

## Statewide Vehicle Use Policy

### **A. Purpose and Applicability**

This document sets forth a uniform statewide policy for the use of State vehicles. This policy applies to all State agencies and public authorities, their board members, officers, and employees, and supersedes all vehicle use policies currently in effect.

Each State agency and public authority shall develop, implement, and/or review its vehicle use policy in accordance with this policy, which should incorporate, among other things, vehicle assignment procedures, appropriate use of E-ZPass and fuel cards, and control and risk assessments. Agencies and authorities may adopt and maintain stricter or more detailed policies as needed.

Any deviation from this policy or exception not expressly stated herein requires the approval of the Director of State Operations or the Director's designee. The Director of State Operations may, at any time, make exceptions to this policy.

An employee's failure to comply with all applicable vehicle use policies and procedures may subject the employee to administrative action, up to and including termination.

### **B. Definitions**

As used herein:

"Policy" means *the Statewide Vehicle Use Policy* set forth in this document and any subsequent amendments.

"Public authority" or "authority" means any public authority or public benefit corporation created by or existing under any New York State law, at least one of whose members is appointed by the Governor or whose members serve by virtue of holding a civil office of New York State, including any subsidiaries of such public authority or public benefit corporation, but not including any interstate or international authority or public benefit corporation.

"State agency" or "agency" means (i) any State agency or department, or any office, division, bureau, or board of such State agency or department, except where the head of such agency or department is not appointed by the Governor and (ii) any State board, committee, or commission, at least one of whose members is appointed by the Governor.

"State vehicle" means a vehicle owned by a State agency or authority or leased or rented by a State agency or authority for official State business.

"Personally Owned Vehicle (POV) usage" means the use of a non-State vehicle while in the course of State employment.

“Telematics” means a technology that uses wireless devices and sensors to collect and transmit data from a vehicle to a server where that data can be analyzed and displayed for fleet operators to obtain a better understanding of how vehicles are being deployed, used, and maintained.

### **C. Eligibility for Use of State Vehicles**

Any person driving a State vehicle must be an employee of New York State or other person expressly authorized by the head of an agency or authority that is providing service to the State. Use of a State vehicle by an authorized person who is not a New York State employee is permitted only for the purpose of providing service to the State.

Unless specified in this policy, no employee, regardless of job title or responsibility, is guaranteed access to a State vehicle.

Any person driving a State vehicle must have a valid driver's license of the class required for the vehicle being operated. Every person who may use a State vehicle is required to immediately inform their supervisor of any license revocation, suspension, or restriction (see **Section J, Moving Violation and Accident Reporting**).

Agencies and authorities are required to participate in the Department of Motor Vehicle's License Event Notification System (LENS) program in order to receive reports of driver license revocations, suspensions, and restrictions. Agencies and authorities must enroll any driver or potential driver of a State vehicle and update their agency vehicle use policies accordingly. Agencies and authorities will be responsible for monitoring driver records on an ongoing basis to ensure compliance with the State driver eligibility requirements listed herein.

- Drivers with out-of-state licenses must annually provide a current copy of their driving record to their designated agency fleet manager prior to being permitted to operate a State vehicle.
- Each agency must ensure that each driver's license is consistent with the State where the driver maintains the driver's residence.
- Each agency must also ensure that drivers with out-of-state licenses are in compliance with this Policy.

Each agency and authority retains the right to require any person using a State vehicle to participate in a safe driving program.

### **D. Long-Term Assignment of Vehicles**

All State vehicles controlled by an agency or authority will be deemed part of the vehicle pool of that agency or authority. Pool vehicles will be made available to employees on an as-needed basis to carry out State business.

The heads of agencies and authorities may be assigned a particular vehicle on a permanent basis.

State vehicles may be assigned to specific employees when related to their job requirements, e.g., emergency responder, and when approved in writing by the agency's or authority's Executive Chamber Deputy Secretary. To request approval for individual assignment of State vehicles, agencies and authorities shall provide:

1. A list of the job titles and circumstances for which individually assigned vehicles are requested and information including, but not limited to, whether the vehicle may be taken home at night, used for commuting purposes, where the vehicle will be parked, or who is bearing the cost of parking when not in use.
2. For each job title, an explanation in support of the request for individually assigned vehicles. In cases where there is a need to carry specialized tools or equipment to accomplish job duties, it may be appropriate to individually assign a vehicle, but the vehicle should be parked at a State facility when not in use. As a general rule, only employees who are first responders, who are on call 24 hours per day, who are responsible for ensuring public safety, or who have their residence as official workstation and work in the field will be allowed to take State vehicles home or use vehicles for commuting purposes.

Any employer who expects a specific employee to use a vehicle for State business for 15,000 miles or more during a fiscal year must provide that employee with use of a State vehicle. An employee may only exceed the 15,000-mile threshold for Personally Owned Vehicle (POV) usage under extraordinary and unforeseen circumstances. When such circumstances occur, the employer and employee shall document the reasons for exceeding the threshold and the employer shall approve the use and notify the appropriate agency's Executive Chamber Deputy Secretary. Each agency and public authority shall be responsible for documenting and maintaining all requests by their employees to exceed the 15,000-mile threshold for POV Usage and all authorizations for such use.

Each agency and public authority shall review individual assignments of vehicles on no less than an annual basis and shall provide a report detailing the status of assigned vehicles to the Director of State Operations by December 31 annually. If at any time the job duties change and the individual vehicle assignment is no longer warranted, such assignment shall be terminated. Any new individual assignments must be approved by an agency's or authority's Executive Chamber Deputy Secretary.

#### **E. Use of State Vehicles**

State vehicles may be used only for official State business, and their use for all other business is strictly forbidden except under very limited circumstances where (i) commuting is expressly authorized by the applicable Deputy Secretary or (ii) the use is incidental to official business (see *Illustrative Examples* below). Even in cases where non-official use is authorized or is incidental to official business, each person operating a State vehicle is expected to exercise good judgment to avoid the appearance of impropriety.

All non-official use of State vehicles must be reported on a vehicle use log (see *Section H, Vehicle Use Logs*). For any non-official use that is not incidental, the user of the State vehicle must reimburse the agency or authority the value of such use or the value must be treated as imputed personal income for tax purposes. Please refer to the requirements listed within *Comptroller Payroll Bulletin, Reporting the Taxable Value of Personal Use of Employer Provided Vehicles and Chauffeur Services* (<https://www.osc.ny.gov/state-agencies/payroll-bulletins/state-agencies/21591-procedures-reporting-taxable-value-personal-use-employer-provided>) and *Form AC 3173* (<https://www.osc.ny.gov/files/state-agencies/payroll/pdf/ac3173-f.pdf>)

State vehicles should not be used to transport passengers unless they are: (i) State employees engaged in official business; (ii) non-State employees engaged in official business with State employees; or (iii) persons in the control or custody of the agency. Transporting friends or family members for any reason in a State vehicle—regardless of their status as State employees—is strictly prohibited.

Due to the public nature of the work being performed when operating a State vehicle, persons using a State vehicle have a limited expectation of privacy in connection with such use. State agencies and authorities expressly reserve the right to monitor and record the use of any equipment they issue or assign for a legitimate work-related purpose, and State vehicles are no exception. Accordingly, the use of a State vehicle may be monitored and recorded at any time by visual, documentary, or electronic means including telematics.

### **Illustrative Examples**

*Example 1:* An employee who is required to stay overnight for an out-of-town meeting drives the State vehicle to a restaurant in close proximity to the overnight lodging in order to have dinner.

*All vehicle use in this example is consistent with this Policy because the State vehicle is used for official business and the non-official use (driving to and from the restaurant) is incidental to official business.*

*Example 2:* An employee has an all-day meeting in a different part of the State. Because it would not be practical to pick up or drop off the vehicle from the official work location on the day of the meeting, the employee takes a State vehicle home the evening prior to the meeting, drives to the meeting early the next morning, drives home that evening, and returns the vehicle the following morning.

*All vehicle use in this example is consistent with this Policy because driving from the official work location to home and from home back to the official work location is non-official use incidental to official business.*

*Example 3:* Same facts as Example 2, except that on the trip back to home the employee stops to pick up a loaf of bread and a gallon of milk at a supermarket that is on the route home.

*All vehicle use in this example is consistent with this Policy because the brief stop at the supermarket, while clearly non-official, is a minor deviation from official State business and is considered incidental to official State business.*

*Example 4:* Same facts as Example 3, except that instead of stopping briefly at a supermarket on the route home, the employee stops at an outlet mall just off the highway to shop for one hour. *Even assuming that the employee stops at the outlet mall outside of their regular work hours, using the State vehicle for outlet shopping violates this Policy. Unlike the stop in Example 3, the purpose of this detour is not to obtain necessary items of sustenance (such as bread and milk), nor is the detour brief. For these reasons, the non-official use of the vehicle is clearly not incidental to official business.*

*Example 5:* An employee takes a vehicle home overnight prior to an all-day meeting in another part of the State and leaves their vehicle at their official work location. The employee has tickets to a ball game the evening before the trip, and because the only vehicle they have available is the State vehicle, the employee drives them self and three friends to the ball game.

*Using the State vehicle to take friends to the ball game violates this Policy for two reasons. First, travel to and from the ball game is clearly non-official-and not connected in any way to official State business. Second, carrying persons who are not State employees and who are not engaged in official State business violates this Policy and creates a potential liability for the State.*

*Example 6:* An employee who is in travel status for multiple days drives the State vehicle to a dry cleaner, pharmacy, or convenience store in close proximity to the overnight lodging in order to purchase goods or pick up clothing.

*All vehicle use in this example is consistent with this Policy because the State vehicle is used for official business and the non-official use (driving to and from the store) is incidental to official business.*

## **F. Use of Telematics**

1. Telematics is a critical tool in the stewardship and upkeep of the New York State fleet. The system identifies State fleet vehicle location and activities, which improves employee safety, operational efficiency, and energy efficiency. In addition, the telematics system assists in the reporting and investigation of accidents and incidents and quickly locates vehicles in emergency situations.
2. All State fleet vehicles are expected to operate using the state procured telematics devices unless otherwise granted an exemption. See Section M.
3. Data collected by telematic devices belongs to the State of New York. Access to the data produced by the telematics system will be strictly controlled and securely maintained by the system administrator, the authorized users and agency fleet coordinators. Data will remain accessible in accordance with information retention policy.

## **G. Use of Drivers**

An employee may have another State employee as their primary duty, drive the employee in a State vehicle for official business. However, that State employee must have additional routine duties to perform in support of the agency while not actively driving.

## **H. Personally Owned Vehicle (POV) Usage**

Employees are mandated to use the most cost-efficient method of travel.

When using a personally owned vehicle, the employee must apply the rental rate calculator found at <https://ogs.ny.gov/procurement/trip-calculators> to determine if cost of a rental vehicle is more cost efficient than being reimbursed at the personal car mileage rate.

When an employee is in travel status, personal car mileage expenses are permitted between home and the point of travel commencement (e.g., train station, airport, park-and-ride, etc.). The State does not cover the following costs that may be incurred by State employees using personal vehicles on State business: any type of vehicle insurance coverage, maintenance or repair of a personal vehicle, or costs associated with personal ownership of the vehicle. The State will also not cover any liability incurred by the employee that may be recovered which are over any insurance limits.

Employees should contact their insurance provider to be sure they have proper coverage for POV use as it relates to official State business. If losses exceed such policy limits, coverage and representation may be available under the Public Officers Law § 17, subject to the conditions contained therein. Workers' compensation coverage is provided as it would be if the employee were using a State-owned vehicle.

Employees with physical disabilities who own specially equipped personal vehicles are authorized to use their personal vehicles when transportation is required to perform official State business and will not be subject to the 15,000-mile threshold limitation.

## **I. Telematics & Legacy Vehicle Use Logs**

### **1. Telematics Vehicle Use Logging:**

For vehicles equipped with a telematics device, drivers are obligated to record their use of the vehicle with an NFC ID Card (Near-field Communication Identification Card) each time operating a vehicle. When a driver holds their card in proximity to the reader, the required vehicle use log will be created electronically.

For each vehicle trip, the telematics system will record:

- driver (employee) name
- dates and times of use
- starting location and ending location

- starting and ending odometer readings
- fuel purchases made using a state issued fuel card

Vehicle use reports created via the telematics system shall be reviewed periodically, and at least annually by agency staff to ensure that vehicle use is consistent with appropriate business use, and in accordance with vehicle use policy.

## **2. Legacy Vehicle Use Logging:**

For non-telematics equipped vehicle use, or for vehicle use performed by a driver who has not used their NFC ID Card, agencies and authorities shall maintain a uniform vehicle use log for all State vehicles. Such logs shall require any person using a State vehicle to record at least the following information:

- employee name
- dates and times of use
- driver
- starting location and destination
- starting and ending odometer readings
- fuel and oil purchases
- employee signature

Except for personal use that is incidental to official State business (see the examples in *Section E, Use of State Vehicles*), all use must be clearly identified as such in the vehicle use log.

Each leg of a trip should be separately recorded in the vehicle use log. For example, if an employee who has an all-day meeting in a different part of the State takes a State vehicle home the evening prior to the meeting, drives to the meeting the next morning, drives home that evening, and returns the vehicle the following morning, they should separately record: (1) the trip from the official work location to home, (2) the trip from home to the meeting, (3) the trip from the meeting back to home, and (4) the trip from home to the official work location to return the vehicle.

Logs should not be stored in a vehicle long term; rather they should be collected and safeguarded in a secure location. Staff within the central office of the agency or authority shall conduct at least annual audits of the vehicle use logs and telematics data to monitor vehicle use to ensure that such use is consistent with this Policy and all other applicable vehicle use policies. Reviewers must also ensure that all applicable receipts and related documentation is attached as needed. Vehicle use logs shall be maintained in accordance with the State agency's or authority's record retention policy.

**J. General Requirements and Restrictions**

1. State vehicles must at all times be operated in full compliance with all applicable federal, State, and local laws and regulations.
2. Use of seat belts by drivers and all passengers, regardless of seating location, in State vehicles is mandatory.
3. No person driving a State vehicle may send or view e-mails or text messages while driving.
4. Employees are strongly encouraged to not use any mobile telephone or electronic communication device while operating a vehicle. If such use must take place, the device must be used in hands-free mode.
5. No person driving a State vehicle may be under the influence of alcohol, recreational drugs, or narcotics that would impair driving.
6. Possession or use of alcohol, illegal drugs, or other intoxicating substances by any person in a State vehicle is strictly prohibited.
7. Smoking of any kind including but not limited to (e)cigarettes, pipes and or vaping in State vehicles is strictly prohibited.
8. All persons are prohibited from carrying, possessing, or transporting firearms, other weapons, or explosive devices in a State vehicle unless expressly authorized to do so in connection with carrying out their official duties.
9. The use of radar detectors in State vehicles is strictly prohibited.
10. With respect to telematics systems and devices, all persons are strictly prohibited from (i) tampering with, disabling, altering, or destroying the physical telematics equipment in a State vehicle, (ii) tampering with or altering the telematics equipment by intentionally blocking or interfering with the electrical systems, wireless signal, or satellite receiver/antenna, or (iii) attempting to install, remove, repair or adjust the telematics system unless they are a trained and qualified technician.
11. Except as otherwise required by traffic, weather, or road conditions, travel should be by the most direct route possible taking into consideration cost-effectiveness, actual distance traveled, and the time to travel such distance.
12. Parking permits or placards that grant special parking privileges for State vehicles may be used only for official State business.
13. The driver of a State vehicle shall be personally responsible for all parking, moving, and E-ZPass violations.
14. Unless expressly authorized by the State agency or authority, no banners, advertising, placards, decals, or stickers may be placed on a State vehicle.
15. All State-owned vehicles must have a non-transferable E-ZPass, which may not be disabled or removed from the vehicle unless such vehicle is pending surplus procedures.

Each vehicle shall contain a placard or information summarizing the general requirements and restrictions on the use of the state vehicle.

## **K. Moving Violation and Accident Reporting**

Each agency and authority must institute a process for reviewing moving violations and accidents as part of its overall vehicle use policy. For accidents, the policy must mandate the filing of an accident report, report to the appropriate authorities, or calling 911 as needed.

Any authorized driver cited for a moving violation or involved in an accident while driving a State vehicle or a POV when performing official State business shall notify their agency or authority immediately, and in no case later than the following business day. Failure to timely report these instances may result in administrative action. In addition, the employee in the accident must also complete and submit a MV-104 form.

## **L. Suspension and Revocation of State Employment Driving Privileges**

The heads of agencies and authorities reserve the right, in their sole discretion, to limit, suspend, or revoke an employee's authority to operate a State vehicle when the employee's driving habits or record indicate (i) a pattern of unsafe operation; (ii) change in licensure as a result of DMV action which restricts driving privileges; or (iii) any incident or series of incidents that reasonably appear to reflect adversely on driving skills or ability.

## **M. Agency Administration of Policy**

Agency and authority fleet managers and coordinators are responsible for ensuring that the agency adheres to all State and federal and local mandates and requirements. This includes but is not limited to Chamber and Division of Budget (DOB) policies and directives as well as State finance and procurement laws.

Agencies are required to participate in the Office of General Services (OGS) centralized contracts for fleet services, including telematics, to take full advantage of the economic and managerial benefits to promote the management of the State's fleet through an enterprise approach. Agencies that are unable to do so because of contractual obligations must submit a justification to their Executive Chamber Deputy Secretary providing an explanation and seeking a waiver.

## **N. Insurance**

State Vehicles are insured through the State's Self Retained Auto Program (SRAP) or via State-procured Commercial Auto Insurance. Agencies can review the SRAP policy found on the page linked below or contact OGS Fleet Management for information on appropriate coverage. <https://ogs.ny.gov/fleet-management>

## **O. Compliance**

For Employees: An employee's failure to comply with these policies and procedures may subject them to administrative action, up to and including termination.

For Agencies: Agencies and authorities are responsible for confirming to their Executive Chamber Deputy Secretary and OGS Fleet Management on an annual basis that they are in compliance with this Policy. Additionally, agencies must maintain a directory of employees who have had their State Employment Driver Privileges suspended or revoked and may be required to provide the listing upon request. Agencies must also provide this Policy and all applicable vehicle use policies to all employees who drive or may drive as part of their employment in accordance with Section P, *Dissemination and Acknowledgment*, below.

**P. Other Information**

This Policy shall not restrict, impair, or otherwise alter any agency or authority ability to terminate employment where an employee loses their driver's license and such license is a qualification for employment.

This policy shall not restrict, impair, or otherwise alter any agency or authority ability to take any and all other administrative action, including disciplinary action, against an employee for their conduct or actions involved with driving a State-owned or personally owned vehicle for State business.

**Q. Dissemination and Acknowledgment**

Agencies and authorities shall ensure that this Policy is provided on at least an annual basis to all employees who use State vehicles or who may use State vehicles and that such employees acknowledge in writing that they have received and read this Policy. Written acknowledgement by e-mail or other electronic means such as *SLMS* is acceptable. Employee acknowledgements shall be maintained on file with the agency or authority.