§ 201. Custody of records. 1. Documents. The commissioner may destroy:

(a) any application, including supporting documents, for registration and/or title of a motor vehicle or trailer, other than an application for renewal of registration, or any notice of a lien on a motor vehicle or trailer, after such application shall have been on file for a period of five years;

(b) any application for renewal of a registration which results in the issuance of a registration renewal of any motor vehicle or trailer, upon entry of an electronic record of renewal on the files;

(c) any application for a driver's license, including any document required to be filed with any such application, after such application shall have been on file for a period of five years;

(d) any application, including supporting documents, for the registration, other than a renewal of a registration, of a snowmobile after such application shall have been on file for a period of two years;

(e) any application for renewal of a registration which results in the issuance of a registration renewal for any snowmobile, upon the expiration of the registration renewal issued;

(f) any application, including supporting documents, for registration and/or title of a motorboat, other than an application for renewal of registration, or any notice of a lien on a motorboat after such application shall have been on file for a period of four years;

(g) any application for renewal of a registration which results in the issuance of a registration renewal for any motorboat, upon the expiration of the registration renewal issued;

(h) any application, including supporting documents relating to ownership, for any other registration, license or certificate issued under this chapter and not specifically otherwise provided for in this subdivision, after such application shall have been on file for a period of five years;

(i) (i) any accident reports filed with the commissioner, conviction certificates, police reports, complaints, satisfied judgment records, closed suspension and revocation orders, hearing records, other than audio tape recordings of hearings, significant correspondence relating to any of the same, and any other record on file after remaining on file for four years except that if the commissioner shall receive, during the

last year of such period of four years, written notice to retain one or more of such papers or documents, the same shall be retained for another four years in addition to said period of four years. The provisions of this paragraph shall not apply to certificates of conviction filed with respect to convictions which affect sentencing or administrative action required by law beyond such four year period. Such certificates may be destroyed after they have no legal effect on sentencing or administrative action;

(ii)(A) Notwithstanding the provisions of subparagraph (i) of this paragraph, the commissioner may destroy any conviction certificates and closed suspension and revocation orders after remaining on file for:

(1) fifty-five years where the conviction and suspension or revocation order relates to a conviction, suspension or revocation by the holder of any driver's license when operating a commercial motor vehicle, as defined in subdivision four of section five hundred one-a of this chapter, or by the holder of a commercial driver's license or commercial learner's permit when operating any motor vehicle, who: has refused to submit to a chemical test pursuant to section eleven hundred ninety-four of this chapter or has been convicted of any of the following offenses: any violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this chapter, any violation of subdivision one or two of section six hundred of this chapter, any felony involving the use of a motor vehicle, other than the use of a motor vehicle in the commission of a felony involving manufacturing, distributing, dispensing a controlled substance; or the conviction, suspension or revocation involves any of the following offenses while operating a commercial motor vehicle: any violation of subdivision five or six of section eleven hundred ninety-two of this chapter, driving a commercial motor vehicle when as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license or commercial learner's permit is suspended or revoked, or has been convicted of causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular manslaughter and criminally negligent homicide as set forth in article one hundred twenty-five of the penal law;

(2) fifteen years for violating an out of service order as provided for in the rules and regulations of the department of transportation

while operating a commercial motor vehicle.

(B) Any conviction arising out of the use of a motor vehicle in the commission of a felony involving manufacturing, distributing, or dispensing a controlled substance shall never be destroyed.

(C) The provisions of this subparagraph shall only apply to records requested by a state, the United States secretary of transportation, the person who is the subject of the record, or a motor carrier who employs or who prospectively may employ the person who is the subject of the record.

(j) audio tape recordings of hearings, two years after such hearing; provided, however, that audio tape recordings of hearings held pursuant to section two hundred twenty-seven of this chapter may be destroyed ninety days after a determination has been made as prescribed in such section.

(k) any records, including any reproductions or electronically created images of such records and including any records received by the commissioner from a court pursuant to paragraph (c) of subdivision ten of section eleven hundred ninety-two of this chapter or section forty-nine-b of the navigation law, relating to a finding of a violation of section eleven hundred ninety-two-a of this chapter or a waiver of the right to a hearing under section eleven hundred ninety-four-a of this chapter or a finding of a refusal following a hearing conducted pursuant to subdivision three of section eleven hundred ninety-four-a of this chapter or a finding of a violation of section forty-nine-b of the navigation law or a waiver of the right to a hearing or a finding of refusal following a hearing conducted pursuant to such section, after remaining on file for three years after such finding or entry of such waiver or refusal or until the person that is found to have violated such section reaches the age of twenty-one, whichever is the greater period of time. Upon the expiration of the period for destruction of records pursuant to this paragraph, the entirety of the proceedings concerning the violation or alleged violation of such section eleven hundred ninety-two-a of this chapter or such section forty-nine-b of the navigation law, from the initial stop and detention of the operator to the entering of a finding and imposition of sanctions pursuant to any subdivision of section eleven hundred ninety-four-a of this chapter or of section forty-nine-b of the navigation law shall be deemed a nullity,

and the operator shall be restored, in contemplation of law, to the status he occupied before the initial stop and prosecution.

2. Reproduction of documents by commissioner. The provisions of subdivision one of this section shall not prevent the commissioner from reproducing a copy of any document specified in that subdivision or from electronically creating and storing an image of any documents maintained by the department. Such image or reproduction may be designated as the official departmental record. The original document may be destroyed after such reproduction or image has been made and filed and the destruction of the reproduction or image shall be governed by the provisions of subdivision one of this section.

3. Electronically or mechanically stored records. Any electronically or mechanically stored record relating to:

(a) certificates of title shall be retained for a period of seven years from the date of the issuance of the title plus an additional three consecutive years of inactivity regarding the titled vehicle;

(b) liens and satisfaction of liens shall be retained for one year from the date of satisfaction;

(c) renewal of the registration of any motor vehicle or trailer shall be retained for a period of one year from the date of expiration of the registration issued;

(d) driver's licenses shall be retained for a period of two years from the date of expiration of the last driver's license issued;

(e) registrations, licenses, or certificates not otherwise provided for in this subdivision shall be retained for a period of one year from the date of expiration of the last registration, license or certificate;

(f) documents specified in paragraph (i) of subdivision one of this section shall be retained until the document itself may be destroyed.

4. Whenever any document referred to in subdivision one of this section shall have been destroyed, a document produced from the surviving electronically or mechanically stored data record shall be considered the original record of such document.

5. Whenever any document referred to in subdivision one of this

section or any record retained in subdivision three of this section has been retained beyond the required retention period of such document or record, the document or record shall not be a public record; and, to the extent that any document referred to in paragraph (k) of subdivision one of this section has not been destroyed at the expiration of the retention period set forth therein, such document shall be deemed destroyed as a matter of law for all purposes upon the expiration of the retention period.

6. Whenever any document referred to in subdivision one of this section is filed with this department when it is not required to be filed and is used by this department for no other purposes, other than for statistics or research, the document shall not be a public record. Provided, however, that an accident report filed with this department when it is not required to be filed shall not be a public record except as follows: for use by the state or any political subdivision thereof for no other purposes other than for statistics or research relating to highway safety; for any lawful purpose by a person to whom such report pertains or named in such report, or his or her authorized representative; and, for use by any other person, or his or her authorized representative, who has demonstrated to the satisfaction of the commissioner that such person is or may be a party to a civil action arising out of the conduct described in such accident report.

7. Where a judge or magistrate reports a license suspension or revocation to the commissioner, following a youthful offender determination, as is required by section five hundred thirteen of this chapter, the commissioner shall not make available the finding of the court of youthful offender status to any person, or public or private agency.

8. Any portion of any record retained by the commissioner in relation to a non-commercial driver's license or learner's permit application or renewal application that contains the photo image or identifies the social security number, telephone number, place of birth, country of origin, place of employment, school or educational institution attended, source of income, status as a recipient of public benefits, the customer

identification number associated with a public utilities account, medical information or disability information of the holder of, or applicant for, such license or permit is not a public record and shall not be disclosed in response to any request for records except: (a) to the person who is the subject of such records; or (b) where expressly required pursuant to chapter three hundred three of part A of subtitle vi of title forty-nine of the United States code; or (c) where necessary to comply with a lawful court order, judicial warrant signed by a judge appointed pursuant to article III of the United States constitution, or subpoena for individual records issued pursuant to the criminal procedure law or the civil practice law and rules.

9. The commissioner shall not disclose or otherwise make accessible original documents or copies of documents collected from non-commercial driver's license or learner's permit applicants or renewal applicants to prove identity, age, or fitness except: (a) to the person who is the subject of such documents; or (b) where expressly required pursuant to chapter three hundred three of part A of subtitle vi of title forty-nine of the United States code; or (c) unless necessary to comply with a lawful court order, judicial warrant signed by a judge appointed pursuant to article III of the United States constitution, or subpoena for individual records properly issued pursuant to the criminal procedure law or the civil practice law and rules.

10. The commissioner shall not disclose or otherwise make accessible any portion of any record that identifies whether the type of driver's license or learner's permit that a person holds either meets federal standards for identification or does not meet federal standards for identification except: (a) to the person who is the subject of such record; or (b) where expressly required pursuant to chapter three hundred three of part A of subtitle vi of title forty-nine of the United States code; or (c) unless necessary to comply with a lawful court order, judicial warrant signed by a judge appointed pursuant to article III of the United States constitution, or subpoena for individual records properly issued pursuant to the criminal procedure law or the civil practice law and rules.

11. For the purposes of this section, whenever a lawful court order, judicial warrant, or subpoena for individual records properly issued pursuant to the criminal procedure law or the civil practice law and rules is presented to the commissioner, only those records, documents, or information specifically sought by such court order, warrant, or subpoena may be disclosed.

12. (a) Except as required for the commissioner to issue or renew a driver's license or learner's permit that meets federal standards for identification, as necessary for an individual seeking acceptance into a trusted traveler program, or to facilitate vehicle imports and/or exports, the commissioner, and any agent or employee of the commissioner, shall not disclose or make accessible in any manner records or information that he or she maintains, to any agency that primarily enforces immigration law or to any employee or agent of such agency, unless the commissioner is presented with a lawful court order or judicial warrant signed by a judge appointed pursuant to article III of the United States constitution. Upon receiving a request for such records or information from an agency that primarily enforces immigration law, the commissioner shall, no later than three days after such request, notify the individual about whom such information was requested, informing such individual of the request and the identity of the agency that made such request.

(b) The commissioner shall require any person or entity that receives or has access to records or information from the department to certify to the commissioner, before such receipt or access, that such person or entity shall not (i) use such records or information for civil immigration purposes or (ii) disclose such records or information to any agency that primarily enforces immigration law or to any employee or agent of any such agency unless such disclosure is pursuant to a cooperative arrangement between city, state and federal agencies which arrangement does not enforce immigration law and which disclosure is limited to the specific records or information being sought pursuant to such arrangement. Violation of such certification shall be a class E felony. In addition to any records required to be kept pursuant to subdivision (c) of section 2721 of title 18 of the United States code, any person or entity certifying pursuant to this paragraph shall keep

for a period of five years records of all uses and identifying each person or entity that primarily enforces immigration law that received department records or information from such certifying person or entity. Such records shall be maintained in a manner and form prescribed by the commissioner and shall be available for inspection by the commissioner or his or her designee upon his or her request.

(c) For purposes of this subdivision, the term "agency that primarily enforces immigration law" shall include, but not be limited to, United States immigration and customs enforcement and United States customs and border protection, and any successor agencies having similar duties. Failure to maintain records as required by this subdivision shall be a class E felony.