

DEPARTMENT OF TRANSPORTATION

Division of Motor Vehicles

Statutory Authority: 21 Delaware Code, Sections 302, 2603, 2611 and 2621 (21 **Del.C.** §§302, 2603, 2611 and 2621)
21 **DE Admin. Code** 2213

FINAL

2213 Emergency Vehicle Operators, Age of EVO Permit Holders

ORDER

Regulation 2213, which replaces current Regulation 2213, relates to the issuance of non-commercial driver licenses and emergency vehicle operator documents. This regulation incorporates changes due to the passage of Senate Bill 208 during the 144th General Assembly. The proposed regulation was published in the *Delaware Register of Regulations* on December 1, 2008. The comment period remained open until December 31, 2008. There was no public hearing on proposed Regulation 2213.

Summary of the Evidence and Information Submitted

The Department received no public comments on the proposed regulation. The Division did not make any changes to the proposed regulation.

Findings of Fact

Based on Delaware law and the record in this docket, I make the following findings of fact:

1. The proposed regulation meets the requirements of the Administrative Procedures Act and is not in conflict with Delaware law.

Decision and Effective Date

Based on the provisions of 21 **Del.C.** §302 and the record in this docket, I hereby adopt Regulation 2213 and as may more fully and at large appear in the version attached hereto to be effective February 10, 2009.

Text and Citation

IT IS SO ORDERED THIS 13TH day of January 2009.

Carolann Wicks, Secretary of Transportation

2213 Emergency Vehicle Operators, Age of EVO Permit Holders Issuance of Non-Commercial Driver Licenses and Emergency Vehicle Operator Documents (Formerly Regulation No. 81)

1.0 **Authority**

~~This regulation confirms and renders official the present practice of not issuing Emergency Vehicle Operator Permits to anyone who has not reached the age of 18 years, and who has not had at least one year of driving experience.~~

The authority to promulgate this regulation is 21 Del.C. §302, 21 Del.C. §2603, 21 Del.C. §2611, and 21 Del.C. §2621.

2.0 Purpose

This regulation is in accord with Title 21, Section 2707 (a); namely, a Class "A" license shall not be issued to any person under the age of 16 years. A Class "B" or Class "C" license shall not be issued to any person under the age of 18 years nor to any person 18 years of age or older who has not had at least 1 year's previous experience as an operator of a motor vehicle.

This regulation confirms and renders official the current practice of issuing a non-commercial driver license (non-CDL) to fire fighters, farmers, and operators of authorized emergency vehicles and producing emergency vehicle operator documents on behalf of the Delaware Fire School.

3.0 Applicability

Persons who are 18 years of age or older, who have 1 year's driving experience, who hold a valid Class "A" license and a valid Emergency Vehicle Operators permit are permitted to drive any emergency vehicle provided permission is granted by the fire company, fire chief, or other relevant authority.

Commercial driver license (CDL) provisions are waived for those operating fire fighting equipment, farm vehicles, emergency mobile communication units, commercial motor vehicles for military purposes, recreational vehicles or trailers used solely for recreational purposes, and other emergency vehicles in accordance with 21 Del.C. §2621. When operating a commercial motor vehicle as defined by 21 Del.C. §2603(7) under the waiver provisions for farmers, fire fighters, and emergency response vehicle operators in 21 Del.C. §2621(a)(1), (a)(2), (a)(5), and (a)(6) the operators are required to hold a non-CDL Class A or non-CDL Class B in accordance with 21 Del.C. §2611(b)(1).

4.0 Definitions

The following words and terms, when used in this regulation, should have the following meaning unless the context clearly states otherwise:

"Commercial Driver License (CDL)" means a license issued in accordance with the requirements of 21 Del.C. Chapter 26 which authorizes the holder to operate a certain class or classes of a commercial motor vehicle. The classes of a CDL are as follows:

CDL CLASS A - Required for the operation of vehicles with a registered, actual, or gross vehicle weight rating (GVWR) of 26,001 or more pounds, and the vehicle is towing a vehicle with a registered, actual, or GVWR of 10,000 or more pounds.

CDL CLASS B - Required for the operation of vehicles with a registered, actual, or GVWR of 26,001 or more pounds and not towing a vehicle with a GVWR of 10,000 or more pounds.

CDL CLASS C - Required for vehicles with a GVWR less than 26,001 pounds when the vehicle is designed to transport 16 or more passengers, including the driver, or for vehicles required to be placarded for carrying hazardous materials.

"Commercial Motor Vehicle (CMV)" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

"Has a gross combination weight rating (GCWR) of 26,001 pounds or more inclusive of a towed unit(s) with a gross vehicle weight rating (GVWR) of more than 10,000 pounds; or

"Has a gross vehicle weight rating (GVWR) of 26,001 pounds or more; or

"Is designed to transport 16 or more passengers, including the driver; or

"Is of any size and is required to be placarded for the transportation of hazardous materials.

"Non-Commercial Driver License (non-CDL) Class A" means a license issued in accordance with the requirements of 21 Del.C. Chapter 26 which authorizes the holder to operate the same CMVs as the CDL Class A, but only when operating farm, fire fighting, and other authorized emergency vehicles under the commercial driver license waiver defined in 21 Del.C. §2621.

"Non-Commercial Driver License (non-CDL) Class B" means a license issued in accordance with the requirements of 21 **Del.C.** Chapter 26 which authorizes the holder to operate the same CMVs as the CDL Class B, but only when operating farm, fire fighting, and other authorized emergency vehicles under the commercial driver license waiver defined in 21 **Del.C.** §2621.

5.0 Substantive of Regulation

5.1 Non-CDL Issued to Farmers

- 5.1.1** Those persons who operate farm vehicles may be issued a non-CDL provided they hold a valid Delaware driver license, are at least 18 years of age, have one year driving experience, pay the appropriate license upgrade fee, and meet the requirements of this regulation.
- 5.1.2** Those applying for a non-CDL for farming purposes must pass the non-CDL general knowledge test and a road test in a representative farm vehicle. Pre-trip and skills tests are not required. Either a non-CDL Class A or non-CDL Class B will be issued based upon the vehicle classification type used for the road test.
- 5.1.3** Out-of-state non-CDLs are not transferable into this State as a non-CDL, since the requirements for a non-CDL vary between jurisdictions. An out-of-state non-CDL may be transferred as a Class D operator's license.
- 5.1.4** Motorcycle and taxicab endorsements may be recorded on a non-CDL, but commercial motor vehicle endorsements (endorsement codes H, N, P, Q, R, S, T, and X) will not be used in conjunction with the non-CDL.
- 5.1.5** The division may not issue a permanent non-CDL. If the driver holds a permanent Class D license at the time of non-CDL issuance, the driver will be required to surrender the permanent Class D license. A permanent Class D license will not be reissued if the driver's non-CDL is surrendered or downgraded.

5.2 Emergency Vehicle Operator (EVO) Cards

- 5.2.1** Those persons operating fire fighting equipment, ambulances, and other emergency vehicles as defined by 21 **Del.C.** §4106(e) in this State must pass a training course conducted by the Delaware Fire School before operating emergency response equipment. When the training is successfully completed, the fire school will issue a Certified Emergency Vehicle Operator Certificate. This certificate must be presented to the Division of Motor Vehicles (DMV) with all required signatures. DMV will then issue an Emergency Vehicle Operator (EVO) card after collecting a \$5.00 fee for the EVO card.
- 5.2.2** DMV personnel must type in the information displayed on the EVO card and take the applicant's picture every time an EVO card is issued.
- 5.2.3** The DMV does not maintain an EVO database. This means the DMV does not know who was previously issued an EVO card nor does the DMV track who is currently authorized to have an EVO card because the EVO program is managed and controlled by the local fire companies and the Delaware State Fire School. Replacement cards for an old or damaged EVO card will be issued for no fee when the old or damaged card is presented to be exchanged. There is no expiration date for the EVO card.

5.3 Non-CDL issued to Fire fighters

- 5.3.1** The Delaware Fire School issues a Certified Emergency Vehicle Operator Certificate. This certificate when signed by the chief officer and director of the Delaware State Fire School indicates that the applicant has completed the training needed to safely operate fire fighting equipment. Upon presentation of this certificate to the DMV, the applicant will be issued an EVO card and non-CDL.
- 5.3.2** Those persons who operate fire fighting equipment may be issued a non-CDL provided they hold a valid Delaware driver license, are at least 18 years of age, have one year of driving experience, and meet the requirements of this regulation. A fee will not be charged for a person upgrading to a non-CDL issued under the fire fighter waiver provision.

- 5.3.3 The local fire chief is responsible for training and testing those who operate fire fighting equipment. Therefore, the DMV will not test fire fighting equipment operators. A non-CDL Class A or non-CDL Class B license will be issued based upon the fire fighting equipment being driven by the applicant.
- 5.3.4 Out-of-state non-CDLs are not transferable into this State as a non-CDL since the requirements for the non-CDL vary between jurisdictions. An out-of-state non-CDL may be transferred as a Class D operator's license.
- 5.3.5 Motorcycle and taxicab endorsements may be recorded on a non-CDL, but commercial motor vehicle endorsements (endorsement codes H, N, P, Q, R, T, X and S) will not be used in conjunction with the non-CDL.
- 5.3.6 The DMV may not issue a permanent non-CDL. If the driver holds a permanent Class D license at the time of non-CDL issuance, the driver will be required to surrender the permanent license. A permanent Class D license will not be reissued if the driver's non-CDL is surrendered or downgraded.

6.0 Severability

If any part of this regulation is held to be unconstitutional or otherwise contrary to law by a court of competent jurisdiction, said portion shall be severed, and the remaining portions shall remain in full force and effect under Delaware law.

7.0 Effective Date

This regulation shall be effective 10 days from the date the order is signed and it is published in its final form in the Register of Regulations in accordance with 29 **Del.C.** §10118(e).

12 DE Reg. 1114 (02/01/09) (Final)