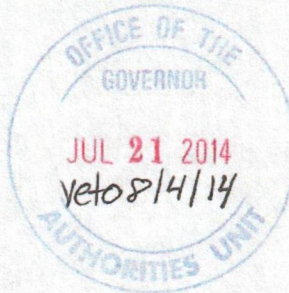


 **New Jersey
Motor Vehicle Commission**

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

STATE OF NEW JERSEY



Chris Christie
Governor

Kim Guadagno
Lt. Governor

Raymond P. Martinez
Chairman and Chief Administrator

July 21, 2014

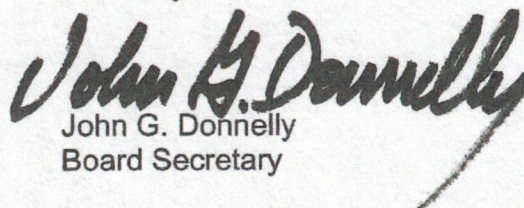
Honorable Chris Christie
Governor, State of New Jersey
State House
125 West State Street
Post Office Box 001
Trenton, NJ 08625-0001

Dear Governor Christie:

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 Special Meeting of the New Jersey Motor Vehicle Commission Board at Floor 9W, Motor Vehicle Commission Headquarters, Monday, July 21, 2014.

Thank you.

Sincerely,


John G. Donnelly
Board Secretary

Enclosure

STATE OF NEW JERSEY

Chris Christie
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Kim Guadagno
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Chairman and Chief Administrator

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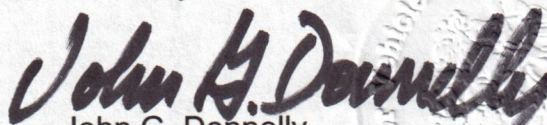
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Thank you.

Sincerely,


John G. Donnelly
Board Secretary



Enclosure

NEW JERSEY MOTOR VEHICLE COMMISSION

Minutes by Board Secretary John G. Donnelly of actions taken at the Open Session of the Special Meeting of the New Jersey Motor Vehicle Commission (MVC) Board held at Floor 9W, Motor Vehicle Commission Headquarters, 225 East State Street, Trenton, New Jersey on Monday, July 21, 2014.

The meeting was conducted as a conference call by speakerphone, with the public directed to report to Floor 8E of Motor Vehicle Commission Headquarters for sufficient seating and to participate in the meeting.

Present:

Raymond P. Martinez, Chairman
Stephen S. Scaturro, Vice-Chairman
Laurette K. Asante, Public Board Member
Scott Kisch, Public Board Member
Walter Orcutt, Public Board Member
Miriam Weeks, Transportation Commissioner Designee
James Fruscione, State Treasurer Designee

Gary Poedubicky, Attorney General Designee, previously had advised Chairman Martinez that he would not be able to participate today.

Governor's Authorities Unit Assistant Counsel Peter Simon and Deputy Attorney General Philip Espinosa participated.

Chairman Raymond P. Martinez convened the Open Session at 2:00 p.m. in accordance with the Open Public Meetings Act.

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

Chairman's Report

The Chairman announced that he would defer his report until the next Board Meeting.

The following Agenda Items were presented for approval:

1407-01: ELT 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 Adoption of the Electronic Lien Titling regulation. Sarah Miller of the Office of Regulatory and Legislative Affairs, presented the proposed regulation.

Vice-Chairman Scaturro moved the resolution, Director Weeks seconded it and it was unanimously adopted.

1407-02: School Bus 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 proposed amendment to the School Bus regulations regarding "Tour of Duty." Jeff Pistol of the Regulatory and Legislative Affairs Office presented the proposed regulation.

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

Public Comments:

No members of the public sought to make a public comment.

Chairman Martinez 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 Director Fruscione and seconded by Board Member Orcutt and unanimously adopted at 2:30 p.m.

NEW JERSEY MOTOR VEHICLE COMMISSION
SPECIAL MEETING OF THE BOARD MEMBERS

Commission Headquarters, 9th Floor West Wing
225 East State Street, Trenton, New Jersey

2:00 p.m., Monday, July 21, 2014

FINAL AGENDA

	<u>PAGE</u>
• 1 – CALL TO ORDER	6990
• 2 – OPEN PUBLIC MEETINGS ACT STATEMENT	6990
• 3 – APPROVAL OF AGENDA	6990
• 4 – APPROVAL OF ITEM 1407-01 – FINAL ADOPTION – ELECTRONIC LIEN TRANSFER REGULATION	6993
• 5 – APPROVAL OF ITEM 1407-02 – PROPOSED RULE – SCHOOL BUS “TOUR OF DUTY” REGULATION	7010
• 6 – PUBLIC COMMENTS	6991
• 7 – ADJOURNMENT	6991

ITEM 1407-01: ELECTRONIC LIEN AND TITLING REGULATIONS**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 of a new rule regarding the recording of vehicle liens that would allow the limited use of electronic titles, including the notation of the creation and satisfaction of security interests.

PURPOSE

This is a Final Adoption of a new rule. The effect of this item is to create N.J.A.C. 13:21-4.7 through 13:21-5.6 regarding the issuance of electronic titles as well as electronic recording, satisfaction and assignment of security interests, through a new Electronic Lien and Titling Program by which entities known as "Providers" may communicate with the Commission electronically without paperwork as to liens on vehicles.

ACTION

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

FISCAL IMPACTS

No new fee is imposed, and no existing fee is increased. As this is a program that Providers may join voluntarily, they will incur cost for their hardware and software systems to transmit lien information and related data to, and from, the Commission.

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 regarding the issuance of electronic titles as well as electronic recording, satisfaction and assignment of security interests;

NOW, THEREFORE, BE IT RESOLVED that the Chairman is authorized to file with the Office of Administrative Law a notice of this Final Adoption regarding electronic lien and titling, in substantially the form as attached in **Exhibit A**.

TRANSPORTATION**EXHIBIT A****MOTOR VEHICLE COMMISSION****Electronic Lien and Titling Program****Adopted New Rules: N.J.A.C. 13:21-3**

Proposed: August 5, 2013 at 45 N.J.R. 1900(a)

Adopted: _____, 2014 by the Motor Vehicle Commission

Filed: _____, **with changes** not requiring additional public notice or comment (see N.J.A.C.1:30-6.3).

Authority: N.J.S.A 39:10-1 et seq.; 39:2-3.8; and 39:2-3.3 et seq.;

Effective Date: _____, 2014

Expiration Date: December 4, 2020

Summary of Public Comments and Agency Responses:

The written comments received by the Motor Vehicle Commission (hereinafter referred to alternatively as "the Commission") regarding its August 5, 2013 notice of proposal at 45 N.J.R. 1900(a) are available for inspection at the Office of the Chief Administrator, Regulatory and Legislative Affairs, Motor Vehicle Commission, 225 East State Street, 9th Floor, Trenton, New Jersey.

The Motor Vehicle Commission received the following written comments from the New Jersey Manufactured Housing Association (NJMHA), Decision Dynamics, Inc. (DDI), PDP Group, Inc. (PDP Group), Assurant and Dealertrack Technologies (DT).

1. COMMENT: Assurant commented that "the proposed rules are well thought out and designed to allow all 'providers' equal access to the Motor Vehicle Commission's electronic lien and titling system while assuring the confidentiality of consumer and lender data."

RESPONSE: The Commission thanks the commenter for its support.

2. COMMENT: PDP Group commented that the Electronic Lien and Titling Program will have a positive economic effect as a result of fewer paper titles and reduction in postage for mailing paper titles.

RESPONSE: The Commission appreciates this comment from PDP Group, but cannot wholly agree. Though the titles will remain electronic until the security interest has been satisfied, upon satisfaction a paper title will be printed and mailed to the owner per current New Jersey statute, N.J.S.A. 39:10-10. Thus, the Commission has not updated the Economic Impact section of this rule adoption to include cost savings in the areas of paper or postage.

3. COMMENT: PDP Group and DT commented that the Commission should recognize, as part of the social impact, that the Electronic Lien and Titling Program will increase fraud prevention because electronic titles reduce the opportunity for fraud.

RESPONSE: The Commission appreciates the commenters' support and agrees that the potential for reduction in fraud is an added benefit of the Electronic Lien and Titling Program.

4. COMMENT: DT suggested that the Commission change the terminology from "provider" to "service provider" as the latter is the terminology currently used in other electronic lien and titling programs.

RESPONSE: The Commission agrees with this comment and has revised N.J.A.C. 13:21-3.3 to define the phrase "service provider," and amended all other references to "provider" in this subchapter, as applicable.

5. COMMENT: DT suggested that the Commission remove the phrase "and or participating lien holder" from N.J.A.C. 13:21-3.2, which would effectively delegate responsibility for the review and approval of participating lien holders to Electronic Lien and Titling Program service providers.

RESPONSE: The review and approval of participating lien holders implicates the security and effectiveness of the entire program, thus the Commission will retain the ability to review and approve participating lien holders. However, it is noted that service providers will be responsible for "taking on" participating lien holders and referring them to the Commission for review and approval. In that sense, service providers will have the ability to choose which lien holders they refer to the Commission.

6. COMMENT: Assurant, PDP Group, DT and DDI commented that the information required on electronic titles in N.J.A.C. 13:21-3.6 should be the same as that required on paper titles, instead of setting forth each of the requirements individually. NJMHA also commented that electronic titles for manufactured homes should be required to contain the same information that is required on paper titles for manufactured homes.

RESPONSE: The information requirements for electronic titles submitted in the proposal reflected such information as is required for a Certificate of Origin under N.J.S.A. 39:10-8. Based on the comments submitted and an independent review of the applicable statutes, the Commission acknowledges that this portion of the proposal was submitted in error and agrees with all comments on the point that electronic titles should require the same information as is currently required for the respective paper title. The Commission has revised the proposed rule accordingly.

7. COMMENT: PDP Group and DT requested that under section N.J.A.C. 13:21-3.3, "Applicant lien holder," "Participating lien holder," and "Secured party" be consolidated into one definition defined as a financial institution, bank, credit union, finance company, or an established lender.

RESPONSE: The Commission has removed the term and definition of "Applicant lien holder" from N.J.A.C. 13:21-3.3, but retained the definition of and reference to "Participating lien holder" and "Secured party" in these rules. "Participating lien holder" allows for differentiation between secured parties approved for participation in the Electronic Lien and Titling Program and those who are not. The definition of "Secured party" remains in the rule as it is directly incorporated from the definition of "Secured party" found at N.J.S.A. 39:10-2.

8. COMMENT: PDP Group and DT requested that the Commission remove the term "applicant" from N.J.A.C. 13:21-3.5(a), as it has not been defined in the rulemaking and could cause confusion with "Applicant lien holder." DT further suggested that the Commission substitute the term "entity" for applicant.

RESPONSE: The Commission has removed the term "Applicant lien holder" from N.J.A.C. 13:21-3.3, therefore the term "applicant, " as commonly defined, in the context of service providers should no longer create confusion in the rule. Conversely, the term "applicant" provides clarity to the description of the status of service providers specifically differentiating between those seeking to participate and those approved to participate in the Electronic Lien and Titling Program.

9. COMMENT: PDP Group, DT, and DDI inquired as to the specific requirements of the "formal business plan" required to be submitted by service providers pursuant to N.J.A.C. 13:21-3.5(a)4. DT indicated it was concerned that certain intellectual property may be subject to public record requirements if such information is required under the above-mentioned rule section, while PDP Group commented that service providers may be hesitant to communicate their marketing methods. PDP Group suggested that the Commission substitute a plan setting forth how service providers service other jurisdictions, each service provider's security plan and each service provider's description of its capability to provide electronic lien and titling services in New Jersey instead of a formal business plan. DT suggested proof of industry experience as a substitute to the requirement of a formal business plan, while DDI suggested the Commission substitute "A business development plan for New Jersey's ELT program" in lieu of a formal business plan.

RESPONSE: The contents of the "formal business plan" required pursuant to N.J.A.C. 13:21-3.5(a)4 contemplate information that will demonstrate the applicant service provider's capability to successfully participate in the Electronic

Lien and Titling Program. The Commission will only request information necessary to evaluate the capability of the applicant service provider to be successful in the program and will not require the disclosure of proprietary or marketing information as part of the "formal business plan."

10.COMMENT: PDP Group commented that the rules seem to imply that security interests will take place electronically at the time of sale and inquired as to whether it is the intent of N.J.A.C.13:21-3.7(a) to allow for direct loans from banks and/or financial institutions to be filed electronically.

RESPONSE: The Commission will allow participating service providers to electronically transmit notification of the creation of a security interest in a motor vehicle at the time of sale as is now permitted by submitting paper notifications. This rule is intended to allow electronic notifications of security interests that are currently accepted with paper titles; therefore reference to "certificate of origin" has been removed from this section and from N.J.A.C. 13:21-3.6(a)1.

11.COMMENT: NJMHA requested that the Commission include a definition of "manufactured home" in the rule that would expand upon the definition of manufactured home found at N.J.S.A. 52:27D-121 by adding: "'Manufactured home' also means and includes any unit of housing manufactured before the effective date of the standards promulgated by the secretary or, as appropriate, by the commissioner, but which otherwise meets the criteria set forth in this subsection."

RESPONSE: The Commission will continue to utilize the definition of manufactured home found at N.J.S.A. 52:27D-121 and declines to expand on

that definition as suggested by the commenter. For the purposes of the Electronic Lien and Titling Program, the definition of manufactured home found at N.J.S.A. 52:27D-121 and the definition of a motor vehicle found at N.J.S.A. 39:1-1 are sufficient to support the Commission's intent to include all manufactured homes, which meet the criteria described in the definition above, in the Electronic Lien and Titling Program adopted herein.

12.COMMENT: Assurant requested that the Commission add "email address" instead of, or as an alternative to, a fax number for communication with the Commission pursuant to section N.J.A.C. 13:21-3.5(a)2.

RESPONSE: The Commission agrees with this comment and has added "email address" to the rule as an additional medium for contacting the Commission pursuant to section N.J.A.C. 13:21-3.5(a)2.

13.COMMENT: Assurant and DDI requested that the Commission provide for the owner to designate another person, place or entity to receive the paper title created subsequent to the satisfaction of a security interest under section N.J.A.C. 13:21-3.8.

RESPONSE: The Electronic Lien and Titling Program is not intended to change the Commission's current policy to issue titles, upon satisfaction of a security interest, exclusively to the registered owner(s), as required by law, and thus, the Commission is unable to change the proposed language.

14.COMMENT: Assurant requested that the Commission provide for an electronic error correction method to correct errors on electronic titles created pursuant to the Electronic Lien and Titling Program as set forth by this rulemaking.

RESPONSE: The Commission notes that provision for error correction is set forth at N.J.S.A. 39:10-16 and that the Electronic Lien and Titling Program will allow for electronic error correction by service providers.

- 15.COMMENT: Assurant requested that the Commission revise N.J.A.C. 13:21-3.8 to allow for the issuance of paper titles to a participating lien holder, service provider, owner, or owner's designee prior to the satisfaction of any security interest.

RESPONSE: In order to prevent fraud and confusion between electronic and paper title documents, and to avoid the risk of multiple titles existing for the same vehicle, only participating lien holders, through the service provider, will be permitted to request the issuance of paper titles prior to the satisfaction of any security interest while participating in the Electronic Lien and Titling Program. Upon receipt of the paper title, the vehicle will no longer be a part of the Electronic Lien and Titling Program.

- 16.COMMENT: DT and DDI requested that the proposed regulations, specifically N.J.A.C. 13:21-3.8, be amended to allow the Commission the ability to maintain vehicle titles in electronic format even after the security interest has been satisfied, until and unless it is requested by the owner, thereby allowing for the Commission to transition to electronic titling independent of lien notation.

RESPONSE: Under current New Jersey statute, N.J.S.A. 39:10-10, it is required that the Commission be notified upon satisfaction of a security interest and that the certificate of ownership be delivered to the owner ("buyer") by the secured party. For vehicles titled under the Electronic Lien and Titling Program, the

secured party will notify the Commission that the security interest has been satisfied and the Commission will cause the title to be delivered to the owner as required by statute. Also, the Electronic Lien and Titling Program is currently intended for use by service providers only, and as such is not structured for direct service to the general public, as would be required if the Commission allowed for electronic titling after satisfaction of a security interest has occurred. Because of restrictions imposed by New Jersey statutes and the structure of the Electronic Lien and Titling Program, the Commission cannot amend the proposed regulations to allow for electronic titling after the satisfaction of a security interest.

Federal Standards Statement

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

Full text of adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions indicated in brackets *[thus]*):

13:21-3.1 (No change from proposal.)

13:21-3.2 Scope

- (a) The rules contained in this subchapter are designed to allow the Chief Administrator to establish an Electronic Lien and Titling Program pursuant to the Chief Administrators' authority granted by N.J.S.A. 39:10-1 et seq. and N.J.S.A. 39:2-3.8. The rules set forth in this subchapter establish the form and use of

electronic titles, including, but not limited to, the manner of notation of the creation, satisfaction, and transfer of security interests in addition to the requirements for participation in the Electronic Lien and Titling *[program]* **Program*** by any **service*** provider *[and or]* **and/or*** participating lien holder, as approved by the Chief Administrator pursuant to this subchapter.

(b) (No change from proposal.)

13:21-3.3 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

["Applicant lien holder" means a secured party seeking approval from the Commission to participate in the Electronic Lien and Titling Program through a provider.]

"Buyer" includes purchaser, debtor, lessee, bailee, transferee, and any person buying, attempting to buy, or receiving a motor vehicle subject to a security interest, lease, bailment, or transfer agreement, and their legal successors in interest.

"Chief Administrator" means the Chief Administrator of the New Jersey Motor Vehicle Commission.

"Electronic title" means an electronic version of a certificate of ownership or title document issued pursuant to N.J.S.A. 39:10-1 et seq. and N.J.S.A. 39:2-3.8 and this subchapter.

"Lien" means a charge or encumbrance on a motor vehicle for the satisfaction of a debt or other duty.

"Motor Vehicle Commission" or "Commission" means the New Jersey Motor Vehicle Commission established by section 4 of P.L. 2003, c.13 (N.J.S.A. 39:2A-4).

"Participating Lien Holder" means a secured party participating in the Electronic Lien and Titling Program through a ***service*** provider.

"Person" includes natural persons, firms or copartnerships, corporations, associations, or other artificial bodies, receivers, trustees, common law or statutory assignees, executors, administrators, sheriffs, constables, marshals, or other persons in representative or official capacity, and members, officers, agents, employees, or other representatives of those enumerated in this definition.

["Provider" means an entity approved by the Commission to provide electronic lien and titling services to participating lien holders.]

"Secured party" means a lender, seller, or other person in whose favor there is a security interest.

"Security agreement" means an agreement that creates or provides for a security interest in a motor vehicle.

"Security interest" means an interest in a motor vehicle that secures payment or other performance of an obligation.

["Secured party" means a lender, seller, or other person in whose favor there is a security interest.]

"Seller" means manufacturer, dealer, lessor, bailor, transferor with or without a security interest, and any other person selling, attempting to sell, or delivering a motor vehicle, and their legal successors in interest.

“Service provider” means an entity approved by the Commission to provide electronic lien and titling services to participating lien holders.

13:21-3.4 Use contrary to chapter unlawful

No person, ***service*** provider, or participating lien holder shall possess, transfer, or cause to be made or removed any title or notation of ownership or security interest on any electronic title, except in the manner and subject to the conditions provided in N.J.S.A. 39:10-1 et seq. and N.J.S.A. 39:2-3.8 or this subchapter.

13:21-3.5 Approval and participation of ***service*** providers

(a) Every applicant seeking to become a ***service*** provider within the Electronic Lien and Titling Program must complete an application, which shall be supplied by the Motor Vehicle Commission. The application shall include, but not be limited to, the following information:

1. (No change from proposal.)
2. The name, mailing address, fax number*, **e-mail address*** and telephone number of a representative who is authorized to accept notices and other communications from and respond to inquiries from the Commission and its representatives concerning the application;
- 3.- 6. (No change from proposal.)

(b) Every applicant seeking to become a ***service*** provider within the Electronic Lien and Titling Program shall submit an application described in (a) above for the approval of the Chief Administrator. Only upon submission of a properly completed application

and receiving notice of the approval of the Chief Administrator shall an applicant be permitted to participate as a ***service*** provider in the Electronic Lien and Titling Program. Upon establishment of the Electronic Lien and Titling Program, a list of ***service*** providers approved by the Chief ***[Administrative]*** ***Administrator*** will be made available at www.state.nj.us/mvc/Vehicle/elt.htm.

13:21-3.6 Form of the Electronic Lien and Titling Program

(a) Pursuant to the authority granted under N.J.S.A. 39:10-1 et seq., and 39:2-3.8, the Chief Administrator may establish an Electronic Lien and Titling Program for the issuance and use of electronic titles.

1. Electronic titles issued by the Commission shall be considered the equivalent of ***[paper certificates of origin,]*** traditional paper certificates of ownership, and/or title documents issued by the Commission, as provided for and subject to the conditions in this subchapter.
2. Electronic titles shall ***[contain the manufacturer's vehicle identification number and the motor number when used of the motor vehicle sold, name of the manufacturer, the manufacturer's shipping weight, a general description of the body, if any, the type and model and the gross vehicle weight rating.]***
consist of only such information as is required on a paper Certificate of Ownership of equivalent nature and in accordance with N.J.S.A. 39:10-1 et seq.

3. – 4. (No change from proposal.)

13:21-3.7 Notation of security interest at time of sale

- (a) When a new motor vehicle is sold in this State, if in connection with such sale, a security interest is taken or retained by the seller to secure all or a part of the purchase price of the motor vehicle, or is taken by a person who, by making an advance or incurring an obligation, gives value to enable the purchaser to acquire rights in the motor vehicle, and that seller retaining a security interest or person making an advance or incurring an obligation giving value to enable the purchaser to acquire rights in the motor vehicle is a participating lien holder in the Electronic Lien and Titling Program, *[a certificate of origin or]* ***an*** electronic notification, with the name and business address of the secured party noted, shall be transmitted to the Commission. Upon notification of the creation of a security interest, the Chief Administrator shall make notation of the security interest and an electronic title shall be sent through a ***service*** provider to the participating lien holder.
- (b) When a used motor vehicle is sold in this State, if a security interest exists at the time of such sale and will continue in effect afterwards or if, in connection with such sale, a security interest is taken or retained by the seller to secure all or a part of the purchase price of the motor vehicle, or is taken by a person who by making an advance or incurring an obligation gives value to enable the purchaser to acquire rights in the motor vehicle, and that seller retaining a security interest or person making an advance or incurring an obligation giving value to enable the purchaser to acquire rights in the motor vehicle is a participating lien holder in the Electronic Lien and Titling Program, the name and the business or *[residence]* ***residential*** address of the secured party or his assignee shall be noted on the title and a copy of

the electronic title shall be sent through a *service* provider to the participating lien holder.

13:21-3.8 (No change from proposal.)

13:21-3.9 (No change from proposal.)

ITEM: 1407-02: ENFORCEMENT SERVICE REGULATION**BENEFITS**

The Motor Vehicle Security and Customer Service Act ("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, at sections 4 and 40 assigns to MVC the duty to implement regulations affecting various programs, including these amendments pertaining to school buses.

PURPOSE

This is a proposed rule. The effect of this item is to amend the rules that implement various provisions of Title 39 of the Revised Statutes.

N.J.A.C. 13:20-30.7 is proposed for amendment primarily to eliminate the reference to "tour of duty" and add language indicating or clarifying that each school bus driver is required to conduct a pre-trip inspection of each school bus.

Chairman Martinez has adopted a new policy that proposed rules are to be provided by the New Jersey Motor Vehicle Commission as a courtesy to inform the public about pending rules. This version is not the official text of the proposal and may differ from the official published text. The official text of the proposal is published in the New Jersey Register issue for the date indicated. Should there be any discrepancies between this version and the official version of the proposal, the official version will govern. All comments must be made consistent with instructions provided with the publishing of this proposal in the New Jersey Register.

ACTION

Approval of this item will authorize the Chair to file these amendments with the Office of Administrative Law (OAL) as a proposed rule, in substantially the form as attached in Exhibit A.

FISCAL IMPACTS

Annual costs will continue consistent with the Annual Budget. There are no new or amended fees.

RESOLUTION

WHEREAS, The Motor Vehicle Security and Customer Service Act ("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, at sections 4 and 40 assigns to MVC the duty to implement regulations affecting various programs, including these amendments of regulations pertaining to school buses;

NOW, THEREFORE BE IT RESOLVED that the Chairman is authorized to file with the Office of Administrative Law Chair this regulation as a proposed rule, in substantially the form as attached in **Exhibit A**.

TRANSPORTATION

EXHIBIT A

MOTOR VEHICLE COMMISSION

Enforcement Service

Amendment: N.J.A.C. 13:20-30.7

Proposed:

Authority: N.J.S.A. 39:3B-5

Effective Date:

Expiration Date:

Summary

N.J.A.C. 13:20-30.7 is proposed for amendment primarily to eliminate the reference to "tour of duty" and add language indicating or clarifying that each school bus driver is required to conduct a pre-trip inspection of each school bus.

The Motor Vehicle Commission (MVC) originally proposed to add a definition of "tour of duty" to the school bus inspection rules to clarify the meaning of a term that was already in the rules. It proposed defining "tour of duty" as the period between when a school bus driver begins a run/trip/route and when that school bus driver returns from a run/trip/route. During the public comment period, the MVC received many letters

objecting to the definition and its implication that school bus drivers would have to inspect their school buses every time they returned to a particular school bus that they had previously left, even if they were only gone for one minute. Consequently, the MVC has decided that it can achieve the same safety results by deleting the definition of "tour of duty" and discontinuing the use of "tour of duty" in its regulatory standards. In its place, the MVC is inserting language that indicates that a school bus driver must inspect each school bus before initially operating it each workday.

Social Impact

Since "tour of duty" was never a defined term, the MVC does not know how school bus operators interpreted and administered this rule. Based on the response to the MVC's new definition of "tour of duty" as requiring the inspection of all school buses whenever a school bus driver enters a vehicle to begin a new run/trip/route whether the school bus driver drove the school bus earlier in the day or not, it appears that many school bus companies and school bus drivers had interpreted "tour of duty" to mean what the MVC is proposing to amend the rules to, namely that a school bus driver must inspect each school vehicle before initially operating it each day. Accordingly, there is no change in practice for the school bus companies or providers of school transportation and school bus drivers that utilized this MVC interpretation. The other school bus companies or providers of school transportation and school bus drivers will need to adjust their practice.

Economic Impact

There should be no economic impact with this proposed change because it appears that many school bus companies have interpreted the current rules to require what the proposed rules will require. The proposed rules will have a small impact on school bus companies that only required one inspection per bus at the beginning of the day regardless of how many drivers would be driving that bus on a particular day. Because school buses will have to be inspected the first time they are used by a particular driver each day, a school bus driver may have to spend an extra ten to fifteen minutes inspecting every bus that they drive each day.

Had the "tour of duty" definition gone into effect, there would have been an adverse economic impact on providers of school transportation, including public school systems and private schools that operate their own school buses or transportation networks and school bus companies, because their drivers would have had to spend considerably more time inspecting buses each day, possibly, in some situations, having to hire more personnel.

Federal Standards Statement

49 CFR 396.11 requires drivers of motor carriers (a term which includes buses) to prepare a daily written inspection report for each vehicle operated at the end of each workday. The proposed amendment to N.J.A.C. 13:20-30.7 clarifies that school bus drivers must conduct an inspection on each school bus that they have not previously driven on that day. The report that they prepare actually asks them to record the beginning mileage and the ending mileage.

Jobs Impact

If providers of school transportation have been requiring their drivers to inspect each school bus that they drive prior to taking it out on the road each day, then there should be no real jobs impact. However, if providers of school transportation did not utilize that interpretation of "tour of duty" and only required their school bus drivers to inspect the first school bus that they drove each day, it is still rather unlikely that additional school bus driver positions would be required. (If the original amendments were adopted, there would have been a greater possibility that providers of school transportation would have had to hire additional school bus drivers than there is here.) This proposal should not result in the loss of any jobs.

Agriculture Industry Impact

The rule proposed for amendment has no impact on the agriculture industry. It is not intended to regulate farming, crop, or animal production.

Regulatory Flexibility Statement

At least some private school bus transportation companies may qualify as small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14b-16 et seq. The rule proposed for amendment is being amended to clarify that it requires school bus drivers to inspect each school bus that they have not previously operated that day before getting behind the wheel. It applies to all school bus drivers, whether they are employed by public school districts, private schools, small private bus transportation companies, large private bus transportation companies, and any other entity that employs school bus drivers to transport school children to and from school.

Responsible, prudent school bus transportation providers have already been requiring their school bus drivers to inspect each school bus before they drive it each day.

Housing Affordability Impact Analysis

It is not anticipated that the rule proposed for amendment will have any impact on affordable housing in New Jersey and there is an extreme unlikelihood that it will change the average costs associated with housing because the rule pertains to school bus inspection requirements for school bus drivers.

Smart Growth Development Impact Analysis

It is not anticipated that the rule proposed for amendment will have any impact on smart growth in New Jersey and there is an extreme unlikelihood that the rule would evoke a change in housing production in Planning Areas 1 or 2 or within designated centers under the State Development and Redevelopment Plan in New Jersey in that the rule pertains to school bus inspection requirements for school bus drivers.

Full text of the proposed amendment follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

SUBCHAPTER 30. INSPECTION OF SCHOOL BUSES

13:20-30.7 Daily school bus condition report by driver

(a) Every operator shall require his or her drivers to report, and every driver shall prepare such a report in writing or via a Commission-approved electronic device [at the beginning of his or her] **once each** workday [or tour of duty] **for each school bus operated by each driver.**[, which] **The** report shall list any defects or deficiencies of the school bus discovered by the driver as would be likely to affect the safe operation of the school bus or result in its mechanical breakdown, or shall indicate that no such defects or deficiencies were discovered by the driver as would be likely to affect the safe

operation of the school bus or result in its mechanical breakdown, or shall indicate that no such defects or deficiencies were discovered by him or her. **This pre-trip school bus inspection shall be conducted on each school bus that the school bus driver has not previously operated on that workday.** A sample of the "Driver Daily Report" form that may be used for submitting the driver daily report can be found on the Motor Vehicle Commission website at <http://www.state.nj.us/mvc/Inspections/SchoolBus.htm>.

(b) - (c) (No change.)