



New York State Office of the State Comptroller
Thomas P. DiNapoli

Division of State Government Accountability

Driver Responsibility Assessment Program

Department of Motor Vehicles



Report 2013-S-53

October 2014

Executive Summary

Purpose

To determine whether the Department of Motor Vehicles (Department) has accurately assessed and attempted to collect all Driver Responsibility Assessment Program fees due from violators and that it suspended the licenses, or the privilege to obtain a license, of drivers who did not pay their assessed fees. Our audit covered the period April 1, 2012 through March 31, 2013.

Background

The Department's stated mission is to issue secure identity documents, to deliver essential motor vehicle and driver-related services, and to administer motor vehicle laws enacted to promote safety and protect consumers. In an effort to prevent the repeated behavior of problem drivers and to improve traffic safety, in November 2004, the State Legislature amended the Vehicle and Traffic Law (Law) establishing the Driver Responsibility Assessment Program (Program). The Law mandates the Department to assess and collect a fee of \$250 per year for three years on drivers convicted of alcohol- or drug-related traffic violations or who refuse a chemical test. The Law also mandates a fee of \$100 per year for the first six points and \$25 for each additional point, for a three-year period, on drivers who accumulate six or more points on their driving record within an 18-month period. The Program database is maintained by the Office of Information Technology Services (ITS).

Key Findings

- The Department accurately assessed all Program fees and either collected these fees or suspended the licenses or the privilege to obtain a license of drivers who did not pay.
- The Department needs to improve its internal controls over manual adjustments made to the Program database by ITS staff. Several ITS employees have unrestricted access to the database and its contents. Although ITS has a procedure in place requiring that any manual changes be noted by the individual making the adjustment, changes that could potentially be done inappropriately - including cases where the person may want no record of the adjustment being made - are not automatically captured, recorded, or identifiable for subsequent review by the Department.

Key Recommendation

- Work with ITS officials to establish an automated method to capture manual changes to the Program database for periodic review by the Department.

Other Related Audits/Reports of Interest

[Department of Motor Vehicles: Oversight and Collection of Snowmobile Registration Fees \(2011-S-54\)](#)

[Department of Motor Vehicles: Motor Vehicle Financial Security and Safety Responsibility Acts: Statement of Assessable Expenses for the Three Fiscal Years Ended March 31, 2011 \(2012-S-25\)](#)

**State of New York
Office of the State Comptroller**

Division of State Government Accountability

October 9, 2014

Ms. Barbara J. Fiala
Commissioner
Department of Motor Vehicles
6 Empire State Plaza
Albany, NY 12228

Dear Commissioner Fiala:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage their resources efficiently and effectively. By so doing, it provides accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities, and local government agencies, as well as their compliance with relevant statutes and their observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits can also identify strategies for reducing costs and strengthening controls that are intended to safeguard assets.

Following is a report of our audit entitled *Driver Responsibility Assessment Program*. This audit was performed pursuant to the State Comptroller's authority under Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing your operations and in meeting the expectations of taxpayers. If you have any questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of State Government Accountability*

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This report is also available on our website at: www.osc.state.ny.us

Background

The Department of Motor Vehicles' (Department) stated mission is to issue secure identity documents, deliver essential motor vehicle and driver-related services, and administer motor vehicle laws enacted to promote safety and protect consumers. In an effort to prevent the repeated behavior of problem drivers and to improve traffic safety, in November 2004, the State Legislature amended the Vehicle and Traffic Law (Law) establishing the Driver Responsibility Assessment Program (Program). The Program applies to all drivers who operate a motor vehicle (including a boat or snowmobile) in the State of New York, regardless of whether they are licensed in another state or unlicensed. Under the Program, additional fees are assessed on certain unsafe drivers who are convicted of specific traffic violations. The Department is required to suspend the driver's license, or the privilege to obtain a license, of all violators who fail to pay these fees. Their suspension must remain in effect until all outstanding Program assessments are paid in full.

The Law mandates the Department to assess and collect a fee of \$250 per year for three years on drivers convicted of alcohol- or drug-related traffic violations or who refuse a chemical test. The Law also mandates a fee of \$100 per year for the first six points and \$25 for each additional point, for a three-year period, on drivers who accumulate six or more points on their driving record within an 18-month period. The Department notifies drivers of their responsibility to pay these fees annually for the three-year period. Drivers can accumulate points from traffic violations committed in the State and in the Canadian provinces of Ontario and Quebec. Completion of an approved motor vehicle accident prevention course does not reduce the calculation of points on a person's driving record for the purposes of the Program.

The Program database, which contains all records of fees levied and collected, is maintained by the Office of Information Technology Services (ITS). For 2012-13, the Department reported collecting about \$89 million in Program fees.

Audit Findings and Recommendations

We determined the Department has accurately assessed and attempted to collect all Program fees due from all violators, and has suspended the licenses, or the privilege to obtain a license, of drivers who did not pay their assessed Program fees. However, we also found the Department could improve controls to more adequately monitor manual adjustments to its Program database.

Assessment and Collection of Fees From Violators

We analyzed Program-related convictions that occurred during 2012-13 to determine whether the Department billed the appropriate drivers and collected the proper fees from violators. We determined the Department consistently notified drivers who incurred six or more points on their driving record, who were convicted of a drug- and/or alcohol-related offense, or who refused a chemical test during 2012-13. We also determined the Department either collected the fees from these drivers or appropriately suspended their licenses or their privilege to obtain a driver's license. Additionally, we analyzed whether drivers who were billed in 2011-12, but did not pay their balances in full prior to 2012-13, were issued statements again in 2012-13 as required. (We excluded drivers who were issued a third and final statement for payment plans with their 2011-12 statement.) We determined all clients who were mailed an annual statement in 2011-12 and were supposed to be sent an annual statement in 2012-13 actually were issued such a statement.

Suspension of Delinquent Violators' Driver's License

We analyzed Program-related convictions that occurred during 2012-13 and assessed whether these drivers made their annual payments to the Department. In those instances where we determined payment was not made, we reviewed the Department's executed suspensions to assess whether the driver's license, or the privilege to obtain a license, was suspended. We determined the Department either collected the appropriate fees or executed a suspension within 75 days of notifying the violators of their responsibility to make payments.

We recognize that the Department has limited ability to suspend the licenses of out-of-state drivers if those states do not enforce New York's decision, but the privilege of those out-of-state drivers to legally drive in New York is suspended. Department officials informed us that if any of those out-of-state suspended drivers are stopped by law enforcement while driving in the State, they will be charged with aggravated unlicensed operation of a motor vehicle.

Department Monitoring and Oversight

We reviewed the Department's internal controls and processes for applying assessments to drivers' records and the management of the Program database that maintains a record of all violators, as well as their payment and suspension history. While assessing the controls in place, we learned there is a lack of monitoring and accountability over manual adjustments made to the Program database. We found there are at least five ITS employees who have unrestricted access

to the database and the ability to make manual adjustments to drivers' Program assessments, including deleting the assessment entirely.

According to the New York State Cyber Security Policy, issuance and use of privileged access accounts such as these must be restricted and controlled. Inappropriate use of similar system account privileges has often been found to be a major contributing factor to the failure of systems that have been breached. Processes must be developed to ensure that the use of privileged accounts is monitored and that any suspected misuse of these accounts is promptly investigated. Systems and applications must also be monitored and analyzed to detect deviation from the access control policy and to record events to provide evidence and to reconstruct lost or damaged data. Audit logs recording exceptions and other security-relevant events must be produced and retained to assist in future investigations and access control monitoring.

To minimize the possibility of corruption of information systems, strict controls over changes to these systems must also be implemented. Formal change control procedures for business applications must be developed, implemented, and enforced. They must ensure that security and control procedures are not compromised, that support programmers are given access only to those parts of a system necessary to perform their jobs, and that formal agreement and approval processes for changes are implemented. These change control procedures apply to Department business applications as well as to systems software used to maintain operating systems, network software, and hardware changes.

We found there are no logs in place to automatically capture manual changes made to the Program database to ensure proper management review and authorization. Instead, ITS only has a procedure in place requiring that manual changes be noted by the individual making the adjustment. However, changes that are potentially done inappropriately - including cases where the person may want no record of the adjustment being made - are not captured, recorded, or otherwise identifiable. As a result, we have no assurance that unrecorded adjustments were not made to the data and management cannot be assured that all changes are properly authorized. We consider this to be a material weakness since the Department could be susceptible to improper adjustments made to the Program assessment fees without detection.

Recommendation

1. Work with ITS officials to establish an automated method to capture manual changes to the Program database for periodic review by the Department.

Audit Scope, Objective, and Methodology

The objective of our audit was to determine whether the Department accurately assessed and attempted to collect all Program fees due from all violators, and that it suspended the licenses or the privilege to obtain a license of drivers who did not pay the assessed fees. To accomplish our audit objective, we examined the population of Program violators who were required to pay a fee during the period of April 1, 2012 through March 31, 2013. We determined whether the

Department assessed the required fees. We also examined whether the Department suspended the licenses of New York State drivers or revoked driving privileges of out-of-state drivers in New York State who did not pay the required fees. We also compared revenue collections to amounts remitted to the Office of the State Comptroller to determine whether the Department remitted all revenue collected, and reviewed pertinent State laws and Department directives.

In addition, we analyzed Program-related conviction data from the State's Justice Court Fund and a selected State court, as well as arrest data from the Department of Parks, Recreation and Historic Preservation for individuals operating a snowmobile or vessel under the influence of drugs and/or alcohol or with chemical test refusals. We also interviewed pertinent Department officials and reached out to the Department of Environmental Conservation to obtain comparable arrest data related to snowmobile or vessel violations.

We conducted our performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

In addition to being the State Auditor, the Comptroller performs certain other constitutionally and statutorily mandated duties as the chief fiscal officer of New York State. These include operating the State's accounting system; preparing the State's financial statements; and approving State contracts, refunds, and other payments. In addition, the Comptroller appoints members to certain boards, commissions, and public authorities, some of whom have minority voting rights. These duties may be considered management functions for purposes of evaluating organizational independence under generally accepted government auditing standards. In our opinion, these functions do not affect our ability to conduct independent audits of program performance.

Authority

The audit was performed according to the State Comptroller's authority as set forth in Article V, Section 1 of the State Constitution and Article II, Section 8 of the State Finance Law.

Reporting Requirements

A draft copy of this report was provided to Department officials for their review and comment. Their comments were considered in preparing this report and are attached in their entirety at the end. Officials indicated ITS has removed DRA update access for all developers and amended procedures to require a help desk ticket for all exception requests.

Within 90 days after final release of this report, as required by Section 170 of the Executive Law, the Commissioner of the Department of Motor Vehicles shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were

taken to implement the recommendation contained herein, and if the recommendation was not implemented, the reason why.

Contributors to This Report

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Vision

A team of accountability experts respected for providing information that decision makers value.

Mission

To improve government operations by conducting independent audits, reviews and evaluations of New York State and New York City taxpayer financed programs.

Agency Comments



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BARBARA J. FIALA
Commissioner

ANDREW M. CUOMO
Governor

J. DAVID SAMPSON
Executive Deputy Commissioner

September 15, 2014

Mr. John Buyce, Audit Director
Office of the State Comptroller
Division of State Government Accountability
110 State Street, 11th Floor
Albany, NY 12236-0001

Dear Mr. Buyce:

This letter is in reference to the New York State Comptroller's draft audit findings which address whether the Department of Motor Vehicles has accurately assessed and attempted to collect all Driver Responsibility Assessment (DRA) fees due from violators and that it suspended the licenses, or the ability to obtain a license, of drivers who do not pay their assessed fees.

Please note the following concerning the audit recommendation:

Work with ITS officials to establish an automated method to capture manual changes to the Program database for periodic review by the Department.

Response:

Information Technology Services (ITS) has removed DRA update access for all developers and amended procedures to require a help desk ticket for all exception requests. Corrections now require a developer for design and the DBA group for execution.

Additionally, DMV has initiated discussions with ITS Counsel to develop an agreement governing ITS staff access to DMV data. ITS will provide DMV, upon request and for audit purposes, access to ITS search log data for all searches of DMV systems or records conducted

by ITS, its officers, agents or employees; and requires ITS to comply with DMV's policies and directives concerning the protection and maintenance of data.

We will continue to look for improvement opportunities such as these and always welcome a chance to better serve the citizens of this State. If you have any questions concerning this matter, please contact me at (518) 474-0846.

Sincerely,



J. David Santpson
Executive Deputy Commissioner