

## Department of State Jurisdiction

The Department of State through its Diplomatic Motor Vehicle Office has the sole authority to issue driver's licenses and motor vehicle registrations/titles for foreign missions and foreign mission members.

### Background

In 1982, Congress enacted the Foreign Missions Act (FMA) (1982), 22 U.S.C. 4301 *et seq.*, as amended, which establishes that the operation of foreign missions in the United States, including the permissible scope of the activities, privileges, and benefits accorded members of foreign missions, is a "proper subject for the exercise of Federal jurisdiction." (22 U.S.C. 4301(a)). Among other provisions, the FMA gives the Secretary of State the authority to manage and operate certain programs relating to foreign missions located in the United States.

The goods, services and permits subject to control under the FMA are termed "benefits." A number of "benefits" specifically are enumerated in 22 U.S.C. 4302(a)(1). That section further provides that the term "benefit" shall also include "such other benefits as the Secretary may designate." The interpretation of these terms, and all determinations required by the FMA, are "committed to the discretion of the Secretary" by 22 U.S.C. 4302(b) and 4308(g).

"Benefits" under the FMA may be controlled by the Secretary pursuant to 22 U.S.C. 4304(b). Under that provision, the Secretary may require a foreign mission to: (1) obtain benefits from or through the Director of the Office of Foreign Missions [OFM] "on such terms and conditions as the Secretary may approve;" or (2) "forego the acceptance, use or relation of any benefit;" or (3) "comply with such terms and conditions as the Secretary may determine as a condition to . . . the application for or acceptance of any benefit (including any benefit from or authorized by any Federal, State, or municipal governmental authority, or any entity providing public services)".

In 1984, all significant aspects of the vehicle ownership and operation - including "the acquisition of licenses to operate motor vehicles," vehicle titling and registration - were designated "benefits" under the FMA. (Copy enclosed: Designation of Benefits Under the Foreign Missions Act, April 27, 1984.) At the same time, the acquisition of liability insurance, license tags, and title and registration documents by persons in the United States entitled to claim immunity from legal process as members of foreign diplomatic, consular or international organizations were subjected to OFM control. (Determination, April 27, 1984 (foreign missions).)

In 1994, members of foreign consular posts in the United States, and their family members, were more explicitly subjected to the requirements of the FMA, including the authorization of OFM as the exclusive motor vehicle titling and registering and driver licensing jurisdiction for such personnel. (Determination, October 7, 1994.)

The limitations and conditions imposed by the U.S. Department of State pursuant to the FMA on motor vehicle titling and 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] 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., 2d 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 license, or motor vehicle title, registration and license plates in contravention of the limitations and conditions imposed by the Department as discussed above. OFM is the sole driver licensing and motor vehicle registering/titling authority for such missions and persons.

**For further information questions please contact:**

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