

DISTRICT OF COLUMBIA
DEPARTMENT OF MOTOR VEHICLESNOTICE OF EMERGENCY RULEMAKING

The Director of the Department of Motor Vehicles, pursuant to the authority set forth in sections 1822, 1825 and 1826 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999, (D.C. Law 12-175; D.C. Official Code §§ 50-901, 50-904, and 50-905) (2001 ed.); section 801 of the Motor Vehicle and Safe Driving Amendment Act of 2000, effective April 27, 2001 (D.C. Law 13-289; D.C. Official Code § 50-921), 18 DCMR 200, § 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c)) (2001 ed.), and Mayor's Order 03-58, effective April 21, 2003 hereby gives notice of the adoption, on an emergency basis, of the following rulemaking to amend Chapter 2 of Title 18 of the District of Columbia Municipal Regulations (DCMR) (Vehicles and Traffic). This amendment authorizes the Director to grant one 90-day extension per license term for the school bus operator's licenses of bus drivers employed by the District of Columbia Public Schools, upon the written request of the District of Columbia Public Schools.

This action is being taken on an emergency basis due to the shortage of school bus drivers who will be able to renew their bus driver operator's license by the August 31, 2004 deadline. Without adequate numbers of drivers, school children may face difficulties making it to school in a safe and timely manner. This emergency rulemaking is therefore necessary for the preservation of public health, safety and welfare. This emergency rule was adopted on August 23, 2004 and became effective immediately on that date.

This emergency rule will expire on December 21, 2004, 120 days after the date of its adoption, or upon publication of a notice of final rulemaking in the D.C. Register, whichever occurs first.

Title 18, DCMR, is amended as follows:

Chapter 2, SCHOOL BUS DRIVER'S LICENSE, Section 200, GENERAL PROVISIONS, Subsection 200.5 is amended to read as follows:

200.5 School bus driver permits shall be valid for a period of one (1) year, expiring on the last day of August of each calendar year, except that, upon the written request of the District of Columbia Public Schools, the Director may grant a 90-day extension per license term to drivers who are employed by the District of Columbia Public Schools.

DISTRICT OF COLUMBIA
DEPARTMENT OF MOTOR VEHICLESNOTICE OF EMERGENCY AND PROPOSED 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); Section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c)); Title VIII of the Motor Vehicle and Safe Driving Amendment Act of 2000, effective April 27, 2001 (D.C. Law 13-289; D.C. Official Code § 50-921); and Mayor's Order 03-58, effective April 21, 2003, hereby gives notice of the adoption, on an emergency basis, of amendments to Chapters 4 and 5 of Title 18 of the District of Columbia Municipal Regulations (DCMR) (Vehicles and Traffic). The amendments provide for a continued prohibition on the issuance of special use identification tags ("temporary tags") by used car dealers, limit the persons eligible to receive temporary tags from the Director, limit the total number of dealer identification tags and dealer transport tags that may be issued to dealership owners and salespersons, clarify title transfer procedures, and place additional reporting requirements for the issuance of special use identification tags.

This emergency rule will take effect on August 18, 2004, and will expire on December 16, 2004, one hundred and twenty (120) days after its adoption.

The Director also gives notice of the intent to take final rulemaking action in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register* and upon the expiration of a 45-day Council review period or affirmative approval by the Council in less than forty-five (45) days.

This rulemaking is being submitted for a 45-day period of review by the Council of the District of Columbia pursuant to section 801 of the Motor Vehicle and Safe Driving Amendment Act of 2000, effective April 27, 2001 (D.C. Law 13-289; D.C. Official Code § 50-921).

The facts that constitute emergency circumstances are as follows:

On August 18, 2004, a previous emergency rulemaking by the Department of Motor Vehicles, which established a moratorium on used car dealers' issuance of temporary tag, will expire. This initial emergency action was in response to the significant health and safety problems that stemmed from used car dealers' widespread abuse of the temporary tag issuance process. Temporary tags improperly obtained and issued by used car dealers were being used to operate unsafe, uninsured, and stolen vehicles. The emergency rulemaking sought to curtail this activity by making temporary tags available only at new car dealerships and directly from the Department of Motor Vehicles.

This previous emergency rulemaking has been a success. The total number of temporary tags issued during the first month of the moratorium period was 75 percent lower than the number of

tags issued in the same month the previous year. The Metropolitan Police Department has reported far fewer instances of illegal use of temporary tags. This emergency action is aimed at continuing the Department's efforts to combat the abuse of such tags.

Because the prior emergency rulemaking expires on August 18, 2004, this emergency rulemaking is necessary to prevent a lapse in the existing emergency rules before the permanent version of these rules goes into effect. The steps taken so far by the Department have been working and received widespread support from the public. To allow this progress to be compromised by allowing the current restrictions on the issuance of temporary tags to lapse would not only disrupt the Department's current functions, but would also resurrect the problems the Department has been working hard to eliminate.

The Department would have preferred to avoid resorting to the use of an additional emergency rulemaking. However, permanent rules could not be proposed in time to be in effect before the August 18 expiration date because the Department was also committed to minimizing the inconvenience any new process would pose to the legitimate activities of used car dealers. The new rulemaking is now complete, at the earliest possible opportunity, and after the Department thoroughly scrutinized the problem, discussed a wide range of solutions, and met with used car dealers and neighboring jurisdictions.

This emergency rulemaking goes beyond the previous emergency in that it places additional restrictions on the issuance and use of dealer identification tags (transferable hard tags issued to the dealers for use in connection with their business). The Metropolitan Police Department reports that illegal activity related to the use of dealer identification tags has intensified due to the reduction in the availability of temporary tags. The Department has that learned many dealers are misusing dealer identification tags in virtually the same manner that temporary tags were misused, including allowing their use by others on vehicles not owned by that dealer. This rulemaking limits the number of tags issued to dealers and clarifies the circumstances under which they may be used.

For the reasons stated above, this emergency rulemaking is necessary to the immediate preservation of the health, safety and welfare of the District of Columbia residents.

Title 18, DCMR, is amended as follows:

A. Chapter 4, MOTOR VEHICLE TITLE AND REGISTRATION, is amended as follows:

1) Section 402, TRANSFER OF CERTIFICATE OF TITLE, is amended as follows:

- (a) Subsection 402.8 is amended by striking the phrase "Only new car dealers and used car dealers" and inserting the phrase "Only new car dealers, used car dealers, and their salespersons" in its place.
- (b) By adding a new subsection 402.9 to read as follows:

402.9 Effective September 21, 2004, if all reassignment spaces on the back of a certificate of title are filled in, a dealer may apply to the Director for a Dealer's proof of ownership.

- 2) Section 426, SPECIAL USE IDENTIFICATION TAGS, is amended by adding new subsections 426.13 through 426.17 to read as follows:

426.13 Special use identification tags shall only be issued to persons submitting, in addition to any other items required by the Director, the following:

- (a) Bill of sale for the vehicle, if purchased from a car dealer;
- (b) Signed certificate of title, or fax as provided by § 426.14, or other proof of ownership satisfactory to the Director; and
- (c) Proof of sufficient insurance coverage.

426.14 Any dealer or financing company may fax a copy of a vehicle's title or dealer's proof of ownership, front and back, to the Department to establish proof of ownership as required by § 426.13(b); except that the Department reserves the right to require the submission of the original documents.

426.15 The Director shall not issue special use identification tags to residents of Maryland or Virginia, except as provided in § 426.16.

426.16 Any dealer registered in the District of Columbia or their agent may obtain a special use identification tag by appearing at the Department on behalf of a customer from any jurisdiction; provided, that the customer authorizes the dealer to act as their agent by signing the form provided to the dealer by the Department.

426.17 If a vehicle displaying a valid special use identification tag fails motor vehicle safety or emissions inspection, the initial special use identification tag may be removed by the DMV inspection station staff and a replacement special use identification tag may be issued.

- 3) Section 427, DEALER IDENTIFICATION TAGS, is repealed.

B. Chapter 5, MOTOR VEHICLE DEALERS, is amended as follows:

- 1) Section 500, GENERAL PROVISIONS, is amended by adding new subsections 500.5 through 500.7 to read as follows:

500.5 No dealer may accept an open assignment of a motor vehicle title or bill of sale that does not identify the dealer as the purchaser or assignee of the motor vehicle.

500.6 A dealer shall inform the Department of any change in business ownership or location within five (5) business days of any such change.

500.7 All dealers or their agents shall attend any mandatory training required by the Department after receiving notice of the training sent by regular mail to the address on the dealer's registration; except for good cause shown as determined by the Director.

2) Section 501, REGISTRATION OF DEALERS, subsection 501.3 is amended to read as follows:

501.3 A person may apply to the Director for registration as a car dealer provided, in addition to all other applicable requirements of this Title, that person:

- (a) Has a valid motor vehicle dealer's business license;
- (b) Has a valid federal tax identification number;
- (c) Has a valid certificate of occupancy in the dealer's name;
- (d) Is actively engaged in buying, selling, and exchanging vehicles; and
- (e) Has an established place of business that is located on a street or avenue.

3) Section 502, APPLICATION FOR DEALER REGISTRATION, is amended as follows:

(a) Subsection 502.2 is amended by adding new paragraphs (e) and (f) to read as follows:

- (e) A copy of the dealer's business license; and
- (f) A copy of the salesperson's license for each salesperson.

(b) Subsection 502.7 is amended to read as follows:

502.7 Dealer registrations shall expire on October 31 of each year.

4) Section 503 is amended to read as follows:

503 DEALER IDENTIFICATION TAGS

503.1 Dealer identification tags issued to a registered dealer shall be used solely for the purpose of operating vehicles owned by the dealer, if directly in furtherance of the business of the dealer, and only by the following persons:

- (a) The dealer, provided they carry proof of dealer registration at the time of operation;
 - (b) The dealer's salesperson, provided they carry their salesperson's license at the time of operation; or
 - (c) The dealer's customer, provided:
 - (1) The customer is accompanied by the dealer or the dealer's salesperson and such person carries proof required by (a) or (b) at the time of operation; or
 - (2) The vehicle displays a temporary registration certificate issued to that customer, as provided in § 503.8.
- 503.2 Dealer transport tags may be issued to a registered dealer for use solely by a dealer's subcontractor, or the subcontractor's employee(s), provided:
- (a) The tags are used in connection with the repair or improvement of the vehicle;
 - (b) The vehicle is being operated between the dealership and the repair location; and
 - (c) The operator carries either proof of a contractual relationship regarding such a repair, or an affidavit, signed by the dealer, that states the repair location and that the condition in (a) is satisfied.
- 503.3 A dealer identification tag or dealer transport tag shall be displayed on the rear of a motor vehicle when in use.
- 503.4 Dealer tags shall be issued as follows:
- a) Two (2) dealer tags per dealer, with a maximum of four (4) tags per business;
 - b) One (1) dealer tag per salesperson (other than owner); and
 - c) Two (2) dealer transport tags per business.
- 503.5 A dealer may replace no more than one (1) lost or stolen dealer identification tag or dealer transport tag every six (6) months, upon proof of the filing of a police report or other proof satisfactory to the Director. The Director may waive the time limitation of this subsection for good cause shown.

- 503.6 A dealer shall have motor vehicle insurance that covers the number of vehicles that can be operated using all the dealer tags and dealer transport tags issued to that dealer.
- 503.7 Dealer tags and dealer transport tags shall expire on October 31 of each year.
- 503.8 Whenever a vehicle is furnished by a dealer to a person for the purpose of demonstration or testing and the vehicle is not occupied by an employee of the dealer, a Temporary Registration Certificate, issued to that person by the dealer, shall be affixed to the windshield of the vehicle as provided in § 505.

5) Section 505, TEMPORARY REGISTRATION FORMS, is amended as follows:

(a) Subsection 505.5 is repealed.

(b) By adding a new subsection 505.14 to read as follows:

505.14 A dealer shall make a copy of the driver's license of any customer issued a Temporary Registration Certificate pursuant to § 505.6. The copy shall be submitted together with the Notice of Issuance as provided in § 505.10.

6) Section 506, SPECIAL USE IDENTIFICATION TAGS, is amended as follows:

(a) Subsection 506.1 is amended by inserting the phrase "new car" before the word "dealer".

(b) Subsection 506.2 is amended by striking the word "sets".

(c) Subsections 506.3 and 506.4 are repealed.

(d) Subsection 506.5 is amended as follows:

(A) Paragraph (b) is amended by striking the figure "one (1)" and inserting the figure "five (5)" in its place.

(B) Paragraph (c) is repealed.

(e) Subsection 506.10 is amended to read as follows:

506.10 The duplicate copy of the special use certificate, the information received by the new car dealer in accordance with § 506.6, together with an itemized bill of sale that includes the amount of all applicable taxes and fees required for the vehicle's

registration, shall be retained at the dealer's registered location for at least two (2) years.

(f) Subsection 506.11 is repealed.

(g) By adding new subsections 506.12 through 506.17 to read as follows:

506.12 Any dealer issuing a special use identification tag to a customer must electronically submit the vehicle identification number, make, model and year of vehicle, special identification tag number, insurance information, the customer's name and address, and the driver's license number of the person operating the vehicle from the dealer's location, to the Department within one (1) business day of the sale.

506.13 All special use identification tags in the possession of the dealer shall be kept in a secure location at the dealer's registered place of business and presented to the Department upon request.

506.14 A dealer is entitled to replace any lost or stolen special use identification tag no more than once every six (6) months; except for good cause as determined by the Director.

506.15 No dealer shall issue a special identification tag for a vehicle not sold by that dealer.

506.16 No dealer shall issue a second or subsequent special use identification tag to the same customer for the same vehicle without written approval from the Director.

506.17 A dealer may issue special use identification tags for used cars only if the dealer's sale of used cars is incidental to the sale of new cars and the used cars are displayed on the same lot as new cars.

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing, not later than thirty (30) days after the publication of this notice in the D.C. Register, with Corey Buffo, General Counsel, Department of Motor Vehicles, 65 K St., N.E., Suite 210, Washington, D.C. 20002. Copies of this proposal are available, at cost, by writing to the above address.