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Subpart E—Driving Records and the Traffic Point System

§ 634.43 Driving records.

Each Service and DLA will use its own form to record vehicle traffic accidents, moving violations, suspension or revocation actions, and traffic point assessments involving military and DOD civilian personnel, their family members, and other personnel operating motor vehicles on a military installation. Army installations will use DA Form 3626 (Vehicle Registration/Driver Record) for this purpose. Table 5–1 of Part 634 prescribes mandatory minimum or maximum suspension or revocation periods. Traffic points are not assessed for suspension or revocation actions.

TABLE 5–1 OF PART 634 SUSPENSION/REVOCATION OF DRIVING PRIVILEGES (SEE NOTES 1 AND 2)

Assessment 1: Two-year revocation is mandatory on determination of facts by installation commander. (For Army, 5-year revocation is mandatory.)

Violation: Driving while driver's license or installation driving privileges are under suspension or revocation.

Assessment 2: One-year revocation is mandatory on determination of facts by installation commander.

Violation: Refusal to submit to or failure to complete chemical tests (implied consent).

Assessment 3: One-year revocation is mandatory on conviction.

Violation: A. Manslaughter (or negligent homicide by vehicle) resulting from the operation of a motor vehicle.

B. Driving or being in actual physical control of a motor vehicle while under the influence of intoxicating liquor (0.08% or greater on DOD installations; violation of civil law off post).

C. Driving a motor vehicle while under the influence of any narcotic, or while under the influence of any other drug (including alcohol) to the degree rendered incapable of safe vehicle operation.

D. Use of a motor vehicle in the commission of a felony. Fleeing the scene of an accident involving death or personal injury (hit and run).

E. Perjury or making a false statement or affidavit under oath to responsible officials relating to the ownership or operation of motor vehicles.

F. Unauthorized use of a motor vehicle belonging to another, when the act does not amount to a felony.

Assessment 4: Suspension for a period of 6 months or less or revocation for a period not to exceed 1 year is discretionary.

Violation: A. Mental or physical impairment (not including alcohol or other drug use) to the degree rendered incompetent to drive.

B. Commission of an offense in another State which, if committed on the installation, would be grounds for suspension or revocation.

C. Permitting an unlawful or fraudulent use of an official driver's license.

D. Conviction of fleeing, or attempting to elude, a police officer.

E. Conviction of racing on the highway.

Assessment 5: Loss of OF 46 for minimum of 6 months is discretionary.

Violation: Receiving a second 1-year suspension or revocation of driving privileges within 5 years.

NOTES

1. When imposing a suspension or revocation because of an off-installation offense, the effective date should be the same as the date of civil conviction, or the date that State or host-nation driving privileges are suspended or revoked. This effective date can be retroactive.

2. No points are assessed for revocation or suspension actions. Except for implied consent violations, revocations must be based on a conviction by a civilian court or courts-martial, nonjudicial punishment under Article 15, UCMJ, or a separate hearing as addressed in this part. If revocation for implied consent is combined with another revocation, such as 1 year for intoxicated driving, revocations may run consecutively (total of 24 months) or concurrently (total of 12 months). The installation commander's policy should be applied systematically and not on a case-by-case basis.

§ 634.44 The traffic point system.

The traffic point system provides a uniform administrative device to impartially judge driving performance of Service and DLA personnel. This system is not a disciplinary measure or a substitute for punitive action. Further, this system is not intended to interfere in any way with the reasonable exercise of an installation commander's prerogative to issue, suspend, revoke, deny, or reinstate installation driving privileges.

§ 634.45 Point system application.

(a) The Services and DLA are required to use the point system and procedures prescribed in this section without change.

(b) The point system in table 5–2 of this part applies to all operators of U.S. Government motor vehicles, on or off Federal property. The system also applies to violators reported to installation officials in accordance with § 634.32.

(c) Points will be assessed when the person is found to have committed a violation and the finding is by either the unit commander, civilian supervisor, a military or civilian court (including a U.S. Magistrate), or by payment of fine, forfeiture of pay or allowances, or posted bond, or collateral.

TABLE 5–2 OF PART 634 POINT ASSESSMENT FOR MOVING TRAFFIC VIOLATIONS (SEE NOTE 1)

A. Violation: Reckless driving (willful and wanton disregard for the safety of persons or property).
Points assessed: 6

B. Violation: Owner knowingly and willfully permitting a physically impaired person to operate the owner's motor vehicle.
Points assessed: 6

C. Violation: Fleeing the scene (hit and run)-property damage only.
Points assessed: 6

D. Violation: Driving vehicle while impaired (blood-alcohol content more than 0.05 percent and less than 0.08 percent).
Points assessed: 6

E. Violation: Speed contests.
Points assessed: 6

F. Violation: Speed too fast for conditions.
Points assessed: 2

G. Violation: Speed too slow for traffic conditions, and/or impeding the flow of traffic, causing potential safety hazard.
Points assessed: 2

H. Violation: Failure of operator or occupants to use available restraint system devices while moving (operator assessed points).
Points assessed: 2

I. Violation: Failure to properly restrain children in a child restraint system while moving (when child is 4 years of age or younger or the weight of child does not exceed 45 pounds).
Points assessed: 2

J. Violation: One to 10 miles per hour over posted speed limit.
Points assessed: 3

K. Violation: Over 10 but not more than 15 miles per hour above posted speed limit.
Points assessed: 4

L. Violation: Over 15 but not more than 20 miles per hour above posted speed limit.
Points assessed: 5

M. Violation: Over 20 miles per hour above posted speed limit.
Points assessed: 6

N. Violation: Following too close.
Points assessed: 4

O. Violation: Failure to yield right of way to emergency vehicle.
Points assessed: 4

P. Violation: Failure to stop for school bus or school-crossing signals.
Points assessed: 4

Q. Violation: Failure to obey traffic signals or traffic instructions of an enforcement officer or traffic warden; or any official regulatory traffic sign or device requiring a full stop or yield of right of way; denying entry; or requiring direction of traffic.
Points assessed: 4

R. Violation: Improper passing.
Points assessed: 4

S. Violation: Failure to yield (no official sign involved).
Points assessed: 4

T. Violation: Improper turning movements (no official sign involved).
Points assessed: 3

U. Violation: Wearing of headphones/earphones while driving motor vehicles (two or more wheels).
Points assessed: 3

V. Violation: Failure to wear an approved helmet and/or reflectorized vest while operating or riding on a motorcycle, MOPED, or a three or four-wheel vehicle powered by a motorcycle-like engine.
Points assessed: 3

W. Violation: Improper overtaking.
Points assessed: 3

X. Violation: Other moving violations (involving driver behavior only).
Points assessed: 3

Y. Violation: Operating an unsafe vehicle. (See Note 2).
Points assessed: 2

Z. Violation: Driver involved in accident is deemed responsible (only added to points assessed for specific offenses).
Points assessed: 1

NOTES

1. When two or more violations are committed on a single occasion, points may be assessed for each individual violation.

2. This measure should be used for other than minor vehicle safety defects or when a driver or registrant fails to correct a minor defect (for example, a burned out headlight not replaced within the grace period on a warning ticket).

§ 634.46 Point system procedures.

(a) Reports of moving traffic violations recorded on DD Form 1408 or DD Form 1805 will serve as a basis for determining point assessment. For DD Form 1408, return endorsements will be required from commanders or supervisors.

(b) On receipt of DD Form 1408 or other military law enforcement report of a moving violation, the unit commander, designated supervisor, or person otherwise designated by the installation commander will conduct an inquiry. The commander will take or recommend proper disciplinary or administrative action. If a case involves judicial or nonjudicial actions, the final report of action taken will not be forwarded until final adjudication.

(c) On receipt of the report of action taken (including action by a U.S. Magistrate Court on DD Form 1805), the installation law enforcement officer will assess the number of points appropriate for the offense, and record the traffic points or the suspension or revocation of driving privileges on the person's driving record. Except as specified otherwise in this part and other Service/DLA regulations, points will not be assessed or driving privileges suspended or revoked when the report of action taken indicates that neither disciplinary nor administrative action was taken.

(d) Installation commanders may require the following driver improvement measures as appropriate:

(1) Advisory letter through the unit commander or supervisor to any person who has acquired six traffic points within a 6-month period.

(2) Counseling or driver improvement interview, by the unit commander, of any person who has acquired more than six but less than 12 traffic points within a 6-month period. This counseling or interview should produce recommendations to improve driver performance.

(3) Referral for medical evaluation when a driver, based on reasonable belief, appears to have mental or physical limits that have had or may have an adverse affect on driving performance.

(4) Attendance at remedial driver training to improve driving performance.

(5) Referral to an alcohol or drug treatment or rehabilitation facility for evaluation, counseling, or treatment. This action is required for active military personnel in all cases in which alcohol or other drugs are a contributing factor to a traffic citation, incident, or accident.

(e) An individual's driving privileges may be suspended or revoked as provided by this part regardless of whether these improvement measures are accomplished.

(f) Persons whose driving privileges are suspended or revoked (for one violation or an accumulation of 12 traffic points within 12 consecutive months, or 18 traffic points within 24 consecutive months) will be notified in writing through official channels (§ 634.11). Except for the mandatory minimum or maximum suspension or revocation periods prescribed by table 5–1 of this part, the installation commander will establish periods of suspension or revocation. Any revocation based on traffic points must be no less than 6 months. A longer period may be imposed on the basis of a person's overall driving record considering the frequency, flagrancy, severity of moving violations, and the response to previous driver improvement measures. In all cases, military members must successfully complete a prescribed course in remedial driver training before driving privileges are reinstated.

(g) Points assessed against a person will remain in effect for point accumulation purposes for 24 consecutive months. The review of driver records to delete traffic points should be done routinely during records update while recording new offenses and forwarding records to new duty stations. Completion of a revocation based on points requires removal from the driver record of all points assessed before the revocation.

(h) Removal of points does not authorize removal of driving record entries for moving violations, chargeable accidents, suspensions, or revocations. Record entries will remain posted on individual driving records for the following periods of time.

(1) Chargeable nonfatal traffic accidents or moving violations—3 years.

(2) Nonmandatory suspensions or revocations—5 years.

(3) Mandatory revocations—7 years.

§ 634.47 Disposition of driving records.

Procedures will be established to ensure prompt notice to the installation law enforcement officer when a person

assigned to or employed on the installation is being transferred to another installation, being released from military service, or ending employment.

(a) If persons being transferred to a new installation have valid points or other entries on the driving records, the law enforcement officer will forward the records to the law enforcement officer of the gaining installation. Gaining installation law enforcement officers must coordinate with applicable commanders and continue any existing suspension or revocation based on intoxicated driving or accumulation of traffic points. Traffic points for persons being transferred will continue to accumulate as specified in § 634.46 (g).

(b) Driving records of military personnel being discharged or released from active duty will be retained on file for 2 years and then destroyed. In cases of immediate reenlistment, change of officer component or military or civilian retirement when vehicle registration is continued, the record will remain active.

(c) Driving records of civilian personnel terminating employment will be retained on file for 2 years and then destroyed.

(d) Driving records of military family members containing point assessments or other entries will be forwarded to the sponsor's gaining installation in the same manner as for service members. At the new installation, records will be analyzed and made available temporarily to the sponsor's unit commander or supervisor for review.

(e) Driving records of retirees electing to retain installation driving privileges will be retained. Points accumulated or entries on the driver record regarding suspensions, revocations, moving violations, or chargeable accidents will not be deleted from driver records except per § 634.46 (g) and (h).

(f) Army users will comply with paragraphs (a) and (d) of this section by mailing the individual's DA Form 3626 to the gaining installation provost marshal.

Subpart F—Impounding Privately Owned Vehicles

§ 634.48 General.

This subpart provides the standards and procedures for law enforcement personnel when towing, inventorying, searching, impounding, and disposing of POVs. This policy is based on:

(a) The interests of the Services and DLA in crime prevention, traffic safety, and the orderly flow of vehicle traffic movement.

(b) The vehicle owner's constitutional rights to due process, freedom from unreasonable search and seizure, and freedom from deprivation of private property.

§ 634.49 Standards for impoundment.

(a) POVs should not be impounded unless the vehicles clearly interfere with ongoing operations or movement of traffic, threaten public safety or convenience, are involved in criminal activity, contain evidence of criminal activity, or are stolen or abandoned.

(b) The impoundment of a POV would be inappropriate when reasonable alternatives to impoundment exist.

(1) Attempts should be made to locate the owner of the POV and have the vehicle removed.

(2) The vehicle may be moved a short distance to a legal parking area and temporarily secured until the owner is found.

(3) Another responsible person may be allowed to drive or tow the POV with permission from the owner, operator, or person empowered to control the vehicle. In this case, the owner, operator, or person empowered to control the vehicle will be informed that law enforcement personnel are not responsible for safeguarding the POV.

(c) Impounding of POVs is justified when any of the following conditions exist:

(1) The POV is illegally parked—

(i) On a street or bridge, in a tunnel, or is double parked, and interferes with the orderly flow of traffic.

(ii) On a sidewalk, within an intersection, on a cross-walk, on a railroad track, in a fire lane, or is blocking a driveway, so that the vehicle interferes