

No. 2002-152

AN ACT

HB 152

Amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, adding and amending definitions; further providing for certificates of title; providing for salvage, theft, reconstructed and flood vehicles; further providing for registration of vehicles, for judicial review, for licensing of drivers, for commercial driver's license, for disqualification, for commercial and school vehicle drivers prohibited from operating with any alcohol in system, for license fees, for required financial responsibility, for annual hauling permits, for automated red light enforcement systems in first class cities, for removal of vehicle by or at direction of police, for prohibitions in specified places, for pedalcycle use on freeways and for footrests and handlebars on motorcycles; providing for lighted lamp requirements for motorcycles; further providing for abandonment and stripping of vehicles; providing for restitution of property owners and for stripping abandoned vehicles; further providing for driving under influence of alcohol or controlled substance, for periods for requiring lighted lamps, for rear wheel shields, for inspection requirements and for scope and application of provisions relating to size, weight and load; providing for application to tow trucks; further providing for authority to issue permits, for permit for movement of waste coal and beneficial combustion ash, for salvors; providing for duties of police and salvors; further providing for abandoned vehicles and cargos and for messenger service; and providing for the messenger and agent advisory committee.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The definitions of "abandoned vehicle," "collectible motor vehicle," "essential parts," "reconstructed vehicle," "recovered theft vehicle," "valueless except for salvage" and "vehicle identification number" in section 102 of Title 75 of the Pennsylvania Consolidated Statutes are amended and the section is amended by adding definitions to read:

§ 102. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Abandoned vehicle."

(1) A vehicle (other than a pedalcycle) shall be presumed to be abandoned under any of the following circumstances, but the presumption is rebuttable by a preponderance of the evidence:

(i) The vehicle is physically inoperable and is left unattended on a highway or other public property for more than 48 hours.

(ii) The vehicle has remained illegally on a highway or other public property for a period of more than 48 hours.

(iii) The vehicle is left unattended on or along a highway or other public property for more than 48 hours and does not bear all of the following:

- (A) A valid registration plate.
- (B) A *current* certificate of inspection.
- (C) An ascertainable vehicle identification number.

(iv) The vehicle has remained on private property without the consent of the owner or person in control of the property for more than [48] 24 hours.

(2) Vehicles and equipment used or to be used in construction or in the operation or maintenance of highways or public utility facilities, which are left in a manner which does not interfere with the normal movement of traffic, shall not be considered to be abandoned.

“Agent service.” A person that has been authorized by the Department of Transportation to act as a card agent, a full agent or an issuing agent.

* * *

“Collectible motor vehicle.” A reconstructed motor vehicle[, but not a reproduction thereof,] substantially modified from the manufacturer’s original specifications and appearance and maintained in a collectible condition as determined by the Department of Transportation.

* * *

“Essential parts.” All [integral and body parts] major component parts of a vehicle of a type required to be registered under this title, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation.

* * *

“Major component parts.” Includes any of the following parts of a vehicle: engine, transmission, front-end assemblies or unibodies structure which may consist of headlight, grille, fenders, bumpers and hood; fenders; hood; any door; any bumper; pickup box or cargo box; airbags; computer assembly; radio or stereo components; or trunk lid, deck lid, tailgate or hatchback, whichever is present.

* * *

“Mileage.” The actual distance that a vehicle has traveled.

* * *

“Modified vehicle.” A vehicle of a type required to be registered under this title materially altered by the addition, deletion, substitution or modification of the body, chassis or essential parts, new or used. The term does not include vehicles that have been repaired to the function and appearance of vehicles in their original condition or vehicles where final-stage or second-stage manufacturers provide a manufacturer statement of origin or a federally required certification label at the time of the original title and registration application.

* * *

“Nonrepairable vehicle.” *An abandoned vehicle under paragraph (1)(iii) of the definitions of “abandoned vehicle” which is incapable of safe operation for use on roadways or highways and which has no resale value except as a source of parts or scrap only, a salvage vehicle issued a nonrepairable or nonrebuildable vehicle document by another state or a vehicle which a salvor or vehicle salvage dealer designates as a source for parts or scrap or which the owner irreversibly designates as a source for parts or scrap. Such vehicles may not be issued a certificate of title or certificate of salvage.*

* * *

“Reconstructed vehicle.” *A vehicle materially altered from its original construction by the removal, addition or substitution of essential parts, new or used, or a vehicle, other than an antique or classic vehicle, for which a certificate of junk was issued and is thereafter restored to operating condition.]*

“Reconstructed vehicle.” *A vehicle, other than an antique or classic vehicle, for which a certificate of salvage was issued and is thereafter restored to operating condition to meet the vehicle equipment and inspection standards under Part IV (relating to vehicle characteristics).*

* * *

“Recovered theft vehicle.” *A vehicle other than an antique or classic vehicle which was reported as stolen but subsequently recovered [for which a certificate of salvage was issued and which would otherwise be regarded as a reconstructed vehicle, except that the retail value of any repairs to restore the vehicle to operating condition does not exceed 50% of the actual cash value of the vehicle as determined by averaging the average retail values listed in the Official Used Car Guide for Domestic and Imported Cars published by the National Automobile Dealers Association and the Automobile Red Book Official Used Car Validations published by the Maclean Hunter Market Reports, Incorporated].*

* * *

“Salvage vehicle.” *A vehicle which is inoperable or unable to meet the vehicle equipment and inspection standards under Part IV (relating to vehicle characteristics) to the extent that the cost of repairs would exceed the value of the repaired vehicle. The term does not include a vehicle which would qualify as an antique or classic vehicle except for its lack of restoration or maintenance.*

* * *

“Status.” *With respect to an abandoned vehicle, a determination by police and a salvor as to the condition or value of the abandoned vehicle. The determination shall be one of the following: vehicle with value, salvage vehicle or nonrepairable vehicle.*

* * *

“Theft vehicle.” A vehicle, other than an antique or classic vehicle, which was reported stolen.

* * *

“Valueless except for salvage.” A vehicle which is inoperable or unable to meet the vehicle equipment and inspection standards under Part IV (relating to vehicle characteristics) to the extent that the cost of repairs would exceed the value of the repaired vehicle. The term does not include a vehicle which would qualify as an antique or classic vehicle except for its lack of restoration or maintenance.]

* * *

“Vehicle identification number” or “VIN.” A combination of numerals or letters or both which the manufacturer assigns to a vehicle for identification purposes, or, in the absence of a manufacturer-assigned number, which the department assigns to a vehicle for identification purposes.

* * *

Section 2. Sections 1103.1(g) and (g.1), 1106(a) and (b) and 1109 of Title 75 are amended to read:

§ 1103.1. Application for certificate of title.

* * *

(g) Specially constructed [or], reconstructed *or modified* vehicles.—If the vehicle to be titled is a specially constructed [or], reconstructed *or modified* vehicle, that fact shall be stated in the application. The department may promulgate rules and regulations pertaining to the titling of specially constructed [or], reconstructed *or modified* vehicles.

(g.1) Verification.—In lieu of notarization of any document required to be submitted with the application for certificate of title, the department shall accept the verification of a person’s signature by an issuing agent, who is licensed as a vehicle dealer by the State Board of Vehicle Manufacturers, Dealers and Salespersons, or its employee. The issuing agent’s name and identification number and the signature of the issuing agent or its employee shall be written in the space reserved for a notarization or verification. If an issuing agent or its employee falsely verifies a person’s signature, the department shall suspend the issuing agent’s authority to issue temporary registration plates and cards for not less than 30 days. *When verification is used in lieu of notarization, the issuing agent or its employee shall verify a person’s identity by using at least one form of government-issued photo identification. A copy of the form of identification used shall be maintained by the issuing agent for a period of three years from the date of the verification.*

* * *

§ 1106. Content and effect of certificate of title.

(a) Vehicle identification and encumbrances.—A certificate of title shall contain such description and other evidence of identification of the vehicle for which it is issued as the department may deem necessary and the

odometer reading, together with a statement of any liens or encumbrances, including the names [and addresses] of the holder or holders of the liens or encumbrances *and any indication of special use or condition set forth under subsection (b).*

(b) Indication of special [prior] use *or condition.*—No person shall assign a certificate of title to any vehicle [having seating capacity for nine or less occupants which has been used as a taxicab, for the carrying of passengers for hire or as a police car, unless the certificate clearly contains notice that the vehicle has been so used. Indication of such use shall be deemed part of the description of the vehicle. Any person violating this subsection is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$50.] *unless the certificate clearly contains notice of the use or condition if the vehicle is or has been:*

- (1) *used as a police car;*
- (2) *used as a taxicab for the transport of passengers, for hire, having a seating capacity of nine or fewer passengers;*
- (3) *an abandoned vehicle;*
- (4) *a flood vehicle;*
- (5) *a modified vehicle;*
- (6) *a reconstructed vehicle;*
- (7) *a specially constructed vehicle;*
- (8) *a recovered theft vehicle or a theft vehicle;*
- (9) *a vehicle originally manufactured for intended distribution outside the United States;*
- (10) *bearing a VIN plate differing from its original; or*
- (11) *a motor vehicle returned to a vehicle dealer or manufacturer pursuant to the act of March 28, 1984 (P.L.150, No.28), known as the Automobile Lemon Law.*

Indication of the use or condition shall be deemed part of the description of the vehicle. Any person violating this subsection commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$200.

* * *

§ 1109. Refusing issuance of certificate [of title].

The department may refuse issuance of a certificate of title *or certificate of salvage* when it has reasonable grounds to believe:

- (1) That any required fee has not been paid.
- (2) That any taxes payable under the laws of this Commonwealth on or in connection with, or resulting from, the acquisition or use of the vehicle have not been paid.
- (3) That the applicant is not the owner of the vehicle.
- (4) That the application contains a false or fraudulent statement.
- (5) That the applicant has failed to furnish required information or documents or any additional information the department reasonably requires.

(6) That the vehicle is a nonrepairable vehicle.

Section 3. Section 1117 of Title 75 is repealed.

Section 4. Sections 1118(b) and 1119(a) of Title 75 are amended to read:

§ 1118. Suspension and cancellation of certificate of title.

(b) Vehicles sold to nonresidents or **[junked] abandoned, nonrepairable or salvage.**—The department may cancel certificates of title for vehicles sold to residents of other states or foreign countries when the vehicle is to be registered in the other jurisdiction[,] or for *an* abandoned **[or destroyed vehicles authorized to be junked as provided in this subchapter.] vehicle processed under this title or a nonrepairable or salvage vehicle.**

§ 1119. Application for certificate of title by agent.

(a) Authorization to make application.—

(1) Except as provided in paragraph (2), no person shall make application for a certificate of title when acting for another person unless authorization to make the application is in effect and is verified by oath or affirmation of the other person, made not more than **[30] 90** days before the application is received by the department.

(2) The **[30-day] 90-day** provision contained in paragraph (1) shall not apply to:

- (i) Fleet owners who are lessees of vehicles.
- (ii) Blanket powers of attorney issued for general purposes not limited to the sale, purchase or transfer of vehicles.

Section 5. Chapter 11 of Title 75 is amended by adding a subchapter to read:

**SUBCHAPTER D
SALVAGE VEHICLES, THEFT VEHICLES, RECONSTRUCTED
VEHICLES AND FLOOD VEHICLES**

Sec.

- 1161. Certificate of salvage required.
- 1162. Transfer to vehicle salvage dealer.
- 1163. Transfer to scrap metal processor.
- 1164. Theft vehicles.
- 1165. Reconstructed vehicles.
- 1166. Flood vehicles.
- 1167. Penalty.

§ 1161. Certificate of salvage required.

(a) General rule.—Except as provided in sections 1162 (relating to transfer to vehicle salvage dealer) and 1163 (relating to transfer to scrap metal processor), a person, including an insurer or self-insurer as defined in

section 1702 (relating to definitions), who owns, possesses or transfers a vehicle located or registered in this Commonwealth which qualifies as a salvage vehicle shall make application to the department for a certificate of salvage for that vehicle.

(b) Application for certificate of salvage.—An owner who transfers a vehicle to be destroyed or dismantled, salvaged or recycled shall assign the certificate of title to the person to whom the vehicle is transferred. Except as provided in section 1163, the transferee shall immediately present the assigned certificate of title to the department or an authorized agent of the department with an application for a certificate of salvage upon a form furnished and prescribed by the department. An insurer as defined in section 1702 to which title to a vehicle is assigned upon payment to the insured or claimant of the replacement value of a vehicle shall be regarded as a transferee under this subsection. If an owner retains possession of a vehicle which is damaged to the extent that it qualifies for vehicle replacement payment, the owner shall apply for a certificate of salvage immediately. In this case, an insurer shall not pay vehicle replacement value until the owner produces evidence to the insurer that the certificate of salvage has been issued. A self-insurer as defined in section 1702 shall apply for a certificate of salvage when a vehicle is damaged to the extent that the cost of repairs would exceed the replacement value of the vehicle as certified by a licensed motor vehicle physical damage appraiser.

(c) Issuance and effect of certificate of salvage.—Upon proper application for a certificate of salvage, the department or agent of the department shall issue to the transferee a certificate of salvage which shall authorize the holder to possess or by endorsement transfer ownership of the salvage vehicle. A certificate of title or registration shall not again be issued or renewed for the vehicle except upon application containing the information the department requires, accompanied by any necessary documents required under section 1165 (relating to reconstructed vehicles).

(d) Out-of-State salvage vehicles.—The owner of a salvage vehicle possessing a valid certificate of title or certificate of salvage from a state or jurisdiction other than this Commonwealth does not need to apply for a certificate under subsection (a). If the owner wishes to transfer the salvage vehicle, the owner shall make application to the department and attach the out-of-State certificate of title or certificate of salvage along with any other information and documents the department reasonably requires to establish the ownership of the vehicle and the existence or nonexistence of security interests in the vehicle. The person identified on the application must be located or the owner or lienholder must be domiciled in this Commonwealth to qualify for issuance of a certificate of salvage by the department.

(e) Certificate not to be assigned in blank.—No person shall make application for or assign or physically possess a certificate of salvage or direct or allow another person in his employ or control to make application for or assign or physically possess a certificate of salvage unless the name

and address of the transferee is placed on the assignment of the certificate of salvage simultaneously with the name of the transferor.

(f) Repairs to personal vehicle.—Nothing herein shall require a vehicle owner to obtain a certificate of salvage to repair or replace parts or component parts which malfunction or wear out as a result of normal use and operation which has occurred after the vehicle was transferred to the owner.

§ 1162. Transfer to vehicle salvage dealer.

(a) General rule.—Any owner who transfers a vehicle or a salvage vehicle to a vehicle salvage dealer, as defined in section 1337(c)(2) (relating to use of “Miscellaneous Motor Vehicle Business” registration plates), shall assign the certificate of title or salvage certificate to the vehicle salvage dealer. A certificate of title or salvage certificate for a vehicle transferred to a vehicle salvage dealer is exempt from the requirements of notarization and verification by a corporate officer.

(b) Certificate of title.—Upon transfer of a certificate of title to a salvage vehicle dealer, the salvage vehicle dealer shall immediately send to the department or an authorized agent of the department either of the following:

(1) The assigned certificate of title attached to a form prescribed by the department indicating that the vehicle is to be designated as a nonrepairable vehicle. A copy of the form shall be retained for record in accordance with section 6308(d) (relating to investigation by police officers). The vehicle shall not be rebuilt, retitled or issued a certificate of any kind.

(2) The assigned certificate of title with an application for a certificate of salvage upon a form prescribed by the department. The certificate of salvage, when issued to the vehicle salvage dealer, shall have the same effect as provided in section 1161(c) (relating to certificate of salvage required).

(c) Vehicles with defective or lost title.—Any person on whose property is located a vehicle which is a salvage vehicle and which has a faulty, lost or destroyed title may transfer the vehicle to a salvor or to a salvage program operated by a political subdivision for removal to a suitable place of storage or for scrapping, provided the salvor or salvage program complies with the requirements of this section, except that the report to the department that the vehicle is a salvage vehicle shall be verified by the transferor of the vehicle instead of the police department.

§ 1163. Transfer to scrap metal processor.

(a) Flattened vehicles.—When a vehicle has been flattened, crushed or processed to the extent that it is no longer identifiable as a vehicle, its certificate of title, certificate of salvage or nonrepairable certificate shall be attached to a form prescribed by the department and immediately sent to the department. The form shall include such information as the department shall require. A copy of the form shall be retained for record in accordance with section 6308(d) (relating to investigation by police officers). The

vehicle scrap material shall no longer be considered a vehicle and shall not be reconstructed, retitled or issued a certificate of any kind.

(b) Vehicles.—Any owner who transfers a vehicle to a scrap metal processor shall assign the certificate of title, certificate of salvage or nonrepairable certificate to the processor. The processor shall attach the certificate to the proper department form, immediately send it to the department and retain a copy in accordance with the provisions of subsection (a).

§ 1164. Theft vehicles.

(a) General rule.—Upon payment to the insured of the replacement value for a theft vehicle, the owner or insurer shall apply for a certificate of salvage branded as a theft vehicle.

(b) Assessing damage on recovered theft vehicles.—If a theft vehicle has been recovered, the vehicle shall be assessed as to the level of damage at the time of recovery by an insurer or licensed physical damage appraiser:

(1) If the cost of repairs exceeds the replacement value of the vehicle, the theft-branded certificate of salvage shall serve as an ownership document. If the vehicle thereafter passes the reconstructed salvage vehicle inspection requirements under section 1165 (relating to reconstructed vehicles), it shall receive a certificate of title branded reconstructed and recovered-theft vehicle.

(2) If the cost of repairs is less than the replacement value of the vehicle, the owner shall apply for a certificate of title branded recovered-theft vehicle. A legible copy of the vehicle damage appraisal report completed by an insurer or licensed physical damage appraiser must accompany an application under this paragraph. The damage appraisal report shall include the replacement value of the vehicle.

§ 1165. Reconstructed vehicles.

(a) General rule.—If a vehicle, other than an antique or classic vehicle, for which a certificate of salvage has been issued is thereafter restored to operating condition, it shall be regarded as a reconstructed vehicle.

(b) Application for a reconstructed vehicle certificate of title.—A reconstructed vehicle title and registration shall be issued to an applicant if the applicant presents to the department an application for a certificate of title upon a form furnished and prescribed by the department and any other information the department deems appropriate.

§ 1166. Flood vehicles.

(a) General rule.—Upon payment to the insured of the replacement value for a flood vehicle, the owner or insurer shall apply for a certificate of salvage branded as a flood vehicle.

(b) Assessing damage of flood vehicles.—A flood vehicle shall be assessed as to the level of damage by an insurer or licensed physical damage appraiser:

(1) If the cost of repairs exceeds the replacement value of the vehicle, the flood-branded certificate of salvage shall serve as an ownership

document. If the vehicle thereafter passes the reconstructed salvage vehicle inspection requirements under section 1165 (relating to reconstructed vehicles), it shall receive a certificate of title branded reconstructed and flood vehicle.

(2) If the cost of repairs does not exceed the replacement value of the vehicle, the owner shall apply for a certificate of title branded flood vehicle. A legible copy of the vehicle damage appraisal report completed by an insurer or licensed physical damage appraiser must accompany an application under this paragraph. The damage appraisal report shall include the replacement cash value of the vehicle.

§ 1167. Penalty.

A person who violates the provisions of this subchapter commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$500 for each violation.

Section 6. Section 1301 of Title 75 is amended by adding a subsection to read:

§ 1301. Registration and certificate of title required.

* * *

(c.1) Reconstructed, recovered theft, flood, modified and specially constructed vehicles.—Only the department shall issue a temporary registration plate or card, or permit the transfer of a registration plate, in conjunction with any application for reconstructed, recovered theft, flood, modified and specially constructed vehicles. Proof of financial responsibility must accompany the application for registration prior to the issuance of a registration plate.

* * *

Section 6.1. Section 1377(b) of Title 75 is amended to read:

§ 1377. Judicial review.

* * *

(b) Documentation.—

(1) In any proceeding under this section, documents received by the department from a court or from an insurance company shall be admissible into evidence to support the department's case. In addition, if the department receives information from a court by means of electronic transmission or from an insurance company which is complying with its obligation under Subchapter H of Chapter 17 (relating to proof of financial responsibility) by means of electronic transmission, it may certify that it has received the information by means of electronic transmission, and that certification shall be prima facie proof of the adjudication and facts contained in such an electronic transmission.

(2) ***In a proceeding relating to the suspension of the registration of a motor vehicle imposed under section 1786 (relating to required financial responsibility), the department's certification of its receipt of documents or electronic transmission from an insurance company informing the department that the person's coverage has lapsed, been***

canceled or terminated shall also constitute prima facie proof that the lapse, cancellation or termination of the policy of insurance described in the electronic transmission was effective under the laws of this Commonwealth.

Section 6.2. Section 1503(a) of Title 75 is amended by adding a paragraph to read:

§ 1503. Persons ineligible for licensing; license issuance to minors; junior driver's license.

(a) Persons ineligible for licensing.—The department shall not issue a driver's license to, or renew the driver's license of, any person:

* * *

(9) Who is not a resident of this Commonwealth. This paragraph shall not apply to an employee of the Federal or State Government or the employee's immediate family or a person in the service of the armed forces of the United States or the person's immediate family.

* * *

Section 6.3. Sections 1506, 1510 and 1514 of Title 75 are amended by adding subsections to read:

§ 1506. Application for driver's license or learner's permit.

* * *

(a.1) Noncitizen application.—A person who is not a citizen of the United States may apply for a Pennsylvania driver's license upon establishing the person's lawful presence in the United States and this Commonwealth. The department may issue a license if the person will lawfully be in the United States for a period of one year or more after the date of the application or for a shorter period of time if deemed appropriate by the department.

* * *

§ 1510. Issuance and content of driver's license.

* * *

(i) Issuance to noncitizens.—A license issued in accordance with section 1506(a.1) (relating to application for driver's license or learner's permit) may contain an indication that the license was issued to the person who is not a citizen of the United States and who has credentials or documents issued by the Immigration and Naturalization Service or its successor.

§ 1514. Expiration and renewal of drivers' licenses.

* * *

(e) Noncitizen license expiration and renewal.—

(1) Except as otherwise provided, a license issued on the basis of Immigration and Naturalization Service (INS) credentials or documents shall expire on the date appearing on the INS credentials or documents provided by the applicant under section 1506(a.1) (relating to application for driver's license or learner's permit).

(2) If the expiration date of the INS credentials or documents exceeds four years, the license shall expire one day after the applicant's date of birth but not more than four years from the date of issuance of the license.

(3) Upon presenting INS credentials or documents indicating continued legal presence in the United States, the person may apply for a renewal of the license.

(4) If a person has been granted permanent legal status in the United States by the INS, the department may in its discretion require the person to present his INS credentials or documents for only the first license application or renewal.

(5) License renewals issued under this subsection shall be for the length of time as set forth in paragraph (1) or (2).

Section 6.4. Sections 1515, 1607(d), 1610(c) and 1611 of Title 75 are amended to read:

§ 1515. Notice of change of name or address.

(a) Driver's license.—Whenever any person after applying for or receiving a driver's license moves from the address named in the application or in the driver's license issued or when the name of a licensee is changed, such person shall, within 15 days thereafter, notify the department [in writing] of the old and new addresses or of such former and new names and of the number of any license then held by the person. The department shall be notified of a change of name in writing.

(b) Identification card.—Whenever any person after applying for or receiving a department-issued identification card moves from the address named in the application or identification card issued or when the name of a cardholder is changed, such person shall, within 15 days thereafter, notify the department of the old and new addresses or of such former and new names and of the number of any identification card then held by the person. The department shall be notified of a change of name in writing.

(c) Nonresident.—

(1) After notification from another state that the driver is licensed in that state, the department shall invalidate the Pennsylvania driver's license.

(2) Upon notice of a change of address from a driver to an out-of-State address, the department shall not renew the driver's license of the person until the person reestablishes residency in this Commonwealth. This paragraph shall not apply to a person who is an employee of Federal or State Government whose workplace is located out-of-State or the employee's immediate family or to a person in the service of the armed forces of the United States or the person's immediate family.

§ 1607. Commercial driver's license qualification standards.

(d) Commercial driver learner's permit.—

(1) The department shall issue a commercial driver learner's permit in accordance with section 1505 (relating to learners' permits).

(2) A commercial driver learner's permit is required for the addition of endorsements and the removal of restrictions established under this chapter, including those established by regulation.

(3) Before a person may take the examination for a commercial driver's license, the person must have held a learner's permit for 30 days for the class of vehicle the person intends to drive and the requisite endorsements.

§ 1610. Commercial driver's license.

(c) Applicant record check.—

(1) Before issuing a commercial driver's license, the department shall obtain driving record information through the Commercial Driver's License Information System and the National Driver Register.

(2) Before issuing a commercial driver's license with an "H" or "X" endorsement, the department must have received notification from the United States Secretary of Transportation that the individual does not pose a security risk warranting denial of the endorsement. This paragraph shall not apply until such time as regulations are published by the United States Secretary of Transportation as required by the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2001 (Public Law 107-56, 115 Stat. 272).

§ 1611. Disqualification.

(a) Disqualification for first violation of certain offenses.—Upon receipt of a certified copy of conviction, the department shall, in addition to any other penalties imposed under this title, disqualify any person from driving a commercial motor vehicle *or school vehicle* for a period of one year for the first violation of:

(1) section 3731 (relating to driving under the influence of alcohol or controlled substance), where the violation occurred while the person was operating a commercial motor vehicle *or school vehicle*;

(2) section 3742 (relating to accidents involving death or personal injury), where the violation occurred while the person was driving a commercial motor vehicle;

(3) section 3743 (relating to accidents involving damage to attended vehicle or property), where the violation occurred while the person was driving a commercial motor vehicle;

(4) section 3745 (relating to accidents involving damage to unattended vehicle or property), where the violation occurred while the person was driving a commercial motor vehicle;

(5) any felony in the commission of which a court determines a commercial motor vehicle was essentially involved, except as described in subsection (e); or

(6) section 1606(c) (relating to requirement for commercial driver's license), while their driving privilege is suspended, revoked, canceled or recalled or while subject to disqualification or in violation of an out-of-service order.

(b) Disqualification for offense while carrying hazardous materials.—The department shall disqualify any person from driving a commercial motor vehicle for three years if any of the offenses in subsection (a) occurred while transporting a hazardous material required to be placarded.

(c) Disqualification for two violations of certain offenses.—The department shall disqualify for life any person convicted of two or more violations of any of the offenses specified in subsection (a), or any combination of those offenses, arising from two or more separate and distinct incidents. Only offenses committed after the effective date of this chapter may be considered in applying this subsection.

(d) Mitigation of disqualification for life.—The department may issue regulations establishing guidelines, including conditions, under which a disqualification for life under subsection (c) may be reduced to a period of not less than ten years, if such reductions are permitted by Federal regulations.

(e) Disqualification for controlled substance offenses.—The department shall disqualify any person from driving a commercial motor vehicle for life who is convicted of using a commercial motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance or possession with intent to manufacture, distribute or dispense a controlled substance. There shall be no exceptions or reductions to this disqualification for life.

(f) Disqualification for failure to have CDL.—The department shall disqualify any person from driving a commercial motor vehicle for six months upon receiving a certified record of the person's conviction of violating section 1606(a), except as provided in section 1606(d)(6).

(g) Disqualification for serious traffic offenses.—The department shall disqualify any person from driving a commercial motor vehicle for a period of 60 days if convicted of two serious traffic violations, or 120 days if convicted of three serious traffic violations, committed in a commercial motor vehicle arising from separate and distinct incidents occurring within a three-year period.

(h) Conviction in Federal court or another state.—For purposes of the provisions of this section, a copy of a certified record of conviction or a copy of a certified record of administrative adjudication from a Federal court or another state for an offense essentially similar to those offenses which

would result in disqualification in this section shall be treated by the department as if the conviction had occurred in this Commonwealth.

(i) Surrender of license.—Upon the disqualification of the commercial driving privilege *or school vehicle driving privilege* of a person, the license shall be surrendered as provided in section 1540 (relating to surrender of license).

(j) Updating driving record.—After suspending, revoking, recalling or canceling a commercial driver's license, the department shall update its records to reflect that action. After suspending, revoking, recalling or canceling a commercial driving privilege issued by another state, the department shall notify the licensing authority of the state which issued the commercial driver's license or nonresident commercial driver's license.

Section 6.5. Section 1612 of Title 75, amended October 4, 2002 (P.L.845, No.123), is amended to read:

§ 1612. Commercial and school vehicle drivers prohibited from operating with any alcohol in system.

(a) Offense defined.—Notwithstanding any other provision of this title, a person shall not drive, operate or be in physical control of a school vehicle or a commercial motor vehicle while having any alcohol in his system.

(b) Penalty.—

(1) A person who violates subsection (a) *while driving, operating or in physical control of a commercial motor vehicle* commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$100. A person who drives, operates or is in physical control of [a school vehicle or] a commercial motor vehicle while having alcohol in his system or who refuses to take a test to determine his alcohol content as provided by section 1613 (relating to implied consent requirements for commercial motor vehicle drivers) shall be placed out of service for 24 hours.

(2) *A person who violates subsection (a) while driving, operating or in physical control of a school bus or a school vehicle commits a summary offense and shall, upon conviction, be sentenced to pay a minimum fine of \$250, and, for a person convicted of a second or subsequent offense, the sentencing court shall order the person to pay a fine of \$500. A person who drives, operates or is in physical control of a school bus or a school vehicle while having alcohol in his system or who refuses to take a test to determine his alcohol content as provided by section 1613 shall be placed out of service by his employer for 30 days.*

Section 6.6. Section 1617 of Title 75 is amended by adding a paragraph to read:

§ 1617. Fees.

Fees relating to commercial drivers' licenses to be collected by the department under this chapter shall be in addition to any other fees imposed under the provisions of this title and are as follows:

* * *

(4) An additional fee of \$10 shall be imposed for the initial issuance or renewal of a commercial driver's license with an "H" or "X" endorsement, in addition to the cost of a criminal history background check as required by the USA Patriot Act of 2001 (Public Law 107-56, 115 Stat. 272).

Section 6.7. Section 1786(d) and (e)(2) of Title 75 are amended to read:
§ 1786. Required financial responsibility.

* * *

(d) Suspension of registration and operating privilege.—

(1) The Department of Transportation shall suspend the registration of a vehicle for a period of three months if it determines the required financial responsibility was not secured as required by this chapter and shall suspend the operating privilege of the owner or registrant for a period of three months if the department determines that the owner or registrant has operated or permitted the operation of the vehicle without the required financial responsibility. The operating privilege shall not be restored until the restoration fee for operating privilege provided by section 1960 (relating to reinstatement of operating privilege or vehicle registration) is paid.

(2) Whenever the department revokes or suspends the registration of any vehicle under this chapter, the department shall not restore the registration until the vehicle owner furnishes proof of financial responsibility in a manner determined by the department and submits an application for registration to the department, accompanied by the fee for restoration of registration provided by section 1960. This subsection shall not apply in the following circumstances:

[(1)] (i) The owner or registrant proves to the satisfaction of the department that the lapse in financial responsibility coverage was for a period of less than 31 days and that the owner or registrant did not operate or permit the operation of the vehicle during the period of lapse in financial responsibility.

[(2)] (ii) The owner or registrant is a member of the armed services of the United States, the owner or registrant has previously had the financial responsibility required by this chapter, financial responsibility had lapsed while the owner or registrant was on temporary, emergency duty and the vehicle was not operated during the period of lapse in financial responsibility. The exemption granted by this paragraph shall continue for 30 days after the owner or registrant returns from duty as long as the vehicle is not operated until the required financial responsibility has been established.

[(3)] (iii) The insurance coverage has terminated or financial responsibility has lapsed simultaneously with or subsequent to expiration of a seasonal registration, as provided in section 1307(a.1) (relating to period of registration).

(3) An owner whose vehicle registration has been suspended under this subsection shall have the same right of appeal under section 1377 (relating to judicial review) as provided for in cases of the suspension of vehicle registration for other purposes. The filing of the appeal shall act as a supersedeas, and the suspension shall not be imposed until determination of the matter as provided in section 1377. The court's scope of review in an appeal from a vehicle registration suspension shall be limited to determining whether:

(i) the vehicle is registered or of a type that is required to be registered under this title; and

(ii) there has been either notice to the department of a lapse, termination or cancellation in the financial responsibility coverage as required by law for that vehicle or that the owner, registrant or driver was requested to provide proof of financial responsibility to the department, a police officer or another driver and failed to do so. Notice to the department of the lapse, termination or cancellation or the failure to provide the requested proof of financial responsibility shall create a presumption that the vehicle lacked the requisite financial responsibility. This presumption may be overcome by producing clear and convincing evidence that the vehicle was insured at all relevant times.

(4) Where an owner or registrant's operating privilege has been suspended under this subsection, the owner or registrant shall have the same right of appeal under section 1550 (relating to judicial review) as provided for in cases of suspension for other reason. The court's scope of review in an appeal from an operating privilege suspension shall be limited to determining whether:

(i) the vehicle was registered or of a type required to be registered under this title; and

(ii) the owner or registrant operated or permitted the operation of the same vehicle when it was not covered by financial responsibility. The fact that an owner, registrant or operator of the motor vehicle failed to provide competent evidence of insurance or the fact that the department received notice of a lapse, termination or cancellation of insurance for the vehicle shall create a presumption that the vehicle lacked the requisite financial responsibility. This presumption may be overcome by producing clear and convincing evidence that the vehicle was insured at the time that it was driven.

(5) An alleged lapse, cancellation or termination of a policy of insurance by an insurer may only be challenged by requesting review by the Insurance Commissioner pursuant to Article XX of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921. Proof that a timely request has been made to the Insurance Commissioner for such a review shall act as a supersedeas,

staying the suspension of registration or operating privilege under this section pending a determination pursuant to section 2009(a) of The Insurance Company Law of 1921 or, in the event that further review at a hearing is requested by either party, a final order pursuant to section 2009(i) of The Insurance Company Law of 1921.

(e) Obligations upon *lapse*, termination or *cancellation* of financial responsibility.—

* * *

(2) An insurer who has issued a contract of motor vehicle liability insurance, or any approved self-insurance entity, shall notify the department in a timely manner and in a method prescribed by the department's regulations. *Upon request of an owner or registrant in the case of an appeal brought by an owner or registrant for suspension under this section, an insurer shall provide a copy of the notice of cancellation or a copy of the insurer's filing procedures with proof that the notice was written in the normal course of business and placed in the normal course of mailing. The department shall not be required to produce such copy or any other proof that notice of termination, lapse or cancellation was provided to the owner or registrant in order to satisfy the burden of proof in a proceeding under this section.*

* * *

Section 6.8. Section 1943 of Title 75 is amended by adding a subsection to read:

§ 1943. Annual hauling permits.

* * *

(r) *Excess damage permit.—The annual fee for excess damage permits, as provided for in section 4961(d) (relating to authority to issue permits), shall be \$500 to cover the costs of administering the permit and inspections of the involved highway.*

Section 6.9. Section 1951(a) of Title 75 is amended to read:

§ 1951. Driver's license and learner's permit.

(a) Driver's license.—The [annual fee for a] driver's license *fee for each year or partial year* shall be [~~\$5~~] \$5.25 plus the cost of the photograph required in section 1510(a) (relating to issuance and content of driver's license).

* * *

Section 6.10. Section 3116(q) of Title 75, added October 4, 2002 (P.L.845, No.123), is amended to read:

§ 3116. Automated red light enforcement systems in first class cities.

* * *

(q) *Expiration.—This section shall expire December 31, [2005] 2006.*

Section 7. Sections 3352(c) and (d), 3353(c), 3511(b) and 3524 of Title 75 are amended to read:

§ 3352. Removal of vehicle by or at direction of police.

* * *

(c) Removal to garage or place of safety.—Any police officer may remove or cause to be removed to the place of business of the operator of a wrecker or to a nearby garage or other place of safety any vehicle found upon a highway under any of the following circumstances:

(1) Report has been made that the vehicle has been stolen or taken without the consent of its owner.

(2) The person or persons in charge of the vehicle are physically unable to provide for the custody or removal of the vehicle.

(3) The person driving or in control of the vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before an issuing authority without unnecessary delay.

(4) The vehicle is in violation of section 3353 (relating to prohibitions in specified places) except for overtime parking.

(5) The vehicle has been abandoned as defined in this title. The officer shall comply with the provisions of [subsection (d) and] Chapter 73 (relating to abandoned vehicles and cargos).

(d) Notice to owner prior to removal.—

(1) Prior to removal of an abandoned vehicle bearing a registration plate, *current* certificate of inspection or vehicle identification number plate by which the last registered owner of the vehicle can be determined, the police department shall send a notice by certified mail to the last registered owner of the vehicle informing the owner that unless the vehicle is moved to a suitable location within seven days of the date notice is mailed, the vehicle will be removed under this section and held at a suitable facility where it may be reclaimed by the owner in accordance with the provisions of section 7306 (relating to payment of costs upon reclaiming vehicle). If the abandoned motor vehicle does not bear an identifiable registration plate, *current* certificate of inspection or vehicle identification number plate, the notice may be secured to the vehicle.

(2) If, within the seven-day period, the owner so requests, the owner shall be given an opportunity to explain to the police officer or department why the owner believes the vehicle should not be removed. If the police officer or department determines that the vehicle shall, nonetheless, be removed, the owner shall be given an additional 48 hours to remove the vehicle, have it removed or demand a hearing, which shall conform to the requirements of 2 Pa.C.S. Ch. 5 Subch. B (relating to practice and procedure of local agencies). The police officer or department shall inform the owner of the right to a hearing by delivering to the owner a notice warning the owner that, unless the vehicle is removed or a hearing is demanded, the owner shall be subject to the provisions of section 7306. If, as a result of the hearing, it is determined that the vehicle will be removed, the owner shall be given an additional 48 hours to remove the vehicle or have it removed. The hearing shall be

before a civilian officer or employee of the municipality in which the vehicle is located.

(3) The provision for notice set forth in this subsection is applicable only if the vehicle is abandoned upon a highway and is not in violation of subsection (b) or section 3351(a) or 3353. Notice under this subsection is in addition to any other notice requirements provided in Chapter 73.

(4) This subsection does not apply to nonrepairable vehicles.

§ 3353. Prohibitions in specified places.

* * *

(c) Property owner may remove vehicle.—The owner or other person in charge or possession of any property on which a vehicle is parked or left unattended in violation of the provisions of subsection (b) may remove or have removed the vehicle at the reasonable expense of the owner of the vehicle. Such person who removes *or has removed* a vehicle left parked or unattended in violation of the provisions of subsection (b) shall have a lien against the owner of the vehicle, in the amount of the reasonable value of the costs of removing the vehicle *plus the costs of storage*. Any city, borough, incorporated town or township may, by ordinance, provide for rates to be charged for removal of vehicles and for municipal regulation of authorized towing services. *If storage charges are not set by the municipality, a maximum of \$25 per day may be charged for storage.*

* * *

§ 3511. Pedalcycles prohibited on freeways.

* * *

(b) Exceptions.—

(1) The department and local authorities, on highways under their respective jurisdictions, may issue permits for a procession or event prohibited under subsection (a) upon a determination that:

(i) The pedalcycle procession or event is of national, State or regional interest; and

(ii) the results of an engineering and traffic study indicate that the procession or event can be conducted with safety.

(2) On State-designated freeways, pedalcycles may be authorized under the following limitations:

(i) The pedalcycler is [16] 18 years of age or older or is accompanied by a pedalcycler 18 years of age or older.

(ii) A written request for review of the freeway route based on the potential unavailability of [a reasonable] *an* alternate route is made to the department.

(iii) The department determines that no reasonable alternate route exists *and the freeway is safe for pedalcycle travel*.

(iv) The department publishes a notice in the Pennsylvania Bulletin authorizing pedalcycle access to the freeway. The notice shall constitute approval for the persons authorized under subparagraph (i) to ride a pedalcycle on the State-designated freeway.

* * *

§ 3524. Footrests and [handlebars] *handhold*.

[(a) **Passengers.**—]Any motorcycle carrying a passenger, other than in a sidecar or enclosed cab, shall be equipped with footrests and handhold for the passenger.

(b) Height of handlebars.—No person shall operate any motorcycle with handlebars above shoulder-height of the operator while properly seated upon the motorcycle.]

Section 7.1. Title 75 is amended by adding a section to read:

§ 3526. *Lighted lamp requirements for motorcycles.*

Notwithstanding the provisions of section 4302 (relating to periods for requiring lighted lamps), the operator of a motorcycle, manufactured during or after 1973, upon a highway shall display the lighted head lamps and other lamps and illuminating devices required under Chapter 43 (relating to lighting equipment) at all times.

Section 7.2. Section 3712 of Title 75 is amended to read:

§ 3712. Abandonment [and stripping] of vehicles.

(a) Abandonment on highway.—No person shall abandon a vehicle upon any highway.

(b) Abandonment on public or private property.—No person shall abandon a vehicle upon any public or private property without the express or implied consent of the owner or person in lawful possession or control of the property.

[(c) Stripping abandoned vehicle.—It is unlawful for any person, except the owner or his agent or as otherwise provided in this title, to remove any part of an abandoned vehicle.]

(d) Penalties.—

[(1) Any person violating subsection (a) or (b) is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$50 plus all costs of disposing of the vehicle under the provisions of Chapter 73 (relating to abandoned vehicles and cargos).

(2) Any person violating subsection (c):

(i) For a first offense, is guilty of a summary offense punishable by a fine of not less than \$100 nor more than \$500.

(ii) For a subsequent offense, is guilty of a misdemeanor of the third degree.]

(1) Any person violating subsection (a) or (b):

(i) For a first offense, commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$500 plus all costs of disposing of the vehicle under the provisions of Chapter 73 (relating to abandoned vehicles and cargos).

(ii) For a second offense, commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$1,000 plus all costs of disposing of the vehicle under the provisions of Chapter 73.

(iii) For a third or subsequent offense, commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay all costs of disposing of the vehicle under the provisions of Chapter 73.

(2) In a case involving a violation of this section, the municipality in which the vehicle is located may file the complaint with the appropriate issuing authority.

Section 8. Title 75 is amended by adding sections to read:

§ 3712.1. Restitution of property owners.

Any person who abandons a vehicle on private property may be ordered to pay restitution for any damages sustained by the owner or other person in control or possession of the real property where the vehicle was abandoned.

§ 3712.2. Stripping abandoned vehicles.

(a) Offense defined.—

(1) Except as provided in paragraph (2), a person commits the offense of stripping an abandoned vehicle if the person intentionally removes any part of an abandoned vehicle.

(2) Paragraph (1) does not apply if the person:

(i) is the owner of the vehicle or the owner's agent; or

(ii) is authorized to make the removal under Chapter 73 (relating to abandoned vehicles and cargos).

(b) Penalties.—Any person violating subsection (a):

(1) For a first offense, commits a misdemeanor of the third degree.

(2) For a subsequent offense, commits a felony of the third degree.

(c) Complaints.—In a case involving a violation of this section, the municipality in which the vehicle is located may file the complaint with the appropriate issuing authority.

Section 8.1. Sec. 3731(i) of Title 75, amended October 4, 2002 (P.L.845, No.123), is amended to read:

§ 3731. Driving under influence of alcohol or controlled substance.

* * *

*(i) Driving a commercial motor vehicle or a school vehicle while under the influence of alcohol or controlled substance.—A person shall not drive, operate or be in physical control of the movement of any commercial *motor* vehicle or school vehicle while:*

(1) under the influence of alcohol;

(2) under the influence of any controlled substance as defined in section 1603 (relating to definitions);

(3) under the combined influence of alcohol and any controlled substance; or

(4) the amount of alcohol by weight in the person's blood is [0.04% or more.]:

(i) 0.04% or more if the person is operating a commercial motor vehicle other than a school bus.

(ii) *0.02% or more if the person is operating a school bus or a school vehicle.*

* * *

Section 8.2. Section 4302 of Title 75 is amended by adding a subsection to read:

§ 4302. Periods for requiring lighted lamps.

* * *

(c) *Applicability.—This section shall not apply to motorcycles.*

Section 9. Section 4533 of Title 75 is amended to read:

§ 4533. Rear wheel shields.

Every truck *with a gross weight exceeding 11,000 pounds*, trailer and truck tractor (without a semitrailer) driven on a highway shall be so constructed or equipped as to bar water or other road surface substances thrown from the rear wheels of such vehicle or combination at tangents exceeding 22 1/2 degrees, measured from the road surface, from passing in a straight line to the rear of such vehicle or combination.

Section 9.1. Sections 4706 and 4722 of Title 75 are amended by adding subsections to read:

§ 4706. Prohibition on expenditures for emission inspection program.

* * *

(c.1) *Exchange of evidence of emission inspection.—A person replacing a windshield or repairing a windshield in such a manner as to require removal of evidence of emission inspection shall at the option of the registrant of the vehicle or the owner of a mass transit vehicle cut out the portion of the windshield containing the evidence of emission inspection and deliver it to the registrant of the vehicle or the owner of the mass transit vehicle or destroy the evidence of emission inspection. The vehicle or the mass transit vehicle may be driven for up to five days if it displays the portion of the old windshield containing the evidence of emission inspection as prescribed in department regulations. Within the five-day period, an official emission inspection station may affix to the vehicle or mass transit vehicle another evidence of emission inspection for the same inspection period without reinspecting the vehicle or mass transit vehicle in exchange for the portion of the old windshield containing the evidence of emission inspection. A fee of no more than \$2 plus the fee paid to access the department's computer to enter the evidence of emission inspection into the system may be charged for exchanging evidence of emission inspection.*

* * *

§ 4722. Certificate of appointment.

* * *

(d) *Waiver.—The department shall promulgate regulations to provide a waiver of the 40-hour requirement that an inspection station must be open for business. The regulations shall establish the minimum requirements to be eligible for the waiver and shall require, at a*

minimum, that the inspection station be open for business at least ten business hours during the normal workweek (Monday through Friday) between 7 a.m. and 8 p.m.

Section 10. Section 4729 of Title 75 is amended to read:

§ 4729. Removal of certificate of inspection.

No certificate of inspection shall be removed from a vehicle or a mass transit vehicle for which the certificate was issued except to replace it with a new certificate of inspection issued in accordance with the provisions of this chapter or as follows:

(1) The police officer may remove a certificate of inspection in accordance with the provisions of section 4703(f) (relating to operation of vehicle without official certificate of inspection).

(2) A person replacing a windshield or repairing a windshield in such a manner as to require removal of a certificate of inspection shall at the option of the registrant of the vehicle or the owner of a mass transit vehicle cut out the portion of the windshield containing the certificate and deliver it to the registrant of the vehicle or the owner of the mass transit vehicle or destroy the certificate. The vehicle or the mass transit vehicle may be driven for up to five days if it displays the portion of the old windshield containing the certificate as prescribed in department regulations. Within the five day period an official inspection station may affix to the vehicle or mass transit vehicle another certificate of inspection for the same inspection period without reinspecting the vehicle or mass transit vehicle in exchange for the portion of the old windshield containing the certificate of inspection. A fee of no more than \$2 plus the fee paid to the department may be charged for exchanging the certificate of inspection.

(3) A salvor shall remove and destroy the *current* certificate of inspection on every vehicle [or mass transit vehicle in his possession except vehicles] *processed as abandoned in the salvor's possession except vehicles owned by the salvor or* used in the operation of the business of the salvor.

(4) Every applicant for a certificate of salvage *or nonrepairable certificate* pursuant to [section 1117(a) (relating to vehicle destroyed, dismantled, salvaged or recycled)] *Subchapter D of Chapter 11 (relating to salvage vehicles, theft vehicles, reconstructed vehicles and flood vehicles)* shall remove and destroy the [valid] *current* certificate of inspection.

(5) *For the purposes of administering the requirements of regulations promulgated by the department, a qualified Commonwealth employee or an authorized department representative may remove an unauthorized, expired or unlawfully issued certificate of inspection or a certificate of inspection issued for a covert audit.*

Section 10.1. Section 4901(c) of Title 75 is amended and the section is amended by adding a subsection to read:

§ 4901. Scope and application of chapter.

* * *

(c) Permit authorizing prohibited movement.—If an overweight or oversize movement cannot be made in any other feasible manner, the permit may authorize the movement to be made in contravention to any provision of this title provided that:

(1) the department or local authority determines that the movement is in the public interest; and

(2) the movement is escorted by the Pennsylvania State Police, *extra-duty Pennsylvania State Police* or department personnel [while any provision of this title is being contravened]. *When the movement is escorted by extra-duty Pennsylvania State Police or department personnel, the following shall apply:*

(i) *Approval must be obtained from the Pennsylvania State Police or the department for the use of their respective personnel.*

(ii) *The permittee shall bear the total costs of escorting the movement.*

* * *

(e) *Definition.—As used in this section, the term “extra-duty Pennsylvania State Police” means sworn members of the Pennsylvania State Police performing escort duty outside of their regularly scheduled shift on an overtime basis.*

Section 10.2. Title 75 is amended by adding a section to read:

§ 4949. *Application to tow trucks.*

The weight restrictions set forth in this subchapter do not apply to a combination consisting of any tow truck towing a disabled motor vehicle to a place of repairs or other place of safety as long as the overweight combination travels directly to the first available such location and the movement is performed at the direction of authorized emergency personnel or a qualified Commonwealth employee.

Section 10.3. Sections 4961, 4979.2, 7301 and 7302 of Title 75 are amended to read:

§ 4961. Authority to issue permits.

(a) General rule.—The department and local authorities with respect to highways under their respective jurisdictions may, upon application in writing showing good cause, issue special permits in writing authorizing the applicant to operate or move on specified highways any of the following:

(1) A vehicle which when unloaded exceeds the maximum size specified in Subchapter B (relating to width, height and length) or the maximum weights specified in Subchapter C (relating to maximum weights of vehicles).

(2) A combination carrying a nondivisible load and exceeding the maximum size specified in Subchapter B or the maximum weights specified in Subchapter C.

(3) A vehicle containing a nondivisible load which exceeds the maximum width specified in section 4921(a) (relating to width of vehicles) or the maximum height specified in section 4922 (relating to height of vehicles).

(4) A mobile home.

(5) A modular housing or manufactured construction unit which exceeds the maximum size prescribed in this title.

(5.1) A manufactured construction unit which exceeds the maximum size and weight prescribed in this title.

(6) A modular housing or manufactured construction unit undercarriage which exceeds the maximum size prescribed in this title.

(7) Such other vehicles and combinations as are specifically authorized in this chapter.

(b) Limitation for truck tractors.—Permits to exceed the maximum weight limit shall be issued only for truck tractors registered at the maximum weight permitted under section 4941(a) or (b) (relating to maximum gross weight of vehicles). When a truck tractor is operating under permit, the fine for axle and gross weight violations shall only be applicable to the weight that the vehicle is in excess of the weight allowed on the permit.

(c) County offices for issuing permits.—The department shall empower an authorized representative or employee to issue permits as provided in subsection (a) and may provide a place within each county where the permits may be issued.

(d) Excess damage permits.—The department and local authorities having highways under their respective jurisdictions may issue a permit with a maximum distance of 2.5 miles for the movement upon specified highways of combinations in excess of the maximum weights specified in Subchapter C and may require such security as deemed necessary to cover the cost of repairs and restoration necessitated by the movement of such vehicles. Permits issued under this subsection shall be subject to the following conditions:

(1) The security shall be in the form of an irrevocable letter of credit signed by a bank officer and naming the department or local authority as sole beneficiary, to be honored on presentment.

(2) The maximum allowable gross weight shall be 125,000 pounds.

(3) Upon notification from the department or local authority, the permittee shall reimburse the department or local authority for repair and restoration costs determined to be necessitated by the movement of the overweight vehicles. Failure to reimburse the department or local authority within 60 days of said notice shall automatically invalidate the permit and cause action against the letter of credit.

§ 4979.2. Permit for movement of waste coal [and], beneficial combustion ash or limestone.

(a) Waste coal and beneficial combustion ash.—An annual permit may be issued for the movement on specified highways of waste coal from a refuse pile to a preparation or power production facility or beneficial combustion ash from a power production facility to a reclamation area which exceeds the maximum vehicle gross weight specified in Subchapter C (relating to maximum weights of vehicles). The weight of any vehicle permitted under this section may not exceed 95,000 pounds overall gross weight, and the weight on any nonsteering axle may not exceed 21,000 pounds. No permit may be issued for this type of movement upon an interstate highway.

(b) Limestone.—An annual permit may be issued for the movement on specified highways of limestone from a quarry to a power production facility which exceeds the maximum vehicle gross weight specified in Subchapter C, subject to the following conditions:

(1) The combination must have a minimum of six axles.

(2) The maximum overall gross weight may not exceed 95,000 pounds.

(3) The weight on any nonsteering axle may not exceed 21,000 pounds.

(4) The maximum travel distance may not exceed 100 miles.

(5) No permit may be issued for this type of movement on an interstate highway.

§ 7301. Authorization of salvors.

(a) General rule.—The department shall authorize and shall issue a certificate of authorization to every salvor that complies with the requirements of this chapter and regulations adopted by the department and is a *currently registered* vehicle salvage dealer as defined in section 1337(c)(2) (relating to use of “Miscellaneous Motor Vehicle Business” registration plates).

(a.1) Repair or towing business.—*The department may authorize and issue a certificate of authorization to a currently registered repair or towing business under section 1337(c)(1) if there is no qualified vehicle salvage dealer in a county.*

(b) Unauthorized operation prohibited.—No person shall operate as a salvor unless authorized.

[(c) Duty of salvor.—Upon written request of a police department, a salvor shall take possession of and remove to the storage facility of the salvor any abandoned vehicle located within 30 miles of the place of business of the salvor.

(d) Storage facility.—A salvor may rent or own a storage facility, which shall comply with the act of July 28, 1966 (3rd Sp.Sess., P.L.91, No.4), referred to as the Junkyard and Automotive Recycler Screening Law, where applicable, and with regulations promulgated by the department.]

§ 7302. Certificate of authorization.

(a) Application and issuance.—Application for a certificate of authorization shall be made on a form prescribed by the department. The department shall investigate the qualifications and fitness of the applicant and shall issue a certificate of authorization if it determines that the applicant is capable of performing the duties of a salvor in a manner consistent with the public interest.

(b) Place of business.—Every applicant shall have and maintain an established place of business. If the applicant has or intends to have one or more places of business or branch offices, the application shall contain complete information for each location.

(c) Bonding required.—Before issuing a certificate of authorization, the department shall require the applicant to furnish and maintain a bond indemnifying the public and the department in the amount of \$10,000. An individual bond for each place of business is not required, but all places of business shall be covered by the bond.

(d) Duration and renewal.—Certificates of authorization shall be issued for a period of one year and shall be subject to annual renewal[.], *including a review of the salvor's status as a vehicle salvage dealer under section 1337(c)(2) (relating to use of "Miscellaneous Motor Vehicle Business" registration plates).*

(e) Storage facility.—*A salvor shall rent or own a storage facility which shall comply with the act of July 28, 1966 (3rd Sp.Sess., P.L.91, No.4), referred to as the Junkyard and Automotive Recycler Screening Law, where applicable and with regulations promulgated by the department.*

Section 11. Title 75 is amended by adding a section to read:

§ 7303.1. *Duty of police and salvors.*

(a) *Duty of police and authorized personnel.—Police officers or personnel designated by ordinance of a municipality shall process all vehicles presumed to be abandoned. They shall complete an abandoned vehicle information report on a form prescribed by the department on each vehicle declared abandoned. The report shall include the make, model, vehicle identification number, registration plate number, name and address of the owner or person who abandoned the vehicle, if known, and any other information the department may require. The report shall also indicate the vehicle's status as a vehicle with value, a salvage vehicle or a nonrepairable vehicle. The report shall include the name, signature and badge number of the police officer and the name of the respective police department. The report shall serve as an authorized written request for a licensed salvor to remove, possess and further process the abandoned vehicle.*

(b) *Duty of salvors.—Upon receipt of the written abandoned vehicle information report from any authorized person described in subsection (a), a salvor shall take possession of and remove to the storage facility of*

the salvor any abandoned vehicle located within 30 miles of the place of business of the salvor. The salvor shall also indicate on the abandoned vehicle information report the vehicle's status as a vehicle with value, a salvage vehicle or a nonrepairable vehicle.

Section 12. Sections 7304, 7305, 7306, 7308 and 7309 of Title 75 are amended to read:

§ 7304. Reports to department of possession of abandoned vehicles.

Any salvor taking possession of an abandoned vehicle pursuant to section [7301(c) (relating to authorization of salvors)] *7303.1 (relating to duty of police and salvors)* shall within 48 hours after taking possession *send an abandoned vehicle information* report to the department. [the make, model, vehicle identification number and registration plate number of the abandoned vehicle, and the name and address of the owner or person who abandoned the vehicle, if known, together with any other information or documents which the department may by regulation require. The report shall include a statement whether the vehicle is valueless except for salvage. Where] *If* the report indicates the vehicle is [valueless except for] *a salvage vehicle*, the salvor shall include a photograph of the vehicle to be prepared in a manner prescribed by the department. [A report by a salvor that a vehicle is valueless except for salvage shall be verified by the police department which authorized transfer of the vehicle to the salvor.] *Any nonrepairable vehicle which does not display an identifiable registration plate, current certificate of inspection and ascertainable vehicle identification number shall be taken into possession and flattened or crushed immediately. There is no requirement to notify the department.*

§ 7305. Notice to owner and lienholders of abandoned vehicles.

(a) General rule.—[Except as provided in section 7309 (relating to salvaging of vehicles valueless except for salvage), the] *The* department[,] upon receipt of [notice that an abandoned vehicle has been taken into possession pursuant to this chapter,] *an abandoned vehicle information report* shall notify by certified mail, return receipt requested, the last known registered owner of the vehicle and all lienholders of record that the vehicle is *being held as* abandoned.

(b) Contents of notice.—The notice shall:

(1) Describe the make, model, title number, vehicle identification number and registration plate number of the abandoned vehicle, if known.

(1.1) State the location of the police department that processed the vehicle.

(2) State the location where the vehicle is being held.

(3) Inform the owner and any lienholders of their right to reclaim the vehicle *and its contents* within 30 days after the date [of] the notice *was mailed* at the place where the vehicle is being held by the salvor, upon payment of all towing [and], storage charges [and], the fee authorized in

section 7306 (relating to payment of costs upon reclaiming vehicle)[.] *and penalties under section 3712(d)(1) (relating to abandonment and stripping of vehicles).*

(4) State that the failure of the owner or lienholder to reclaim the vehicle *and its contents* is deemed consent by the owner to the destruction, sale or other disposition of the abandoned vehicle *and its contents* and of all lienholders to dissolution of their liens.

(5) *Inform the owner and any lienholders of their right, within 30 days of the mailing date of the notice, to request from the appropriate police department a copy of the abandoned vehicle information report and of their right to a hearing conforming to the requirements of 2 Pa.C.S. Ch. 5 Subch. B (relating to practice and procedure of local agencies). The hearing shall be before a civilian officer or employee of the municipality in which the vehicle was reported as abandoned. If as a result of the hearing it is determined that the vehicle was not abandoned, the owner or lienholder may retrieve the vehicle within 48 hours without payment of any of the fees and penalties under paragraph (3).*

(c) Notice by publication.—If the identity of the last registered owner and of all lienholders cannot be determined with reasonable certainty, the contents of the notice set forth in subsection (b) shall be published one time in one newspaper of general circulation in the area where the vehicle was abandoned. The notice may contain multiple listings of abandoned vehicles. Notice by publication locally shall be the responsibility of the salvor. The notice shall have the same effect as notice sent by certified mail.

§ 7306. Payment of costs upon reclaiming vehicle.

In the event the owner or lienholder of an abandoned vehicle reclaims the vehicle, the reclaiming party shall pay the costs for towing and storage *from the date the salvor submitted the abandoned vehicle report to the department*, plus a fee of ~~[\$25]~~ \$50 of which ~~[\$10]~~ \$25 shall be transmitted to the department by the salvor.

§ 7308. Public sale of unclaimed vehicles with value.

(a) General rule.—If an abandoned vehicle having value has not been reclaimed as provided in this chapter, the vehicle shall be sold at a public auction.

(b) Title of purchaser.—The salvor shall give the purchaser a sales receipt and shall apply to the department for ~~[a]~~ *an abandoned branded* title which shall be free and clear of all previous liens and claims of ownership.

(c) Disposition of proceeds.—From the proceeds of the sale of the abandoned vehicle, the salvor shall be reimbursed for the *fee authorized in section 7306 (relating to payment of costs upon reclaiming vehicle) and* the costs of towing, storage *from the date the salvor submitted the abandoned vehicle report to the department*, notice and publication costs and *the* expenses of auction. The remainder of the proceeds of a sale shall

be [held for the owner of the vehicle or record lienholder for 60 days from the date of sale and if not properly claimed shall then be] paid to the department and transmitted to the State Treasurer for deposit in the Motor License Fund.

§ 7309. **[Salvaging of vehicles valueless except for salvage.] *Processing of nonrepairable or salvage vehicles.***

(a) Application for certificate of salvage.—If an abandoned vehicle is [valueless except for salvage,] *a salvage or nonrepairable vehicle as deemed by a police officer and salvor*, the salvor *and the police officer* shall note that fact in the report to the department required in section 7304 (relating to reports to department of possession of abandoned vehicles) and shall apply for issuance of a certificate of salvage *or nonrepairable vehicle* as provided for in [section 1117 (relating to vehicle destroyed, dismantled, salvaged or recycled)] *Subchapter D of Chapter 11 (relating to salvage vehicles, theft vehicles, reconstructed vehicles and flood vehicles)*.

(b) Notice and issuance of certificate.—If the identity of the last registered owner cannot be determined with reasonable certainty and it is impossible to determine with reasonable certainty the identity and addresses of any lienholder, no notice shall be required. Under such circumstances, the department shall upon receipt of the report by the salvor pursuant to section 7304 issue a certificate of salvage as provided in [section 1117] *Subchapter D of Chapter 11*.

(c) Reimbursement of expenses of salvor.—[Upon] *Within 60 days of the department's receipt [within six months]* of evidence that a salvor has removed an abandoned vehicle upon the request of a police department, the department shall pay to the salvor from the Motor License Fund the sum of \$15 for the expenses incurred in the removal and towing of the abandoned vehicle. No portion of *the* \$15 payment or any separate consideration shall be reimbursed or paid to any government agency or municipality by the salvor.

(d) Rights of owners and lienholders.—Issuance by the department of a certificate of salvage, *abandoned branded certificate of title or nonrepairable vehicle certificate* for a vehicle [salvaged] *processed* under this section shall operate as a divestiture of all right, title and interest in the vehicle of the owner and all lienholders *and any interest in the contents in the vehicle which have not been claimed by the owner*.

(e) *Police officers and authorized personnel.—Police officers, authorized personnel, their departments or any government agency or municipality shall not assess or accept payment, consideration of any kind or portions of fees outlined in this chapter from any salvor or person for the processing of abandoned vehicles.*

Section 13. Section 7310 of Title 75 is amended by adding a subsection to read:

§ 7310. Removal of vehicles and spilled cargo from roadway.

* * *

(d) Removal from Pennsylvania Turnpike System.—Notwithstanding the other provisions of this section, any vehicle on the Pennsylvania Turnpike System presumed to be abandoned as defined in section 102 (relating to definitions) shall immediately be removed by or at the direction of the Pennsylvania State Police to the contract garage providing service for that area. In all cases, the Pennsylvania State Police shall remove or direct the removal of any such vehicle within 24 hours of the time of the vehicle's presumption of abandonment.

Section 14. Section 7311 of Title 75 is amended to read:

§ 7311. Reports by garage keepers of abandoned vehicles.

The person in charge of any garage or repair shop in which a vehicle of unknown ownership has been left for a period of 15 consecutive days *or, in the case of repair or storage, 15 consecutive days following the completion of repairs or storage agreement* without being removed by the owner or any other person duly authorized to remove the vehicle shall report to the department within 24 hours of the expiration of the 15-day period giving the make, [engine number,] vehicle identification number, registration plate number and the name and address of the person abandoning the vehicle if known. Upon receipt of the report the department shall make a distinctive record of the report and [file the report in the manner provided in section 7114 (relating to records of stolen vehicles).] *issue a private property abandoned vehicle information report under section 7311.1 (relating to reports by private property owners of abandoned vehicles) to the garage keeper to complete and file with the police.*

Section 15. Title 75 is amended by adding sections to read:

§ 7311.1. *Reports by private property owners of abandoned vehicles.*

A person on whose private property is located a vehicle which has remained on the property without the consent of the property owner or his agent for more than 24 hours may authorize the removal or processing of the vehicle. Prior to removal or processing of the vehicle, that person shall file a report, on a multipart form prescribed by the department, with the local police department declaring that an unauthorized vehicle has been left unattended and on private property for at least 24 hours. One part of such report shall be retained by that person, and the other part shall be filed with the police department. The police department shall, within five business days, process the vehicle as abandoned under this chapter and attach a copy of the report to the abandoned vehicle information report.

§ 7311.2. *Salvors to remove abandoned vehicles in good faith.*

When requested to remove an abandoned vehicle, no salvor shall relocate and subsequently abandon the vehicle. The salvor shall move the

vehicle to a facility for the purpose of storage of abandoned vehicles or another place as directed by the police or approved by the department.

Section 16. Sections 7312, 7501 and 7502 of Title 75 are amended to read:

§ 7312. Penalty for violation of chapter.

(a) Fines and imprisonment.—Any person violating any of the provisions of this chapter is guilty of a summary offense, punishable:

(1) For a first offense, by a fine of \$100.

(2) For a subsequent offense, by a fine of not less than \$200 nor more than \$500 or imprisonment for not more than 90 days, or both.

(a.1) Specific violation.—In addition to any other criminal or civil penalties provided for in this title or in department regulations, any salvor who violates section 7311.2 (relating to salvors to remove abandoned vehicles in good faith) shall be fined not less than \$1,000 nor more than \$10,000, one-half to be paid to the department and the other one-half to be paid to the municipality where the vehicle was abandoned.

(b) Suspension.—For violation of any of the provisions of this chapter, the salvor shall be subject to suspension of the privilege to receive abandoned vehicles under this chapter.

§ 7501. Authorization of messenger [service] *and agent services.*

(a) General rule.—The department shall [~~authorize and shall issue a certificate of authorization to every~~] *enter into contracts for messenger [service that complies with the requirements of this chapter and regulations adopted by the department.] and agent services.*

(b) Unauthorized operation prohibited.—No person shall operate a messenger *or agent* service [~~unless authorized~~] *without a valid contract.*

(c) Penalty.—Any person operating a messenger *or agent* service without [~~authorization~~] *a valid contract* is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of [~~\$200~~] *\$500.*

[§ 7502. Certificate of authorization.

(a) Application and issuance.—Application for a certificate of authorization shall be made on a form prescribed by the department, accompanied by the applicable fee. The department shall investigate the qualifications and fitness of the applicant and shall issue a certificate of authorization if it determines that the applicant is capable of performing the duties of a messenger service in a manner consistent with the public interest and the applicable fees are paid.

(b) Place of business.—Every applicant shall have and maintain an established place of business. If the applicant has or intends to have one or more places of business or branch offices, the application shall contain complete information for each location.

(c) Bond required.—Before issuing a certificate of authorization, the department shall require the applicant to furnish and maintain a bond indemnifying the public and the department in the amount of \$50,000.

An individual bond for each place of business is not required, but all places of business shall be covered by the bond.

(d) Commonwealth employees ineligible.—No official or employee of the Commonwealth shall be given authorization to operate as a messenger service, nor own, nor be employed by, a messenger service.

(e) Duration and renewal.—Certificates of authorization shall be given for a period of one year and may be renewed annually.]

Section 17. Title 75 is amended by adding a section to read:

§ 7502.1. Supersession.

(a) *Regulations.*—Regulations pertaining to messengers and agents regarding the amount of a bond, hearings, written warnings, suspensions, revocations or fines shall not apply to messengers and agents who enter into contracts with the department to provide messenger or agent services.

(b) *Previous authorization.*—Any certificate of authorization previously issued to a person to provide messenger or agent services shall be invalid 30 days after the effective date of this section.

(c) *Commonwealth employees ineligible.*—No official or employee of the Commonwealth shall be eligible to enter into a contract with the department to own or operate a messenger or agent service nor shall a messenger or agent service employ an official or employee of the Commonwealth. Nothing in this subsection prohibits the department from entering into an agreement with another government agency to allow the agency to provide agent services for its own use.

Section 18. Section 7503 of Title 75 is amended to read:

[§ 7503. Suspension of authorization.

(a) *General rule.*—The department shall supervise messenger services and, after providing an opportunity for a hearing, shall suspend the authorization of any messenger service which it finds is not properly operated or which has violated or failed to comply with any of the provisions of this chapter or regulations adopted by the department. Any suspended certificate of authorization shall be returned to the department immediately. A suspended certificate may be restored on such terms and conditions, including the posting of additional bond, as the department shall deem advisable.

(b) *Judicial review.*—Any person whose certificate of authorization has been denied or suspended under this chapter shall have the right to appeal to the court vested with jurisdiction of such appeals by or pursuant to Title 42 (relating to judiciary and judicial procedure). The court shall set the matter for hearing upon 30 days' written notice to the department and take testimony and examine into the facts of the case and determine whether the petitioner is entitled to a certificate of authorization or is subject to suspension of the certificate of authorization under the provisions of this chapter.]

Section 19. Title 75 is amended by adding a section to read:

§ 7503.1. Bond required.

Before entering into a contract with any person to act as a messenger or agent service, the department shall require a person to furnish and maintain a bond indemnifying the public and the department in an amount specified by the department.

Section 20. Section 7504 of Title 75 is amended to read:

[§ 7504. Place of business.

(a) **Operation with other business.**—A messenger service may be operated in conjunction with a closely allied business in accordance with regulations of the department.

(b) **Change of location.**—Upon notification in writing to the department that the location of place of business or branch will be changed and upon payment of the applicable transfer fee, the department shall issue a certificate of authorization for the new location for the unexpired period of authorization if the department determines that the new location conforms to department regulations.

(c) **Failure to report changes.**—A change of location or addition of a place of business or branch office without notification to the department shall result in suspension of the certificate of authorization.

(d) **Display of sign and certificate.**—Every messenger service shall display on the outside of each place of business an identifying sign conforming to regulations of the department and shall prominently display within each place of business its certificate of authorization. No person other than an authorized messenger service shall display a similar identifying sign or certificate.]

Section 21. Title 75 is amended by adding a section to read:

§ 7504.1. Agent duties and responsibilities.

(a) **General rule.**—*An agent shall faithfully abide by and comply with all laws pertaining to the issuance of temporary registration plates and cards.*

(b) **Return or surrender of temporary registration cards and plates.**—

(1) *An agent who discontinues the business shall, within five days of discontinuance, return to the department all temporary registration cards and plates in the agent's possession. The department shall make appropriate refunds under paragraph (3).*

(2) *An agent whose contract has been terminated shall surrender all registration cards and plates in the agent's possession as directed by the department or its designee.*

(3) *The fee paid by an agent for a temporary registration plate shall be refunded to the agent upon the return of the plate if the plate is accompanied by the appropriate form provided by the department except when the contract to operate as an agent is terminated. The department shall deduct \$25 from the refund to cover processing of the request for refund.*

(c) Seizure of registration plates.—Designated department employees and designees of the department may seize temporary registration plates and related documents from a messenger or agent who does not have a contract with the department to provide agent services.

(d) Display of sign and certificate.—Every messenger or agent service shall display on the outside of each place of business an identifying sign conforming to regulations of the department and shall prominently display within each place of business its certificate of authorization. No person other than an authorized messenger or agent service shall display a similar identifying sign or certificate.

Section 22. Sections 7505 and 7506 of Title 75 are amended to read:

§ 7505. Transaction of business with department.

The department may designate those locations, facilities and hours of operation at which messenger *or agent* services may transact business with the department. Every messenger *or agent* service [to] *with* whom a [certificate of authorization] *contract* has been [issued] *signed* pursuant to this chapter shall be permitted to transact business with the department at the locations and facilities and during the hours of operation designated by the department. The department may prescribe such regulations as may be necessary for the administration of this chapter.

§ 7506. Violations and penalties.

[Any] A person violating any provision of this chapter or the rules and regulations promulgated thereunder for which a specific penalty is not provided is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$100.

Section 23. Title 75 is amended by adding sections to read:

§ 7507. *Certified checks may be required.*

The department may, in its discretion, require certified checks, postal or other money orders or cash from a messenger or agent service after a default in the payment of checks or drafts of the messenger or agent service.

§ 7508. *Nonperformance.*

(a) Nonperformance factors.—It shall not be a breach of contract by a messenger or agent service if the department determines that the failure to timely submit an application, taxes or fees was the result of:

(1) an act of God;

(2) criminal or fraudulent action by an employee of the messenger or agent service which was unknown and could not have been prevented by the messenger or agent service unless the department determines that the messenger or agent service, or an employee of the messenger or agent service, altered the date of the purchase of a vehicle upon an application;

(3) a failure by a lienholder to forward a title as required by section 1135 (a)(1) (relating to satisfaction of security interest) provided the lienholder received prompt satisfaction; or

(4) criminal, fraudulent or negligent action by a messenger service of the department if the agent and messenger service are not controlled by the same person and the agent submitted the application, taxes or fees to the messenger service within 15 days of receipt by the agent service.

(b) Burden of proof.—A messenger or agent service has the burden to prove the existence of subsection (a)(1), (2), (3) or (4). The messenger or agent service shall also prove that its submission was in accordance with business practices requiring prompt submission of applications, taxes or fees to the department.

§ 7509. Messenger and Agent Advisory Committee.

(a) Purpose.—The Messenger and Agent Advisory Committee, consisting of 13 members, shall be created by the department to develop contract language and propose regulations governing messenger and agent services.

(b) Membership.—The advisory committee shall consist of the following members:

(1) One member appointed by the Governor from names submitted by each of the following organizations to represent the messenger and agent services industries and the needs of the motoring public:

(i) The Pennsylvania AAA Federation.

(ii) The Pennsylvania Automotive Association.

(iii) The Pennsylvania Association of Notaries.

(iv) The Pennsylvania Independent Auto Dealers Association.

(v) The Pennsylvania Association of Auto License Brokers.

(2) Two members from the general public appointed by the Governor.

(3) The Secretary of Transportation or the secretary's designee.

(4) The Commissioner of the Pennsylvania State Police or the commissioner's designee.

(5) The chairman and minority chairman of the Transportation Committee of the Senate and the chairman and minority chairman of the Transportation Committee of the House of Representatives.

(c) Meetings.—The advisory committee shall meet from time to time as necessary to resolve issues pertaining to development of contract language and proposal of regulations. The first meeting shall take place within 60 days of the effective date of this section.

(d) Termination.—The advisory committee shall terminate upon the department's issuance of proposed regulations governing messenger and agent services.

Section 24. Pending promulgations of the regulations required by 75 Pa.C.S. § 4722, the Department of Transportation is authorized to issue and revoke waivers of the hour requirements for official inspection stations as follows:

(1) A request for a waiver of business hours shall be submitted to the Bureau of Motor Vehicles of the Department of Transportation on a form provided by the department. The form shall require the following information:

(i) All relevant station and ownership information.

(ii) The reason for the request.

(iii) A listing of requested days/hours of operation. An inspection station shall be open a minimum of 20 hours per week, and a minimum of ten of those hours shall be during Monday through Friday between 7 a.m. and 8 p.m.

(iv) A detailed explanation of security measures relating to inspection stickers and inspection records which will be in place during the requested hours of operation.

(v) An estimate of the number and type of inspections to be performed.

(vi) If applicable, a copy of any contract or arrangement made with other business concerns for which inspections will be performed documenting the need for the waiver of hours.

(vii) Any other documentation or information requested by the department.

(2) A waiver of hours may be denied or revoked for any of the following reasons:

(i) If a violation of the inspection regulations was committed by the inspection station owner, manager, certified inspector or other employee at the station within three years immediately preceding a request for waiver of hours.

(ii) If the station owner, manager, a certified inspector or other employee at an inspection station that has been granted a waiver of hours commits a violation of the inspection regulations after the waiver has been granted.

(iii) If any station personnel currently employed or hired have been or are currently suspended for inspection violations.

(iv) If the department or its designee is unable on two attempts on two different business days to perform any official visit, including a periodic records audit, during the hours specified in the approved waiver.

(v) If a station fails to be in operation during the hours specified in the waiver.

(vi) If a station fails to comply with any of the provisions of this section.

Section 25. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) The addition of the definition of "nonrepairable vehicle" in 75 Pa.C.S. § 102.

(ii) The addition of 75 Pa.C.S. § 1109(6).

- (iii) The addition of 75 Pa.C.S. § 4729(5).
- (iv) The addition of 75 Pa.C.S. § 7507.
- (v) Section 24 of this act.
- (vi) This section.

(1.1) The amendment or addition of the following provisions shall take effect in 120 days:

- (i) 75 Pa.C.S. § 1503(a)(9).
- (ii) 75 Pa.C.S. § 1515.
- (iii) 75 Pa.C.S. § 1617(4).
- (iv) 75 Pa.C.S. § 1951(a).

(2) The following provisions shall take effect in six months:

- (i) The addition of the definition of “agent service” in 75 Pa.C.S. § 102.
- (ii) The amendment of 75 Pa.C.S. § 7501(a).
- (iii) The amendment of 75 Pa.C.S. § 7502.
- (iv) The addition of 75 Pa.C.S. § 7502.1(a) and (c).
- (v) The addition of 75 Pa.C.S. § 7503.1.
- (vi) The addition of 75 Pa.C.S. § 7504.1.
- (vii) The amendment of 75 Pa.C.S. § 7506.
- (viii) The amendment of 75 Pa.C.S. § 7508.

(3) The addition of the following provisions shall take effect in 270 days:

- (i) 75 Pa.C.S. § 1506(a.1).
- (ii) 75 Pa.C.S. § 1510(i).
- (iii) 75 Pa.C.S. § 1514(e).

(4) The following provisions shall take effect in two years:

- (i) The amendment of 75 Pa.C.S. § 7501(b) and (c).
- (ii) The addition of 75 Pa.C.S. § 7502.1(b).
- (iii) The amendment of 75 Pa.C.S. § 7503.
- (iv) The amendment of 75 Pa.C.S. § 7504.
- (v) The amendment of 75 Pa.C.S. § 7505.

(5) The remainder of this act shall take effect in 60 days.

APPROVED—The 9th day of December, A.D. 2002.

MARK S. SCHWEIKER