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Transportation Equipment Sales Corp.

State Regulations for Buses

New York

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Subdivisions (b), (c), (d) and (e) of section 500.1 are amended and a new subdivision (f) is added to read as follows:

(b) Hearing. [An oral] A proceeding whereby evidence is considered [testimony is given under oath] and a record is made.

(c) Parties. All applicants and protestants and any shipper, carrier, [or] consumer organization, or governmental agency authorized to participate in any proceeding.

(d) Presiding officer. [Any] The person or persons [who is] duly designated by the commissioner as their representative, and may include any individual designated as an administrative law judge, for the purpose of [to conduct] conducting a proceeding.

(e) Proceeding. [Any application for new or extended authority, temporary or permanent authority or transfer or lease of authority. Any regulatory action that in any way affects a carrier's operating authority, rates, service or safety] A non-ministerial adjudicatory administrative action or determination involving the statutory or regulatory powers of the commissioner.

(f) Service of a notice, order, or other documentation sent by the department, shall be accomplished by personal delivery, sending via first class mail, or sending electronically. Any notice not returned by the post office for non-delivery, or for which there is no electronic notification of failed delivery, shall be presumed received by the respondent. Service shall be complete upon the date of personal delivery, or date of sending via first class mail or electronically.

Subdivisions (a) and (c) of section 501.2 are amended to read as follows:

(a) In any proceeding, parties may present their own case either personally or through a [non-paid] representative, or through a representative who is an attorney duly licensed to practice in the State of New York[, or a practitioner formally licensed by the Interstate Commerce Commission or duly licensed by the Surface Transportation Board]. For the purpose of this section, an officer of a corporation or member of a limited liability company that is a party to a proceeding may represent that [corporation] entity.

(c) All representatives will be held to the same standard of conduct as are attorneys licensed by the State of New York. Failure to comply with such standards may result in the barring of a representative from further participation in the proceeding. Any non-attorney representative who, in the sole discretion of the presiding officer, is deemed to be engaged in the unlicensed practice of law in New York State, shall be barred from participation in any administrative proceedings, and such non-attorney representative's unlicensed practice of law may be referred to the appropriate authorities for potential enforcement action.

Section 502.1 is amended to read as follows:

§ 502.1 General.

(a) Applications for the issuance of certificates or permits, extensions of certificates or permits, transfer or leases of certificates or permits shall be made [on forms furnished] online in a manner prescribed by the commissioner[, or a reasonable facsimile thereof].

(b) All such applications shall be [verified and all required information furnished and shall be accompanied by the required filing fee] submitted with all requested information. An application which is incomplete [or not verified] may be rejected [for filing] or denied.

(c) A brief summary of every application, except applications for emergency/temporary authority, will be published in the department's Weekly Bulletin of Motor Carrier Applications as soon after receipt of the application as is practicable. The publication will include the name and address of applicant's attorney or representative, if known. Unless otherwise set forth in the Transportation Law, publication of an application in the Weekly Bulletin shall be deemed good and sufficient notice to all interested parties.

Section 502.2 is amended to read as follows:

§ 502.2 Protests.

Any [person] municipality or governing body having an interest may submit a protest to any [proceeding] application. Any person having an interest may submit a protest to any household goods application. All protests must be in writing and set forth the nature and grounds of the protest. Protests to permanent authority applications must be served on the commissioner, the applicant, [and his] or the applicant's representative if applicable, within 30 days of the date of publication in the Weekly Bulletin. [Protests to temporary authority applications must be served on the commissioner, the applicant and his representative within 10 days of the date of publication in the Weekly Bulletin.] Failure to serve notice of protest within the said time periods on all parties may, in the commissioner's discretion, bar a protestant from taking part in the proceeding.

Subdivision (b) of section 502.3 is amended to read as follows:

(b) The presiding officer to whom the matter is assigned shall be responsible for the conduct of a proceeding from the time of the assignment until such time as a report or recommended decision is submitted to the commissioner, unless the matter is reassigned based on office needs. During this period any motion by any party shall be addressed to the presiding officer. The presiding officer shall determine, unless a hearing is mandated by the Transportation Law, whether a hearing shall be held; the time and place of any hearing; the manner in which [testimony and cross-examination is to be conducted] the record is to be made; the time within which and the place where briefs or sworn statements are to be submitted, if permitted; and such other matters as are necessary for the proper discharge of the presiding officer's responsibility.

The section heading, subdivision (a), paragraphs 2 and 3 of subdivision (b), and subdivision (c) of section 502.5 Regulations are amended to read as follows:

§ 502.5 Applications for temporary/emergency authority.

(a)[(1)Unless] If it is demonstrated that, by reason of an unforeseen emergency need, or temporary need, that transportation must commence immediately, an application for emergency authority shall be made by letter or electronically, to [be received at] the office of the [department] administrative presiding officer during regular office hours, [not] no later than three working days prior to the date when the transportation is to start.

[(2) Where it is demonstrated that because of an unforeseen emergency need the transportation must commence immediately, an application may be made, in person, electronically or by telephone, to the office of the administrative law judge, during regular office hours. In such event, the administrative law judge may require written confirmation of the telephone request or other oral representation in such manner and within such time limits as he or she may require.]

* * *

(2) if the applicant holds no authority from the Commissioner of Transportation, the name of the insurance company carrying the applicant's bodily injury and property damage insurance and, if applicable, cargo insurance, the amounts of such coverage, the effective date and expiration date of the policy or policies of insurance, and the number or numbers of such policies; and

(3) if the applicant intends to carry passengers, evidence that the vehicles to be utilized have been, or prior to the commencement of the transportation involved, [will be] are inspected in accordance with the provisions of the Transportation Law and the rules and regulations of the Commissioner of Transportation promulgated thereunder.

* * *

(c) Applications must [be accompanied with or followed by letters or electronic submissions by the proposed user or users of the service setting] set forth:

Section 503.1 is amended to read as follows:

§ 503.1 Proceedings without hearings.

(a) In all proceedings where no hearing has been directed, a decision in the proceeding may be made on the basis of the submitted documents, protests, [affidavits] affirmations, [or] sworn statements, and matters of which official notice may be taken, including [and] records of the department. The presiding officer will advise the parties as to the dates when such statements are to be submitted and the form and content of such statements.

(b) [The presiding officer shall require that applicant serve on all other parties and the department all required affidavits, documents, statements and matters of which official notice may be taken no later than 90 days after publication of the application.

(c) All other parties may serve an applicant and the other parties and the department answering affidavits, documents, statements and matters as to which official notice may be taken 20 days after such service by applicant.

(d)] No papers will be accepted or considered for any purpose, if submitted after the [times above specified] dates directed, unless an extension of time is granted by the presiding officer for good cause shown.

[(e)] (c) The presiding officer, upon such officer's own motion, or upon request of a party and for good cause shown, may permit or require additional submissions. Failure to file requested documentation may be grounds for denying the application or dismissing the protest.

Subdivisions (b) and (d) of section 503.2 are amended to read as follows:

(b) Hearings may be conducted solely on documentary evidence, or [will be] held at a location selected by the presiding officer, [and written] Written notice setting forth the return date for paper submissions, or the date, time, and location of the hearing will be mailed or sent electronically to all parties of record.

(d) [(1) Hearings shall be scheduled to commence no more than 90 days after publication of an application or after service of the initial order or other notice commencing a proceeding on motion of the commissioner.

(2) Where times for hearings and manner of notice are fixed by statute, such statute, and not these regulations, shall apply.] Any notice not returned by the post office for non-delivery, or electronic notification of failed delivery, shall be presumed received by the respondent.

Section 503.5 is amended to read as follows:

§ 503.5 Record.

The record of a proceeding shall consist of all filed documents, the [minutes of a hearing] recording or transcript of a live hearing, and exhibits accepted into evidence. If exhibits are offered, at least one copy shall be submitted to the presiding officer and one to each party of record.

Section 503.6 is repealed.

Section 503.7 is renumbered section 503.6 and is amended to read as follows:

§ [503.7] 503.6 Incorporation by reference.

Any party may move to submit for the hearing record, by reference, information contained in any official [filing with the commissioner] department records. Upon request, the party shall supply copies of any material incorporated by reference to the other parties.

Section 503.8 is renumbered section 503.7.

Section 503.9 is renumbered section 503.8.

Section 504.2 is repealed.

Section 504.3 is repealed.

Section 504.4 is renumbered section 504.2.

Subdivisions (b), (c), (f), and (g) of section 505.2 are amended to read as follows:

(b) Department means the [Department of Transportation of the State of] New York State Department of Transportation.

(c) Hearing means [an oral] a proceeding [where testimony is taken under oath] whereby evidence is considered and a record is [kept] made.

(f) Presiding officer means the person or persons duly designated by the commissioner as [his] their representative, and may include any individual designated as an administrative law judge, for the purpose of conducting a proceeding pursuant to section 145 of the Transportation Law.

(g) Proceeding[, for the purpose of this Part,] means an action [or proceeding] instituted by service of [the] a notice of violation.

Section 505.4 is amended to read as follows:

§ 505.4 Service of notice of violation.

A notice of violation may be served personally, electronically, or by first-class mail addressed to the driver or owner of the vehicle or the respondent. Any notice served by mail not returned by the post office for nondelivery, or electronic notification of failed delivery, shall be presumed to have been received. Any notice returned by the post office as having been refused shall be deemed properly served. The service date is the date a notice is [mailed or] served personally, [served] electronically, or by first-class mail.

Subdivisions (c) and (d) of section 505.5 are amended to read as follows:

(c) A respondent may waive a hearing [or submit a verified statement of fact by a date to be fixed by the presiding officer.

(d) A respondent may plead guilty and request a reduction of penalty by returning the notice of violation within 20 days of the date of service, accompanied by a verified

statement setting forth any mitigating facts, which shall then be considered by the presiding officer].

Subdivisions (b), (c), and (d) of section 505.6 are amended to read as follows:

(b) [Any party may submit a written request for a clarification of the charges in the notice of hearing to the department or presiding officer via first-class mail or electronically. A written response will be sent to such party prior to the hearing via first-class mail or electronically.

(c)] The notice of hearing shall specify the time and place of the hearing, and shall set a date for a hearing via first-class mail or electronically. If the matter is to be heard on the papers, the respondent will be sent a notice of opportunity to be heard containing a return date for all submissions.

[(d)] (c) Service of a notice of hearing or a notice of opportunity to be heard shall be by personal service, electronically, or by first-class mail. Any notice [of hearing] not returned by the post office for non-delivery or electronic notification of failed delivery shall be presumed received by the respondent. Any notice of hearing returned by the post office as having been refused by the respondent shall be deemed properly served. The service date is the date a notice is [mailed via first-class mail] served personally, electronically, or [electronically or the date it is personally served] by first-class mail.

Section 505.7 of is amended to read as follows:

§ 505.7 Appearances.

Respondent may appear personally or be represented by any individual of its choice. However, if the representative is not an attorney authorized to practice in the State of New York or an officer of a corporate respondent, such representative must file a written notice of appearance, signed [and verified] by respondent. Requests for virtual appearances shall be granted at the discretion of the presiding officer. Any non-attorney representative who, in the sole discretion of the presiding officer, is deemed to be engaged in the unlicensed practice of law in New York State, shall be barred from participation in any administrative proceedings, and such non-attorney representative's unlicensed practice of law may be referred to the appropriate authorities for potential enforcement action.

Subdivisions (a), (b), and (d) of section 505.9 are amended to read as follows:

(a) At the hearing the respondent or its designated representative may admit or deny any allegation made in the notice of violation. Any matter which has been stipulated to or admitted on the [open] record by the respondent shall be deemed proven. Failure to respond to any allegation shall be deemed a denial of such allegation and under no circumstances shall the respondent be compelled to testify.

(b) The department shall have the burden of establishing a respondent's guilt by [clear and convincing] a preponderance of the evidence. Testimony shall be given under oath or affirmation. The presiding officer shall have the discretion to exclude any individual from the hearing, other than a party or the representative of a party, for good cause shown. The presiding officer may also admit any relevant evidence in addition to oral testimony. The formal rules of evidence are not applicable to administrative hearings held by the department. Evidence that is not admissible in a court of law, such as hearsay, is admissible in an administrative hearing. Any witness may be questioned and/or cross-examined by the presiding officer, the representative of any party, or any party or representative of a non-represented party.

(d) If the decision of the presiding officer is reserved, or the hearing is conducted by paper or electronic submission, a [written] determination on the notice of violation, specifying the findings of fact and conclusions of law, [shall] may be made on the record. The resultant order shall be served by first-class mail or electronically on the parties and their representatives, if any.

Section 505.11 is amended to read as follows:

§ 505.11 Order after hearing.

In the event respondent is found guilty after a hearing, an order specifying the disposition of the notice of violation, including any penalty or penalties imposed and the time and manner of payment, shall be served personally, electronically, or by first-class mail on the respondent and its representative, if any, within 30 days subsequent to the decision.

Section 505.14 is amended to read as follows:

§ 505.14 Failure to appear.

When a live hearing has been scheduled and no adjournment is requested, or if requested is not granted, respondent's failure to appear may subject the respondent, in the discretion of the presiding officer, to a default finding of guilt and the imposition of a fine up to the maximum amount prescribed by the Transportation Law. If a respondent fails to appear, the department is not required to produce evidence in support of the charges for the presiding officer to find the respondent guilty by default.

Section 505.15 is amended to read as follows:

§ 505.15 Appeals.

Appeals from a presiding officer's decision or amount of the fine imposed shall be in writing and verified. The appeal must be submitted to the office of the commissioner in Albany within 30 days of the date of service of the order in person, via first-class mail, or electronically. Appeals may be taken only by the respondent and must specifically set forth the grounds upon which the appeal is based. The requirement of filing an appeal from a determination of a presiding officer with the commissioner before judicial review of such determination may be commenced, shall

only apply if the respondent is provided with written notification as to the existence of this section with the order after hearing.

Paragraphs (1) and (2) of subdivision (x) of section 720.1 are amended to read as follows:

- (1) Type [A-I] A-1 GVWR [over 10,000 pounds] 10,000 pounds or under; and
- (2) Type [A-II] A-2 GVWR [10,000 pounds or under] over 10,000 pounds.

Subdivision (d) of section 720.2 is amended to read as follows:

(d) Motor vehicles failing to meet the inspection standards of the department as contained in the Out-of-Service criteria listed in section 720.11 of this Part shall be declared and marked out-of-service by the department inspector placing an “Out-of-Service Vehicle” sticker on the windshield. Vehicles marked with an Out-of-Service Sticker shall not be operated with passengers until the defects noted have been repaired and checked by a department inspector. The out-of-service sticker shall be removed only by the department inspector certifying that the vehicle is safe to operate and issuing a valid certificate of inspection. “Out-of-Service Vehicle” stickers shall only be valid for 15 days after issuance for the purpose of moving the vehicle on public roadways for the purpose of repairing the vehicle. In the case where the department inspector determines that the motor vehicle may not be operated safely on a public highway without first being repaired, the inspector [also] shall place a [highway operation prohibited] “Highway Operation Prohibited” sticker on the windshield. Such vehicle shall not be operated until the critical safety defect(s) identified by the department inspector is repaired.

Subparagraph (i) of paragraph 1 of subdivision (c), subparagraph (i) of paragraph 2 of subdivision (c), subparagraph (ii) of paragraph 4 of subdivision (o), and paragraph 2 of subdivision (r) of section 720.4 are amended to read as follows:

(i) Main aisle. The main aisle shall include the part of a vehicle used as a passageway, which extends from the entrance doors to the rear-most seats and/or doors. A minimum aisle height of 75 inches is required for Type C and D buses and 72 inches for Type [A-1] A-2 and B buses.

Note: See subparagraph (2)(i) of this subdivision for school bus aisle requirements.

* * *

(i) Main aisle. The main aisle shall be not less than 12 inches wide and 72 inches high, except Type [A-11] A-1 school buses which shall have a minimum main aisle width of 10 inches and may have a height other than 72 inches.

* * *

(ii) applied to the outside body or outside body posts and attached twice at each body post and at all other upright structural members. (Note: For Type [A-11] A-1 buses using chassis manufacturer body, or for type [A-1] A-2, B, C, and D buses using rear engine compartment, rub rails need not extend around rear corners); and

* * *

(2) School buses (type [A-1] A-2, B, C, D). Multiple steps. Buses shall have two-step or three-step stepwell. Step risers shall be of approximately equal height. Step treads shall be approximately 16 inches wide. Step tread depth shall be adequate to ensure safe means of ingress and egress. The step on buses shall not be more than 18 inches from the ground nor less than 10 inches.

A new paragraph 6 of subdivision (p) of section 720.4 is added to read as follows:

6) Stretch Limousines.

(i) An altered motor vehicle commonly referred to as a “stretch limousine” which was altered on or after January 1, 2021, may not be sold or registered in this State and, if registered in this State may not be operated unless it is equipped with at least two safety belts for the front seat, and at least one safety belt for the rear seat for each passenger for which the rear seat of such vehicle was designed, and at least one safety belt for each passenger seat position.

(ii) No altered motor vehicle commonly referred to as a “stretch limousine” which was altered prior to January 1, 2021 shall be sold or registered in this State and no such altered motor vehicle altered prior to January 1, 2021 registered in this State shall be operated in this State unless such vehicle is retrofitted and equipped with safety belts approved by and conforming to standards established by the Commissioner of Motor Vehicles as follows: at least two safety belts for the front seat, and at least one safety belt for the rear seat for each passenger for which the rear seat of such vehicle was designed, and at least one safety belt for each passenger seat position.

(iii) All seat safety belts installed in an altered motor vehicle commonly referred to as a “stretch limousine” shall be clearly visible, accessible and maintained in good working order.

(iv) Stretch limousine notices. Every altered motor vehicle commonly referred to as a "stretch limousine" registered in this State shall have posted therein the following notice: “Seatbelts must be available for your use. You must buckle up, it’s the law.” The notice shall be posted in a manner legible and conspicuous to passengers in all seating positions of such vehicles.

Subparagraph (ii) of paragraph 2 of subdivision (b) of section 720.5 is amended to read as follows:

Red door light: All doors shall have a two-inch (or LED equivalent) ruby or red light mounted [on] inside above the door connected to headlight or marker light circuit.

Subparagraph (v) of paragraph 1 of subdivision (a) of section 720.8 is amended to read as follows:

The door(s) shall be equipped with a device that will actuate an audible or visible signal when the door(s) is not securely closed. Such warning signals shall be located in the driver's

compartment. The visible signal shall be a minimum two-inch (or LED equivalent) red or amber lamp and shall be readily visible to the driver while in his or her normal belted seated position.

The first undesignated subparagraph of paragraph 4 of subdivision (d) of section 720.11 is amended to read as follows:

OUT-OF-SERVICE AND DEFECT CRITERIA

NO.	INSPECTION ITEM	DEFECT	DEFECT RATING
10.00	Bus Identification	Federal Motor Vehicle Safety Standard (FMVSS) tag missing.	A
		1. Initial inspections, including any "first sale" bus presented for inspection for the purpose of operating such bus in school service	
		2. Regular inspection	[B] <u>A</u>

Subdivision (a) and paragraphs 3 and 4 of subdivision (b) of section 722.1 of are amended and a new paragraph 5 is added to read as follows:

(a) Any accident in any way involving a motor vehicle subject to department inspection, which results in the loss of life or injury of any passenger, employee or other person, or which was caused by mechanical failure (regardless of whether or not injuries were incurred), shall be [immediately] reported to the department no later than 12 hours from the time the incident occurred by telephone or electronically to: passengersafety@dot.ny.gov.

* * *

(3) smoke (other than normal exhaust) emanating from the engine or any other part of the vehicle, whether internal or external; [and]

(4) presence of or emission, whether internal or external, of sparks, flame or fire[.]; and

(5) disabling damage caused by an accident such that the motor vehicle must be transported from the scene by a tow truck or another motor vehicle.

Section 820.4 of part 820 of title 17 of the New York Codes Rules and Regulations is amended by adding a new subdivision (a) and two new paragraphs (b) and (c) to read as follows:

(a) The Commissioner of Transportation adopts Part 392 of Title 49 of the Code of Federal Regulations with the same force and effect as though herein fully set forth at

length.

(b) No motor carrier may operate, or allow a driver to operate, a commercial motor vehicle while such motor carrier is rated “unsatisfactory” pursuant to Part 385 of Title 49 of the Code of Federal Regulations.

(c) No motor carrier may operate, or allow a driver to operate, a commercial motor vehicle in a manner that is inconsistent with how it is registered.

Section 820.5 is amended by adding three new subdivisions (c), (d), and (e) to read as follows:

§ 820.5 Parts and accessories necessary for safe operation.

(a) The Commissioner of Transportation adopts Part 393 of Title 49 of the Code of Federal Regulations with the same force and effect as though herein fully set forth at length.

(b) Motor carrier information required to be displayed in altered motor vehicles commonly referred to as stretch limousines. Motor carriers operating altered motor vehicles must conspicuously display the following information in the vehicle and at their business locations: proof of valid operating authority, inspection history data, driver qualifications, toll free hotline and website [for] for complaints. Such information shall be displayed in accordance with the sample documentation provided by the department.

(c) Federal motor vehicle safety standard certification label. No person shall, with intent to defraud, knowingly remove, deface, destroy, cover, alter, or otherwise change the form or appearance of a federal motor vehicle safety standard certification label issued in accordance with part 567 of title 49 of the Code of Federal Regulations on an altered motor vehicle.

(d) No person shall, with intent to defraud, affix to an altered motor vehicle a federal motor vehicle safety standard certification label except in accordance with part 567 of title 49 of the Code of Federal Regulations.

(e) Motor carriers operating altered motor vehicles must conspicuously display the following information in the vehicle and at their business locations: valid operating authority, inspection history data, driver qualifications, toll free hotline, and website for complaints. Such information shall be displayed in accordance with the sample documentation provided by the department.

Subdivision (a) of section 820.12 is amended to read as follows:

(a) Any duly authorized employee or agent of the department and all police officers are authorized to enter upon and perform inspections of motor vehicles and review drivers' credentials in operation and to stop such vehicles for the purposes of inspection, to perform inspections of motor carriers' facilities and records at any time and place where

they are found, to ascertain whether the rules and regulations of the commissioner are being obeyed and to ascertain whether such vehicles are maintained, equipped and operated in accordance with the regulations contained in this Part. If the authorized employee, agent, or police officer determines that it is necessary to move such vehicles, which may include buses, vans, or limousines, to ensure the safety of the police officer, the authorized employee or agent, or the motoring public, the vehicle shall be moved to the nearest vehicle inspection station.