NOTARY NOTES

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Your Duties When Notarizing

The Revised Uniform Law on Notarial Acts (RULONA) provides direction regarding your duties when performing notarial acts.

- **Section 304: Authority to perform notarial act**
- **Section 305: Requirements for certain notarial acts**
- **Section 308: Authority to refuse to perform a notarial act**
- **Section 329.1: Fees of notaries public**

Section 304: Authority to perform notarial act – As a "notarial officer" (a notary or other individual, such as a judge, who is authorized to perform notarial acts), you may act with the authority given to you by RULONA or by other laws. You are prohibited from notarizing records in which you or your spouse has a direct or financial interest.

No direct or financial interest is indicated if:

- You or your spouse is a shareholder in a publicly traded company involved in the transaction
- You or your spouse is an officer, director or employee of a company involved in the transaction, as long as you or your spouse do not personally benefit from the transaction
- You or your spouse receive a fee that is not contingent on completing the notarization

Section 305: Requirements for certain notarial acts – This section requires you to determine from personal knowledge or satisfactory evidence of identity that the customer appearing before you has the identity claimed and that the signature on the record is the customer's signature. On an acknowledgment, the customer must state that the signature on the record is his or her signature; on a verification on oath or affirmation or on a signature witnessing, you must see the customer sign the record. To certify a copy, you only need to determine that the copy is a complete and accurate transcription or reproduction of the record.

Section 308: Authority to refuse to perform a notarial act – Deciding whether to refuse service depends on your reasonable assessment of the situation. RULONA gives you specific guidance on when it is appropriate to refuse service.

You may refuse service if you are NOT satisfied that:

- The customer is competent and has the capacity to sign the record
- The customer is signing the record knowingly and voluntarily
- The customer's signature on the record substantially conforms to the customer's signature on his or her ID
- The customer's physical appearance substantially conforms to the photograph on his or her ID

Section 329.1: Fees of notaries public – The Department fixes notarial fees by regulation. You cannot charge or receive a fee in excess of the amount specified by the Department for the notarial act. Notarial fees must be stated separately from any administrative or clerical fees you may charge.

Unless you choose to waive the fee, you must display your fees in a conspicuous location or provide a list of fees, on request, to the customer.

Notary fees belong to you, not your employer, unless you agree on how fees will be handled in advance.

Prohibited Acts and Sanctions

The Revised Uniform Law on Notarial Acts (RULONA) gives the Department of State broad authority to impose sanctions on notaries.

- **Section 323: Sanctions**
- **Section 325: Prohibited Acts**
- **Section 326: Validity of Notarial Acts**
- **Section 327: Regulations**

Section 323: Sanctions – If you act in ways that show you lack the honesty, integrity, competence or reliability to be a notary public, the Department may deny, refuse to renew, revoke, suspend, reprimand, or impose a condition on your commission. The Department may impose an administrative penalty of up to $1,000 on a notary for each violation of RULONA, or on any individual who performs a notarial act without a commission. Pretending to be a notary or using a notary's official stamp constitutes the crime of impersonating a notary and is subject to penalties under the Crimes Code, 18 Pa.C.S. §4913. A criminal conviction for violating RULONA or Department regulations carries a fine of not more than $1,000.

Section 325: Prohibited Acts – A commission as a notary public does not authorize you to practice law. Unless you are also an attorney, you cannot draft legal records, give legal advice, act as an immigration consultant, represent a person in matters relating to immigration, or receive compensation for doing so. You are prohibited from engaging in false or deceptive advertising. You cannot use the term "*notario*," or "*notario publico*." If you advertise your notarial services, orally or through broadcast, print or internet media, you must include a disclaimer that you are not an attorney, cannot practice law, and cannot charge fees for those services. If the disclaimer is not included, it should be displayed prominently at your place of business.

Section 326: Validity of Notarial Acts – If you fail to perform a duty or meet a requirement specified in RULONA, your notarial acts are not invalidated by the failure. However, your customer may seek to invalidate the record or pursue other remedies based on federal or state laws other than RULONA. This section does not validate acts performed by an individual who does not have the authority to perform notarial acts.

Section 327: Regulations – This section gives the Department the authority to put regulations in place to implement RULONA. In setting regulations, the Department is directed to consider the notarial standards, practices and customs recommended or adopted by national organizations, other states, and public and private stakeholders.

Disciplinary Actions

The following disciplinary action was taken by the Pennsylvania Department of State in November 2022:

Jefferson County

A notary permanently and voluntarily surrendered her notary commission because she failed to require the individual executing the signature on a record to personally appear before her and notarized the signature. She also failed to maintain a notarial journal at all times.

ATTENTION MEMBERS!

We want to share your unique stories about why you became a notary! Whether you became a notary for an employer, to help the public, or just for fun, your story is important to us and deserves recognition.

Visit PAN's Blog to find out how you can be spotlighted in a future issue of ***Notary Notes***.

Does Your Notary Commission Expire in the Next Six Months?

Don't Delay! Get Started on Your Reappointment Today.

Start the process now to ensure your reappointment is on time. Renew online at www.notary.org. Just click on the link "Renew Your Notary" on our home page for details.

The Basics of Keeping a Notary Journal

Aside from failing to require personal appearance and properly identify customers, the most common reason for disciplinary action against a notary is failing to keep a notary journal. The Department of State's first request when investigating a complaint against a notary is to see the notary's journal.

You must have a journal. The journal:

- ✓ Must contain all notarial acts in chronological order.
- ✓ May be on paper or in electronic form.
  - If paper, the journal must be bound, with numbered pages and entries.
  - If electronic, the journal must be in "tamper-evident" format.

You may keep a separate journal for paper and electronic transactions.

You must make a journal entry at the time you perform the notarial act and must contain:

- ✓ The date and time of the notarial act.
- ✓ A description of the record and type of notarial act.
- ✓ The full name and address of each individual for whom the notarial act is performed.
- ✓ If the identity of the individual is based on personal knowledge, a statement to that effect.
- ✓ If the identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification presented, including the dates of issuance and expiration.
- ✓ The notary fee charged. Clerical and administrative fees must be noted separately. If no fee is charged, the notary must note that fact. Do not leave the fee space blank.

An example of a completed notary journal is shown on the Department's web site.

You are required to notify the Department within 15 days on discovering that a journal is lost or stolen. A form to report the loss of a journal is also available on the Department's web site.

You must give a certified copy of the journal to any individual requesting it. To make a certified copy of an entry in the journal, copy the requested page(s) and attach a certificate stating, "*I certify that this is a true and correct copy from my official journal in my possession.*" The certified copy should be a photocopy of the entire journal page(s) containing the entry or entries in question.

A journal is the exclusive property of the notary, may not be used by any person other than the notary, and may not be surrendered to an employer upon termination of employment. You may provide a certified copy of your journal to your employer, if requested, when you leave the employer.

Tips For Visually Verifying ID For Motor Vehicle Transactions

Only the five forms of identification on the "Acceptable Proof of Identification Documents for Completing Motor Vehicle Forms" fact sheet are acceptable for an agent to verify the identity of a person completing motor vehicle forms:

- PA photo driver's license OR photo-exempt driver's license
- PA photo ID card OR photo-exempt ID card
- Military Common Access Card (Dependents use DD-1173)

Passports and International Driver's Licenses are not acceptable.

Agents are required to examine and analyze the identification credential for the purposes of validation. Read the physical description and compare it to the photo and to the customer.

Some examples of the items agents should be examining on a driver's license or photo ID card are: the presences of holographic image(s) on the front of the card, visible when the card is tilted; the presence and alignment of a three-digit code number overlapping the upper left corner of the bearer's photo; matching primary and secondary photos; and a signature appearing above the secondary photo.

Agents should also examine the reverse side of the identification credential. Read the information listed. There should not be any reference to "non-government issued" or other such language.

Pull out your driver's license or photo identification card and compare it to the identification credential presented to you. This will assist you in determining the validity of the product. Errors or differences may indicate the customer's ID is invalid or unreliable.

The name listed on the identification credential must be the name listed on the motor vehicle application. Put another way, the name on the application must match the name on the ID.

If you are not sure of the validity of the ID credential, do not process the title/registration application. If possible, send a copy of the ID to PennDOT's Office of Risk Management.

Form ORM-1DL –
Fraudulent Misuse of ID/Driver's License Credentials

Form ORM-1VR –
Fraudulent Misuse of Motor Vehicle Credentials

Documentary Fee Increase for 2023

A motor vehicle dealer may charge a negotiable documentary fee ("doc fee") to prepare and complete title and registration paperwork, to collect and submit taxes, to prepare any other information associated with titling and registering a vehicle, and to comply with federal and state laws and regulations relating to the privacy and safeguarding of customer information requirements, providing financial services to the customer and preparation and retrieval of documents.

On January 12, 2023, the maximum allowable documentary fee increased to $374 for processing titlework manually and $449 for processing titlework online.

The documentary fee is non-taxable; may be excluded from a dealer's advertised price for the sale of a vehicle; is a negotiable item, so the actual dollar amount may not be pre-printed on the buyer's order; is a dealer-imposed charge, not a state-mandated fee; and must be disclosed on a sign in the dealership.

The documentary fee will continue to be adjusted annually in accordance with the Federal Consumer Price Index. If a dealership's documentary fee exceeds the permissible charge, the Attorney General's Office may consider the charge to be deceptive as to what services are being performed and may find the charge subject to enforcement action.

Titling and Registering All Terrain Vehicles

Titling and registration fees for All Terrain Vehicles (ATVs) go toward funding, maintaining trails, and providing grants to develop additional riding opportunities in Pennsylvania.

TITLES

ATVs in Pennsylvania must have a title issued by the Department of Conservation and Natural Resources (DCNR). The cost of a title is $22.50.

REGISTRATION

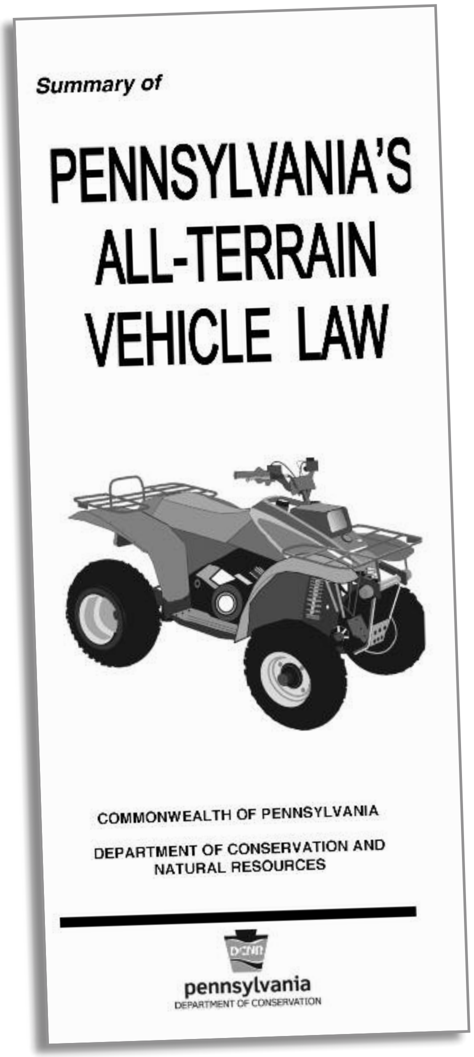
There are two types of registration for Pennsylvania residents owning and intending to use their ATV in the state (except ATVs used exclusively as farm or business vehicles).

General Registration This registration permits the machine to be operated off the owner or operator's private property. The registration fee is $20 for two years. The owner is provided with a registration plate, an expiration sticker and a Certificate of Registration wallet card.

Limited Registration This registration is for machines used exclusively on the property of the owner. There is no fee and the registration does not expire. The owner is provided with a registration plate and a card, but no expiration sticker.

Applications for registration of ATVs are available from the DCNR's Snowmobile and ATV Registration Section, from ATV dealers, or on the DCNR web site here.

A summary of Pennsylvania's ATV law is available from the DCNR ELibrary here.



Driver License Data Verification FAQs

To enhance the verification process of drivers' licenses and identification cards presented for title and registration transactions, the Pennsylvania Department of Transportation (PennDOT) implemented the Driver's License Data Verification (DLDV) system in 2022. The DLDV process requires the business partner to use a new system tool to electronically verify the PennDOT DL/ID product against the PennDOT record.

Only Pennsylvania identification credentials are verified through the DLDV process. Out-of-state DL/ID should be visually verified and a copy of the front and back should be submitted with the paperwork.

Are all Dealers, Agents, and Auctions required to verify the identification?

All business partners involved with title and registration transactions will be required to use the verification of identity system and process regardless of online status. Failure to sign up will result in PennDOT suspending the business partner's contract.

When should I run the DLDV verification?

A DLDV verification is required to be run for every titling and/or registration transaction. A copy of the verification MUST be included with the supporting documentation sent to PennDOT with each transaction.

What transactions should I run a DLDV verification for?

Mandatory transactions are: title, registration, reconstructed title, change owner, or change/delete/add lessee.

Also, whenever you collected a copy of a DL/ID prior to DLDV mandatory verification should now be verified through DLDV.

Do I need to continue to send a copy of physical identification with the printed report?

Yes. A copy of the front and back of the provided identification is still required for all transactions. The printed DLDV verification is an additional requirement to paperwork submission.

What happens if the DLDV verification comes back as invalid?

The transaction cannot be processed. The agent should contact the DLDV Help Desk for possible resolution. If the issue cannot be resolved, the customer will be responsible for correcting their invalid status directly with PennDOT.

DLDV Help Desk
Phone: 717-346-1893
Email address: RA-PDDLDVHELPDESK@PA.GOV

What if the customer presents a Driver's License that does not list the most current address?

The customer's address is not a field which is validated by the DLDV verification. The verification will still process without the current address; however, in accordance with processing guidelines, if the correct address does not appear on the Pennsylvania identification credentials, the applicant must provide the agent with a Driver's License Update Card. If the applicant does not have updated credentials, they must obtain an Update Card prior to the agent completing the application for title and/or registration.

If I haven't signed up for the DLDV program, who should I contact?

A list of approved integrators is on PennDOT's web site here.

Notary Notes is a publication of the Pennsylvania Association of Notaries (PAN), One Gateway Center, Suite 401, 420 Fort Duquesne Boulevard, Pittsburgh, PA 15222-1498, for distribution to members of the Association.

About PAN

Founded in 1955, PAN is America's first notary association, dedicated to helping notaries serve the public with confidence. Our commitment is to you and to your success as an appointed official of the Commonwealth. Let us know how we can serve you better. If you have a question or comment, call PAN at 800-944-8790 or send an email to PAN@notary.org.

Visit us on the web at www.notary.org and follow us on Facebook, Twitter, LinkedIn, Instagram and YouTube.

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