agents in many other states, deputy registrars vary widely in size, and small deputies must often be part of another business to survive financially.

Minnesota's system for initially appointing private agents is similar to that used in several other states. However, Minnesota is unique in allowing the sale of a deputy registrar business sheltered by the state from competition.

Minnesota lags behind most other states in how it uses technology. Less than one-fourth of all deputy registrars have computer access to the state database, and much of the data entry performed by state employees duplicates work already performed by deputy registrars.

July 7, 1986  
10 25-15

## Car dealers privatize registration mailing

By ARLENA SAWYER

The state of Montana and the Montana Chevy Dealers Association have joined forces for what might be the first government direct-mail advertising campaign.

The dealers association won a bid to mail out 300,000 Montana motor vehicle registration renewal notices in the next year. As part of the agreement, the government mailing will include an ad message from the recipient's local Chevrolet dealer.

"We are quite excited about the sales potential of this privatized mailing," said Bill Cowen, president of the Chevrolet dealers group.

"It's a win-win situation," Mr. Cowen said. "We will be saving hundreds of thousands of dollars of taxpayers' money, and we will reach vehicle owners with our marketing message in a rather unique advertising medium."

The first 25,000 mailings were to have gone out Oct. 1, said Bob Henkel, executive director of the dealer group.

The contract is for one year with an option for two more. It allows the state or the association to cancel the contract by giving a 60-day notice.

Don Roberts, administrator of the Montana Department of Justice, Motor Vehicle Division, said including advertising with the registrations will save about \$200,000 annually.

The division decided to privatize the mailing in January after the Legislature suggested discontinuing it to cut costs, he said.

Private companies advertising in government documents is rare, but the practice is not unheard of.

Focus group studies conducted by the dealers' ad agency indicate that consumers like the idea of the dealer ads saving the state money, Mr. Henkel said.

— *Crain News Service*



STATE OF WASHINGTON  
DEPARTMENT OF LICENSING  
Olympia, Washington 98504-8001

November 22, 1994

Patricia Young  
~~Division of Motor Vehicles~~  
~~3150 E. Downing Rd.~~  
~~Anchorage, Alaska~~

Dear Ms. Young:

Enclosed is a copy the Revised Code of Washington (RCW) 46.01.130 authorizing the director of the Department of Licensing to appoint county auditors as his/her agent to perform vehicle licensing duties. Washington state has thirty-nine counties. In addition, RCW 46.01.140(2), copy attached, authorizes the director to appoint subagents as requested by the county auditors. The director has appointed approximately one hundred fifty subagents.

In fiscal year 94 (July 1, 1993 thru June 30, 1994) Auditors and their subagents process 1,333,178 title applications out of a total of 1,967,780. The balance of 134,602 were processed by the department.

The department provides computer terminals to the auditors/subagents with data lines to mainframe computers located in Olympia, headquarters for the department. The agents/subagents review, collect/deposit fees, and process the title applications from through the terminals. The application data is transmitted over data lines to the mainframe. Twice a week the title data is down loaded to magnetic tape and shipped to Moore, Business Forms & Systems Division, Logan, Utah where the title documents are printed and mailed to the applicant.

If you need additional information or have any questions please call me on (206) 902-3773.

Sincerely,

  
Jack L. Lince  
Contracts Manager

**RCW 46.01.130 Powers of department and director—Personnel—Appointment of county auditors as agents.**

The department of licensing shall have the general supervision and control of the issuing of vehicle licenses and vehicle license number plates and shall have the full power to do all things necessary and proper to carry out the provisions of the law relating to the licensing of vehicles; the director shall have the power to appoint and employ deputies, assistants and representatives, and such clerks as may be required from time to time, and to provide for their operation in different parts of the state, and the director shall have the power to appoint the county auditors of the several counties as his agents for the licensing of vehicles.

**RCW 46.01.140 County auditors, others, as special deputies and subagents of director—Disposition of application fees.**

(1) The county auditor, if appointed by the director of licensing shall carry out the provisions of this title relating to the licensing of vehicles and the issuance of vehicle license number plates under the direction and supervision of the director and may with the approval of the director appoint assistants as special deputies and recommend subagents to accept applications and collect fees for vehicle licenses and transfers and to deliver vehicle license number plates.

(2) A county auditor appointed by the director may request that the director appoint subagents within the county. Upon authorization of the director, the auditor shall advertise a request for proposals and use the process for soliciting vendors under RCW 39.04.190(2), except that the provision requiring the contract to be awarded to the lowest responsible bidder shall not apply. The auditor shall submit all proposals to the director, and shall recommend the appointment of one or more subagents who have applied through the request for proposal process. The director has final appointment authority.

(3)(a) A county auditor who is appointed as an agent by the department shall enter into a standard contract provided by the director, developed with the advice of the title and registration advisory committee.

(b) A subagent appointed under subsection (2) of this section shall enter into a standard contract with the county auditor, developed with the advice of the title and registration advisory committee. The director shall provide the standard contract to county auditors.

(c) The contracts provided for in (a) and (b) of this subsection must contain at a minimum provisions that:

(i) Describe the responsibilities, and where applicable, the liability, of each party relating to the service expectations and levels, equipment to be supplied by the department, and equipment maintenance;

(ii) Require the specific type of insurance or bonds so that the state is protected against any loss of collected motor vehicle tax revenues or loss of equipment;

(iii) Specify the amount of training that will be provided by the state, the county auditor, or subagents;

(iv) Describe allowable costs that may be charged to motor vehicle licensing activities as provided for in (d) of this subsection;

(v) Describe the causes and procedures for

termination of the contract, which may include mediation and binding arbitration.

(d) The department shall develop procedures that will standardize and prescribe allowable costs that may be assigned to motor vehicle licensing activities performed by county auditors.

(e) The contracts may include any provision that the director deems necessary to ensure acceptable service and the full collection of motor vehicle tax revenues.

(f) The director may waive any provisions of the contract deemed necessary in order to ensure that readily accessible service is provided to the citizens of the state.

(4)(a) At any time any application is made to the director, the county auditor, or other agent pursuant to any law dealing with licenses, registration, or the right to operate any vehicle upon the public highways of this state, excluding applicants already paying such fee under RCW 46.16.070 or 46.16.085, no applicant shall pay to the director, county auditor, or other agent a fee of two dollars for each application in addition to any other fees required by law.

(b) Counties that do not cover the expenses of motor vehicle licensing activities may submit to the department a request for cost-coverage moneys. The request must be submitted on a form developed by the department. The department shall develop procedures to verify whether a request is reasonable. Payment shall be made on requests found to be allowable from the licensing services account.

(c) Applicants for certificates of ownership, including applicants paying fees under RCW 46.16.070 or 46.16.085, shall pay to the director, county auditor, or other agent a fee of three dollars in addition to any other fees required by law.

(d) The fees under (a) and (c) of this subsection, if paid to the county auditor as agent of the director, or if paid to a subagent of the county auditor, shall be paid to the county treasurer in the same manner as other fees collected by the county auditor and credited to the county current expense fund. If the fee is paid to another agent of the director, the fee shall be used by the agent to defray his or her expenses in handling the application.

(5) A subagent shall collect a service fee of (a) five dollars and fifty cents for changes in a certificate of ownership, with or without registration renewal, or verification of record and preparation of an affidavit of lost title other than at the time of the title application or transfer and (b) two dollars and twenty-five cents for registration renewal only, issuing a transit permit, or any other service under this section.

(6) If the fee is collected by the state patrol as agent for the director, the fee so collected shall be certified to the state treasurer and deposited to the credit of the state patrol highway account. If the fee is collected by the department of transportation as agent for the director, the fee shall be certified to the state treasurer and deposited to the credit of the motor vehicle fund. All such fees collected by the director or branches of his office shall be certified to the state treasurer and deposited to the credit of the highway safety fund.

(7) Any county revenues that exceed the cost of providing motor vehicle licensing activities in a county, calculated in accordance with the procedures in subsection (3)(d) of this section, shall be extended as determined by the county legislative authority during the process established by law for adoption of county budgets.

(8) The director may adopt rules to implement this section.

NORTH  
DAKOTA

CHAPTER 39-02  
REGISTRAR

Section	Section
39-02-01. Registrar of motor vehicles — Appointment — Term — Removal — Oath — Bond.	suspension, or rescission of a motor vehicle registration or a certificate of title to a motor vehicle.
39-02-02. Salary and expenses of registrar.	39-02-04. Office of registrar open for licenses and information — Time.
39-02-03. Powers and duties of registrar and department.	39-02-05. Records of the department open to public inspection.
39-02-03.1. Registrar to provide notice and opportunity for hearing prior to cancellation, revocation,	39-02-06, 39-02-07. Repealed.

39-02-01. Registrar of motor vehicles — Appointment — Term — Removal — Oath — Bond. The governor shall appoint a suitable person as registrar of motor vehicles. The registrar shall serve for a term of two years and until his successor is appointed and qualified, but he may be removed at any time for cause. He shall qualify by taking the oath prescribed for civil officers and shall furnish a bond in the penal sum of twenty thousand dollars, which must conform to the provisions of law applicable to the bonds of state officers. If such bond is furnished by a surety other than the state bonding fund, it must be approved as to form and sufficiency by the attorney general.

Source: S.L. 1927, ch. 179, § 2, §1; 1931, ch. 186, § 7; 1933, ch. 160, § 2; R.C. 1943, § 39-0201; S.L. 1951, ch. 236, § 2; 1957 Supp., § 39-0201.

Cross-References.  
General penalty for violation of title, see § 39-07-06.  
Oath, see N.D. Const. 211; § 44-01-05.

39-02-02. Salary and expenses of registrar. The salary of the registrar for all services rendered in any capacity whatever must be within the amount appropriated for salaries by the legislative assembly. He must be allowed in addition thereto his necessary and actual expenses incurred in the discharge of his official duties.

Source: S.L. 1927, ch. 179, § 2, §1; 1931, ch. 186, § 7; 1933, ch. 160, § 2; R.C. 1943, § 39-0202; S.L. 1945, ch. 264, § 16; 1949, ch. 314, § 15; 1967 Supp., § 39-0202, S.L. 1981, ch. 535, § 12.

ND

39-02-03

## MOTOR VEHICLES

**39-02-03. Powers and duties of registrar and department.** The registrar, subject to the approval of the governor, may adopt and enforce such administrative rules and regulations and designate such agencies and establish such branch offices as may be necessary to carry out the laws applicable to his office and department. He shall provide suitable forms for applications, registration cards, license number plates, and all other forms requisite for the operation of his office and department, and shall prepay all transportation charges thereon. In addition, the registrar shall provide for a uniform fee schedule for the various services provided by the branch offices. All branch office personnel must be bonded. The department and the officers thereof shall enforce the provisions of all laws pertaining to the registrar and the motor vehicle department.

Source: S.L. 1927, ch. 178, § 1; R.C. 1943, § 39-0203; S.L. 1951, ch. 236, § 1; 1957 Supp., § 39-0203; S.L. 1967, ch. 294, § 1; 1973, ch. 323, § 1. Cross-References. Communications advisory committee memorandum, see § 54-23.1-03.

**39-02-03.1. Registrar to provide notice and opportunity for hearing prior to cancellation, revocation, suspension, or rescission of a motor vehicle registration or a certificate of title to a motor vehicle.** Whenever, under the laws pertaining to the cancellation, revocation, suspension, or rescission of a registration of a motor vehicle or a certificate of title to a motor vehicle, a determination has been made to cancel, revoke, suspend, or rescind either the registration or certificate of title, or both, the registrar of motor vehicles shall provide the legal and registered owner with notice of such cancellation, revocation, suspension, or rescission and the opportunity for a hearing. Such notice must be sent by registered or certified mail, return receipt requested, not less than ten days prior to the effective date of the cancellation, revocation, suspension, or rescission.

Source: S.L. 1975, ch. 324, § 1.

**39-02-04. Office of registrar open for licenses and information — Time.** The office of the registrar must be open and accessible to all applicants for motor vehicle licenses and to all persons desiring information regarding the records of his office during all reasonable office hours.

Source: S.L. 1927, ch. 179, § 4; 1931, ch. 186, § 2; 1933, ch. 160, § 3; R.C. 1943, § 39-0204.

**39-02-05. Records of the department open to public inspection.** All registration and license records in the office of the department must be public records and must be open to inspection by the public during business hours. The registrar of motor vehicles shall charge a uniform fee, not to exceed one dollar, for each item of information furnished to any person concerning a specific motor vehicle. However, such charges may not be assessed to a person requesting information concerning a motor vehicle of which he is the owner, nor may such charges apply to law enforcement officials requesting motor vehicle information in their official capacity. All fees received under the provisions of this section must be credited to the motor vehicle registration fund.

Source: S.L. 1927, ch. 179, § 5; R.C. 1943, § 39-0205; S.L. 1959, ch. 289, § 2.

**Cross-References.**

Abstracts of motorists' driving records, see also, see §§ 39-16-03, 39-16-03.1.

Access to public records, violation an infraction, see § 44-04-18.

**Collateral References.**

Right to inspect motor vehicle records, 84 A.S.R. 2d 1261.

## PREFACE TO THE AGREEMENT

The Department of Transportation branch offices are established to serve the public in all matters of vehicle registration.

The primary functions of the branch office are to:

1. Provide local service in the more complex registrations.
2. Provide local service for the licensing of all vehicles.
3. Reduce the workload of the Department of Transportation.

The criteria for establishing and maintaining a branch office is:

1. Adequate public need and interest.
2. Adequate office space and parking convenient for the public.
3. Adequate office staff to serve the public.
4. Office hours acceptable to the public.
5. Full compliance with the Americans with Disabilities Act (ADA).

The powers and duties of the Director and Department of Transportation are outlined in the North Dakota Century Code (Sections 24-02-01.2 and 39-02-03). The primary purpose of a branch office operation is to serve the public. With this in mind, additional offices may be opened when the need exists or it is determined to be in the public interest.

The Branch Office Agreement brings into being a private enterprise operation conducting state business. The general public should be made aware of the joint commitment of the private and governmental sectors merger to bring to the citizens of North Dakota a system of better service.

The Department of Transportation shall continue its effort to be a servant of the people and to improve and upgrade its services. The branch office must be a responsible partner in this effort to ensure its success.

Marshall W. Moore, Director  
DEPARTMENT OF TRANSPORTATION

## BRANCH OFFICE AGREEMENT

This Agreement is entered into by the North Dakota Department of Transportation, 608 East Boulevard Avenue, Bismarck, North Dakota 58505-0700, hereinafter referred to as NDDOT; and \_\_\_\_\_, whose address is \_\_\_\_\_, hereinafter referred to as the Manager.

Witnesseth:

\_\_\_\_\_

I.  
AUTHORITY

Pursuant to this Agreement, the Manager's authority to act on behalf of the Director, the Department of Transportation, and the state of North Dakota is expressly limited to the following enumerated responsibilities and duties:

- A. The Manager will process all applications with proper documentation for the initial registration of vehicles in the state and shall issue registration plates for such vehicles. No application or fees shall be accepted unless proper documentation is provided. Application for apportioned (prorate) registration shall be accepted only when authorized by NDDOT.
- B. The Manager shall process registration renewals and issue registration plates or renewal tabs for such renewals.
- C. The Manager shall issue temporary registration for vehicles on which such registration is sought.
- D. The Manager shall assess and collect the proper registration fees and taxes prescribed by law.
- E. The Manager shall oversee the day to day operations of the branch office.

II.  
OFFICE MANAGEMENT AND PROCEDURES

- A. The Manager agrees to hire additional persons as necessary for the efficient operation of the branch office. The cost of such employment shall be the sole responsibility of the Manager. The Manager agrees to notify NDDOT of any changes in personnel that occur during the term of the Agreement.
- B. The Manager will become familiar with the regulations, procedures, and policies associated with vehicle registrations and assure that all employees will attend orientation/training programs as prescribed by NDDOT. NDDOT shall determine whether the cost of attending orientation/training shall be the responsibility of the Manager or NDDOT.

- C. The branch office shall be self-sustaining as to all costs and expenses in its operation.
- D. The Manager is authorized to charge the customer a service fee prior to issuing any registration or accepting any application. A schedule of maximum charges for these fees is in Addendum 1. A notice advising the public of the nature and amount of the service fee shall be conspicuously posted in the branch office. No service fee may be charged for the notarization or verification of forms unless deemed as extraneous to the application (see Addendum 1).
- E. The Manager may charge the customer for long distance telephone calls, letters written, and postage costs incurred on behalf of the customer. Any additional fees collected must be shown separately on the receipt.
- F. The Manager agrees to establish and maintain a separate bank account to be designated as the account of the \_\_\_\_\_ Motor Vehicle Branch Office. The following conditions govern the use and maintenance of the account.
  1. All monies received by the branch office shall be deposited into the account daily. Under no circumstances shall the Manager retain the daily monies in the office or any residence overnight, over holidays, or over the weekend.
  2. Checks may be drawn on the account only for the purpose of remitting daily monies due NDDOT and for the withdrawal of service fees earned by the branch office. The Manager agrees that the person closing the business at the end of the business day shall be authorized to sign checks and complete the daily bank deposit. Checks may not be presigned.
  3. The checkbook for the account shall be brought to a zero balance daily. The checks drawn must equal the amount of the corresponding deposit. In some instances, the checkbook may carry a negative balance in an amount equal to the non-sufficient fund checks for which reimbursement by NDDOT has not been made.
  4. No check may be drawn for the purpose of making any refund.
  5. A ledger shall be maintained, daily, indicating totals of deposits and withdrawals. The ledger shall be kept in such a manner as to clearly indicate that the total withdrawals for remittance to NDDOT and the total withdrawals for service fees due the branch office are equal to the amount of total deposits. A copy of the daily report, properly completed, shall be furnished daily to the Director.
  6. A copy of the bank statement, daily ledger, and bank reconciliation form must be submitted to NDDOT within seven (7) working days of receipt of the bank statement from the bank.

7. A copy of all receipts used must be submitted daily to NDDOT. However, NDDOT may allow these receipts to be submitted weekly upon request by the Manager.
8. All checks drawn on the account of the \_\_\_\_\_ Motor Vehicle Branch Office and subsequently voided, shall be duly noted in the checkbook register and on the bank reconciliation form, and the voided checks shall be retained by the Manager.
9. All non-sufficient fund (NSF) checks must be returned to NDDOT for collection. NDDOT will issue a reimbursement check to the branch office for the amount of the NSF check. If the NSF check is uncollectible, that portion of the check representing the branch office service fee must be remitted to NDDOT by the branch office.
- G. All checks must be stamped "For Deposit Only" at the time received.
- H. The Manager agrees that all working papers, title applications, registration applications, renewal applications, license plates, tabs and any other material, documents, or papers that are utilized in fulfilling the duties of Manager shall be the property of the state of North Dakota.
- I. All applications for title or registration must be submitted daily to NDDOT except that the Manager is authorized to place applications in an overnight bank depository. Applications for title or registration may not be kept overnight in the branch office without prior approval by NDDOT. NDDOT may authorize overnight retention of applications for title or registration if satisfied the Manager has a secure facility for retention of documents at the branch office.
- J. If the Manager is not able to get satisfactory customer response on a rejected application after forty-five (45) days, the application must be returned to the NDDOT for further action. The manager must pay a \$5.00 fee for any rejected application returned to the department for further action. NDDOT reserves the right to waive the \$5 fee.
- K. All receipts must be accounted for and retained for audit use. After each official audit by the State Auditor's Office, the Manager may dispose of audited receipts as they deem appropriate for their own business purposes.
- L. A record must be kept of all tabs or plates missing from the manufacturer or issued in error.
- M. All expired validation decals must be returned monthly to NDDOT.
- N. Any unusual occurrence in the branch office (fire, burglary, accounting discrepancy, etc.) must be immediately reported to NDDOT.
- O. General information available to the Manager that relates to motor vehicle registration shall be furnished without charge.

- P. The Manager agrees to maintain reasonable office hours for the general public. The Manager also agrees to notify NDDOT of any changes in office hours or closings of the branch office on days when NDDOT is open to the public. The Manager shall be responsible for any costs incurred to advertise the closure of the branch office.
- Q. The Manager agrees to be closed to the public during those holidays when the department is closed, unless authorized by NDDOT to be open.
- R. The Manager agrees that at least one (1) full-time worker at the branch office will be a notary public.
- S. Employees of the branch office are recognized by the public as representing the state of North Dakota in matters concerning motor vehicle registration. The Manager shall establish policies necessary to appropriately handle general public contacts and inquiries.
- T. The Manager agrees that this contract is for the operation of a branch office only in the city specified.
- U. The Manager agrees that all equipment supplied to the branch office by NDDOT remains the property of NDDOT. The Manager also agrees that any costs associated with relocating this equipment will be the responsibility of the Manager unless the relocation is directed by NDDOT.
- V. The Manager agrees to ensure that information relating to specific vehicle registration data is not provided to the general public except as directed by NDDOT.
- W. The Manager agrees that the cost of replacing equipment supplied to the branch office by NDDOT will be the responsibility of the Manager if equipment must be repaired or replaced as a result of damage caused by negligence on the part of the Manager or employees.

### III. INSURANCE COVERAGE AND BONDING

- A. The Manager is responsible for protecting public monies and is liable for the loss of public monies as a result of embezzlement, theft, or misappropriation by the Manager or any person employed by the Manager. The Manager shall furnish a surety bond, valid for the period of the Agreement, in the amount of                     . The surety bond must be executed by the Manager as principal, executed by a surety company licensed and qualified to do business within the state of North Dakota, and under which NDDOT is the obligee.
- B. NDDOT will arrange for robbery insurance coverage against loss of public monies. However, the robbery insurance coverage will not include the service fees collected by the Manager or any other monies not expressly due to NDDOT.



- F. This agreement shall be subject to termination, by either party, upon thirty (30) days written notice to the other party. Additionally, NDDOT reserves the right to terminate this Agreement immediately and to assume the duties of the Manager whenever the public interest is jeopardized.
- G. CIVIL RIGHTS - DISCRIMINATION. Under NDCC, section 14-02.4-01 it is the policy of the state of North Dakota to prohibit discrimination on the basis of race, color, religion, sex, national origin, age, the presence of any mental or physical disability, or status with regard to marriage or public assistance; to prevent and eliminate discrimination in employment relations, public accommodations, housing, and state and local government services.
- H. HOLD HARMLESS. The manager shall save and hold harmless the state of North Dakota and NDDOT, its officers, agents, employees, and members, from all claims, suits, or actions of whatsoever nature resulting from or arising out of this Agreement.
- I. MERGER. This agreement constitutes the entire agreement between the parties. No waiver consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change, if made, shall be effective only in the specified therein regarding representations, oral or written, not specified herein regarding this agreement. The manager, by the signature of its authorized representative, hereby acknowledges that the manager has read this agreement, understands it, and agrees to be bound by its terms and conditions.
- J. AMENDMENTS. The terms of this agreement shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument signed by the parties.
- K. ASSIGNMENTS. The manager shall not assign nor transfer the manager's interest in this agreement without the express written consent of NDDOT.
- L. SUCCESSORS IN INTEREST. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.
- M. WAIVERS. The failure of NDDOT to enforce any provisions of this agreement shall not constitute a waiver by NDDOT of that or any other provision.
- N. NOTICE. All notices, certificates, or other communications shall be sufficiently given when delivered or mailed, postage prepaid, to the parties at their respective places of business as set forth in the Agreement.

This Agreement becomes effective when all parties have signed and shall terminate on \_\_\_\_\_, 19\_\_\_\_.

IN WITNESS WHEREOF:

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

WITNESS

MANAGER

\_\_\_\_\_

\_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

WITNESS

NORTH DAKOTA DEPARTMENT OF  
TRANSPORTATION

\_\_\_\_\_

\_\_\_\_\_

Director

Recommended for approval by:

\_\_\_\_\_

## Addendum #1.

## MAXIMUM SERVICE FEE SCHEDULE

Pursuant to Section II (D) of the Branch Office Agreement, the following maximum service fee schedule is hereby established.

APPLICATION FOR LICENSE ONLY	MAXIMUM
A. Renewal Card	\$2.00
B. Form SFN-2872 (MVD-100)	3.00
C. Computer Generated Form	3.00
NEW AND FOREIGN TITLE AND LICENSE APPLICATION	4.00
TITLE TRANSFER APPLICATION	3.00
TITLE TRANSFER AND LICENSE APPLICATION	4.00
APPLICATION FOR DUPLICATE PLATES AND/OR TABS	3.00
APPLICATION FOR DUPLICATE TITLE	3.00
APPLICATION FOR DUPLICATE REGISTRATION CARD	3.00
APPLICATION FOR WEIGHT INCREASE	3.00

---

Marshall W. Moore, Director  
DEPARTMENT OF TRANSPORTATION

MICHIGAN DEPARTMENT OF STATE

RICHARD H. AUSTIN SECRETARY OF STATE



OFFICE OF TRAFFIC SAFETY  
THIRD PARTY TESTING  
MUTUAL BUILDING  
208 N. CAPITOL AVENUE  
LANSING, MI 48918-2222  
(517) 373-7620  
FAX (517) 335-0125

November 29, 1994

Ms. Patricia Young  
Legislative Research  
130 Seward Street Ste 218  
Juneau, Alaska 99801

Dear Ms. Young:

RE: Statute 312F - CDL Third Party Contract

In response to your recent request for information pertaining to the statutory provision for Third Party testing, I have enclosed the following information:

- 1) A copy of the 1993 Supplement to the 1992 Edition of the Michigan Vehicle Code
- 2) Copies of the Agreement and Requirements documents between the Michigan Department of State and a Commercial Driver License Third Party Tester.

Please keep in mind that the language in the contract is presently being proposed to replace the current contract.

If we can be of further assistance, please feel free to call.

Sincerely,

*Bill Charron*

Bill Charron, Director  
Third Party Testing Program

BC:df

# 1993 SUPPLEMENT TO THE 1992 EDITION MICHIGAN VEHICLE CODE

Includes Related Laws Concerning  
Ownership and Use of Vehicles

(Public Acts enacted through December 31, 1992)

Compiled Under the Supervision  
of the  
Secretary of State



**Price for Supplement only:  
\$7.00 (includes postage)  
5.00 (pick up price)**

Orders by mail should be directed to:

Michigan Department of State  
Purchasing and Contracts Section  
Lansing, MI 48918-1444  
Telephone: (517) 373-2570

Funds collected are used to pay the cost associated with preparing, printing, and distributing this publication.

257.312f Vehicle group designation or indorsement on operator's or chauffeur's license; age; tests; waiver; conditions prohibiting issuance of vehicle group designation; determining applicability of subsection (4); definitions.

Sec. 312f. (1) Except as otherwise provided in this section, a person shall be not less than 18 years of age before he or she is issued a vehicle group designation or indorsement, other than a motorcycle indorsement, on an operator's or chauffeur's license and, as provided in this section, the person shall pass knowledge and driving skills tests that comply with minimum federal standards prescribed in 49 C.F.R. part 383. A person operating a vehicle to be used for farming purposes only may obtain a group A, a group B, or an F vehicle group designation if he or she is not less than 16 years of age. Each written examination given an applicant for a vehicle group designation or indorsement on an operator's or chauffeur's license shall include subjects designed to cover the type or general class of vehicle to be operated. A person shall pass an examination that includes a driving test designed to test competency of the applicant for an original vehicle group designation and passenger indorsement on an operator's or chauffeur's license to drive that type or general class of vehicle upon the highways of this state with safety to that person and other persons and property. The secretary of state shall waive the driving skills test for a person operating a vehicle that is used under the conditions described in section 312e(4)(a) to (d) unless the vehicle has a gross vehicle weight rating of 26,001 pounds or more on the power unit and is to be used to carry hazardous materials on which a placard is required under 49 C.F.R. parts 100 to 199. The driving test may be waived if the applicant has a valid license, indorsement, or vehicle group designation to operate that type or group of vehicle in another state, except that the driving test for a vehicle group designation or passenger vehicle indorsement may not be waived unless the applicant has a valid license with the appropriate vehicle group designation or passenger vehicle indorsement in another state issued in compliance with the commercial motor vehicle safety act of 1986, title XII of Public Law 99-570, 100 Stat. 3207-170.

(2) The secretary of state shall waive the knowledge test and the driving skills test and issue a 1-year seasonal restricted vehicle group designation for an otherwise qualified person who desires to operate a group B or a group C vehicle for a farm related service industry under the following conditions:

(a) An applicant shall possess a good driving record. However, an applicant who has not held an operator's or chauffeur's license for at least 1 year is not eligible for a waiver. An applicant who has between 1 and 2 years of driving experience shall possess a good driving record for his or her entire driving history. An applicant who has more than 2 years of driving experience shall possess a good driving record for the 2 years immediately preceding application for a waiver.

(b) The seasons for which the seasonal restricted vehicle group designation is issued shall be from April 2 to June 30 and from September 2 to November 30 only of a 12-month period or, at the option of the applicant, for not more than 180 days from the date of issuance in a 12-month period subsequent to 1992. A seasonal restricted vehicle group designation under this subsection shall be issued, suspended, revoked, canceled, or renewed in accordance with this act. The good driving record shall be confirmed before each season and 180-day period.

(c) The commercial motor vehicle for which the seasonal restricted vehicle group designation is issued shall be operated only on routes within 150 miles from the place of business to the farm or farms being served.

(d) The commercial motor vehicle for which the seasonal restricted vehicle group designation is issued shall not transport a quantity of hazardous materials on which a placard is required except for the following:

- (i) Diesel motor fuel in quantities of 1,000 gallons or less.
- (ii) Liquid fertilizers in quantities of 3,000 gallons or less.
- (iii) Solid fertilizers that are not transported with any organic substance.

(e) The commercial motor vehicle for which a seasonal restricted vehicle group designation is issued shall not include a bus or school bus.

(3) The secretary of state may enter into an agreement with another public or private person or agency to conduct a skills test required under this section, section 312e, or 49 C.F.R. part 383.

(4) The secretary of state shall not issue a vehicle group designation to an applicant for an original vehicle group designation to whom 1 or more of the following apply:

(a) The applicant has had his or her license suspended or revoked for a reason other than as provided in section 321a, 515, or 801c in the 36 months immediately preceding application, except that a vehicle group designation may be issued if the suspension or revocation was due to a temporary medical condition or failure to appear at a reexamination as provided in section 320.

(b) The applicant was convicted of or incurred a bond forfeiture in relation to a 6-point violation as provided in section 320a in the 24 months immediately preceding application, or a violation of section 625(3) or former section 625b, or a local ordinance substantially corresponding to section 625(3) or former section 625b in the 24 months immediately preceding application, if the violation occurred while the applicant was operating a type of vehicle that is operated under a vehicle group designation.

(c) The applicant is listed on the national driver register, the commercial driver license information system, or the driving records of the state in which the applicant was previously licensed as being disqualified from operating a commercial motor vehicle or as having a license suspended, revoked, canceled, or denied.

FARM TEST WAIVER

Section CDC

FARM REST

Third Party TEST

**AGREEMENT**  
between the  
**MICHIGAN DEPARTMENT OF STATE**  
and a  
**COMMERCIAL DRIVER LICENSE THIRD PARTY TESTER**

1 THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_,  
2 19\_\_\_\_,

3 BY AND BETWEEN the MICHIGAN DEPARTMENT OF STATE (hereinafter the Department)

4 AND \_\_\_\_\_  
5 (hereinafter the Third Party Tester)

6 LOCATED AT [THIRD PARTY TESTER ADDRESS]

7 \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_  
10 \_\_\_\_\_  
11

12 This agreement authorizes of the named Third Party Tester to administer Commercial  
13 Driver License skills tests on behalf of the Department.

14 NOW, THEREFORE, the Department and the Third Party Tester, for good and valuable

1 consideration and pursuant to the terms and conditions set forth herein, mutually agree  
2 as follows:

3 I. TERM OF AGREEMENT: RENEWALS

4 This agreement is effective on the date of execution of this agreement, and shall  
5 replace any comparable agreement previously executed between the parties. This  
6 document shall expire on December 31, but may be renewed for additional annual  
7 periods extending from January 1 through December 31 of subsequent years, provided  
8 that any such renewal is set forth in writing and that the renewal is signed by  
9 a duly authorized representative of each party. Executing such a renewal shall  
10 be automatically incorporated herein by reference.

11 II. THE DEPARTMENT AGREES TO:

12 A. Testing

13 Permit the Third Party Tester to administer commercial driver license skills  
14 tests pursuant to the terms of this agreement, and all of the provisions set  
15 forth in the Third Party Requirements Document and applicable provisions of  
16 state and federal Law.

17 B. Administration and Enforcement

18 Administer and enforce the provisions of the Commercial Driver License Third  
19 Party Testing program.

20 C. On-Site Inspections

21 Conduct an on-site inspection of Third Party Tester facilities, and an audit

1 of its books, and records annually.

2 D. Performance Evaluation Audit

3 Conduct a performance evaluation audit of the skills tests administered by  
4 the Third Party Tester annually.

5 E. Reports

6 Prepare a written report of the results of each inspection and audit, and  
7 provide a copy of the report to the Third Party Tester.

8 III. THE THIRD PARTY TESTER AGREES TO:

9 A. Legal Compliance

10 Comply with all applicable statutes and administrative rules of the State of  
11 Michigan, with all applicable federal laws, including regulations of the  
12 Federal Highway Administration (FHWA), with all applicable local ordinances  
13 and with all of the provisions set forth in the Third Party Testing  
14 Requirements Document.

15 IV. RELATIONSHIP OF THE DEPARTMENT AND THIRD PARTY TESTER

16 The relationship of the Department and the Third Party Tester is that of an  
17 independent contractual one, and nothing contained herein shall be construed to  
18 constitute the parties as partners, joint venturers, or agents of one another.

1 V. COMMUNICATIONS

2 The Third Party Tester designates the following individual at the following  
3 address to be its representative to receive the written notices and communications  
4 which are desired or required under this agreement:

Telephone: ( )
----------------

5 The Department designates the following individual at the following address to be  
6 its representative to receive the written notices and communications which are  
7 desired or required under this agreement:

William Charron, Director Third Party Testing Division Office of Traffic Safety Michigan Department of State Mutual Building - Third Floor 208 North Capitol Avenue Lansing, MI 48918-2222 Telephone: (517) 373-0568 FAX (517) 335-0125
---

1 Any mailed notice shall be deemed given when duly mailed at a United State post  
2 office or official U.S. mail depository.

3 VI. TERMINATION AND CANCELLATION

4 A. Termination

5 Either party to this agreement may terminate this agreement for any reason  
6 by providing sixty (60) days' written notice of termination to the other  
7 party.

8 B. Cancellation

9 The Department reserves the right to cancel this agreement immediately upon  
10 determining that the Third Party Tester, or a third party examiner employed  
11 by the Third Party Tester, has done one or more of the following:

- 12 1. Has failed to comply with or satisfy any of the provisions of this  
13 agreement or the Department's instructions relating to this agreement,  
14 including the Third Party Tester Requirements attached hereto and made  
15 a part of this agreement.
- 16 2. Has falsified any record or information relating to the third party  
17 testing program.
- 18 3. Has committed an act or omission which compromises the integrity of the  
19 third party testing program.

1 4. Employs a third party examiner who does not have a valid driver  
2 license, whose driver license has been suspended or revoked, whose  
3 examiner card has been canceled, or whose application for a driver  
4 license has been denied.

5 Cancellation of this agreement shall be effected by furnishing the Third  
6 Party Tester with written notice of cancellation, which shall be effective  
7 as of the date of the notice of cancellation. The notice shall include a  
8 short and plain statement of the facts necessitating the cancellation.

## 9 VII. AMENDMENTS

### 10 A. Necessary Amendments

11 The Third Party Tester agrees to accept any amendment to any provision of  
12 this agreement, if the amendment is set forth in writing, is necessitated by  
13 a change in state or federal law, and is requested by the Department. The  
14 Third Party Tester shall execute such an amendment upon request.

### 15 B. Other Amendments

16 Except as otherwise provided in Section IX A above, this agreement may be  
17 amended only by the mutual consent of the parties which is expressed in  
18 writing and is signed by a duly authorized representative of each party. No  
19 verbal representation, interpretation, or commitment by any officer, agent,  
20 representative, or employee of either party, either before or after the

1 execution of this agreement, shall affect or modify any of the provisions in  
2 this agreement. This agreement constitutes the entire understanding of the  
3 parties to it and supersedes any and all prior or contemplated agreements,  
4 representations or negotiations, whether written or oral.

5 VIII. NON-ASSIGNABILITY

6 This agreement and the Third Party Tester's certification are not assignable  
7 by the Third Party Tester, either in whole or in part.

8 IX. WAIVERS AND UNENFORCEABILITY

9 A waiver by either party of any provision of this agreement shall not act as  
10 a waiver of any other provision of this agreement. If any provision of this  
11 agreement is for any reason declared invalid, illegal or unenforceable, that  
12 declaration shall not affect the remainder of the provisions of this  
13 agreement.

14 X. APPLICABLE LAW

15 Any dispute between the parties hereto as to the application, meaning, or  
16 interpretation of any part of this agreement shall be resolved in the State

1 of Michigan by application of Michigan law.

2 IN WITNESS WHEREOF, the parties hereto have executed this agreement as of the date  
3 written above.

4 (THIRD PARTY TESTER OFFICIAL)

5 SIGNATURE: \_\_\_\_\_

6 NAME: \_\_\_\_\_

7 TITLE: \_\_\_\_\_

8 (MICHIGAN DEPARTMENT OF STATE OFFICIAL)

9 SIGNATURE: \_\_\_\_\_

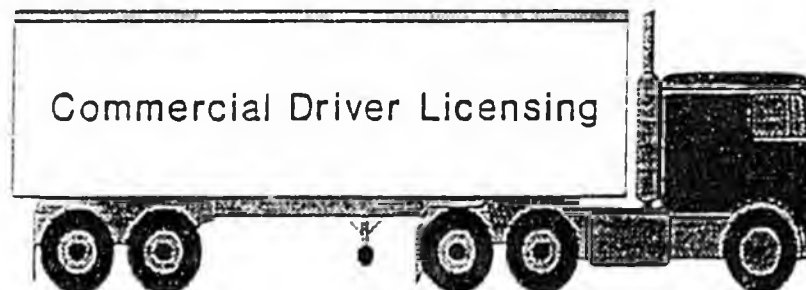
10 NAME: BILL CHARRON

11

12 TITLE: DIRECTOR, THIRD PARTY TESTING DIVISION

MICHIGAN DEPARTMENT OF STATE  
Office of Traffic Safety

THIRD PARTY TESTING  
REQUIREMENTS DOCUMENT



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MICHIGAN DEPARTMENT OF STATE  
Commercial Driver License Program

Third Party Testing Requirements

1 I. PURPOSE

2 The purpose of this document is to explain to persons other than employees of the  
3 Michigan Department of State the requirements for conducting Commercial Driver  
4 License skills tests as provided for under Michigan law Section 257.312f (3) and  
5 Title 49 Code of Federal Regulations (FMCSR) Part 383.75.

6 Authority to administer skills tests is granted only to third party testers who  
7 both utilize third party examiners deemed qualified by the Department and enter  
8 into an agreement with the Department. As a secondary matter, this document will  
9 be incorporated by reference into each agreement.

10 II. GOALS

11 A. The goals of the third party testing program are to insure that commercial  
12 driver applicants:

13 1. Have reasonable access to CDL skills testing in terms of time and  
14 driv ng distance.

1           2.   Receive CDL skills testing from examiners qualified by the Department  
2                   who are self employed individuals, employed by or employed under the  
3                   direction and control of third party tester organizations approved by  
4                   the Office.

5           3.   Are administered valid and reliable CDL skills tests.

6           4.   Demonstrate the required skills in accordance with FMCSR Part 383.113  
7                   and Michigan Vehicle Code Section 257.312f(1) in a representative  
8                   vehicle for a given vehicle group contained in Part 383.91 (a).

9   III.    DEFINITIONS

10   ~~The following~~ Words and terms, when used in this document, shall have the  
11   following meanings:

12   A.   Department -- The Michigan Department of State.

13   B.   CDL -- Commercial Driver License.

14   C.   FHWA -- Federal Highway Administration.

15   D.   FMCSR -- The Federal Motor Carrier Safety Regulations promulgated by the  
16       U.S. Department of Transportation.

17   E.   Approved Testing Program -- The skills tests which are required by the

1 Department and are administered by third party testers.

2 F. Certificate -- That document which is issued to a third party tester in  
3 order to verify that the tester is authorized to administer an approved  
4 testing program on behalf of the Department.

5 G. Third Party Tester -- A government entity, an association, an educational  
6 institution or a business entity engaged in the use of commercial motor  
7 vehicles and certified by the Department to administer an approved testing  
8 program for CDL applicants in accordance with the requirements described  
9 herein.

10 H. Office -- The Office of Traffic Safety, Third Party Testing, Michigan  
11 Department of State.

12 I. Director -- The Director of the Office of Traffic Safety, Third Party  
13 Testing Division, Michigan Department of State.

14 J. Examiner Identification Card -- A card issued by the Department to indicate  
15 that a person has been approved by the Department as a qualified examiner,  
16 and evidencing authority to conduct the skills tests required for a CDL.

17 K. Third Party Examiner -- A self employed individual, employee or person  
18 employed under the direction or control of a third party tester who has been  
19 issued an examiner identification card authorizing him or her to conduct CDL  
20 skills testing.

1 IV. GENERAL PROVISIONS

2 A. Administration and Enforcement

3 The Department, through the Office, shall administer and enforce the State  
4 of Michigan's third party tester program.

5 B. Employment of Department Employees

6 No third party tester participating in the third party tester program shall  
7 engage the services of any employee of the Department as an examiner, agent  
8 or employee.

9 V. REQUIREMENTS FOR THIRD PARTY TESTERS

10 A. In order to obtain and maintain a third party tester certification, a third  
11 party tester must meet all of the following conditions:-

12 1. Make application to and enter into an agreement with the Department, as  
13 described in Section VII B of this document.

14 2. Maintain a place of business which includes at least one permanent,  
15 regularly occupied structure situated within the State of Michigan.

16 3. Have a permanent street mailing address.

17 4. Ensure that its place of business is safe from excessive vehicle  
18 traffic and congestion.

5. Meet all requirements of state and federal law and local ordinances.
6. Ensure that all CDL testing activities will be conducted in an environment free of alcohol, drugs, controlled substances and smoking.
7. Employ, direct or control at least one (1) qualified third party examiner approved by the department.
8. Shall provide the Office with written results of having conducted a background criminal record check to determine whether each examiner was convicted of any of the following offenses:
  - a. Criminal assault in any degree.
  - b. Assault with intent to commit criminal sexual conduct.
  - c. An attempt to commit criminal conduct in any degree.
  - d. Felonious assault, abuse, cruelty, torture, or indecent exposure.
9. Designate an individual who will be responsible for its third party testing operation and inform the Department of that designation.
10. Allow FHWA, its representatives, and/or the Department to conduct random examinations, inspections and audits of its operating facilities and records as they relate to its third party testing program, without prior notice.
11. Allow the Department to conduct annual on-site inspections,

1 evaluations, and audits of its operations, facilities and records.

2 12. Maintain at each approved third party testing location, for at  
3 least 4 years, all records of every CDL skills test administered by the  
4 third party tester pursuant to these requirements on the forms provided  
5 by the office.

6 13. Transmit to the department by the 15th of each month the records  
7 described in section V A (10) for the previous month's testing.

8 14. Maintain at each approved third party testing "primary location" a  
9 record of each third party examiner in the employ or under the  
10 direction or control of the third party tester. Each record shall  
11 include all of the following:

12 a. ~~A valid "examiner identification card"~~ ( An employee record  
13 including name, residential address and social security number) and  
14 a copy of the valid "examiner identification card" indicating the  
15 examiner has met all Department qualifications.

16 b. A copy of the third party examiner's current driving record, which  
17 must be updated semi-annually.

18 c. Evidence that the third party examiner is employed under the  
19 direction or control of the third party tester.

- 1 15. Retain all third party examiner records for at least four (4) years.
- 2 16. Ensure that skills tests are conducted in accordance with all legal  
3 requirements and in accordance with test specifications and procedures  
4 prescribed by the Department. This includes but is not limited to:
- 5 a. Willingness to conduct at least one test per week.
- 6 b. Ensure that not more than five (5) tests are scheduled or  
7 conducted by any examiner within a twenty-four period.
- 8 c. Ensure that CDL applicants who fail to successfully complete CDL  
9 skills testing are not tested more than once in a 24 hour period  
10 unless the original test failure was due to vehicle or document  
11 deficiencies.
- 12 d. Ensure that skills tests are not conducted after daylight hours.
- 13 e. Ensure that skills tests are not conducted during severe weather  
14 such as heavy rain, snow, ice or during any hazardous conditions  
15 which would make driving of a commercial vehicle unsafe.
- 16 17. ~~Provide~~ Issue written certification, on a form provided by the office,  
17 to each driver-applicant who passes the CDL skills tests administered  
18 by the third party tester.

1 18. Prominently display, at the testing site, the third party tester's  
2 certificate and a copy of the examiner identification card of each  
3 third party examiner employed by, or under the direction or control of,  
4 the third party tester at that location.

5 19. Require each third party examiner whether a self employed individual or  
6 employed by, or employed under the direction or control of, the third  
7 party tester to attend all advanced training courses, workshops,  
8 seminars, and other instructional meetings, as required by the  
9 department. Failure of any examiner to attend scheduled training and  
10 instructional session will result in cancellation of their  
11 certification.

12 20. Require each third party examiner who is a self employed individual,  
13 employed by, or employed under the direction or control of, the third  
14 party tester to submit to annual testing and/or audit, as required by  
15 the department. Failure of any examiner to submit to annual testing  
16 and/or audit will result in cancellation of their certification.

17 21. Provide information and reports to the office, upon request concerning  
18 any civil, criminal or skills testing administration complaint against  
19 the tester and/or their examiner.

20 3. In addition to the requirements listed above, a third party tester must meet  
21 one (1) or more of the following conditions:

- 1           1.   Be a state agency or political subdivision which employs at least  
2           twenty-five (25) persons having a valid Michigan operator's or  
3           chauffeur's license with a vehicle group designation.
  
- 4           2.   Be a recognized labor organization which represents at least twenty-  
5           five (25) professional commercial motor vehicle drivers having a valid  
6           Michigan operator's or chauffeur's license with a vehicle group  
7           designation.
  
- 8           3.   Be an individual, firm, partnership, association, corporation or other  
9           legal entity:
  - 10           a.   Which represents at least twenty-five (25) professional commercial  
11           motor vehicle drivers having a valid Michigan operator's or  
12           chauffeur's license with a vehicle group designation, and
  
  - 13           b.   Which has been in continuous operation in Michigan for the  
14           previous two (2) years, and
  
  - 15           c.   If subject to the federal motor carrier safety regulations,  
16           maintains a current U.S. Department of Transportation Safety  
17           Rating of "Satisfactory".
  
- 18           4.   Be a recognized industry association of trucking companies and/or bus  
19           companies in Michigan.