

LAWS OF DELAWARE  
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CHAPTER 302  
152nd GENERAL ASSEMBLY  
FORMERLY  
HOUSE BILL NO. 407

AN ACT TO AMEND TITLE 21 OF THE DELAWARE CODE RELATING TO LICENSED TRANSPORTERS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend § 101, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 101. Words and phrases.

For the purposes of this title, unless the context otherwise clearly indicates:

(82) “Transporter” means ~~every~~ a person engaged in the business of transporting mobile homes or vehicles within the state of Delaware under contract with another entity or individual. Transporter does not include a person engaged in the transfer of motor vehicles that are registered for operation on the road in any state, but does include a person engaged in the following: delivering vehicles of a type to be registered under this title from a manufacturing, assembling and distributing plant to a point of destination or for the purpose of weighing, testing, transporting or delivering such vehicle or for the purpose of moving said vehicles in connection with making installations thereon or improvements or repairs thereto or the repossession or foreclosure thereof.

(a) Delivering mobile homes or vehicles from a manufacturing, assembling, or distributing plant to a point of destination for the purpose of weighing, testing, transporting, or delivering such mobile home or vehicle.

(b) Delivering mobile homes or vehicles for the purpose of moving such vehicles in connection with making installations, improvements, or repairs to such vehicles.

(c) Delivering unregistered motor vehicles from a licensed motor vehicle dealer to another licensed motor vehicle dealer or licensed motor vehicle repair facility.

Section 2. Amend § 2124, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2124. Number plates for ~~manufacturers and dealers;~~ manufacturers, dealers, and transporters; transit plates for transporters and owners of special construction equipment.

(b) The Division of Motor Vehicles shall issue special plates, designated as “in transit” plates or “licensed transporter” plates, to transporters and owners of special construction equipment. ~~Such “in transit” plates may be used to operate or move like vehicles or equipment upon the highways solely for the purpose of delivering or moving such vehicle to or from the location of any type of construction.~~ All such vehicles moved or operated under this section must comply with Chapter 45 of this title.

(1) In transit plates start with the prefix CT, signifying a construction tag under § 2154 of this title. In transit plates may be used to operate or move like vehicles or equipment upon the highways solely for the purpose of delivering or moving such vehicles or equipment to or from the location of any type of construction.

(2) Licensed transporter plates start with the prefix LT. Licensed transporter plates may only be issued to approved Delaware licensed transporters who have met all licensing requirements under Chapter 87 of this title. A transporter plate may be used to operate or move an unregistered motor vehicle that is otherwise eligible for registration for operation on the roads of the state or for the delivery of a mobile home. A transporter plate may be used solely for the purpose of delivering such a vehicle or mobile home to or from a location for a purpose authorized by this title. A transporter plate may not be used on any motor vehicle or mobile home that is registered in any state. A transporter plate may not be used on any OHV. A transporter plate may not be used on any mobile equipment or motorized apparatus that is not eligible to be registered within the State. Transporter plates may not be used by anyone other than the approved Delaware licensed transporter, including a licensed Delaware motor vehicle dealer who must use dealer license plates issued to the motor vehicle dealer for moving motor vehicles in the dealer's inventory. Transporter plates may not be used for purposes under subsections (a)(2), (a)(3), (a)(4), or (i) of this section.

(c) This section shall not apply to work or service vehicles owned by a ~~manufacturer, transporter~~ manufacturer or dealer.

(d) Every manufacturer, transporter or dealer shall keep a written record of the vehicles upon which such special plates are used and the time during which each set of plates is used on a particular vehicle, which record shall be open to inspection by any police officer or any officer or employee of the Department.

(e) No manufacturer or transporter or dealer in motor vehicles, trailers or semitrailers shall cause or permit any such vehicle owned by such person to be operated or moved upon a public highway without the same being registered in accordance with this title and without there being displayed thereon a number plate or plates and a registration plate or plates, as provided by this title, except as otherwise authorized by this section.

(f) Any ~~manufacturer, transporter~~ manufacturer or retail dealer as defined in Chapter 63 of this title may make application to the Department upon the appropriate form for a certificate and for 1 or more pairs of special plates or single special plates as are appropriate to various types of vehicles of the types subject to registration hereunder. The applicant shall also submit such proof of such applicant's status as a bona fide ~~manufacturer, transporter~~ manufacturer or retail dealer as may be required by the Department. Dealer license plates will be limited to retail dealerships based on the number of vehicles sold per year. Retail dealers selling 5 to 10 vehicles per year may obtain no more than 1 dealer plate; retail dealers selling 11-25 vehicles per year may obtain no more than 2 dealer plates; retail dealers selling 26-49 vehicles per year may obtain no more than 4 dealer plates; retail dealers selling 50-99 vehicles per year may obtain no more than 20 dealer plates; retail dealers selling 100 or more vehicles per year may obtain any number of dealer plates at the retail dealer's discretion. Wholesale dealers selling 5 to 10 vehicles per year may obtain no more than 1 dealer plate; wholesale dealers selling 11-25 vehicles per year may

obtain no more than 2 dealer plates; wholesale dealers selling 26-49 vehicles per year may obtain no more than 4 dealer plates; wholesale dealers selling 50 or more vehicles per year may obtain no more than 20 dealer plates.

(g) Delaware licensed transporters that transport fewer than 10 vehicles or mobile homes per year may obtain no more than three transporter plates. Delaware licensed transporters that transfer 10 or more vehicles or mobile homes per year may obtain a maximum of 5 transporter plates.

~~(g)~~(h) The Department, upon approving any such application, shall issue to the applicant a certificate containing the applicant's name and address and other appropriate information.

~~(h)~~(i) The Department, upon approving any such application, shall also issue special plates of a design, size, material and color determined by the Department. Each plate or pair of plates so issued, however, shall contain a number or symbol distinguishing the same from other plates issued under this chapter.

~~(i)~~(j) Notwithstanding this section, the Department upon approving an application filed by a licensed automotive recycler may issue 1 or more special plates as provided for in subsection (a) of this section.

~~(j)~~(k) Dealer plates may be transferred from 1 dealer to another by completing a seller's affidavit to transfer a dealer tag or tags and submitting it with the appropriate fee. The seller's affidavit shall include the seller's and buyer's names, the plate number and the date of the transfer. A dealer may not acquire more plates than they are otherwise permitted by subsection (f) of this section.

~~(k)~~(l) All special plates issued hereunder shall expire at midnight on December 31 of each year and may be extended for the ensuing year by the person to whom such plates were issued upon application to the Department and payment of the fees provided by this title.

Section 3. Amend Part IV, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 87. LICENSED TRANSPORTERS

§ 8701. Transporter license requirements.

(a) No individual, corporation, partnership, sole-proprietorship, or other legal entity may carry on or conduct the business of transporting vehicles unless issued a transporter license by the Division of Motor Vehicles. A transporter license issued under this title is not transferrable.

(b) An application for a transporter license must be made upon the form prescribed by the Division and must contain a certification by the applicant stating the information provided is true and accurate to the best of the applicant's knowledge.

(c) The owner of a transporter business must have a valid Delaware driver license and established residency in Delaware at least 90 days prior to the time of application.

(d) An applicant for a transporter license must be at least 18 years of age, with a minimum of 1 year driving authority, on the date the application is submitted.

(e) A transporter licensee who is under the age of 21 may only operate a motor vehicle that is displaying a Delaware transporter plate on the vehicle or any attached trailer or mobile home within the state of Delaware. Only

individuals over the age of 21 may operate a motor vehicle that is displaying a Delaware transporter plate on the vehicle or any attached trailer or mobile home outside of the State of Delaware.

(f)(1) An applicant seeking a transporter license or license renewal, if more than 5 years have passed since the initial transporter license was granted, must submit fingerprints and other necessary information as may be required to obtain a report of the applicant's entire criminal history record from the State Bureau of Identification or a statement from the State Bureau of Identification that the State Central Repository contains no such information relating to the applicant.

(2) All information obtained under this subsection must be forwarded to the Division of Motor Vehicles for review to determine the applicant's suitability for licensure. Information obtained under this subsection is confidential and may only be disclosed to the Director of the Division or the Director's designee.

(g) An applicant for a transporter license must verify, on a form prescribed by the Division of Motor Vehicles or through other means deemed acceptable by the Division through regulation, that the transporter has liability insurance as required under § 2118 of this title.

(h) The fee for a transporter license is \$50.

(i) An applicant for a transporter license must have a valid business license from the Delaware Division of Revenue and must satisfy any local or municipal business licensing requirements.

§ 8702. Transporter location and business requirements.

(a) Except as provided herein, a transporter license may not be issued to a vehicle transporter unless the transporter has an established place of business that is owned, rented, or leased by the transporter, and which meets the following criteria:

(1) A telephone number is listed in the name of the business.

(2) The Division of Revenue business license, any local or municipal business license, and the transporter license are kept at the business location, prominently displayed, and available for inspection by the Division of Motor Vehicles.

(3) The business maintains and has adequate storage to maintain any records required by the Division of Motor Vehicles. All records regarding the transportation of vehicles and records of transporter registration plates assigned to the transporter must be maintained in paper or electronic form on the premises of the licensed location. Any records required by the Division must be maintained for a minimum of 5 years.

(b) Every transporter must have in the transporter's possession, prior to taking possession of a motor vehicle or mobile home for transport, a written agreement that confirms the transporter is contracted to pick up and deliver the motor vehicle or mobile home.

(c) During all posted business hours, the records of the transporter must be open to inspection by the Division, any police officer, or any duly authorized investigator at the Department of Justice while discharging their official duties.

(d) At least 30 days prior to changing the location of the transporter's business, the transporter must notify the Division upon a form prescribed by the Division.

§ 8703. Issuance of transporter license.

Upon receiving an application for a transporter license from an applicant and determining, so far as possible, that the applicant is of good character and that the applicant has complied with and reasonably can be expected to comply with the laws of this state and requirements of this chapter, the Division may approve an application and issue a transporter license to the applicant.

§ 8704. Expiration and renewal of transporter license.

(a) Each license issued under this chapter must expire either 12 or 24 months after issuance or renewal.

(b) A transporter license expires upon the expiration date unless properly renewed under procedures or regulations promulgated by the Division of Motor Vehicles.

(c) A licensee seeking to renew a license must pay, in addition to any other renewal fee required, a fee of \$10 per year for each transporter plate issued to the licensee.

§ 8705. Prohibited acts.

(a) A licensed transporter, or any agent or employee of the transporter, may not permit any individual to operate a vehicle or mobile home bearing a transporter plate if they know the individual does not have a valid driver license.

(b) A licensed transporter, or any agent or employee of the transporter, may not commit any illegal activity incident to the transport of a vehicle, and may not commit fraud in the execution of, or any material alteration of, a contract, power of attorney, or other document incident to the transport of a vehicle.

(c) A licensed transporter, or any agent or employee of the transporter, may only use a transporter plate or allow a transporter plate to be used on an unregistered vehicle delivered by the transporter. A transporter plate may not be used on any motor vehicle or mobile home that is registered in any state. A transporter plate may not be used on any OHV or any other mobile equipment or motorized apparatus which is not eligible to be registered within the state of Delaware.

(d) A licensed transporter, or any agent or employee of the transporter, may not use a transporter plate on a vehicle without first preparing a written record as required by § 2124(d) of this title.

(e) A licensed transporter, or any agent or employee of the transporter, may not use a transporter license plate on a vehicle owned or leased by the transporter, its officers, or any of its employees.

§ 8706. Acts of officers, directors, partners, employees, and agents.

(a) If a licensed transporter is a partnership or corporation, it is sufficient cause for the denial, suspension, or revocation of the license if any officer, director, or trustee of the partnership or corporation, or any member in the case of a partnership, has committed any act or omitted any duty that would be cause for the denial, suspension, or revocation of a license issued to the officer, director, trustee, or member as an individual under this chapter.

(b) For purposes of this section, a licensee is responsible for and deemed to have committed an act of an employee or other agent of the licensee while acting as the licensee's employee or agent, if the licensee approved of the act or had knowledge of the act or similar acts, and if the licensee, after approving the act or having such knowledge, retained the benefit, proceeds, profits, or advantages accruing from the act.

§ 8707. Denial of an application for licensure or renewal of a transporter license; suspension or revocation of a transporter license.

(a) The Division may deny an original or renewal application for licensure, or may suspend or revoke a transporter license if the applicant or licensee has committed any act prohibited under this chapter or failed to comply with any requirement of this chapter, or for any of the following reasons:

(1) The original or renewal application for the transporter license contains a material misstatement or omission.

(2) The applicant or licensee fails to comply with a cease-and-desist order or written warning issued by the Division.

(3) The applicant or licensee fails to comply with the requirements of this title in connection with the operation of a transporter business.

(4) The applicant or licensee has been convicted of a felony in this State or any other jurisdiction. A felony conviction may be waived by the Division for purposes of licensure if, at the time the application is submitted, more than 10 years have passed since the date of conviction. The Division may not waive a felony in considering an application if the applicant is incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence, or if the applicant is not in substantial compliance with all court orders pertaining to fines, restitution, and community service.

(5) The applicant or licensee has been convicted of a misdemeanor involving theft, fraud, dishonesty, false pretense, or moral turpitude in this State or any other jurisdiction. A misdemeanor conviction may be waived by the Division for purposes of licensure if, at the time the application is submitted, more than 5 years have passed since the date of conviction. The Division may not waive a misdemeanor in considering an application if the applicant is incarcerated, on work release, on probation, on parole, or serving any part of a suspended sentence, or if the applicant is not in substantial compliance with all court orders pertaining to fines, restitution, and community service.

(6) The applicant or licensee has been convicted of any crime that the Division deems by regulation may create public safety concerns, regardless of the classification of the offense. The Division may not waive any conviction of a crime that creates public safety concerns.

(7) The applicant or licensee fails to notify the Division within 72 hours of any known change in criminal history.

(8) The Division determines, so far as can be ascertained, that the applicant or licensee does not or no longer meets the standards set forth in this chapter.

(9) The applicant or licensee does not have valid driving authority, has more than 8 points, has had a license to drive suspended or revoked in the previous 5 years, or has hired or otherwise permitted an individual without valid driving authority, with more than 8 points, or who has had a license to drive suspended or revoked in the previous 5 years to operate a vehicle in the transporter's business.

(10) The applicant or licensee, while under the age of 21, has operated a motor vehicle or towed a trailer or mobile home displaying a Delaware transporter plate outside the State, or the applicant or licensee hired or otherwise permitted an individual under the age of 21 to operate a motor vehicle or tow a trailer or mobile home displaying a Delaware transporter plate outside the State.

(11) The applicant previously held a transporter or dealer license that was revoked by the Division or suspended by the Division and the terms of the suspension have not been satisfied.

(12) The applicant or licensee solely employs call forwarding, telephone answering service, or mail forwarding services during scheduled business hours or otherwise operates from a remote or otherwise unlicensed location.

(13) The applicant or licensee has failed to maintain a written record required under § 2124(d) of this title.

(14) The applicant or licensee has used a transporter plate for personal use on a vehicle owned by the transporter or any employee or agent of the transporter.

(15) The applicant or licensee has used a transporter plate on a motor vehicle that is registered in this State or any other state.

(16) The applicant or licensee has used a transporter plate on any OHV or on any mobile equipment or motorized apparatus that is not eligible to be registered in this State.

(b) The Division must defer any original application for licensure or renewal application if the applicant has pending criminal charges that would be grounds for denying an application or suspending or revoking a license if convicted under subparagraphs (a)(5), (a)(6), or (a)(7) of this section.

§ 8708. Notification of intent to suspend or revoke a license or deny an original or renewal application.

(a) No transporter license issued under this title may be suspended or revoked, nor may an application for licensure or renewal be denied, unless a notice of the Division's intent to suspend or revoke the license or deny the application has been furnished to the applicant or licensee.

(b) The written notice may be sent to the applicant or licensee by certified mail, return receipt requested, addressed to the last known address as shown on the driver license, transporter license application, or other record of information in possession of the Division, or may be hand delivered to a person of suitable age and discretion at the licensed business location of the transporter. If the notice is returned as unclaimed, notice may be provided to the applicant or licensee in the same manner as service of process may be effected in civil litigation.

(c) The written notice must contain the following:

(1) The Division's intention to suspend, revoke, or deny the application for licensure or renewal of the transporter license.

(2) The reason for the intended action, including any law or regulation allegedly violated by the transporter.

(3) A citation to the law or regulation giving the Division authority to act.

(4) The right of the applicant or licensee to request a hearing to dispute the intended action. The hearing must be requested within 10 days of the earlier of the date the applicant or licensee received the notice or the Division received the return receipt.

(5) The right of the applicant or licensee to present evidence, be represented by counsel, and appear personally or by representative at any hearing requested under this section.

(d) If no hearing is requested within the allotted time, the Division may issue a final decision, which may be provided to the applicant or licensee in the same manner as the written notice under this section.

(e) Any hearing requested by a transporter under this section must follow the procedures set forth in § 8710 of this chapter.

§ 8709. Effect of denial of original or renewal application or revocation on applicant or licensee.

(a) A transporter whose application for licensure or renewal has been denied, or whose license has been revoked, may not be employed by any other licensed transporter or dealership, nor may the transporter be employed in any of the capacities listed in this section for the following time periods:

(1) If the transporter's license is revoked, for 5 years from the effective date of the revocation.

(2) If a transporter's original or renewal application is denied, for 12 months from the date of the decision denying the application, or any other time period set forth in the decision.

(b) When issuing a decision that revokes or suspends a transporter license, or that denies an original or renewal application, the Division must provide the applicant or licensee with notice of the following:

(1) The transporter must return all documentation and transporter plates required under § 8711 of this chapter.

(2) If the transporter does not return the documentation or plates as required by this section within 30 days from the date the Division provides the required notification, the time periods set forth in subsection (a) of this section are extended by 1 day for each day the documentation and transporter plates remain outstanding.

(3) If the documentation and transporter plates are not provided within 6 months of the deadline, the time periods set forth in subsection (b) of this section may be extended indefinitely.

(c) If a transporter is or is found to have been employed in violation of this section, the time periods set forth in subsection (a) are extended by 6 months for every month the transporter is employed in violation of this section.

(d) The prohibitions set forth in this section apply to any individual applicant or licensee. If the applicant or licensee is a partnership, the prohibitions set forth in this section apply to each individual partner listed on the application. If the applicant or licensee is a corporation, the prohibitions set forth in this section apply to the individual or individuals who signed the application.

(e) The Division must notify any transporter found to be in violation of this section of its intent to extend the suspension of the license or any time periods set forth under subsection (a) of this section. The notice may be provided in the same manner as the notice of intent to revoke or suspend the license or deny the original or renewal application under § 8708 of this chapter. The notice must include the following:

(1) The Division's intent to extend the suspension or any time periods set forth under subsection (a) of this section.

(2) The nature of the violations committed by the transporter.

(3) An explanation that the transporter has a right to request a hearing to dispute the intended extension of the suspension or time periods set forth under subsection (a), that the hearing must be requested within 10 business days from the earlier of the date the applicant or licensee receives the notice or the Division receives the return receipt.

(4) An explanation that the transporter has the right to present evidence, to be represented by counsel, and to appear personally or by other representative at the hearing, if requested.

(f) If no hearing is requested within the allotted time, the Division may issue a final decision, which may be provided to the applicant or licensee in the same manner as the written notice under this section.

(g) Any hearing requested by a transporter under this section must follow the procedures set forth in § 8710 of this chapter.

§ 8710. Hearings.

(a) If a transporter timely requests a hearing to contest any proposal to suspend or revoke a license, to deny an original or renewal application for a license, or to extend any period of suspension or other time period established under this chapter, the Division must provide the requested hearing.

(b) The Division must provide notice of the time, date, and location of the hearing at least 30 days in advance of the hearing.

(c) At any hearing under this section, the transporter has the right to be heard personally, by counsel, or by other representative.

(d) Prior to a hearing under this section, the Director may initiate investigations, appoint a hearing officer, and subpoena witnesses.

(e) A hearing officer may make findings of fact and issue recommendations to the Division. If the findings of fact support the proposed action, the Director may issue a decision taking the proposed action.

(f) In considering whether or not to suspend or revoke a license, deny an original or renewal application, or extend any time periods under this section, the Director must consider the following facts:

(1) The nature of the violation or violations and, if appropriate, the willingness and ability of the transporter to make restitution to any party harmed by the actions of the transporter.

(2) The effect of the proposed action on the parties involved.

(g) Following a hearing and after considering all relevant facts or if a timely hearing request is not received after issuing the notice of intent under § 8708 or § 8709 of this chapter, the Director must issue a written decision to all parties involved. A copy of the decision must be provided to the transporter in the same manner as the notice of intent to revoke or suspend the license or deny the original or renewal application under § 8708 of this chapter.

(h) A final decision of the Director may be appealed to the Superior Court. The notice of appeal must be filed within 30 days of the earlier of the date the applicant or licensee receives the decision or the Division receives the return receipt.

§ 8711. Return of license and transporter plates.

If a licensed transporter fails to renew the transporter's license, or if the Division revokes a transporter license or denies the renewal of a transporter licensed under this chapter, the transporter must immediately return both the license and all transporter plates issued to the transporter.

§ 8712. Cease and desist orders and injunctive relief.

(a) In addition to the legal remedies provided for in this chapter, the Division has authority to issue cease and desist orders to any person, corporation, partnership, or other legal entity who violates this chapter.

(b) The Division may file a complaint for injunctive relief with the Court of Chancery upon notice of a violation of a cease and desist order issued under this section. The Court of Chancery may award attorney fees and costs if a preliminary or permanent injunction is granted by the court. Nothing herein prevents the Department of Justice from seeking any civil remedy or criminal sanction for any conduct constituting a violation of this chapter.

Approved July 17, 2024