

2013

Regulatory Report



**South Carolina Department of Public Safety
10311 Wilson Boulevard
Post Office Box 1993
Blythewood, SC 29016**



The mission of the Department of Public Safety is to protect and serve the public with the highest standard of conduct and professionalism; to save lives through educating its citizens on highway safety and diligent enforcement of laws governing traffic, motor vehicles, and commercial carriers; and to ensure a safe, secure environment for the citizens of the state of South Carolina.

Agency Regulation History

In response to Governor Nikki Haley's Executive Order 2013-02 dated February 7, 2013, DPS has completed a comprehensive review of our current and/or any proposed statutes, rules, regulations, and policies in order to assess their effects on South Carolina's economy and to determine whether their costs to businesses and employers outweigh their intended benefits.

The South Carolina Department of Public Safety (DPS) was established on July 1, 1993, following the passage of the Government Restructuring Act by the South Carolina General Assembly. The Act, along with additional restructuring in subsequent years, joined several agencies or components of agencies under the Department of Public Safety. The union of components into one independent state agency substantially changed the way South Carolina's public safety system operates.

Regulations governing DPS are found in Chapter 38 of the S.C. Code of Regulations. Additionally, DPS is guided and regulated by the Budget and Control Board, Comptroller General and State Treasurer. DPS is a Cabinet agency and is under the jurisdiction of the Governor. The agency is nationally accredited and must follow CALEA standards and requirements. With its distinct law enforcement functions, DPS complies with appropriate sections in the S.C. Code of Laws and S.C. Regulations, CFR of the Federal Motor Carrier Safety Regulations (governing the commercial motor vehicles industry and transportation), NCIC/SLED for NIBRS/SCOBRS incident reporting, Law Enforcement Training Advisory Council, and Federal grant guidelines.

It is very important to note that although the original Government Restructuring Act created DPS to be a multi-faceted law enforcement and regulatory agency with several constituent divisions including the then Division of Motor Vehicles (DMV), and the Criminal Justice Academy (CJA), subsequent restructuring occurred over the years eventually re-moving the DMV and CJA from

the DPS and created them to be stand-alone agencies. **Chapter 38, S.C. Code of Regulations, has not been revised or re-written to reflect those changes. Chapter 38 is divided into many Articles with assigned areas of responsibility.**

Regulation Review Process

DPS recognizes the importance of regulations and the possible burdens that they may impose on the private sector. In response to the Governor's Executive Order the agency formed a committee, the DPS Regulatory Committee, to review all regulations and conduct public forums, open to the public for comments and questions. DPS placed special emphasis on actively seeking the public's input to determine if the current regulations were negatively impacting any stakeholders. DPS contacted the media to notify the press and the public of the details of our review and upcoming public forums. The agency also set up additional options for the public to share their input and/or comments by utilizing a special mailing address or web account for mailing or emailing any concerns or comments (regulations@scdps.gov). Information could also be found on the agency's website <http://www.scdps.gov/regulations.html>.

The DPS Regulatory Committee was comprised of subject matter experts over those regulations that impact the private sector. The committee consisted of personnel from three divisions within DPS: (1) The South Carolina Highway Patrol; (2) Office of General Counsel; and (3) the State Transport Police.

The DPS Regulatory Committee conducted three public forums and accepted comments, questions, and/or public input as it relates to Chapter 38 Article 5 - STP Regulations/Commercial Vehicle; and Chapter 38 Article 7 - Wrecker Regulations/Window Tint Installers.

These public forums were held in centralized locations to accommodate the public across the state. The locations and dates of the forums were:

- Midlands –Columbia, Highway Patrol Troop 1 HQ
Tuesday, April 23, 2013
- Upstate – Greenville, Highway Patrol Troop 3 HQ
Wednesday, April 24, 2013
- Lower State – Charleston, Highway Patrol Troop 6 HQ
Thursday, April 25, 2013

Summary - Minutes, written and DVD, from these public forums are attached (See Attachments A & B).

In summary, there was zero attendance at the hearing held in Greenville; therefore, there are no recorded comments. Comments made at the Columbia and Charleston hearings were related to issues that fall under the CFR of the Federal Motor Carrier Safety Regulations (which govern the commercial motor vehicles industry and transportation). These comments are relevant to federal regulations.

No comments were made on the subjects of wrecker regulations or after-market window tinting regulations.

Comments received via Email are attached (Attachment C).

Review and Recommendations

The following regulations assigned to the SCDPS in Chapter 38 are noted for the Governor's Regulatory Task Force review. Please make special note that the SCDPS, SCDMV, and SCCJA are responsible for regulations in Chapter 38. Chapter 38 is a "holdover" from when SCDPS, SCDMV, and SCCJA were one agency.

Although the Department of Public Safety is governed by all articles under Chapter 38, SCDPS has focused our review and recommendations of the regulations to those that directly pertain and are enforced by the department. Consideration should be given to revising language of Chapter 38 accordingly.

Of the Articles that are under Chapter 38, DPS has found that two of those Articles directly impact the private sector;

- Article 5 – STP Regulations/Commercial Vehicle
- Article 7 – Wrecker Regulations/Window Tint Installers.

All other regulations under Chapter 38 are enforced by other state agencies and are no longer relevant to DPS or do not have an impact on the private sector. Below you will find a brief summary of each Article with a recommendation for consideration by the Task Force.

Chapter 38 is divided into the following Articles with assigned areas of responsibility:

- CJA - Article 1 Law Enforcement Training
- DMV-Article 3 Special License Plates
- DPS- Article 5 STP Regulations/Commercial Vehicle (Impacts Private Sector)
- DPS - Article 7 Wrecker Regulations/Window Tint Installers (Impacts Private Sector)
- DPS - Article 9 In-Car Video Camera Systems (LE Agencies)
- DPS – Article 11 Contact Information from Traffic Stops (LE Agencies)

Article 1 – Law Enforcement Training

Pertains to the SC Criminal Justice Academy, the Law Enforcement Training Council, certification of law enforcement officers, training of law enforcement officers and a myriad list of training requirements for law enforcement officers. State Register Volume 21, Issue No. 6, Part 2, eff. June 27, 1997. Amended by State Register Volume 27, Issue No. 5, eff. May 23, 2003.

Article 1, Subarticle 3

Deals with the E-911 system: defining who is an operator, minimum requirements to enroll in the E-911 training and the training requirements for E-911 operators. This Subarticle also falls under SCCJA's authority.

Recommendation – Revise Chapter 38 - Agency responsibility (As a result of legislatively mandated changes in the makeup of the South Carolina Department of Public Safety, the above referenced regulations no longer pertain to or fall under the jurisdiction of SCDPS.)

Article 3 – Special License Plates

Falls under the purview of the South Carolina Department of Motor Vehicles and includes regulations for design and issuance of special license plates for elected officials, insurance certification, self-insurers and regulations covering protective helmets, face shields and windshields for motorcycle drivers. State Register Volume 22, Issue No. 3, eff March 27, 1998.

Article 3, Subarticle 11

Lists requirements for vehicles to stop at railroad crossings including buses transporting passengers, any vehicle transporting any quantity of chlorine and every vehicle required to be marked or placarded in accordance with US Department of Transportation regulations, such as vehicles carrying explosives, poisons and/ or hazardous materials. 49 C.F.R. Section 392.10, (a)

Article 3, Subarticle 13

Regulates the release of licensing and registration information. These regulations pertain primarily to SCDMV, although Freedom of Information requests to SCDPS must adhere to the Driver's Privacy Protection Act of 1994, which exempts certain confidential information from being released. State Register Volume 22, Issue No. 5, eff May 22, 1998.

Recommendation – Revise Chapter 38 - Agency responsibility (As a result of legislatively mandated changes in the makeup of the South Carolina Department of Public Safety, the above referenced regulations no longer pertain to or fall under the jurisdiction of SCDPS.)

Article 5 – STP Regulations/Commercial Vehicle

This article details numerous regulations concerning the State Transport Police and Commercial Motor Vehicles.

This section of regulations is actually the current Federal Motor Carrier Safety Regulations adopted by the State of South Carolina.

Recommendation – None

Article 7 – Wrecker Regulations/Window Tint Installers

Because of the nature of the agency's work, DPS has a great need for the use of towing services. In regulating these businesses, the agency has attempted to offer protection for citizens who are in a vulnerable situation such as a motor vehicle collision or a disabled vehicle. Almost always the situations occur without the driver being familiar with a local wrecker service. The wrecker regulations attempt to balance the protection of consumers with the opportunity for all wrecker services to offer their services.

The regulations in place are each meant to address issues to protect citizens but also to have a minimal impact on the businesses. The wrecker services are viewed as an important part of the agency's ability to fulfill our mission and any additional burdens placed on them are closely scrutinized.

Recommendation – Maintain current regulations while continuing to evaluate the needs of citizens and wrecker services.

Article 9 - Covers the allocation of in-car camera videotaping equipment to law enforcement agencies across South Carolina. State Register Volume 27, Issue No. 2, eff February 28, 2003.

Recommendation – Maintain current regulations.

Article 11 - Outlines the requirements for collection and reporting of law enforcement contact information to SCDPS. State Register Volume 33, Issue No. 6, eff June 26, 2009.

Recommendation – Maintain current regulations.

Conclusion

As a law enforcement agency, the DPS does not have as much regulatory impact as other state agencies. The few businesses that are regulated by DPS are viewed as important partners in our operations. All current regulations in place are used to balance the public's safety with the opportunity for all businesses to compete.

DPS conducted an extensive review of current regulations using several methods:

- Public comments in regional forums.
- Public comments by mail and email.
- Internal review of regulations.

After a careful review, the agency recommends maintaining the current regulations. The current regulations offer a solid balance between consumer protection and the needs of the business community to succeed in South Carolina.

The agency will continue to evaluate all regulations to ensure that this balance continues.

Attachment A

Public Hearing Held in Columbia, S.C on Tuesday, April 23, 2013, at Highway Patrol Troop 1 Headquarters.

In attendance for the Department of Public Safety were Captain Bruce Bailey of the State Transport Police, Mark Gore with the Office of General Counsel and Sid Gaulden with Legislative Affairs. The public hearing was opened by Mr. Gore, with an explanation of the reasons for the public hearing which was to allow citizens and business owners to share concerns in reference to those regulations pertaining to commercial motor vehicles, Article 5 dealing with wrecker regulations and Article 7, which deals with after-market window tinting.

One individual attended the public hearing held in Columbia. His comments are below.

My name is Daniel Felder and I'm with D&R Transport. I am an independent carrier, a trucker. I'm the driver and I'm the owner of the company and I presently have three trucks.

My concern is with the CSA(Federal Motor Carrier Safety Administration) and the way they do the DOT checks. We get written up for things that happen in the normal operation of our trucking business. Headlights go out. Taillights go out. We spring air leaks, hydraulic leaks. And we get written up for that stuff and it goes on our record. I think we should have a chance to fix it and take it back to a certified DOT location to prove that we fixed it.

They (the write-ups) stay on our record for two years. I might put a headlight in today and six months down the road it blows out again, I replace that same headlight but it's still on my record from the original headlight (write-up). That's my concern.

I'm a 27 year veteran of driving trucks, working with trucks. I've never had an accident. I've got a perfect driving record with no speeding tickets, no accidents – none of that. But, from the write ups I get in normal operations, it might be hard for me to get a job with somebody else even though I don't have a problem with my driving record.

I feel it's not really about the safe operation of the trucks anymore because I remember when the trucks were really unsafe. But now I feel like the trucks are really much safer than it used to be. But now we get the points, the points are what add up and that's my concern. I think we shouldn't get the points for normal operation

Let's say I went to a DOT checkpoint three weeks ago. Then I back over a curb on a construction site and tore my mud flap off. The mud flap really doesn't have anything with the safe operation of my truck. But I got points for that because the mud flap was tore off. My trailer works on hydraulics and it sprung a hydraulic leak and the oil from the hydraulics on the side of my truck. I got written up for an oil leak, but my truck was leaking oil and the trailer was leaking oil because I turned my hydraulic pump off.

All I had to do was wash the oil off my truck, put my mud flap back on and I would be back in compliance. But now I've got a torn off mud flap and an oil leak on my truck that really wasn't an oil leak on my CSA. That's going to stay on there for two years and I don't think that's right. "If he would have given me a chance, even though if he wrote me up for it, when I got home that day I washed the oil off my I fixed the leak and I put the mud flap back on. I'm back in compliance. All I had to do was take my truck back to that same DOT officer and show him that I've got the mud flap on, I fixed the hydraulic leak and there was no oil on my truck – no points go on my CSA. I think that's how it should be. They give us 15 days to turn the report (on corrections) in to the DOT officer. And it only took me an hour to fix my truck, but this thing is going to follow us around for two years.

Attachment B

Public Hearing Held in Charleston, S.C on Thursday, April 25, 2013, at Highway Patrol Troop 6 Headquarters.

In attendance for the Department of Public Safety were Captain Bruce Bailey of the State Transport Police, Rachel Erwin with the Office of General Counsel and Sid Gaulden with Legislative Affairs. Captain Bailey opened the two-hour public hearing session with an explanation of the reasons behind the public hearing which was to allow citizens and business owners to share concerns in reference to those regulations pertaining to commercial motor vehicles, Article 5 dealing with wrecker regulations and Article 7, which deals with after-market window tinting.

One individual, David Darby, attended the public hearing and voiced concerns about commercial motor vehicle regulations. His comments are below.

I own Hog Wild Transport. I am the owner-operator of a small company. I've got two trucks running on the road. And I'm here about the regulations and some of the stuff that we go through, some of the inspections that we go through. We're getting ticketed for faulty equipment, when it's not our equipment.

I pull containers out of the Charleston port and a lot of the chassis were made in the '70s and '80s and they have been pulled a lot of miles up and down the road. They got a lot of wear on the pins. And the officers, they tell us our fifth wheel is bad. Alright, we go out and spend \$500, \$600 on a new on a new fifth wheel. Three or four weeks later, we've got another trailer with a bad pin, the officer tells us, 'Oh, your fifth wheel is bad.'

I mean, I don't know if a fifth wheel will wear out in two or three months. So we need to get some kind of regulations on this thing and not charge the driver for his fifth wheel being bad when the fifth wheel hadn't been checked. I mean, it's got to go into a station to get the fifth wheel and get the inside micrometer and check it so we can determine whether the fifth wheel is bad, or the pin.

But we're getting citations for a bad fifth wheel when your fifth wheel is good. The average truck on the road now, I mean you got some bad trucks out there, but I've got a 2001 Freightliner and I've got a '96 Volvo. And I try to keep them in mint condition to the best of my ability. I check the brakes on them. I do brake adjustments every two weeks on them. I've never had a problem with a brake inspection as of yet on the road. I've been driving for 28 years, going on 29. I drove for a company for 18 years. I've the owner-operator of a small company for the last eight years.

As drivers out here, most of us try to keep it as safe as possible. And you know it's not just us on the road that need to be checked on and monitored. We've got a lot of interference out and we get caught up in it. I don't know whether it is easier to target the driver because you don't want to go through the courts with the cars. And most of the people in the cars they are going to take it to court.

The driver, he can't afford to take it to court, he's trying to feed his family. He's got to pay the ticket. He's got to try and make that money back so he can pay insurance on the truck. It's getting worse and worse.

We're talking safety, I'm all for safety because I'm on the road. And if there is something wrong with my truck, I'm going to get it fixed. We're getting ticketed for lights and none of make the lights. And today's lights are not of the quality that it was years ago. A light now, you can plug it in and turn it on and it will blow out. I do my inspection in the morning and then I'm going down the road, hit a bump and an officer stops me. He says turn your lights on and I've got one light out. He's going to write me a ticket for a light out. Why not give that driver an opportunity, if he's got a light in the truck, fix the light and the truck's back in compliance. I mean, you can put a man out of service because of a light.

To ticket a man for a light being out, something that he doesn't have any control over, it's kind of rough. All of us are trying to be safe and trying to feed our families, but they're really crushing us as owner-operators and small company owners. But this point system with CSA is killing us.

Attachment C Email Comments

From: Mayergj245@aol.com [Mayergj245@aol.com]
Sent: Saturday, April 20, 2013 6:35 AM
To: Regulations
Subject: Tinted windows and Towing

In regards to tinted windows,I was a police officer in NJ for 26 years NJ had a law that if a police officer could not see inside of a vehicle because the windows were tinted to dark the driver received a summons and had to replace the tint to a lighter tint.I have lived in Surfside Beach for 15 years and and I could pull up to a vehicle at a traffic light and not see into the vehicle at all,this makes it very dangerous for a police officer making a traffic stop.In regards to towing at accident scenes in NJ it was the responsibility of the tow truck driver to clean up the scene of the accident or he would lose his contract with the city,in the 15 years I have lived in Surfside I have seen whole windshields,bumpers,fenders,and other objects left in the middle of intersections,it should be the responsibility of the tow truck driver to clean the scene or they should lose their contract.

From: Michael Burrell [mburrell@sccoast.net]
Sent: Saturday, April 20, 2013 9:22 AM
To: Regulations
Subject: Towing, Window Tint and Commercial Vehicle Regulations

Any trailer under tow should be required to have functional tail lamps, brake lights and turn signals. Trailers under tow should be registered, titled and pay their fair share of road use tax, in the same manners as are motor vehicles.

Window tint should not be so dark as to prevent the opportunity of any law enforcement officer to view the occupied area of a vehicle with supplemental lighting.

Respectfully submitted,

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From: thomas .marshall [trmfeg@sccoast.net]
Sent: Saturday, April 20, 2013 12:35 PM
To: Regulations
Subject: commercial vehical regulations

Sirs,

I would like consideration on working taillights {turn , stop, backuo] for all trailers being towed !

Thank You

From: jackmeatcutter [jackmeatcutter@aol.com]
Sent: Saturday, April 20, 2013 12:49 PM
To: Regulations
Subject: comment

I am a resident of Myrtle Beach , and I feel that the state should require that all trailers be registered . I feel that most of the trailers on the road today are owned by landscaping businesses , and they can well afford to register these trailers . It is bad enough that most of their business is cash , and never reported so they don't have to pay taxes on the money ` , so at least the state can get revenue from the registrations. A lot of these trailers are 20 feet or longer, and are wearing out our roads as much as cars are . If the state was collecting registration fees for these trailers , that money could go to repair and build more roads . I also feel that mopeds should have more restrictions as to what roads they can travel on . it is very dangerous to have these mopeds on our roads especially now with all the traffic we have .. Tinting of automobile windows . No don't you think that this is getting out of hand and dangerous . You cannot tell who is d riving a lot of these vehicles with tinted windows . It is very dangerous foe our police officers as well . There should be a limit as to how dark a window can be tinted , and it should be enforced Joaquin Correia 128 Marsh Hawk Drive Myrtle Beach South Carolina 29588 tel8432153622

From: J. Lewis [iluvjal6@sccoast.net]
Sent: Saturday, April 20, 2013 7:51 PM
To: Regulations
Subject: Window tint

I feel that the window tint rules need to be adjusted. It is not fair to drive around the state of South Carolina and see all of these vehicles owned by the state with tinted windows beyond the legal limit knowing if I tinted my windows that dark I would get a \$200 fine.

Thank you Jeff Lewis

From: Bill Sheeley [wsheeley@hotmail.com]
Sent: Tuesday, April 23, 2013 11:54 PM
To: Regulations
Subject: Vehicle rule changes

As to towing, as standard state/county/town rate should be put in place for all tower's. It shouldn't be left to open market or Police discretion. \$300 charge for a tow and storage for less then 24 hrs, is obscene.

Also, anyone with an open air trailer, should be charged a registration and ensure all electronics(blinkers) are in proper working order.

Sent from my iPad
Bill Sheeley

From: Ellen Hunsinger [ehunsinger@ymail.com]
Sent: Wednesday, May 01, 2013 3:41 PM
To: Regulations
Subject: Comments on vehicle rules

1. Mopeds should be licensed and pay an annual registration fee.
2. Very minimal window tinting, if any.
3. Require annual inspections of all vehicles. The inspections should check all lights, brakes, tire treads, fluids and emissions.

The South Carolina State Department of Transportation and/or Department of Motor Vehicle would need to: establish guidelines/annual fees for any business wishing to be certified by the State to perform such inspections; inspect each business annually to ensure it remains qualified to perform such inspections; and require training/certification of any workers performing the inspections. All collected annual inspection fees (vehicles, stations, etc) could be used

for personnel training and certification of the inspection stations.

4. Require all trailers, other than agricultural, to be registered with the DMV and pay an annual fee just as a car, RV, truck are required. These trailers use the roads in South Carolina as well as regular vehicles (and many trailers are business related) - the collected registration fees would help offset the maintenance and repair of our SC roads which are dearly needed.

Thank you for allowing me to comment - E. L. Hunsinger