

**Virginia Board of Towing and Recovery Operators
Licensing and Regulatory Affairs Committee Meeting
January 6, 2010, 10:00 a.m.
DMV Headquarters Bldg
2300 West Broad Street, Room 131
Richmond, VA 23220**

Draft Minutes

Members Present:

**Gary Teter, Chairman
Roy Boswell
Raymond Gill**

**Archie Orr
Tony Troilo
Kenneth Mitchell**

Staff Present:

**Marc Copeland, Executive Director
Barbara Drudge, Compliance Officer**

Board Counsel:

Jeff Spencer, Sr. Assistant Attorney General

Call to Order:

Meeting was called to order at 10:10 a.m.

Public Comments:

There were no public comments.

Acceptance of Meeting Minutes:

There were no meeting minutes to accept.

Discussions:

Staggered Credentialing Process

Mr. Copeland stated that pursuant to Virginia Code Section 46.2-2817, the Board is required to issue licenses valid for 12 consecutive months or further.

Jeff Spencer advised that there was a state/regulatory conflict of which the solution would be to have the license expiration dates be staggered, and that this would require the decals to be changed.

Mr. Copeland stated that BTRO met with the Virginia Chiefs of Police Association, the State Police, and Mr. Gill to evaluate the law enforcement aspects of the staggered licenses.

Mr. Copeland provided samples of what the new decal design would look like, and that it includes the month and year of expiration, and would be printed on a colored decal specific to class type, either A or B, and noted that even if the colors are the same as the previous year, the month and year would be different.

Chairman Teter stated that he would like to authorize the reissuance of decals, and that the color change may have an effect on how this process continues. Mr. Copeland stated that he is aware of this issue, and it should be brought before the full Board.

Mr. Troilo added that changing the color of the decals years would ensure compliance. Mr. Copeland clarified that both A and B decals would be different colors. Mr. Gill explained the importance of having the year on the decal.

Mr. Copeland stated that from an inventory and usage standpoint, it would be more cost effective to not change one of the colors of the decals because of our stock.

Mr. Orr stated that DMV has had staggered payments with customers paying 1/12th of the cost of a year, for each additional month. He went on to note that the workload for this would need to be evaluated.

Mr. Copeland responded by saying that situation sounds ideal, but he is not aware of any authority BTRO has to add money, or prorate, but he moved that he would like to do this.

Chairman Teter asked if this could be done legally, and Mr. Spencer stated that the regulations could be modified to allow proration without impacting the statute.

Mr. Copeland stated that the June renewal deadline will not be a problem and that BTRO is working on a renewal process with a proposed software vendor. He went on to say that the Board will need to meet to discuss the proposed online renewal process, and that the on-line renewal process will include credit card acceptance, and he encouraged applicants to renew early.

Chairman Teter asked how far away BTRO is from having the renewal process in place, of which Mr. Copeland stated that the Board still has to approve the process, and that the vendor has stated the renewal could be in place by late February to early March 2010. Mr. Copeland went on to say that the vendor does not have to create new data, but simply has to use the current data, which is a valuable tool in spreading out the expiration dates of the licenses.

Chairman Teter asked if the web site was up to date with the renewals, of which Mr. Copeland stated that it is set up to reflect the licenses that are currently active.

Eric Fly, a representative of the Virginia Beach Wreckers Association, inquired about how license staggering would work. He went on to mention an issue with towers in his area not being admitted onto the military bases with licenses that expire on December 31, 2009, and that the bases are not accepting the letter that was sent out clarifying that the expiration dates have changed on the licenses based upon the statutory changes made during the 2009 Session.

Mr. Copeland indicated that he will work to resolve this issue, and that he will reissue licenses if it is necessary. He went on to say that he encourages towers to contact him if they are having issues, as the staff is not aware of any matters of this nature being brought to our attention. He also added that if Mr. Fly would like to provide this information to him, he would be happy to evaluate it.

Chairman Teter requested a motion to accept the decals with two colors. Mr. Mitchell so moved. Mr. Troilo seconded that motion. All were in favor unanimously.

Mr. Copeland recommended that the sample decals be issued to local law enforcement as soon as possible. Mr. Orr suggested implementing light blue as a Class B sticker and yellow as the Class A sticker.

Mr. Mitchell inquired about additional fees being charged, in which Mr. Spencer stated that the fees are already set per statute, so it appears that the fees can be adjusted.

Chairman Teter requested to amend the motion to implement staggered licensing with 1/12th of the annual fee per month due at the time. Mr. Mitchell seconded that motion.

Mr. Troilo inquired about the cost of reissuing licenses that expire in less than 12 months, of which Mr. Copeland indicated that BTRO would extend the license for the full 12 months at no cost to the applicant to meet the statutory obligations.

Mr. Mitchell inquired about the stability of the decal in which Mr. McInerney indicated that it was a tamper proof decal. Mr. Copeland added that the use of a power-washer would remove the decal.

Mr. Fly asked if the Board was still considering the use of license plates versus decals, of which Mr. Copeland stated that a meeting was held in early 2009 with DMV representatives and law enforcement and the consensus was that the decal was a more valuable identification tool.

Mr. Orr and Chairman Teter briefly discussed the purpose behind “WT” and apportioned license plates, and it’s originally intent.

Mr. Copeland added that we are in the process of evaluating the type and manners in which payments can be made to the Board, and are working with a state vendor to establish this process for renewals.

Mr. Troilo commented on the credit cards and whether a decision had been reached regarding the definition of what a nationally recognized card was. Mr. Spencer indicated that he had researched the topic and found that there are only two major forms of “credit” cards. In his research, he indicated he found that there was a distinction between a “credit card” and a “charge card”. He indicated that cards that extend credit to a consumer are a credit card, and a card that requires the balance paid at the end of each month is a charge card. He added further that a credit card is available at banks, credit unions, and retail stores, while charge cards are only available from the company that offers them. He believes that the General Assembly was not able to clearly identify by name the two major credit cards, but he indicated it was clear that they appear to be Visa and MasterCard because these extend credit, are readily available, and do not require that the balance be paid in full at the end of the monthly billing cycle.

Mr. Copeland suggested that this be reported to the Board. Mr. Troilo asked if, for example, a Discover Card would be a charge card, and Mr. Spencer indicated that he believed it was.

Temporary Driver Authorizations:

Mr. Copeland discussed the need for temporary driver authorizations that included pointing out the length of the criminal background process and how it takes two to four weeks. Mr. Spencer stated that the Board has no authority to issue temporary driver authorizations without regulation, and referenced the issue of safeguarding and liability to the Board.

Mr. Copeland briefly discussed the FBI audit that took place on the finger print handling at BTRO of which there needs to be some verification on some of the information on the fingerprint card.

Chairman Teter requested a motion to issue temporary driver authorizations. Captain Gill so moved. Mr. Mitchell seconded that motion. All were in favor unanimously.

Chairman Teter stated that the temporary driver authorizations may give applicants an opportunity to not be honest on their applications, and Mr. Copeland stated that the application could be revised to protect against that.

Mr. Orr and Chairman Teter discussed the expiration of the temporary driver authorizations, and Mr. Mitchell suggested that they be extended if the fingerprint card needs to be re-submitted.

Mr. Spencer stated that it might be better to have a set time frame for expiration of temporary licenses in order to protect the Board. Mr. Boswell motioned to accept having a set time frame for expiration on the temporary licenses. Mr. Mitchell seconded that motion.

Mr. Reidenbach mentioned that temporary licenses should be surrendered upon issuance of permanent license. He further discussed using a state background check of which Mr. Spencer stated that in order to do that, you would still need to follow the regulations.

Chairman Teter motioned to amend the motion to do a 45 day temporary license, that the Board has the option to renew one time, and that the applicant has to pay for their own state background check. All were in favor.

Chairman Teter and Mr. Copeland discussed training requirements for tow truck drivers and possibly receiving something from the owner of the towing company to ensure that they have trained their drivers in towing and recovery. Mr. Orr added that perhaps an additional question can be added to the application to combine information we are seeking for a temporary application. Chairman Teter added his concerns about obtaining limited criminal history screenings and the potential liability of the Board.

Chairman Teter motioned to amend the motion, and Mr. Orr motioned to add the requirement of not being required to register as a sex offender, no misdemeanors for the prior three years, and no felonies for ten years prior to application for a temporary license. Mr. Troilo seconded, and all members were in favor.

Jeff Spencer added that as long as the Board does everything that they are able to do as to notice in the applications and the appropriate questions, then the Board's liability is diminished.

Chairman Teter addressed what would happen if an applicant does not meet or qualify for a temporary authorization document and the process at that point. Mr. Copeland indicated that we would be required to follow the APA; however, he noted that we would not be denying an applicant, but denying their authority to obtain a temporary license.

Mr. Copeland added that we would evaluate all of the options regarding the regulatory process as to the APA, which once the Committee and Board have finalized a concept, then we could prepare regulations.

Chairman Teter asked about the current system and administrative costs associated with the issuance of the temporary license, and Mr. Copeland added that we have components available, but there is a cost to issue something that would alter how the system is currently set up. He indicated that it would be easy to do a paper temporary license, but that there are costs associated with modifying the current system.

Mr. Orr asked about the costs associated with the issuance of a temporary license to an application, and Mr. Copeland stated that the amount would be the same, however, that would be up to discussion.

Public Comments:

Floyd Mays stated that there is no distinction in the exposure to the public on whether you issue a temporary or permanent, and indicated that the Board would be served with keeping the applications limited to one for driver's.

Other Business: – None before the Committee.

Mr. Copeland volunteered to pull together information for the Committee to submit to the Board regarding staggered registrations, the credit card summary, and information regarding the licensing process. He also added that he would forward the minutes promptly as well.

Captain Gill added that he would like for the Board to consider public comments on these processes as well. Mr. Copeland added that if we are required to amend the regulations, then the public would have an opportunity to participate in the development of the revised regulations, and that their comments would be considered.

Meeting adjourned at 12:55 p.m.