

## § 634.8

(6) Drivers license or OF 346 valid for the particular vehicle and area of operation.

### § 634.8 Implied consent to blood, breath, or urine tests.

Persons accepting installation driving privileges shall be deemed to have given their consent to evidential tests for alcohol or other drug content of their blood, breath, and/or urine if lawfully stopped, apprehended, or cited for any offense allegedly committed while driving or in physical control of a motor vehicle on the installation while under the influence of intoxicants.

### § 634.9 Implied consent to impoundment.

Any person granted the privilege of operating a motor vehicle on an installation shall be deemed to have given his or her consent for the removal and temporary impoundment of the POV when it is parked illegally for unreasonable periods, interfering with operations, creating a safety hazard, disabled by accident, left unattended in a restricted or controlled area, or abandoned. Such persons further agree to reimburse the United States for the cost of towing and storage should their motor vehicle be removed or impounded. Existence of the conditions described above will be determined by the installation commander or designee.

### § 634.10 Suspension or revocation of driving privileges.

The installation commander (or designee not assigned primarily to law enforcement duties) may, for cause, administratively suspend or revoke driving privileges on the installation. The suspension or revocation of installation driving privileges or POV registrations, for lawful reasons unrelated to traffic violations or safe vehicle operation, is not limited or restricted by this regulation.

(a) *Suspension.* (1) Driving privileges are usually suspended when other measures have failed to improve a driver's performance. Measures should include counseling, remedial driving training, and rehabilitation programs. Driving privileges may also be suspended for up to 6 months if a driver

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continually violates installation parking regulations. The commander will determine standards for suspension based on frequency of parking violations and publish those standards.

(2) The installation commander has discretionary power to withdraw the authorization of active duty military personnel, DOD civilian employees, and nonappropriated fund (NAF) employees to operate U.S. Government vehicles.

(3) Immediate suspension of installation or overseas command POV driving privileges pending resolution of an intoxicated driving incident is authorized for active duty military personnel, family members, retired members of the military services, DOD civilian personnel, and others with installation or overseas command driving privileges regardless of the geographic location of an intoxicated driving incident. Suspension is authorized for non-DOD affiliated civilians only with respect to incidents occurring on the installation or in areas subject to military traffic supervision. After a review of available evidence as specified in § 634.11, installation driving privileges will be immediately suspended pending resolution of the intoxicated driving incident in the following circumstances;

(i) Refusal to take or complete a lawfully requested chemical test to determine contents of blood for alcohol or other drugs.

(ii) Operating a motor vehicle with a blood alcohol content (BAC) of 0.10 percent by volume or higher or in violation of the law of the jurisdiction that is being assimilated on the military installation.

(iii) Operating a motor vehicle with a BAC of at least 0.05 percent by volume but less than 0.10 percent blood alcohol by volume in violation of the law of the jurisdiction in which the vehicle is being operated if the jurisdiction imposes a suspension solely on the basis of the BAC level.

(iv) On an arrest report or other official documentation of the circumstances of an apprehension for intoxicated driving.

(b) *Revocation.* (1) The revocation of installation or overseas command POV driving privileges is a severe administrative measure to be exercised for serious moving violations or when other

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available corrective actions fail to produce the desired driver improvement. Revocation of the driving privilege will be for a specific period, but never less than 6 months, applies at all military installations, and remains in effect on reassignment.

(2) Driving privileges are subject to revocation when an individual fails to comply with any of the conditions requisite to the granting of the privilege. (See § 634.6.) Revocation of installation driving and registration privileges is authorized for military personnel, family members, civilian employees of DOD, and other individuals with installation driving privileges. For civilian guests, revocation is authorized only with respect to incidents occurring on the installation or in the areas subject to military traffic supervision.

(3) Driving privileges will be revoked for a mandatory period of not less than 1 year in the following circumstances:

(i) The installation commander or designee has determined that the person lawfully apprehended for intoxicated driving refused to submit to or complete a test to measure the alcohol content in the blood, or detect the presence of any other drug, as required by the law of the jurisdiction, installation traffic code, or by Service directive.

(ii) A conviction, nonjudicial punishment, or a military or civilian administrative action resulted in the suspension or revocation of a driver's license for intoxicated driving. Appropriate official documentation of such conviction is required as the basis for revocation.

(4) When temporary suspensions under § 634.10(a)(3) are followed by revocations, the period of revocation is computed beginning from the date the original suspension was imposed, exclusive of any period during which full driving privileges may have been restored pending resolution of charges. (Example: privileges were initially suspended on 1 January 1996 for a charge of intoxicated driving with a blood alcohol content of 0.14 percent. A hearing was held, extreme family hardship was substantiated, and privileges were restored on 1 February pending resolution of the charge. On 10 March, the driver was convicted for intoxicated

driving. The mandatory 1-year revocation period will consist of January 1996 plus March 1996 through January 1997, for a total of 12 months with no installation driving privileges.)

### § 634.11 Administrative due process for suspensions and revocations.

(a) Individual Services will promulgate separate regulations establishing administrative due process procedures for suspension or revocation of driving privileges. The procedures in paragraphs (b) and (c) of this section apply to actions taken by Army commanders with respect to Army military personnel and family members and to civilian personnel operating motor vehicles on Army installations. For Marine Corps users, the provisions of this paragraph apply pending publication of a Marine Corps order addressing administrative due process.

(b) For offenses other than intoxicated driving, suspension or revocation of the installation driving privilege will not become effective until the installation commander or designee notifies the affected person and offers that person an administrative hearing. Suspension or revocation will take place 10 days after this written notice is received unless an application for a hearing is made by the affected person within this period. Such application will stay the pending suspension or revocation for a period of 10 days.

(1) If, due to action by the Government, a hearing is not held within 10 days, the suspension will not take place until such time as the person is granted a hearing and is notified of the action of the installation commander or designee. However, if the affected person requests that the hearing be continued to a date beyond the 10-day period, the suspension or revocation will become effective immediately on receipt of notice that the request for continuance has been granted.

(2) If it is determined as the result of a hearing to suspend or revoke the affected person's driving privilege, the suspension or revocation will become effective when the person receives the written notification of such action. In the event that written notification cannot be verified either through a returned receipt for mail or delivery