

DEPARTMENT OF TRANSPORTATION
DIVISION OF MOTOR VEHICLES

Statutory Authority: 21 Delaware Code, Section 302, and 29 Delaware Code, Section 10115 (21
(Del.C. §302; 29 Del.C. 10115)
2 DE Admin. Code 2221

PROPOSED

PUBLIC NOTICE

The Delaware Division of Motor Vehicles gives notice of intent to adopt proposed Division of Motor Vehicles Regulation 2221 relating to the use of translators by driver license applicants who cannot speak or read English.

Any person who wishes to make written suggestions, briefs or other written materials concerning this proposed new regulation must submit the same to Jack E. Eanes, Chief of Operations, Delaware Division of Motor Vehicles, P.O. Box 698, Dover, Delaware 19903, or by fax to (302) 739-2042 by May 30, 2008.

2221 Use of Translators

1.0 Authority

The authority to promulgate this regulation is 21 Del.C. §302 and 29 Del.C. §10115.

2.0 Purpose

This regulation establishes procedures regarding the use of translators for driver license applicants who cannot read or speak English. This regulation also establishes procedures on how a translator may assist an applicant during the Division's written and road tests.

3.0 Applicability

This regulation will enable the Division of Motor Vehicles to maintain the integrity of the driver license written and road test process. This regulation also ensures compliance with Delaware law on the written test portion of the driver license application process and federal law on commercial driver license road tests.

4.0 Delaware Law

Delaware Title 21, Section 2707(b)(5), prohibits the Division from issuing an operator's or chauffeur's license to any person who is unable to understand highway warning or directional signs in the English language.

5.0 Substance of Regulation

5.1 Translation services may be provided by any individual the applicant selects.

5.2 Translators may read the questions and answers to the applicant as shown on the Division's automated test system but will not provide any other assistance during the test. The highway warning and directional sign portion of the test on the automated test system must be taken and passed without any assistance from the translator. Those applicants who fail the automated sign test twice on separate occasions shall be given a paper sign test. The signs shall be shown to the applicant who shall explain the answers to the translator who, in turn, shall provide the answers to the DMV technician. This will ensure the applicant is able to understand highway warning and directional signs in English.

5.3 Translators may provide assistance during the road test portion of Class D road tests by providing a brief overview of the road test requirements and by relaying instructions to the applicant from the DMV technician. Translators will sit in the rear of the vehicle and relay instructions to the applicant from the DMV technician but will not provide any other assistance unless directed to do so by the DMV technician. Federal law prohibits translators for commercial driver license road tests. Translators will provide applicants a brief overview of the parallel parking portion of the road test. The translator will stand next to the DMV technician during the parallel parking portion of the road test and will not provide any other instructions unless directed to do so by the DMV technician.

6.0 Non-compliance

Any applicant whose translator is found speaking during a road test at any time other than when directed by the DMV technician will automatically fail the road test. Translators who assist applicants by providing answers to questions or by pointing out the correct answers will be prohibited from providing translator services in Division facilities.

7.0 Payment of Translator Service Fees

All fees associated with an applicant using a translator shall be the responsibility of the applicant requesting the service and paid for by the applicant.

8.0 Scheduling

An applicant requiring a translator is responsible for scheduling a translator for both the written and road tests.

9.0 Video and Audio Monitoring

The Division may use video and audio devices to monitor translators during the written and road tests. This is done to ensure translators are not providing answers to the applicant.

10.0 Severability

If any part of this rule 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 of this rule shall remain in full force and effect under Delaware law.

11.0 Effective Date

The following 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).

11 DE Reg. 1459 (05/01/08) (Prop.)