

Section 403 limits Appeals Board review of each case to the record. Thus an Appeals Board could only consider evidence that had been presented to the hearing examiner.

Section 403 requires an Appeals Board to set aside any action, finding or conclusion of a hearing examiner that is arbitrary, capricious, an abuse of discretion or not in accordance with law. Section 403 also requires an Appeals Board to set aside any action, finding or conclusion contrary to constitutional provision, statutory jurisdiction, or required procedure.

Finally section 403 requires an Appeals Board to set aside any action, finding or conclusion unsupported by substantial evidence. Substantial evidence, the usual standard for appellate review of administrative decisions, is a lesser standard than a preponderance of the evidence. Substantial evidence is evidence a reasonable mind accepts as adequate to support a conclusion.

Section 404 provides a time limitation for filing an appeal. A respondent must file an appeal no more than 15 days after the Department of Transportation gives notice of the order which is being appealed. Mailing an appeal within the time limit satisfies the requirements of this section.

Section 405 provides for judicial review of decisions of the Appeals Boards. The section does not apply to orders of suspension and revocation, which remain subject to section 11 of the District of Columbia Administrative Procedure Act (D.C. Code, sec. 1-1510 (Supp. IV 1977)). All other decisions of the Appeals Boards are subject to review by the Superior Court of the District of Columbia as provided in this section.

A respondent may appeal a decision of an Appeals Board by filing an application in the Superior Court within 30 days of the Appeals Board decision. Except for the filing deadline and court jurisdiction, appeals under this section are governed by section 11 of the D.C. Administrative Procedure Act (D.C. Code, sec. 1-1510 (Supp. IV 1977)). Thus the scope of Superior Court review is limited to the record.

The Superior Court must set aside any decision that is arbitrary, capricious, an abuse of discretion or not in accordance with law. The Superior Court must set aside any

decision that is contrary to constitutional provision, statutory jurisdiction or required procedure.

Finally the Superior Court must set aside any decision unsupported by substantial evidence. Substantial evidence, the usual standard for appellate review of administrative decisions, is a lesser standard than a preponderance of the evidence. Substantial evidence is evidence a reasonable mind accepts as adequate to support a conclusion.

TITLE VI -- MISCELLANEOUS AMENDMENTS TO OTHER LAWS

Section 601 amends the District of Columbia Traffic Act, 1925, to conform with the provisions of this act. Section 601 decriminalizes the following offenses: (1) not carrying a permit while operating a vehicle (D.C. Code, sec. 40-301(c) (1973)), and (2) speeding (D.C. Code, sec. 40-605(d) (Supp. IV 1977)).

Section 602 amends regulations contained in the Highways and Traffic Regulations to conform with the provisions of this act. Section 602 decriminalizes the following offenses: (1) speeding (Highways and Traffic Regulations, sec. 22), (2) violation of Residential Permit Parking Program (Highways and Traffic Regulations, sec. 42), (3) violation of special parking privileges for the physically disabled (Highways and Traffic Regulations, sec. 97A), (4) violation of emergency parking permit regulations except unauthorized use of emergency parking permits (Highways and Traffic Regulations, sec. 87), and (5) violations of any provision of the Highways and Traffic Regulations which does not include a specific penalty (Highways and Traffic Regulations, sec. 158).

Section 603 amends regulations contained in the Public Service Commission Regulations (Title 14, D.C.R.B.) to conform with this act. The Public Service Regulations contain the regulations for taxicabs. Section 603 decriminalizes all offenses in the Public Service Regulations except violations of soliciting and loitering prohibitions.

Section 604 amends the Motor Vehicle Regulations of the District of Columbia (Title 32, D.C.R.B.) to conform with this act. Section 603 also decriminalizes certain offenses

in the Motor Vehicle Regulations and makes other changes in Title 32.

Section 604 decriminalizes the following offenses: (1) refusal to allow notation of suspension or revocation on permit (32 D.C.R.R., sec. 2.315 (g)), (2) violating a restriction (32 D.C.R.R., sec. 2.404), and (3) any violation in Title 32 where a penalty is not provided except acting as a driving school instructor without a license (32 D.C.R.R., sec. 2.501), operating a school bus without a permit (32 D.C.R.R., sec. 2.801), carrying on or conducting the business of a dealer without a registration (32 D.C.R.R., sec. 5.201), tampering with a locked or secured bicycle (32 D.C.R.R., sec. 11.701(a)), and any offense contained in chapter 8 of Title 32.

Section 604 authorizes the Director of the Department of Transportation to refuse to register a vehicle if the owner has not paid a civil fine. The director currently has this authority if the owner has not responded to a warrant. Section 604 eliminates a provision for off-the-record objections to evidence in hearings. Section 604 limits rehearing and reconsideration of hearing examiner decisions to cases of suspension and revocation. Thus a respondent contesting an infraction may not request a rehearing or reconsideration.

Section 604 repairs an anachronism in section 9.505(c) of title 32 of the D.C. Rules and Regulations which required attorneys who appear before hearing examiners to be member of the bar of the U.S. District Court for the District of Columbia. Section 604(v) would change the requirement so that attorneys practising before the Department of Transportation hearing examiner would have to be members of the bar of the D.C. court of Appeals.

Section 604 also changes the appeal procedures for cases involving suspension or revocation of driver's permits and registrations. Currently appeals of suspensions and revocations are reviewed by the Assistant Director for Motor Vehicle Services. Section 604 makes the appeal procedures for suspension and revocation cases conform to the procedures for infractions under this act. As a result, the Appeals Boards established by section 401 (see description) would consider appeals of suspensions and revocations.

TITLE VII--SEPARABILITY; EFFECTIVE DATE

Section 701 provides a separability or savings clause.

Section 702 provides an effective date. The provisions of Bill No. 2-195 become effective after the Director of the Department of Transportation promulgates rules as provided by section 106.

COMMITTEE ACTION

Chairman Tucker introduced Bill No. 2-195 at the request of the Mayor on July 21, 1977. Chairman Tucker referred Title I, I, III, IV, VI and VII to the Committee on the Judiciary and Title V to the Committee on Transportation and Environmental Affairs. On November 18, 1977, the Committee on the Judiciary and the Committee on Transportation and Environmental Affairs held a joint public hearing on Bill No. 2-195.

The Committee on the Judiciary marked-up Title I, II, III, IV, VI and VII on May 24, 1978. The committee voted to favorably report the titles as amended. The vote was four in favor (Clarke, Barry, Hardy and Rolark); none opposed. The Committee also voted to approve this report. The vote was four in favor (Clarke, Barry, Hardy and Rolark); none opposed.

POSITION OF THE EXECUTIVE BRANCH

The attached testimony and memoranda represent the position of the Executive Branch to date.

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