§ 634.14 Restoration of driving privileges upon acquittal of intoxicated driving.

The suspension of driving privileges for military and civilian personnel shall be restored if a final disposition indicates a finding of not guilty, charges are dismissed or reduced to an offense not amounting to intoxicated driving, or where an equivalent determination is made in a nonjudicial proceeding. The following are exceptions to the rule in which suspensions will continue to be enforced.

(a) The preliminary suspension was based on refusal to take a BAC test.

(b) The preliminary suspension resulted from a valid BAC test, (unless disposition of the charges was based on invalidity of the BAC test). In the case of a valid BAC test, the suspension will continue, pending completion of a hearing as specified in §634.11. In such instances, the individual will be notified in writing that the suspension will continue and of the opportunity to request a hearing within 14 calendar days.

(1) At the hearing, the arrest report, the commander’s report of official disposition, information presented by the individual, and such other information as the hearing officer may deem appropriate will be considered.

(2) If the hearing officer determines by a preponderance of evidence that the individual was engaged in intoxicated driving, the revocation will be for 1 year from the date of the original preliminary suspension.

(c) The person was driving or in physical control of a motor vehicle while under a preliminary suspension or revocation.
(d) An administrative determination has been made by the state or host nation licensing authority to suspend or revoke driving privileges.

(e) The individual has failed to complete a formally directed substance abuse or driver’s training program.

§ 634.15 Restricted driving privileges or probation.

(a) For the Navy, Air Force, Marine Corps, and DLA, the installation commander, or his or her designee may modify a suspension or revocation of driving privileges in certain cases per paragraph (d) of this section.

(b) Army requests for restricted driving privileges subsequent to suspension or revocation of installation driving privileges will be referred to the installation commander or designee, except for intoxicated driving cases, which must be referred to the General Court Martial Convening Authority. Withdrawal of restricted driving privileges is within the installation commander’s discretion.

(c) Probation or restricted driving privileges will not be granted to any person whose driver license or right to operate motor vehicles is under suspension or revocation by a state, Federal, or host nation licensing authority. Prior to application for probation or restricted driving privileges, a state, Federal, or host nation driver’s license or right to operate motor vehicles must be reinstated. The burden of proof for reinstatement of driving privileges lies with the person applying for probation or restricted driving privileges. Revocations for test refusals shall remain.

(d) The installation commander or designee may grant restricted driving privileges or probation on a case-by-case basis provided the person’s state or host nation driver’s license or right to operate motor vehicles remains valid to accommodate any of the following reasons:

(1) Mission requirements.

(2) Unusual personal or family hardships.

(3) Delays exceeding 90 days, not attributed to the person concerned, in the formal disposition of an apprehension or charge that are the basis for any type of suspension or revocation.

(4) When there is no reasonably available alternate means of transportation to officially assigned duties. In this instance, a limited exception can be granted for the sole purpose of driving directly to and from the place of duty.

(e) The terms and limitations on a restricted driving privilege (for example, authorization to drive to and from place of employment or duty, or selected installation facilities such as hospital, commissary, and other facilities) will be specified in writing and provided to the individual concerned. Persons found in violation of the restricted privilege are subject to revocation action as prescribed in § 634.9.

(f) The conditions and terms of probation will be specified in writing and provided to the individual concerned. The original suspension or revocation term in its entirety may be activated to commence from the date of the violation of probation. In addition, separate action may be initiated based on the commission of any traffic, criminal, or military offense that constitutes a probation violation.

(g) DOD employees and contractors, who can demonstrate that suspension or revocation of installation driving privileges would constructively remove them from employment, may be given a limiting suspension/revocation that restricts driving on the installation or activity (or in the overseas command) to the most direct route to and from their respective work sites (5 U.S.C. 2302(b) (10)). This is not to be construed as limiting the commander from suspension or revocation of on-duty driving privileges or seizure of OF 346, even if this action would constructively remove a person from employment in those instances in which the person’s duty requires driving from place to place on the installation.

§ 634.16 Reciprocal state-military action.

(a) Commanders will recognize the interests of the states in matters of POV administration and driver licensing. Statutory authority may exist within some states or host nations for reciprocal suspension and revocation of driving privileges. See subpart D of this part for additional information on exchanging and obtaining information