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TITLE 280 – DEPARTMENT OF REVENUE

CHAPTER 30 – DIVISION OF MOTOR VEHICLES

SUBCHAPTER 00 – GENERAL ADMINISTRATION

PART 1 – Rules of Practice and Procedure for the Division of Motor Vehicles

1.1 Scope and Authority

1.1.1 Scope

These Rules and Regulations describe the administrative practices and procedures of the Division of Motor Vehicles, established pursuant to R.I. Gen. Laws § 31-2-1 *et seq.* The Division of Motor Vehicles is a division of the Rhode Island Department of Revenue, established pursuant to R.I. Gen. Laws § 42-142-1 *et seq.*

1.1.2 Authority

These Rules and Regulations are promulgated pursuant to R.I. Gen. Laws §§ 42-35-2 and 31-2-4, as amended.

1.2 Definitions

- A. For the purposes of these Rules and Regulations the following words and phrases shall have the following meanings, unless another meaning is expressed or is clearly apparent from the language or content:
1. “Act” means the Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35, as amended.
 2. “Administrator” means the Administrator of the Division of Motor Vehicles, as set forth in R.I. Gen. Laws § 31-1-16(a).
 3. “Contested case” means an adjudicatory proceeding before a hearing officer of the Division of Motor Vehicles, wherein the legal rights, duties or privileges of a party are determined.
 4. “Department” means the Department of Revenue, a department in the executive branch of state government that is located at One Capitol Hill, Providence, Rhode Island 02908, or any successor Department.

5. "Director" means the Director of the Department of Revenue, or any successor Department.
6. "Division of Motor Vehicles" and "Division" means the division that exists within the Department of Revenue, pursuant to R.I. Gen. Laws § 42-142-1 *et seq.*, or any successor Department, as defined in R.I. Gen. Laws § 31-1-16(b).
7. "DHS" means the U.S. Department of Homeland Security.
8. "Hearing" means any contested case that is brought before the Administrator of the Division of Motor Vehicles.
9. "Hearing officer" means the person authorized by law or duly designated by the Director or Administrator to hear and conduct hearings and to recommend decisions, or render final determinations in contested cases.
10. "INS" means the former Immigration and Naturalization Service of the U.S. Department of Justice.
11. "Person" means any individual, partnership, corporation, limited liability company, association, governmental subdivision, public or private organization or any other entity however formed.
12. "Regular business hours" means the regular business hours of the Division of Motor Vehicles.

1.3 Rules of Practice - Generally

This section governs procedures and practices regarding contested matters before the Division of Motor Vehicles except those specifically listed in § 1.4 of this Part.

1.3.1 Appearances

- A. No person may appear in a representative capacity before the Division of Motor Vehicles other than attorneys at law duly qualified and entitled to practice before the Supreme Court of the State of Rhode Island and attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the State of Rhode Island are permitted to appear in a representative capacity before administrative agencies of such other state, and such other persons as by law are expressly authorized to appear in representative capacities, and if not otherwise prohibited by our state law. The Administrator may, in his or her sole discretion, permit a bona fide officer, partner, or full time employee of an individual firm, association, partnership, or

corporation to appear for such individual firm, association, partnership, or corporation.

- B. All persons appearing in proceedings before the Division of Motor Vehicles in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Rhode Island. If any such person does not conform to these standards, that person may not be allowed to appear in a representative capacity in any proceeding before the Division.

1.3.2 Notice

Whenever notice of any person is or may be required, the notice shall consist of personal delivery to the person or by mailing of a letter by regular or certified mail. The person who provides the notice has the burden to demonstrate that notice was personally delivered or was mailed.

1.3.3 Request for Hearing

- A. The procedure for a Request for Hearing consists of the following:
 1. A clear and concise statement of the nature of the matter which is disputed, objected to, or otherwise sought to be contested and of the facts on which the appellant relies;
 2. A clear and concise statement of the objection to the action of the Division of Motor Vehicles with which he or she is aggrieved, and contention of law, if any, which the appellant desires to raise, including the application of any agency rule or regulation which may be involved;
 3. A prayer setting forth the relief sought; and
 4. The name and address of the appellant, as well as the name and address of his or her attorney, if any.
- B. Filing of Request for Hearing – The request for hearing shall be filed with the Administrator and be signed by the appellant or by his or her attorney. Such filing shall be made within ten (10) days , either by hand delivery or by regular mail, postage prepaid, addressed to the Division of Motor Vehicles, 600 New London Avenue, Cranston, Rhode Island 02920 .
- C. Failure to Comply – Failure to conform to the requirements of this subsection may constitute grounds for the dismissal of the request for hearing.

1.3.4 Hearings

- A. General - All hearings required by law or by the Administrator shall be conducted in accordance with this Part. Where no hearing is required by the Act, the Administrator may nevertheless in his or her discretion conduct informal hearings or investigations in such manner and according to such procedures as established by the Act and R.I. Gen. Laws Title 31.
- B. Contested Cases
1. In any contested case, all parties shall be afforded an opportunity for hearing after reasonable notice. The notice, shall include:
 - a. a statement of the time, place, and nature of the hearing;
 - b. a statement of legal authority and jurisdiction under which the hearing is to be held;
 - c. a reference to the relevant sections of the Rhode Island General Laws and Rhode Island Code of Regulations; and
 - d. a short and plain statement of the matters to be heard.
 2. Opportunity shall be afforded to all parties to respond and present evidence and argument on all issues involved.
 3. Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.
 4. The record in a contested case shall include:
 - a. all pleading, motions, and intermediate rulings;
 - b. evidence received or considered;
 - c. a statement of matters officially noticed;
 - d. questions and offers of proof and ruling thereon;
 - e. proposed findings and exceptions; and
 - f. any decision, opinion, or report by the hearing officer .
 5. Hearings – Open to Public – Hearings shall be open to the public unless the Administrator shall declare the hearing closed upon the request of a party and for good cause shown.

1.3.5 Conduct of Hearings

- A. The Administrator is not required to consider any issue of fact or contention of law not specifically set out in the request for hearing.
- B. Hearing Officers - Hearings shall be conducted by the Administrator or a hearing officer who shall have authority to examine witnesses, to rule on motions, and to rule upon the admissibility of evidence. The hearing officer shall have the authority to continue or recess any hearing, to keep the record open for the submission of additional evidence, and to issue a final decision.
- C. Conduct of Hearing - The hearing shall be convened by the hearing officer, appearances shall be noted, any motions or preliminary matters shall be resolved, and each party shall have opportunity to present its case generally on an issue by issue basis, by calling and examining witnesses and introducing documentary evidence. Each party shall have opportunity to cross-examine opposing witnesses on any matter relevant to the issue. Any objection to testimony or evidentiary offers should be made, and the basis of the objection stated. The hearing officer may question any party or any witness for the purpose of clarifying his or her understanding of the issues raised or to otherwise clarify the record.
- D. Oral Evidence, Witnesses, and Penalty for False Statements - Any party may request a hearing officer to subpoena witnesses or the hearing officer may do so on his or her own motion. A hearing officer may require the parties in a case to identify the persons they expect to call as witnesses. The testimony of witnesses shall be made under oath or affirmation and the making of false statements may subject a person to criminal prosecution under R.I. Gen. Laws § 11-33-1 *et seq.*
- E. Requests for Subpoena Duces Tecum - Any party may request a hearing officer to issue a subpoena duces tecum or the hearing officer may do so on his or her own motion. Said request shall set forth, in detail, the information sought, the relevance thereof, and the reasonableness of the scope of the subpoena. The party requesting the issuance of said subpoena shall have the burden of showing the relevance and reasonableness of the scope of the subpoena. A subpoena duces tecum may be quashed after its issuance if it is subsequently determined that the matters sought to be adduced are not relevant or the subpoena is not reasonable in scope.
- F. Continuances - Any party who desires a continuance shall, immediately upon receipt of notice of a hearing, or as soon thereafter as facts requiring such continuance come to his or her knowledge, notify the Administrator in writing, stating in detail the reasons why such continuance is necessary. The Administrator, in passing upon a request for continuance, shall consider whether

such request was promptly and timely made. For good cause shown, the Administrator may grant such a continuance and may at any time order a continuance upon his or her own motion. During a hearing, if it appears in the public interest or in the interest of justice that further testimony or argument should be received, the Administrator may in his or her discretion continue the hearing and assign the date for introduction of additional evidence or presentation of argument. Such oral notice shall constitute final notice of a continued hearing.

- G. Pursuant to R.I. Gen. Laws § 31-2-17(a), in the performance of their duties under R.I. Gen. Laws Title 31, the Administrator, any duly authorized assistant, or hearing officer may summon witnesses on behalf of the state and may administer oaths and take testimony.
- H. Record of Hearings – In all administrative hearings conducted by personnel of the Division of Motor Vehicles involving the issuance, revocation, or suspension of licenses to operate vehicles or the registration of vehicles, a taped recording of that hearing may be made part of the record. In case of appeal to a court, copies of those tapes in lieu of a transcript shall be made available without charge to the operator or owner, or his or her representative.

1.3.6 Decisions and Orders

- A. Any final order adverse to a party in a contested case shall be in writing or stated on the record. Any final order shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If a party, in accordance with agency rules, submitted proposed findings of fact, the order shall include a ruling upon each proposed finding.
- B. Parties shall be notified either personally or by mail of any order. Included with the final order shall be a separate notice advising the parties of the availability of judicial review, the appeal period and the procedure for filing an appeal, and providing a reference to the statutory authority. If the agency fails to provide such notice, the time for taking an appeal shall be extended for an additional thirty (30) days beyond the time otherwise authorized by law. Upon request, a copy of any final order stated in the record shall be delivered or mailed forthwith to each party and to his or her attorney of record.

1.3.7 Appeals

- A. Any person aggrieved by any order of the Administrator of the Division of Motor Vehicles may appeal the order to the sixth division district court by filing, within

ten (10) days from the date of the notice to such person of the issuance of the order appealed from, a petition in the sixth division district court stating the grounds upon which the appeal is taken.

- B. Any person aggrieved by any decision, or order, of the Division, made pursuant to the provisions of R.I. Gen. Laws §§ 31-31-1 *et seq.* through 31-33-1 *et seq.* may appeal it to the traffic tribunal by filing, within ten (10) days from the date of the notice to the person of the issuance of the decision, or order, appealed from, a petition in that court stating the ground upon which the appeal is taken.
- C. The taking of such appeal shall not operate as a stay of the order of the Administrator from which an appeal has been taken. The order of the Administrator shall remain in full force and effect during the pendency of the appeal, unless specifically stayed by the court. At the request of a petitioner, the court shall determine whether or not the filing of the petition shall operate as a stay of the order or act of the Administrator.
- D. A party aggrieved by a final order of the court may seek further appellate review pursuant to the procedures set forth in R.I. Gen. Laws § 42-35-15.

1.4 Operators' Licenses, Chauffeurs' Licenses and Identification Cards

1.4.1 Application

- A. Application for an operator's license or chauffeurs' license, issued pursuant to R.I. Gen. Laws § 31-10-26, or identification card, issued pursuant to R.I. Gen. Laws § 3-8-6 or § 3-8-6.1, shall be made on the forms proscribed by the Division of Motor Vehicles.
- B. An applicant for an operator's license, chauffeurs' license or identification card shall present the following original documentation (photocopies will not be accepted) at the time such application is made:
 - 1. one Proof of Identity document;
 - 2. two Proof of Residency documents; and
 - 3. proof of a social security number.
- C. Proof of Identity
 - 1. Must be demonstrated with one of the following documents bearing the applicant's legal name and date of birth:

- a. A valid, unexpired U.S. passport;
 - b. A certified copy of a birth certificate filed with a State Office of Vital Statistics or equivalent agency in the individual's State of birth;
 - c. A Consular Report of Birth Abroad (CRBA) issued by the U.S. Department of State, Form FS-240, DS-1350 or FS-545;
 - d. A valid, unexpired Permanent Resident Card (Form I-551) issued by DHS or INS;
 - e. An unexpired employment authorization document (EAD) issued by DHS, Form I-766 or Form I-688B;
 - f. An unexpired foreign passport with a valid, unexpired U.S. visa affixed accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States;
 - g. A Certificate of Naturalization issued by DHS, Form N-550 or Form N-570; or
 - h. A Certificate of Citizenship, Form N-560 or Form N-561, issued by DHS.
2. Proof of a change to the name contained on the applicant's identity document must be demonstrated with a document issued by an authorized government agency.
- D. Proof of Residency must be demonstrated with two of the following documents:
1. A utility bill (gas, electric, telephone, cable, oil, water, sewer, satellite, heat, cell phone) in the applicant's name or in the name of a member of the applicant's immediate family dated within sixty (60) days of presentation;
 2. A personal check or bank statement with the applicant's name and address dated within sixty (60) days of presentation. P.O. Box addresses will not be accepted;
 3. A payroll check with the applicant's name and address dated within sixty (60) days of presentation;
 4. A lease agreement in effect at the time of presentation. The lease agreement must contain the applicant's name and address and the landlord's name, address, and telephone number. Handwritten lease agreements will not be accepted;

5. A letter issued by a Rhode Island state agency or a federal agency with the applicant's name and address approving the applicant's receipt of benefits from an entitlement program dated within sixty (60) days of presentation;
6. A homeowner's or renter's insurance policy for the applicant's home or apartment with the applicant's name and address that is in effect at the time of presentation;
7. An automobile insurance policy for the applicant's motor vehicle with the applicant's name and address that is in effect at the time of presentation;
8. A property tax bill for the applicant's residence from the year immediately preceding the date of presentation;
9. If the applicant is a minor, in addition to any of the proof of residency documents in § 1.4.1(D) of this Part, the following are accepted:
 - a. a school record (a report card, diploma, transcript, or ID card) which includes the student's address and is for the current school year (or past year if during summer vacation);
 - b. the Rhode Island driver's license or identification card of the individual signing the minor's application pursuant to R.I. Gen. Laws § 31-10-14;
10. A letter from a Rhode Island shelter or halfway house indicating that the applicant resides at the facility. Such a letter must be on letterhead, must be dated within thirty (30) days of presentation, and must include the name and contact information of an administrator of the shelter or halfway house;
11. A jury duty summons dated within sixty (60) days of presentation;
12. A W-2 form with the applicant's name and address from the year immediately preceding the date of presentation;
13. An installment loan contract (automobile, student loan) with the applicant's name and address that is in effect at the time of presentation;
14. A current Social Security Administration statement with the applicant's name and address;
15. A current pension or retirement account statement with the applicant's name and address;

16. A Rhode Island issued firearms permit with the applicant's name and address that is in effect at the time of presentation; or
17. A valid Rhode Island driver's license or identification card.

E. Proof of a Social Security Number

1. Must be demonstrated with one of the following documents:
 - a. An official Social Security Card (Laminated cards are acceptable.);
 - b. A letter issued by the Social Security Administration stating that the applicant is not eligible to receive a social security number;
 - c. A W-2 form bearing the applicant's full name and full social security number issued within the last five (5) years;
 - d. A 1099 form bearing the applicant's full name and full social security number issued with the last five (5) years; or
 - e. A pay stub bearing the applicant's full name and full social security number issued within the last five (5) years;
2. In the event an individual's social security number is not already on file with the Division, documentary proof of a social security number, as provided in this subsection, shall be provided at the time of renewal. All social security numbers will be verified electronically with the Social Security Administration.

F. Applicants that demonstrate proof of residency in accordance with § 1.4.1(D) of this Part, proof of a social security number in accordance with § 1.4.1(E) of this Part, and proof of identity with one of the following documents that bears the applicant's legal name and date of birth are eligible to receive an operator's license, chauffeurs' license or identification card that does not meet the requirements of 6 C.F.R. Part 37:

1. A U.S. Active Service, Retiree, or Reservist Military ID Card;
2. A Native American Tribal ID Card;
3. A valid U.S. Driver's License with photograph, signature, and date of birth (must not be expired for more than one year);
4. A valid U.S. Territory Driver's License with photograph, signature, and date of birth (must not be expired for more than one year);

5. A valid Canadian Driver's License with photograph, signature, and date of birth (must not be expired for more than one year);
6. An employment authorization document (EAD) issued by DHS, Form I-766, that indicates a grant of deferred action under the Deferred Action for Childhood Arrivals (DACA) Program; or
7. Any of the identity documents in § 1.4.1(C) of this Part.

1.4.2 Grounds for Denial

- A. The Division of Motor Vehicles shall not issue an operators' license, chauffeurs' license or identification card to an applicant if:
1. The applicant fails to fulfill all of the requirements of § 1.4.1 of this Part;
 2. The applicant is not entitled to the issuance of a license pursuant to R.I. Gen. Laws § 31-10-3;
 3. The applicant is not entitled to the issuance of an identification card pursuant to R.I. Gen. Laws §§ 3-8-6 or 3-8-6.1; or
 4. The applicant is not entitled to such issuance under any other provision of law.

1.4.3 Application for Permanent license at Expiration of "First License" – Special Jurisdiction

Pursuant to R.I. Gen. Laws § 31-10-26(e), the Rhode Island Traffic Tribunal has jurisdiction to determine if a person should be granted an operator's license, be reissued a first license, or be denied a license to operate a motor vehicle, if that applicant has been adjudicated for committing one moving motor vehicle violation, has been involved in one reportable motor vehicle accident, or both during the period of time the person held a "first license." The person shall be summoned for a hearing before a judge of the Traffic Tribunal at which time the person's driving record will be reviewed.

1.4.4 Denial of License for Nonpayment of Delinquent Child Support

Pursuant to R.I. Gen. Laws § 31-2-23, no individual who has an unpaid child support order arrearage in excess of five hundred dollars (\$500) as shown by the Rhode Island Family Court, Department of Human Services, or Child Support Enforcement computer system ("CSE system") may obtain an original license or renewal of a license to operate a motor vehicle, until all child support order arrearages have been paid in full or a satisfactory arrangement for payment has

been made with the Family Court, and payment has been certified to the Division of Motor Vehicles by the Department of Human Services.

1.4.5 Expired License Retesting Requirement

In the event that an operator's license has been expired for a period of more than five (5) years, the Division of Motor Vehicles requires the applicant to successfully complete both the written examination and road test as required of a new license applicant. If the expired operator's license is from a state other than Rhode Island and has been expired for more than one year, the Division of Motor Vehicles requires the applicant to successfully complete both the written examination and road test as required of a new license applicant.

1.4.6 Grounds for Suspension

The Division of Motor Vehicles is authorized to suspend the license of an operator or chauffeur without preliminary hearing pursuant to R.I. Gen. Laws § 31-11-7.

1.4.7 Grounds for Revocation

The Division of Motor Vehicles is authorized to revoke the license of an operator or chauffeur pursuant to R.I. Gen. Laws § 31-11-6.

1.4.8 Grounds for Cancellation

The Division of Motor Vehicles is authorized to cancel any operator's or chauffeur's license pursuant to R.I. Gen. Laws § 31-11-1. B. The Division of Motor Vehicles is authorized to cancel any identification card pursuant to R.I. Gen. Laws §§ 3-8-6 and 3-8-6.1.

1.4.9 Notice of Denial, Suspension, Revocation or Cancellation

- A. The Division of Motor Vehicles shall notify in writing any individual whose application for an operator's or chauffeur's license has been denied, or license has been suspended, revoked, or cancelled. The notice shall contain the legal and factual basis for the denial, suspension, revocation, or cancellation, the procedure for requesting a hearing and a description of the individual's rights during the appeals process.
- B. If the denial, suspension, revocation, or cancellation is based on mental or physical fitness, the notice must reference the specific functional standard used by the division as promulgated pursuant to R.I. Gen. Laws § 31-10-44(b).

1.4.10 Notice of Proposed Suspension

- A. When the Division of Motor Vehicles proposes to suspend an operator's license for reasons other than those authorized in § 1.4.6 of this Part, prior to suspension the Division shall inform the individual of his or her right to request a hearing. The notice shall contain the legal and factual basis for the proposed suspension, the procedure for requesting a hearing and a description of the individual's rights during the appeals process.
- B. If the individual requests a hearing, no action to suspend, revoke, or cancel his or her license shall be taken by the Division until after a hearing has been held in accordance with § 1.4.11 of this Part and a decision has been rendered by the hearing officer.

1.4.11 Hearing

- A. Upon receiving a hearing request from an individual whose license has been denied, suspended, revoked, or cancelled, the Division shall afford a hearing as early as practical, but no later than twenty (20) days after receiving the request.
- B. Conduct of hearing. An individual whose license has been denied, suspended, revoked, or cancelled, will be afforded the following rights at the hearing:
 - 1. an in person hearing before an impartial decision-maker;
 - 2. the opportunity to compel the production of documents and witnesses, including members of the Division of Motor Vehicles' Medical Advisory Board;
 - 3. the opportunity to confront and cross-examine witnesses;
 - 4. access to all of the evidence upon which the Division of Motor Vehicles relied in making its determination; and
 - 5. the right to present any and all relevant evidence including the right to obtain and present the results of a recently administered road test.
- C. Burden of Proof. The Division of Motor Vehicles has the burden to prove the existence of the grounds for the denial, suspension, revocation, or cancellation. If the grounds for the determination are lack of mental or physical fitness, the burden is on the Division of Motor Vehicles to prove such lack of fitness by clear and convincing evidence.
- D. Subpoenas and Oaths. For the purpose of the hearing procedures described in § 1.4.11(B) of this Part, the Administrator of the Division of Motor Vehicles or his or her duly authorized agent may administer oaths and may issue subpoenas for

the attendance of witnesses and the production of relevant books and papers, and may require a reexamination of the licensee.

- E. Decision. After the hearing conducted pursuant to § 1.4.11(B) of this Part, the Division of Motor Vehicles shall issue a written decision based solely on the evidence adduced at the hearing and containing the legal and factual basis for the determination. The Division of Motor Vehicles may rescind its order of denial, suspension, revocation, or cancellation; determine that denial, suspension, revocation or cancellation is not warranted; or may continue, modify, or extend the suspension of the license, may revoke the license, may deny the license application, or may cancel the license.

1.4.12 Appeal

- A. Appeal from the Administrator – Any person aggrieved by any order of the Administrator of the Division of Motor Vehicles regarding license suspension, revocation, denial, or cancellation may appeal the order to the Sixth Division District Court by filing, within ten (10) days from the date of the notice to such person of the issuance of the order appealed from, a petition in the Sixth Division District Court stating the grounds upon which the appeal is taken.
- B. A party aggrieved by a final order of the court may seek further appellate review pursuant to the procedures set forth in R.I. Gen. Laws § 42-35-15.

1.5 Severability

If any provision of this Part or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the provisions or application of this Part which can be given effect, and to this end the provisions of this Part are declared to be severable.

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**PART 1 - RULES OF PRACTICE AND PROCEDURE FOR THE DIVISION OF
MOTOR VEHICLES**

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