

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

2012 AUG 10 AM 10:42

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

(1) Agency:

Transportation

(2) Agency Number:

18-428

IRRC Number: 2966

(3) PA Code Cite: 67 Pa. Code, Chapter 43

(4) Short Title: Chapter 43, Temporary Registration Cards and Plates

(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

☐

Emergency Certification Regulation;

☐

Final Regulation

☐

Certification by the Governor

X Final Omitted Regulation

☐

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 43 which establishes rules and regulations governing the issuance of temporary registration cards and plates by authorized dealers, manufacturers, full agents and card agents.

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

The statutory authority for these regulations is contained in Sections 1310, 1331, 1332(a) and 6103 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.

Yes, Section 1310(a) of the Vehicle Code mandates the department to promulgate regulations in relation to the issuance of temporary registration cards and plates. 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 is now part of the Agent Services Agreement. The public interest that justifies these regulations involves persons who are issued a temporary registration card and plate when purchasing a vehicle.

(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?

The only persons who will be adversely affected by these regulations are those who are attempting to misuse temporary registration cards and plates.

(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 vehicle owners and registrants, and the approximately 8,000 new and used car dealers and issuing agents who are 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 measurable 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 measurable 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 measurable 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 measureable					
Local Government	None					
State Government	Not readily measurable					
Total Savings	Not readily measurable					
COSTS:						
Regulated Community	None					
Local Government	None					
State Government	1,826,000	1,844,000	1,862,000	1,899,000	1,918,000	1,937,000
Total Costs	1,826,000	1,844,000	1,862,000	1,899,000	1,918,000	1,937,000
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 Regulated Client Services Unit	\$ 1,620,000	\$ 1,725,000	\$1,826,00	\$1,826,000

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

A measurable costs/benefit analysis cannot be completed 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 has been sought. Department representatives meet with members of the regulated community on a regular basis. In addition, it is not uncommon for the Department to have office meetings and/or telephone conversations with representatives of the dealer/issuing agent community.

(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, there are no federal standards more stringent than these because the Federal Government does not promulgate federal standards regarding the issuance and display of temporary registration cards and plates.

(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 are already utilizing a system of temporary registration documents.

(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 particular group.

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

- A. The date by which the agency must receive public comments: N/A
- B. The date or dates on which public meetings or hearings will be held: N/A
- C. The expected date of promulgation of the proposed regulation as a final-form regulation: N/A
- D. The expected effective date of the final-form regulation: 1/31/2012
- E. The date by which compliance with the final-form regulation will be required: 1/31/2012
- F. The date by which required permits, licenses or other approvals must be obtained: N/A

(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 the issuance of temporary registration cards and plates.

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

(Pursuant to Commonwealth Documents Law)

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. 18-428

DATE OF ADOPTION _____

BY Bunny J. Schmitt
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 III. Registration
Chapter 43
Temporary Registration Cards and Plates**

**DEPARTMENT OF TRANSPORTATION
BUREAU OF MOTOR VEHICLES**

**Title 67 Transportation
Part I. Department of Transportation
Subpart A. Vehicle Code Provisions
Article III. Registration
Chapter 43
Temporary Registration Cards and Plates**

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 Section 43.9(b) and (c) of Department regulations, 67 Pa. Code §§ 43.9(b) and (c), and repeal Section 43.11 of Department regulations, 67 Pa. Code, § 43.11, 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, 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 and regulations governing the issuance of temporary registration plates and cards by authorized agents of the Department.

Purpose of these Amendments

The purpose of these amendments is to repeal parts of Chapter 43 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 an agent service under contract with the Department. As required by Section 7501 of the Vehicle Code, 75 Pa. C.S. §7501, all agent 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 43 are amended as set forth in Annex A.
- (B) The Secretary of the Department of Transportation shall submit this Order and Annex A hereto to 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

DEPARTMENT OF TRANSPORTATION
BUREAU OF MOTOR VEHICLES
Title 67 Transportation

Part I. Department of Transportation

Subpart A. Vehicle Code Provisions

Article III. Registration

Chapter 43 — Temporary Registration Cards and Plates

§ 43.1. Purpose.

This chapter established rules and regulations governing the issuance of temporary registration plates and cards by authorized dealers, manufacturers, full agents and card agents pursuant to 75 Pa. C.S. §§ 1310 and 1331 (relating to temporary registration cards; and issuance of registration plates).

* * * * *

§ 43.9. Bond.

(a) *Authorized dealers, manufacturers and full agents to be bonded.* Every authorized dealer, manufacturer and full agent shall file and maintain with the Bureau a bond executed by a surety company authorized to transact business in this Commonwealth. The bond shall be for the use and benefit of the Commonwealth and a person who has sustained a monetary loss within the limitations of the bond as specified in subsection (d).

(b) *Amount of bond.* Issuing agents, other than card agents, shall be bonded in the amount [of \$20,000, except full agents who purchase fewer than 200 temporary plates in any 12-month period shall be bonded in the amount of \$10,000. The amount of the bond shall be raised

to \$20,000 before a full agent may purchase 200 or more temporary plates in any 12-month period.] as set forth in the Agent Services Agreement.

* * * * *

(d) *Limitations of bond.* The bond required under this section shall cover transactions in which the Commonwealth or a person specified in subsection (a), has sustained a monetary loss due to the agent, dealer or manufacturer submitting a dishonored or uncollectible check to the Commonwealth (including protest and uncollectible check fees), or failing to remit to the Commonwealth a fee or tax when the monetary loss is incurred in connection with the business of the dealer or manufacturer. A check which is dishonored upon presentment, or an application for title or registration which is received without a required fee or tax, shall constitute a monetary loss. Failure to pay a monetary penalty within 45 days of assessment shall also constitute a monetary loss. The bond required under this section may not cover a loss for a transaction which is not mentioned in this subsection relating to the issuance of temporary registration cards or plates in connection with the business of the dealer, manufacturer or full agent. If the dealer, manufacturer or full agent has one or more branch offices, the amount of the bond shall be [increased by the amount specified in subsection (b) for each branch office, except that the total amount of the bond will not be required to exceed \$200,000.] as specified in the Agent Services Agreement.

* * * * *

§ 43.11. [Sanctions for violations by issuing agents.] Reserved.

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

* * * * *

(j) *Suspension without hearing.* The Department will suspend an issuing agent without a hearing when the agent refuses to allow inspection of records in accordance with § 43.7(d).]

§ 43.12. Use of temporary registration plate.

(a) *Applicability.* This section pertains to the use of a temporary registration plate by the person to whom it was issued.

* * * * *



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
18-428 — 67 Pa. Code, Chapter 43
Temporary Registration Cards and Plates**

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,

Stephen F. J. Martin
Regulatory Counsel



TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT

I.D. NUMBER: #18-428
SUBJECT: Temporary Registration Cards and Plates,
67 Pa. Code, Chapter 43
AGENCY: Department of Transportation

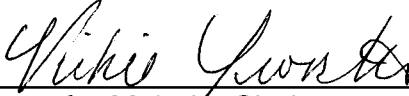

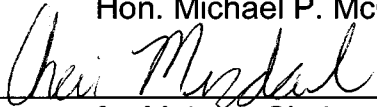
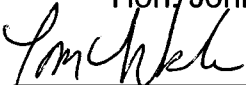


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TYPE OF REGULATION

Proposed Regulation
Final Regulation
☒ 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
_____	_____ N/A	LEGISLATIVE REFERENCE BUREAU

Date: August 10, 2012