

DISTRICT OF COLUMBIA  
DEPARTMENT OF MOTOR VEHICLESNOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Motor Vehicles ("DMV"), pursuant to the authority set forth in Section 1825 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code § 50-904); § 6 of the District of Columbia Traffic Act of 1925, effective March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03); and Mayor's Order 03-58, effective April 21, 2003, hereby gives notice of the adoption, on an emergency basis, of an amendment to Chapter 3 of Title 18 of the District of Columbia Municipal Regulations (DCMR) (Vehicles and Traffic). This amendment provides for and limits the exceptions to a license revocation for an individual convicted of a drug-related offense on or after June 1, 2006. This emergency rule was adopted on August 7, 2006 and became effective immediately on that date.

The facts that constitute emergency circumstances are as follows:

The DMV is implementing Council legislation to revoke the license of an individual convicted of a drug offense. In order to ensure the legislation is implemented in a timely manner, without loss of funds and possible disruption of public services, rulemaking is needed on an emergency basis. Failure to do so could result in the District's loss of ten percent of federal highway funds.

This emergency rulemaking clarifies the narrow exception when an individual, whose driver's license is required to be revoked as a result of a drug conviction, may be allowed to operate a motor vehicle. The law states that the Director may stay a revocation if the individual can demonstrate "compelling circumstances" that would impose an extreme hardship with no practical remedy. It is not clear from the legislative history what criteria the Council intended the Director to employ to determine whether such circumstances exist. These rules establish those criteria and the procedure for a respondent to demonstrate that those criteria are met in that person's individual circumstances.

The Director also gives notice of the intent to take final rulemaking action after thirty (30) days from the date of publication of this notice in the *D.C. Register*.

This emergency rule will expire on December 5, 2006, one hundred and twenty (120) days after its adoption, or upon publication of a notice of final rulemaking in the *D.C. Register*, whichever occurs first.

Title 18, DCMR, Chapter 3, CANCELLATION, SUSPENSION, OR REVOCATION OF LICENSES, is amended by adding a new section 311, DRUG-RELATED REVOCATIONS to read as follows:

311 DRUG-RELATED REVOCATIONS

- 311.1 Except as provided in subsections 311.2 and 311.4, the Director shall revoke the license of any DC resident, or the privilege of a nonresident to drive a motor vehicle in the District, upon receiving notice of a conviction or adjudication of a drug offense, as described in § 13a of the District of Columbia Traffic Act of 1925, effective March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-1403.02).
- 311.2 The Director shall not issue a revocation described in subsection 311.1 for any drug-related conviction or adjudication issued before June 1, 2006.
- 311.3 The Director, upon receiving conviction data from the District of Columbia Superior Court or a comparable out-of-state entity having jurisdiction, shall issue a notice of proposed revocation. The notice shall notify the person that the revocation shall take effect ten (10) days (fifteen (15) days for non-residents) from the date of the notice, unless the person is incarcerated, and then the revocation shall take effect ten (10) days (fifteen (15) days for non-residents) from the date of release.
- 311.4 The revocation shall take effect unless the person submits a written request within ten (10) days (fifteen (15) days for non-residents) from the date of the notice of proposed revocation or the date of release, whichever is later, documenting compelling circumstances that warrant an exception.
- 311.5 For the purposes of this section, the Director shall determine whether "compelling circumstances" exist based on the applicant's explanation as to how the suspension or revocation imposes an extreme hardship for which there is no practical remedy and, in the judgment of the Director, the safety of the public will not be impaired.
- 311.6 The determination whether to grant the exception shall be based solely upon the written request.
- 311.7 The application demonstrating compelling circumstances shall follow the guidelines prescribed in subsections 310.2, 310.4, and 310.5 of this chapter.
- 311.8 The Director shall take no action to revoke the license until after the review of the written request for an exception and a decision letter is issued.
- 311.9 If no request is made or if a written request for an exception is denied, the Director shall affect the revocation of driving privileges for the period prescribed in subsection 306.5 of this chapter.
- 311.10 If the Director determines that the applicant has demonstrated compelling circumstances, the Director shall issue the applicant a limited occupational license, in accordance with subsections 310.8 and 310.9 of this chapter.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, to Glenn Dubin, Assistant Attorney General, D.C. Department of Motor Vehicles, 95 M Street, S.W., Suite 300, Washington, D.C. 20024. Comments must be received not later than thirty (30) days after the publication of this notice in the D.C. Register. Copies of this proposal may be obtained by writing to the above address.