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

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Division of State Government Accountability

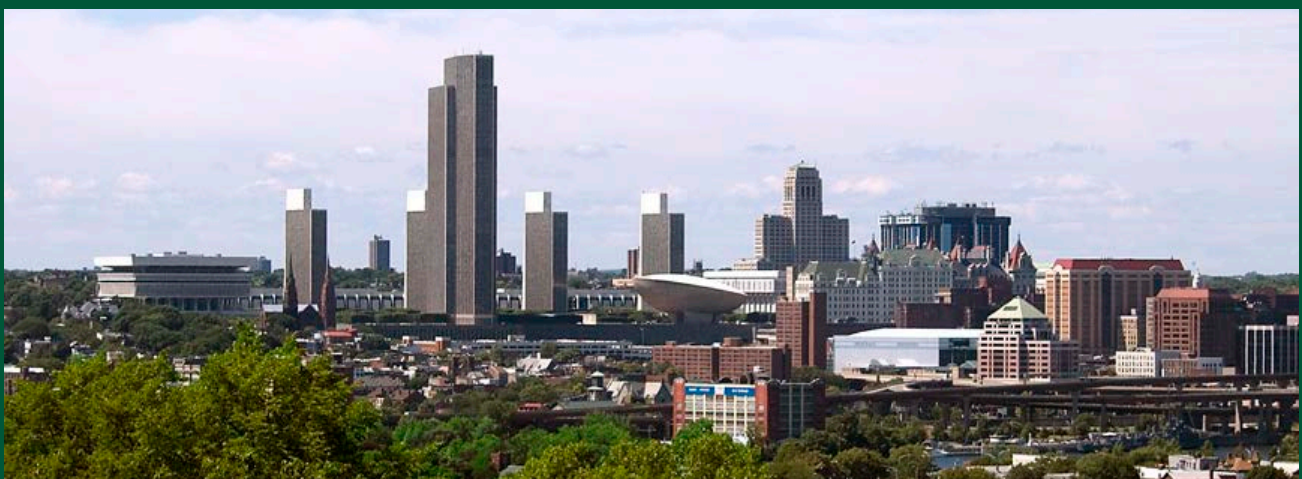
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# **Accountability for Traffic Ticket Surcharges**

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## **Department of Motor Vehicles**

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Report 2014-S-26

August 2015

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# Executive Summary

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## Purpose

To determine whether the Department of Motor Vehicles (Department) accurately assessed, collected, accounted for, and reported all traffic ticket surcharge revenue received through its Traffic Violations Bureaus (TVBs). The audit covered the period April 1, 2012 through July 31, 2014.

## Background

New York State Vehicle and Traffic Law authorizes cities with a population of 200,000 or more to adjudicate non-criminal traffic infractions through administrative tribunals to divert such high-volume non-criminal cases from the court system and free the courts to concentrate instead on the more serious cases. The Department established its TVBs to manage this administrative adjudication function. There are currently ten TVBs, eight in New York City and one each in Rochester and Buffalo; each is responsible for processing and collecting fines and traffic ticket surcharges. Unlike fines, surcharges are non-negotiable costs – preset based on the type and date of violation – that cannot be waived. However, the Vehicle and Traffic Law does impose a cap on the total amount of surcharges that can be assessed as a result of any one traffic stop or incident. During our audit period, the Department reported over \$341 million in revenue collected from the TVBs, including about \$147 million generated from traffic ticket surcharges.

## Key Findings

- With the exception of about \$1 million in surcharge revenue that was reported twice for the same week during May 2013, the Department is consistently accounting for and reporting all traffic ticket surcharge revenue received.
- The Department's systems are not properly applying the statutory cap on surcharge amounts for multiple violations, resulting in an underassessment of surcharges in the event that a driver is cited for multiple incidents on the same day.
- The Department could better use existing system data to continually improve its processes and management of the program.

## Key Recommendations

- Develop a more proactive approach to monitoring and analyzing the data management system, including conducting routine system reviews and establishing controls to ensure modifications are working as intended.
- Analyze system and source documentation (e.g., traffic tickets) for traffic stops that resulted in multiple traffic tickets subject to the surcharge cap to identify and correct any instances where motorists were charged an incorrect surcharge.
- Work with the Office of Information Technology Services to implement system and data changes necessary to ensure surcharges are properly and consistently applied.

## **Other Related Audits/Reports of Interest**

[Office of Information Technology Services: Security and Effectiveness of Department of Motor Vehicles' Licensing and Registration Systems \(2013-S-58\)](#)

[Department of Motor Vehicles: Driver Responsibility Assessment Program \(2013-S-53\)](#)

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

**Division of State Government Accountability**

August 10, 2015

Ms. Theresa Egan  
Executive Deputy Commissioner  
Department of Motor Vehicles  
6 Empire Plaza  
Albany, NY 12228

Dear Executive Deputy Commissioner Egan:

The Office of the State Comptroller is committed to helping State agencies, public authorities, and local government agencies manage government resources efficiently and effectively and, by so doing, providing 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 of the Department of Motor Vehicles entitled *Accountability for Traffic Ticket Surcharges*. The audit was performed pursuant 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.

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](http://www.osc.state.ny.us)

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## Background

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New York State Vehicle and Traffic Law authorizes cities that meet an established population requirement – currently set at 200,000 or more – to adjudicate non-criminal traffic infractions through administrative tribunals instead of the court system. Within the Department of Motor Vehicles (Department), Traffic Violations Bureaus (TVBs) were established to run the State’s administrative adjudication program, which is intended in part to divert such high-volume non-criminal cases from the court system and thereby free the courts to concentrate instead on the more serious cases. Currently, the Department operates ten TVBs: eight in New York City and one each in Rochester and Buffalo.

TVBs are responsible not only for adjudicating non-criminal traffic tickets (e.g., moving violations, equipment violations, bicycle violations), but also for processing conviction fines and traffic ticket surcharges. Unlike fines, surcharges are non-negotiable costs – preset based on the type and date of violation – that cannot be waived. Surcharge amounts have been periodically adjusted over the years as a result of the State budget process. Since July 2013, the surcharge has been \$88 for moving violation tickets and \$58 for equipment violation tickets. Bicycle violations are not assessed surcharges. The Vehicle and Traffic Law imposes a cap on the total amount of surcharge that can be assessed per incident (i.e., traffic stop), currently set at \$196; however, \$28 of the surcharge for each ticket is not subject to this cap. Prior to July 2013, these figures were \$180 and \$20, respectively. During our audit scope period – April 1, 2012 through July 31, 2014 – the Department reported over \$341 million in revenue from the TVBs, including about \$147 million generated from traffic ticket surcharges.

The Department’s Traffic Violation Division (Division) is responsible for managing traffic ticket data and for processing motorists’ pleas and payments. Its data management system is designed to automatically assess surcharges based on the information that is entered from traffic tickets. According to Department officials, the Division’s Data Entry Unit processes approximately 1.2 million traffic tickets annually. The Office of Information Technology Services (ITS) provides support for the Department’s information technology operations, including its data management system.

The Department has issued policies and procedures, both written and informal, to govern the activities of TVB and Division employees when processing traffic violation tickets.

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## Audit Findings and Recommendations

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We analyzed Department data for traffic ticket convictions and payments from April 1, 2012 through July 31, 2014, and determined that overall the Department is consistently accounting for and reporting all traffic ticket surcharge revenue received through the TVBs and the Division. However, we identified areas where the Department can make better use of the data to manage and improve operations.

### Revenue Collection and Reporting

The Department provides the Office of the State Comptroller (OSC) with monthly reports accounting for the traffic ticket surcharge revenue it receives through the TVBs. For this purpose, the Department's Revenue and Accounting Unit (Revenue) prepares journal transfer documents, which are largely based on the data in the Department's data management system.

To determine if the Department accurately recorded and reported all traffic ticket surcharges paid during our audit scope period, we compared the surcharge revenue reported to OSC, as recorded in the journal transfer documents, with that recorded in the Department's data management system. We found the Department accurately accounted for about \$146 million in surcharge revenue received, and properly reported that revenue to OSC, except for double counting revenue for the week of May 27–31, 2013, effectively overstating surcharge revenue by \$965,266.

### Data Management Oversight and Monitoring

The Department processes over 1.2 million tickets annually and, as would be expected, there are incidents in which human error results in improper data entered into the system. We identified several areas where data entry errors resulted in improper surcharge assessments. These occurrences were immaterial, and we brought them to the attention of Department officials.

The data provided to the auditors comprised approximately 2.2 million transactions, and we found the Department overall has done a good job entering traffic ticket data into its system. In the process of validating information, we identified a few areas where the Department could use the available surcharge data to enhance program management and improve operations. For example, Department officials could review system data entries and corrections using "risk-based" methods in order to proactively identify and resolve consistent issues, such as tickets issued for bicycle violations entered into the system with associated surcharge amounts greater than zero dollars. Department officials also could use data analysis or system data reports to identify and correct potential system flaws that could generate data inaccuracies and result in incorrect and improper surcharge assessments. Additionally, they could maintain and analyze data on recurring problems to determine their cause and to take corrective action.

We found the Department doesn't routinely review its data management system as a proactive measure to ensure surcharges are being correctly applied. The system also lacks data validity checks to prevent certain errors. For example, we found:

- negative numbers in the data fields pertaining to amounts paid;
- cases where the system recorded surcharges as paid even though no payment was received for the corresponding ticketed fines; and
- cases where surcharges were reflected as zero, instead of the correct amount required by law.

In addition, the Department does not have a formal process in place for data entry monitoring and oversight. The Department instead takes a reactive approach, typically taking corrective measures after issues are identified.

## Application of the Mandatory Cap on Surcharges

Section 1809 of the Vehicle and Traffic Law establishes a mandatory cap on the extent of the surcharges that can be levied on traffic tickets issued during a single traffic stop. Motorists who are stopped and issued tickets more than once within the same day are only subject to this mandatory surcharge cap for each incident. However, the Department's practice is to apply the mandatory surcharge cap to the sum of all tickets issued to a motorist on the same day, rather than on a per traffic stop basis as required by law. This creates an environment in which State revenue could be lost.

Officials indicate this policy is in place because the system lacks the data necessary to definitively distinguish multiple tickets issued during a single traffic stop from citations issued during different stops on the same day. We found that, although this information is readily available on traffic tickets, the current system is not capturing specific data, such as the time of day that the ticket was written, which could assist in this determination. Even without this time data, however, the existing system should still be able to identify motorists who are issued multiple tickets on the same day by more than one police officer.

Because of these gaps in key data, the Department's traffic ticket data that ITS provided us did not permit a complete analysis necessary to determine the full impact of revenue lost to the State. However, we did perform certain data analysis tests to identify several series of traffic tickets that potentially included surcharges that were improperly capped. From the 2.2 million records we were provided, we identified 1,875,114 unique incidents where a motorist was stopped and ticketed for either moving or equipment violations subject to a surcharge. In 4,126 of these instances, the motorist was stopped and ticketed two or more times by different officers on the same day. In 199 of those cases, the motorist received a total of five or more tickets throughout the day, thereby increasing the risk that the surcharge cap was applied inappropriately.

For example, we identified one motorist who received five moving violation tickets issued by three different officers on the same day in March 2012 – two tickets from each of two officers and one from a third. At the time these tickets were issued, which was before the latest increase in July 2013, the mandatory surcharge cap limit was \$180 and the uncapped surcharge was \$20. As shown in the following table, the Department's system applied the surcharge cap to all of these citations as a single group on a "per day" basis, rather than as three separate groups on a "per incident" basis as the law provides. As a result, the total surcharge applied was limited to \$280.



Assuming these incidents represent three separate traffic stops and based on the surcharge and cap rates in effect at the time, we determined this motorist should have been assessed surcharges totaling \$400. (The surcharge amount subject to the cap for a moving violation was \$60, with an additional mandatory uncapped amount of \$20 per ticket, resulting in a total surcharge amount of \$80 per ticket.)

Traffic Stops in Same Day	Number of Tickets	Per Ticket Surcharge	Total Surcharges	Mandatory Cap Limit	Additional \$20 Surcharge	Total Surcharges Assessed
<b>Statutory Surcharge Cap – Per Incident Basis</b>						
Stop 1	2	\$60	\$120	\$180	\$40 (2 × \$20)	\$160
Stop 2	2	60	120	180	40 (2 × \$20)	160
Stop 3	1	60	60	180	20 (1 × \$20)	80
<b>Total</b>						<b>\$400</b>
<b>Actual Surcharge Cap Applied – Per Day Basis</b>						
Stops 1–3 Combined	5	\$60	\$300	\$180	\$100 (5 × \$20)	<b>\$280</b>

We believe there is a substantial risk that other multiple traffic stops occurring on the same day have also been improperly grouped together, and that the required full surcharge is therefore not being collected as intended in statute. Because of data limitations, we cannot know the full extent of how many incidents were affected by the Department's per day policy. However, our basic data analysis tests readily identified this potential problem area. The Department could improve its own monitoring and managing of the program if it were to perform periodic data analysis of its own to ensure the program is operating effectively, efficiently, and in accordance with the law.

## Recommendations

1. Process appropriate adjustments to correct the \$965,266 in surcharge revenue that was reported twice for May 2013.
2. Develop a more proactive approach to monitoring and analyzing the data management system, including conducting routine system reviews and establishing controls to ensure modifications are working as intended.
3. Analyze system and source documentation (e.g., traffic tickets) for traffic stops that resulted in multiple traffic tickets subject to the surcharge cap to identify and correct any instances where motorists were charged an incorrect surcharge.
4. Work with ITS to implement system and data changes necessary to ensure surcharges are properly and consistently applied.

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## Audit Scope and Methodology

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The objective of our audit was to determine whether the Department accurately assessed, collected, accounted for, and reported all traffic ticket surcharge revenue it received through its TVBs. Our audit covered the period April 1, 2012 through July 31, 2014.

To accomplish our objective, we reviewed pertinent State laws and Department policies and procedures, interviewed pertinent Department officials and employees, and analyzed data for processed traffic violation tickets to evaluate whether the Department assessed the proper surcharges determined by its data management system. We also compared revenue collections with amounts reported to OSC to determine whether the Department reported all collected surcharge revenue. In addition, we interviewed pertinent ITS officials and employees to learn more about the system used to assess, collect, and report surcharge revenue.

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.

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## Authority

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This audit was performed pursuant 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.

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## Reporting Requirements

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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 of it. Officials generally concurred with the report's recommendations and indicated the steps they are taking to implement them.

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 recommendations contained herein, and where the recommendations were not implemented, the reasons why.

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## Contributors to This Report

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**John F. Buyce**, CPA, CIA, CFE, CGFM, Audit Director

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## Division of State Government Accountability

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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

THERESA L. EGAN  
Deputy Commissioner for  
Safety, Consumer Protection,  
and Clean Air



(518) 402-4860

July 15, 2015

Mr. John Buyce, Audit Director  
Office of the State Comptroller  
Division of State Government Accountability  
110 State Street, 11<sup>th</sup> Floor  
Albany, NY 12236

Dear Mr. Buyce:

This letter is in reference to the New York State Comptroller's audit report number 2014-S-26, Department of Motor Vehicles - *Accountability for Traffic Ticket Surcharges*.

We have reviewed the findings and recommendations in the audit report. Please note the following concerning the audit recommendations:

1. Process appropriate adjustments to correct \$965,266 in surcharge revenue that was reported twice for May 2013.

*Response: As identified in the audit, a one-time programmatic error caused Traffic Violations Bureau ("TVB") surcharges and fees to be over reported in the June 2013 Article 2-A transfer. To reconcile this error, an adjustment is planned in the upcoming Article 2-A transfers. DMV plans on incorporating the correction in the annual year end adjustment for FY 2014-2015 which will be reflected in the June 2015 monthly Article 2-A transfer. We had previously advised OSC (Justice Court Fund) of this planned correction and will coordinate with relevant officials on the final adjustment for FY 2014-2015. This action will reconcile the revenue (fines, surcharges and bonds) transferred to the Justice Court Fund as well as the fines distributed to the localities.*

2. Develop a more proactive approach to monitoring and analyzing the data management system including conducting routine system reviews and establishing controls to ensure modifications are working as intended.

*Response: Our Revenue Accounting office has requested ITS to make procedural changes to facilitate compliance with this recommendation. In the meantime, Revenue Accounting adopted new procedures to reconcile all daily to monthly reports of Traffic Violation Bureau receipts to safeguard against any reporting discrepancies such as the one that occurred in June 2013. This reconciliation will provide timely notification of any differences between the two. In addition, a*

[www.dmv.ny.gov](http://www.dmv.ny.gov)

*work order has been submitted to ITS to re-program the reports used for the Article 2-A transfers to prevent the data duplication error from June 2013 from recurring.*

3. Analyze system and source documentation (e.g., traffic tickets) for traffic stops that resulted in multiple traffic tickets subject to the surcharge cap to identify and correct any instances where motorists were charged an incorrect surcharge.

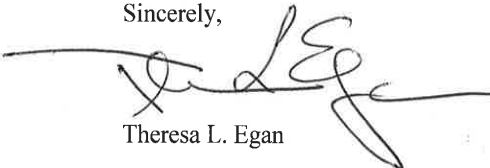
*Response: A programming change implemented on 5/15/2015 enhanced the system by adding a check for same Enforcement Agency number (National Crime Information Center number), same officer and same TVB office on the ticket to better separate incidents for the same motorist on the same day. Traffic Violations Division ("TVD") staff analyzed data provided by OSC covering incidents as far back as 1983 where a motorist was issued multiple tickets in the same day. Out of the 11 examples, 9 were the same incident and capped correctly; 1 was 2 separate officers on 2 stops; and 1 was the same officer for 2 stops. The two officer example has been addressed with the programming changes of 5/15/2015. TVD will continue to work with ITS on a comprehensive solution to include the time of the incident, which will be more easily addressed when NYPD has fully implemented electronic ticketing.*

4. Work with ITS to implement system and data changes necessary to ensure surcharges are properly and consistently applied.

*Response: As issues were identified with the data during the audit, TVD staff worked with ITS staff to submit work orders to correct the data. As of July 1<sup>st</sup>, 6 work orders are still outstanding for correcting data in the database and correcting the programming that created the erroneous data. TVD will continue to work with ITS to proactively monitor our data and transactions for accuracy.*

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,



Theresa L. Egan