

DISTRICT OF COLUMBIA  
DEPARTMENT OF MOTOR VEHICLESNOTICE OF FINAL RULEMAKING

The Director of the Department of Motor Vehicles, 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); §§ 7 and 13 of the District of Columbia Traffic Act of 1925, effective March 3, 1925 (43 Stat. 1125; D.C. Official Code §§ 50-1401.01 & 50-1403.01); Regulation No. 72-13, effective June 30, 1972 (32 DCRR; 18 DCMR §§ 100.4, 302, 304, 306.7, 413.4, 1008.5); Section 902 of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997 (D.C. Law 11-198; D.C. Official Code § 50-2209.02); and Mayor's Order 03-58, effective April 21, 2003, took action to adopt of the following rulemaking that amended Chapters 1, 3, 4, 10 and 26 of Title 18 of the District of Columbia Municipal Regulations (DCMR) (Vehicles and Traffic). The final rulemaking conformed a regulation to the graduated license law with respect to the operation of motorcycles, clarified the type of examinations the Director may require for license holders, amended the existing photo radar regulations to accommodate digital photo radar devices, restated and clarified that a revocation or suspension stay is lifted if the person fails to appear for a scheduled hearing, allowed reinstatement of a license to be based on successful completion of an alcohol or drug abuse program, corrected a codification error, and required social security numbers to be provided on registration applications.

Several changes were made to the text of the proposed rules, as published with a Notice of Proposed Rulemaking in the *D.C. Register* at 52 DCR 728 on January 28, 2005. The portion of the rulemaking regarding the photo radar affidavit, proposed 1035.6 through 1035.11, was removed and will be revised and republished in another notice of proposed rulemaking. This decision was made after a closer look at the legislative history and further discussions with the Metropolitan Police Department. In addition, it was determined by the Metropolitan Police Department that the template proposed for all digital photo radar images is not applicable to stationary digital photo radar devices, and the applicability of the proposed template was revised accordingly. For stationary digital devices, there will only appear one complete image of a vehicle, which will be the vehicle detected in violation by the device, and therefore no template is necessary. Templates will still be applicable to all other photo radar images to determine which vehicle was detected in violation whenever there are more than one complete vehicle images displayed on the notice. Lastly, after meeting with the D.C. Insurance Federation and insurance company representatives, the Department decided to extend the comment period on the proposed amendments to § 430 one additional week.

These final rules will be effective upon publication of this notice in the *D.C. Register*.

Title 18, DCMR, is amended as follows:

A. Chapter 1, ISSUANCE OF DRIVER'S LICENSES, is amended as follows:

- 1) Section 102, DRIVING UNDER INSTRUCTION: LEARNER'S PERMITS, subsection 102.4(a) is amended by striking the word "motorcycle,".
- 2) Section 109, DUPLICATE OR MODIFIED LICENSE, is amended by adding a new subsection 109.6, to read as follows:

109.6 No later than thirty (30) days after providing notice as required by §§ 109.4 or §109.5, the person must appear at the Department with supporting documentation, surrender their old license, and obtain a new license.

- 3) Section 111, RE-EXAMINATION REQUIREMENTS, is amended by adding a new subsection 111.6 to read as follows:

111.6 The examination provided for in § 111.1 may include, but is not limited to, a medical, road, or written examination.

B. Chapter 3, CANCELLATION, SUSPENSION OR REVOCATION OF LICENSES, is amended as follows:

- 1) Section 306, PERIOD OF SUSPENSION OR REVOCATION, is amended by adding a new subsection 306.10 to read as follows:

306.10 Any applicant who was revoked pursuant to §§ 301 or 302 for an alcohol or drug related violation and who did not have a hearing before the Department on the grounds for that revocation, shall have completed a state-certified drug and/or alcohol counseling program, as applicable, prior to reinstatement, unless that person proves at a reinstatement hearing that their participation in such a program is not necessary.

- 2) Section 307, NOTICE OF SUSPENSION OR REVOCATION, subsection 307.4 is amended to read as follows:

307.4 The notice shall take effect within ten (10) days (fifteen (15) days if the person is a non-resident) unless that person files a written petition with the Director for a hearing in which the Director must prove sufficient grounds for the proposed action. The demand shall be filed in the manner prescribed in chapter 10. the filing of such a demand does not operate as a stay of such order when the order has been issued revoking or suspending a permit on account of mental or physical incapacity, for driving while the individual's blood contains .08% or more, by weight, of alcohol, or while .38 micrograms or more of alcohol are contained in 1 milliliter of the individual's breath, consisting substantially of alveolar air, or while the individual's urine contains .10% or more, by weight, of alcohol, or while under the influence of intoxicating liquor or any drug or any combination thereof, or while the ability to operate a vehicle is impaired by the consumption of intoxicating liquor; for manslaughter when an automobile is involved, or for

operating a motor vehicle equipped with a smoke screen. Each notice issued pursuant to this section shall inform the respondent of the effective date of the notice and the right to a hearing.

- 3) Section 309, HEARINGS ON PROPOSED SUSPENSIONS AND REVOCATIONS, is amended by adding new subsections 309.11 and 309.12 to read as follows:

309.11 If, at the end of a hearing, revocation is ordered, the Director may condition the reinstatement of a license on the successful completion of a state-certified drug or alcohol counseling program, whichever is applicable.

309.12 Where a revocation or suspension is stayed under the circumstances provided for in § 13 of the District of Columbia Traffic Adjudication Act of 1925, effective March 3, 1925 (43 Stat. 1125; D.C. Official Code § 50-1403.01), and the respondent schedules a hearing but fails to appear on the date and time scheduled, the stay shall be lifted as of that date and time.

- C. Chapter 4, MOTOR VEHICLE TITLE AND REGISTRATION, subsection 413.12 is amended by renumbering existing paragraph (d) as paragraph (e) and adding a new paragraph (d) to read as follows:

(d) The applicant's social security number; and

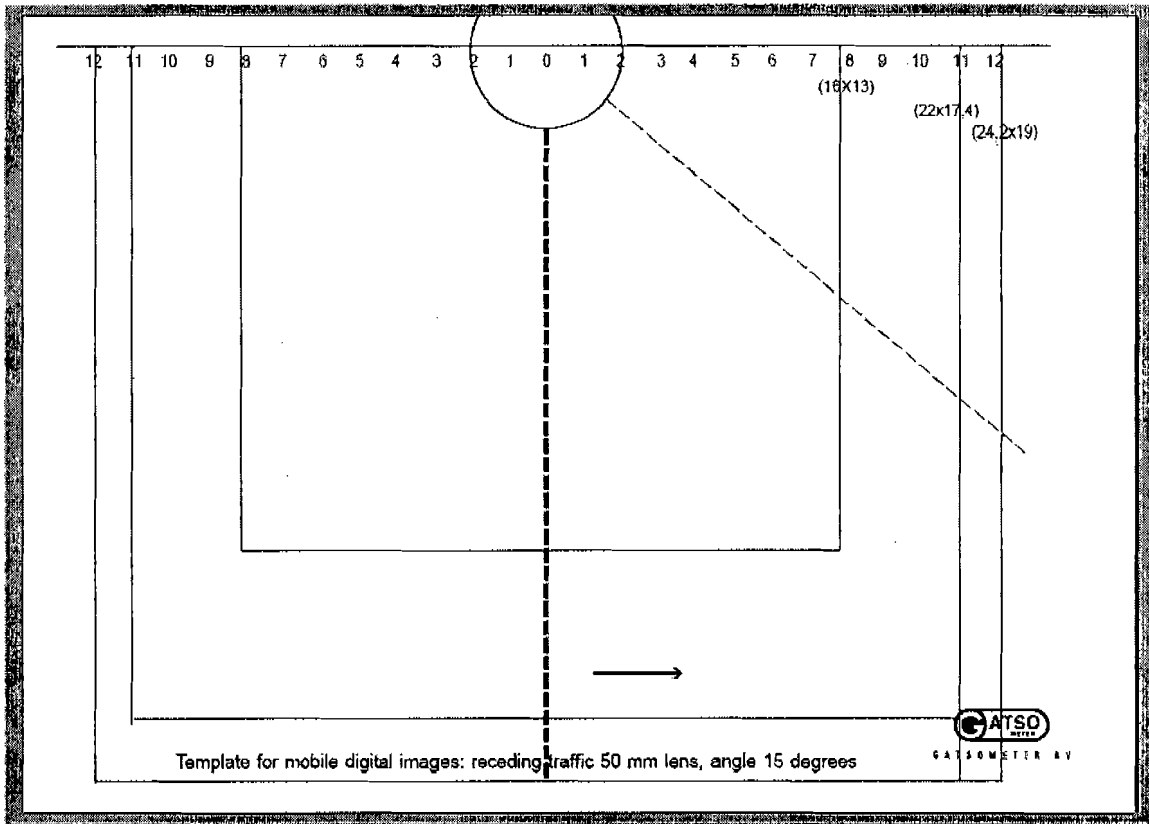
- D. Chapter 10, PROCEDURES FOR ADMINISTRATIVE HEARINGS, Section 1035 is amended as follows:

1) Section 1035 is renamed "AUTOMATED TRAFFIC ENFORCEMENT".

2) Subsection 1035.3 is amended by striking the phrase "in the upper" and inserting "or T on the" in its place.

3) Subsection 1035.4 is repealed.

4) Subsection 1035.5 is amended by inserting the following image, to be included at the end of the subsection:



- F. Chapter 26, Section 2600, CIVIL FINES FOR MOTOR VEHICLE MOVING INFRACTIONS, is amended by striking the citation "§ 2220.1" appearing under the heading "Noise", and inserting "§ 2221.1" in its place.

**D.C. OFFICE OF PERSONNEL**  
**NOTICE OF FINAL RULEMAKING**

The Director, D.C. Office of Personnel, with the concurrence of the City Administrator, pursuant to Mayor's Order 2000-83, dated May 30, 2000, and in accordance with section 1201 of D.C. Law 15-194, the Omnibus Public Safety Agency Reform Amendment Act of 2004 (Act), effective September 30, 2004 (D.C. Act 15-463; 51 DCR 9805, October 8, 2004), hereby gives notice that final rulemaking action was taken to adopt this rulemaking rescinding section 308 of Chapter 3, Residency, of Title 6 of the District of Columbia Municipal Regulations. The reason for the rescission is that section 1201 of the Act repealed D.C. Official Code § 5-105.08 (2001), as well as the second sentence of D.C. Official Code § 5-410 (2001). The repealed sections: (1) prescribed the area within which uniformed members of the Metropolitan Police Department (MPD) or the Fire and Emergency Medical Services Department (FEMSD) may reside as the "Washington, District of Columbia, Metropolitan District;" (2) specified that any uniformed member of the MPD or FEMSD living outside of the District of Columbia was required to have and maintain a telephone at all times in his or her residence; and (3) provided that the Chiefs of the MPD and the FEMSD could waive these provisions. Because of the repeal of these sections, it is necessary to rescind section 308 of the chapter, which contained the special residency provisions applicable to the MPD and FEMSD. No comments were received and no changes were made to the notice of proposed rulemaking published at 52 DCR 573 (January 21, 2005). Final rulemaking action was taken on February 23, 2005.

**CHAPTER 3**

**RESIDENCY**

*Section 308 is rescinded.*