WEST VIRGINIA CODE CHAPTER 5a ARTICLE 12

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§5A-12-1. Definitions.

As used in this article:

"Central motor pool" means, under the direction and control of the Secretary of Administration, the group of state vehicles to be shared among spending units;

"Centralized accounting system" means the system of record for the maintenance of an accurate inventory of state vehicle fixed assets as maintained by the Enterprise Resource Planning Board pursuant to §12-6D-1 *et seq.* of this code;

"Director" means the Director of the Fleet Management Division;

"Division" means the Fleet Management Division, under the Department of Administration, as established pursuant to this article;

"Fleet Coordinator" means the head of a spending unit, or his or her designee, who is responsible for the duties of fleet coordinator as required by this article;

"Indirect costs" means the expenses of operating state vehicles that may or may not be attributable to a specific vehicle, including miscellaneous expenses for cleaning supplies, shop supplies, small parts, office and administrative expenses attributable to fleet coordinator activity, training costs for fleet coordinators and state vehicle driver training, facilities costs, administrative office overhead, parking costs, and shop equipment costs where applicable;

"Secretary" means the Secretary of the Department of Administration;

"Spending unit" means the State of West Virginia and all agencies, offices, departments, divisions, boards, commissions, councils, committees, or other entities of the state government for which an appropriation is requested or to which an appropriation is made by the Legislature. "Spending unit" does not mean any county, city, township, public service district, or other political subdivision of the state;

"State vehicle" means, for the purpose of this article, a vehicle with a rating of one ton or less that is owned, purchased, or leased by any state spending unit, on which a state vehicle license plate is required, where the use of such vehicle is paid for with public funds regardless of the source of such funding, but does not include all-terrain vehicles (ATVs) or vehicles requiring a commercial driver’s license to operate;

"State vehicle fleet" means all state vehicles;

"State vehicle license plate" means a license plate authorized to be issued by the Division of Motor Vehicles pursuant to §17A-3-23 and §17A-3-25 of this code, which identifies the vehicle as owned or leased by the state or a spending unit;

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"State Vehicle Title, Registration and Relicensing Project of 2018" means the requirement for all spending units owning or leasing state vehicles, to report to the Division of Motor Vehicles and obtain new titles, new registration cards and new state vehicle license plates by December 31, 2018, pursuant to §17A-3-23 and §17A-3-25 of this code, to standardize the naming conventions on titles and registration cards of state vehicles in order to facilitate the creation and maintenance of a centralized state vehicle inventory system;

"Telematic" means an electronic device or system used by Fleet Management Division to monitor the activity, locations, action, or performance of state vehicles; and

"Vehicle log" means the record of state vehicle use, to be updated by the vehicle operator and maintained by the fleet coordinators, used to track vehicle utilization data required to be compiled and maintained pursuant to this article.

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§5A-12-2. Scope of Article.

(a) This article applies to all spending units of state government relating to the purchase, lease, or use of any state vehicle with the expenditure of public funds, except as otherwise provided by this code.

(b) Notwithstanding any exemption given to a spending unit by this code from the provisions of §5A-3-1 et seq. of this code or any prior exemption granted administratively from the Fleet Management Division or the Fleet Management Office, each spending unit of the state that owns, leases, purchases, or reimburses for personal vehicle use, shall comply with the reporting provisions of this article.

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§5A-12-3. Fleet Management Division created; director; duties and responsibilities.

(a) The Fleet Management Office, as previously authorized pursuant to §5A-1-2 and §5A-3-52 of this code, is hereby continued in the Department of Administration as the Fleet Management Division for the purpose of maintaining a state vehicle fleet.

(b) The Division shall have the following duties and responsibilities:

(1) To provide or contract for management services, including fueling and vehicle maintenance, telematics, and any other services necessary to properly manage the operation and use of state vehicles;

(2) To preapprove and assist with purchase of new or replacement vehicles for agencies including facilitating financing arrangements;

(3) To maintain a state vehicle fleet for all state vehicles owned or leased by the State of West Virginia or any of its spending units;

(4) To charge a fee for division services by spending units utilizing state vehicles;

(5) To provide training and notice to fleet coordinators and spending units concerning the duties and responsibilities under this article, including any requirements related to the State Vehicle Title, Registration and Relicensing Project of 2018, established pursuant to §17A-3-25 of this code;

(6) To develop safe operation and other policies governing state vehicle use;

(7) To propose rules for legislative approval in accordance with §29A-3-1 *et seq*. of this code;

(8) Report annually to the Governor and to the Joint Committee on Government and Finance, regarding the operations of the state fleet and the utilization of state vehicles;

(9) To develop and maintain, in cooperation with the Travel Management Office, state policies for the utilization of state vehicles, including establishing best practices for state vehicle use; and

(10) To provide assistance upon request to any spending unit related to financing, purchasing, leasing, operating, maintaining, transferring, and decommissioning state vehicles.

(c) The secretary shall appoint a director of the division, who shall:

(1) Employ such staff as needed to effectuate the provisions of this article;

(2) Maintain adequate office space for staff and equipment as needed to effectuate the provisions of this article; and

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(3) Under the direction of the secretary, establish a central motor pool, which shall be maintained and administered by the division, subject to such rules as the director may promulgate: *Provided*, That the division is responsible for the storage, maintenance, and repairs of all vehicles assigned to the central *motor* pool.

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§5A-12-4. Fleet Management Division Fund.

The special revenue account, known as the "Fleet Management Office Fund", previously created by §5A-3-52 of this code, shall terminate effective July 1, 2018. On and after July 1, 2018, all funds previously belonging to the Fleet Management Office Fund shall transfer to the special revenue account which shall be known as the "Fleet Management Division Fund" which shall be created in the State Treasury, and shall be administered by the director. Expenditures are authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with §12-3-1 et seq. of this code and upon fulfillment of the requirements of §11B-2-1 et seq. of this code. Any balance remaining in the special revenue account at the end of any state fiscal year does not revert to the General Revenue Fund but remains in the special revenue account and may be used solely in a manner consistent with this article.

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§5A-12-5. Rule-making authority; emergency rules.

(a) The director shall propose legislative rules as may be necessary to implement this article, in accordance with §29A-3-1 *et seq.* of this code. Those rules shall include, but not be limited to:

(1) Requirements governing the use of state vehicles;

(2) Reporting requirements and responsibilities for fleet coordinators;

(3) Requirements and responsibilities for each driver or operator of a state vehicle;

(4) Information to be collected and maintained on state vehicle log sheets, including information related to mileage, destinations, and purpose of use;

(5) The form and manner for each spending unit fleet coordinator to report to the division, including any electronic format as deemed necessary by the director;

(6) The information that each spending unit fleet coordinator shall collect and maintain regarding state vehicle use by the spending unit;

(7) The information for spending unit fleet coordinators to annually report to the division regarding state vehicle use;

(8) Requirements and policies governing commuting in and taking home state vehicles;

(9) Requirements and policies governing volunteer and non-public employee drivers; and

(10) Requirements and policies governing telematics, including, but not limited to, the following:

(A) Notifications to employees concerning the use of telematics;

(B) Immediate review of telematics-provided data for vehicles involved in collisions or accidents; and

(C) Notifications to spending unit fleet coordinators concerning telematics-identified violations of applicable statutes or rules and any other unsafe driving behavior.

(b) All rules of the Fleet Management Office in effect on the effective date of this article shall remain in effect until they are amended, replaced, or repealed: *Provided*, That these rules shall expire on July 1, 2021, if not sooner superseded.

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§5A-12-6. Vehicle operator regulations; training.

(a) Each operator of a state vehicle, shall maintain the vehicle logs to the level of detail required by the division through legislative rules, and as may be required by the spending unit.

(b) Each operator of a state vehicle shall comply with the laws, rules, and policies governing state vehicle use, including spending unit rules and policies.

(c) Prior to operating a state vehicle, each operator shall be required to take such training courses as may be required by the Board of Risk and Insurance Management, the Travel Management Office, the Fleet Management Division, and the spending unit.

(d) If any public employee or public official fails to comply with any rule or regulation for state vehicle use, the spending unit may require that the individual attend training, be restricted from using state vehicles, or be prohibited from using state vehicles: Provided, That nothing in this section authorizes the division to restrict the use of state vehicles except for those employees under its control.

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§5A-12-7. Spending unit duties and responsibilities.

(a) Every spending unit shall report all vehicles and equipment requiring a state license plate, including those vehicles with a rating of more than one ton, those requiring a commercial driver's license to operate, and all-terrain vehicles, as fixed assets in the centralized accounting system maintained by the Enterprise Resource Planning Board.

(b) Every spending unit that owns state vehicles shall annually affirm to the State Agency for Surplus Property on or before July 15 of each year, that the vehicles and assets reported to the centralized accounting system as required by §5A-12-7(a) of this code are accurate and current.

(c) Every spending unit shall prepare and maintain a list of all employees who are provided a state vehicle. The list shall set forth the specific bona fide noncompensatory business reasons for which the state vehicle is being provided to each employee. Spending units shall submit the list required by this section to the division, which shall act solely as a repository for the information, on or before July 1, 2018, and shall update the list on or before July 1 of each year thereafter.

(d) Every spending unit that has been exempted from utilizing telematics services provided by the division and that is using alternative telematics services shall report to the division, on a monthly basis, all violations of applicable statutes or rules and any other unsafe driving behavior that has been identified by telematics: *Provided*, That in the event of any accident, collision, or other reckless driving behavior, the spending unit shall notify the division immediately.

(e) Every spending unit utilizing telematics services provided by the division, as well as any spending unit that has been exempted from the division's telematics requirements and that is using alternative telematics services, shall report to the division, on a monthly basis, all corrective or disciplinary actions that have been taken by the spending unit in response to telematics-derived data.

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§5A-12-8. Fleet coordinators.

(a) Each spending unit shall name a fleet coordinator, who shall be responsible for the management and maintenance of state vehicle information, and for reporting state vehicle utilization reports to the division as required by this article and legislative rules promulgated pursuant thereto.

(b) Each spending unit shall provide to the division the name and contact information for the spending unit fleet coordinator.

(c) Each fleet coordinator is required to attend the Fleet Coordinator training provided by the Fleet Management Division.

(d) Each fleet coordinator shall be responsible for providing adequate training to each operator of a state vehicle within his or her spending unit.

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§5A-12-9. Utilization of Vehicle Management Services; exemption.

(a) Each spending unit that owns, uses, or maintains a state vehicle shall utilize the vehicle management services provided by the Fleet Management Division for all state vehicles.

(b) Spending units may request an exemption from part or all of the services provided by the Fleet Management Division. The division shall review each request and may recommend approval of the request by the secretary. The division shall submit a legislative rule identifying each spending unit for which an exemption has been approved, which rule shall further state the nature of the proposed exemption, and which services will be used, as well as the manner in which the spending unit will comply with all other requirements of this article, including the requirements to report certain information to the division: Provided, That no request for exemption pursuant to this section shall become effective without the enactment of a legislative rule pursuant to the provisions of §29A-3-1 et seq. of this code.

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§5A-12-10. Annual reports by spending units.

(a) Each spending unit that owns or operates a state vehicle, rents vehicles for a state purpose, or reimburses an employee for personal vehicle use, shall annually report the Fleet Management Division, beginning on or before October 31, 2018, and on or before October 31 each year thereafter, in the manner required by this article and by legislative rule.

(b) Each spending unit that owns or leases a state vehicle or rents or reimburses an employee for personal vehicle use, shall periodically compile and maintain the individual specific vehicle records of each state vehicle, and all records of vehicle rental and private vehicle use expenditures, for not less than three years, or as may be required by the division or the State Auditor pursuant to §5A-12-13 of this code.

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§5A-12-11. Complaint process.

(a) The director shall provide a complaint process for use by the general public to report to the division issues relevant to the operation and maintenance of a state vehicle fleet. Complaints may be received by the division in writing, by telephone, or electronically: Provided, That the division shall review all complaints weekly, and report to the appropriate spending unit the information regarding the state vehicle in use by the spending unit, and shall describe the nature of the complaint, including, but not limited to mechanical problems, equipment failures, misuse, or illegal operation of a state vehicle.

(b) Each spending unit shall investigate each complaint it receives and provide an update to the division on a regular basis and at the conclusion of the investigation.

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§5A-12-12. State vehicle fleet annual report.

(a) The Fleet Management Division shall maintain sufficient records and fleet coordinator reports to produce a State Vehicle Fleet Annual Report, regarding the maintenance and operation of the state vehicle fleet.

(b) On or before December 31, 2019 and each December 31 thereafter, the division shall submit the State Vehicle Fleet Annual Report to the Governor, and to the Joint Committee on Government and Finance, containing, at a minimum:

(1) The total number of state vehicles;

(2) The total number of vehicles operated by each spending unit;

(3) The total number of state vehicle miles driven, both in the aggregate and by spending unit;

(4) The total amount of fuel purchased, and the total expenditures for annual maintenance, repair, fuel expenditures, both in the aggregate and by spending unit;

(5) The total number of miles reimbursed for personal vehicle use and the amount reimbursed annually, both in the aggregate and by spending unit;

(6) The total number of vehicles owned and operated by the division, including information on the total miles driven, and the annual expenditures for maintenance, repair, and fuel;

(7) The total annual indirect costs of operating the state vehicle fleet, both in the aggregate and by spending unit;

(8) A summary of complaints received concerning state vehicle usage;

(9) Telematics data that includes, but is not limited to, the following:

(A) The total number of division vehicles equipped with telematics;

(B) The total number of exemptions from telematics services that have been granted by the division;

(C) A summary of telematics-identified violations of applicable statutes or rules and any other unsafe driving behavior, both in the aggregate and by spending unit;

(D) A summary of corrective or disciplinary actions taken by spending units in response to telematics-derived data, both in the aggregate and by spending unit, that the division has received from spending units pursuant to §5-12-7 of this code; and

(E) A cost-benefit analysis of telematics usage, including total program costs, estimated savings and cost avoidance, and a conclusion as to whether the benefits of utilizing

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telematics exceed the costs and a recommendation as to whether the division should continue utilizing telematics.

(10) A summary of the State Auditor's spot compliance audit report authorized pursuant to §5A-12-13 of this code;

(11) The operating revenue and expenses of the division; and

(12) Recommendations for any policy or statutory changes the director determines may be necessary to maintain accurate records of the state vehicle fleet, utilization of state vehicles, and the expenses necessary to maintain such vehicle fleet.

(c) An annual report produced in an electronic format complies with the reporting requirements of this article and shall be made available on the division website: *Provided*, That the division shall redact any personally identifiable or confidential information.

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§5A-12-13. Spot compliance audits by the State Auditor.

(a) Beginning July 1, 2019, the State Auditor shall conduct spot compliance audits to monitor operator, spending unit, and fleet coordinator records and reports for accuracy and compliance with the record keeping provisions of this article. The State Auditor shall conduct a spot compliance audit on not less than 20 percent of the state vehicle fleet annually, in order to conduct spot compliance audits of all state vehicle records on a five-year cycle.

(b) A spending unit found to be noncompliant with the recordkeeping provisions of this article may be subject to further compliance monitoring as the State Auditor and director deem necessary.

(c) The State Auditor shall report to the division the findings of each spot compliance audit. Such reports shall list the spending units and fleet coordinators audited, and verify:

(1) That state vehicle drivers of the spending unit have complied with applicable training requirements and are keeping complete and accurate vehicle logs;

(2) That spending unit fleet coordinators have attended training, and are compiling and maintaining the state vehicle records required by this article; and

(3) The accuracy of fleet coordinator reporting in the manner consistent with the provisions of this article.

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§5A-12-14. Legislative compliance audit.

[Repealed.]

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