DEPARTMENT

OF

FOR-HIRE VEHICLES

ADMINISTRATIVE ISSUANCE
Title: Non-MSA Service Member Pilot Program
Series/Number: AI-2016-007
Approved: June 29, 2016
Revised: N/A
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I. BACKGROUND

The Department of For-Hire Vehicles ("Department") has the authority and obligation to enact rules and regulations applicable to private sedan rides, within the parameters of the Establishment Act. *See generally* D.C. OFFICIAL Code § 50-301.29g. The Department's authority includes the power to reasonably construe and interpret the regulations and statutes it is charged with enforcing, through administrative guidance and clarification consistent with established public policy. *See id.; Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984). This administrative issuance provides guidance to allow "qualified nonresident service members" and "qualified spouses", as defined herein, to work as private sedan operators in the District as if they personal driver's licenses issued by a driver licensing agency within the MSA.

Pursuant to the language of a 2015 amendment to the Establishment Act – the Vehicle for Hire Innovation Amendment Act of 2014 (effective March 10, 2015) ("Vehicle for Hire Act") (which legalized private sedan service in the District) – private sedan operators must have a "current and valid personal driver's license issued by a jurisdiction within the [Multistate Area ("MSA") of Virginia, Maryland, and the District of Columbia]." *See* D.C. OFFICIAL Code § 50-301.29e. The Department's regulations track the Act. *See* 31 DCMR § 1904 (e). At the same time, these individuals are exempt from the requirement of obtaining an MSA driver's license while stationed in the MSA, away from their places of residence. *See* Federal Servicemembers Civil Relief Act, 50 U.S.C. §§ 3901, *et. seq.*; D.C. OFFICIAL Code § 50-1401.02(c)(5), (7); MD. TRANSP. CODE ANN. § 16-102 (a) (7); VA. CODE ANN. § 46.2-600.

As a result of this incongruity, active duty service members and their spouses stationed in the MSA pursuant to active duty military orders have been excluded from working as private sedan operators since the Vehicle for Hire Act went into effect. The Department finds this situation to be legally untenable, as well as unfair to military families, because the language of the more recently enacted Vehicle for Hire Act should be read in harmony with the pre-existing driver licensing statutes in all three MSA jurisdictions, which are laws of more general application. *See O'Rourke v. D.C. Police & Firefighters' Ret. & Relief Bd.*, 46 A.3d 378, 383 (D.C. 2012) ("[W]e must construe [sections of a statute] not in isolation, but together with other related provisions, and derive their meaning not from the reading of a single sentence or section, but from consideration of [the] entire enactment against the backdrop of its policies and objectives.").

To create new economic opportunities for military families, the Department through this administrative issuance establishes the Non-MSA Service Member Pilot Program, to allow

service members and their spouses stationed in the District of Columbia, Maryland, and Virginia to operate private sedans without MSA personal driver's licenses. The pilot allows service members and their spouses to participate by registering directly with the Department, or by registering with a private sedan businesses that chooses to participate in the program. No individual or private sedan business shall be required to participate in the program, or to pay any fee for participation.

II. PURPOSE

To establish the Non-MSA Service Member Pilot Program, a voluntary program.

III. POLICY

Any qualified non-MSA service member and qualified spouse, as defined herein, may become a private sedan operator by either: (1) registering online with the Department; or (2) registering with a private sedan business that chooses to participate in the pilot program. Approved qualified non-MSA service members and qualified spouses may register with any or all private sedan businesses, and shall display the vehicle decal provided by the Department at all times while providing service. Any private sedan business may choose to participate in the program by electing to do so on its registration form filed with the Department under Chapter 19.

IV. DEFINITIONS

"Multi-State Area" – the District of Columbia, the State of Maryland, and Commonwealth of Virginia.

"Pilot documents" – the original documents (or copies thereof, as the Department shall determine) required for qualification of an individual to be a qualified non-MSA service member, or qualified spouse, as defined herein, consisting of:

(a) His or her current and valid personal driver's license issued by the motor vehicle licensing agency of the non-MSA jurisdiction where he or she is a legal resident;

(b) His or her (or his or her spouse's) military common access card ("CAC");

(c) His or her (or his or her spouse's) current, active duty military orders pursuant to which the service member (or his or her spouse) is stationed within the MSA; and

(d) For qualified spouses: a sworn statement bearing the date and the applicant's signature that the individual resides with the qualified non-MSA service member at the same street address.

"Private sedan" – a private vehicle-for-hire, as defined in the Establishment Act, where the operator and vehicle are subject to the regulations in Chapter 19, and other applicable laws.

"Qualified non-MSA service member" – a member of the military stationed in the MSA pursuant to current, active duty military orders, who, by virtue thereof, is exempt from compliance with D.C. OFFICIAL CODE §§ 50-1401.01 and 50-1501.02, and from the provisions of the DCMR requiring the registration of motor vehicles, the display of identification tags, and the licensing of owners and operators of motor vehicles in the District.

"Qualified spouse" – the spouse of a qualified non-MSA service member who resides at the same street address in the MSA with his or her spouse, who, by virtue thereof, is exempt from compliance with D.C. OFFICIAL CODE §§ 50-1401.01 and 50-1501.02, and from provisions of the DCMR requiring the registration of motor vehicles, the display of identification tags, and the licensing of owners and operators of motor vehicles in the District.

V. AUTHORITY

Sections 8(c) (1) - (3), (4) (7), (10), (11), (14), (16), (18) - (20); 14, 15, and 20(j) of the Establishment Act, D.C. OFFICIAL Code § 50-301, *et seq.*; 50-1401.02, *et seq;* 31 DCMR Ch. 19.

VI. PROCEDURES

Any qualified non-MSA service member or qualified spouse may become a private sedan operator by registering either: (1) online directly with the Department; or (2) with a private sedan business that participates in the pilot. Each qualified non-MSA service member and qualified spouse who participates in the pilot shall display a vehicle decal provided without charge by the Department.

Registration with the Department

Each qualified non-MSA service member and qualified spouse who wishes to work as a private sedan operator in the District without a personal driver's license issued by an MSA driver licensing agency shall register with the Department online or through other means to provide:

(a) Basic information about the applicant and the vehicle, including the applicant's name, address, cellphone number, and social security number, and the vehicle's model year, make, model, vehicle identification number, color, jurisdiction of registration, and tag number;

(b) The names of the registered private sedan business(es) with which the applicant wishes to associate;

(c) The pilot documents; and

(d) Other information and documentation reasonably required by the Department to process the application.

The Department shall make a decision to grant or deny an individual's registration within two (2) business days. The Department shall provide each approved individual with a free vehicle decal.

The Department may order the administrative suspension of an individual participating in the program as follows:

(a) Effective following ten (10) business days' written notice, where the Department learns the individual may no longer be eligible to participate in the program; and/or

(b) Effective immediately upon written notice, where the individual's participation in the program poses an imminent or significant threat to the health, safety, consumer rights, or privacy of passengers, operators, or the public.

Any suspension shall be administrative and not subject to appeal under Chapter 7, and shall end when, in the reasonable discretion of the Department, the circumstances giving rise to the suspension have been abated. A suspension pursuant to paragraph (a) shall not be considered part of the individual's compliance record with the Department for any purpose other than the individual's further participation in the program.

Registration with participating businesses

Each private sedan business that wishes to register qualified non-MSA service members and qualified spouses as private sedan operators shall:

(a) Elect on its private sedan business registration form that it wishes to participate in the program;

(b) Maintain as business records under Chapter 19 the pilot documents for each qualified non-MSA service member and each qualified spouse whom the business registers as an operator;

(c) Maintain with the Department a current and accurate list of the qualified non-MSA service members and qualified spouses registered as operators pursuant to this administrative issuance; and

(d) Immediately suspend or terminate an operator registered pursuant to this administrative issuance who no longer meets its requirements, and promptly notify the Department that such an action has been taken, together with the reason for the action.

The Department shall make a decision to grant or deny a business's application to participate in the pilot program as part of the process of reviewing the application of a new business, and within five (5) business days for a business already registered under Chapter 19. The Department shall provide each participating business with such vehicle decals as the Department of deems appropriate; there shall be no charge for decals.

The Department may order the administrative suspension of a private sedan business's participation in the program as follows:

(a) Effective following ten (10) business days' written notice, based on the business's failure to maintain substantial compliance with the requirements of this administrative issuance; and/or

(b) Immediately upon written notice, where the business's participation in the program poses an imminent or significant threat to the health, safety, consumer rights, or privacy of passengers, operators, or the public.

Any suspension shall be administrative and not subject to appeal under Chapter 7, and shall end when, in the reasonable discretion of the Department, the circumstances giving rise to the suspension have been abated. A suspension pursuant to paragraph (a) shall not be considered part of the business's compliance record for any purpose other than the business's further participation in the program.

SO ORDERED:

DEPARTMENT OF FOR-HIRE VEHICLES

By: Ernest Chrappah

ERNEST CHRAPPAH
Acting Director