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The Secretary of State presents her compliments to Their Excellencies and Messieurs and Mesdames the Chiefs of Mission and wishes to reaffirm, as the exclusive driver licensing authority for members of the diplomatic and consular communities who may be entitled to claim immunity from the criminal, civil, or administrative jurisdictions of the receiving State, the Department's longstanding policy regarding the resolution of motor vehicle law violations. The subject was last brought to the attention of the Chiefs of Mission in the Department's circular note No. 04-38, dated February 24, 2004. Chiefs of Mission are requested to remind their consular posts of this Department policy.

The Chiefs of Mission are reminded that the Department's traffic violations policy is based on the principle that persons enjoying privileges and immunities in the United States are nevertheless obliged to respect United States laws and regulations. The policy further rests on the principle that the operation of a motor vehicle in the United States by such persons is not a right but a privilege that may be withdrawn in cases of abuse. The

Department acknowledges that the great majority of members of the foreign mission community operate motor vehicles responsibly and in compliance with local traffic laws and regulations. However, when cited for traffic violations, it is important that mission members and members of their family (referred to herein as “mission members and family members”) take the appropriate and necessary steps to resolve such offenses.

The Department neither intervenes with local jurisdictions to contest cited violations on behalf of persons with immunity, nor does it have the authority to dismiss violations or cancel fines associated with traffic citations. When mission members and family members are cited for traffic offenses, in each case, the Office of Foreign Mission’s Diplomatic Motor Vehicle, Enforcement and Outreach Office (“OFM/DMV”) notifies the alleged offender’s mission of the incident and advises on the appropriate methods of resolving the particular offense. In discussing the various ways to address particular offenses, it is helpful to note that traffic violations typically are divided into two types: pre-payable and “must appear.”

A. PRE-PAYABLE VIOLATIONS

Pre-payable violations are relatively minor traffic infractions that do not require a court appearance and can be resolved by satisfying a set fine,

usually indicated on the citation itself. Should a mission member or family member be cited for such an offense, the Department expects the violation to be resolved one of two ways:

(1) Pay the scheduled fine associated with the violation. Upon receiving notice of payment, OFM/DMV will assess the appropriate number of violation points to a mission member's or family member's Department driving record.

(2) Contest the violation in the proper forum. If a mission member or family member believes the citation was issued unjustly, the individual should obtain the necessary waiver from the sending State and contest the violation on its merits in the appropriate forum. If a mission member or family member intends to contest a violation, the mission must inform OFM/DMV in writing before the scheduled hearing date so that the Department can notify the court. In such cases, the Department will abide by the disposition of the court or administrative agency and assess violation points to a mission member's or family member's driving record only if the violation is upheld. Additionally, the Department expects an alleged offender to satisfy any fines imposed by the court, as well as to comply with

any probationary conditions stipulated by the court in its disposition of the case.

The Department reminds the Chiefs of Mission that it has no authority to adjudicate, modify, or cancel fines associated with traffic violations. The Department therefore urges the missions to advise mission members and family members who believe they have been cited unjustly to contest citations. If a mission member or family member cannot appear in court to adjudicate a violation, the Department expects the fine to be satisfied to resolve the matter with the local jurisdiction.

B. “MUST APPEAR” VIOLATIONS

A motor vehicle law violation that requires a court appearance is commonly referred to as a “must appear” offense. The citation issued for this type of violation does not automatically impose a fine that a mission member or family member can pay in lieu of a court appearance. Rather, due to the seriousness of the offense, adjudication is required and the individual is cited and summoned to appear in court.

Some common examples of “must appear” traffic offenses include: reckless driving (in several states, including Virginia, New York,

Connecticut, and New Jersey, exceeding the posted speed limit by more than 20 m.p.h. is a reckless driving offense); driving under the influence (DUI) of alcohol or drugs; driving while intoxicated (DWI); driving without a valid license or driving while under a driving privilege suspension.

Should a mission member or family member be cited for a moving violation that requires a court appearance, once the Department is notified of the charge, it formally will request a waiver of immunity in each case to allow local adjudication of the matter. Again, the Department expects the violation to be resolved by one of two ways:

(1) The sending State grants a waiver of immunity. As with the pre-payable violation, upon receiving a written waiver of an alleged offender's immunity prior to the scheduled court date, the Department will notify the court. The Department will abide by the disposition of the court and assess violation points to a mission member's or family member's driving record only if the violation is upheld. Again, the Department expects an alleged offender to satisfy any fines imposed by the court, as well as to comply with any probationary conditions stipulated by the court in its disposition of the case.

(2) The sending State declines a waiver of immunity. Upon receiving a written denial from the sending State prior to the scheduled hearing date, the Department will certify to the court that the mission member or family member is immune from its jurisdiction and will not appear for the hearing. OFM/DMV then will assess the appropriate number of violation points to the mission member's or family member's driving record.

Typical pre-payable violations result in a 2- to 4-point assessment on an individual's Department of State driving record. More serious "must appear" violations usually result in a 6- to 8-point assessment. The Department automatically suspends driving privileges should a mission member or family member accumulate 12 or more points on his or her driving record within a 24-month period. The first-time driving privilege suspension for the accumulation of excessive points is 90 days.

C. ALCOHOL-RELATED OR IMPAIRED DRIVING OFFENSES

Alcohol-related or impaired driving offenses present a particularly serious threat to public safety. Accordingly, in the case of a first-time DUI or DWI offense that does not involve death or personal injury to another, it is the Department's policy to suspend driving privileges for a period of up to

one year should a mission member's or family member's immunity not be waived to permit adjudication in accordance with local law.

Once a mission member's or family member's driving privilege has been suspended, the Department requests that the embassy guarantee that an alleged offender will not operate a motor vehicle in the United States for the duration of the suspension. Failure to comply with a Department driving suspension is considered grounds for revoking a mission member's or family member's driving privilege for the remainder of his or her tour in the United States, or requiring a mission member's or family member's departure from the United States. Should the sending State waive immunity to allow local adjudication, the Department will abide by the court's disposition of the DUI or DWI charge. Should the individual be found guilty of the charge, the Department expects the mission member or family member to satisfy any fines imposed by the court, as well as to comply with any probationary conditions, such as a period of driving suspension stipulated by the court in its disposition of the case. The Department will assess the appropriate number of points to the mission member's or family member's driving record, as well as impose its own driving suspension, when appropriate, based on the court's disposition of the charge.

The Chiefs of Mission are reminded that the Department takes very seriously allegations of alcohol-related driving offenses presented in official police reports. When immunity has prevented arrest and formal filing of a DWI or DUI charge, the Department may impose *administrative* driving suspensions based on such written allegations. Suspension of driving privileges on this basis is a separate administrative action which the Department may take independent of a local jurisdiction's determination whether to pursue a criminal prosecution in a particular alcohol-related driving case.

Consistent with the Department's deep concern regarding the potentially tragic consequences presented by alcohol-related or impaired driving incidents, should a mission member or family member be involved in a second DWI or DUI offense, it is Department policy to require that individual's departure from the United States.

D. SERIOUS OFFENSES

Under Department regulations, serious motor vehicle offenses include the crimes of DWI, DUI or reckless driving where those crimes result in death or personal injury to another person. In the case of a serious offense, if the Department's request for a waiver of immunity is declined by a

sending State, it is the Department's policy to require the alleged offender to leave the United States. In an exceptional case, the Department may require a mission member or family member to leave even if a waiver is granted and the offense is adjudicated in the United States.

Additionally, should a mission member or family member be cited repeatedly for lesser driving offenses, the accumulation of which evidences a serious disregard for United States law and public safety, the Department may take independent action, including the suspension of driving privileges for a period up to one year, revocation of driving privileges for the remainder of an individual's tour or requiring the individual's departure from the United States.

The Department again acknowledges that the vast majority of the members of the diplomatic and consular communities obey local traffic laws and operate motor vehicles safely. Nonetheless, when cited for traffic infractions, it is important that mission members and family members take one of the available steps necessary to resolve any offense. Should a violation remain outstanding, administrative and judicial consequences may automatically ensue without prior notification to the Department by state or local authorities. Such consequences may include the loss of driving

privileges within the jurisdiction where the violation occurred, adjudication in the alleged offender's absence, resulting in costly fines, or, particularly in a "must appear" case, the issuance of an arrest warrant for failure to appear in court. In order to help prevent such unfortunate consequences from occurring, the Department urges the Chiefs of Mission to advise their mission members at their Embassies and consular posts to notify OFM whenever they or their family members are cited so that the appropriate steps may be taken.

The Department is certain that the Chiefs of Mission share its concern for public safety and the responsible operation of motor vehicles, and it solicits the continued cooperation of the Chiefs of Mission and their personnel in matters related to traffic violations.

Department of State,

Washington,



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