

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)

Agency name: Secretary of State, **Bureau of Motor Vehicles**
Umbrella-Unit: **29-250**
Statutory authority: 29-A MRS §§ 153 and 1258
Chapter number/title: **Ch. 3**, Physical, Emotional and Mental Competence to Operate a Motor Vehicle
Filing number: **2023-060**
Effective date: 5/3/2023
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

These rules are being amended to reflect the changes and/or updates in health care, to more closely align them with some recent research on medical conditions and their impact of safe operation of a motor vehicle, and to decrease the burden on drivers, healthcare providers and Bureau of Motor Vehicles staff in reviewing and processing certain medical conditions. They describe the standards to be used by the Secretary of State in determining physical, emotional and mental competence of persons to operate motor vehicles. The rules establish a reporting system that requires persons to submit medical information to the Secretary of State. Persons found incompetent to operate a motor vehicle in accordance with procedures outlined in these rules may have their driving privileges suspended, revoked, or restricted.

The original Fact Sheet filed with the proposed rule incorrectly stated that this was a “repeal and replace” rulemaking; in fact, the BMV is amending its current rules. Details about the changes to the rules are included in the Basis Statement. BMV determined to file an Amended Fact Sheet to more comprehensively reflect the circumstances of this rulemaking.

As a result of comments on the proposed rule, BMV determined to make changes in the Visual Conditions Preamble and Peripheral Vision Table (starting on p. 66 of the adopted rule). Many changes were made to the Exceptional Case review process and requirements. The changes are described in detail in the Basis Statement. BMV further determined that these changes made the rule substantially different than the proposed rule, per 5 MRS 8052(5)(B). As such, on February 22, 2023, the BMV noticed another thirty (30) day comment period, with a deadline to comment of March 24, 2023.

Basis statement:

These rules, first published in 1979 and last repealed and replaced in 2016, describe the standards to be used by the Secretary of State in determining physical, emotional and mental competence of persons to operate motor vehicles. The rules establish a reporting system that requires persons to submit medical information to the Secretary of State. Persons found incompetent to operate a motor vehicle in accordance with procedures outlined in these rules may have their driving privileges suspended, revoked, or restricted. These rules are being amended to reflect the changes and/or updates in health care, to more closely align them with some recent research on medical conditions and their impact of safe operation of a motor vehicle, and to decrease the burden on drivers, healthcare providers and Bureau of Motor Vehicles staff in reviewing and processing certain medical conditions. Changes were also made at the recommendation of the Medical Advisory Board, with consideration given to suggestions from healthcare providers, drivers and the public.

Fiscal impact of rule:

N/A

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Agency name: Secretary of State, **Bureau of Motor Vehicles**
Umbrella-Unit: **29-250**
Statutory authority: 29-A M.R.S.A. §153
Chapter number/title: **Ch. 16**, Rules for the Collection of Driver's License Reinstatement Fees
Filing number: **2023-120**
Effective date: 9/6/2023
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

These rules implement the provisions of 29-A M.R.S.A. §§2472(7) and 2486, which require the Secretary of State to collect a reinstatement fee prior to the termination of a suspension or revocation and subsequent reinstatement of a driver's license. These rules establish the definition of reinstatement and procedures for calculating and collecting reinstatement fees, in order to ensure consistency in agency practice and reduce administrative fiscal penalties.

Basis statement:

These rules implement the provisions of 29-A M.R.S.A. §§2472(7) and 2486, which require the Secretary of State to collect a reinstatement fee prior to the termination of a suspension or revocation and subsequent reinstatement of a driver's license. These rules establish the definition of reinstatement and procedures for calculating and collecting reinstatement fees, in order to ensure consistency in agency practice and reduce administrative fiscal penalties.

The rules identify the process for assessing the total reinstatement fee due and clarify other reinstatement fee procedures pursuant to statutory requirements.

Careful consideration was given to the purpose and nature of the reinstatement of a driver's license in order to charge appropriate fees and allow for the reinstatement of driver's licenses for customers who have met their statutory obligations.

Although the adopted rule will be filed on August 2, 2023, the agency has determined that the rule will become effective on September 6, 2023, not five days after filing per the default provision in 5 MRS § 8052(6). The agency finds that this additional time is necessary to allow for smooth implementation of the administrative changes that will be involved in changing the collection of reinstatement fees, including computer system modifications and staff training.

Fiscal impact of rule:

None.

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Agency name: Secretary of State, **Bureau of Motor Vehicles**
Umbrella-Unit: **29-250**
Statutory authority: 29-A M.R.S.A. §651-A
Chapter number/title: **Ch. 101**, Electronic Lien Titling Program
Filing number: **2023-195**
Effective date: 10/30/2023
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

29-A M.R.S.A. §651-A allows the Secretary of State, Bureau of Motor Vehicles to operate an electronic system for maintaining vehicle lien and title information. The Bureau of Motor Vehicles has created this system, known as the Electronic Lien Titling Program (“ELT”), which allows ELT Lienholders to perform select title transactions through a computerized interface. Because of the considerable costs involved if the Bureau were to create a stable and secure computerized interface with individual ELT Lienholders, the Bureau has decided to enter into a MOU with third party ELT Service Providers. The ELT Service Providers will be responsible for establishing a computerized interface between BMV and ELT Lienholders. If ELT Lienholders wish to use the ELT, they must engage the services of an ELT Service Provider.

As per §651-A, participation in the program is optional for ELT Lienholders.

The proposed Rule stipulates requirements for enrolling in the program as required by statute. Additionally, the Rule outlines expectations for participants regarding work to be performed, future development, and privacy.

Basis statement:

This Rule implements 29-A M.R.S.A. §651-A, which authorizes the Secretary of State to use, but not require the use of, an Electronic Lien Titling Program (ELT) for maintaining vehicle lien and title information. As per §651-A, the Rule specifies participation in the program is optional for ELT Lienholders and describes the requirements for enrolling in the program. Additionally, the Rule outlines expectations for ELT participants regarding work to be performed, future development, and privacy.

At present, nearly every step of the vehicle titling process in Maine—from a customer mailing in an application to the Bureau of Motor Vehicles issuing a certificate of title—relies on paper documents. These paper-based processes are slower and more labor intensive than their electronic counterparts. Developing an Electronic Lien Titling Program is the Bureau of Motor Vehicles’ first step toward creating an efficient electronic system for maintaining vehicle title records.

Because of the considerable costs involved if the Bureau were to create a stable and secure computerized interface with individual ELT Lienholders, the Bureau has decided to enter into a MOU with third party ELT Service Providers. The ELT Service Providers will be responsible for establishing a computerized interface between BMV and ELT Lienholders. If ELT Lienholders wish to use the ELT, they must engage the services of an ELT Service Provider.

In summary, the Bureau of Motor Vehicles is adopting this Rule to implement 29-A M.R.S.A §651-A and develop a more efficient vehicle titling system.

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Fiscal impact of rule:

The BMV is not imposing new or additional fees on ELT participants. Further, there will be no payments from the BMV to the ELT Service Providers under the MOUs. BMV anticipates that the ELT Service Providers may charge fees to ELT Lienholders for use of the technology. As such, there is no fiscal impact on the Bureau of Motor Vehicles

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Agency name: Secretary of State, **Bureau of Motor Vehicles**
Umbrella-Unit: **29-250**
Statutory authority: 29-A MRS § 1113(14)
Chapter number/title: **Ch. 173**, Rules for the Sale, Purchase, Removal, Transport, and Disposal of Catalytic Converters
Filing number: **2023-057**
Effective date: 4/17/2023
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

This rule implements 29-A M.R.S.A. §1113, subsection 14, which requires the Secretary of State to set forth a process for an individual to request a vehicle identification number for a catalytic converter be assigned for a catalytic converter whose vehicle identification number cannot be identified or that the catalytic converter is too damaged to mark in a manner that is permanent and legible.

Basis statement:

This rule implements 29-A M.R.S.A. §1113, subsection 14, which requires the Secretary of State to set forth a process for an individual to request a vehicle identification number for a catalytic converter whose vehicle identification number cannot be identified or that the catalytic converter is too damaged to mark in a manner that is permanent and legible.

Careful consideration was given to the development of adequate processes for the individuals, recyclers, and scrap metal dealers.

This rule is adopted in the interest of advancing public safety, peace, and civility.

Fiscal impact of rule:

None.

Annual List of Rulemaking Activity
Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)

Agency name: Secretary of State, **Bureau of Corporations, Elections and Commissions**
Umbrella-Unit: **29-250**
Statutory authority: Title 4, section 1928 and Title 4, section 1915(13)- (Revised Uniform Law on Notarial Acts)
Chapter number/title: **Ch. 700**, Rules Governing Notaries Public, Notarial Officers, Notarial Acts and the Procedures for Electronic and Remote Notarization
Filing number: **2023-101**
Effective date: 7/5/2023
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

The rule will govern notaries public, notarial officers and notarial acts including establishing the standards and procedures for electronic and remote notarization pursuant to the Revised Uniform Law on Notarial Acts. This emergency rule will repeal and replace the current notary rule (chapter 700).

The Revised Uniform Law on Notarial Acts (RULONA) was effective on July 1, 2023, which was a Saturday, and granted the Secretary of State authority to adopt new administrative rules. As a result of comments made on the proposed rules, the Secretary of State determined that there were substantial changes needed to be made to the proposed rules (chapter 700). Therefore, to have rules in place for the adoption of the new law, we are filing these emergency rules to be effective on July 5, 2023.

Basis statement:

The Revised Uniform Law on Notarial Acts (RULON A) became effective on July 1, 2023. The rule is necessary to implement all aspects of RULON A, including changed qualifications for notaries public and an approval process by the Secretary of State for technologies for electronic and remote notarization. It will also establish the standards and procedures for electronic and remote notarization. This emergency rule will repeal and replace the current notary rule (chapter 700).

Fiscal impact of rule:

N/A

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Agency name: Secretary of State, **Bureau of Corporations, Elections and Commissions**
Umbrella-Unit: **29-250**
Statutory authority: Title 4, section 1928 and Title 4, section 1915(13)- (Revised Uniform Law on Notarial Acts)
Chapter number/title: **Ch. 700**, Rules Governing Notaries Public, Notarial Officers, Notarial Acts and the Procedures for Electronic and Remote Notarization
Filing number: **2023-184**
Effective date: 10/2/2023
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule will govern notaries public, notarial officers and notarial acts including establishing the standards and procedures for electronic and remote notarization pursuant to the Revised Uniform Law on Notarial Acts. This new rule will replace the current notary rule (chapter 700).

Basis statement:

The Revised Uniform Law on Notarial Acts (RULONA) became effective on July 1, 2023. The rule is necessary to implement all aspects of RULONA, including changed qualifications for notaries public and an approval process by the Secretary of State for technologies for electronic and remote notarization. It will also establish the standards and procedures for electronic and remote notarization. This rule will repeal and replace the current emergency rule that was effective on July 5, 2023 (chapter 700).

Fiscal impact of rule:

No fiscal impact expected.

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Agency name: Secretary of State, **Bureau of Corporations, Elections and Commissions**
Umbrella-Unit: **29-250**
Statutory authority: Title 5, section 90-G
Chapter number/title: **Ch. 720**, Rules Governing the Licensing of Marriage Officiants who are Authorized to Solemnize Marriages in Maine
Filing number: **2023-102**
Effective date: 7/5/2023
Type of rule: Routine Technical
Emergency rule: Yes

Principal reason or purpose for rule:

The new law governing the licensing of marriage officiants, Title 5, section 90-G, who are thereby authorized to solemnize marriages in Maine pursuant to Title 19-A, chapter 23.

The new law for marriage officiants was effective on July 1, 2023, which was a Saturday, and granted the Secretary of State authority to adopt new administrative rules. As a result of comments made on the proposed rules, the Secretary of State determined that there were substantial changes needed to be made to the proposed rules (chapter 720). Therefore, to have rules in place for the adoption of the new law, we are filing these emergency rules to be effective on July 5, 2023.

Basis statement:

The new law governing the licensing of marriage officiants, Title 5, section 90-G, who are thereby authorized to solemnize marriages in Maine pursuant to Title 19-A, chapter 23, became effective on July 1, 2023. The rule is necessary to implement all aspects of this new law, including the qualifications and the licensing of marriage officiants. This emergency rule will adopt a new marriage officiant rule (chapter 720).

Fiscal impact of rule:

N/A

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Agency name: Secretary of State, **Bureau of Corporations, Elections and Commissions**
Umbrella-Unit: **29-250**
Statutory authority: Title 5, section 90-G
Chapter number/title: **Ch. 720**, Rules Governing the Licensing of Marriage Officiants who are Authorized to Solemnize Marriages in Maine
Filing number: **2023-185**
Effective date: 10/2/2023
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

The rule will govern the licensing of marriage officiants pursuant to Title 5, section 90-G who are thereby authorized to solemnize marriages in Maine pursuant to Title 19-A, chapter 23.

The new law for marriage officiants was effective on July 1, 2023, which was a Saturday, and granted the Secretary of State authority to adopt administrative rules. As a result of comments made on the first round of proposed rules, the Secretary of State determined that there were substantial changes that needed to be made to the proposed rules (chapter 720). Therefore, emergency rules were put in place to be effective on July 5, 2023. The proposed rules were made available for a second round of public comment with a comment deadline of August 28, 2023.

Basis statement:

The rule will govern the licensing of marriage officiants pursuant to Title 5, section 90-G who are thereby authorized to solemnize marriages in Maine pursuant to Title 19-A, chapter 23.

The new law for marriage officiants was effective on July 1, 2023. This rule is necessary to implement all aspects of the licensing of marriage officiants by the Secretary of State. This rule will repeal and replace the current emergency rule that was effective on July 5, 2023 (chapter 720).

Fiscal impact of rule:

N/A

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Rules Adopted January 1, 2023 to December 31, 2023
Prepared by the Secretary of State pursuant to 5 MRS §8053-A(5)

Agency name: Secretary of State, **Maine State Archives**
Umbrella-Unit: **29-255**
Statutory authority: 5 MRSA, Chapter 6, §95-C, sub-1
Chapter number/title: **Ch. 2**, State Records Center Facilities and Services
Filing number: **2023-108**
Effective date: 7/17/2023
Type of rule: Routine Technical
Emergency rule: No

Principal reason or purpose for rule:

Statutory authority for this Rule is 5 MRSA, Chapter 6, §95-C, sub-1. The State Records Center now falls under Records Management. Changes in Chapter 2 reflect those changes.

Basis statement:

Statutory authority for this Rule is 5 MRSA, Chapter 6, §95-C, sub-1. The State Records Center now falls under Records Management. Changes in Chapter 2 reflect those changes.

CHAPTER 2 - STATE RECORDS CENTER FACILITIES AND SERVICES. This rule prescribes policies, standards, and procedures to govern the custody, use and withdrawal of agency records transferred to State Records Center facilities. The rule may be amended to comply with law and policy changes.

Fiscal impact of rule:

None.