

**TITLE 91
LEGISLATIVE RULES
DEPARTMENT OF MOTOR VEHICLES**

**SERIES 11
MOTOR VEHICLE EQUIPMENT**

§91-11-1. General.

1.1. Scope. -- These legislative rules establish vehicle equipment requirements and limitations.

1.2. Authority. -- W. Va. Code §17A-2-9.

1.3. Filing Date. -- July 5, 1974.

1.4. Effective Date. -- August 4, 1974.

§91-11-2. Application and Enforcement.

2.1. Application. -- These legislative rules apply to motor vehicle operators.

2.2. Enforcement. -- Enforcement of legislative rules is vested with the Commissioner of Motor Vehicles or lawful designee.

§91-11-3. Motorcycle Safety Equipment and Approval Procedures.

In accordance with W. Va. Code §17C-15-44 and the authority vested therein to the Commissioner of the Department of Motor Vehicles, the following rules and regulations are herewith promulgated:

3.1. On and after July 1, 1971, no person shall use, loan, borrow, sell, offer for sale or distribute any protective helmets for the use by the operators of motorcycles, or protective helmets for the use of passengers thereof unless they are of a type approved by the Commissioner of Motor Vehicles.

3.2. An application for approval of safety helmet accompanied by a copy of a laboratory test report from a nationally recognized independent

testing laboratory certifying that the complete helmet meets or exceeds "Specifications for Protective Headgear for Vehicular Users, Z90.1-1971" as published by the United States of America Standards Institute, and stating the manufacturer's trade name and model name or number appearing on the helmet tested and being submitted for approval must be submitted to the American Association of Motor Vehicle Administrators, 1828 L Street, N. W., Suite 500, Washington, D.C. 20036. Each helmet submitted for approval to the American Association of Motor Vehicle Administrators shall be permanently labeled on the outside above the base of the rear of the helmet with letters and/or numbers at least one-fourth inch in height with the manufacturer's trade name and model name or number, and in addition shall have a reflectorized outer surface or have securely affixed reflectorized material on the exterior surface of both sides and the rear. Such reflectorized material must cover an area of at least ten (10) square inches on the exterior surface of each side and the rear of the helmet. Reflective material shall consist of glass spheres embedded beneath a transparent surface which forms a smooth, flat outer surface as exposed. Any reflectorized material attached to the helmet must be affixed with a permanent, weatherproof, and water-resistant adhesive substance, and, also each helmet submitted for approval must be equipped with either a neck or chin strap. In conformance with existing agreements the American Association of Motor Vehicle Administrators will furnish the Commissioner of the Department of Motor Vehicles with a confirmation certificate of approval.

3.3. Any alteration of a helmet by or for a user shall invalidate its approval by the Commissioner and the label required by

identification requirements shall no longer be evidence of approval of such helmet.

3.4. The helmet shall be worn on the head with chin strap properly fastened, and in contact with the chin or jaw at all times, while the motorcycle is in motion by both the operator and passenger.

3.5. A listing indicating all models of approved protective helmets for the use of motorcycle operators and motorcycle passengers shall be furnished by the Department of Motor Vehicles to all West Virginia law-enforcement agencies, motorcycle dealers licensed as Class F, and to all merchants selling such protective helmets within the State. Any protective helmet approved after such list is furnished, the manufacturer's trade name and model name or number will be made available to the indicated agencies and organizations no later than ninety (90) days after such approval is made by the Commissioner.

3.6. When the Commissioner of Motor Vehicles has reason to believe a type or make of motorcycle protective helmet is being sold commercially that does not comply with the requirements set forth in W. Va. Code §17C-15-44, or the standards and specifications established by the Motorcycle Safety Standards and Specifications Board, the Commissioner or his representative after giving thirty (30) days previous notice to the seller, shall conduct a hearing upon the question of compliance of the particular protective headgear. After the hearing, the Commissioner shall determine whether the device meets the standards and specifications established by the Motorcycle Safety Standards and Specifications Board. If it does not, the Commissioner shall give notice of that fact to the seller and the seller shall not sell the device until it is changed or modified to comply with the standards and specifications established by the Motorcycle Safety Standards and Specifications Board and is approved by the Commissioner. The Commissioner of Motor Vehicles shall publish the fact that the particular headgear so disapproved by the Commissioner of Motor Vehicles is one

previously approved, but which has fallen below the standards and specifications established by the Motorcycle Safety Standards and Specifications Board, he shall suspend or revoke the approval issued, and he may require that the seller replace with an approved protective headgear any disapproved protective headgear sold after the notification to the seller that the device does not meet the proper standards and specifications.

3.7. Any such hearing shall be conducted in accordance with W. Va. Code §29A-5-1 by the Commissioner of Motor Vehicles or his representative.

3.8. Certificates of approval will be issued by the American Association of Motor Vehicle Administrators and a confirmation certificate will be forwarded to the Commissioner of Motor Vehicles by the American Association of Motor Vehicle Administrators, and any protective helmet currently approved by the American Association of Motor Vehicle Administrators shall be considered approved for use in this State, provided that such protective headgear remains approved by the American Association of Motor Vehicle Administrators.

3.9. A file shall be maintained by the Department of Motor Vehicles of all protective headgear for the use of motorcycle operators and motorcycle passengers approved by the Commissioner of Motor Vehicles, and such file shall contain the manufacturer's name, model name or number, trade name, the American Association of Motor Vehicle Administrators certification number, and expiration date of the certificate.

3.10. Standards and specifications for eyeglasses, eye goggles and face shields shall be the same as "Specifications for Head, Eye and Respiratory Protection, Z2.1-1959" as published by the United States of America Standards Institute.

3.11. An application for approval of a windshield or windscreen accompanied by a copy of a laboratory test report from a nationally

recognized independent laboratory certifying that the complete windscreen or windshield meets or exceeds the "Safety Glazing Materials for Glazing Motor Vehicles Operated on Land Highways, Z26.1-1966" as published by the United States of America Standards Institute, and stating the manufacturer's trade name and model name or number appearing on the windscreen or windshield tested and being submitted for approval must be submitted to the American Association of Motor Vehicle Administrators, 1828 L Street, N.W. Suite 500, Washington, D.C. 20036. Each windshield or windscreen offered for sale shall be labeled with the manufacturer's trade name and the model name or number under which the windshield or windscreen was approved by the Commissioner of Motor Vehicles.

3.12. Certifications of approval will be issued by the American Association of Motor Vehicle Administrators and a confirmation certificate will be forwarded to the Commissioner of Motor Vehicles by the American Association of Motor Vehicle Administrators, and any windshield or windscreen currently approved by the American Association of Motor Vehicles Administrations, shall be considered approved for use in this State, provided that such windshield or windscreen remains approved by the American Association of Motor Vehicle Administrators.

3.13. A file shall be maintained by the Department of Motor Vehicles of all windshields and windscreens for the use on motorcycles therein approved by the Commissioner of Motor Vehicles, and such file shall contain the manufacturer's name, model name or number, trade name, the American Association of Motor Vehicle Administrators' certificate number, and expiration date of the certificate.

3.14. Approval may be withdrawn at any time and for any cause deemed reasonable by the Commissioner, and the Commissioner may require new approvals any time he may deem necessary or reasonable.

§91-11-4. Slow Moving Vehicles.

4.1. W. Va. Code §17C-6 requires all farm machinery, except when guarded by flagman or flashers, designed to operate at twenty-five (25) m.p.h. or less, traveling on a public highway, during day or night, to display a triangular slow moving emblem on the rear of the vehicle.

4.2. The purpose of this legislation is to create a unique identification emblem to be installed as a safety feature on slow moving vehicles when operated or traveling (transported) on public highways amidst motor vehicles designed for high speed. The short form of designation of such vehicle shall be SMV.

4.3. The Commissioner, as authorized by the provisions of this act, adopts the SMV emblem as described in the American Society of Agriculture Engineers S276.2 as the official slow moving vehicle emblem of West Virginia.

4.4. The standards and specifications for design and position of mounting the SMV emblem and requirements for certification of conformance as adopted by the Commissioner of Motor Vehicles in conjunction with the American Society of Agricultural Engineers Standard S276.2 are as outlined in the following sections:

4.5. Specifications and Standards.

4.5.a. The SMV emblem shall consist of a fluorescent yellow-orange triangle with a dark red reflective border. The yellow-orange fluorescent triangle is for daylight identification. The reflective border defines the shape of the fluorescent color in daylight and becomes a hollow red triangle in the path of motor vehicle headlights at night. The emblem shall meet the following specifications:

4.5.b. Size. The dimensions shall be shown in Figure 1. (See Figure 1 Identification Emblem.)

4.5.c. Visibility. The SMV emblem shall be entirely visible in daylight and at night from all distances between six hundred (600) feet and one hundred (100) feet from the rear when directly in

front of lawful upper beam of headlights. The operator and/or owner of a slow-moving vehicle shall exercise due care in the maintenance and cleaning of the emblem to assure it being plainly visible.

4.5.d. Color and reflectivity

4.5.d.1. The spectrophotometric color values of the yellow-orange fluorescent material shall have a dominant wave length of 590 - 610 millimicrons and a purity of ninety-eight percent (98%) before test. After durability test, the dominant wave length of the fluorescent material shall not change more than ten percent (10%).

4.5.d.2. The reflective material shall have minimum intensity values at each of the angles listed per Table 1. After durability test, the minimum reflective intensity values for the reflective material shall not change more than twenty percent (20%) from the values specified in Table 1.

TABLE 1
MINIMUM REFLECTIVE INTENSIVE
VALUES

DIVERGENCE ANGLE, DEG	INCIDENCE ANGLE, DEG	REFLECTIVE INTENSITY, R
0.2	0	10
0.2	15	7
0.2	30	5
0.5	0	5
0.5	10	4
0.5	30	2

¹Measurements shall be conducted in accordance with photometric testing procedures for reflex-reflectors as specified in Society of Automotive Engineers Standard, SAE J594, Reflex-Reflectors, and using 50 ± 5 sq. in (322.6 ± 32.3 sq. centimeters) of reflective material. The maximum dimension of the test surface shall not be greater than 1.5 times the minimum dimension. The reflective intensity (R) is computed from the equation:

$$R = \frac{(Lr) (d^2)}{(Ls) (A)}$$

R = reflective intensity, candlepower per incident foot-candle per squar foot

Lr = illumination incident upon receiver at observation point, foot-candles

Ls = illumination incident upon a plate perpendicular to the incident ray at the test specimen position, foot candles

d = distance from test specimen to source of illumination one hundred (100) feet as specified in SAEJ594), feet

A = area of tests surface, square feet.

4.5.E. Durability. (Note: These requirements are minimum and do not preclude the use of materials having superior performance.)

4.5.E.1. The reflective and fluorescent materials shall be tough, flexible and of sufficient thickness and strength to meet the requirements of Sections 4.5 and 4.6. After the durability test, the fluorescent and reflective material shall show no appreciable discoloration, cracking, blistering, loss of durable bond or dimensional change.

4.5.E.2. Backing material for portable SMV emblems shall be equivalent to 0.040 in. (0.1016 millimeters) minimum thickness aluminum, 22-gage (0.030 in. Or 0.76 mm) minimum thickness mill-galvanized or coated sheet steel with the surface clean and receptive to a durable bond. The backing material shall be free of burrs.

4.6. Test procedures.

4.6.a. Tests. The emblem shall be tested in conformance with the following sections from SAEJ575, Test for Motor Vehicle Lighting Devices and Components:

Section B -- Samples for Tests

Section D -- Laboratory Facilities

Section E -- Vibration Test

Section H -- Corrosion Test (pertains to face of emblem only)

4.6.b. Durability Test. Samples shall be exposed to the sun at an angle of forty-five degrees (45°) to horizontal and facing south per American Society for Testing and Materials, ASTM D1014, Conducting Exterior Exposure Tests of Paints on Steel.

TABLE 2
DURABILITY TEST PERIODS

LOCATION	<u>Minimum Test Period, Months</u>	
	Fluorescent	Reflective
Outside in Midwest or Outside in Miami, Florida	12	24
	6	12

4.6.c. Drop Test. Each test sample shall be dropped from a height of five (5) feet, (1.53m) to a smooth, hard surface equivalent to rigid metal or concrete. Each test sample shall be submitted to three (3) drop tests: corner drop, edge drop and flat drop. Failure shall be considered to have occurred when the emblem no longer meet requirements in Section 1.

4.7. Mounting.

4.7.a. The SMV shall be mounted point up (as in Figure 1, Section 4.5.b) in a plane perpendicular to the direction of travel ± ten degrees (10°). It shall be placed centrally at the rear of the vehicle, unobscured and two (2) to six (6) feet above level ground measured from the lower edge of the emblem. It shall be attached directly to the vehicle or machinery when practical and affixed thereto with (1) a suitable permanent, weather-proof and water-proof adhesive backing or (2) by suitable mechanical fasteners utilizing the two (2) through holes (whose size and location

are shown in Figure 1, Section 4.5.B provided a metal backing material as specified for portable SMV emblems is used.

4.7.b. Portable SMV emblems with required backing may be used when direct mounting on the vehicle is impractical or impossible. When employed, a portable SMV emblem must be sturdily supported and secured to the vehicle while traveling on a public highway during day or night in the position and location prescribed in subsection 4.7.a of this section.

4.7.c. Where it is impractical or impossible to mount the emblem centrally as required by subsection 4.7.a, it shall be mounted to the left of the vertical centerline of the vehicle but shall not extend over or beyond the side of the vehicle. Mounting height shall be as required by subdivision 4.7.a.

4.7.d. The SMV emblem shall not replace such warning devices as tail lamps, reflectors, flashing lights, warning flags or flares and is not to be used as a clearance marker for wide loads or equipment.

4.8. Certification. -- Each manufacturer of the official SMV emblem shall certify to the Commissioner that his emblem complies with and meets the requirements of this regulation. Upon receipt of an acceptable certificate from the manufacturer, his emblem shall be deemed approved by the Commissioner. Demonstration of compliance may be required by the Commissioner. To demonstrate compliance with the requirements of this part, the necessary tests shall be conducted by or supervised by an approved certified laboratory or an approved certified testing organization.

4.9. Identification requirements. -- Each SMV emblem shall contain on the front or back the manufacturer's name or trade-name which shall be the same name under which the emblem has been certified. In lieu of marking or labeling the emblem, this same information must appear on the package in which it is first sold to a purchaser or user in this State.

4.10. Use. -- On or after July 1, 1974, the only use of the SMV emblem shall be as follows.

4.10.a. Every farm tractor and every self-propelled unit of farm equipment or implement of husbandry designed for operation and speeds not in excess of twenty-five (25) miles per hour when traveling on or moving along a public highway during day or night shall display the slow-moving vehicle emblem except as provided in subdivision 4.10.b.

4.10.b. Every combination of farm tractor and towed farm equipment or implement of husbandry normally operating at speeds not in excess of twenty-five (25) miles per hour when traveling on or moving along a public highway during day or night shall display the slow-moving vehicle emblem as follows:

4.10.b.1. Where the towed unit or any load thereon obscures the slow-moving vehicle emblem on the farm tractor, the towed unit shall display the slow-moving vehicle emblem. In such cases, the towing vehicle need not display the emblem.

4.10.b.2. Where the slow-moving vehicle emblem on the farm tractor unit is not obscured by the towed unit or its load, then either or both may be equipped with the required emblem, but it shall be sufficient if either has it.

4.10.c. Every self-propelled unit of road construction and maintenance machinery or other machinery designed for operation at speeds not in excess of twenty-five (25) miles per hour when traveling on or moving along a public highway during day or night shall display the slow-moving vehicle emblem except when engaged in actual construction or maintenance work either guarded by a flagman or clearly visible warning signs.

4.10.d. A slow-moving vehicle with emblem attached and visible from the rear while being transported upon another vehicle, other than a slow-moving vehicle, shall have the emblem covered in such a manner that it will not be visible to traffic.

4.10.e. The SMV emblem shall not be put to any use other than prescribed by this regulation.

§91-11-5. Truck Cab or Truck Crew Compartment Designed for Occupancy of Four (4) Persons, Including Driver.

Upon a review of the Acts of the Legislature, Chapter 90, limiting to not more than three (3) persons, including the operator, the number of persons that may ride or be permitted by the operator to ride in the seat of a motor vehicle with the operator while such vehicle is being operated on the streets and highways, provided that the limitation shall not apply to a truck cab or truck crew compartment properly designated for the occupancy of four (4) persons, including the operator, and so designated on the registration card by the Department of Motor Vehicles, the following findings are made.

5.1. Action by the Department requires exercise of the administrative authority vested in the Commissioner to adopt regulations to carry out the provisions of said Act and to prescribe standards for such actions:

5.2. The vehicles subject to the Proviso Clause of such Act are limited to those vehicles designed for such occupancy that fall properly into Classes B, E, K, S and X; and,

5.3. Information upon which such designation may be intelligently based needs to be provided by the owners of the vehicles desiring such designation, subject, however, to inspection of such vehicles on behalf of the Department.

5.3.a. It is accordingly ordered:

5.3.a.1. Vehicles not falling in Classes B, E, K, S or X are not within the contemplation of the Proviso Clause of the Act and such designation shall not be made on the Registration Card for such excluded vehicles;

5.3.a.2. Such designation will not be made in any case unless upon application therefor by the owner of the vehicle and representation that

such vehicle has been registered or application for registration is pending;

5.3.a.3. Application for such designation shall be in writing, signed by the owner of the vehicle and shall disclose the following data:

5.3.a.3.A. Name and address of owner;

5.3.a.3.B. Manufacturer, trade name, model name or number, serial number and title certificate number of vehicle if previously registered and year vehicle was built;

5.3.a.3.C. Whether vehicle was constructed by manufacturer to specifications for a standard model or design for manufacture of a class of similar vehicles; attaching, if available, manufacturer's description matter pertaining to cab or crew compartment;

5.3.a.3.D. If vehicle cab or truck crew compartment were not constructed by manufacturer to standard specifications, the owner will furnish with his application:

5.3.a.3.D.1. Photographs of vehicles showing (1) front of cab revealing four (4) persons seated therein; and (2) side view of cab;

5.3.a.3.D.2. Sketch of interior of cab or crew compartment showing: (1) inside width of cab; (2) lineal measurement of seat or seats in cab; (3) lineal measurement of front(s) and seat(s); (4) depth of seat(s); and, (5) lineal measurement from instrument panel to front of seat or seat(s).

5.3.a.4. All such applications may, at discretion of the Commissioner, be subjected to investigation by an employee of the Department named by the Commissioner for the purpose;

5.3.a.5. Such designation will not be made in the case of any vehicle as to which the lineal measurement of the front of any single

undivided seat without offset on which it is proposed to seat four (4) persons, including the driver, in the truck cab or truck crew compartment, shall be less than five (5) feet and nine (9) inches and the uniform depth of which seat(s) is less than one (1) foot and four (4) inches from front to forward surface of rear upright cushion; or, where the inside width of such cab or compartment is less than six (6) feet.

5.3.a.5.A. Where there are more than one (1) seat in such cab or crew compartment, (1) the operator's seat, where separated, shall be of a uniform width (front) of at least eighteen (18) inches; (2) a separate seat for two (2) persons shall be a uniform width of at least thirty-one (31) inches; and, any seat for one person shall be of a uniform width (front) of at least seventeen (17) inches.

5.3.a.6. Form MVB 500, issued March 1, 1962, is hereby adopted as the official form for making such application.

5.3.a.7. Form MVB 500 shall be printed and made available upon request and cost free to the owner of any vehicle falling in Classes B, E, K, S or X.

5.3.a.8. That the form of designation of a truck cab or truck crew compartment when found by the Department to be properly designed for the occupancy of four (4) persons, including the operator, shall be the words "Four Man Cab" or "Four Man Compartment" imprinted upon the face of the registration card by means of addressograph plate or other distinctive device used by the Department in the inscription and issuance of the registration card pertinent to said vehicle.

