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GOVERNOR



MICHAEL D. EDMONSON, COLONEL
DEPUTY SECRETARY

State of Louisiana
Department of Public Safety and Corrections
Public Safety Services

October 31, 2014

ELECTRONIC DELIVERY VIA E-MAIL

House Committee on Transportation, Highways
Public Works
Representative Karen St. Germain, Chairman

Senate Committee on the Judiciary B and
Senator Jean-Paul J. Morrell, Chairman

Re: Rules Proposed by the Louisiana Department of Public Safety and Corrections, Office of Motor Vehicles on Title Transactions: Donations of Motor Vehicles by Manual Gift and Water Damaged Vehicles

Dear Chairmen,

The Office of Motor Vehicles provides the following report to your committees as required by R.S. 49:968(D)(1)(b) for the proposed Notice of Intent that was published in the September 20, 2013 edition of the Louisiana Register on pages 1829 through 1831. This notice of intent proposed to adopt new the rules in §§395 and 397 on the donations of motor vehicles by manual gift, and water damaged vehicles. A copy of the notice of intent is attached.

The Office of Motor Vehicles did not receive any public comment on the proposed rules during the comment period. As a result, a public hearing was not requested and therefore no public hearing was conducted.

As a result, no changes to the proposed rule text are necessary.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen A. Quidd".

Stephen A. Quidd
Attorney for La. DPS&C, OMV
(225) 925-6103, 925-6736

Attachment
c. Speaker of the House
President of the Senate

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Removal of License Plate when
Owner/Operator is Suspended**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

The proposed rule change will result in an increase in self-generated revenue (SGR) expenditures in the amount of \$261,310 and an increase of five positions as a result of Act 802 of 2014. Act 802 provides for the removal of license plates on vehicles owned and driven by persons with suspended or revoked driver's licenses. As a result of removing license plates, law enforcement submits the plates to the local OMV office to be processed. After the plate is removed and submitted to OMV, the person whose plate was removed must go to the local OMV to pay a reinstatement fee of \$10 to receive that plate. To handle the increased processing, five additional Motor Vehicle Compliance Analysts will be needed. There will be no costs or savings to local governmental units as only the Office of Motor Vehicles will administer this plan.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

The proposed rule change will result in an increase in SGR revenues as a result of Act 802 of 2014. Act 802 provides for a \$10 reinstatement fee to be charged for removing a license plate due to a revoked or suspended driver's license. The exact increase in revenue is unknown. There were approximately 307,000 persons with suspended or revoked licenses in FY 13. To the extent 10% of those drivers would be issued a violation, 30,700 violations may be issued annually and drivers that pay the \$10 reinstatement fee would generate \$307,000 (307,000 suspended or revoked drivers x 10% violation issuance x \$10) in reinstatement fees. The revenue generated by fee collections would be used to offset expenditures for OMV. There will be no effect on revenue collections to local governmental units as only the Office of Motor Vehicles will administer this plan.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

The proposed rule change will affect persons who have a license plate removed due to a revoked or suspended driver's license. These persons would have to pay a ten dollar reinstatement fee.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

Pursuant to Act 802, the proposed rule change will result in OMV hiring an additional five analysts to handle the anticipated workload.

Jill P. Boudreaux
Undersecretary
1409#065

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of Motor Vehicles**

Title Transactions (LAC 55:III.395 and 397)

In accordance with the provisions of R.S. 32:705.1 for donations of motor vehicles in connection with a new car dealer transaction and R.S. 32:707(O) for water damaged vehicles which do not meet the salvage threshold, relative to the authority of the Office of Motor Vehicles, the Office of Motor Vehicles hereby publishes, and proposes to adopt LAC 55:III, Chapter 3, Subchapter D, §395, to implement

the provisions of R.S. 32:705.1 as enacted by Act 464 of the 2014 Regular Session as it relates to water damaged vehicles, and to adopt LAC 55:III, Chapter 3, Subchapter D, §397, to implement the provisions of R.S. 32:707(O) as it relates to donated motor vehicles in connection with a transaction at a dealer licensed by the Louisiana Motor Vehicle Commission. Subchapter D as well as §395 and §397 are new Sections and do not amend or repeal any existing Sections.

Title 55

PUBLIC SAFETY

Part III. Motor Vehicles

**Chapter 3. License Plates and Removal of Plates,
Registrations, and Title Transactions**

Subchapter D. Title Transactions

**§395. Donations by Manual Gift at a Louisiana Motor
Vehicle Commission Licensed Dealer**

A. The donation of a titled motor vehicle by manual gift as provided by *Civil Code* article 1543 and documented by delivery of the motor vehicle's previously issued certificate of title that is executed by the donor-owner may be submitted to the Office of Motor Vehicles in connection with a motor vehicle transaction by a Louisiana Motor Vehicle Commission licensed dealer.

B. Subsequent to donation of a titled motor vehicle by manual gift authorized in the previous paragraph, the licensed dealer shall cause the donor and the donee to execute the form approved by the department that memorialized the fact the donation was accomplished by manual gift. This completed form, together with the previously issued title, duly endorsed, shall accompany the paperwork submitted by, or on behalf of the dealer, to the Office of Motor Vehicles.

C. Any transaction, which includes a donation by manual gift, submitted by, or on behalf of the dealer, to the Office of Motor Vehicles, which does not include the completed form required in this Section, shall not be processed and shall be returned to the dealer who submitted the transactions.

D. Nothing in this Section shall prohibit a dealer licensed by the Louisiana Motor Vehicle Commission from submitting a transaction which includes a donation by authentic act.

E. Donations of motor vehicles not associated with a transaction by a dealer licensed by the Louisiana Motor Vehicle Commission shall be by authentic act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:705.1.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 40:

§397. Water Damaged Vehicles

A. A motor vehicle whose power train, computer, or electrical systems have sustained water damage that does not meet the criteria for a salvage title or a certificate of destruction, shall be issued a branded title indicating the vehicle has sustained water damage.

B. The power train shall include the main components that generate power and deliver the power to the road surface, including but not limited to the engine, the transmission or transaxle including associated axles and CV joints, the drive shafts, and the differentials.

C. The insurance company, owner, or dealer, applying for the water damage brand on a motor vehicle which does not meet the criteria for a salvage title or certificate of

destruction shall provide documentation satisfactory to the Office of Motor Vehicle documenting the value of the vehicle, the damages sustained, the circumstance that caused the damage, and the amount of the costs of the repairs to the vehicle which establish the vehicles eligibility for the brand authorized in this Section.

D. A vehicle which meets the criteria for a salvage title or a certificate of destructions shall not be issue the certificate of title with the water damage brand authorized in this section. A vehicle which meets the criteria salvage title or certificate of destruction shall be issued the respective title document associated with its damages and the circumstances that caused the damages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:707(O).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of Motor Vehicles, LR 40:

Family Impact Statement

The proposed Rule will not have any known or foreseeable impact on any family as defined by R.S. 49:972(D) or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1730.23.

Poverty Impact Statement

The proposed Rule amends LAC 55:III.325. These Rule changes should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Statement

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed rules do not impact or affect a "provider." "Provider" means an organization that provides services for individuals with developmental disabilities as defined in

HCR 170 of the 2014 Regular Session of the Legislature. In particular, the proposed rules have no effect or impact on a "provider" in regards to:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the provider to provide the same level of service;
3. the ability of the provider to provide the same level of service.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Such comments should be submitted no later than October 15, 2014, at 4:30 p.m. to Stephen A. Quidd, P.O. Box 66614, Baton Rouge, LA 70896; (225) 925-6103; fax: (225) 925-3974; or stephen.quidd@la.gov.

Public Hearing

A public hearing is scheduled for October 23, 2014 at 10 a.m. at 7979 Independence Blvd., Suite 301, Baton Rouge, LA 70806. Please call or e-mail in advance to confirm the time and place of meeting, as the meeting will be cancelled if the requisite number of comments is not received.

Jill P. Bourdreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Title Transactions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no implementation costs or savings to state or local governmental units as a result of the proposed rule change. The rule change is a result of two bills enacted during the 2014 Regular Legislative Session. Pursuant to Act 464 of 2014, the proposed rule provides for water damaged vehicles that do not meet the threshold requirement for a salvage title. In addition, pursuant to Act 660 of 2014, the proposed rule provides for donated motor vehicles that are used as a trade-in at a new car dealer. The changes are necessary to implement the provisions of law and are procedural in nature. Due to the issuance of motor vehicle titles not being performed by local governmental units, there is no anticipated costs to local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no impact on revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change may benefit consumers and new car dealers as a result of the proposed rules. Under prior law, water damaged vehicles that did not reach the threshold for a salvage title could not be branded as water damaged. The implementation of the rule on water damaged vehicles that do not meet the threshold for a salvage title will provide notice to buyers of used motor vehicles that the vehicle suffered water damage, but was not a total loss (Act 464). The implementation of Act 660 for manual gifts will allow new car dealers to take a vehicle in trade via a donation without requiring the customer(s) to leave the dealership in search of a notary to do an act of donation in authentic form.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

There will be no effect on competition and employment as a result of the proposed rule change.

Jill P. Boudreaux
Undersecretary
1409#064

John D. Carpenter
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety
Office of State Police**

Explosives—Inventory Reporting and Recordkeeping
(LAC 33:V.10107 and LAC 55:1.1505)

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., R.S. 30:2361 et seq., and R.S. 40:1472.1 et seq., gives notice of its intent to amend its rules regulating hazardous materials and explosives to establish a five year retention period for explosives records and to specify inventory reporting requirements for explosives magazines.

Title 33

ENVIRONMENTAL QUALITY

Part V. Hazardous Wastes and Hazardous Materials

**Subpart 2. Department of Public Safety and
Corrections—Hazardous Materials**

**Chapter 101. Hazardous Material Information
Development, Preparedness and Response
Act**

**§10107. Alternate Means of Compliance—Inventory
Reporting**

A. - C.4.a. ...

b. Facilities with type 2 explosives magazines and/or type 3 explosives magazines as described in LAC 55, Part I, Chapter 15, licensed pursuant to and in full compliance with the Louisiana State Police Explosives Code are exempt from inventory reporting if no hazardous materials other than explosives are present on the facility. However, all incidents or releases involving explosives are subject to the reporting required herein. Facilities with type 1, type 4, and/or type 5 explosives magazines as described in LAC 55, Part I, Chapter 15, shall file annual inventory reports.

5. - 6.f. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2361 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, LR 12:327 (May 1986), amended LR 13:184 (March 1987), LR 13:759 (December 1987), LR 14:802 (November 1988), LR 16:974 (November 1990), LR 27:859 (June 2001), LR 31:693 (March 2005), amended LR 40:

Title 55

PUBLIC SAFETY

Part I. State Police

Chapter 15. Explosives Code

Subchapter A. General

§ 1505. General Administrative Requirements

A. - K.1. ...

L. Licensees shall keep records required by this Chapter on the business premises for five years from the date a

transaction occurs or until discontinuance of business or operations by the licensee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1472.1 et seq.

HISTORICAL NOTE: Filed by the Department of Public Safety, Office of State Police, at the Office of the State Register, 1974, promulgated and amended LR 10:803 (October 1984), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, Explosive Control Unit, LR 22:1230 (December 1996), amended by the Department of Public Safety and Corrections, Office of State Police, LR 34:2674 (December 2008), LR 35:491 (March 2009), LR 36:550 (March 2010), LR 40:

Family Impact Statement

1. The effect of these rules on the stability of the family. This Rule should not have any effect on the stability of the family.

2. The effect of these rules on the authority and rights of parents regarding the education and supervision of their children. This Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of these rules on the functioning of the family. This Rule should not have any effect on the functioning of the family.

4. The effect of these rules on family earnings and family budget. This Rule should not have any effect on family earnings and family budget.

5. The effect of these rules on the behavior and personal responsibility of children. This Rule should not have any effect on the behavior and personal responsibility of children.

6. The effect of these rules on the ability of the family or local government to perform the function as contained in the proposed rules. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed rules.

Poverty Impact Statement

1. The impact of the proposed Rule on child, individual, or family poverty has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on poverty in relation to individual or community asset development as provided in the R.S. 49:973.

2. The agency has considered economic welfare factors and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on poverty.

Small Business Statement

1. The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act.

2. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.