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DIVISION 7: PLANNING, BUDGETING AND AUDITING

§ 7406. Restriction Upon Use of Government Vehicles.

(a) *Definitions.*

(1) “Elected officials” means any person holding any elected office of the Commonwealth government; and visiting elected officials from other jurisdictions that are in the Commonwealth for official business using government vehicles.

(2) “Government vehicle” means a vehicle owned or leased by the Commonwealth government or any of its branches or political subdivisions, including autonomous agencies, government corporations, boards, and commissions.

(3) “Judge” means those individuals who are serving as justices in the Commonwealth Supreme Court; judges in the Commonwealth Superior Court or in the U.S. District Court for the Mariana Islands; special judges, but only during the period that they are actively serving with the court; and judges from other jurisdictions who have been designated as visiting judges by the Chief Justice of the Supreme Court.

(4) “Law enforcement vehicle” means police cars and other such government vehicles operated by the Department of Public Safety or Division of Customs and used primarily for the enforcement of Commonwealth or federal laws and regulations.

(5) “Unmarked law enforcement vehicle” means a law enforcement vehicle which is not marked as such in order that it may more effectively apprehend criminals and otherwise enforce the laws.

(6) For purposes of this section, “vehicle” means any automobile, motorcycle, truck, tractor, or water craft, but not aircraft, and not specialized equipment used largely or entirely for construction purposes, such as bulldozers, backhoes, and cranes.

(b) *Vehicles to Be Used Only During Normal Working Hours.*

(1) No government vehicle shall be operated or otherwise used during any time other than normal working hours unless the driver has in his possession written authorization from an official with expenditure authority which certifies that the use of the vehicle outside normal working hours is for official business purposes.

(2) No such written authorization shall be considered effective unless it clearly states the reason that the vehicle may be used, the hours and conditions under which it may be used after working hours, and the person or persons who may be authorized to so use it.

(3) This subsection shall not apply to law enforcement vehicles, nor to vehicles used by elected officials or judges. Violation of this subsection shall be an infraction, punishable by a fine of up to \$500, and/or three days imprisonment.

(c) *Government Employees Only.* No person who is not a government employee shall operate or drive a government vehicle, regardless of whether an

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immediate member of his family is a government employee. This subsection shall not apply to official guests and visitors to the Commonwealth. Violation of this subsection shall be an infraction, punishable by a fine of up to \$500, and/or three days imprisonment.

(d) *Official Government Business Only.* Government vehicles are only to be used for official government business, and no person may operate or use any government vehicle for any purpose other than official government business. This subsection shall not apply to elected officials. Violation of this subsection shall be an infraction, punishable by a fine of up to \$500, and/or three days imprisonment.

(e) *Tinting Prohibited.* No person shall operate or use a government vehicle that has any tinting materials on its windows. This subsection shall not apply to law enforcement vehicles, nor to vehicles used, owned, leased, or assigned to the Governor, Lieutenant Governor, and other elected officials. Violation of this subsection shall be an infraction, punishable by a fine of up to \$500, and/or three days imprisonment.

(f) *Marking of Government Vehicles.* All government vehicles or government leased vehicles, excepting only unmarked law enforcement vehicles and cars driven by elected officials or judges, shall be clearly marked as such on both front doors, or, in the case of water craft, on both sides of the hull well above the waterline. The chief of procurement and supply shall provide for such marking, and may also assign registration numbers.

No person shall operate or use a government or government leased vehicle that is not marked in accord with this subsection. Violation of this subsection shall be an infraction, punishable by a fine of up to \$500, and/or three days imprisonment.

(g) *Government License Plates.*

(1) Only government license plates may be issued to government vehicles, and within one year of April 22, 1995, all government cars must bear government license plates, excepting only government cars that are leased for less than 60 days. A government license plate is one that clearly says "Government" or "Gov't," and that can easily be distinguished from an ordinary license plate.

(2) The Bureau of Motor Vehicles shall be responsible for obtaining a sufficient number of government license plates and requiring that they be placed on all government cars not already bearing such plates on April 22, 1995. After one year from April 22, 1995, any person driving, operating or using a government vehicle that does not bear government license plates shall be guilty of an infraction punishable by a fine of up to \$500, and/or three days imprisonment. Any person driving, operating or using a vehicle that is a government vehicle that does not bear government license plates shall be guilty of an infraction punishable by a fine of up to \$500, and/or three days imprisonment. Any person driving, operating or using a vehicle that is not a government vehicle, but that does carry government plates, shall be guilty of

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an infraction punishable by a fine of up to \$500, and/or three days imprisonment; except, if the vehicle was transferred away from the government within the past 60 days.

(3) This subsection shall not apply to unmarked law enforcement vehicles, nor to vehicles used, owned, leased or assigned to the Governor, Lieutenant Governor, elected officials and judges.

(h) *Inspection.* When conducting a government vehicle's annual inspection, the inspector shall, in addition to the standard inspection, examine the vehicle for compliance with subsections (e), (f), and (g) of this section (marking, license plates, and no tinted windows). No government vehicle shall be approved as having passed inspection without having first complied with these subsections.

(i) *Disciplinary Actions.*

(1) Any violation of subsection (b), (c), (d), (e), (f), (g) or (j) of this section by any government employee, shall also be grounds for disciplinary action, which may include suspension or termination.

(2) Any person who, having supervisory or administrative authority over a government employee, instructs that employee to use or operate a government vehicle or to allow a government vehicle to be used or operated in violation of subsections (b), (c), (d), (e), (f), (g) or (j) of this section shall also be subject to disciplinary action in the same manner as the person actually using or operating the vehicle.

(j) *Other Penalties; Multiple Violations.*

(1) Any person having custody of or authority over, a government vehicle, who allows the vehicle to be used in violation of subsection (b), (c), (d), (e), (f) or (i) of this section, and who knows or reasonably should know that such a violation would take place, shall be guilty of an infraction punishable by a fine of up to \$500, and/or three days imprisonment.

(2) A person who, having been convicted of a violation of subsections (b), (c), (d), (e), (f), (g), or (j) of this section, within one year subsequently violates any of those subsections, shall be guilty of a misdemeanor punishable by a fine of not less than \$100 and not more than \$1,000, and/or up to 30 days imprisonment.

(k) *Sale and Transfer of Government Vehicles.*

(1) No government vehicle may be sold, leased, or otherwise transferred without the written consent of the chief of procurement and supply; and the Bureau of Motor Vehicles shall not register any such transferred vehicle without first obtaining a copy of such consent.

(2) A nongovernment purchaser of a government vehicle must immediately remove all markings identifying the vehicle as a government vehicle, and must obtain and install nongovernment license plates within 60 days of the vehicle being transferred out of government service.

Source: PL 9-37, § 3 (repealing PL 5-9, § 312, as amended by PL 5-31, § 406 and PL 6-3, § 305), modified; amended by PL 10-64, §§ 2, 3, 4 and 5,

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modified; (a)(1) enacted, (e) and (g)(3) amended by PL 19-20 §§ 2–4 (Nov. 13, 2015), modified.

Commission Comment: PL 9-37, the “Government Vehicle Act of 1994,” took effect April 22, 1995. In the last sentence of subsection (g)(2), the Commission replaced “with” with “within,” correcting a typographical error. According to PL 9-37, § 2:

Section 2. Findings. The Legislature finds that the present law dealing with government vehicles (1 CMC § 7406) is not effectively regulating the use of government vehicles. The present law does not distinguish between different kinds of government vehicles, such as unmarked police cars; does not require government license plates; does not provide for meaningful penalties; and, in general, does not adequately deter or punish persons who misuse or abuse the privilege of driving a government vehicle.

PL 10-64, § 2 amended subsection (a) by adding a new definition for “Judge”. This definition was inserted in subsection (a) in alphabetical order making it subsection (a)(2), and the existing subsections were renumbered accordingly. PL 10-64 took effect on July 29, 1997. According to PL 10-64, § 1:

Section 1. Findings. The Legislature finds that, for security reasons, it is desirable that judges’ cars not be singled out or marked in a distinctive manner. For purposes of this Act, the Legislature defines “judges” as including special judges on active duty, and visiting judges from other jurisdictions if the Chief Justice chooses to designate them as such.

PL 10-64 also contained severability and savings clauses as follows:

Section 6. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 7. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability civil or criminal, which shall already be in existence at the date this Act becomes effective.

PL 19-20 (Nov. 13, 2015) included the following Findings and Purpose section in addition to severability and savings clauses:

Section 1. Findings and Purpose. The Legislature finds that Public Law 9-37, the “Government Vehicle Act of 1994,” was enacted to effectively regulate the use of government vehicles by distinguishing

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between the different kinds of government vehicles; and providing meaningful penalties to adequately deter or punish persons who misuse or abuse the privilege of driving a government vehicle.

The Legislature further finds that the “Government Vehicle Act of 1994” was amended on July 29, 1997 by Public Law 10-64 to exempt Commonwealth Judges from the requirement that government vehicles assigned to them be marked and have government plates. In enacting Public Law 10-64, the Legislature found that, for security reasons, it is desirable that judges’ cars not be singled out or marked in a distinctive manner.

Similarly, the Legislature finds that for security and safety reasons, it is necessary that elected officials be exempt from the tinting restriction and government license plate requirements of the Government Vehicle Act. Recently, there have been controversial issues and legislation in the Commonwealth that have given rise to protest and aggravation among the people. These issues include the crash of the Retirement Fund, casino matters, land compensation disputes, and the increased criminal activities around the islands against the residents and visitors alike. Some of these controversial issues are pending and others such as the casino but stiffer criminal penalties are being implemented.

The Legislature finds that regarding any controversial issue, there are always people that are unhappy and disgruntled with the decisions of the elected officials. Therefore, people will protest and directly express their frustrations to the elected officials responsible for addressing such controversial issues. This sometimes creates a dangerous and hostile environment for elected officials. Moreover, sponsoring or supporting criminal laws with stiffer penalties make elected officials attractive targets for criminals that are angry with their sentences or punishments.

Thus, the Legislature finds that it is necessary to protect elected officials from being targeted by disgruntled persons by exempting vehicles used by elected officials from the window tinting restriction and government license plate requirement. This will ensure that elected officials cannot be easily attacked while traveling on the road or in a parked vehicle. Elected officials cannot effectively protect themselves from harm while traveling on the road in an un-tinted vehicle clearly visible to everyone and easily identified with government license plate.

The Legislature further finds that except for law enforcement officers and judges, most other government employees do not require any special protection while utilizing government vehicles. By the nature of their positions, elected officials are at a greater risk of harm while driving government vehicles and must be protected at all times. Accordingly the purpose of this legislation is to exempt vehicles used by elected officials from the window tinting restriction and government license plate requirement.

The Commission treated the special typeface in PL 19-20 §§ 3 and 4 as drafting marks, pursuant to 1 CMC § 3806(g).