

TITLE 148
LEGISLATIVE RULE
DEPARTMENT OF ADMINISTRATION

SERIES 3
STATE OWNED VEHICLES

§148-3-6. Use of State Owned and Leased Vehicles.

6.1. State owned and leased vehicles may be used or occupied by State employees, non-employees, and/or authorized passengers as defined herein. No passengers other than state employees, non-employees, and/or authorized passengers are permitted in vehicles without the specific approval of the spending officer. It is the responsibility of the spending unit to monitor vehicle use and to take appropriate action when an employee's use is determined to be inappropriate or is not in accordance with this rule.

6.2. Minimum Mileage Criteria:

6.2.1. To ensure proper utilization and justify retention in the state fleet, state owned or leased vehicles must be utilized a minimum of 1,100 miles monthly. State spending units must request an exemption for vehicles that are underutilized and the Fleet Management Office shall determine whether the vehicle meets one of the exemptions. **The spending units shall keep a monthly log of the ending odometer readings for each vehicle. The log must be kept in a spreadsheet form and have the capability to be sent to FMO.**

§148-3-7. Insurance Coverage.

Insurance is provided for vehicles by the State Board of Risk and Insurance Management.

§148-3-8. Safe Operation Required.

8.1. General Responsibility

The operator of a State owned vehicle is responsible for the vehicle he or she operates. All operators of State owned vehicles are subject to all laws, ordinances, and rules governing the operation of a motor vehicle.

The vehicle operator is personally responsible for responding to any and all citations or warrants issued or fines levied regarding the operation or parking of the vehicle, to which he or she is assigned (either temporarily or permanently) and is personally liable for any and all fines or penalties – criminal or civil.

8.2. Leaving Unattended Vehicle.

Whenever a vehicle is left unattended, the operator shall, when practical, turn the vehicle off, remove keys from the vehicle, close all windows, lock all doors/hatches/trunks, and remove or conceal from outside view all business and personal items.

8.3. Use of Seat Belts

The operator and passengers must use seat belts when the vehicle is in operation.

8.4. Driver's License Required.

All operators must have a valid operator's (driver's) license in good standing.

8.5. Use of Wireless Electronic Communication Devices.

The use of a wireless electronic communication device by the operator of a moving vehicle on a public road or highway is prohibited except when the wireless communication device is a hands-free wireless electronic communication device being used hands-free. See W.Va. §17C-14-15 for additional guidance and exceptions related to the use of two-way radio communications.

8.6. Smoking or use of smokeless tobacco is prohibited in state owned and leased vehicles.

8.7. Hazardous material transported in a state owned or leased vehicle must be kept in a secured container in accordance with CFR 49, Subpart B, Requirements and applicable state standards or regulations.

8.7.1. Packages secured in a motor vehicle. Any package containing any hazardous material, not permanently attached to a motor vehicle, must be secured against shifting, including relative motion between packages, within the vehicle on which it is being transported, under conditions normally incident to transportation. Packages having valves or other fittings must be loaded in a manner to minimize the likelihood of damage during transportation.

8.7.2. Each package containing a hazardous material bearing package orientation markings prescribed in CFR 49 §172.312 must be loaded on a transport vehicle or within a

freight container in accordance with such markings and must remain in the correct position indicated by the markings during transportation.

8.7.3. No smoking while loading or unloading. Smoking on or about any motor vehicle while loading or unloading any Class 1 (explosive), Class 3 (flammable liquid), Class 4 (flammable solid), Class 5 (oxidizing), or Division 2.1 (flammable gas) materials is forbidden.

8.7.4. Keep fire away, loading and unloading. Extreme care shall be taken in the loading or unloading of any Class 1 (explosive), Class 3 (flammable liquid), Class 4 (flammable solid), Class 5 (oxidizing), or Division 2.1 (flammable gas) materials into or from any motor vehicle to keep fire away and to prevent persons in the vicinity from smoking, lighting matches, or carrying any flame or lighted cigar, pipe, or cigarette.

8.7.5. Handbrake set while loading and unloading. No hazardous material shall be loaded into or on, or unloaded from, any motor vehicle unless the handbrake is securely set and all other reasonable precautions are taken to prevent motion of the motor vehicle during the loading or unloading process.

8.7.6. Use of tools, loading and unloading. No tools which are likely to damage the effectiveness of the closure of any package or other container, or likely adversely to affect such package or container, shall be used for the loading or unloading of any Class 1 (explosive) material or other dangerous article.

8.8. Confidentially plated vehicles may be excluded, at the discretion of the spending unit, from any automated fleet management program. *Provided:* Information necessary to accurately report the vehicle for asset management purposes, such as vehicle class, model year, drive type, in-service date, and odometer reading as well as vehicle commuting status for fringe benefit reporting purposes will be provided by the fifth working day of each month by the spending unit using the Fleet Management Office designated form.

§148-3-9. Permissible Uses.

9.1. Generally.

State owned and leased vehicles, including temporarily leased vehicles, may be used under only one of the two (2) categories or conditions:

9.1.1. Use by multiple employees; or

9.1.2. Us by primarily one (1) employee.

9.2 Use by Multiple Employees.

When a State owned vehicle is owned or leased for use by multiple employees, the vehicle must be kept on State owned property or property leased by the State when not in use. Exceptions may be granted by the Fleet Management Office for spending unit-sponsored commuting carpool vehicles where State owned or leased property is not available.

9.3. Use by Primarily One Employee.

When a State owned vehicle is owned or leased for State official business use by primarily one employee, the vehicle:

9.3.1. is assigned to an employee that has been required by the spending officer in writing to commute to and/or from work for bona fide noncompensatory business reasons; and

9.3.2. cannot be used for personal purposes except for de minimis personal use as allowed by the Internal Revenue Service (IRS) Publication 15-B, *Employer's Tax Guide to Fringe Benefits*, published under U.S. Code Title 26; and

9.3.3. is assigned to an employee that authorizes a monthly payroll deduction for the commuting value; completes a designated "Statement of Commuting Value", or participates in a web-enabled, secure fringe benefit reporting application provided by the Fleet Management Office at no cost to the employee.

9.4. Determining Commuting Value

9.4.1. Commuting value shall be determined in accordance with the Internal Revenue Service (IRS) Publication 15-B, *Employer's Tax Guide to Fringe Benefits*, published under W.S. Code Title 26.

9.4.2. If an employee has been assigned a vehicle and the vehicle is used to commute to and/or from work during that temporary assignment, the employee must complete and submit to his or her spending unit a copy of the designated spending unit monthly report to substantiate and document vehicle use and remain in compliance with the Internal Revenue Service (IRS) Publication 15-B, *Employer's Tax Guide to Fringe Benefits*, published under W.S. Code Title 26.

9.4.3. A designated spending unit report must be completed by the employee for each month in which the employee has been assigned a State owned vehicle or leased vehicle for periods of one day or more and has used the vehicle for commuting. The designated spending unit report must be submitted by the employee to the employee's spending unit business office within ten (10) business days from the last day of the reporting month. Failure to submit the designated from may result in the termination of the assignment of a vehicle to

the employee; will result in a determination by the spending unit business office that miles driven during the unreported period are personal use miles; as well as any applicable penalties levied by the Department of Treasury, Internal Revenue Service of the Federal Government.

§148-3-10. Long-term Leasing and/or Purchasing Vehicles.

10.5. Fleet Management Programs

Fleet Management Programs available for the use with state owned and leased vehicles shall be used for vehicle-related expenses such as fuel purchases, repairs, maintenance, towing charges, etc. Spending units are required to review and document drivers' understanding of Fleet Management Programs no later than the 15th of January each calendar year using the designated form.

Any purchase not made via the fuel card, preventative maintenance coupon sheets (or equivalent), or vendor service card assigned to the vehicle will be considered a personal expense of the vehicle operator and paid or reimbursed at the sole discretion of the Fleet Management Office at the recommendation of the spending officer.

10.6. Statewide Contracts for Automotive Commodities and Services.

All statewide contracts for automotive commodities and services must be used except in instances of operational failure or where the safety of the operator would be compromised.

10.7. Fuel Purchases.

All fuel purchases must be for regular unleaded or diesel unless a higher grade or other type of fuel is required by the manufacturer, requested in writing by the spending officer, and approved by the Fleet Management Office. Any exception to the fuel purchases must be approved by the Fleet Management Office.

10.8. Responsibilities of Operators and Spending Units.

10.8.1. Routine Maintenance.

Routine checking of the oil level, tire pressure and tire wear, as well as other safety-related equipment, is the responsibility of the operator or in the case of multiple operator vehicles, the spending unit to which the vehicle is assigned. *All P.M. service and safety recalls must follow manufactures recommendations. All repairs must be reported and approved by an FMO or a FMO mechanism.* The cost of repairs or replacement as a result of the vehicle not being maintained on a regular and routine basis will be the responsibility of the spending unit to which the vehicle is assigned. It will be at the discretion of the spending unit to seek reimbursement from the vehicle operator.

All state owned and leased vehicles must have a valid state inspection sticker at all times.

10.8.2. Routine Cleaning.

The routine cleaning of the assigned vehicle, including the interior and exterior of the vehicle, is the responsibility of the assigned operator or spending unit, in the case of multiple operator vehicles, to which the vehicle is assigned. The cost or repairs or extensive cleaning as a result of the vehicle not receiving reasonable care and cleaning will be the responsibility of the spending unit to which the vehicle is assigned. It will be at the discretion of the spending unit to seek reimbursement from the assigned operator.

10.9. Reporting and Review of Accidents, Damage and Violations.

10.9.1. Accidents and damage to vehicles must be reported to the Board of Risk and Insurance Management by the spending unit using their designated form on the day of the accident if practical or the next business day if it is impractical to report the accident. The spending officer must provide to the Board of Risk and Insurance Management an accident report with sufficient detail to determine the circumstances of the accident.

10.9.2. The spending unit shall determine the root cause of any accident, damage to State owned vehicles, and/or driver violation(s). Once identified, the spending unit will take measures as may be necessary to prevent a similar accident, damage or driver violation(s) from reoccurring in the future. These measures may require such actions as driver training, spending unit policy revision, and/or employee discipline as required by the Board of Risk and Insurance Management.

10.9.3. In the event of an accident, violation, or periodically to determine operator license status, the Department of Administration Fleet Management Office, or spending unit may request and review driving record/s. Information affecting employability or insurability will be referred to the spending unit for action as appropriate.