

 **New Jersey
Motor Vehicle Commission**

P.O. Box 160
Trenton, New Jersey 08666-0160

STATE OF NEW JERSEY



Philip D. Murphy
Governor

Sheila Y. Oliver
Lt. Governor

B. Sue Fulton
Chair and Chief Administrator

October 10, 2018

Honorable Philip D. Murphy
Governor, State of New Jersey
225 West State Street
Post Office Box 001
Trenton, NJ 08625-0001

Dear Governor Murphy:

In accordance with Section 17 of The Motor Vehicle Security and Customer Service Act of 2003, constituting Chapter 13 of the laws of 2003 of the State of New Jersey, as amended pursuant to P. L. 2007, Chapter 335 and pursuant to P. L. 2009, Chapter 298, I herein transmit the minutes of actions taken at the open session of the Regular Meeting of the New Jersey Motor Vehicle Commission Board at Floor 8E, Motor Vehicle Commission Headquarters, Tuesday, October 9, 2018.

Thank you.

Sincerely,



Chris Hillmann
Director of Legislative Affairs

Enclosure



State of New Jersey

OFFICE OF THE GOVERNOR

P.O. Box 001

TRENTON, NJ 08625-0001

PHILIP D. MURPHY
Governor

TO: Jack Donnelly john.donnelly@mvc.nj.gov
FROM: Samantha Heffelfinger
DATE: October 11, 2018
RE: **New Jersey Motor Vehicle Commission**

This email is confirmation that the Authorities Unit received the minutes from the October 9, 2018 board meeting on October 10, 2018. The calculated veto date is **October 24, 2018.**

Thank you.

Attachment

cc: Craig Ambrose

NEW JERSEY MOTOR VEHICLE COMMISSION

Minutes by Director of Legislative Affairs Chris Hillmann of actions taken at the Open Session of the Regular Board meeting of the New Jersey Motor Vehicle Commission (MVC) Board held at Floor 8E, Motor Vehicle Commission Headquarters, 225 East State Street, Trenton, New Jersey on Tuesday, October 9, 2018.

Present:

B. Sue Fulton, Chair and Chief Administrator

Sue Pigula, Vice-Chair & Transportation Commissioner Designee

Stephen S. Scaturro, Board Member (by speakerphone)

Walter Orcutt, Board Member (by speakerphone)

James Fruscione, Revenue & Enterprise Services Director & State Treasurer Designee (by speakerphone)

Gary Poedubicky, Highway Traffic Safety Director & Attorney General Designee

Governor's Authorities Unit Associate Counsel Craig Ambrose and Deputy Attorney General Phil Espinosa participated.

Chair Sue Fulton convened the Open Session at 2:05 p.m. in accordance with the Open Public Meetings Act, and led the Pledge of Allegiance.

Agenda Approval. Director Poedubicky moved to accept the proposed agenda, Director Fruscione seconded the motion and it was unanimously adopted.

Chair's Report

The Chair then presented this report of key Commission activities since the August 14, 2018 Board Meeting:

AAMVA Conference

In August Chief Fulton attended the AAMVA conference in Philadelphia where she was named to the Board of Directors. Sixteen staff members were able to attend.

Core Values/Mission/Vision Statement/Executive Retreat

Following the AAMVA conference, Chief Fulton convened an Executive retreat. The Core Values, Mission and Vision Statements have been updated.

MVC New Motto Contest & Hispanic Heritage Month Recognition Photo Contest

Both contests are among Commission staff. Our motto will be shared at our next Board meeting and the winners of the Hispanic Heritage photo contest will be featured at agencies next year.

School Bus Safety

Chief Fulton spoke about new laws enacted to protect school bus passengers and showed a video about school bus inspections.

Mobile Unit Deployments

We had two successful pilot events in Teaneck and Woodbridge working alongside Senate Majority Leader Loretta Weinberg and Senator Vitale.

JustDrive.com & Military Veteran engagement

Upcoming JustDrive.com events will be held at the Jets game and Rutgers Homecoming Game. Our public awareness campaign is well underway. Tanya Gauthier spoke at NJ National Guard Annual Military review and Chief Fulton spoke at DOT 9/11 memorial.

REAL ID

Real ID will kick off next Spring and MVC is actively working for the roll out to go smoothly.

Spanish Manual

New driver's manual in Spanish will be distributed in next few weeks.

Delanco site opening

The MVC-owned and operated site in Delanco will begin servicing customers October 22, 2018

New Staff

Maria Prato and Chris Hillmann have joined since the last Board meeting. Angela LaBelle has been to MVC Deputy Chief Administrator.

The following Agenda Items were presented for approval:

Minutes: August 14, 2018. This item is to fulfill the requirements of The Motor Vehicle Security and Customer Service Act and of the Bylaws to approve the minutes of each MVC Board meeting, by approving the Minutes of the MVC Regular Board Meeting of August 14, 2018.

Board Member Orcutt moved the resolution, Director Poedubicky seconded it and it was unanimously adopted.

1810-01: Transportation Network Companies Regulation. This action is to meet the statutory provision of the Motor Vehicle Security and Customer Service Act to promulgate regulations affecting various programs, including this Final Adoption concerning Transportation Network Companies. JoAnn Sutkin of the MVC Office of Regulatory and Legal Affairs presented the Final Adoption.

Vice-Chair Pigula moved the resolution, Director Poedubicky seconded it and it was unanimously adopted.

1810-02: Licensing Service – Abandoned Vehicles. This action is to meet the statutory provision of the Motor Vehicle Security and Customer Service Act to promulgate regulations for the proper functioning of the Commission, including this Final Adoption concerning titles for abandoned vehicles on private property. Rebecca Donington of the MVC Office of Regulatory and Legal Affairs presented the Final Adoption.

Legislative Report. A briefing was provided by Director Chris Hillmann, including a summary of legislative activity since the August 2018 Motor Vehicle Commission (MVC) Board meeting.

Bills Signed into Law

A-2401 (Wimberly) / **S-2618** (Cunningham) authorizes issuance of Delta Sigma Theta license Plates, and includes MVC amendments. Approved P.L.2018, c.109.

A-3683 (Murphy/McKnight/Jones) / **S-2416** (Madden/Vitale) creates a parking placard program for caregivers.

A-4110 (Lopez/Benson/Swain) / **S-233** (Thompson/Turner/Lagana) Requires certain school buses to be equipped with lap and shoulder seat belts.

Bills on the Governor's Desk

S-883 (Sacco) / **A-2197** (Eustace) authorizes issuance of special Humane State license plates

Legislation on the move

S-2914 (Lagana) suspends school bus endorsement on driver's license for certain number of motor vehicle moving violations, and includes MVC amendments extending effective date, changing date of suspension to occur after MVC is notified, and adding private/parochial schools.

S-2848 (Diegnan / Lagana) / **A-4346**(Tully/Swain/Benson/Jones) requires medical certificates for school bus drivers every two years to be completed by a certified medical examiner, and in addition that a medical exam to be yearly for over age 70 and every six months for over 75 and furnish satisfactory evidence to their employer for MVC review at the biannual inspection.

S-2851 (Lagana/Diegnan) / **A-4343** (Benson/Swain/Tully) requires designation of at least one school bus safety manager/supervisor, and includes an MVC amendment removing the need for MVC to establish the appropriate number of such staff.

A2436 (Benson/Swain/Tully/Bucco) / **S2755** (Lagana) - Requires certain school district transportation supervisors to complete educational program.

Passed Committee

S-2449 (Diegnan) waives certain commercial driver license fees for veterans and spouses, and includes an MVC amendment to use DD214 as proof; reviewing REAL ID and spousal issues.

Public Comments:

No member of the public offered comments.

Board Comments:

Chair Fulton asked each Board member, individually, if they would like to make any public comments. Vice-Chair Pigula thanked the Chair for the lively presentations during the Chair's Report, which provide great insight into the very varied responsibilities and activities of the Commission.

Chair Fulton then noted that there was no further business before the Board, and thanked the Board Members and staff for their continuing service.

Adjournment:

Since there were no further comments or business, a motion to adjourn was made by Board Member Scaturro and seconded by Director Poedubicky and unanimously adopted at 2:35 p.m.

NEW JERSEY MOTOR VEHICLE COMMISSION
REGULAR MEETING OF THE BOARD MEMBERS
Commission Headquarters, 8th Floor East Wing
225 East State Street, Trenton, New Jersey

2:00 p.m., Tuesday, October 9, 2018

FINAL AGENDA

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• 1 – CALL TO ORDER	8409
• 2 – OPEN PUBLIC MEETINGS ACT STATEMENT	8409
• 3 – PLEDGE OF ALLEGIANCE	8409
• 4 – APPROVAL OF AGENDA	8409
• 5 – CHAIR’S REPORT	8409
• 6 – APPROVAL OF MINUTES OF AUGUST 14, 2018	8414
• 7 – APPROVAL OF ITEM 1810-01 – FINAL ADOPTION – N.J.A.C. 13:21-26 TRANSPORTATION NETWORK COMPANIES REGULATION	8421
• 8 – APPROVAL OF ITEM 1810-02 – FINAL ADOPTION – N.J.A.C. 13:21 TITLE TO VEHICLES ABANDONED ON PRIVATE PROPERTY REGULATION	8433
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Approval: Minutes of August 14, 2018**BENEFITS**

The Motor Vehicle Security and Customer Service Act, P.L. 2003, c.13, as the enabling statute that created MVC, and as amended by P.L. 2007, c. 335 and by P. L. 2009, c.298, provides at section 17 that the actions taken at MVC Board meetings do not become effective until approved by the Governor. Thereafter, the Minutes are presented to the Board Members for approval consistent with the MVC Board Bylaws.

PURPOSE

The Act at section 17 states that "A true copy of the minutes of every meeting of the Board shall be delivered by and under the certification of the Secretary of the Board, without delay, to the Governor. No action taken at the meeting shall have force or effect until ten days, Saturday, Sundays, and public holidays excepted, after the minutes are delivered, unless during the ten day period the Governor approves the Minutes, in which case the action shall become effective upon approval. If, in that ten day period, the Governor returns copies of the minutes with a veto of any action taken by the Board or any Member, the action shall be null and void and of no effect."

The August 14, 2018 Minutes were delivered on August 14, 2018 to the Governor, and became effective upon expiration of the ten day period on August 28, 2018.

ACTION

Approval of this item by the Board Members indicates acceptance of the August 14, 2018 Minutes.

FISCAL IMPACTS

None.

RESOLUTION

WHEREAS, consistent with the Bylaws the Minutes of actions taken at meetings of the New Jersey Motor Vehicle Commission Board are to be approved by the Board Members; and

WHEREAS, pursuant to section 17 of The Motor Vehicle Security and Customer Service Act , P.L. 2003, c.13, as the enabling statute that created MVC, and as amended by P.L. 2007, c. 335 and by P. L. 2009, c.298, a true copy of the Minutes of the actions taken at the New Jersey Motor Vehicle Commission Board meeting of August 14, 2018 were delivered without delay to the Governor on August 14, 2018; and

WHEREAS, those Minutes do not become effective until expiration of the ten day review period or otherwise approved by the Governor; and

WHEREAS, Minutes of the August 14, 2018 Board Meeting are effective as of August 28, 2018; and

NOW, THEREFORE, BE IT RESOLVED that the Minutes of actions taken at the August 14, 2018 New Jersey Motor Vehicle Commission Board meeting are hereby approved.

NEW JERSEY MOTOR VEHICLE COMMISSION

Minutes by Board Secretary John G. Donnelly of actions taken at the Open Session of the Regular Board meeting of the New Jersey Motor Vehicle Commission (MVC) Board held at Floor 8E, Motor Vehicle Commission Headquarters, 225 East State Street, Trenton, New Jersey on Tuesday, August 14, 2018.

Present:

B. Sue Fulton, Chair and Chief Administrator
Susan Pigula, Vice-Chair and Transportation Commissioner Designee
Stephen S. Scaturro, Public Board Member
Walter Orcutt, Public Board Member (by speakerphone)
Hannah Good, State Treasurer Designee
Gary Poedubicky, Attorney General Designee (by speakerphone)

Governor's Authorities Unit Associate Counsel Craig Ambrose and Deputy Attorney General David Kahler participated.

Chair Sue Fulton convened the Open Session at 2:05 p.m. in accordance with the Open Public Meetings Act, and led the Pledge of Allegiance.

Agenda Approval: Vice-Chair Pigula moved to accept the agenda proposed, Board Member Scaturro seconded the motion and it was unanimously adopted.

Chair's Report

The Chair then presented this report of key Commission activities since the June 12, 2018 Board Meeting:

New Budget

Since the Board last met in June, Governor Murphy signed into law a new budget for the state of New Jersey for Fiscal Year '19, which began July 1st. While there were headlines about the potential for a government shutdown and budget negotiations went right up until the final hours, a shutdown, thankfully, never materialized (though the MVC was fully prepared to deal with it if it did). The Commission's allocation to run all of our operations for Fiscal Year '19 budget is \$430,816,000, pending the Board's approval today. We are a revenue-producing agency for the state of New Jersey. That means we return revenues that are over and above the cost of our operations back to the State's General Fund. So, while we are estimated to bring in just shy of \$444 million from services and other revenues, the MVC will turn \$75.3 million of that over to the State General Fund.

Mobile Units

Last year we brought Mobile Units 1 & 2 online. For many months, they were used almost exclusively to support agencies overburdened with volume from the South Plainfield closure. But with the June opening of our new South Plainfield facility, we are expanding opportunities. We're developing protocols for community groups and others to get the Units to their areas. We have plans to visit two legislative districts at the request of legislators later this month. And last month, we sent Mobile 1 – which is the larger of the two Units – by invitation to a REVUP the Vote rally for disabled people outside the State

House. The Units are of course wheelchair-accessible and are state-of-the-art in terms of services and amenities. We actually shot a video of the Unit during that State House stop that we tweeted over our MVC account. The video was then shown to the audience. So, you can see, it's a pretty impressive program and we look forward to ramping up our community engagement with the Mobile Units going forward.

JustDrive.com

Chair Fulton described another program that features community engagement and outreach: our JustDrive.com initiative. This is the initiative that grew out of laws against texting and driving adopted back in July of 2014. The MVC gets a share of fines and we put that toward educational outreach in an effort to stop this dangerous practice. Chair Fulton then introduced Deputy Director of Strategic Communications Mairin Bellack.

Ms. Bellack explained that at the last Board Meeting, Chief Fulton mentioned the MVC would be sponsoring the third annual JustDrive.com 125 NASCAR K & N Pro Series race at the New Jersey Motorsports Park in Millville. She then showed a Public Service Announcement that our public relations partners at Oxford Communications put together for us that features NASCAR drivers talking about the dangers of texting and talking while driving. Ms. Bellack then noted, as a slide show was presented, the following: The race this year was held over Father's Day weekend on Saturday, June 16, 2018; With the help of many MVC volunteers, the JustDrive safety message was delivered to over 7,000 fans who gathered at Nj Motorsports Park on race day; JustDrive signage could be seen throughout the 55-acre park; The MVC had an activation area in the VIP room and an interactive tent located by the starting/finish line; Fans were able to first-hand see the dangerous of using a cellphone while driving by using virtual reality goggles, win a JustDrive promotional item on the prize wheel, take a photo with their friends or family using a JustDrive frame and/or look at a crash vehicle that showed what could happen if you drive while being distracted; Bob Grill and myself continued to remind attendees about the JustDrive program with interviews with the PA Announcer and :30 announcements throughout the day; The Press of Atlantic City covered the race and the MVC sponsorship. Ms. Bellack then showed a short clip of another video by NBCSports, which shows our own Bob Grill, Deputy Administrator of Agency Services, waving the green flag to start the race and the winning pit crew wearing JustDrive hats.

Ms. Bellack described the NFL's NY Jets scrimmage at Rutgers University on Saturday, August 4, 2018. Over 20,000 fans were in attendance to enjoy a family fan area with vendors and meet some of the players after the scrimmage. At the JustDrive table the MVC handed out co-branded promotional items with Rutgers/JustDrive and Jets/JustDrive to participants who engaged with JustDrive on social media and spun the prize wheel. The average wait time for the prize wheel was 45 minutes and there was a constant flow of positive engagements with our customers. MVC will be at the next Jets JustDrive preseason game on Sunday, August 19 at the Florham Park Training Facility.

Ms. Bellack pointed out a display table in the Board Meeting room with several promotional items that were distributed at the NASCAR event and during the Jets training camp, and invited today's attendees to look at the items and the trophy that was given to the MVC from NJ Motorsports Park for our partnership.

Ms. Bellack also noted that in addition to the activations with the Jets, Chief Fulton also cut a 30-second JustDrive.com radio spot that aired for the first time this season on ESPN during the pre-season game between the Jets and Atlanta Falcons. ESPN will continue to air the spot throughout the 2018 – 2019 season. The radio spot audio was then played.

Organ Donation

Chair Fulton then resumed her Chair's Report by noting that she was a guest on Steve Aduabato's State of Affairs program on Public Television, which aired over the weekend and has two more airings scheduled for tomorrow night and Friday night. It can also be found online. Chair Fulton then showed two videos with her talking with Mr. Aduabato. The first video was in regard to our organ donor program and how easy it is to register while getting a driver license. The second video was in regard to MVC technology upgrades that are taking place as our millions of annual customer transactions continue.

Pride Month

Also during our last meeting we told you about our celebration of Pride Month in June with our Straight for Equality program. One of the ways we celebrated was with a poster contest among our agencies. We had some inspiring and imaginative submissions. And the winner was ... drum roll please ... South Brunswick! On the screen here is a picture of Bob Grill and I with the poster. We visited the agency to bring the good news in person. You can see the poster here and we've made key chains from it, which you have in your Board Meeting packets. The winning poster will be reproduced for display in all our agencies for Pride Month next June, when we'll have another contest.

Special Recognition

A note of special recognition here about one of our senior managers. Jim Walker, MVC Director of Business and Government Operations, was recently elected to the International Registration Plan (IRP) Board of Directors. The IRP is a registration reciprocity agreement that involves registration fees for interstate carriers operating in the 48 contiguous U.S. states, the District of Columbia and ten Canadian provinces. Jim will step down from his duties as vice chair of the IRP's Education Committee when his two-year term begins in January 2019.

Driver Education Teachers' Conference

Last week I addressed New Jersey driver education teachers as part of the annual conference of the New Jersey Association of Health, Physical Education, Recreation and Dance. The teachers raised some issues with our written tests and we have agreed to send a revised version of the test. They were pleased to hear we are issuing a Spanish language version of the driver manual. We intend to work closely with the driver educators going forward.

Agency Visits

I've been visiting agencies around the state. We have 39 agencies and 25 inspection stations. Last week, I was at the Somerville agency. I've also visited Newark and South Brunswick. My goal is to bring the Commission closer to the customer as I focus on streamlining our organization. I've met many dedicated MVC employees who are committed to their jobs assisting our customers. Someone else who made a recent visit to one of our agencies was New Jersey 101.5 radio host Judi Franco. She took an

undercover *video* from her phone of her visit to the MVC's Eatontown agency to renew and change her address on her license. Here's a few ways she described her visit and our employees in an [article on the website](#) that accompanies the [video](#): After expecting a procedure she likened to getting a "root canal," she instead found that the process was – quote – "simple and painless" and said any lines "weren't bad at all." She called our employees "nice and helpful" and the employee who assisted her directly "a lovely gentleman," who was, quote, "pleasant, well-informed and helpful." Judi's article came out last week, two days after a letter was received in our Somerville agency from an 83-year-old customer who uses a walker. She wrote to thank the staff for treating her with the "utmost respect and courtesy." It just so happens I was at that very agency on the day the letter was posted, and I can tell you our agency employees are in fact terrific.

Staff Additions

And now adding to that great team, I would like to take a moment to recognize several outstanding individuals who've come aboard since our last meeting: Noreen Kemether, our new Director of Regulatory and Legal Affairs, most recently served as Section Chief/Deputy Attorney General for the Division of Law in the Department of Law and Public Safety. Jennifer Long, a highly decorated U.S. Army veteran who once served as a combat advisor in Afghanistan and retired with the rank of Sergeant Major, is our new Director of Agency Services – North, within the Division of Agency Services. Laurie Lyles-Thompson, who began her career with the MVC in 2004, and most recently was a Training Technician in our Office of Employee Development, is our new Director of the Division of Customer Information and Advocacy. Carlos Merino, a former Deputy Chief of Staff with former Assemblyman Tim Eustace who also has an extensive background in multi-media platforms, comes aboard as a strategic communications associate within our Office of Strategic Communications. Wanda Silva, most recently Press Secretary for the Bronx Borough President and also a former Emmy Award winning newscaster, has joined us as a Deputy Director in our Office of Strategic Communications. Peggy Ezumah, who has experience in both state government and the private sector, and most recently served as an administrative assistant in the Governor's transition office, has joined the MVC as executive assistant to Deputy Administrator Bob Grill. And, finally, Tanya Gauthier, a fellow alum of the U.S. Military Academy at West Point who is studying for a Masters Degree in Public Administration at Kean University, has been interning with us this summer with a concentration on special projects, including the effective deployment of our Mobile Units and the establishment of a parking awareness program for our disabled veterans and Purple Heart recipients. I know you will extend to all of our newest team members your best wishes and support as they tackle these challenging new roles. Welcome all!

The following Agenda Items were presented for approval:

Minutes: June 12, 2018. This item is to fulfill the requirements of The Motor Vehicle Security and Customer Service Act and of the Bylaws to approve the minutes of each MVC Board meeting, by approving the Minutes of the MVC Regular Board Meeting of June 12, 2018.

Director Poedubicky moved the resolution, Director Good seconded it and it was unanimously adopted.

1808-01: Fiscal Year 2019 Commission Budget. This action is to meet the statutory provision of the Motor Vehicle Security and Customer Service Act that provides at section 13b3 that the Board shall review and approve the annual budget as submitted by the Chair and Chief Administrator. Director William Kelly of the MVC Division of Financial Management, presented the FY19 Budget in the amount of \$430,816,000.

Board Member Scaturro moved the resolution, Board Member Orcutt seconded it and it was unanimously adopted.

1808-02: Executive and Administrative Service Regulation. This action is to meet the statutory provision of the Motor Vehicle Security and Customer Service Act to promulgate regulations for the proper functioning of the Commission, including this Final Readoption with Amendments of the Executive and Administrative Service regulations. Kate Tasch presented the Final Readoption with Amendments.

Vice-Chair Pigula moved the resolution, Director Poedubicky seconded it and it was unanimously adopted.

Legislative Report. A briefing was provided by Board Secretary Jack Donnelly on behalf of the Intergovernmental Relations Office, including a summary of legislative activity since the June 2018 Motor Vehicle Commission (MVC) Board meeting, including Governor Murphy's approval of Senate Bill No. 332 (Cruz-Perez/Talliaferro, Gusciora, Jones) to authorize impoundment of all-terrain vehicles and dirt bikes for certain crimes and offenses, as P.L. 2018, c. 65. Chair Fulton thanked Jack for the presentation.

Public Comments:

No member of the public offered comments.

Closing Comments:

Chair Fulton asked each Board member, individually, if they would like to make any public comments. Vice-Chair Pigula thanked the Chair for the lively presentations during the Chair's Report, which the Vice-Chair observed had provided great insight into the very varied responsibilities and activities of the Commission.

Chair Fulton then noted that there was no further business before the Board, and thanked the Board Members and staff for their continuing service.

Adjournment:

Since there were no further comments or business, a motion to adjourn was made by Board Member Scaturro and seconded by Vice-Chair Pigula and unanimously adopted at 2:45 p.m.

ITEM 1810-01: TRANSPORTATION NETWORK COMPANIES REGULATION**BENEFITS**

The Motor Vehicle Security and Customer Service Act, P.L. 2003, c.13, as the enabling statute that created the New Jersey Motor Vehicle Commission (MVC), and as amended by P.L. 2007, c.335 and by P. L. 2009, c.298, at sections 4 and 40 assigns to MVC the duty to promulgate regulations affecting various programs, including this Final Adoption concerning Transportation Network Companies.

PURPOSE

This is a Final Adoption. The effect of this item is to provide new regulations as part of the Commission's Licensing Service regulations.

ACTION

Approval of this item will authorize the Chair to file the regulations with the Office of Administrative Law (OAL) as a Final Adoption, in substantially the form as attached in Exhibit A.

FISCAL IMPACTS

MVC will incur administrative costs for new business processes pertaining to permits, inspections, investigations, reviews and penalties. Those costs will be partially offset by permit fees and penalty fines.

RESOLUTION

WHEREAS, The Motor Vehicle Security and Customer Service Act, P.L. 2003, c.13 (the "Act"), as the enabling statute that created the Motor Vehicle Commission, and as amended by P.L. 2007, c.335 and by P. L. 2009, c.298, at sections 4 and 40 assigns to the Motor Vehicle Commission the duty to implement regulations affecting various programs, including this Final Adoption concerning Transportation Network Companies as part of the Commission's Licensing Service regulations;

NOW, THEREFORE, BE IT RESOLVED that the Chair is authorized to file with the Office of Administrative Law a notice of the Final Adoption as part of the Commission's Licensing Service regulations, in substantially the form as attached in **Exhibit A**.

TRANSPORTATION

MOTOR VEHICLE COMMISSION

Transportation Network Companies

Adopted Amendments: N.J.A.C. 13:21-26

Proposed: February 5, 2018 at 50 N.J.R. 710(a)

Adopted: _____, by the Motor Vehicle Commission, B. Sue Fulton, Chair and Chief Administrator.

Authorized By: Sue Fulton, Chair and Chief Administrator, Motor Vehicle Commission

Filed: _____, R.2018, d. [____], **with non-substantial changes** not requiring additional public notice and comment

Authority: N.J.S.A. 39:2A-28 and 39:5H-27

Effective Date: _____

Expiration Date: December 4, 2020

Summary of Public Comments and Agency Responses:

The written comments received by the Motor Vehicle Commission ("Commission") regarding its February 5, 2018 notice of proposal at 50 N.J.R. 710(a) are available for inspection at the Office of the Chief Administrator, Regulatory and Legal Affairs, Motor Vehicle Commission, 225 East State Street, 9th Floor, Trenton, New Jersey.

The Commission received written comments from Temilola Sobowale, Regulatory and Compliance Manager on behalf of Lyft, which comments are addressed below:

1. COMMENT: Lyft identifies concerns it has regarding sections 13:21-26.2(c) and (d), and states that "As currently written, this section would disqualify TNC applicants due to the prior suspension or revocation of a TNC permit."

Lyft requests revisions to the language of the regulation based on its concerns.

In addition, Lyft suggests the addition of the word "each" to the first sentences of sections (c) and (d).

RESPONSE: As written, the proposed rule at 13:21-26.2(d), which refers back to (c), does not disqualify TNC applicants due to the prior suspension or revocation of a TNC permit. In fact, both sections 13:21-26.2 (c) and (d) clearly state that the Commission **may** deny, suspend or revoke a TNC's permit where a permit was "suspended or revoked **and the terms or penalties imposed with such suspension or revocation have not been satisfied.**" (emphasis added)

As such, under the language of 13:21-26.2(c) and (d), when read together, it is apparent that TNC applicants will not automatically be disqualified due solely to a prior suspension or revocation of a TNC permit. Rather, such applicants may be disqualified where the terms or penalties associated with a prior suspension or revocation were not met, completed or honored. In other words, if a TNC applicant, or an authorized signatory, officer, board member, partner or member of the TNC held a permit that was suspended or revoked, the TNC may be denied another permit or have another permit suspended or revoked where the terms of the prior suspension or revocation are outstanding and were never completed by the TNC, or where the penalties imposed on the TNC were not paid. Failure to comply with such an outstanding obligation on a suspension or revocation constitutes a reasonable

basis for prohibiting a TNC from holding another permit, and is grounded in public safety and confidence considerations. TNCs will not be permitted to disregard the authority of law and operate unchecked, yet a TNC that defaults on its obligations and penalties is seeking to do exactly that--operate outside the confines of the State laws. As such, in order to secure and maintain public safety and confidence, a TNC in that situation may lose its eligibility for a permit.

The Commission declines to revise the language of the regulation as requested with the exception of adding the word "each" in the first sentences of sections (c) and (d) as suggested for purposes of clarity.

2. COMMENT: Lyft requests that the Commission revise 13:21-26.2(e) to limit the requirement to disclose names under which the TNC conducts business, intends to trade or do business, or changes to existing names, to names the TNC will use in the State of New Jersey only.

RESPONSE: Upon consideration, the Commission believes that as a matter of public safety, security and confidence, and particularly due to the interstate nature of the TNC business, all names under which the TNC conducts business, intends to trade or do business, or changes to existing names, regardless of the state in which the name is used or intended to be used by the TNC, must be disclosed, not just the names the TNC uses or intends to use in the State of New Jersey. The TNC business is an interstate business, and not all rides will both originate and terminate within the borders of the State of New Jersey. Thus, limiting the Commission to receipt of and access to information regarding a TNC's business names to those used only in the State of New Jersey inhibits the Commission's ability to monitor a TNC's compliance

with State laws and regulations. TNCs that hold valid New Jersey permits and also operate in adjacent or other states, may have their TNC drivers pick up TNC riders in the State of New Jersey but drop them off in a different state, or pick up TNC riders outside the State but drop them off in the State of New Jersey. Accordingly, disclosure of all names including those used or intended to be used both in New Jersey and in other states, is essential to public safety, security and confidence. The Commission declines to revise the language of the regulation as requested.

3. COMMENT: Lyft states several concerns with regard to section 13:21-26.3, Grounds for denial, suspension, or revocation of transportation network company permit; fines; issuance of a cease and desist order. First, Lyft asserts that under the section, "any violation of the Act or Proposed Rules could result in a TNC losing its ability to operate in New Jersey [which] could easily result in wholly disproportionate penalties for first or minor offenses."

Lyft is also critical of the section on the grounds it is not clear that it provides TNCs with "notice and opportunity to be heard in response to an alleged violation of the Proposed Rules or Act," and seeks to insert the words, "Following notice, and an opportunity to be heard."

Lyft further requests the section be amended to ensure that TNCs have the opportunity to respond to allegations before a suspension or revocation of their ability to operate so as to "afford TNCs the minimum level of due process to which they are entitled."

Finally, Lyft seek the insertion of the word "only" to describe instances when a permit may be suspended or revoked, and to insert specific considerations the

Commission must evaluate in the determination whether to suspend or revoke, and a mandatory requirement that a formal hearing be held before suspension, revocation or denial of a permit, with an opportunity for the TNC to be heard, to “gauge the appropriateness of a suspension or revocation of a permit.”

RESPONSE: The Commission believes that as written, section 13:21-26.3, in combination with the authorizing statute and the laws of the State, is entirely consistent with due process rights and protections, and that TNCs will not be penalized disproportionately or under inappropriate circumstances.

With regard to Lyft’s request to insert the words “Following notice and an opportunity to be heard,” before the current text at section 13:21-26.3(a), the Commission declines to adopt the language proposed. The requirement for notice and an opportunity to request a hearing belongs in and is contained in section 13:21-26.3(b), which addresses suspension and revocation of a permit. In contrast, section (a) addresses denial of an initial or renewal application for a permit. Due process principles do not require the Commission to provide an applicant with notice and an opportunity to be heard before the Commission denies an application.

The Commission declines to revise section 13:21-26.3(a)9, as requested for the reasons set forth in response to comment 1 above.

With regard to Lyft’s proposal to insert the word “only” in the first sentence of subsection (b), the Commission declines to do so. The principle that the Chief Administrator may suspend or revoke a permit after notice and an opportunity to request a hearing is clear on its face and does not require further limitation or qualification.

Lyft's proposal to add to subsection (b), specific considerations the Commission must evaluate in the determination whether to suspend or revoke, and a mandatory requirement that a formal hearing be held before suspension, revocation or denial of a permit, with an opportunity for the TNC to be heard, to "gauge the appropriateness of a suspension or revocation of a permit," has been considered and evaluated by the Commission. The Commission declines to add the specific language and factors proposed by Lyft, and instead will utilize those factors which it believes are relevant to and appropriate for consideration in connection with each determination it is called upon to make. The Commission can better serve the public interest and maintain public safety, security and confidence by evaluation and consideration of matter specific factors, which may include the factors proposed by Lyft. However, requiring utilization of those factors in all cases may not be appropriate to the specific matter then at hand, and the Commission cannot be constrained by inclusion of those specific factors proposed.

Lyft's proposal that additional considerations be added to subsection (b) is declined as unnecessary and unreasonably constraining. Between the language of subsection (b), the authorizing statute at 39:5H-4(c), and the provisions of the APA, the due process rights of TNCs are properly protected.

4. COMMENT: With regard to section 13:21-26.4, Lyft opines that "principles of due process require that TNCs must have the opportunity to respond to any allegations relating to violations of a Proposed Rule or the Act" before the Commission imposes a penalty.

Lyft requests the removal from subsection (a) of 13:21-26.4, the exception to the notice of proposed action based on 13:21-26.3(a) and 26.6.

Lyft also requests the removal from subsection (d) of 13:21-26.4, the requirement that the Chief Administrator find one or more genuine issue of material fact for a matter to be referred for a hearing to the Office of Administrative Law.

Lyft also requests the removal from subsection (e) of 13:21-26.4, that prior to referring a matter to the Office of Administrative Law, the Chief Administrator may elect to conduct a prehearing conference.

Lyft also requests the removal from subsection (f) of 13:21-26.4, that if there are no material facts in dispute, the Chief Administrator shall issue a final order appealable to the Appellate Division of the Superior Court.

RESPONSE: The Commission declines to make the changes proposed by Lyft. All provisions in this section, as written, comport with the sound and tested principles of due process and administrative procedure, and the proposed changes are unnecessary.

5. COMMENT: Lyft seeks to remove the requirement in subsection 13:21-26.5(b), that a TNC's request for an extension of an inspection or investigation be based on the imposition of an undue burden on the TNC, and must also be accompanied by all supporting evidence.

RESPONSE: The Commission declines to make the change proposed by Lyft. Where an inspection or investigation is being conducted by the Commission, time is of the essence and the objectives of maintaining public safety, security and confidence are serious enough to require extensions to be granted only in the most

limited of circumstances, so as to enable the inspection or investigation to move forward expeditiously. The Commission's requirements as they relate to extensions are reasonable and comport with the sound and tested principles of due process and administrative procedure. Further, the language of the subsection mirrors the language of the authorizing statute. As such, the proposed changes are unnecessary.

6. COMMENT: With regard to section 13:21-26.5(d), Lyft seeks to insert the requirements of "notice and an opportunity to be heard" prior to denial, suspension or revocation of a permit, or issuance of a fine or penalty of temporary suspension, where a TNC fails to cooperate in or comply with an inspection, investigation, review or appearance at a hearing.

RESPONSE: The Commission declines to make the changes proposed by Lyft. All provisions in this section, as written, comport with the sound and tested principles of due process and administrative procedure, and the proposed changes are unnecessary.

7. COMMENT: With regard to section 13:21-26.6, which authorizes the Commission to issue an immediate suspension in the event of an emergent situation, Lyft states: "Subjective and vague determinations that give the Commission the ability to impose an immediate suspension on a TNC in an 'emergent situation' are contrary to fundamental principles of due process." Lyft requests that the Commission clarify and enumerate what "emergent situations" are encompassed in Section 12:21-26.6.

RESPONSE: It is impossible to anticipate all emergent situations that could arise, but the language of the section already states that an emergent situation is one "in

which ongoing activities of a TNC or a TNC driver may constitute a danger or risk to individual or public health and safety." Such situations cannot be fully quantified, but could include criminal or suspected criminal activity or anything else that endangers the public.

Summary of Agency-Initiated Changes

The Commission made two edits in this final adoption for the purposes of clarity. The word "each" was added to the first sentence of sections 13:21-26.2(c) and (d).

These changes are technical in nature, are consistent with the legislative intent of the applicable law, and do not enlarge or curtail the scope of the rules, or what will be affected by the rules, or change what is mandated by the rules.

Federal Standards Statement

A Federal standards analysis is not required because the subject matter of the proposed new rules is authorized under State law and is not subject to Federal requirements or standards. There are no equivalent Federal law standards concerning transportation network companies.

Full text of the adopted amendments and new rules follows (additions to proposal indicated in boldface with asterisks ***thus***)

13:21-26.2 Application

(a) (no change from proposal)

(b) (no change from proposal)

(c) At the time of ***each*** initial and renewal application, the TNC applicant shall submit a list of all proposed authorized signatories on behalf of the TNC. The TNC applicant shall notify the Commission within 10 days of any change in that list. Every application shall include a certification by each authorized signatory that he or she has not previously held a permit issued by the chief administrator or the Commission, which was suspended or revoked and on which the terms or penalties imposed with such suspension or revocation have not been satisfied. Upon request from the chief administrator, the TNC applicant shall produce documentation demonstrating that each authorized signatory is authorized to execute documents on behalf of the TNC applicant.

(d) At the time of ***each*** initial and renewal application, the TNC applicant shall submit a list of all TNC corporate officers, board members, partners, or members, as applicable, and any proposed authorized signatory. The Commission may deny, suspend or revoke a TNC's permit if any individual identified by the TNC pursuant to subsection 13:21-26.2(c), previously held a permit, or was an officer, board member, partner, member, or authorized signatory in a TNC that held a permit, which was suspended or revoked and the terms or penalties imposed with such suspension or revocation have not been satisfied.

(e)-(n) (no change from proposal)

ITEM 1810-02: LICENSING SERVICE – ABANDONED VEHICLES

BENEFITS

The Motor Vehicle Security and Customer Service Act, P.L. 2003, c.13, as the enabling statute that created the New Jersey Motor Vehicle Commission (MVC), and as amended by P.L. 2007, c.335 and by P. L. 2009, c.298, at sections 4 and 40 assigns to MVC the duty to promulgate regulations affecting various programs, including this Final Adoption concerning the Licensing Service's rule for titles for abandoned vehicles on private property.

PURPOSE

This is a Final Adoption. The effect of this item is to promulgate a new rule as part of the Commission's Licensing Service regulations.

ACTION

Approval of this item will authorize the Chair to file the regulations with the Office of Administrative Law (OAL) as a Final Adoption, in substantially the form as attached in Exhibit A.

FISCAL IMPACTS

None, as fees and MVC administrative costs are not changed.

RESOLUTION

WHEREAS, The Motor Vehicle Security and Customer Service Act, P.L. 2003, c.13 (the "Act"), as the enabling statute that created the Motor Vehicle Commission, and as amended by P.L. 2007, c.335 and by P. L. 2009, c.298, at sections 4 and 40 assigns to the Motor Vehicle Commission the duty to implement regulations affecting various programs, including this Final Adoption concerning the Licensing Service's rule for titles for abandoned vehicles on private property;

NOW, THEREFORE, BE IT RESOLVED that the Chair is authorized to file with the Office of Administrative Law a notice of the Final Adoption as part of the Commission's Licensing Service regulations, in substantially the form as attached in Exhibit A.

EXHIBIT A

TRANSPORTATION

MOTOR VEHICLE COMMISSION

Licensing Service - Title to Vehicles Abandoned On Private Property

Adopted New Rules: N.J.A.C. 13:21-11.1 to -11.9

Proposed: October 1, 2017 at 49 N.J.R. 3350 (a)

Adopted: , 2018

By: B. Sue Fulton, Chair and Chief Administrator, Motor Vehicle Commission

Filed: , 2018, as R.2018 d. , **without change.**

Authority: N.J.S.A. 39:2A-21, 39:2A-28, 39:4-56.6, 39:10-4

Effective Date: , 2018

Expiration Date: December 4, 2020

Summary of Public Comments and Agency Responses:

The written comments received by the Motor Vehicle Commission (Commission) regarding its October 1, 2017 proposal at 49 N.J.R. 3350 (a) are available for inspection at the Office of the Chief Administrator, Motor Vehicle Commission, 225 East State Street, 9th Floor, Trenton, New Jersey. The following individuals submitted written comments to the Commission regarding that proposal:

1. Eric Goldberg and Lawrence Eckhouse, American Insurance Association.
2. Christine O'Brien and Christopher Stark, Insurance Council of New Jersey.
3. Anthony E Bush, Eckert Seamans, Attorney at Law.

The submitted comments are summarized below and followed by the Commission's responses thereto. The numbers in parentheses after each comment correspond to the commenter's number above to indicate the source of the comment.

1. Comment: The commenters recommend that N.J.A.C. 13:21-11.6 require the applicant to also verify with the National Insurance Crime Bureau (NICB) that the vehicle is not listed as stolen in the NICB database in order to ensure that the interests of all parties are protected, including insurers. Additionally, the commenters recommend that the applicant search the Insurance Service Organization (ISO) for the insurer of record and to ascertain if the vehicle is related to an open claim or, in the alternative, have the Commission cross-reference the vehicle identification number with the insurer of record and notify the insurer that the vehicle has been reported abandoned. (1, 2)

Response: The Commission declines to amend the proposed regulations as requested because the requirement is overly burdensome, would require an additional expense and is unlikely to result in any additional claims being asserted regarding the abandoned vehicle. A vehicle that has been reported stolen will appear in a national search of the vehicle identification number pursuant to the proposed N.J.A.C. 13:21-11.8. Additionally, if during the application process it is revealed that the vehicle has been stolen, N.J.A.C. 13:21-11.8 allows the Commission to reject the application.

It is very likely that the majority of applicants do not have access to the ISO database, which can only be searched for a fee. Requiring the MVC to match all applications' VINs to the vehicle insurance of record and to notify the insured that the vehicle has been reported abandoned would be overly burdensome, as the Commission does not maintain an individual driver insurance policy database. The duty to notify the insurance company that a vehicle is stolen or damaged lies with the insured and not the Commission. The abandoned on private property process will reveal the owner and lienholder who will be notified as to the vehicle's whereabouts and the intent that the vehicle will be sold at auction. The identified owner and lien holder may then notify the insurance company should the vehicle be the subject of an insurance claim. Additionally, insurance companies can monitor the required newspaper advertisements, which contain the vehicle's vehicle identification number, to ascertain if a vehicle that is to be sold at auction is the subject of an insurance claim.

2. Comment: The commenters recommend that the proposed regulations contain a requirement that the applicant act on the application within a reasonable period of time in order to reduce excessive storage fees, and if the applicant does not provide notice within a reasonable time, that storage fees be capped at 30 days. (1, 2)

Response: The Commission does not have the authority to impose time frames outside of those required by statute or to cap storage fees and therefore declines to include the provisions requested. Under N.J.S.A. 39:4-56.6, Abandonment of vehicle on private property; removal by owner of property; costs; sale of vehicle, a vehicle is not considered abandoned until the vehicle remains unclaimed for 90 days. This statute also requires the vehicle to be sold pursuant to N.J.S.A. 2A:44-20 through N.J.S.A. 2A:44-31.

These statutes also require that certain notices regarding the sale of the vehicle be sent and/or posted and that the auction be advertised in newspaper publications, all of which are in addition to the 90-day waiting period. Neither statute requires an applicant to act within a reasonable time frame or places a cap on storage fees.

3. Comment: The commenters request that the proposed regulations contain language to require an applicant to exercise good faith in choosing an auction venue that is likely to garner the highest proceeds. (1, 2)

Response: The Commission does not have the authority to require an applicant to choose an auction venue that is likely to garner the highest proceeds nor the expertise to determine what auction venue will likely garner the highest proceeds, and therefore declines to amend the regulations as requested. The statute only requires the vehicle to "be sold at public auction," N.J.S.A. 2A:44-29.

4. Comment: A commenter requests the proposed regulations codify that wholesale auctions are deemed an appropriate place to sell an abandoned vehicle consistent with decades long practice and consistent with the Uniform Commercial Code's (UCC) as adopted in New Jersey, as long as the sale is commercially reasonable. (3)

Response: The Commission declines to amend the proposed regulations as requested. N.J.S.A. 2A:44-29 only requires the vehicle "be sold at public auction" and whether a wholesale auction is a public auction pursuant to the statute is beyond the scope of these regulations.

5. Comment: A commenter requests the proposed regulations be amended to recognize that a lien perfected by a financing statement or otherwise on an abandoned vehicle would be superior to a garage keeper's lien for any expenses incurred for storage and sale of the vehicle and that said holder take priority to proceeds as required by existing statutes and case law. (3)

Response: The Commission declines to amend the proposed regulations as requested because it is unnecessary. As the commenter states in his comments "the lien holder takes priority to proceeds as required by existing statutes and case law" and "the statute is clear that any such garage keeper or mechanic lien is inferior to a lien, title or interest of a prior perfected security interest in accordance with Chapter 9 of the UCC."

Additionally, the Commission will not release a security interest properly recorded in the Commission database without a required lien release from the lien holder or a court order.

6. Comment: A commenter requests that the Commission amend the proposed definition of "Abandoned Vehicle" to specifically exclude vehicles abandoned on public property. (3)

Response: The Commission declines to amend the proposed definition of "Abandoned Vehicle" as requested because it is unnecessary. The proposed definition of "Abandoned Vehicle, for the purposes of this regulatory proposal, is "a motor vehicle that has been unattended on the **private property** of another..." (Emphasis supplied.) As the commenter duly notes, it is implicit that this is not public property. Additionally, the sale of vehicles abandoned on public property is governed by N.J.S.A. 39:10A-1 et seq.

Federal Standards Statement

The adopted new rules have no comparable Federal standard that can be applied; therefore, a Federal standard analysis is not required for this rulemaking.

Full text of the adopted new rules follows:



P.O. Box 160
Trenton, New Jersey 08666-0160

STATE OF NEW JERSEY

Philip D. Murphy
Governor

Sheila Y. Oliver
Lt. Governor

B. Sue Fulton
Chair and Chief Administrator

To: Sue Fulton, Chair and Chief Administrator

CC: MVC Board Members

From: Chris Hillmann, Director
Legislative Affairs

Date: October 9, 2018

Re: Legislative Report

This Legislative Report provides a summary of key legislative activity being tracked by the Motor Vehicle Commission (MVC) since the August 14, 2018 MVC Board meeting.

Bills Signed into Law

A-2401 (Wimberly) / **S-2618** (Cunningham) authorizes issuance of Delta Sigma Theta license Plates, and includes MVC amendments. Approved P.L.2018, c.109.

A-3683 (Murphy/McKnight/Jones) / **S-2416** (Madden/Vitale) creates a parking placard program for caregivers.

A-4110 (Lopez/Benson/Swain) / **S-233** (Thompson/Turner/Lagana) Requires certain school buses to be equipped with lap and shoulder seat belts.

Bills on the Governor's Desk

S-883 (Sacco) / **A-2197** (Eustace) authorizes issuance of special Humane State license plates.

Legislation on the move

S-2914 (Lagana) suspends school bus endorsement on driver's license for certain number of motor vehicle moving violations, and includes MVC amendments extending effective date, changing date of suspension to occur after MVC is notified, and adding private/parochial schools.

S-2848 (Diegnan / Lagana) / **A-4346**(Tully/Swain/Benson/Jones) requires medical certificates for school bus drivers every two years to be completed by a certified medical examiner, and in addition that a medical exam to be yearly for over age 70 and every six months for over 75 and furnish satisfactory evidence to their employer for MVC review at the biannual inspection.

S-2851 (Lagana/Diegnan) / **A-4343** (Benson/Swain/Tully) requires designation of at least one school bus safety manager/supervisor, and includes an MVC amendment removing the need for MVC to establish the appropriate number of such staff.

A2436 (Benson/Swain/Tully/Bucco) / **S2755** (Lagana) - Requires certain school district transportation supervisors to complete educational program.

Passed Committee

S-2449 (Diegnan) waives certain commercial driver license fees for veterans and spouses, and includes an MVC amendment to use DD214 as proof; reviewing REAL ID and spousal issues.