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**MOTOR VEHICLE COMMISSION****Advertising on Commission Equipment, Facilities, and Property****Proposed New Rules: N.J.A.C. 13:18-10**

Authorized By: Motor Vehicle Commission, Raymond P. Martinez, Chairman and Chief Administrator.

Authority: N.J.S.A. 39:2A-13.a(6), 39:2A-33.c, and 39:2A-33.e.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2014-129.

Submit comments by October 3, 2014, to:

Kate Tasch  
Regulatory and Legislative Affairs  
Motor Vehicle Commission  
225 East State Street  
PO Box 162  
Trenton, NJ 08666-0162

or via e-mail to: [rulecomments@mvc.nj.gov](mailto:rulecomments@mvc.nj.gov)

The agency proposal follows:

**Summary**

This notice of proposal is exempted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5. Since this notice is not listed in the agency rulemaking calendar, the public comment period for this notice will be 60 days.

The proposed new rules concern the application of the authority of the Motor Vehicle Commission (Commission) to contract for the sale of advertisements in the interior or on the exterior of any Commission equipment, facility, mailing, and/or publication. The proposed new rules also set forth the criteria that must be satisfied in order for an advertisement to be deemed appropriate and suitable for display in or on any Commission equipment, facility, mailing, and/or publication.

N.J.A.C. 13:18-10.1, General provisions, sets forth the scope, purpose, application, and statutory framework of the proposed rules regarding advertising.

N.J.A.C. 13:18-10.2, Advertising appropriateness and suitability criteria, sets forth the criteria advertisements must satisfy in order to be deemed appropriate and suitable for display in the interior or on the exterior of any Commission equipment or facility or to be included in any mailing conducted, or publication produced, by the Commission.

N.J.A.C. 13:18-10.3, Advertising Standards Committee; final determination, creates an Advertising Standards Committee to assist the Chief Administrator in making determinations regarding the appropriateness and suitability of advertising utilizing the criteria set forth at N.J.A.C. 13:18-10.2.

**Social Impact**

The Commission does not anticipate a significant social impact if these proposed new rules are adopted. However, advertisers contracting with the Commission may have the opportunity, upon approval, to utilize certain space designated by the Commission, in and/or on Commission equipment, facilities, mailing, and/or publications for the purposes of marketing appropriate and suitable advertising messages to the general public, which may produce a benefit to both the contracting advertiser and the general public.

**Economic Impact**

The economic impact of the proposed new rules is anticipated to be positive. The proposed new rules implement N.J.S.A. 39:2A-33.c, allowing the Commission to generate additional revenue, as well as provide advertisers the potential opportunity to contract with the Commission in order to advertise, upon approval, appropriate and suitable advertisements in the interior or on the exterior of designated Commission equipment, facilities, mailings, and/or publications.

**Jobs Impact**

The Commission does not anticipate that any jobs will be created or lost as a result of the proposed rules. Although some jobs may be created

for individuals who will be employed by advertisers contracting with the Commission, it does not anticipate that there will be a significant amount of job creation as a result of the proposed new rules.

**Federal Standards Statement**

No comparable Federal law or regulation exists; therefore a Federal standards analysis is not required for the proposed new rules.

**Agriculture Industry Impact**

The proposed new rules will have no impact on the agriculture industry because they pertain to advertising in the interior or on the exterior of Commission facilities, equipment, mailings, and/or publications only.

**Regulatory Flexibility Statement**

The proposed new rules will impose certain compliance requirements on entities seeking to advertise on Commission property, equipment, or in a Commission mailing or publication, and some of those businesses may qualify as small businesses, as defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq., within New Jersey. Entities seeking to advertise on Commission property, equipment, or in a Commission mailing or publication will be required to submit advertisements that meet the criteria of N.J.A.C. 13:18-10.2. That is, the advertisement(s) cannot: be false, misleading, deceptive, disrespectful, fraudulent, or libelous; contain material or language that is profane or vulgar; contain obscene material as defined by N.J.S.A. 2C:34-3; promote unlawful or illegal goods, services, or activities; promote gambling, the sale or use of tobacco or tobacco-related products, or the sale or use of alcoholic beverages; promote the sale or use of products designed for use in connection with sexual activity, depict or glamorize violent or antisocial behavior, or sexual conduct; display weapons; or declare or imply an endorsement by the Commission without prior written authorization by the Commission, or be political, religious, or controversial in nature. The Commission may also reject an advertisement that is not in the best business interest of the Commission or in the best interest of the public.

There is no anticipated cost of compliance with these requirements and the Commission does not anticipate that professional services will be needed; the rules are straightforward and uncomplicated.

**Housing Affordability Impact Analysis**

The proposed new rules will have no impact on housing affordability nor will they evoke a change in the average costs associated with housing because the rules pertain to advertising in the interior or on the exterior of Commission facilities, equipment, mailings, and/or publications, and do not affect housing.

**Smart Growth Development Impact Analysis**

The proposed new rules will have an insignificant impact on smart growth and there is an extreme unlikelihood that the rules would evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules pertain to advertising in the interior or on the exterior of Commission facilities, equipment, mailings, and/or publications.

**Full text** of the proposed new rules follows (additions indicated in boldface **thus**; deletion indicated in brackets [thus]):

SUBCHAPTER 10. [(RESERVED)] **ADVERTISING ON COMMISSION EQUIPMENT, FACILITIES, AND PROPERTY**

**13:18-10.1 General provisions**

(a) **The rules contained in this subchapter implement the provisions of N.J.S.A. 39:2A-33.c and establish the requirements and procedures for the approval of appropriate and suitable advertising in the interior or on the exterior of any equipment or facility owned or leased by the New Jersey Motor Vehicle Commission (Commission), in any mailing the Commission conducts, and/or in any publication it produces.**

(b) **The criteria in this subchapter shall apply to all contracts for the installation, display, and maintenance of advertising in the interior or on the exterior of any equipment or facility owned or**

leased by the Commission, in any mailing the Commission conducts, and/or in any publication it produces.

(c) The display of advertising in the interior or on the exterior of any equipment or facility owned or leased by the Commission, in any mailing the Commission conducts, and/or in any publication it produces does not constitute an endorsement by the Commission of any of the products, services, or messages so advertised, unless authorized in writing by the Commission and so stated within the advertisement.

(d) All advertisements shall require the prior written approval of the Chief Administrator of the Motor Vehicle Commission.

(e) The advertiser shall be considered an independent contractor and shall not be deemed to be an agent, servant, employee, or representative of the Commission.

(f) All contracts entered into by the Commission for the purpose of placing advertising in the interior or on the exterior of any Commission equipment, facility, mailing, or publication shall be subject to the competitive bidding requirements of N.J.S.A. 52:34-6 et seq.

(g) In the event the advertiser fails to provide service in accordance with the contract for advertisement(s), the advertiser shall be considered in breach of contract and the advertisement(s) shall be immediately canceled.

(h) The Commission shall designate, in its absolute discretion and at any time, the locations in the interior and/or on the exterior of Commission equipment, facilities, mailings, and/or publications where advertisements may be inserted or displayed.

(i) The Commission may reject, pursuant to N.J.A.C. 13:18-10.2 below, at any time, any advertising copy, whether or not the Commission has previously acknowledged and/or advertised the exact or similar copy.

(j) No advertising space may be used or resold by the advertiser for the promotion, either directly or indirectly, of any business, organization, or enterprise other than the one defined in the advertiser's contract for advertisement.

(k) The advertiser shall protect, defend, and hold harmless the Commission, its agents, and employees, from any suits or actions of every nature and description brought against it by reason of the advertisement.

#### 13:18-10.2 Advertising appropriateness and suitability criteria

(a) The Motor Vehicle Commission (Commission) shall not accept any advertisement(s) to be displayed or maintained in the interior or on the exterior of any equipment or facility owned or leased by the Commission, in any mailing the Commission conducts, and/or in any publication it produces, if the advertisement or information contained in the advertisement:

1. Is false, misleading, deceptive, disrespectful, fraudulent, or libelous;
2. Contains material or language that is profane, or vulgar;
3. Contains obscene material as defined by N.J.S.A. 2C:34-3;
4. Promotes unlawful or illegal goods, services, or activities;
5. Promotes gambling, the sale or use of tobacco or tobacco-related products, or the sale or use of alcoholic beverages;
6. Promotes the sale or use of products designed for use in connection with sexual activity;
7. Depicts or glamorizes violent or antisocial behavior or sexual conduct;
8. Displays weapons;
9. Declares or implies an endorsement by the Commission without prior written authorization by the Commission;
10. Is political, religious, or controversial in nature; or
11. Is not in the best business-interest of the Commission or is not in the best interest of the public.

(b) The Commission shall not allow any of its equipment, facilities, mailings, or publishing to become a public forum for dissemination, debate, or discussion.

#### 13:18-10.3 Advertising Standards Committee; final determination

(a) The Chief Administrator of the Motor Vehicle Commission shall establish a three-member Advertising Standards Committee

(Committee), whose determinations shall inform the Motor Vehicle Commission's final agency determination.

(b) The Committee shall review each advertisement submitted for installation or display to determine whether the advertisement falls within, or may fall within, one or more of the categories set forth in N.J.A.C. 13:18-10.2. The Committee shall promptly provide the Chief Administrator with a report of its determination setting forth the reason(s) for the determination.

(c) The Chief Administrator shall consider the Committee's report, in addition to any other factors deemed relevant by the Chief Administrator, prior to making a determination as to whether the submitted advertising falls within one or more of the categories set forth in N.J.A.C. 13:18-10.2. The determination of the Chief Administrator regarding the appropriateness and suitability of any proposed advertising shall be final.

## TREASURY — GENERAL

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#### OFFICE OF THE PUBLIC DEFENDER

#### Notice of Proposed Substantial Changes Upon Adoption to Proposed New Rules Fees for Service

#### Proposed Changes: N.J.A.C. 17:39-3

Proposed: April 21, 2014, at 46 N.J.R. 687(a).

Authorized By: Joseph E. Krakora, Public Defender.

Authority: N.J.S.A. 2A:158A-7(j), 16, and 19.

Submit written comments by October 3, 2014, to:

Andrew Christian Rojas  
First Assistant Public Defender  
Office of the Public Defender  
Hughes Justice Complex  
P.O. Box 850  
Trenton, NJ 08625-0850  
Fax: (609) 777-1795

or via e-mail to: [FlatFee.PublicComments@opd.state.nj.us](mailto:FlatFee.PublicComments@opd.state.nj.us)

**Take notice** that the Office of the Public Defender (OPD) proposed new rules at N.J.A.C. 17:39-3 on April 21, 2014, at 46 N.J.R. 687(a), to replace the current manner in which clients are charged for services rendered on their behalf by the OPD. The public comment period closed June 20, 2014.

The OPD is proposing two substantial changes throughout the new rules based upon further internal discussion. The OPD did not receive any public comments on the original notice of proposal. This notice of proposed substantial changes is published pursuant to N.J.S.A. 52:14B-4.10.

#### Summary of Agency-Initiated Changes:

Upon discussion with staff, the Public Defender has made the following two changes throughout the new rules:

1. At N.J.A.C. 17:39-3.1(b)1i and ii and (b)2i and ii, a change to the lead-in text is made to clarify that the degree of crime indicated is for what the client is initially charged with, not the final charge as of the ultimate disposition. This change simply provides that the fee is based on the initial charges against the clients; and

2. At N.J.A.C. 17:39-3.1(b)1i(1) and (2) and (b)1ii(1) and (2), (b)2i(1) and (b)2ii(1), and (b)3i substitution of the word "disposition" for "plea." This change simply provides additional clarification that the new rules will affect all types of case resolutions, not just pleas.

#### Effect of Proposed Changes on Impact Statements Included in Original Proposal

The changes to the proposed new rules will not affect the impact statements included in the original rule proposal. These changes simply clarify that the new rules will affect all types of case resolutions, not just pleas and that the fee is based on the initial charges against the clients.