

12-348

The Secretary of State presents her compliments to Their Excellencies, Messieurs and Mesdames the Chiefs of Mission, and wishes to reaffirm the longstanding policies of the Department's Office of Foreign Missions (OFM) regarding motor vehicle ownership and/or operation by foreign missions and their members in the United States. OFM is the exclusive licensing and registration authority in the United States for foreign missions and their eligible members. This note supersedes Circular Note No. 95-362, dated January 17, 1996, in which the above-referenced policies were detailed.

**Legal Background:**

**Diplomatic Immunity and the Requirement for Liability Insurance, Registrations, and Driver's Licenses**

The Diplomatic Relations Act and the regulations issued pursuant thereto mandate that, due to the immunity they may enjoy from criminal, civil, and administrative jurisdiction, all foreign missions and their eligible members must carry liability insurance for their vehicles, vessels and aircraft. Furthermore, missions are required to provide written proof that all such motor vehicles maintain

the required liability insurance. This reporting requirement was first announced and further detailed in the Department's Circular Note dated January 9, 1984, incorporated by reference herein and enclosed for ease of reference. The Foreign Missions Act (FMA) further states that "benefits," as defined by the FMA, may be provided to or for a foreign mission by or through the Director of OFM "...on such terms and conditions as the Secretary [of State] may approve." All referenced circular notes may be found on the OFM website at [www.state.gov/ofm/dmv](http://www.state.gov/ofm/dmv).

In 1984, all significant aspects of motor vehicle ownership and operation – including vehicle registration and driver's licenses – were designated "benefits" under the FMA, and subjected to OFM control, in order to ensure compliance, through the registration and annual renewal process, with the above-referenced U.S. federal law requiring foreign missions and their members to maintain liability insurance, as well as, for public safety reasons, to handle incidents in the United States involving persons who are entitled to varying levels of immunity from legal process.

In 1988, OFM became the sole authority for issuance of Department of State driver's licenses for persons entitled to varying levels of immunity in the United States, for reasons of public safety and in order to handle incidents involving foreign mission personnel who incur motor vehicle violations but whose immunity shields them from the jurisdiction of U.S. courts. This expansion of OFM's motor

vehicle program was announced in Circular Note No. 88-465, dated June 28, 1988. Further information regarding OFM's Enforcement Program may be found in Circular Note No. 10-181, dated September 24, 2010.

The limitations and conditions imposed by the Department pursuant to the FMA on vehicle registration and operation preempt all contrary state and local law (22 U.S.C. § 4307). Congress explained the intent of this preclusion as follows:

Section [4307 of the FMA] expresses the preemptive effect of the right of the Federal Government, acting through the Secretary of State, to preclude the acquisition of any benefits by a foreign mission within the United States.... The principal impact of its terms is to preclude reliance on local law, regulation or practice by a foreign mission in an effort to secure benefits contrary to limitations imposed by the Secretary (House Conference Report No. 97-673, 97<sup>th</sup> Cong., 2<sup>nd</sup> Sess. at 43, 1982).

Accordingly, no foreign mission or mission member may legally apply for or receive, and no state may issue, a state driver's license, vehicle registration or license plate to a foreign mission or its eligible members. As noted, OFM is the sole driver licensing and vehicle registering authority for such missions and their eligible personnel.

The issuance of driver's licenses, vehicle registrations, titles, and associated license plates by the Department is conditioned on the recipient's observance of applicable federal law and regulations (including the requirements for maintaining the prescribed levels of liability insurance), and of local traffic laws and regulations. These requirements are fully consistent with applicable international conventions, which impose on mission members the general duty "to respect the laws and regulations of the receiving State." (Vienna Convention on Diplomatic Relations, Art. 41(1); Vienna Convention on Consular Relations, Art. 55(1).)

### **OFM Motor Vehicle Policies and Procedures:**

#### **Retention of Vehicle Titles**

As missions are aware, since the inception of OFM's Motor Vehicle Program (OFM/DMV), OFM/DMV has retained the Department of State titles to vehicles (until such time as the vehicles are to be sold or exported) in order to ensure: that the vehicles are not registered with any U.S. State jurisdictions (thereby circumventing the insurance mandate); that vehicles are acquired, sold, transferred, "junked", and exported on a reciprocal basis; that vehicles that are non-compliant with EPA standards are sold within the diplomatic community with the prior approval of OFM/DMV or are exported at the end of the diplomat's tour of duty, and, finally; that the diplomatic license plates (which are the property of

the United States Government) are returned to OFM upon sale, transfer, or export of an OFM-registered vehicle.

### **Federal Requirement for Third Party Liability Insurance**

Insurance coverage amounting to \$100,000/300,000/100,000 split limits for bodily injury per person/bodily injury per accident/and property damage per accident or \$300,000 combined single limit is required for all vehicles registered by missions and their eligible personnel. For more detailed insurance information, missions may visit OFM's website at

<http://www.state.gov/ofm/dmv/enforcement/insurance/>.

The Department established the combined single limit level to protect accident victims by assuring that, in the majority of incidents involving diplomats, there exists sufficient liability insurance coverage to provide adequate compensation for injuries or damages caused.

While these levels generally exceed minimum state insurance requirements, many people in the United States secure the higher insurance coverage minimum that is required for the diplomatic community. As noted herein, the higher insurance minimums discussed above are required by federal law and were imposed because of the immunity status enjoyed by foreign missions and mission members. Persons not enjoying such immunity, whose insurance levels do not fully compensate an injured party, are subject to suit and potential seizure of

their personal assets to pay for the damage they cause. In contrast, based upon applicable treaties, foreign mission members, depending on their status, may enjoy not only criminal but also civil immunity, protecting them from such suits. Higher insurance levels are therefore appropriate to protect both injured parties and the diplomatic community. OFM does not require missions to purchase insurance coverage from American firms; however, any off-shore firms providing coverage must be licensed to do business in all 50 U.S. states.

The Chiefs of Mission are requested to communicate this important information to all diplomatic and consular personnel and their family members throughout the United States. Missions may direct any questions in this regard to the Office of Foreign Missions at [OFMDMVIInfo@state.gov](mailto:OFMDMVIInfo@state.gov) or 202-895-3500. The Department appreciates the missions' continuing cooperation with the Department's motor vehicle program.

Enclosure:

As Stated

Department of State,



Washington, December 18, 2012.

MOTOR VEHICLES:  
LIABILITY INSURANCE  
JANUARY 9, 1984

The Secretary of State presents his compliments to Their Excellencies, Messieurs and Mesdames the Chiefs of Mission and has the honor to invite their attention to the recent enactment of United States legislation pertaining to the regulation of foreign missions.

The Foreign Missions Amendments Act of 1983 (the Act), enacted on November 22, 1983 (Public Law 98-166), amends the Diplomatic Relations Act of 1978 (Public Law 95-393), to set forth new reporting requirements for all foreign missions in the United States, its territories, or possessions. In accordance with the Act, beginning on February 1, 1984, the head of a foreign mission is required to notify promptly the Director of the Office of Foreign Missions at the Department of State of the lapse or termination of any liability insurance coverage held on motor vehicles, vessels, and aircraft owned by a mission, by a member of a mission, and by members of the family of such member.

The Act also requires that not later than February 1 of each year, the head of each foreign mission shall prepare and transmit to the Director of the Office of Foreign Missions a report including a list of motor vehicles, vessels, and aircraft registered in the United States, its territories or possessions, by the mission itself, by members of the mission, and by members of the families of such members. Such list shall set forth for each such motor vehicle, vessel, or aircraft--

- the vehicle, vessel, or aircraft identification number;
- the license plate number;
- the jurisdiction (e.g. State) in which it is registered;
- the principal operator;
- the principal location of the vehicle, vessel, and/or aircraft;
- the registered owner;
- the name of the insured;
- the name of the insurance company;
- the insurance policy number;
- the specific type and amount of liability insurance coverage; and
- the expiration date of the insurance policy.

The enclosed form is to be completed for each vehicle used by the persons mentioned above. This form may be reproduced as needed. Any questions regarding the completion of the form should be directed to the Office of Foreign Missions, telephone number (202) 632-5741. Upon completion and prior to February 1, the attached form(s) should be submitted to the Director of the Office of Foreign Missions, Department of State, Room 2105, Washington, D.C. 20520.

The Act also requires that whenever the Director finds that a member of a foreign mission, or a member of the family of such member--

- is at fault for personal injury, death, or property damage arising out of the operation of a motor vehicle, vessel, or aircraft in the United States;
- is not covered by liability insurance; and
- has not satisfied a court-rendered judgment against him or is not legally liable, the Director shall impose a surcharge or fee on the foreign mission of

which such a member or individual is a part, amounting to the unsatisfied portion of the judgment rendered against such member or individual or, if there is no court-rendered judgment, an estimated amount of damages incurred by the victim. The payment of any such surcharge or fee shall be available only for compensation of the victim or his estate.

The term "mission" includes missions within the meaning of the Vienna Convention on Diplomatic Relations (the Vienna Convention) and any missions representing foreign governments, individually or collectively, which are extended the same privileges and immunities, pursuant to law, as are enjoyed by missions under the Vienna Convention and consulates throughout the United States, its territories, or possessions.

The Act pertains to all missions including embassies, consulates, permanent missions and the offices of the permanent observers to the United Nations with respect to the individuals described in Section 19 of the Convention of Privileges and Immunities of the United Nations of February 13, 1946, international organizations. Although prior legislation has not required compliance by consulates (through their respective embassies), the Act clearly encompasses such entities. The Act also pertains to all vehicles owned and/or operated by all personnel of diplomatic missions and consular personnel, including family members, whenever these persons may be assigned in the United States, its territories, or possessions.

The term "members of a mission" includes the head of a mission or a consular post, members of the diplomatic staff of a mission and consular officers, members of the administrative and technical staff of a mission, members of the service staff of a mission and consular employees.

The term "family" includes the members of the family of a member of a mission who form part of his or her household if they are not nationals of the United States, and the members of the family of a member, of the administrative and technical staff of a mission, of the service staff of a mission, and private servants of members of a mission who form part of his or her household if they are not-nationals or permanent residents of the United States.

The Department looks forward to the continued cooperation of all missions and consular offices in this matter.

Enclosures:

1. Forms.
2. Public Law 98-166.

Department of State,  
Washington, January 9, 1984

JEN