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<i>Donna Little</i> REGULATIONS COMPILER

1 FINANCE AND ADMINISTRATION CABINET

2 Office of the Secretary

3 (Amendment)

4 200 KAR 40:020. Purchase, use, lease, maintenance, and disposal of state-owned motor vehicles.

5 RELATES TO: KRS 42.0171(2), 44.045[~~,186.065~~]

6 STATUTORY AUTHORITY: KRS 44.045(6)

7 NECESSITY, FUNCTION, AND FUNCTION: KRS 44.045(6) authorizes the Secretary
8 of the Finance and Administration[~~Transportation~~] Cabinet to promulgate administrative
9 regulations governing the use of state-owned vehicles. This administrative regulation
10 ~~establishes~~[~~is necessary to assure the most effective utilization of state-owned vehicles and to~~
11 ~~establish~~] procedures governing the purchase, licensure, use, lease, maintenance, and disposal of
12 state-owned vehicles.

13 Section 1. Definitions. (1) "Agency-specific motor pool" means the fleet of passenger
14 carrying motor vehicles owned, operated, and maintained by a state agency other than the
15 Finance and Administration[~~Transportation~~] Cabinet.

16 (2) "Cabinet" means the Finance and Administration Cabinet.

17 (3) "Division" means the Finance and Administration Cabinet, Division of Fleet
18 Management.

19 (4) "Exempt vehicle" means a motor vehicle that is not part of the statewide motor pool.

20 (5)[~~(3)~~] "Motor vehicle" ~~is~~[~~means as~~] defined in KRS 281.011(2).

1 (6)[(4)] "Nonexempt vehicle" means a motor vehicle under the control of the statewide
2 motor pool.

3 (7)[(5)] "Passenger carrying vehicle" means a motor vehicle whose primary purpose is to
4 transport people.

5 (8) "Secretary" means the Secretary of the Finance and Administration Cabinet.

6 (9)[(6)] "Statewide motor pool" means the fleet of passenger carrying motor vehicles
7 operated, controlled, and maintained by the Finance and Administration Cabinet,~~[Transportation~~
8 ~~Cabinet's]~~ Division of Fleet Management.

9 Section 2. General. (1) This administrative regulation shall apply~~[is applicable]~~ to:

10 (a) An executive branch state agency in regard to the purchase, licensure, use, lease,
11 maintenance, and disposal of a motor vehicle; and

12 (b) A legislative or judicial branch state agency in regard to the use, lease, and
13 maintenance of a nonexempt motor vehicle.

14 (2) The~~[Transportation]~~ cabinet shall establish a statewide motor pool of vehicles for the
15 purpose of providing safe, reasonably priced, necessary, and essential vehicular transportation
16 for a cabinet, agency, or entity of state government. This fleet shall be made available for lease
17 by a state agency.

18 (3)(a) The secretary~~[of the Finance and Administration Cabinet]~~ may, upon written
19 justification from an agency head, authorize the establishment of an agency-specific motor pool.

20 (b) An agency-specific motor pool shall provide a similar service level at costs less than
21 or equal to the costs the~~[Transportation]~~ cabinet could provide a comparable service.

22 (c) An agency with authority delegated pursuant to this subsection shall submit cost
23 effectiveness and inventory reports to the~~[Transportation]~~ cabinet on an annual basis or as

1 requested by the cabinet to demonstrate the agency-specific motor pool meets the requirements
2 of Section 2(3)(c) of this regulation.

3 (d) The establishment of an agency-specific motor pool shall not exempt the agency from
4 the provisions of this administrative regulation.

5 (4) Except as provided in~~[for]~~ Section 3(2) of this administrative regulation, a state-
6 supported university and the Kentucky ~~[Department of]~~ State Police shall be exempt from the
7 provisions of this administrative regulation.

8 (5) A nonpassenger carrying motor vehicle with a weight rating greater than three-fourths
9 (3/4) ton shall be exempt from the statewide motor pool.

10 Section 3. Vehicle Identification. (1) The~~[Transportation]~~ cabinet shall have inventory
11 responsibility for all state-owned motor vehicles.

12 (2) A state agency controlling an exempt vehicle shall submit an annual inventory report
13 to the~~[Transportation]~~ cabinet.

14 (3) A copy of each vehicle purchase order authorized by the ~~[Finance Cabinet]~~ secretary
15 pursuant to KRS 44.045(2) shall be submitted to the ~~[Transportation]~~ cabinet. The submittal shall
16 include the agency responsible for reporting inventory information to the ~~[Transportation]~~
17 cabinet.

18 (4)~~[(a)]~~ At the time of its purchase, a nonexempt motor vehicle shall be delivered to the
19 ~~[Transportation Cabinet]~~ division in Frankfort, where licensing, identification, and other required
20 markings shall be performed. The agency controlling an exempt vehicle shall pay the division
21 the actual costs incurred for the licensing, identification, and other required markings for the
22 vehicles.

1 ~~[(b) If purchased an exempt vehicle may be delivered to a location determined by the agency~~
2 ~~head.]~~

3 Section 4. Purchase of Motor Vehicles. (1) A price contract for the purchase of a motor
4 vehicle shall be established by the cabinet's Office of Procurement Services~~[Finance and~~
5 ~~Administration Cabinet, Division of Purchases]~~.

6 (2)(a) The ~~[Transportation]~~cabinet shall approve the purchase of a motor vehicle, except
7 one (1) exempted by the provisions of Section 2(4) of this administrative regulation and an
8 exempt vehicle deemed necessary by the secretary~~[of the Finance Cabinet]~~ pursuant to KRS
9 44.045(2). A state agency desiring to purchase a motor vehicle shall submit a written request to
10 the ~~[Transportation]~~cabinet.

11 (b) The request shall include the following:

- 12 1. Name of the requesting agency;
- 13 2. Description of the requested vehicle, including type of fuel used in the vehicle;
- 14 3. Intended use of the vehicle;
- 15 4. Number of vehicles requested;
- 16 5. Estimated annual vehicle mileage;
- 17 6. Whether the vehicle is a replacement or a program expansion;
- 18 7. Source of funds for the purchase;
- 19 8. If funding for the vehicle was approved in the budget;
- 20 9. If the vehicle will be assigned to a motor pool, and if not, an explanation of its planned
21 uses; and
- 22 10. The name, address, telephone number, and signature of the person in the agency
23 authorized to request the purchase.

1 (3)~~(a)~~ The ~~[Transportation]~~cabinet shall consider for replacement a nonexempt motor
2 vehicle that:

3 (a) Is seven (7)~~[1. Is five (5)]~~ years old;

4 (b)~~[or 2.]~~ Has been driven 140,000 ~~[90,000]~~ miles;

5 ~~(c) Is [-(b)-The Transportation Cabinet may consider for replacement a nonexempt motor~~
6 ~~vehicle if it is:~~

7 ~~1.]~~ inoperable;

8 ~~(d) Is~~~~[2.]~~ unsafe; or

9 ~~(e) Is~~~~[3-]~~ in need of extensive repair that would not be economically feasible.

10 ~~[(4) The Transportation Cabinet shall submit a monthly status report to the Governor's~~
11 ~~Office of Policy and Management that summarizes the vehicle purchases authorized and the~~
12 ~~impact they have on the motor pool.~~

13 ~~(5) An exempt agency shall submit a purchase document with a copy of vehicle purchase~~
14 ~~approval from the Transportation Cabinet to the Finance and Administration Cabinet, Division of~~
15 ~~Purchases for processing.~~

16 ~~(6) The Transportation Cabinet shall purchase a vehicle used by the cabinet which is not~~
17 ~~ordered from a price contract, including heavy roadway equipment and other exempt vehicles.]~~

18 Section 5. Use of Motor Vehicles. (1)(a) A state employee shall comply with 200 KAR
19 40:010~~[600 KAR 1:070]~~ when using a vehicle from the motor pool.

20 (b) It shall be the responsibility of each agency head to ascertain that state-owned motor
21 vehicles are used only for official purposes in accordance with KRS 44.045(2) and the agency
22 head~~[he]~~ shall insure that the use of these vehicles is not abused.

1 (2)(a) The request for permanent assignment shall set forth the reasons why the
2 assignment is necessary and in the best interests of the Commonwealth.

3 (b) If the vehicle is to be parked at a private residence, the request shall include
4 significant justification for this action.

5 (3) Before a motor vehicle may be used by a state agency, it shall be marked in
6 accordance with the provisions of KRS 44.045~~[186.065]~~.

7 Section 6. Licensure of Motor Vehicles. (1)(a) A request to license a state-owned motor
8 vehicle with a nonofficial license plate, pursuant to KRS 44.045(4) and 186.020, shall set forth
9 the investigatory purposes for which the vehicle shall be used.

10 (b) It shall be the responsibility of the agency head to ascertain that the vehicle is used
11 only for investigatory purposes and the agency head~~[he]~~ shall insure that the use of the vehicle is
12 not abused.

13 (2) An official license plate attached to a motor vehicle which is being replaced shall be
14 turned in to the ~~[Transportation]~~cabinet.

15 (3) The ~~[Transportation]~~cabinet shall be responsible for the licensing and titling of all
16 nonexempt vehicles.

17 Section 7. Lease of Motor Vehicles from Statewide Motor Pool. (1) The fleet of vehicles
18 in the statewide motor pool shall be available for use by a state agency for official business of the
19 Commonwealth. These vehicles shall be made available for a lease to a state agency.

20 (2)(a) A request to use a motor vehicle available in the statewide motor pool shall be
21 submitted to the ~~[Transportation]~~cabinet on the forms and in the manner prescribed in 200 KAR
22 40:010~~[600 KAR-1:070]~~.

1 (b) Billing shall be performed by the [~~Transportation~~]cabinet and necessary
2 documentation shall be provided to a user agency.

3 (c) The [~~Transportation Cabinet has adopted the procedures to govern the~~] operation of
4 the statewide motor pool shall be governed by 200 KAR 40:010[~~in 600 KAR 1:070~~].

5 (3) Except for vehicles for lease under a master agreement procured by the cabinet, an
6 agency shall not lease a motor vehicle from a private individual or business without prior written
7 approval of the secretary[~~of the Finance and Administration Cabinet~~].

8 Section 8. Maintenance of Motor Vehicles. (1) It shall be the responsibility of the agency
9 to which a motor vehicle from the statewide motor pool has been permanently assigned to
10 maintain it properly and in accordance with the manufacturer's instructions.

11 (2)(a) Nonexempt motor vehicle repair and maintenance shall be the responsibility of the
12 [~~Transportation~~]cabinet.

13 (b) The cabinet shall repair and maintain vehicles in the most economical means possible.

14 (3) A record of maintenance history and costs for an exempt motor vehicle shall be kept
15 by the agency and submitted to the [~~Transportation~~]cabinet on an annual basis or as requested by
16 the cabinet to demonstrate the agency-specific motor pool meets the requirements of Section 8 of
17 this regulation.

18 Section 9. Disposal of Motor Vehicles. (1) An agency may advise the
19 [~~Transportation~~]cabinet of its desire to dispose of a motor vehicle if the motor vehicle[~~which~~
20 ~~meets at least one (1) of the following criteria~~]:

21 (a) Is at least seven (7)[~~five (5)~~] years old;

22 (b) Has been driven at least 140,000[~~90,000~~] miles; or

23 (c) Is inoperable, unsafe, or in need of substantial repair.

1 (2) All proceeds from the sale of a nonexempt surplus motor vehicle shall be deposited
2 into the [~~Transportation~~]cabinet motor pool agency fund unless precluded by:

3 (a) Federal law [~~or regulations;~~] or

4 (b) State law [~~or administrative regulations~~].

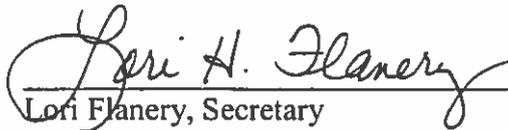
5 (3)(a) The disposal of an exempt motor vehicle shall be the responsibility of the
6 individual agency.

7 (b) For inventory control purposes, the agency shall immediately notify the
8 [~~Transportation~~]cabinet of the disposal of an exempt vehicle.

200 KAR 40:020

Signature Page

APPROVED:


Lori Flanery, Secretary
Finance and Administration Cabinet


Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on January 26, 2015 from 10:00 a.m. to 12:00 p.m., in Room 381, Capitol Annex Building, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing at least five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business on February 2, 2015. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

Contact Person: Doug Hendrix, Deputy General Counsel, Finance and Administration Cabinet, 392 Capitol Annex, Frankfort, Kentucky, 40601, (502) 564-6660 (telephone), (502) 564-9875 (fax).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 200 KAR 40:020

Contact Person: Doug Hendrix

Phone Number: 502-564-6660

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 42.0171(2) established the Division of Fleet Management ("DFM"), Office of Administrative Services ("OAS") within the Finance and Administration Cabinet ("FAC"). KRS 45.045 provides that the FAC shall purchase and maintain the state's fleet of automobiles. DFM is charged with managing and maintaining the Commonwealth's fleet of automobiles. This regulation sets forth the procedures regarding a state employee's use of and responsibilities regarding an automobile from the motor pool. While FAC maintains the fleet, this regulation states that the Transportation Cabinet maintains the fleet. This amendment will correct the regulation to reflect the authorizing statutes. This amendment also increases the length of time DFM will use an automobile before retiring it from the fleet and clarify the costs to agencies for the licensing, identification or other costs related to the use of the automobile.

(b) The necessity of this administrative regulation: KRS 44.045(6) authorizes the Secretary of the FAC to promulgate regulations relating to management of the state's motor pool. This regulation provides these procedures.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 44.045(6) authorizes the regulation. KRS 45.0171(2) provides that DFM shall oversee the motor pool.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation will provide guidance to DFM and employees on the proper use of automobiles from the state fleet.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: As promulgated, this regulation states that the Transportation Cabinet will oversee the motor pool. This amendment will correct the regulation to reflect KRS 44.045's directive that FAC will oversee the fleet.

(b) The necessity of the amendment to this administrative regulation: KRS 44.045(6) authorizes the Secretary of the FAC to promulgate regulations relating to management of the state's motor pool. This regulation provides these procedures.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 44.045(6) authorizes the regulation. KRS 45.0171(2) provides that DFM shall oversee the motor pool.

(d) How the amendment will assist in the effective administration of the statutes: This regulation will provide guidance to DFM and employees on the proper use of automobiles from the state fleet.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The regulation will affect every state employee who uses an automobile from the state's motor pool. It will also impact every agency that has not received an exemption from the Secretary of the FAC to operate an agency specific

motor pool. The agencies that operate an agency specific motor pool are: Office of the Attorney General; state supported public universities; Kentucky State Police; and legislative and judicial branches of government.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The amendment will require no additional actions by regulated entities.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): the cost will be determined by the Kentucky Transportation Cabinet.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Regulated entities and employees will benefit from clear processes on the use of automobiles from the fleet.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: No additional costs.

(b) On a continuing basis: No additional costs to FAC.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General fund

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No additional costs to FAC.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The amendment clarifies that agencies will bear the costs of licensing, identification or other costs related to the use of an automobile from the fleet.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied as this administrative regulation applies to all state employees and agencies which utilize automobiles from the motor pool.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 200 KAR 40:020

Contact Person: Doug Hendrix

Phone Number: 502-564-6660

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The regulation will impact every state agency which uses automobiles from the state fleet. It will not affect the following agencies which maintain agency specific motor pool: Office of the Attorney General; state supported public universities; Kentucky State Police; and legislative and judicial branches of government.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. N/A

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. No impact on local jurisdictions or school districts; minimal impact on state agencies.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? No additional costs.

(d) How much will it cost to administer this program for subsequent years? See response to No. 3(c).

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): No additional revenues to state government.

Expenditures (+/-): No additional costs to state government.

Other Explanation: N/A