

R27. Administrative Services, Fleet Operations.

R27-7. Safety and Loss Prevention of State Vehicles.

R27-7-1. Authority.

(1) This rule is established pursuant to Subsection 63A-9-401(1)(d)(iii) which requires the division to make rules establishing requirements for fleet safety and loss prevention programs.

R27-7-2. Reporting Accidents and Violations of Motor Vehicle Laws.

(1) In the event of an accident involving a state vehicle, either the driver of the vehicle or the employing agency shall notify the division, the Division of Risk Management, and the agency's management, within 24 hours of the occurrence of the accident.

(2) Authorized drivers shall also follow Section R27-3-14 regarding reporting of violations of motor vehicle laws.

R27-7-3. Driver Eligibility to Operate a State Vehicle.

(1) The authority to operate a state vehicle is subject to withdrawal, suspension or revocation.

(2) The authority to operate a state vehicle shall be automatically withdrawn, suspended or revoked in the event that an authorized driver's license is not in a valid status.

(a) The authority to operate a state vehicle shall, at a minimum, be withdrawn, suspended or revoked for the period of denial, cancellation, disqualification, suspension or revocation of the authorized driver's license.

(b) The authority to operate a state vehicle shall not be reinstated until such time as the individual provides proof that his or her driver license has been reinstated or the division verifies the license has been reinstated.

(3) The authority to operate a state vehicle may be suspended or revoked for up to three years by the Driver Safety Committee or the Driver Eligibility Board for any of the following reasons:

(a) The authorized driver, while acting within the scope of employment, has been involved in three or more preventable accidents during a three- year period; or

(b) The authorized driver has three or more moving violations while driving a state vehicle within a 12-month period; or

(c) The authorized driver has been convicted of any of the following:

(i) Alcohol related driving violations;

(ii) reckless, careless, or negligent driving (including excessive speed violations);

(iii) driving violations that have resulted in injury or death;

(iv) felony related driving violations;

(v) hit and run violations;

(vi) impaired driving;

(vii) using a handheld wireless communication device while operating a moving motor vehicle; or

(viii) any other driving violation determined by the Driver Safety Committee or the Driver Eligibility Board as posing a significant risk to the safety or loss prevention of state vehicles.

(d) An authorized driver uses a vehicle in an unauthorized way or misuses, abuses or neglects a state vehicle as validated by the driver's agency;

(e) As provided in Section 63A-9-501, an authorized driver misuses or illegally operates a vehicle; or

(f) An authorized driver violates any major threshold as defined by the division or in policy by the employing agency.

(4) The withdrawal of authority to operate a state vehicle imposed by the Driver Safety Committee or the Driver Eligibility Board shall be in addition to agency-imposed disciplinary, corrective, or remedial action; except when the withdrawal of authority conflicts with an internal review and disciplinary process approved by the division and substantially meets the requirements outlined in rule.

(5) Pursuant to procedures outlined in Rule R27-2, a driver declared ineligible to operate a state vehicle by the Driver Safety Committee may appeal that determination to the Driver Eligibility Board. An appeal to the Driver Eligibility Board must be made in writing within 30 days from the date the Driver Safety Committee issues its decision.

(6) Effective Date

(a) Phase in - current state employees shall be subjected to R27-7-3(3) as of the effective date of the rules as published by the Division of Administrative Rules.

(b) State employees hired after the effective date of this administrative rule may be subject to a review of their driving record for three years previous to the hire date, and employment offers may be made conditional upon a favorable review.

R27-7-4. Driver Safety Committee.

(1) Each agency using a state vehicle shall establish and maintain a Driver Safety Committee or an internal review and disciplinary process that is approved by the division and substantially meets the requirements outlined in rule for the Driver Safety Committee.

(2) The purpose of the Driver Safety Committee is to increase the safety of the driver and reduce losses associated with the state vehicles. The Driver Safety Committee shall review any accident involving state vehicles in the possession or under the control of the agency. The Driver Safety Committee also reviews eligibility of a driver to operate a state vehicle based on the provisions of Section R27-7-3.

(3) After the Division of Risk Management has made an initial determination regarding the preventability of an accident, the agency Driver Safety Committee shall determine whether it agrees with the initial determination of preventability. The Driver Safety Committee shall use standards published by the National Safety Council.

(4) Each agency Driver Safety Committee shall meet monthly, except in cases when there are not items to review. The items to review are the preventability determination of any accidents and any major threshold violations committed in the previous month. The Driver Safety Committee shall report to the division its accident and major threshold determination and any actions taken.

(5) If an agency Driver Safety Committee does not send the monthly Driver Safety Committee report as specified in R27-7-4(4), the initial preventability determination of any accidents will stand. Any major threshold violations will receive the minimum driver eligibility suspension as outlined in Subsection R27-7-5(6). A driver may appeal this accident determination to the Driver Eligibility Board pursuant to Section R27-2.

(6) The Driver Eligibility Board may recommend disciplinary actions for agency drivers to the agency when it is acting on behalf of the agency Driver Safety Committee.

(7) If an agency has fewer than five employees, the agency head may perform the duties of the Driver Safety Committee outlined in rule. In the event the agency head is the driver to be reviewed, the review may be done by the Driver Eligibility Board. Appeals from the affected agency head will be heard by the Executive Director of the Department of Administrative Services, or designee and shall follow the appeal process outlined in rule.

R27-7-5. Driver Safety Committee Standards.

(1) The Driver Safety Committee shall have no less than three voting members. The members shall consist of, at a minimum, a risk coordinator, human resource representative and a fleet manager. In the absence of the fleet manager the employee's supervisor may fill the position.

(2) The Driver Safety Committee shall review the initial accident preventability determination, moving violations committed in the state vehicle, moving violations outlined in Subsection R27-7-3(c), validity of citizen complaints and any other major threshold violations.

(3) An accident may be classified as preventable if any of the following factors are involved:

(a) Driving too fast for conditions;

(b) Failure to observe clearance;

(c) Failure to yield;

(d) Failure to properly lock the vehicle;

(e) Following too closely;

(f) Improper care of the vehicle;

(g) Improper backing;

(h) Improper parking;

(i) Improper turn or lane change;

(j) Reckless Driving as defined in Section 41-6a-528;

(k) Unsafe driving practices, including but not limited to: the use of electronic equipment or cellular phone while driving, smoking while driving, personal grooming, u-turn, driving with an animal(s) loose in the vehicle.

(4) An accident shall be classified as non-preventable when:

(a) The state vehicle is struck while properly parked;

(b) The state vehicle is vandalized while parked at an authorized location;

(c) The state vehicle is an emergency vehicle, and

(i) At the time of the accident the operator was in the line of duty and operating the vehicle in accordance with their respective agency's applicable policies, guidelines or regulations; and

(ii) Damage to the vehicle occurred during the chase or apprehension of people engaged in or potentially engaged in unlawful activities; or

(iii) Damage to the vehicle occurred in the course of responding to an emergency in order to save or protect the lives, property, health, welfare and safety of the public.

(5) Major threshold violations shall be determined as follows:

(a) Preventable Accidents:

(i) Three preventable accidents as determined by the Driver Safety Committee or the Driver Eligibility Board in a three year period; or

(ii) any single preventable accident as determined by the Driver Safety Committee or Driver Eligibility Board using aggravating factors outlined in Subsection R27-7-5(8).

(b) Moving violations:

(i) Three moving violations in a state vehicle within a 12-month period, not specifically outlined in Subsection R27-7-3(3)(c);

or

(ii) Any moving violation outlined in Subsection R27-7-3(3)(c).

(c) Validated Citizen complaints: Validated citizen complaints may be considered a major threshold violation at the discretion of the Driver Safety Committee or Driver Eligibility Board using aggravating factors outlined in Subsection R27-7-5(8).

(d) Telematics Threshold violations:

(i) Three telematics threshold violations within a 12-month period; or

(ii) Any single telematics threshold violation as determined by the Driver Safety Committee or Driver Eligibility Board using aggravating factors outlined in Subsection R27-7-5(8).

(6) Major threshold violations will result, at a minimum, in the following state vehicle driving privilege suspensions:

(a) First major threshold violation shall receive a minimum of two-working day driving suspension.

(b) Second major threshold violation within 12 months of the first major threshold violation shall receive a minimum 14-calendar day driving suspension. If the second major threshold violation is not within a 12-month period of the first, then it is at the discretion of the Driver Safety Committee as to whether it is considered the first or second major threshold violation. The aggravating factors outlined in rule should be considered.

(c) Third major threshold violation within 12 months of the second major threshold violation shall receive a minimum of 30-calendar day driving suspension. If the third major threshold violation is not within a 12-month period of the second, then it is at the discretion of the Driver Safety Committee as to whether it is considered the first or third major threshold violation. The aggravating factors outlined in rule should be considered.

(d) Fourth major threshold violation within 12 months of the third major threshold violation shall receive a minimum of 60-calendar day driving suspension. If the fourth major threshold violation is not within a 12-month period of the third, then it is at the discretion of the Driver Safety Committee as to whether it is considered the first or fourth major threshold violation. The aggravating factors outlined in rule should be considered.

(7) The members of the Driver Safety Committee shall act on the following matters:

(a) The preventability of an accident in accordance with the standards in rule and the facts surrounding the accident and as to whether the single accident should be classified as a major threshold violation. The aggravating factors outlined in Subsection R27-7-5(8) should be considered.

(b) Any other item brought before the Driver Safety Committee that is allowed the discretion of the Driver Safety Committee, including driving suspension longer than the minimums outlined in rule.

(c) The Driver Safety Committee may impose a driving suspension for a period less than what is in rule, but only after the recommended period of driving suspension has been reviewed by and approved by the Driver Eligibility Board prior to the suspension taking effect.

(d) The Driver Safety Committee shall recommend appropriate disciplinary action to the employing agency.

(8) Aggravating Factors to Consider

(a) The following list are items to be considered when reviewing the driver eligibility suspension to be imposed or whether a single event outlined in Subsection R27-7-5 should be considered a major threshold violation.

(b) The event resulted in bodily harm.

(c) The event had a high likelihood of causing bodily harm.

(d) The amount of damage caused as a result of the event.

(e) The event had a high likelihood of causing damage.

(f) The event damaged the reputation of the state or agency.

(g) The event had a high likelihood of damaging the reputation of the state or agency.

(h) The frequency of the events under consideration.

(9) State vehicle driving eligibility suspensions should begin within two weeks of the Driver Safety Committee meeting, unless a differing timeline is outlined in rule.

R27-7-6. Effects of Driver Safety Committee Accident Preventability Classification.

(1) In the event that an accident is determined by the Driver Safety Committee to be preventable, the Driver Safety Committee shall require the following:

(a) as a result of the first preventable accident, the authorized driver shall be required to attend a Division of Risk Management-approved driver safety program;

(b) as a result of the second preventable accident, the driver shall be required to attend, at their own expense, a state certified or nationally recognized defensive driving course;

(c) as a result of the third preventable accident within a three-year period, the driver shall receive a major threshold violation and be subject to the standards of the Driver Safety Committee.

R27-7-7. Driver Eligibility Board.

(1) The Driver Eligibility Board shall have at least four voting members. Members of the Board shall include a representative from the division, the Division of Risk Management, the Department of Human Resource Management and, a representative of the employee's agency. Each member of the Board will be assigned by the Executive Director of the Department of Administrative Services.

(2) The Driver Eligibility Board shall meet within 30-calendar days of an appeal to the Driver Eligibility Board.

(3) The employing agency supervisor and the state driver being reviewed shall be notified of the Driver Eligibility Board's meeting place, date and time. Each state employee reviewed by the Driver Eligibility Board will be given the opportunity to speak to the Board and/or answer questions during the meeting if he or she chooses to attend the Board meeting.

(4) The Driver Eligibility Board or the Driver Safety Committee may suspend state vehicle driving privilege according to the provisions of Rule 27-7 for up to three years.

KEY: accidents, incidents, tickets, Driver Safety Committee

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