

REPORT OF THE
PUBLIC SERVICE COMMISSION OF MARYLAND (C90G)
TO THE SENATE BUDGET AND TAXATION COMMITTEE
AND THE HOUSE APPROPRIATIONS COMMITTEE
REGARDING STAFFING REQUIREMENTS FOR
COMMON CARRIER INVESTIGATIONS

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INTRODUCTION

In response to the 2012 Joint Chairmen's Report, the Public Service Commission of Maryland ("Commission") submits this Report addressing the concerns of the Senate Budget and Taxation Committee and the House Appropriations Committee (collectively "Committees") that the Commission does not have sufficient staff to undertake adequate enforcement actions against operators of taxicabs or limousines operating without a license issued by the Commission. As requested, the Report addresses:

- the current process for addressing individuals operating without a license;
- the enforcement actions currently used by the Commission's Transportation Division against individuals operating without a license;
- the number of current investigators in the Transportation Division;
- the number of Public Utility Law Judges in the Public Utility Law Judge Division¹ which hear matters about individuals operating without a license;
- the number of investigators (regular or contractual employees) that would be required to adequately investigate reports of individuals operating without a license or to undertake other enforcement actions; and
- the number of Public Utility Law Judges that would be required to timely hear matters related to individuals operating without a license.

RECOMMENDATIONS

- The Commission recommends that an additional three investigators be added to the existing staff of three investigators.
- The Commission recommends that each field investigator be equipped with laptop computers capable of transmitting secure real-time data.

BACKGROUND

The Commission's Transportation Division ("Transportation" or "Division") enforces the laws and regulations of the Public Service Commission pertaining to the safety, rates, and service of transportation companies operating in intrastate commerce in Maryland. The Commission's jurisdiction extends to most intrastate for-hire passenger carriers by motor vehicle (approximately 1,100), safety of vehicles operated

¹ In September 2011, the Commission created a working title of "Public Utility Law Judge" for the hearing examiner's position and renamed the former Hearing Examiner Division to more appropriately reflect the roles that these individuals perform in their positions.

(approximately 5,000), and taxicabs in Baltimore City, Baltimore County, the city of Cumberland and the city of Hagerstown (approximately 1,500). The Commission is also responsible for licensing drivers (approximately 8,000) of taxicabs in Baltimore City, the city of Cumberland and the city of Hagerstown, and passenger-for-hire drivers that operate for-hire vehicles that carry 15 or fewer passengers.

In addition to the Transportation Division's responsibility for investigating fitness of new applicants for operating authority and new applicants for for-hire driver's licenses, the Division also monitors continuing vehicle liability insurance coverage, schedules of operation, rates, drivers' Motor Vehicle Administration ("MVA") driving records, criminal records, immigration documents, and service provided for all regulated carriers. If problems arise in any of these areas which cannot be resolved at the staff level, the Division requests the institution of proceedings by the Commission which may result in the suspension or revocation of operating authority or permits, or the institution of fines.

The Commission has been charged by statute with regulating transportation providers since the 1930's. Since that time, the Commission has changed its philosophy very little with respect to regulating taxicab permits. In fact, there has only been a slight increase in the number of such permits in Baltimore City over this time period.

Twenty-five years ago, the Commission regulated about 100 for-hire carriers, most of which transported freight. The regulated vehicles consisted of freight trucks, stretch limousines, and buses. Since the late 1980's, the number of carriers increased ten-fold despite freight carriers having been deregulated by the Legislature about 20 years ago. Consequently, the growth of the carriers has far exceeded the growth in the number of positions authorized to Transportation's staff. For example, in 1983, Transportation had 23 positions to regulate about the same number of taxicabs and about 10% of the for-hire carriers currently regulated, as compared with the 18 full-time positions and three contractual field investigators employed today.

During this same 20-year period, the Commission has significantly increased enforcement of its Transportation regulations and laws, particularly with respect to safety and insurance. Concurrently, the regulatory program has been significantly improved and expanded.

Further, the Commission's appropriate open-entry policy has spawned a number of carriers who fail to play by the rules, which has provoked an increase in complaints by carriers who play fair. As a result, enforcement has been a challenge. With the hiring of three contractual field investigators, however, enforcement has significantly improved.

Finally, Transportation's driver licensing responsibilities have increased tremendously. Transportation was required by statute, in the late 1990's, to begin licensing all for-hire drivers in the state (about 4,500). Transportation discovered several years ago that many immigrant aliens were issued for-hire driver's licenses as a result of the submission of forged MVA driver's licenses, social security cards, and INS work and

employment authorization cards. Transportation has been challenged to improve its investigative skills as a result of this development through MVA and Immigration and Naturalization Service training.

During FY2012, the Transportation Division received and investigated:

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| Applications for passenger carrier operating authority | 269 |
| Applications approved for passenger carrier authority | 214 |
| Applications for for-hire driver's license (new/renewal) | 3,426 |
| Applications approved for for-hire driver's license ² | 2,445 |
| Applications denied for for-hire driver's license | 151 |
| Complaints | 324 |

The number of complaints referred to above includes complaints regarding taxicabs and passenger-for-hire services. Since 2007, the combined number of complaints addressed annually has risen by over fifty percent. In addition to complaints received, the Transportation Division also initiates investigations from information gleaned from industry trade publications, television and other media advertising and internet advertising resources.

During FY2012, the Transportation Division enforcement related actions are as follows:

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| Total number of investigations ³ | 15,163 |
| Civil Penalty Citations issued | 419 |
| Suspensions of operating authority | 92 |
| Revocation of operating authority | 36 |

CURRENT PROCESS FOR IDENTIFYING AND ADDRESSING INDIVUALS OPERATING WITHOUT A LICENSE

The established procedures of enforcement by field investigators include the following:

- Observing, and otherwise monitoring, the activities of for-hire drivers at public places where they might pick up or drop off passengers, as well as at the premises of their carriers, and determining compliance with the Commission's statute and regulations, sometimes in conjunction with law enforcement personnel, by:

² The 830 incomplete for-hire driver's license applications can be attributed to the applicant's failure to complete the application process as well an influx of applications received at the end of the fiscal year.

³ An investigation includes: vehicle activity observed by investigators, staff documenting carrier's failure to present vehicle for inspection, insurance matters, improper vehicle registration, unauthorized vehicle operators/drivers, unauthorized carriers, and advertising.

- Interviewing drivers to confirm that they are properly licensed by the Motor Vehicle Administration and Public Service Commission;
 - Interviewing dispatchers or carrier officials, or listening over two-way communication devices, to determine what drivers are properly licensed;
 - Interviewing passengers to determine if they were charged the rate approved by the Commission; and
 - Determining if carriers are properly registered with the Commission.
- Consulting the Division's database to compare that information with field observations and investigations.
- Reviewing advertisements by for-hire carriers to determine compliance with the Commission's regulations pertaining to advertising restrictions by for-hire carriers.
- Preparing, discussing, and distributing written daily reports, using computerized Microsoft applications, of locations and activities they observed and monitored.
- Preparing exhibits and testimony for use in Commission hearings.
- Testifying at Commission hearings or in court as to observations and investigations.
- Participating, or leading, the training of personnel from law enforcement agencies pertaining to the Commission's requirements over for-hire carriers, vehicles and drivers.
- Inspecting taximeters to determine if they are in compliance with the rate approved by the Commission;
- Observing for-hire vehicles and recording vehicle license numbers and any obvious safety or mechanical defects; and
- Determining if vehicles are properly registered with the MVA and Commission and have been inspected.

- Performing additional duties related to investigations and vehicle safety as assigned by the Assistant Director-Safety, Assistant Director-Administration or Director of Transportation.

**ENFORCEMENT ACTIONS CURRENTLY USED
AGAINST INDIVIDUALS OPERATING WITHOUT A LICENSE**

The established procedures of enforcement for illegally identified companies, meaning operating without Commission authority, are as follows:

- An investigation is launched to determine actual illegal operation. Information may be provided by industry sources reporting the alleged illegal activity, or by the Division through resources such as print, television or radio media advertising, internet website postings, actual observation of such activity or written complaints.
- Using the vehicle tag number, MVA records are searched to identify the registered owner of the vehicle;
- A letter is sent to the registered owner, advising of the legal requirement for PSC authority, noting the penalties for continuation of the unauthorized operation, and including an application for authority with instructions. The illegal operator is given 15 days to file an application or provide written confirmation that no illegal service is being provided;
- If no response is received, the Division notifies MVA to flag the tags so that they cannot be renewed for that vehicle or any other vehicle owned by the same entity;
- The Division reports the issue to the Commission's General Counsel with a request for further action;
- The Commission's Office of General Counsel sends a second warning letter illegal operator;
- The Division upgrades its request to MVA for a suspension of the vehicle registration tags; and
- If the illegal operation continues, the matter may be moved to the court system for further action.

In addition to the procedures above, the Transportation Division also employs a civil penalty citation process for safety violations of COMAR regulations. The range of

civil penalties under this process extends from \$150 for the first violation of a specific regulation, graduating to \$300, \$500, suspension of the company's operating authority, and finally, revocation of authority. In every case, the defending party has the right to a hearing. Civil penalties collected by the Commission are paid into the General Fund of the State, not the Commission.

NUMBER OF INVESTIGATORS

The Division currently has three field investigators. These field investigators' salaries are funded through a legislated special assessment dedicated to equipping and supporting enforcement activities related specifically to for-hire sedans, vans, limousines and taxicabs. The investigators operate in the field and are assigned to cover various areas in the State on a rotating basis to identify and report violations of regulations. Staff also investigates reports from the public, law enforcement, government officials and the transportation industry. Joint activities with other regulators and State and local law enforcement agencies also prove productive.

An addition of three investigators would be very helpful to improve enforcement efforts, including identifying operators operating without prior Commission approval. If the Commission had funding to add three investigators, it would deploy them as follows:

- One investigator would be dedicated full-time to Baltimore City, the Port, and the hotels;
- One investigator would primarily be assigned to conduct cyber-investigations – to identify illegal carriers by advertisements on the Internet – and would also supplement night-time activities of the other investigators; and
- One investigator would be assigned to focus on enforcement activities related to limousines and for-hire sedans and would be available to supplement coverage of the other investigators' territories.

Additionally, the current and future enforcement efforts may be further improved by equipping field investigators' and common carrier inspectors' laptops with an "air card" to enable secure real-time electronic transmission of data conducting observations or inspections.

NUMBER OF HEARING EXAMINERS⁴

Currently, the Commission employs four full-time Public Utility Law Judges (a Chief Public Utility Law Judge and three Public Utility Law Judges) and a part-time License Hearing Officer. The License Hearing Officer generally hears approximately three to six for-hire and taxicab cases every Wednesday. The Chief Public Utility Law

⁴ In September 2011, the Commission created a working title of "Public Utility Law Judge" for the hearing examiner's position to more appropriately reflect the roles that these individuals perform in their positions.

Judge and the three Public Utility Law Judges each hears approximately 6 to 10 transportation matters a month (depending on the number of requests from hearings that are submitted to the division for hearing).

The division is sufficiently staffed to handle any additional hearings that may derive from increased enforcement efforts by the Transportation Division.