

DMV Modernization Act Model Bill

SECTION 1. This bill shall be known and may be cited as the “DMV Modernization Act of 2021.”

(A) Purpose. This Act will allow public and third-party service providers to perform functions of the Department and otherwise mandate new measures to improve the efficiency and quality of motor vehicle services offered by the State.

(B) Definitions. As used in this Act:

(i) “Department” shall mean the State entity that oversees, adopts the rules, regulations, and policies pertaining to, and provides motor vehicle services to the public.

(ii) “Estimated cost” shall mean the price estimated by the Department incurred by the State to provide the relevant service under current practices.

(iii) “Key person” shall mean any owner, partner, shareholder, director, officer, manager, member, trustee, and any other similar position that entitles an individual to control any aspect of a person’s corporate governance or business.

(iv) “Motor vehicle services training” shall mean educational courses or materials that provide a comprehensive overview of the procedures and practices necessary to provide motor vehicle services in the State.

(v) “Online Department Services” shall mean all motor vehicle services that are reasonably capable of being provided to the public through a website administered by the Department.

(vi) “Person” shall mean an individual or a corporation, partnership, limited liability company, business trust, trust, association, or other organization, or other legal entity, or a series of a domestic limited liability company.

(vii) “Public service provider” shall mean any agency of government operated by, under, or through the Department for the purpose of providing motor vehicle services.

(viii) “Serious violation” shall mean any action by a third-party service provider which may constitute grounds for suspension or revocation of that provider’s license to provide motor vehicle services, including:

(a) materially misrepresenting or misstating facts in the application for a third-party provider license;

(b) violating a federal law or law of this State;

(c) violating a rule or policy adopted by the Department;

(d) failing to keep and maintain records required by this statute or a rule adopted by the Department;

(e) allowing an unauthorized person to engage in any business pursuant to this statute; or

(f) engaging in any activity that the Department determines to be inappropriate in relation to the license to provide motor vehicle services.

(ix) “Standard public fee” shall mean the prices set by the Department for transactions involving motor vehicle services.

(x) “Third-party service provider” shall mean any person, other than the Department or a public service provider, licensed by the Department to provide motor vehicle services in this State.

SECTION 2. A new section of State Code is created, which shall read:

(A) Third-party service providers.

(i) The Department shall establish procedures for licensing third-party service providers that may provide State motor vehicle services currently provided by the Department.

(ii) The Department shall create two tiers of licenses for third-party service providers.

(a) Tier one licenses shall allow third-party service providers to provide all Department services, excluding written or road licensing tests.

(b) Tier two licenses shall allow third-party service providers to provide all Department services.

(iii) No third-party service provider shall perform any Department services without obtaining a license from the Department.

(B) Application procedure.

(i) Except as provided by subsection (B)(i)(a), within six (6) months from the date this statute becomes effective, the Department shall make available to the public motor vehicle services training.

(a) The Department shall make available motor vehicle services training to any person not convicted of fraud or a felony involving a motor vehicle in a state, territory, or possession of the United States or a foreign country within the ten (10) years immediately preceding the date on which the person requests the training in the manner established by the Department.

(b) The Department may charge a fee for a person to attend an educational course for motor vehicle services training, provided, however, such fee shall not exceed 150 percent of the estimated cost-per-attendant of the training.

(ii) Within six (6) months from the date this statute becomes effective, the Department shall establish a procedure for third-party service providers to apply for a license to provide motor vehicle services in this State.

(iii) A person may apply to the Department to be licensed as a third-party service provider, on a form prescribed and furnished by the Department, and shall include with the application all documents and fees prescribed by the Department.

- (iv) The application shall be reviewed by the Department and shall contain:
- (a) the person's name and physical address and, if the person is not an individual, the names and physical addresses for each key person;
 - (b) the person's principal place of business;
 - (c) the location of the person's established place of business at or from which the services of a third-party service provider will be conducted;
 - (d) the person's intended pricing for performing motor vehicle services as a third-party service provider; and
 - (e) other information relating to performing motor vehicle services required by the Department.

(v) Except as provided by subsection B(vii), a person who applies for a license pursuant to this section shall submit with the application a bond.

- (a) The bond shall be in a form to be approved by the Department and in the amount of at least \$25,000 for each location at which motor vehicle services will be provided.
- (b) A surety company authorized to transact business in this State shall execute the bond with the applicant as principal obligor on the bond and the State as obligee.
- (c) The bond shall be conditioned that the applicant will faithfully comply with all provisions of law and shall be noncancellable without at least sixty (60) days' prior notice to the Department.
- (d) Any future liability of the surety company terminates on the Department's termination of a third-party service provider's license.
- (e) The bond inures to the benefit of any person who suffers loss because of any of the following:
 - (1) nonpayment by the obligor of any fee or tax paid to the third party by that person;
 - (2) insolvency or discontinuance of the obligor's business; or
 - (3) failure of the obligor's duty to comply with this article.

(vi) The aggregate liability of a surety company for any breach of the conditions of a bond required pursuant to this section shall not exceed the amount of the bond.

(vii) The bond requirement of this section does not apply to:

- (a) the Department;
- (b) any agency of government;
- (c) a third-party service provider that is licensed, bonded, and in good standing with all relevant government agencies to conduct its business in this State;
- (d) a person who owns or is the registrant of a fleet of one hundred or more vehicles; or
- (e) a person who employs at least five hundred (500) individuals.

(C) Licensing third-party service providers.

(i) The Department shall issue a tier one license to any applicant that:

- (a) meets each of the applicable requirements described in section (B), as determined by the Department;

- (b) has at least one key person who has completed the Department's motor vehicle services training; and
- (c) furnishes an application that conforms to the applicable procedures and requirements described in this article.

- (ii) The Department shall issue a tier two license to any applicant that:
 - (a) meets each of the requirements described in section (B) of this code; and
 - (b) has continuously operated as a tier one third-party service provider for a period of no less than three (3) years.

(D) Online Department Services.

- (i) Within one (1) year from the date this statute becomes effective, the Department, in addition to any services provided in person, shall provide Online Department Services that include at least the same or similar types of services offered online by motor vehicle services departments in other states.

(E) Department funding.

- (i) Funding for public, online, and third-party service providers will be derived from fees charged for services.

- (ii) The Department will set the appropriate standard public fee for each motor vehicle service provided by the Department.

- (iii) The Department and public service providers may assess a processing or convenience fee that is in addition to the applicable standard public fee set by the Department for each motor vehicle service.

- (iv) The Department and public service providers must remit to the State the amount of the standard public fee charged for each transaction they process.

- (a) Public service providers may retain any amounts collected for each motor vehicle service that exceed the standard public fee for such service.

- (b) Any amounts retained by public service providers for performing motor vehicle services shall be used to fund the operation of the public service provider, including awarding bonuses to employees of the public service provider in recognition of outstanding service or performance.

- (c) Any bonuses awarded to employees of a public service provider for performing motor vehicle services must be drawn only from amounts retained by the public service provider for performing motor vehicle services after remitting the standard public fee for each service to the State.

- (v) Third-party service providers may set their own rates to provide motor vehicle services but must remit to the State the amount of the standard public fee for each transaction for motor vehicle services that they process.

(F) Wait time calculation.

(i) No later than the end of each calendar year, the Department shall collect and calculate a representative sample of wait times for each Department service provided by both public and third-party service providers.

(ii) No later than the end of each calendar year, the Department shall calculate an average wait time for all third-party service providers.

(iii) In the event a public service provider has an average wait time that is less than the average wait time for all third-party service providers under subsection (F)(ii), the Department or a public service provider, as applicable, shall award to:

(a) the most senior manager of each public service provider a one-time performance bonus in the amount of ten percent (10%) of gross annual compensation for each ten percent (10%) reduction in wait times relative to the third-party service provider average under subsection (F)(ii); and

(b) all its employees, excluding the most senior manager of a public service provider who received a bonus under subsection (F)(iii)(a), a one-time performance bonus in recognition of outstanding service.

(G) Net promoter score.

(i) At the conclusion of performing any motor vehicle service for a member of the public, all public, online, and third-party service providers must offer the person an opportunity to provide feedback in response to the following question: “On a scale from 1 to 10, how would you rate your experience?”

(ii) All feedback received from members of the public in response to the question in subsection (G)(i) must be provided to the Department.

(iii) At the end of each calendar year, the Department shall calculate the average net promoter score for each public and third-party service provider based on feedback collected from members of the public under subsection (G)(i).

(iv) In the event a public service provider has a net promoter score that is greater than the average net promoter score for third-party service providers under subsection (G)(iii), the Department or the public service provider, as applicable, shall award to:

(a) the most senior manager of each public service provider a one-time performance bonus in the amount of ten percent (10%) of gross annual compensation for each net promoter score point above the third-party service provider average; and

(b) all its employees, excluding the most senior manager of a public service provider who received a bonus under subsection (G)(iv)(a), a one-time performance bonus in recognition of outstanding service.

(H) Efficiency mandate.

(i) No later than the end of each calendar year, the Department shall survey managers of public service providers for recommendations on potential methods of improving efficiency and the quality of services provided by the Department.

(ii) Managers of public service providers shall be allowed to outsource services provided by their office to other Department offices or State agencies if doing so would reduce the overall cost of providing such services.

(a) Any State agency may accept such a request if it is capable of providing the services more efficiently or for a lower overall cost than the requesting agency.

(iii) Managers of public service providers shall be allowed to hire temporary and part-time labor as needed to meet demand.

(a) Temporary and part-time labor employed by a public service provider under this subsection (H)(iii) shall be exempted from civil service hiring restrictions and pay restrictions.

(I) Cancellation and suspension of license; Hearing; Appeal.

(i) The Department may suspend or revoke a license issued to a third-party service provider pursuant to this statute if the Department determines that the person or, in the case of a legal entity, any key person has:

(a) made a misrepresentation, omission, or misstatement in the application to conceal a matter that would have caused the application to be denied if it was known by the Department at the time; or

(b) been convicted of fraud or a felony involving a motor vehicle in a state, territory, or possession of the United States or a foreign country since the third-party service provider's license was issued.

(iii) The Department shall suspend or revoke the license of a third-party service provider granted pursuant to this statute if the Department determines that the third-party service provider failed to maintain the bond required under section (B)(vi).

(iv) If the Department has reasonable grounds to believe a third-party service provider or, in the case of a legal entity, a key person has committed a serious violation, the Department may temporarily suspend the third-party service provider's license pending formal suspension or revocation proceedings.

(v) On determining that grounds exist for suspension or revocation of a third-party service provider's license, the Department shall give written notice to a representative of the third-party service provider to appear at a hearing to consider the suspension or revocation of the third-party service provider's license.

(vi) After consideration of the evidence presented at the hearing, the Department shall serve notice of the Department's finding and order to the third-party service provider.

(vii) If a third-party service provider's license is suspended or canceled, the provider may appeal the decision pursuant to [relevant law].

(J) Rulemaking. The Department is directed to promulgate all rules and regulations necessary for the purposes of carrying out this Act within ninety (90) days of the effective date of this section.

SECTION 3. Severability and Effective Date.

(A) Severability. It is the intention of the legislature that the provisions of this section shall be severable. If any provision of this section or its application to any person or circumstance is held invalid, the remainder of the section or the application of the provision to other persons or circumstances is not affected, including but not limited to the applicability of this section to the provisions of future agreements subject to this section.

(B) Effective Date. The provisions of this Act take effect on [January 1, 2022].