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Jim Justice, Governor STATE OF WEST VIRGINIA ADMINISTRATIVE POLICY

Effective: September 1, 2019
Issued By: Ann Urling, Deputy Chief of Staff
Subject: Employee Use of Employer Provided Motor Vehicles

Purpose

The purpose of this policy is to establish a statewide, uniform policy on the use, assignment, operation and reporting of state owned, leased, or rented motor vehicles. The West Virginia Fleet Management Division (“FMD”) administers this policy in conjunction with the Governor’s Office.

1.0 Policy Application

- 1.1 This policy applies to all Executive Branch Agencies, whether or not the agency is exempt from the State Purchasing Division or subject to any other exemption.
- 1.2 This policy applies to all state employees who drive or operate state vehicles (referred to as “employee” or “employees” throughout this policy).
- 1.3 A copy of this statewide administrative policy shall be placed and kept in all state motor vehicles.
- 1.4 This policy does not apply to law enforcement vehicles.
- 1.5 This policy supersedes any previously issued policy.
- 1.6 This policy may be amended, without reissuing the entire policy, as needed, by the addition of new sections.

2.0 Authorized Use

State employees may only use a state owned, leased or rented motor vehicle for:

- 2.1.1 Official state business.
- 2.1.2 Travel between the place where the state motor vehicle is dispatched and the place where official state business is performed. Agencies must determine the lowest cost option before traveling by using Travel Management’s “Vehicle vs. Reimbursement Calculator”.

2.1.3 Travel when on ***paid travel status***, between the place of state business and the place of temporary lodging or for obtaining food.

2.1.4 Travel when on paid travel status and not within reasonable walking distance, between the place of state business or the place of temporary lodging, and places to obtain meals, places to obtain medical assistance, and similar places required to sustain the health, welfare or continued efficient performance of the employee.

2.1.5 The transport of other officers, employees or guests of the state when they are on official state business.

2.1.6 The transport of consultants, contractors or commercial firm representatives when such transport directly relates to official state business.

2.1.7 Travel between the place of dispatch or place of performance of official state business to your personal residence only when specifically authorized by the proper authority in your agency.

2.1.8 With the approval of the FMD or the agency to which the vehicle is assigned, vehicles may also be driven by federal and other personnel acting on behalf of the state, including West Virginia National Guard personnel in the performance of their official duties.

2.1.9 De minimis personal use, such as a stop for lunch while traveling on official state business.

2.2 Taking Vehicles to Personal Residence

A state employee may take a state vehicle to the employee's residence if:

2.2.1 The vehicle is assigned as a take home vehicle.

2.2.2 The vehicle is a pool vehicle, and the employee's home is located a distance from the vehicle pool location that taking the vehicle home would result in a savings in time and distance traveled.

2.2.3 Travel to the place of performance of state business must begin too early in the morning to allow for the employee to secure a State vehicle before departing that day.

2.2.4 The employee returns from the place of performance of state business too late in the day to return the state vehicle that day.

2.3 Unauthorized Use

State vehicles may not be used for any purpose other than official state business. Unauthorized use includes, but is not limited to:

2.3.1 Any personal purpose.

2.3.2 Travel or tasks which are beyond the vehicle's rated capability.

2.3.3 Transport of family, friends, associates or other persons who are not employees of the state or serving the interest of the state (i.e. hitchhikers).

2.3.4 Transport of cargo which has no relation to the performance of official state business.

2.3.5 Transport of pets, livestock, domestic or wild animals except in the conduct of official state business.

2.3.6 Transport of acids, alcohol, explosives, weapons, ammunition or highly flammable material, except by the course of official duties, specific authorization, or in an emergency situation. Transport of these restricted items must be in compliance with all applicable local, state, and federal laws.

2.3.7 Transport of any item or equipment projecting from the side, front or rear of the vehicle in a way which constitutes an obstruction to safe driving, or a hazard to pedestrians or to other vehicles.

2.3.8 Operating a state motor vehicle while under the influence of legal or illegal drugs that could impair driving.

2.3.9 Operating a state motor vehicle after the consumption of alcohol.

2.3.10 Transport of employees from the normal place of business to restaurants or other places while not on official state business.

2.3.11 Engaging in any activity that would impede the safe operation of the vehicle.

2.3.12 Attending sporting events, including hunting and fishing, which are not in the service of state business.

2.3.13 Unauthorized use of state motor vehicles may result in disciplinary action from the employee's agency, up to and including termination.

2.4 Other Prohibited Actions

State Employees operating a state vehicle on official business are prohibited from:

2.4.1 Unreasonably extending the length of time the vehicle is in the employee's possession beyond that which is required to complete the official purpose of the trip.

2.4.2 Operating state vehicles at any time with any measurable amount of alcohol from alcoholic beverages or controlled substances in their bodies.

2.4.3 Operating a state vehicle without a valid driver's license or while said license is under suspension or revocation.

2.4.4 Smoking, including vaping, while in a state vehicle.

2.4.5 Adding to a state vehicle any non-state issued devices, appliances, radios, antennas, seats, or other after-market equipment to a state vehicle, including but not limited to radar detectors, CB radios, satellite radios, non-state owned fixed-mount GPS devices, GPS blocking devices, speakers or car heaters to a state vehicle. Any aftermarket products including stickers and decals. Exemptions must be approved in writing by the FMD.

2.4.6 Removing or disabling any item from a state vehicle that was either installed on the vehicle by the manufacturer or by the state, including but not limited to cruise control, radio, spare tire, jack, state agency decals, door or seat belt warning buzzers, air bags, seats, seat belts, speakers, or On-Star equipment, or state-Owned GPS devices.

2.5 Agency Responsibilities

2.5.1 Agencies have the responsibility and authority to restrict or prohibit state employees from operating state vehicles when the agency is aware that the employee has a history of unsafe or irresponsible driving.

2.5.2 Heads of all departments, offices, agencies, commissions, boards, bureaus and institutions are responsible for implementation of this policy and all legislative requirements.

2.5.3 Agency heads, Cabinet Secretaries and Agency Fleet Coordinators must weigh all options when considering how to meet the transportation needs of their agency at the lowest cost to the state.

2.5.4 Department heads must annually complete state reporting requirements for all employees who take home a vehicle assigned in their department. Completed forms must be submitted to FMD no later than July 1st of each year or whenever a take home vehicle is newly assigned or reassigned. This form serves as the agency's justification of take-home vehicle assignment and proof of meeting the criteria outlined above.

2.6 Employee Responsibilities

2.6.1 Employees are expected to use state vehicles in a responsible manner and within the bounds of all traffic and parking laws.

2.6.2 Employees are responsible for their actions while using a state vehicle. Employees should have no expectation of privacy regarding the use of state vehicles. When using a state vehicle, employees consent to monitoring by the FMD, their agency, law enforcement agencies, and by any other individual or organization, including the Citizens of the State of West Virginia. State vehicle use may be tracked by all available means, including, but not limited to, mileage reporting, visual surveillance, and electronic monitoring to include Global Positioning System ("GPS") tracking. Misuse of a vehicle as reported by any form of monitoring and tracking may result in disciplinary action, criminal prosecution, and other penalties.

2.6.3 The employee must pay any towing, storage, parking or traffic fines and tolls resulting from the employee's violation of existing laws or ordinances while operating a state vehicle. The state will not reimburse the employee for any such fines.

2.6.4 Employees shall comply with all applicable state and local traffic and parking laws including paying tolls. In the event of a violation of such state and local traffic and parking laws, the employee shall be personally liable for any criminal or civil penalty incurred. All employees shall be required to notify his or her supervisor of any tickets as soon after receipt as possible (as well as any change in the status of an employee's driver's license) and prior to the payment due date or scheduled court date. Such employee shall also provide his or her supervisor proof that (a) such ticket has been paid within 10 working days after the payment of such ticket or (b) in the case of appeal, the court's final decision.

2.6.5 Employees shall possess a valid driver's license from the state in which he/she lives or in the case of a suspended or revoked license, special work privileges must be awarded by a court. In the case of a suspended or revoked license, the employee shall not operate a state motor vehicle until such privileges have been acknowledged by the employee's agency.

2.6.6 Employees will complete a walk-around inspection and shall be responsible for checking the state motor vehicle before operating to ensure that the vehicle lights, turn signals, brake lights and

other safety equipment is functional on the state motor vehicle. If the employee finds any of this equipment is not functioning properly, the employee shall report malfunctions to his or her supervisor as soon as possible in order to arrange for repairs.

2.6.7 Employees must ensure that fuel vendors accept the state fuel card/approved FMD fueling mechanism prior to fueling or purchasing other vehicle related services.

2.6.8 Employees are to lock the doors of state vehicles when the vehicle is not in use.

2.6.9 Employees are not to drive any state vehicle with damages or defects which make the vehicle unsafe for operation. Employees must ensure that state vehicles are maintained in a manner that follows all manufacturer's recommendations including but not limited to the manufacturer's preventative maintenance schedule.

2.6.10 The use of cellular phones while driving is unlawful unless used with a hands-free device. If a cell phone must be used while driving, employees should pull over to the side of the road at the safest opportunity or pull into a rest stop or parking lot and stop the vehicle. Texting while driving a state-owned vehicle is strictly prohibited and unlawful.

2.6.11 When fueling a state-owned vehicle, the employee must:

- Make every effort to purchase fuel at the least expensive outlet.
- Purchase the lowest grade fuel available for the vehicle while following the manufacturer's recommendation.
- Purchase E-85 ethanol fuel if the state-vehicle is Flex Fuel capable

2.7 Authorized Passengers

2.7.1 The following individuals may ride as passengers in a state vehicle:

- A state employee conducting business on behalf of the state.
- Wards of the state.
- Passengers transported as part of an employee's specific duties.
- Other non-state employees who are independent contractors or agents conducting business on behalf of the state.

2.8 Personal Use

2.8.1 Taxable personal use of an employer-provided vehicle includes:

- Commuting between residence and work location.

2.8.2 The following are examples of de minimis nontaxable personal use:

- A small personal detour (defined as less than 5 miles each direction) while on business, such as driving to lunch while out of the office on business.
- No more than one day per month commuting in employer vehicle. This does not mean that an employee can receive excludable reimbursements for commuting 12 days a year. The rule is available to cover infrequent, occasional situations.
- An employee using a motor pool vehicle for a business meeting where the employer requires that motor pool vehicles be returned at the end of the business day, but the employee is

delayed, and the motor pool is closed when the employee arrives back at the office. The employee may take the vehicle home and return it the next morning. Assuming that this is an infrequent occurrence for that employee, that is, generally happens no more than once a month, the commuting value of the trip would be considered a nontaxable de minimis fringe benefit. If not an infrequent occurrence, the commute would be taxable to the employee.

2.8.3 IRS Requirements for Employer Provided Vehicles

- The Internal Revenue Service requires payroll tax withholding and compensation reporting for employees using state-owned vehicles for non-business or commuting purposes. These employees must complete and certify Statements of Employer Provided Vehicle Use each payroll period.
- Separate records of business and personal mileage are required.

2.9 Take Home Vehicle Assignment Criteria

2.9.1 Each agency head has discretion to decide whether a take home vehicle should be assigned to an employee. Agencies must demonstrate that the duties of the employee meet one of the following criteria:

- In the case of an elected or appointed state officer, the duties of the office require driving about the State of West Virginia in the performance of official duty.
- In the case of department or commission heads, the statutory duties imposed in the discharge of the office require traveling a distance greater than 1,100 miles each month or that they are subject to official duty call at all times.
- In the case of employees, it must be shown that the major portion of the duties assigned to the employee must require travel on state business in excess of 1,100) miles each month, or that the vehicle is identified by the agency as an integral part of the job assignment. In addition, at least one of the following criteria must be met.
 - a. The job requires an employee to be on call on a recurring basis beyond normal duty hours and, when called out, requires immediate travel from a residence to a location where specific skills, services, tools, equipment or supplies are necessary to perform the job. This is typically based on the reporting on the number of call outs during the last 12 months.
 - b. The job involves leaving directly from home to a continually variable work location, in which travel to a central location to obtain a state-owned vehicle would result in significant amounts of unnecessary travel time and loss of productive hours.
 - c. The employee works from a home office with continual variable work location (inspectors, case workers, investigators, etc.).
 - d. The employee is a public safety emergency responder.
- In computing the number of miles required to be driven by a department head or an employee, the distance between the individual's home and office or designated official station may not be considered as a part of the total.

- Employees who are assigned a state-vehicle on a temporary basis may take that vehicle to their place of residence for de minimis commuting usage, such as staging the vehicle at home in preparation to travel the next day, or returning from travel to your home too late in the day to return the vehicle to your duty location.

2.10 Vehicle Accident

2.10.1 In case of a vehicle accident while operating a state vehicle employees must:

- Notify the West Virginia State Police, local law enforcement authority or other appropriate law enforcement agency.
- Notify the Board of Risk and Insurance Management as soon as reasonably practical by completing the Loss Reporting Form on the Board of Risk and Insurance Management's website and submitting the process prescribed by the agency.
- Notify manager and/or supervisor.
- Make no statement as to fault or liability. If a claim results, respond to law enforcement authorities or someone hired by the state to investigate the accident.
- Obtain the name, address, phone number, driver's license number, vehicle license plate, insurance company and policy number of all involved drivers. Diagram the accident. Obtain the name, address, and phone number of witnesses and passengers.
- Provide the attending police authority's report to his/her agency's vehicle coordinator and repair facility so that it can be attached to the repair estimate.
- Contact the FMD to cancel any services related to the vehicle.
- Make every effort to have the vehicle towed to the nearest secure state facility, in lieu of a private storage facility, should the vehicle need to be towed.

2.11 Vehicle Theft

2.11.1 In the event that a state vehicle is stolen, employees must:

Notify the appropriate law enforcement agency. Record the attending officer's name and badge number.

- Notify the appropriate law enforcement agency. Record the attending officer's name and badge number.
- Notify the Board of Risk and Insurance Management.
- Notify your agency director/agency fleet coordinator of the theft.
- Turn in any keys to the vehicle to the agency fleet coordinator to cancel any services, fueling and maintenance.

2.12 Vehicle Fleet Administration

2.12.1 All newly purchased vehicles must be titled, registered and plated through the Division of Motor Vehicles.

2.12.2 Agencies are responsible All state-owned vehicles are required to have a current state plate and must be entered into wvOASIS Fixed Assets.

2.12.3 The FMD oversees vehicles 1-ton and under, excluding ATV's or vehicles requiring a commercial driver's license. Agencies must report vehicle information fitting these criteria to the FMD, including maintenance and fuel purchases.

2.12.4 Agencies may keep supplemental vehicle information and records in other systems, but these supplemental systems do not supersede the requirements of this policy to report vehicle information to the FMD.

2.12.5 Agencies are responsible to maintain current and accurate vehicle information such as odometer readings for vehicles in the agency's fleet under the oversight of the FMD and report that information to the FMD.

2.13 Vehicle Fuel Cards

2.13.1 The state-wide fleet fuel card program provides state agencies with a widely accepted fleet fuel card. The card allows employees driving state vehicles to purchase fuel for those vehicles. Use of the fleet fuel card is designed to streamline and automate the purchase of fuel for state business.

2.13.2 Fuel transactions must be reported to the FMD at least annually. All fueling transaction must be facilitated by an approved FMD mechanism.

2.14 Vehicle Maintenance

2.14.1 All Maintenance/Repair activity must be reported to the FMD at least annually.

2.14.2 All Maintenance/Repair activity must be facilitated by an approved FMD mechanism.

Inquiries about this policy should be directed to:

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