

DISTRICT OF COLUMBIA  
DEPARTMENT OF MOTOR VEHICLESNOTICE OF PROPOSED RULEMAKING

The Director of the Department of Motor Vehicles, pursuant to the authority set forth in Section 1425 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 et seq.); § 10 of the Uniform Classification and Commercial Driver's License Act of 1990, effective September 20, 1990 (D.C. Law 8-161; D.C. Official Code § 50-409), 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); Mayor's Order 91-161, effective October 15, 1991; and Mayor's Order 03-110, effective April 21, 2003, hereby gives notice of the intent to adopt the following rulemaking that amends Chapter 13 of Title 18 of the District of Columbia Municipal Regulations (DCMR) (Vehicles and Traffic). The amendment will replace the current school bus driver's license requirements with a commercial driver's license school bus endorsement, establish new bases for disqualification of Commercial Driver's License holders so as to clarify existing standards and to bring the regulations in line with District law and recently-promulgated federal regulations, and increases fees for a commercial driver's instruction license. The rulemaking also eliminates a number of inconsistencies between the Uniform Classification and Commercial Driver's License Act and Chapter 13. Final rulemaking action shall not be taken in less than thirty (30) days from the date of publication of this notice in the D.C. Register.

Pursuant to § 10 of the Uniform Classification and Commercial Driver's License Act of 1990, effective September 20, 1990 (D.C. Law 8-161; D.C. Official Code § 50-409) and 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), these proposed rules are being transmitted to the Council of the District of Columbia, and the final rules shall not become effective until the expiration of the forty-five (45) day period of Council review or upon approval by Council resolution, whichever occurs first.

Title 18, is amended as follows:

- A. Chapter 2, SCHOOL BUS DRIVER'S LICENSE, is repealed.
- B. Chapter 13, CLASSIFICATION AND ISSUANCE OF COMMERCIAL DRIVER'S LICENCES, Section 1300, is amended to read as follows:

**1300 GENERAL PROVISIONS**

1300.1 The rules in this chapter shall govern the following:

- (a) Classification of motor vehicle drivers based on the driver demonstrating that he or she is capable of driving the vehicle in which he or she is tested;

- (b) Restricting commercial drivers to one (1) driver's license;
- (c) Commercial drivers licensing and testing standards;
- (d) Commercial drivers skills and knowledge tests;
- (e) The disqualification of commercial drivers who have committed certain serious traffic violations, or other specified offenses;
- (f) Notifying other states regarding commercial drivers records; and
- (g) Issuing commercial driver's licenses and commercial driver's instruction license.

### **1301 APPLICATION FOR A COMMERCIAL DRIVER'S LICENSE**

1301.1 The application or renewal application for a commercial driver's license or commercial driver's instruction license shall include the following:

- (a) Applicant's full name, correct mailing and residential addresses;
- (b) Applicant's date of birth, height, weight and sex;
- (c) Applicant's social security number;
- (d) Applicant's certification that he or she is not subject to any disqualifying offenses, suspensions, revocations, or cancellations provided in this chapter, or any other District of Columbia traffic laws, rules or regulations, and that he or she does not possess more than one driver's license;
- (e) Applicant's consent to release driving record information and consent to authorize the District of Columbia to make information on the applicant's traffic record available for inquiries from the Commercial Driver's License Information System, National Driver Register or similar systems;
- (f) All states in which the applicant has previously been licensed to operate any type of motor vehicle; and
- (g) Applicant's implied consent to take chemical tests to determine use of alcohol or controlled substances.

1301.2 All applicants for a commercial driver's license or commercial driver's instruction license shall complete and sign the application provided for in § 1301.1.

1301.3 Any person who knowingly falsifies information or certifications required in this chapter shall be subject to suspension, revocation or cancellation of his or her commercial driver's license for a period of not less than sixty (60) calendar days.

### **1302 COMMERCIAL DRIVER'S INSTRUCTION LICENSE**

1302.1 A commercial driver's instruction license shall be issued only to an individual who holds a valid noncommercial driver's license or a valid commercial driver's license if applying to operate commercial vehicles in a group or endorsement other than the group or endorsement that he or she is authorized to operate.

1302.2 A commercial driver's instruction license shall be issued only to an individual who is eighteen (18) years of age or older.

1302.3 A commercial driver's instruction license shall only be issued to persons who have successfully passed the appropriate knowledge tests with at least an eighty percent (80%) score.

1302.4 A commercial driver's instruction license shall be issued only to persons who meet the physical qualifications and examinations provided in § 1327.

1302.5 A holder of a commercial driver's instruction license shall not operate a commercial vehicle unless accompanied by a driver who has been licensed for at least one (1) year to drive the type and class of vehicle being used.

1302.6 A holder of a commercial driver's instruction license shall not operate a commercial vehicle unless accompanied by someone who is fit and capable of exercising physical control over the vehicle and who is occupying a seat beside the driver.

1302.7 The commercial driver's instruction license shall be valid for a limited period of not less than thirty (30) days.

1302.8 These requirements shall not apply to Class "D," Class "M" and Class "N" driver's licenses.

### **1303 ISSUANCE OF COMMERCIAL DRIVER'S LICENSE**

1303.1 No person shall be issued a commercial driver's license unless that person meets the following requirements:

(a) Is a resident of the District of Columbia;

(b) Meets the following conditions:

(1) Possesses a commercial driver's instruction license; or

- (2) Has met the requirements of §§ 1315 and 1316 of this chapter, unless granted a waiver pursuant to § 1318;
  - (c) Meets requirements provided in § 1327; and
  - (d) Surrenders his or her non-commercial or commercial driver's license from any state.
- 1303.2 A commercial driver who establishes residency in the District of Columbia shall apply for a commercial driver's license within thirty (30) days after establishing residency, and shall otherwise comply with the requirements of this Chapter.
- 1303.3 A commercial driver who applies to operate a commercial motor vehicle in a different group or endorsement from the group or endorsement in which the applicant already has a commercial driver's license shall fill out the application in § 1301 and pass all applicable tests specified in §§ 1315 and 1316 for the new vehicle group or different endorsements.
- 1303.4 A commercial driver's license or commercial driver's instruction license shall not be issued to a person while the person is subject to a disqualification from driving a commercial vehicle or while the person's driving privileges are suspended, revoked or cancelled in the District of Columbia or any state.
- 1303.5 A commercial driver's license or commercial driver's instruction license shall not be issued to a person who has a commercial driver's license issued by any other state unless the person first surrenders the license to the Department of Motor Vehicles, who shall return the license to the issuing state(s) for cancellation.
- 1303.6 No person shall be allowed to renew a commercial driver's license or convert an out-of-state commercial driver's license to a District of Columbia commercial driver's license, if the commercial driver's license has expired for more than sixty (60) days.
- 1304 LIMITATION ON NUMBER OF DRIVER'S LICENSES**
- 1304.1 No person who drives a commercial motor vehicle shall have more than one (1) driver's license.
- 1305 COMMERCIAL DRIVER'S LICENSE REQUIRED**
- 1305.1 No resident of the District of Columbia shall drive a commercial vehicle unless he or she has been issued a valid commercial driver's license or a valid commercial driver's instruction license, which authorizes him or her to operate the following types of vehicles:
- (a) A single vehicle, or a combination of vehicles, with a gross vehicle weight rating of over twenty-six thousand (26,000) pounds, or a lesser rating as

determined by Federal regulations, but not less than a gross vehicle weight rating of ten thousand (10,000) pounds;

- (b) A vehicle designed to transport more than fifteen (15) passengers, including the driver;
- (c) A vehicle used to transport a material found to be hazardous in accordance with the District of Columbia Hazardous Materials Transportation and Motor Carrier Safety Act of 1988, effective March 16, 1989 (D.C. Law 7-190; D.C. Official Code § 8-1401 *et seq.*) and that are required to be placarded under Federal regulations, 49 CFR Part 172, subpart F; or
- (d) A school bus.

1305.2 Any resident of the District of Columbia who is under the age of twenty-one (21) and is issued a commercial driver's instruction license or commercial driver's license shall have a restriction placed on the driver's license which restricts his or her operation of commercial vehicles to intra-state commerce.

1305.3 No person shall drive a commercial motor vehicle in this jurisdiction unless the person holds a commercial driver's license with the applicable class and endorsements for the vehicle(s) he or she is driving, except when driving under a commercial driver's instruction license and accompanied by the holder of a commercial driver's license for the vehicle being driven.

1305.4 Commercial drivers shall be held to the same standards that apply to anyone who drives in the District of Columbia without a valid operator's permit, as provided in § 7(d) of the District of Columbia Traffic Act, 1925, effective September 27, 1985 (D.C. Official Code § 50-1401.01(d)).

### **1306 DISQUALIFICATION**

1306.1 The Director shall disqualify any person from operating a commercial vehicle, by denying an application for a commercial driver's license or by withdrawing a person's commercial driver's license, if he or she is convicted of the following:

- (a) Driving a commercial vehicle while under the influence of alcohol or a controlled substance;
- (b) Having an alcohol concentration of 0.04 or greater while operating a commercial vehicle;
- (c) Refusing to take an alcohol test while operating a commercial vehicle;
- (d) Leaving the scene of an accident while operating a commercial vehicle;

- (e) Causing a fatality through the negligent operation of a commercial vehicle;
- (f) Using a commercial vehicle in the commission of a felony;
- (g) Driving a commercial vehicle when, as a result of prior violations committed while operating a commercial vehicle, the driver's commercial driver's license is revoked or suspended, or the driver is disqualified from operating a commercial vehicle;
- (h) Driving a commercial vehicle and failing to slow down and stop before reaching a railroad crossing to check that railroad tracks are clear of an approaching train;
- (i) Driving a commercial vehicle without leaving sufficient space to drive through a railroad crossing without stopping;
- (j) Failure to obey a traffic control device or the directions of an enforcement official at a railroad crossing while operating a commercial vehicle;
- (k) Failure to negotiate a railroad crossing because of insufficient undercarriage clearance while operating a commercial vehicle;
- (l) Operating a commercial vehicle in violation of an out-of-service order; or
- (m) Two (2) or more serious traffic violations within a three (3) year period.

1306.2 For purposes of this chapter, the following violations are serious traffic violations:

- (a) Driving a commercial vehicle at a speed fifteen (15) or more miles per hour in excess of the posted speed limit;
- (b) Reckless driving in any motor vehicle;
- (c) Violating a District or state traffic law, rule or regulation in connection with a fatal traffic accident in any motor vehicle;
- (d) Improper or erratic traffic lane changes while operating a commercial vehicle;
- (e) Operating a commercial vehicle without obtaining a commercial driver's license;
- (f) Following the vehicle ahead too closely while operating a commercial vehicle; or
- (g) Driving a commercial vehicle without the proper class of CDL and/or endorsement for the specific vehicle group being operated, or the number of passengers or type of cargo being transported.

- 1306.3 Any person convicted of an offense provided for in this section shall be subject to any other administrative or judicial action initiated against him or her for violation of a District of Columbia traffic law, rule, or regulation.
- 1306.4 The Director shall disqualify from operating a commercial vehicle any person who is convicted of any violation set forth in §§ 1306.1(a) through (g) as follows:
- (a) One (1) year for the first (1<sup>st</sup>) conviction;
  - (b) Life for the second (2<sup>nd</sup>) conviction, except that the disqualification may be commuted to ten (10) years if the applicant completes the following:
    - (1) Submits a written request to the Director of the Department of Motor Vehicles for a review of his or her files;
    - (2) Submits proof that he or she has completed an alcohol abuse program, if applicable; and
    - (3) Submits evidence that he or she has had a good driving history during the period of disqualification; or
  - (c) Life for the third (3<sup>rd</sup>) conviction.
- 1306.5 The Director shall, notwithstanding the period of disqualification set forth in § 1306.4, disqualify a commercial driver for a period of not less than three (3) years if he or she uses a commercial vehicle in connection with a disqualifying offense in § 1306.1(a) through (g) and is transporting hazardous material.
- 1306.6 The Director shall disqualify a driver for life if he or she uses a commercial vehicle in the commission of a felony that involves manufacturing, distributing, or dispensing a controlled substance.
- 1306.7 The Director shall disqualify, for the following periods, any commercial driver convicted of any violation set forth in § 1306.1(h) through (k):
- (a) Sixty (60) days for the first (1<sup>st</sup>) conviction;
  - (b) One hundred and twenty (120) days for a second (2<sup>nd</sup>) conviction; or
  - (c) One (1) year for a third (3<sup>rd</sup>) or subsequent conviction.
- 1306.8 The Director shall disqualify, for the following periods, any driver who is convicted of violating an out-of-service order:
- (a) One (1) year for the first (1<sup>st</sup>) conviction; or
  - (b) Five (5) years for the second or subsequent conviction in any ten (10) year period.

- 1306.9 The Director shall disqualify, for the following periods, any driver convicted of serious traffic violations under 1306.2 within any three (3) year period:
- (a) Sixty (60) days for any person convicted of two (2) serious traffic violations; or
  - (b) One hundred and twenty (120) days for any person convicted of three (3) or more serious traffic violations.
- 1306.10 Any disqualification period imposed pursuant to § 1306.9 shall run consecutively, and not concurrently, with any other disqualification period imposed.
- 1306.11 The Director may require a commercial driver whose commercial driving privileges have been withdrawn, pursuant to this Chapter, to successfully pass the testing requirements provided for in this Chapter.

### **1307 COMMERCIAL MOTOR VEHICLE DRIVER RESPONSIBILITY**

- 1307.1 A person who operates a commercial motor vehicle and is domiciled in the District of Columbia shall have a commercial driver's license issued by the Department of Motor Vehicles.
- 1307.2 When the holder of a commercial driver's license changes his or her name, mailing address or residence, he or she shall file an application for a duplicate commercial driver's license with the Department of Motor Vehicles within thirty (30) calendar days.
- 1307.3 A commercial motor vehicle driver shall notify his or her employer by the end of the next business day when any of the following occurs:
- (a) The driver's license is suspended, revoked or cancelled by the District of Columbia or by any state;
  - (b) The driver has been disqualified from the operation of a commercial motor vehicle for any period; or
  - (c) The driver has received an out-of-service order.
- 1307.4 A commercial motor vehicle driver convicted of committing a traffic infraction (except parking) in any jurisdiction shall notify his or his employer within thirty (30) calendar days of the finding of liability, regardless of the type of vehicle he or she was operating.
- 1307.5 A commercial motor vehicle driver convicted of committing a traffic infraction (except parking) in any other jurisdiction shall notify the Department of Motor Vehicles within thirty (30) calendar days of the finding of liability, regardless of the type of vehicle he or she was operating.

### **1308 NOTIFICATION OF PREVIOUS EMPLOYMENT**

1308.1 Any person who applies to be a commercial motor vehicle driver shall provide the employer, at the time of the application, with the following minimum information for the ten (10) years preceding the date of application:

- (a) A list of the names and addresses of the applicant's previous employers for which the applicant was a driver of a commercial motor vehicle;
- (b) The time periods between which the applicant drove for each employer; and
- (c) The reason for leaving the employer.

1308.2 The applicant shall certify that all information furnished is accurate and complete.

### **1309 EMPLOYER'S RESPONSIBILITY**

1309.1 An employer shall require an employee who operates a commercial vehicle to have a commercial driver's license.

1309.2 An employer shall not knowingly allow an employee to operate a commercial motor vehicle if the employee has been disqualified from operating a commercial motor vehicle.

### **1310 COMMERCIAL DRIVER'S LICENSE CONTENT**

1310.1 The commercial driver's license shall be marked "CDL" and shall include, in addition to the information included on a regular driver's license, the group(s) of commercial motor vehicles that the licensee is authorized to operate, as specified by class in § 1312 and by endorsement in § 1313.

### **1311 DURATION OF COMMERCIAL DRIVER'S LICENSE**

1311.1 The commercial driver's license shall be valid for a five (5) year period.

1311.2 The Director, or his or her designee, may modify the duration of the commercial driver's license to comply with any provision of this chapter.

### **1312 DRIVER'S LICENSE TYPE AND CLASS**

1312.1 The following types of driver's licenses shall be issued by the Director, Department of Motor Vehicles, or his or her designee:

- (a) Regular Driver's License - For persons qualifying to operate Class "D," Class "M", and Class "N" vehicles;
- (b) Commercial Driver's License - For persons qualifying to operate Class "A," Class "B," and Class "C" vehicles;

- (c) Learners Drivers License - For persons qualifying to operate Class "D," and Class "M" vehicles, during a period of instruction; and
- (d) Commercial Drivers Instruction License - For persons qualifying to operate Class "A", Class "B," and Class "C" vehicles, during a period of instruction.

1312.2 The following classes of driver's license shall be issued by the Department of Motor Vehicles allowing the holder to operate the specified classes of vehicles after successfully passing the applicable skills and knowledge tests:

- (a) Class "A" - Any combination of vehicles with a gross combination weight rating greater than twenty-six thousand (26,000) pounds; Provided, that the gross vehicle weight rating of the vehicle(s) being towed is in excess of ten thousand (10,000) pounds or is a semi-trailer or a trailer with two (2) or more axles. It authorizes holder to operate vehicles in Class "B," Class "C," Class "D", or Class "N" with proper endorsements;
- (b) Class "B" - Any single vehicle with a gross vehicle weight rating greater than twenty-six thousand (26,000) pounds and any such vehicle towing a vehicle not in excess of ten thousand (10,000) pounds gross vehicle weight rating. It authorizes holder to operate vehicles in Class "C," Class "D," or Class "N" with proper endorsements;
- (c) Class "C" - Any single vehicle with a gross vehicle weight rating of twenty-six thousand (26,000) pounds or less, or any such vehicle towing a vehicle with a gross vehicle weight rating not in excess of ten thousand (10,000) pounds, if:
  - (1) The vehicle is designed to transport more than fifteen (15) passengers, including the driver; or
  - (2) The vehicle is used in the transportation of hazardous materials which requires the vehicle to be placarded under 49 CFR, Part 172, subpart F;
- (d) Class "D"-All non-commercial motor vehicles, except vehicles in Class "M";
- (e) Class "M"-Motorcycles.

1312.3 For purposes of this section:

- (a) "Gross combination weight rating" (GCWR) means the value specified by the manufacturer(s) as the maximum loaded weight of a single, a combination, or an articulated vehicle. If the manufacturer(s) does not specify the value, the GCWR will be determined by adding the GVWR of the power unit plus the GVWR of the towed unit(s);

- (b) "Gross vehicle weight rating" (GVWR) means the value specified by the manufacturer as the loaded weight of a single vehicle;
- (c) "Non-commercial motor vehicles" means vehicles not specified in Class "A," Class "B," or Class "C." This also includes vehicles equipped to serve as temporary living quarters for recreational, camping, or travel purposes and used solely as a family or personal conveyance; and
- (d) Class C driver's licenses also authorizes holder to operate vehicles in Class "D" or Class "N".

### 1313 DRIVER'S LICENSE ENDORSEMENTS AND RESTRICTIONS

1313.1 The following driver's license endorsements shall be displayed on a driver's license in order for the driver to operate certain types of motor vehicles or to operate motor vehicles hauling certain types of cargo:

- (a) The Double/Triple Endorsement is required to operate a vehicle designed to pull more than one (1) trailer;
- (b) The Transport Passenger Endorsement is required to operate a vehicle that transports more than fifteen (15) passengers;
- (c) The School Bus Endorsement is required to operate a school bus;
- (d) The Tank Vehicle Endorsement is required to operate a vehicle that is designed to transport any liquid or gaseous material within a tank that is either permanently or temporarily attached to the vehicle or the chassis. The vehicles include, but are not limited to, cargo tanks and portable tanks, as defined in 39 CFR Part 171. However, this definition does not include portable tanks having a rated capacity under one thousand (1,000) gallons;
- (e) The Hazardous Material Endorsement is required to operate a vehicle transporting a hazardous material that is required to be placarded under the District of Columbia Hazardous Materials Transportation and Motor carrier Safety Act of 1988, effective March 16, 1989 (D.C. Law 7-190; D.C. Official Code § 8-1401 *et seq.*), or by the U.S. Secretary of Transportation in accordance with the Hazardous Material Transportation Act, approved January 3, 1975 (88 Stat. 2156; 49 U.S.C. 1801 *et seq.* and 49 CFR Part 383, § 121);
- (f) The Motorcycles Endorsement is required on a Class "A," Class "B," Class "C," or Class "D" driver's license to permit the licensee to operate a motorcycle in addition to the class of vehicles designated on the driver's license;
- (g) The Class "A" Commercial Driver's Instruction License Endorsement is required with a Class "B," Class "C," or Class "D" driver's license to permit the

licensee to operate a Class "A" vehicle if accompanied by the holder of a Class "A" driver's license;

- (h) The Class "B" Commercial Driver's Instruction License Endorsement is required with a Class "C" or Class "D" driver's license to permit the licensee to operate a Class "B" vehicle if accompanied by the holder of a Class "A" or Class "B" driver's license; and
- (i) The Class "C" Commercial Driver's Instruction License Endorsement is required with a Class "D" driver's license to permit the licensee to operate a Class "C" vehicle if accompanied by the holder of a Class "A," Class "B" or Class "C" driver's license.

1313.2 The following chart shows the symbols to be used for endorsements that shall appear on the driver's license to authorize driving of the following:

- (a) "G"-vehicles owned by or leased to the District of Columbia;
- (b) "H"-vehicles transporting hazardous materials;
- (c) "T"-vehicles towing double and triple trailers;
- (d) "P"-vehicles carrying passengers;
- (e) "N"-tanker vehicles;
- (f) "S" -school buses;
- (g) "X"-a combination of the hazardous materials and tanker vehicle endorsements; and
- (h) "M"-motorcycles in addition to class of vehicles designated on driver's license.

1313.3 The following restrictions shall be displayed on a driver's license to specify special conditions under which a driver may operate a motor vehicle:

- (a) Must wear glasses or contact lenses;
- (b) May not operate a vehicle with air brakes;
- (c) May not operate vehicles for compensation prior to age eighteen (18);
- (d) Must be accompanied by driver who is authorized to operate class of vehicle being driven;
- (e) May not operate Class "A," "B" or "C" vehicles in interstate commerce;

- (f) Valid only when presented with official document noting special driving conditions; and
- (g) Valid only when presented with a valid medical card; and
- (h) May not operate tractors and semi-trailers.

1313.4 The Director, or his or her designee, may modify the endorsements and restrictions in § 1313 when deemed necessary to implement this chapter.

#### **1314 PROCEDURES FOR LICENSING ACTIONS**

- 1314.1 No person applying for a commercial driver's license from this jurisdiction for the first time shall be issued a commercial driver's license until his or her name, address, date of birth, height, weight, status of driving privilege, and any other information that may be required is submitted to the operator of the Commercial Driver's License Information System.
- 1314.2 No person shall be issued a renewed commercial driver's license until his or her driving record has been checked through the operator of the Commercial Driver's License Information System to determine the status of his or her commercial driving privileges in any other jurisdiction.
- 1314.3 No person shall be issued a commercial driver's license until his or her driving record, as maintained by the current jurisdiction of issuance, has been checked through the operator of the National Driver Register, and other information systems, to check the status of his or her non-commercial driving privileges in any other jurisdiction. The information shall be considered in determining whether to issue a commercial driver's license.
- 1314.4 Before issuance of a commercial driver's license to a person who possesses a commercial driver's license from any other jurisdiction, the Department of Motor Vehicles shall request from such jurisdiction all information pertaining to the driving record of the person.
- 1314.5 The Department of Motor Vehicles shall notify the operator of the Commercial Driver's License Information System of commercial drivers licensing actions within ten (10) days of the beginning of the date of license issuance or modification.
- 1314.6 The Department of Motor Vehicles shall notify the operator of the Commercial Driver's License Information System and the state that issued a person a commercial driver's license within ten (10) days from the date of final adjudication of any licensing action taken against such person's driving privileges.
- 1314.7 The Department of Motor Vehicles shall notify the state that issued a person a commercial driver's license within ten (10) days from the date of final adjudication of

any convictions of a District of Columbia traffic law, rule, or regulation, except parking violations, committed by the person while operating any vehicle.

### 1315 COMMERCIAL DRIVER'S LICENSE KNOWLEDGE TEST

1315.1 Applicants for a commercial driver's license shall be required to successfully pass, with a minimum score of eighty percent (80%), one or more knowledge tests meeting the standards set forth in 49 CFR 383. The knowledge tests include the following:

- (a) A general knowledge test, which shall be administered to all applicants;
- (b) A passenger transport test, which shall be administered to persons who apply to operate vehicles that carry more than fifteen (15) passengers;
- (c) An air brake test, which shall be administered to persons who apply to operate trucks and buses with air brakes. Applicants who fail or do not take the air brake test shall have a restriction placed on their driver's license as provided in § 1313.3(b);
- (d) A combination vehicle test, which shall be administered to persons who apply to operate combination vehicles;
- (e) A hazardous materials test, which shall be administered to persons who apply to operate vehicles that haul hazardous materials. Drivers who possess a commercial driver's license with a Hazardous Material Endorsement shall meet the following requirements:
  - (1) Pass a hazardous material test either upon renewal of a commercial driver's license; or
  - (2) Pass a hazardous material test upon conversion of a commercial driver's license from another state if the applicant has not passed the test for endorsement within the two (2) years preceding the conversion;
- (f) A tanker test, which shall be administered to persons who apply to operate vehicles that haul liquids;
- (g) A double/triple trailer test, which shall be administered to persons who apply to operate vehicles that pull double or triple trailers; and
- (h) A School Bus test, which shall be administered to persons who apply to operate school buses.

1315.2 The information needed to successfully pass the commercial driver's license knowledge tests shall be provided in the District of Columbia Commercial Driver's License Manual and shall meet the requirements in 49 CFR 391.

1315.3 The Director, or his or her designee, may offer the knowledge tests provided for in this section orally.

1315.4 A commercial driver who applies for renewal of a commercial driver's license shall not be required to retake any of the commercial driver's license knowledge tests, except as provided under §§ 1315.1(e), unless the commercial driver's license has been expired for more than one hundred eighty (180) days.

### **1316 COMMERCIAL DRIVER'S LICENSE SKILLS TEST**

1316.1 Any applicant for a commercial driver license shall pass each section of a commercial driver's license skills test that meets the standards set forth in 49 CFR 383.

1316.2 The passing score for each of the sections of the test required by § 1316.1 is eighty percent (80%) or higher.

### **1317 THIRD PARTY TESTING**

1317.1 The Director may authorize a state, an employer, a private drivers training facility, or a department, agency or instrumentality of a local government to administer the skills tests, if the following conditions are met:

- (a) The tests given by the third party are the same as those which would otherwise be given by the District of Columbia; and
- (b) The third party has an agreement with the District of Columbia containing, at a minimum, provisions that:
  - (1) Allow the Federal Highway Administration (FHWA), or its representative, and the District of Columbia to conduct random examinations, inspections and audits without prior notice;
  - (2) Require the District of Columbia to conduct on-site inspections at least annually;
  - (3) Require that all third party examiners meet the same qualification and training standards as District of Columbia examiners, to the extent necessary to conduct skills tests in compliance with the minimum federal standards established in 49 CFR Part 383, subparts G and H;
  - (4) Require that, at least on an annual basis, District of Columbia employees take the tests actually administered by the third party as if the District of Columbia employee were a test applicant, or that District of Columbia test a sample of drivers who were examined by the third party to compare pass/fail results; and

- (5) Reserve unto the District of Columbia the right to take prompt and appropriate remedial action against the third-party testers in the event that the third-party fails to comply with District of Columbia or minimum federal standards for the commercial driver's license testing program, or with any other terms of the third-party contract.

1317.2 An applicant who takes and passes driving tests administered by an authorized third party shall provide evidence to the Department of Motor Vehicles that he or she has successfully passed the driving tests administered by the third party.

### **1318 TEST WAIVER**

1318.1 Except as provided in § 1318.2, the Director may waive the knowledge test and the skills test for an applicant for a commercial driver's license if the driver has been issued a commercial driver's license from another jurisdiction in accordance with the minimum federal standards provided for in the federal regulations, 49 CFR Part 383, subpart G.

1318.2 The driving skills test required for a school bus endorsement may be waived for an applicant who meets the conditions set forth in 49 CFR 383.123(b). This subsection shall expire on September 30, 2005.

### **1319 OUT-OF-SERVICE ORDERS**

1319.1 A commercial driver shall be immediately placed out-of-service for a period of twenty-four (24) hours, based on the findings of an authorized law enforcement officer, if the driver:

- (a) Has consumed an intoxicating beverage or have any measurable or detectable alcohol concentration level regardless of its alcoholic content;
- (b) Is under the influence of an intoxicating beverage; or
- (c) Has a detectable presence of an intoxicating beverage regardless of its alcoholic content while operating, or in physical control of, a commercial motor vehicle.

1319.2 A law enforcement officer may confiscate the commercial driver's license of a driver placed out-of-service pursuant to § 1319.1.

1319.3 Any license confiscated pursuant to § 1319.2 shall be returned after twenty-four (24) hours; Provided, that the commercial driver's blood alcohol content was determined to be less than four hundredths of one percent (0.04%).

1319.4 All twenty-four (24) hour out-of-service orders may be submitted to the Regional Director of the FHWA Office of Motor Carrier Standards for this region for review.

**1320 IMPLIED CONSENT REQUIREMENTS FOR COMMERCIAL MOTOR VEHICLE DRIVERS**

- 1320.1 A person who drives a commercial motor vehicle within the District of Columbia shall be deemed to have given consent to have a test(s) of their blood, breath or urine for the purpose of determining the alcohol concentration, or the presence of other drugs in their body.
- 1320.2 A test or tests shall be administered at the direction of an authorized law enforcement officer, who after stopping or detaining the commercial motor vehicle driver, has reasonable cause to believe that the driver was driving a commercial motor vehicle while having alcohol or a controlled substance in his or her system.
- 1320.3 If the person refuses testing in § 1320.1, or submits to a test that discloses a blood alcohol concentration of four hundredths of one percent (0.04%) or more, the authorized law enforcement officer, who has stopped or detained the driver, shall submit a sworn report to the Department of Motor Vehicles certifying that the test was requested pursuant to § 1320.1 and that the person refused to submit to testing, or submitted to a test that disclosed a blood alcohol concentration of four hundredths of one percent (0.04%) or more.
- 1320.4 Persons who refuse to submit to a test of their blood alcohol content as provided in § 1320.1 shall be subject to the penalties provided in § 5 of the "District of Columbia Implied Consent Act of 1982," effective September 14, 1982 (D.C. Law 4-145; D.C. Official Code § 50-1905).

**1321 RECIPROcity**

- 1321.1 A commercial motor vehicle driver may drive a commercial motor vehicle in the District of Columbia if the person has a commercial driver's license or a commercial driver's instruction license issued by any jurisdiction in accordance with the minimum Federal standards; Provided:
- (a) The driver's license is not suspended, revoked or canceled; or
  - (b) The person is not disqualified from driving a commercial motor vehicle, or subject to an out-of-service order.

**1322 COMPLIANCE**

- 1322.1 No person shall drive a commercial motor vehicle in the District of Columbia unless he or she has a valid commercial driver's license or a commercial driver's instruction license and with all applicable endorsements.
- 1322.2 A driver of a commercial motor vehicle, while driving the vehicle in the District of Columbia, shall have in his or her immediate possession a commercial driver's license

or a commercial driver's instruction license authorizing the operation of the vehicle, and shall, upon request, make it available to any authorized law enforcement officer.

**1323-1325 RESERVED**

**1326 FEES**

1326.1 Every applicant for a commercial driver's license shall pay a non-refundable fee, payable to the D.C. Treasurer, for the following commercial driver's license transactions:

Commercial Driver's Instruction License	
First Issuance	\$ 78.00
Renewals	\$ 78.00
Commercial Driver's License	
Duplicate	\$ 13.00
First Issuance	\$ 117.00
Renewals	\$ 117.00
Upgrade or Down-grade after First Issuance	\$ 13.00

1326.2 Commercial Driver's Instruction License shall include all knowledge tests and one (1) skills retest.

1326.3 Commercial Driver's Instruction License shall be renewable once, after which the holder shall reapply.

**1327 PHYSICAL QUALIFICATIONS AND EXAMINATIONS**

1327.1 No person shall be issued a new or renewed commercial driver's license unless he or she is physically qualified and, except as provided in the Federal Motor Carrier Safety Regulations (FMCSR), 49 CFR 391.49, possesses an original of a medical examiner's certificate, not more than two (2) years old, reflecting that he or she is physically qualified to drive a commercial vehicle.

1327.2 A person shall be considered physically qualified to drive a motor vehicle if that person meets the requirement in 49 CFR 391.

1327.3 Except as otherwise provided in this section, a medical examination to determine an applicant's physical qualification to operate a commercial motor vehicle shall be performed by a licensed doctor of medicine.

1327.4 A licensed ophthalmologist or optometrist may perform so much of the medical examination as pertains to visual acuity, field of vision, and the ability to recognize colors as specified in § 1327.2(j).

- 1327.5 The medical examination shall be performed, and its results shall be recorded, in substantial accordance with the instructions and examination forms that are prescribed in the FMCSR, 49 CFR 391.43.
- 1327.6 A physician who performs a medical examination pursuant to § 1327.3, after completion of such examination, shall provide the commercial driver a signed copy of the forms provided for in § 1327.5.
- 1327.7 Persons issued a District of Columbia commercial driver's license with a Hazardous Material Endorsement shall present medical documentation, as provided for in § 1327.5, to the Department of Motor Vehicles every two (2) years, beginning from the date of issuance of their commercial driver's license.
- 1327.8 Any commercial motor vehicle driver whose ability to perform his or her normal duties has been impaired by a physical or mental injury or disease must be reexamined and submit the certification required by § 1327.3.

### **1328 PATRIOT ACT COMPLIANCE**

- 1328.1 If instructed by the Director, all drivers renewing or applying for a Hazardous Material Endorsement shall pass a security threat assessment conducted by the Transportation Security Administration of the Federal Department of Homeland Security, and meet all other requirements in 49 CFR 1572.
- 1328.2 To initiate the assessment in § 1328.1, drivers must first contact the Department of Motor Vehicles.

### **1399 DEFINITIONS**

- 1399.1 When used in this chapter, the following terms shall have the meanings ascribed, notwithstanding any definition in Section 9901:

Authorized Law Enforcement Official - any member of the District of Columbia Metropolitan Police Department, the U.S. Park Police, or the U.S. Capitol Police, who is duly authorized to enforce traffic laws within the boundaries of the District of Columbia.

Chemical Test - a test of a person's blood urine or breath for the purpose of determining the blood-alcohol-content or blood-drug-content in accordance with D.C. Official Code §§ 50-1902 and 50-1903, except the blood-alcohol-content shall be four hundredths of one percent (0.04%) instead of one tenth percent (0.10%).

Commerce-(a) any trade, traffic or transportation within the jurisdiction of the United States between a place in a state and a place outside of the state, including a place outside of the United States; and (b) any trade, traffic, and transportation in the United States which affects any trade, traffic and transportation described in part (a) of this definition.

Commercial Driver's Instruction License - a driver's license issued by the District of Columbia or another jurisdiction, in accordance with the federal regulations, 49 CFR Part 383, to an individual which authorizes the individual to operate a class of commercial vehicles, if the individual:

- (a) Possesses a non-commercial driver's license, or a commercial driver's license for a group of vehicles other than the group of vehicles the individual is applying; and
- (b) Is accompanied by a person who is authorized to operate the type of commercial vehicle being driven.

Commercial Driver's License - a driver's license issued by the District of Columbia or other jurisdiction, in accordance with the federal regulations, 49 CFR Part 383, to an individual which authorizes the individual to operate a class of commercial vehicle.

Driving a Commercial Motor Vehicle While Under the Influence of Alcohol-Means committing any one (1) or more of the following acts in a commercial vehicle:

- (a) Driving a commercial vehicle while the person's alcohol concentration is four hundredths of one percent (0.04%) or more; or
- (b) Refusing to undergo such testing as is required by any state or jurisdiction in the enforcement of any traffic laws, rules or regulations.

School bus - a Commercial Motor Vehicle used to transport pre-primary, primary, or secondary school students from home to school, from school to home, or to and from school-sponsored events. School bus does not include a bus used as a common carrier.

1319.2 Any other term not defined above shall have the same meaning as that prescribed in 49 CFR 383 and 391.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments, in writing, with Corey Buffo, Office of the General Counsel, D.C. Department of Motor Vehicles, 65 K Street, N.E., Room 210, Washington, D.C. 20002. 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, at cost, by writing to the above address.

## D.C. OFFICE OF PERSONNEL

## NOTICE OF PROPOSED RULEMAKING

The Interim 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 §§ 906 and 1059 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code §§ 1-609.06 and 1-610.59) (2003 Supp.), and Proposed Council Resolution 15-829, deemed approved on July 9, 2004, hereby gives notice of the intent to adopt the following rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. These rules would amend Chapter 3 of the *D.C. Personnel Regulations, Residency*, to: clearly state in § 305.9 that the Mayor is the official authorized to grant waivers of the domicile requirement to Executive Service appointees; add language to § 305.9 to provide that financial hardship associated with becoming a domiciliary of the District of Columbia shall not be considered a basis for granting waivers of the domicile requirement; add language to § 305.9 to establish the criteria for granting waivers of the domicile requirement due to exceptional circumstances; amend § 305.10 to delete the first sentence and expand on the language stating that waivers of the domicile requirement shall not be granted after the effective date of appointment; add a new § 307.18 stating that the Director of Personnel shall notify a subordinate agency head, and the Mayor, when there is reasonable cause to believe that a subordinate agency head is not in compliance with the residency or domicile requirements, as applicable, and that the Mayor shall determine the appropriate course of action to be taken; and amend § 399 to add the definitions of the terms "immediate family" and "subordinate agency." Upon adoption, these rules will amend Chapter 3 of the *D.C. Personnel Regulations, Residency*, published at 37 DCR 851 (January 26, 1990) and amended at 37 DCR 4117 (June 22, 1990), 40 DCF 2485 (April 16, 1993), 47 DCR 2416 (April 7, 2000) and 50 DCR 6993 (August 22, 2003).

## CHAPTER 3

## RESIDENCY

*Subsection 305.9 is amended to read as follows:*

305.9 As specified in this subsection, the Director of Personnel and independent personnel authorities may grant a waiver of the domicile requirement to a person appointed to a position in the Excepted Service on or after October 1, 2002 under the authority of § 903(a)(1) and (2) of the CMPA (D.C. Official Code § 1-609.03(a)(1) and (2)) (2002 Supp.), who is appointed to a hard-to-fill position or presents exceptional circumstances. The Mayor (or his or her designee) may grant a waiver of the domicile requirement to a person appointed to a position in the Executive Service on or after October 1, 2002 under the authority of Title X-A

of the CMPA (D.C. Official Code § 1-610.51 *et seq.*) (2001), who is appointed to a hard-to-fill position or presents exceptional circumstances. The provisions for the granting of waivers of the domicile requirement under this subsection are as follows:

- (a) In the case of a hard-to-fill position in the Excepted Service, an agency head may request a waiver of the domicile requirement for the appointee to the position by submitting written justification to the Director of Personnel or independent personnel authority that the position is hard-to-fill. The request shall include appropriate documentation and information to demonstrate that the position is hard-to-fill and justify consideration of the request for the waiver. Appropriate documentation and information shall include, but not be limited to:
  - (1) A statement containing the qualification requirements for the position and explaining the uniqueness of the duties and responsibilities of the position and the unusual combination of highly specialized qualification requirements which make it hard-to-fill;
  - (2) A copy of the position description or statement of duties for the position;
  - (3) A copy of the recruitment plan for the position or a statement explaining the recruitment plan;
  - (4) Copies of any vacancy announcements or other types of advertisement issued and published for the position;
  - (5) A statement detailing any special outreach and recruitment efforts undertaken in trying to fill the position and the date on which recruitment efforts to fill the position began;
  - (6) The employment application or résumé of the person for which the waiver is being requested; and
  - (7) A statement setting forth the reasons that the waiver should be granted.
- (b) Financial hardship associated with becoming a domiciliary of the District of Columbia shall not be considered as a basis for designating a position as hard-to-fill for the purpose of granting a waiver of the domicile requirement pursuant to this subsection.
- (c) Upon receiving a request for a waiver of the domicile requirement for an appointee to a position in the Excepted Service deemed as hard-to-fill by the agency making the request, the Director of Personnel or independent personnel authority shall promptly consider the factors enumerated in § 305.9(a)(1) through (7), § 305.9(b), and any other applicable factors; determine if the position shall be designated as hard-to-fill and the waiver

granted to the person appointed to the position; and notify the agency of the decision.

- (d) In designating an Executive Service position as hard-to-fill and granting a waiver of the domicile requirement to the appointee to the position in question, the Mayor (or his or her designee) shall consider the factors enumerated in § 305.9(a)(1) through (7), as applicable, § 305.9(b), and any other factors he or she deems applicable.
- (e) Any waiver of the domicile requirement granted based on the designation of a position as hard-to-fill for that purpose shall remain in effect only for as long as the employee occupies the position for which the waiver was granted.
- (f) A determination to grant a waiver of the domicile requirement due to exceptional circumstances shall be based on personal circumstances of the appointee to the position, or a member of his or her immediate family, of such a nature that would cause extreme hardship to the person if he or she were required to become a domiciliary of the District of Columbia. Financial hardship associated with becoming a domiciliary of the District of Columbia shall not be considered as a personal circumstance for which a waiver should be granted. The determining factor for consideration by the personnel authority authorized to grant a waiver due to exceptional circumstances should be that the particular circumstances of the appointee, combined with his or her qualifications for the position and the benefit to the District government, outweigh the need to require that the person become a domiciliary of the District of Columbia.
- (g) When considering the appointment of a non-District domiciliary who is deemed as presenting exceptional circumstances to a position in the Excepted Service, the agency head (or his or her designee) shall submit a request for a waiver of the domicile requirement for the appointee to the Director of Personnel or independent personnel authority, in writing, before the effective date of the appointment. The request shall include appropriate documentation and information to substantiate the claim that the appointee to the position presents exceptional circumstances that may warrant the granting of a waiver of the domicile requirement.
- (h) Upon receiving a request for a waiver of the domicile requirement for an appointee to a position in the Excepted Service due to exceptional circumstances, the Director of Personnel or independent personnel authority shall promptly consider the documentation and information submitted by the agency; determine if the waiver should be granted; and notify the agency of the decision.
- (i) A waiver of the domicile requirement due to exceptional circumstances granted by the Mayor (or his or her designee) to an appointee to an Executive Service position shall be based on the criteria specified in § 305.9(f).

- (j) Any waiver of the domicile requirement granted due to exceptional circumstances shall remain in effect only for as long as the employee occupies the position for which the waiver was granted.

*Subsection 305.10 is amended to read as follows:*

305.10 Under no circumstance shall a waiver of the domicile requirement pursuant to § 305.9, regardless of the basis for the request, be granted after the effective date of appointment of the person for whom the waiver is sought. In the case of an appointee to the Executive Service, the term "effective date of appointment" means the date the person is appointed in an acting capacity.

*A new § 307.18 is added to read as follows:*

307.18 The Director of Personnel shall notify a subordinate agency head, and the Mayor, when there is reasonable cause to believe that a subordinate agency head is not in compliance with the residency or domicile requirements, as applicable. Upon notification, the Mayor shall determine the appropriate course of action to be taken.

*Section 399 is amended to add the definitions of the terms "immediate family" and "subordinate agency:"*

**Immediate family** – a person who is related to the appointee to a position in the Excepted Service pursuant to § 903(a)(1) and (2) of the CMPA (D.C. Official Code § 1-609.03(a)(1) and (2)) (2002 Supp.) or the Executive Service as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

**Subordinate agency** – any agency under the direct administrative control of the Mayor, including, but not limited to, the agencies listed in § 301(q) of the CMPA (D.C. Official Code § 1-603.01(17)) (2001).

Comments on these proposed regulations should be submitted, in writing, to Ms. Rosalind R. Inge, Interim Director of Personnel, 441 4<sup>th</sup> Street, NW, Suite 300S, Washington, D.C. 20001, within thirty (30) days of the date of publication of this notice in the *D.C. Register*. Additional copies of these proposed rules are available from the above address.