

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

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(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency:

Department of Transportation

(2) Agency Number:

18-427

IRRC Number: 2965

(3) PA Code Cite:

67 Pa. Code, Chapter 255

(4) Short Title:

Messenger Services

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Andrew Cleaver

(717) 787-2171 ACLEAVER@pa.gov

Secondary Contact: Susan Wilson

(717) 787-3780 SUSAWILSON@pa.gov

(6) Type of Rulemaking (check applicable box):

Proposed Regulation

Final Regulation

Final Omitted Regulation

Emergency Certification Regulation;

Certification by the Governor

Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The purpose of these regulations is to amend 67 Pa Code, Chapter 255 to delete provisions expressly superseded by amendments to the Vehicle Code, 75 Pa. C.S. § 101.0 *et seq.*

(8) State the statutory authority for the regulation. Include specific statutory citation.

The statutory authority for these regulations is contained in Section 7501 of the Vehicle Code

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

To the extent that these provisions are superseded by the amendments to the Vehicle Code, 75 Pa. C.S. § 7502.1, these regulations are mandated by statute. There are no federal laws or regulations requiring the promulgation of these regulations.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The amendment to the regulations is needed to remove bond and sanction language which was superseded by the amendments to the Vehicle Code and which are now part of the Messenger Services Agreement.

(11) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

No data was considered.

(12) Describe who and how many people will be adversely affected by the regulation. How are they affected?

No persons will be adversely affected by the regulation.

(13) List the persons, groups or entities that will be required to comply with the regulation. Approximate the number of people who will be required to comply.

The persons, groups and entities that will be required to comply with these regulations include the approximately 600 messengers under contract with the Department.

(14) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

These regulations will not result in any costs and/or savings to the regulated community.

(15) Provide a specific estimate of the costs and/or savings to **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

These regulations will not result in any costs and/or savings to local governments.

(16) Provide a specific estimate of the costs and/or savings to **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

These regulations will not result in any costs and/or savings to state government.

(17) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community	Not readily measurable					
Local Government	None					
State Government	Not readily measurable					
Total Savings	Not readily measurable					
COSTS:						
Regulated Community	None					
Local Government	None					
State Government	1,633,000	1,649,000	1,666,000	1,699,000	1,716,000	1,733,000
Total Costs	1,633,000	1,649,000	1,666,000	1,699,000	1,716,000	1,733,000
REVENUE LOSSES:	None					
Regulated Community	None					
Local Government	None					
State Government	None					
Total Revenue Losses	None					

(17a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Appropriation 453 Messenger Unit	\$ 1,533,000	\$ 1,597,000	\$ 1,663,000	\$ 1,633,000

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

A cost/benefit analysis cannot reasonably be performed for these regulations.

(19) Describe the communications with and input from the public and any advisory council/group in the development and drafting of the regulation. List the specific persons and/or groups who were involved.

No communications with or input from the public or any advisory council/group has been sought.

(20) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

There were no alternative regulatory schemes considered.

(21) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

No, these provisions are not more stringent than federal standards because the Federal Government does not promulgate federal standards regarding messengers.

(22) How does this regulation compare with those of other states? How will this affect Pennsylvania's ability to compete with other states?

This regulation will not place Pennsylvania at a competitive disadvantage with other states. In fact, most other states do not utilize messenger services.

(23) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

These regulations will not affect other existing or proposed regulations of either the promulgating agency or other state agencies.

(24) Submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

These regulations will not change any existing reporting, record keeping or other paperwork requirements.

(25) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

No special provisions have been developed to meet the particular needs of any group.

(26) Include a schedule for review of the regulation including:

- | | |
|---|-------------------|
| A. The date by which the agency must receive public comments: | <u>N/A</u> |
| B. The date or dates on which public meetings or hearings will be held: | <u>N/A</u> |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | <u>N/A</u> |
| D. The expected effective date of the final-form regulation: | <u>01/31/2012</u> |
| E. The date by which compliance with the final-form regulation will be required: | <u>01/31/2012</u> |
| F. The date by which required permits, licenses or other approvals must be obtained: | <u>N/A</u> |

(27) Provide the schedule for continual review of the regulation.

The impact of this regulation will be reviewed annually, particularly if there are further amendments to the Vehicle Code affecting Messenger Services.

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE
LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

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DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality.
Attorney General.

By: _____
(Deputy Attorney General)

Date of Approval

Check if applicable
Copy not approved. Objections attached.

Copy of below is hereby certified to be true and
correct copy of a document issued, prescribed or
promulgated by:

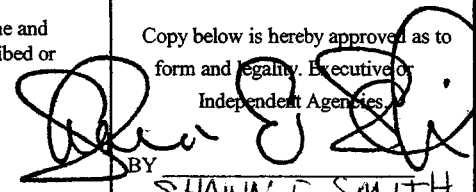
Department
of
Transportation
(Agency)

DOCUMENT/FISCAL NOTE NO. 18-427

DATE OF ADOPTION _____

BY Benny J. Scher
Secretary of Transportation

Copy below is hereby approved as to
form and legality. Executive or
Independent Agencies.



BY SHAWN E. SMITH

AUG 08 2012

(Date of Approval)

(Deputy General Counsel)
(~~Chief Counsel, Independent Agency~~)
(Strike Inapplicable Title)

Check if applicable. No attorney
General Approval or Objection within
30 days after submission.

FINAL REGULATION WITH NOTICE OF PROPOSED RULEMAKING OMITTED

**DEPARTMENT OF TRANSPORTATION
Bureau of Motor Vehicles**

**Title 67 Transportation
Part I. Department of Transportation
Subpart A. Vehicle Code Provisions
Article IX. Miscellaneous Provisions
Chapter 255
Messenger Services**

**DEPARTMENT OF TRANSPORTATION
BUREAU OF MOTOR VEHICLES**

**Title 67 Transportation
Part I. Department of Transportation
Subpart A. Vehicle Code Provisions
Article IX. Miscellaneous Provisions
Chapter 225
Messenger Services**

Final Regulation with Notice of Proposed Rulemaking Omitted

Preamble and Order

Notice is hereby given that the Department of Transportation, pursuant to the authority contained in Section 6103 of the Vehicle Code, Act of June 17, 1976, P.L. 162, No. 81, *as amended* (75 Pa. C.S. § 6103), proposes to amend Sections 255.4 of Department regulations, 67 Pa. Code § 255.4, and repeal Section 255.7, of Department regulations, 67 Pa. Code, § 255.7, as set forth in Annex A to this Notice. This regulation is being submitted as a final regulation with proposed rulemaking omitted under Section 1204 of the Commonwealth Documents law, 45 P.S. § 1204. Insofar as these provisions have been superseded by amendments to the Vehicle Code, specifically, Section 7502.1(a) of the Vehicle Code, 75 Pa. C.S. § 7502.1(a), public notice of the rulemaking is unnecessary, impractical and contrary to the public interest. 45 P.S. §1204(c)(3).

Purpose of this Chapter

The purpose of this chapter is to establish the rules relating to the qualifications and duties of messenger services.

Purpose of these Amendments

The purpose of these amendments is to repeal the parts of Chapter 255 which have been expressly superseded by the passage of Section 7502.1(a) of the Vehicle Code, 75 Pa. C.S. § 7502.1(a). Section 7502.1 provides that Department regulations relating to the amount of a bond, hearings, written warnings, suspensions, revocations and fines do not apply to a messenger service under contract with the Department. As required by Section 7501 of the Vehicle Code, 75 Pa. C.S. §7501, all messenger services are now performed under contract with the Department.

Persons and Entities Affected

This repeal will not affect any person or entity as the affected sections and subsections were expressly superseded by Section 7502.1(a) of the Vehicle Code, 75 Pa. C.S. §7502.1(a).

Fiscal Impact

Implementation of this repeal will not result in the expenditure of any additional funds by the Commonwealth or local municipalities.

Regulatory Review

Under Section 5a of the Regulatory Review Act (71 P.S. 745.5a), on August 10, 2012, the Department submitted a copy of this rulemaking to the Office of Attorney General, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees for review. In addition to the final rulemaking the Committees were provided with a copy of a detailed

Regulatory Analysis Form prepared by the Department. A copy of the Regulatory Analysis Form is available to the public upon request.

Sunset Provisions

The Department is not establishing a sunset date to revisit this repeal.

Contact Person

The contact person for this regulation is Andrew C. Cleaver, PENNDOT, Bureau of Motor Vehicles, Customer Service Division, 4th Floor, Riverfront Office Center, 1101 South Front Street, Harrisburg, PA 17104, or to acleaver@pa.gov.

Order

The Department of Transportation orders that:

- (A) The regulations of the Department of Transportation, 67 Pa. Code, Chapter 225 are amended as set forth in Annex A.
- (B) The Secretary of the Department of Transportation shall submit this Order and Annex A hereto the Office of General Counsel and the Office of Attorney General for approval as to legality and form, as required by law.
- (C) The Secretary shall certify this Order and Annex A and deposit the same with the Legislative Reference Bureau, as required by law.
- (D) This Order shall take effect upon publication in the *Pennsylvania Bulletin*.

Barry J. Schoch, P.E.

Secretary of Transportation

ANNEX A

Title 67. Transportation

Part I. Department of Transportation

Subpart A. Vehicle Code Provisions

Article IX Miscellaneous provisions

Chapter 255 Messenger Services

§ 255.1. Purpose.

This chapter establishes rules governing the qualifications and duties of messenger services as provided in 75 Pa. C.S. § 7501 (relating to authorization of messenger service).

* * * * *

§ 255.4. Bond.

(a) *General.* Messengers shall file and maintain with the Department bonds in the amount [required in 75 Pa. C.S. § 7502(c) (relating to certificate of authorization)] as set forth in the Messenger Services Agreement, executed by a surety company authorized by law to transact business within this Commonwealth.

(1) The bond shall be for the use of the Commonwealth and persons who have sustained a monetary loss attributable to the intentional or negligent conduct of the messenger service or its agents or employees, including, but not limited to, losses incurred in negotiating checks or other instruments drawn by the messenger service.

(2) If the amount of the bond is decreased, or if there is a final judgment outstanding on the bond, the messenger service's certificate of authorization shall be suspended until steps are taken, satisfactory to the Department, to do one of the following:

- (i) Restore the original amount of the bond.
- (ii) [Provide additional bond so that the total amount of the bond is \$50,000.
- (iii)] Satisfy the judgment.

(b)*Substitute.* If the bond is terminated or becomes unsatisfactory for any reason, the authorization to operate a messenger service will be suspended or terminated until the messenger service furnishes the Commonwealth with a satisfactory substitute bond in the amount required by [law] the Messenger Services Agreement.

* * * * *

§255.7. [Sanctions for violation by messenger service.] Reserved.

[(a) *Schedule.* After providing an opportunity for a hearing, the Department may impose suspensions or sanctions on a messenger service according to the following schedule of violations by the messenger service when the Department finds upon sufficient evidence that:

* * * * *

(g) *Revocation.* Upon revocation of a messenger service's certificate of authorization, the messenger service shall be debarred from reapplying for a new certificate of authorization for 1 year.]



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

August 10, 2012

David Sumner, Executive Director
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, Pennsylvania 17101

**Re: Final Rulemaking with Notice of Proposed Rulemaking Omitted
18-427 — 67 Pa. Code, Chapter 255
Messenger Services**

Dear Mr. Sumner:

Enclosed please find a copy of the Face Sheet, Preamble, Annex A and Regulatory Analysis Form for the above referenced Final Rulemaking with Notice of Proposed Rulemaking Omitted.

Copies of these materials were also delivered today to the Office of Attorney General and to the majority and minority chairpersons of the Pennsylvania House and Senate Transportation Committees.

The Department of Transportation will provide IRRC with any assistance you require to facilitate a thorough review of this regulation. Thank you for your attention.

Very truly yours,

A handwritten signature in black ink, appearing to read "Stephen F. J. Martin".

Stephen F. J. Martin
Regulatory Counsel



**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT**

2012 AUG 10 AM 10:43

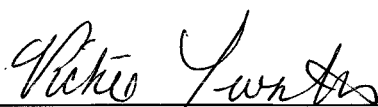
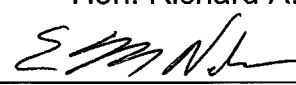
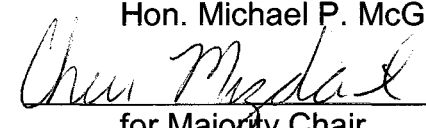
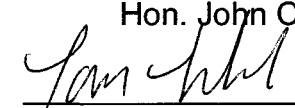
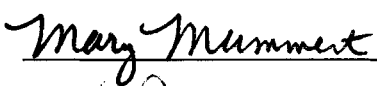

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I.D. NUMBER: #18-427
 SUBJECT: Messenger Services, 67 Pa. Code, Chapter 255
 AGENCY: Department of Transportation

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation
- X** Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
<u>8-10-12</u>	<u></u> for Majority Chair Hon. Richard A. Geist	HOUSE COMMITTEE ON TRANSPORTATION
<u>8-10-12</u>	<u></u> for Minority Chair Hon. Michael P. McGeehan	
<u>8/10/12</u>	<u></u> for Majority Chair Hon. John C. Rafferty, Jr.	SENATE COMMITTEE ON TRANSPORTATION
<u>8-10-12</u>	<u></u> for Minority Chair Hon. John N. Wozniak	
<u>8-10-12</u>	<u></u>	OFFICE OF ATTORNEY GENERAL
<u>8/10/12</u>	<u></u>	INDEPENDENT REGULATORY REVIEW COMMISSION
	<u>N/A</u>	LEGISLATIVE REFERENCE BUREAU
Date:	August 10, 2012	