



**Kaiserslautern Legal Services Center
Legal Assistance Information**

**Drinking & Driving
Rules in Germany**

Please note that this Information Paper only provides basic information and is not intended to serve as a substitute for personal consultations with a Legal Assistance Attorney. For an appointment dial (DSN) 483 - 8848 or (CIV) 0631 - 411 - 8848.

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I. INTRODUCTION

a. Drinking and driving should be avoided. Many European countries have a no drinking and driving policy. In Germany the limit is a Blood Alcohol Concentration (BAC) of 0.5 per mille [‰] (= 0.0005 percent [%]). However, drivers under the age of 21 or drivers holding their license for less than 2 years¹ are not allowed to drink any alcohol at all. If you stop drinking the BAC will still rise within the following two hours! Thereafter, the BAC will start decreasing by approximately 0.1‰ (= 0.0001%) per hour. Consequently, if you have been really drunk last night, chances are the BAC level has not reduced to 0.5‰ (= 0.0005%) the next morning.

b. Age, physical condition and constitution as well as gender have an influence on the impact alcohol causes on the body. Women need less alcohol to get drunk than men because of their physical constitution. Strong persons stay drunk longer because their body fat will keep the BAC at a high level. If you drank hastily, it will take a longer time for the BAC to reach its maximum high once you stop drinking. In that case it may even take more than the two hours mentioned above.

c. If you have not eaten, alcohol will have a stronger effect on your body. Contrary to any myth, coffee, food or fresh air has no effect on the BAC. In fact it might only mislead you and trick you into feeling sober although it has really no effect on the BAC level. Time is the best and only cure.

d. In order to detect drunk drivers, the German police may install checkpoints at random. This is particularly true at night or in the morning hours. They are also likely to do so following German holidays or on weekends, especially in the vicinity of bars, pubs, clubs, or public festivities.

II. DRIVING UNDER THE INFLUENCE (DUI)

A. Administrative Offense

1. § 24a StVG (German Road Traffic Act)

a. Driving under the influence is an administrative offense under § 24a StVG (“Straßenverkehrsgesetz”, German Road Traffic Act) if the driver of a vehicle has either

¹ If a DUI incident occurred within the first 2 years, then that period is extended to 4 years (§ 2a para. 1 No. 1 and § 2a para. 2a StVG)

- 0.5 per mille (‰)² (= 0.0005%) blood alcohol or more but less than 1.1 per mille (= 0.0011%) blood alcohol; or
- 0.25 per mille gram per liter (mg/l) alcohol on his/her breath or more but less than 0.55 per mille gram per liter.

b. The concentration of alcohol in blood is just over about two thousand times stronger than the concentration of alcohol in the expired breath with which it has been in equilibrium. Scientific research established a relationship of 2.3 to 1 by weight for breath alcohol content and blood alcohol content. Based on scientific research, the German legislature applied the conversion rate of 2 to 1, allowing a lower reading, an actual underestimate of the true alcohol level. Therefore, German breath instruments are calibrated at 2.0 to 1. The measured breath alcohol concentration is multiplied by 2 in order to determine the blood alcohol concentration. The UCMJ uses a slightly different conversion rate of 2.1 to 1 in Art. 111 UCMJ. Different countries assume different values³. Consequently, they have their breath instruments calibrated differently.

c. It is no defense to the administrative offense that the driver is fully able to drive safely. The offense is committed once the driver has overcome the above-mentioned threshold, even if he/she drives the vehicle actually perfectly.

2. Administrative Traffic Fines Imposed under the German Road Traffic Ordinance

a. Blood Alcohol Concentration (BAC) of 0.5 ‰ (= 0.0005%) or more - but less than 1.1 ‰ (= 0.0011%) – or Breath Alcohol Concentration (BrAC) of 0.25 mg/l or more (but less than 0.55 mg/l) will result in the following administrative traffic fines:

	<u>(German) Table of Administrative Fines (“Bußgeldkatalog”):</u> #241: Violation of § 24a StVG	<u>§ 40 FeV (“Fahrerlaubnis-Verordnung”, Ordinance on the Permission to Drive), Annex 13: Point Valuation System</u>	
	Fine	Suspension of License	German Traffic Points
First time offenders:	€500	1 month	4
Second time offenders:	€1,000	3 months	4
Third time offenders:	€1,500	3 months	4

² Formula:

per mille (1/1000): ‰ = g/l = 1000 mg/ 1000ml = mg/ ml

percent (1/100): % = g/l = 1000 mg/ 1000 ml = 100 mg/ 100 ml = 0.1 g/ 100 ml → 0,001% = 1‰ = 0.1 g/ 100 ml

(0.5‰ = 0.5 mg per 1.0 ml) = (0.0005% = 0.05 g per 100 ml)

(0.25‰ = 0.25 mg per 1.0 ml) = (0.00025% = 0.025 g per 100 ml)

(1.1‰ = 1.1 mg per 1.0 ml) = (0.0011% = 0.11 g per 100 ml)

³ Great Britain uses a conversion rate of 2.3 to 1, while the United States and Australia assume a ratio of 2.1 to 1. France and Germany have opted for a 2.0 to 1 ratio.

b. Army in Europe Regulation (AER) 190-1, Registering and Operating Privately Owned Motor Vehicles in Germany, 15 May 2009, will assess 6 points on the US side for driving a motor vehicle when mentally impaired by alcohol consumption (a BAC 0.5 mg (0.05g/100ml) = 0.0005% to 0.99 mg (0.099g/100ml) = 0.00099% of alcohol per 1.0 ml (0.10g/100ml) = 0.001% of whole blood on breath) (See, AER 190-1 Table 2-1 Traffic Point Table).

3. § 24c StVG (German Road Traffic Act): Zero tolerance for young drivers under 21!

As of August 1, 2007, drivers under the age of 21 or drivers, holding their license for less than two years are **not allowed to drink any alcohol at all** (§ 24c StVG). Violations will be punished by a fine of €250 (Table of Administrative Fines #243) and 2 German traffic points (Annex 13, #6.1 Point Valuation System). If a DUI incident occurs within the first 2 years, then that period will be extended to 4 years (§ 2a para. 2a StVG).

B. Criminal Offense

1. Relative impairment of the fitness to drive (operational fault)

a. An administrative offense becomes a criminal offense if the driver violates § 24a StVG and there has been an alcohol related operational fault, *e.g.*, swerving, losing control over the vehicle while the road conditions are good, driving straight despite a curve, driving through a red light.

b. Even without having violated § 24a StVG, the driver can commit a criminal offense if there is an alcohol related operational fault and the driver has 0.3 per mille (= 0.0003%) blood alcohol or more. German judges tend to believe that less than 0.3 per mille blood alcohol does not qualify to presume the criminal offense of drunken driving. Yet, every judge will have to convince himself/herself in each individual case if actually driving impairment existed when the blood alcohol amount was less than 1.1 per mille (= 0.0011%).

c. These actions are punishable under § 315c StGB (“Strafgesetzbuch”, German Criminal Code). The type of vehicle operated is irrelevant. Even a bicycle constitutes a vehicle. Therefore, you can even lose your driver’s license, being involved in an accident with an alcohol-related operational fault while riding a bicycle.

2. Absolute impairment of the fitness to drive

a. Under German law an absolute impairment of the fitness to drive is a criminal offense. It exists if the driver has:

- 1.1 per mille (= 0.0011%) alcohol in his/her blood or more.

b. It is of no relevance whether there has been an alcohol related operational fault or not. In this case, the driver cannot exonerate himself/herself any more with a good driving performance or otherwise. Instead the driver is finally and completely deemed unfit for driving.

c. These actions are punishable under § 316 StGB (“Strafgesetzbuch”, German Criminal Code) if not punishable pursuant to § 315c StGB. Again, it is of no relevance what kind of vehicle was used to commit the violation. However, the absolute impairment of the fitness to ride a bicycle requires a higher blood alcohol content than 1.1‰ (= 0.0011%). Generally it is set a 1.7‰ (= 0.0017%).

C. Testing Methods

a. According to § 81a StPO (“Strafprozeßordnung”, German Code of Criminal Procedure) the authority to order a test is vested in the judge and, if delay would endanger the success of the examination, also in the public prosecutor, including specially trained police officers (assistant officials). These police officers are generally referred to as special investigators of the Public Prosecutor (“Ermittlungspersonen der Staatsanwaltschaft”)⁴. § 152 GVG (“Gerichtsverfassungsgesetz”, Constitution of Courts Act) authorizes every German Land government to specify the rank of these persons by executive order. These executive orders regulate the capacity of special investigators (“Ermittlungspersonen der Staatsanwaltschaft”) through all other police forces, *e.g.*, criminal police, customs, forestry,... In its executive order of 05 December 1995 (as amended on 19 October 2005) the government of Rhineland-Palatine named the “Polizeimeister (PM)” as the lowest rank for a police officer in order to become a special investigator of the Public Prosecutor, provided the person has been in that rank for four years. Most German State governments have enacted similar regulations.

b. All policemen, independent of their rank, are authorized to perform the booking procedure, *i.e.*, taking photos, fingerprints, provisional apprehension... (§ 81b StPO) Yet, more cohesive means, like a physical examination by taking blood, require the authorization by a judge or in emergency cases special investigators (§ 81a StPO). Policemen in the lowest rank might not seem qualified enough to authorize these procedures. Yet, even policemen at the top often don’t qualify as special investigators because they work more closely with the Department of the Interior and shall not be subjected to orders of the Public Prosecutor, supervised by the Chief Public Prosecutor.

1. Breath Alcohol Test

a. The machine has to be calibrated and sealed. Furthermore, the temperature has to be between 15° Celsius⁵ (59° F) and 35° Celsius (95° F) and must be kept on record as well as the humidity. For each use of the breath alcohol test machine a new mouthpiece has to be used.

⁴ Formerly known as auxiliary officials of the Public Prosecutor (“Hilfsbeamte der Staatsanwaltschaft”).

⁵ Calculation:

Celsius to Fahrenheit: multiply by 9 divide by 5 and add 32

Fahrenheit to Celsius: subtract 32, multiply by 5 and then divide by 9

b. The subject shall not be allowed to eat, drink, smoke or consume anything 10 minutes prior to the test. He/She must be advised of his/her rights and the measuring process has to be explained to him/her. Since age influences the test results, the subject's DOB has to be determined.

c. See footnote 2 on the breath instrument calibrations used in different countries because they assume different values. However, the measured values are always rounded down.

2. Blood Alcohol Test

a. Even though breath analyzer tests are admissible in court, the German police is likely to order an additional blood test if its investigation lead to the conclusion that a criminal offense has been committed. Furthermore, a blood test will be taken if the subject refused a breath alcohol test or the breath alcohol test cannot be conducted due to illness, drugs, medicine or other reasons.

b. It is not unusual for the German police to take several blood tests over a period of time to determine the level of intoxication at the time of the incident.

III. DRIVING PRIVILEGES

A. Driver's License

a. **ISSUANCE.** As of the end of March 1998, a USAREUR POV license is no longer issued. Instead only a "certificate of license" will be issued. It has to be based upon a stateside license (even if expired) or a German license or a military operator's permit.

b. A suspension of USAREUR driver's license usually occurs after an accumulation of too many traffic points within a specific period of time or for some other serious traffic violation/offenses. The individual concerned will have to utilize the post transportation systems (shuttle bus), friends, or co-workers for shopping, mail and banking needs.

c. **TRAFFIC POINTS.** In Germany, upon reaching 18 points, the driver will lose his license (§ 4 StVG). A new license cannot be applied for before 6 months have passed. Depending on the circumstances a full new driver's test might have to be completed. Whereas under the US system, accumulating 12 or more (US) traffic points in a 1-year period or 18 traffic points in a 2-year period will lead to a suspension of driving privileges for 180 days (AER 190-1 para. 2-14 (b)(4)(b)).

d. **TEMPORARY SUSPENSION.** In order to sustain the temporary suspension of a driver's license the German police have to seek a court order in accordance with § 111a StPO

(“Strafprozeßordnung”, German Code of Criminal Procedure). According to the German system, the driver’s license (“Führerschein”) symbolizes the permission to drive (“Fahrerlaubnis”), which gives the right to drive a vehicle. The driver’s license is a document that can be seized, whereas the permission to drive will continue to exist until that right/privilege is withdrawn by a court order. In such a case the court will determine a suspension period.

e. **PROHIBITION TO DRIVE MOTOR VEHICLES.** Based on § 44 StGB (“Strafgesetzbuch”, German Criminal Code) the German courts impose a suspension of driving privileges from 1 to 3 months, if someone drove a motor vehicle (not a bicycle) under the influence and the driver’s license has not been revoked IAW § 69 StPO. The time of suspension starts to run as soon as the order becomes final and the license is turned in. Note, you are prohibited from driving a motor vehicle once the sentence becomes final but the term of the prohibition will be calculated only from the day on which the driver’s license has been turned in – after the sentence became final.

f. **WITHDRAWAL OF PERMISSION TO DRIVE.** Based on § 69 StGB (“Strafgesetzbuch”, German Criminal Code) the German courts impose a revocation of driving privileges if someone drove a motor vehicle (not a bicycle) under the influence. If the court withdraws permission to drive, it determines at the same time IAW § 69a StGB that, for the period of 6 months up to 5 years, a new permission to drive must not be issued (bar, “Sperre”). The bar may be ordered forever, if it is to be expected that the maximum period is not sufficient to avert the danger emanating from the offender. Any periods without a license before, *e.g.*, if it had already been withdrawn based on § 111a StPO, will not be deducted. Quite to the contrary they are already considered in the calculation of the addition withdrawal period. If the decision is appealed, *e.g.*, a penal order protested, the withdrawal period mentioned therein runs from the issuance of that criminal judgment, where the license had already been withdrawn IAW § 111a StPO (Fischer, § 69a StGB Rn. 36, 55th Ed. 2008; Meyer-Goßner, § 111a StPO Rn. 13, 50th Ed. 2007).

g. If a driver violates the drinking and driving rules several times, the administrative authorities can also limit or suspend the permission to drive and request that the driver undergoes a medical psychological opinion (§ 4 StVG, §§ 11, 13 FeV, “Fahrerlaubnis-Verordnung”, Regulation on the Permission to Drive).

B. Civilian Misconduct

1. AER 27-9

Army in Europe Regulation (AER) 27-9, Misconduct by Civilians, 29 January 2009 (Table D-1)

#11	Nature of Offense	1 st Offense	2 nd Offense	Remarks
Drunk or drugged driving	Driving any vehicle while under the influence of alcohol or drugs	Proposed suspension of driving privileges under AER 190-1 (mandatory suspension)	Proposed revocation under AER 190-1	Second offense within 5 years requires mandatory revocation for 5 years

2. AER 190-1

a. Army in Europe Regulation (AER) 190-1, Driver and Vehicle Requirements and the Installation Traffic Code for U.S. Forces in Germany, 15 May 2009.

b. AER 190-1 para. 2-14 and para. 2-15 address suspension and revocation rules and periods. If required by this publication, the USAREUR Registrar will suspend or revoke the driving privileges for a period longer than required under the German law. Moreover, no requests for restricted driving privileges will/can be granted before the German court-ordered suspension has expired (AER 190-1 para. 2-16). The community commander may only allow restricted driving privileges if the suspension is based on Army Regulations.

IV. CONCURRENT JURISDICTION FOR US SOLDIERS

A. Treaties

a. Issues of criminal and disciplinary jurisdiction are addressed in Article VII NATO-SOFA.

a. Logically, the USA has sole/priority jurisdiction if an act is not punishable under German law but under US laws (Article VII (2)(a) SOFA, Article 17 (1) SA).

b. According to Article VII (3)(a) SOFA, the US military authorities have the primary right to exercise jurisdiction over US soldiers with respect to offenses committed solely against the property or security of the USA as well as to offenses solely against another US soldier, a

member of the civilian component or their dependents or their property. Furthermore, the US military authorities have the primary right to exercise jurisdiction over US soldiers with respect to offenses arising out of any act or mission done in the performance of official duty. Yet, upon a specific request the USA may waive its right to exercise jurisdiction in favor of the German authorities (Article VIII (3)(c) SOFA).

c. Article VII (3)(b) grants the primary right to exercise jurisdiction in the cases of any other offenses to the German authorities. According to Re Article VII the term “offenses” includes administrative penal procedures as well as offenses subject to a fine only. Yet, Article 19 SA allows a State to waive its right to primary jurisdiction. Based on Article 19 para. 1 SA and Article 19 para. 1 of the Protocol of Signature, Germany waived with respect to and in favor of the USA its primary right to concurrent jurisdiction granted under Article VII para. 3 (b) and (c) NATO-SOFA⁶.

d. According to the implementing provisions contained in Article 3 para. 1 of the German Act concerning the NATO-SOFA and its Supplementary Agreement, the Public Prosecutor Office (“Staatsanwaltschaft”) shall be the competent authority to recall a German waiver in accordance with Article 19 para. 3 SA within 21 days, if they hold the view that the exercise of German jurisdiction is imperative to German interests.

e. Army in Europe Regulation (AER) 550-56, Exercise of Jurisdiction by German Courts and Authorities Over U.S. Personnel, 03 September 2003, addresses the proper procedure for the legal liaison authorities (LLAs).

B. DUI Cases

a. Under German law, the relative and the absolute impairment of the fitness to drive constitute a criminal offense, whereas operating a vehicle within the intoxication levels of § 24a StVG constitutes an administrative offense. Unless only US SOFA personnel to include their dependents and property was endangered, damaged, or injured or the offenses were committed on duty, Germany has the primary right to exercise jurisdiction over US soldiers in this field of concurrent jurisdiction. Yet, the German government has generally waived its jurisdiction in favor of the US government.

b. Unless recalled by the German authorities, the US military authorities have the right to deal with reckless driving, damaging US government property, drunk driving and negligent homicide as far as US soldiers are concerned. However, offenses committed by dependents or members of the civilian component are dealt this by the German authorities.

⁶ Upon request and in concert with the French Government, Germany recalled its waiver of primary jurisdiction with respect to French soldiers, effective as of 2002.

C. Processing a German Administrative Fine Order

1. Issuance

§ 65 OWiG (“Ordnungswidrigkeitengesetz” Regulatory Offenses Act):
Issuance of an Administrative Fine Order (“Bußgeldbescheid”).

§ 51 OWiG:

It needs to be issued in writing and served IAW with the applicable service of process provisions.

§ 66 OWiG:

Contents: information on the subject, date & time of the incident, facts on the violation, evidence available, amount of the fine

§ 107 OWiG:

decision on the procedural costs (5% of the fine, at least €20 but no more than €7,500. For parking violations of the car owner: €15) and expenses

2. Protest

§ 67 OWiG:

- duly protest in a timely manner required, *i.e.*, generally w/in 2 weeks after proper service
- has to be in writing (in German)

§ 69 OWiG:

- to be mailed to the Administrative Agency specified in the Administrative Fine Order
- That agency reviews the case and either withdraws the order or else submits it to the Public Prosecutor’s Office for further review.
- The Public Prosecutor reviews the Order and either withdraws it or schedules a court hearing.
- The Judge either sets a hearing (§ 71 OWiG) or (rarely) deals with matter on a written basis (§ 72 OWiG).

§§ 79, 80, 80a OWiG:

- If the Judge sustains the Administrative Fine Order, a protest to the Higher Regional Court (OLG, “Oberlandesgericht”) may be filed on condition that the fine is higher than €250 or due process rights have been violated or that the legal issue is extraordinary importance for the general public.

V. RECORDS

A. Statue of Limitations (SoL)

a. The law distinguishes between Limitations of Prosecution (“Verfolgungsverjährung”) and Statue Barring of Execution (“Vollstreckungsverjährung”). If the fine is smaller than €1,000.00 the limitation for the prosecution is 6 months IAW § 31 para. 2 OWiG (“Ordnungswidrigkeitengesetz” Regulatory Offenses Act). In such a case the Statue Barring of Execution is 3 years (§ 34 OWiG). Note, that certain events can toll the time and prevent it from running out on that charge.

b. With respect to most traffic law violations § 26 para. 3 StVG (“Straßenverkehrsgesetz”, German Road Traffic Act) calls for a 3-month period only as far as the limitations of prosecution are concerned. The Administrative Fine Order (“Bußgeldbescheid”) has to be issued within a 3-month period. If done, a 6-month period follows before the Statue of Limitations runs out ON CONDITION that the Administrative Fine Order was served within 2 weeks after its issuance (§ 33 No. 9 OWiG).

c. Sending a questionnaire to the subject of a traffic offense (“Anhörungsbogen des Betroffenen wegen einer Verkehrsordnungswidrigkeit”) lets the 3-month period start anew. However, if the questionnaire is addressed to the owner but if he did not commit the regulatory offense, the SoL for the driver is not interrupted but continues to run.

d. The exceptions to the general rule in § 31 OWiG stated in § 26 para. 3 StVG do not apply to DUIs because § 26 StVG only refers to § 24 StVG and not § 24a StVG but DUIs are only addressed in the latter section.

B. Traffic Point Registry

a. The (German) Federal Bureau of Motor Vehicles and Drivers (“Kraftfahrt Bundesamt”) is located in Flensburg. It keeps the “Central Register of Traffic Offenders and Point System”. Therein all traffic offenses punishable at least with an administrative fine are registered. The address to the agency reads as follows:

Kraftfahrt Bundesamt
Foerdestr. 16
24944 Flensburg

b. It has also a homepage: <http://www.kba.de> on which information in the English language is available. Furthermore, English application forms can be downloaded. The office will provide information about the driver’s record for free to the driver him/herself as well as to

the police and the court system. Entries in the registry are kept for at least 2 years depending on the nature of the offense and whether new offenses are committed (§ 29 StVG).

C. German License Plate

a. Since the beginning of 2006 the U.S. Forces issue German license plates to U.S. Forces members' privately owned vehicles (POV). This change is a result of an agreement between the U.S. Forces and the German Government and recognizes the enhanced security of reducing the visibility of U.S. Forces POVs by displaying the same type of license plates that are used by the rest of the country. These German plate numbers are the property of the U.S. Government and are issued to be used only as long as you are stationed or working for the U.S. Forces in Germany. Therefore, they **MUST** be returned when you depart from or separate from the U.S. Forces in Germany. Persons turning in the German plates to the local registration office will be provided U.S. Forces plates (USA) to ship their POV to the USA, reassignment to other countries, or upon separation or termination of employment.

b. Because the POVs will be displaying German license plates, the vehicles will be subject to stricter standards and enforcement by the German Police. The use of dark tinted glass beyond what the manufacturer provides on the driver's and passenger's front door as well as, on the front windshield is a violation of German law. Furthermore, extremely loud exhaust pipes and mufflers violate German and most EU Member States laws.

c. The use of the "USA" oval decal which is required to crossing international borders will no longer be authorized. German license plates require the use of the "D" oval decal to correspond with the "D" license plates. In fact the "D" should be already on your long license plate below the flag symbol of the European Union (EU).

D. International Driver's License

a. Since March 1998, a USAREUR POV license is no longer issued. The "U.S. Forces Certificate of License", often incorrectly still referred to as the "USAREUR Drivers License", is **NOT** a driver's license but merely a certificate confirming that the holder is in possession of a valid stateside license (Art. 9 SA). Since the Supplementary Agreement (SA) to the Status of Forces Agreement (SOFA) is only a treaty binding Germany and the respective NATO SOFA Member State, that document is only valid in Germany. Most other European Countries, to include other NATO Member States, require an International Driving License to be legal to drive. Austria and France in particular are strictly enforcing that requirement and are ticketing SOFA personal and their dependents that don't have an international driver's license.

b. An International Driver's License is easy to obtain by going to the Driver Testing Office on Daenner Kaserne (Bldg. 3107, 2nd floor) or Ramstein Air Base (Bldg. 2106, Room 206). They will check your license in the USAREUR database and stamp the filled out form attached to this handout. It will be valid for 1 week only. The form should then be taken to the

German Driver's License Office of the County or City where you live along with a passport size biometric photo and (currently) €15.30. That office will issue the international driver's license. NOTE, this procedure is limited, to EMERGENCY cases only. Generally, you should apply for the International Driver's License through the American Automobile Association – AAA or your US homestate respectively.

County („Kreis“) of Kaiserslautern:

Kreisverwaltung
- Führerscheinstelle -
Lauterstr. 8
67657 KAISERSLAUTERN
Tel.: 0631-7105-366

City („Stadt“) of Kaiserslautern:

Stadtverwaltung
Amt für öffentliche Ordnung
Straßenverkehrs-/ Fahrerlaubnisabteilung
Merkurstr. 45 (Bldg. C)
67653 KAISERSLAUTERN
Tel.: 0631-365-2914

E. Provisional Driver's License

a. A stateside issued provisional license is not considered to be a “valid license” under AER 190-1 and AE Pam 190-34 (27 February 2009) and, therefore, the issue of “provisional licenses” is not addressed therein, even though it's more than a Learner's Permit. Consequently, an exception to policy is the only available remedy. The petition needs to be submitted to USARUER RMV. Just send a full copy of the provisional driver's license along with a request for exception to policy, in which you state your mailing address and the restriction on the Provisional Driver License.

b. If your request is approved, USAREUR RMV will issue a memorandum and the local driver's testing office will let the holder of the provisional driver's license take the written test. If passed, a USAREUR drivers' permit with the applicable restrictions will be issued. Once the term “provision” is stricken from the stateside license, the USAREUR license can be changed w/o incurring any additional fees.

c. A German B17 drivers license requires an accompanying authorized person, added on the certificate. That person has to be at least 30 years old, have had a driver's license for at least 5 years, and not received more than 3 points under the German driver's license system. (AER 190-1 para. 2-2 d).

VI. MISCELLANEOUS

A. Speeding with POV

a. The German Table of Administrative Fines, Schedule 1 (c) lists the standard fines for speeding violations. The traffic point system is regulated in § 40 FeV (“Fahrerlaubnis-Verordnung”, Ordinance on the Permission to Drive) Annex 13: Traffic Point Valuation System.

Table #11.3.	Speed Km/h	<u>within city/town limits</u>			<u>outside city/town limits</u>		
		Warning Charge	Traffic Points	Suspension of driving privileges	Warning Charge	Traffic Points	Suspension of driving privileges
1	Under 10	€15	---	---	€10	---	---
2	11 thru 15	€25	---	---	€20	---	---
3	16 thru 20	€35	---	---	€30	---	---

b. #11.3.1 through #11.3.3 are merely considered minor regulatory offenses and, therefore, don’t trigger a fine but merely a warning charge (§ 1 BKatV, “Bußgeldkatalog-Verordnung“, Table of Administrative Fines).

Table #11.3.	Speed km/h	<u>within city/town limits</u>			<u>outside city/town limits</u>		
		Fine (Euro)	Traffic Points	Suspension of driving privileges	Fine (Euro)	Traffic Points	Suspension of driving privileges
4	21 – 25	€80	1	---	€70	1	---
5	26 – 30	€100	3	(*)	€80	3	(*)
6	31 – 40	€160	3	1 month	€120	3	(*)
7	41 – 50	€200	4	1 month	€160	3	1 month
8	51 – 60	€280	4	2 months	€240	4	1 month
9	61 – 70	€480	4	3 months	€440	4	2 months
10	above 70	€680	4	3 months	€600	4	3 months

(*) exceeding 25 km/h twice within a 12-month period results in a 1 month suspension (§ 4 para. 2 BKatV).

c. If a speeding violation triggers a suspension, you are granted a 4-month grace period during which to turn in the driver’s license, on condition that there had been no suspension of driving privileges during the 2 years preceding (§ 25 para. 2a StVG). That way you can have the suspension period run while you are not so much in need of your POV, e.g., because you are on leave, abroad or in the field.

d. Please note, the above-stated fines can be increased where persons are endangered or property is damaged. The German Table of Administrative Fines, Schedule 4 contains instructions on the increase.

Basic Fine	where persons are endangered increased to	where property is damaged increased to
€40	€50	€60
€50	€60	€75
€60	€75	€90
€70	€85	€105
€75	€90	€110
€80	€100	€120
€90	€110	€135
€100	€120	€145
€130	€160	€195
€150	€180	€220
€250	€300	€360
...

e. Note, if a criminal offense (not merely a regulatory offense) has been committed totally different rules will apply. In such a case a penal order (“Strafbefehl”, § 407 StPO) will be issued or a Criminal Court hearing scheduled. A penal order will always result in a fine. The fine is composed of the “guilt” portion multiplied by daily increments. The daily increments are based on 1/30 of your monthly net income, whereas the guilt portion specifies the days, which you could go to jail for if you opt not to pay the fine. However, you are allowed to petition for reasonable installment payments to pay off the fine. A penal order can be applied within 2 weeks after service of process has been completed (§ 410 StGB).

B. Running a red light

The German Table of Administrative Fines addresses under #132 the fines for running a red light with a vehicle. It makes a difference of whether nothing happened or you actually endangered other persons or even caused damage.

If the driver runs a red light within 1 second after it changed to red, the following applies:

	Running a red light	endangering others	causing damage
Fine	€90	€200	€240
D/L suspension	---	1 month	1 month
Points	3	3	3

If the driver runs a red light a light 1 second after it changed to red, the following applies:

	Running a red light	endangering others	causing damage
Fine	€200	€320	€360
D/L suspension	1 month	1 month	1 month
Points	4	4	4

C. Following too closely

a. Depending on the velocity, failure to maintain an adequate distance between cars (safe distance) is punishable with an administrative fine of €75 to €400 and up to 4 traffic points. Additionally, driving privileges can be suspended for 1 month, or where necessary even up to 6 months. The safe distance is at least a distance of half of the odometer reading (km/h) in meters⁷.

b. By-passing is defined as passing a car that is going in the same direction. It does not require changing lanes. When driving on the Autobahn keep in mind that the left lane is for passing only. You can get fined for driving in the left lane if you are not passing. Generally, all by-passing has to occur on the left side (but is prohibited if the car in front signals for a left turn). Exceptionally, by-passing in the right(!) lane is permitted in stationary or staggering traffic situations where the velocity is not greater than 60 km/h. Otherwise the administrative fine is €100 and 3 traffic points if it happens outside the city/town limits (Table #17) or €30 if within city/town limits (Table #16).

D. Cell Phone

a. Using a cell phone or in-car phone while driving triggers a fine of €40 plus 1 traffic point, unless you use a free speaking mechanism (§ 23 para. 1a StVO; German Table of Administrative Fines #246.1). Even when riding your bicycle the use of a cell phone is prohibited (#246.2). Absent a free speaking mechanism, it is punished by a €25 fine. Even looking for the time on your cell phone triggers that fine. Only when the engine of the vehicle is turned off, you may use the cell phone without a free speaking mechanism. Therefore, the drivers must get used to the fact that they may neither pick up their cell phone nor the receiver of the in-car phone when there is stop and go traffic or when stopping at a red traffic light.

b. It is presumed the cell phone use happens intentionally and, therefore, it cannot be regulated in the Administrative Fine Table, Section I, which is based on negligent behavior. However, the former Federal Uniform Facts Table “Bundeseinheitlicher Tatbestandskatalog” regulated administrative offenses, committed intentionally. It has now been incorporated into the Administrative Fine Table by creating a section II, dealing with intentional behavior (§ 1 para. 2 Administrative Fine Table).

⁷ 1 mile = 1.609 km or 1 km = 0.62137 miles; 1 inch = 2.54 cm; 1 foot = 30.48 cm; 1 yard = 91,44 cm

E. Other EU-Countries

a. The traffic rules are not exactly harmonized throughout the EU. Therefore, you may encounter slightly different rules abroad. Particularly the fines for traffic violations are generally much higher abroad than in Germany. Nevertheless, the EU countries have agreed on what is called “Draft Framework on the application of the principle of mutual recognition to financial penalties”, making the enforcement of traffic fines from one EU country in the other one possible. Consequently, you are going to see an increase in higher fines from other EU countries being enforced in Germany.

b. Please inform yourself before your trip accordingly. The German ADAC or other automobile clubs or associations have generally country specific information available. Furthermore, when you cross the border there are signs indicating at least the applicable speed limits. Be aware that rules for having the car’s lights on during daylight vary a lot and tend to get changed frequently:

- Even during daylight the following EU countries require you to have the car’s lights on: Czech Republic, Denmark, Estonia, Finland, Iceland, Italy, Latvia, Macedonia, Montenegro, Norway, Polen, Sweden, Slovenia, and Slovakia.
- In Hungary, the lights are required to be on at daylight only outside the city limits.
- In Croatia and in Lithuania the lights are required to be on during the winter months only.

1. Germany (D)

a. The first letters (no more than three) of license plate inform you about the county in which the car is registered. The bigger cities have generally speaking only one letter like Berlin (B), Munich (M), Hannover (H). But the four Hanseatic Cities of Hamburg (HH), Bremen (HB), Lübeck (HL), and Rostock (HRO) have an extra “H” for historic reasons.

b. Rental car companies have their cars mainly registered in 5 cities: Hamburg (HH), Munich (M), Dresden (DD), Düren (DN) and Stadthagen (SHG).

c. The license plate also displays the State (“Land”) with a marker below the hyphen, *e.g.*, a white horse on a red background for Lower Saxony (“Niedersachsen”), a key for “Bremen” and a gate for “Hamburg”,.... There are either one or two letters following the hyphen, indicating whether the car’s owner lives in the city of the county or outside the city limits. However, this distinction is gradually fading away and no longer strictly enforced.

d. The German Autobahn (A) a.k.a. Bundesautobahn (BAB) are numbered by either odd or even numbers, the latter indicating an east-west or west-east direction, *e.g.*, A6 going from K-Town to Mannheim or A7 going from Flensburg to Füssen.

2. France (F)

a. The last two numbers on the French license late indicate the “Département” in which the car is registered, *e.g.*, 57 (Moselle: Metz, Forbach,...), 67 (Bas-Rhin: Strasbourg,...), 06 (Alpes-Maritimes: Nice,...), 75 (Paris),... As of 2009 France is introducing new license plates, adopting the Dutch system. The license plate will run with the car and no longer indicate the region of origin. Yet, the car’s owner may pick any “Département” number and add it to express his sympathy for a certain “Département”.

b. The owner is not only liable for all parking violations but also for all speeding tickets unless the owner can prove someone else drove the car. The police may request a security deposit (“consignation”) from foreign drivers IAW Art. L 26 Code de la Route. In case the deposit is not paid, the vehicle may be seized.

c. Any driver’s license seized, should be returned IAW Article 42 of the UN Convention on Road Traffic (“UN Übereinkommen über den Straßenverkehr”), a.k.a. Vienna Convention (“Wiener Straßenverkehrsabkommen”), of November 8, 1968 upon leaving the country.

3. Belgium (B)

a. From the license plate you cannot tell where the car is from in Belgium.

b. Belgium is known to have the highest fines in the EU. Speeding between 10 to 20 km/h above the limit will trigger a fine of €200, payable immediately. DUIs may result in fines up to €10,000.

4. Netherlands (NL)

a. Like in Belgium, you cannot tell by the license plate where the car is from in Netherlands.

b. Speeding tickets are rigorously enforced in the Netherlands, even if you are going less than 10 km/h over the limit. Fines or security deposits are payable immediately, otherwise the car can be towed and storage fees will be charged in addition. Late payment of any fine will trigger at least a 25% increase of the fine.

5. Italy (I)

a. The first two letters of the license plates inform you where the car is registered, *e.g.*, GE = Genova, VI = Vicenza, VE = Venezia (Venice). Only Rome displays its full name on the license plate: Roma.

b. Italy requires drivers to have the lights on when driving outside the city limits. A security vest for the driver and a passenger must be kept inside the car (not the trunk).

Prepared by Joerg C. Moddelmog, German Attorney-Advisor

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VII. ANNEX – Application for an International Drivers License



Rheinland-Pfalz

**Antrag auf Erteilung eines Internationalen Führerscheins
(Application for International Drivers License)**

Ich beantrage einen Internationalen Führerschein der Klasse ___ nach § 8 der Verordnung über internationalen Kraftfahrzeugverkehr.

(I do hereby apply for an international driver's license, class ___, pursuant to section 8 of the Traffic Regulations of International Motor Vehicle Traffic.)

Nachname (*Last Name*):

Vorname (*Name*):

2. Vorname (*Middle Name*):

Sozialversicherungs-Nr. (*SSN*):

Geburtsort (*Place of Birth*):

Geburtsdatum (*Date of Birth*):

TT/MM/JJJJ (*DD/MM/YYYY*)

Staatsbürgerschaft (*Citizenship*): **US American / US Amerikaner**

Rang (*Rank*):

Bezeichnung u. Anschrift der Einheit (des

Familienvorstands)

(Name and Address of (sponsor's) Unit)

Lokale deutsche Adresse (Str., Stadt)

(Local German Address (Street, Town/City))

Der Antragsteller wurde darauf hingewiesen, daß ein Internationaler Führerschein vorrangig über die American Automobile Association - AAA erhältlich ist. Aus Zeitgründen konnte von dieser Möglichkeit kein Gebrauch gemacht werden. Der Antragsteller erklärt sich einverstanden, seinen internationalen Führerschein den zuständigen US-Militär-Behörden auszuhändigen, falls seine USAREUR Fahrerlaubnis zeitweilig oder dauerhaft entzogen wird.

(The Applicant was informed that an International Drivers License primarily is available from the American Automobile Association – AAA. Because of time constraints this was not possible. The applicant hereby agrees to surrender his/her International Drivers License to the appropriate US military authorities in the event of suspension/revocation actions resulting in the loss of his/her U.S. Forces Certificate of License.)

Benötigt werden: 1 biometrisches Lichtbild, Führerschein, Ausweis; **Gebühren:** €15,30

(Required Items: 1 biometric photo, U.S. Forces Certificate of License, ID-Card; **Fee:** €15.30)

Ort, Datum und Unterschrift des Antragstellers (*Place, Date, and Signature of Applicant*)

Kaiserslautern,

Certification of the USAREUR Registry of Motor Vehicles Office
(Bestätigung der Fahrerlaubnisbehörde der Streitkräfte)

It is hereby certified that the applicant holds a valid U.S. Forces Certificate of License #: _____ class: ____ expiration date (DD/MM/YYYY): _____ The certificate corresponds to a German driver's license class: _____.

(Es wird hiermit bestätigt, daß der/die Antragsteller/in Inhaber einer gültigen USAREUR Fahrerlaubnisbescheinigung Nr. _____ der Klasse _____, mit dem Ablaufdatum (TT/MM/JJJJ): _____ ist. Diese Fahrerlaubnis entspricht der deutschen Klasse _____.)

Official Stamp, Date and Signature
(Dienststempel, Datum und Unterschrift)