

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

MINNESOTA STATE REGULATIONS

Notice of filing by the Commissioner of Administration

We have received on this date, stamped and filed 2 copies of Rules and Regulations pertaining to the Department of Public Safety
(Agency or Board)

Regulation No. Driv Lic 26 thru 28

Subject: Driver license valid without photograph

Department of Administration
Publication, Central Services Division
Documents Section
140 Centennial Office Building
St. Paul, Minnesota 55155
Telephone: (612) 296-2874

FILED
RICHARD L. BRUBACHER
Commissioner of Administration
OCT 7 1974 2:30 PM
BY Eda Staudenmaier
AUTH. SIGNATURE EJ

Stamped and filed with the Secretary of State 10-7-74

Rev. 9-72

ADMIN 1000

DEPARTMENT Attorney General

STATE OF MINNESOTA

Office Memorandum

TO : **Frederick Suhler**
Special Assistant Attorney General
Highway department

DATE: **October 8, 1974**

FROM : Michael B. Miller MBM
Special Assistant Attorney General

SUBJECT: Rules and Regulations - **DrivLic 26 - 28**

Enclosed directly following this memorandum are the rules and regulations you have submitted for approval. These rules and regulations have been approved by the Attorney General, filed with the Secretary of State and with the Department of Administration.

Upon receipt and before transmittal to your agency, it is IMPERATIVE that you recheck these rules and regulations as to:

1. Are the stamps of the Attorney General, Secretary of State and Department of Administration affixed to the last page of the rules and/or regulations;

2. Are all rules and/or regulations submitted covered by these stamps;

3. Are all pages of the rules and/or regulations included in the approved set?

Directly following the approved rules and/or regulations is a complete set of required documents and transcript which MUST be retained with the approved rules and/or regulations by you or your agency.

Also enclosed are additional documents and transcripts not retained by the Secretary of State; these should also be retained with the rules and/or regulations by you or your agency.

If you have any questions in this regard, please contact me.

MBM/sr

Enclosures

MINNESOTA DEPARTMENT OF PUBLIC SAFETY

MOTOR VEHICLE SERVICES DIVISION

CHAPTER TWO: DRIVER LICENSE VALID WITHOUT PHOTOGRAPH

DrivLic 26 PURPOSE AND SCOPE

(a) The purpose of this regulation is to provide for a method of identification on a driver's license in lieu of a photograph for persons with religious objections to being photographed.

(b) The scope of this regulation is intended to be consistent with Minnesota Statutes 1971, Section 171.071.

DrivLic 27 ISSUANCE OF DRIVER LICENSE WITHOUT PHOTOGRAPH

(a) Any person having religious objections to being photographed and to the use of a photograph as a means of identification may apply to the Director of Motor Vehicle Services for issuance of a driver license valid without photograph.

(b) In order to qualify for a driver license valid without photograph, an applicant must present to the Motor Vehicle Services Director a signed certificate or statement that the taking of a photograph and its use as identification violates the tenets and beliefs of his religion. The certificate or statement must accompany the regular application for driver license or renewal of license.

DrivLic 28 SPECIFICATIONS FOR DRIVER LICENSE VALID WITHOUT PHOTOGRAPH

The driver license issued to qualified applicants having religious objections to the use of a photograph shall be the same as the classified photo license, except, in the space normally occupied by the photograph of the licensee, the following shall appear:

VALID WITHOUT
PHOTO IN
COMPLIANCE WITH
M.S. § 171.071
AND MINN.
REGULATIONS
DrivLic 26-30

DrivLic 29-30 Reserved for future use.

FILED
RICHARD L. BRUBACHER
Commissioner of Administration

OCT 7 1974 2:30 pm

BY Edo Staudenmaier
AUTH. SIGNATURE

APPROVED AS TO FORM AND LEGALITY
October 4 1974
WARREN SPANNAUS, ATTORNEY GENERAL
BY Michael B Miller
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 7 - 1974 1:15 pm
Arlen I. Erdahl
Secretary of State

Exhibit 1

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE Wallace R. Hoaglund

COMMISSIONER OF Public Safety

In the matter of the Proposed Adoption of Rules of the State Department of Public Safety Relating to Identification on a Driver's License in Lieu of a Photograph for Persons Having Religious Objections to the Use of a Photograph.

ORDER FOR HEARING

To effectively implement Minnesota Statutes 1971, Section 171.071, the Minnesota Commissioner of Public Safety deems it necessary to consider adoption of the proposed rules captioned above pursuant to the authority vested in me by M.S. 1971, Section 299A.01, Subdivision 6.

NOW, THEREFORE, IT IS ORDERED this 13th day of May, 1974, that a public hearing on the proposed rules captioned above be held in the Conference Room in 211 Highway Building, St. Paul, Minnesota, July 1, 1974, commencing at 1:30 P.M., and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for the purpose and all persons who are presently members of the Minnesota Legislature.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

W. R. Hoaglund

COMMISSIONER OF PUBLIC SAFETY

Exhibit 2

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE Wallace R. Hoaglund

COMMISSIONER OF Public Safety

In the matter of the Proposed Adoption of Rules of the State Department of Public Safety Relating to Identification on a Driver's License in Lieu of a Photograph for Persons Having Religious Objections to the Use of a Photograph.

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to M.S. 1971, Section 15.0412, Subd. 4, in the above-entitled matter, in the Conference Room in 211 Highway Building, John Ireland Blvd., St. Paul, Minnesota, on July 1, 1974, commencing at 1:30 P.M., and continuing until all representatives or other interested groups or persons have had an opportunity to be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

The Commissioner proposes to adopt rules relating to the following matters: Persons having religious objections to being photographed and to the use of a photo as means of identification may apply to the Motor Vehicle Services Director for a VALID WITHOUT PHOTO driver license by presenting a letter from their pastor verifying such religious objections.

Copies of the proposed rules are available and may be obtained by writing to Mrs. Diane Hamilton, Department of Public Safety, 211 Highway Building, St. Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

W. R. Hoaglund

COMMISSIONER OF PUBLIC SAFETY

5-14-74

DATE

Exhibit 3

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing Identification on a Driver's License in Lieu of a Photograph for Persons Having Religious Objections to the Use of a Photograph.

CERTIFICATE

I hereby certify that the enclosed 358 general labels and Public Safety list constitute the complete list of persons, associations, and other interested groups who as of 9:00 o'clock A .M., this 28th day of May, 1974., have requested pursuant to M.S. 1971, Section 15.0412, Subdivision 4, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Secretary of State

Arlen I. Erdahl

Arlen I. Erdahl

By Virginia Daniels

Exhibit 4

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing Identification on a Driver's License in Lieu of a Photograph for Persons Having Religious Objections to the Use of a Photograph.

AFFIDAVIT OF MAILING

Beverly A Zallard, being first duly sworn, deposes and says:

That on the 28th day of May, 1974, at the City of St. Paul, County of Ramsey, State of Minnesota she served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State as well as to all persons presently being members of the Minnesota Legislature.

Beverly A Zallard

Subscribed and sworn to before me

this 28th day of May, 1974.

Olive Coe
Notary Public, Ramsey County, Minn.
My Commission Expires Jan. 21, 1979

EXHIBIT #5

We find a law requiring that an individual make a likeness (photo) of himself to be in violation of a higher law, that is the Ten Commandments given by the Creator of heaven and earth.

The second commandment reads: "THOU SHALT NOT MAKE UNTO THEE ANY LIKENESS" etc. Exodus 20:4.

In Deut. 4:16 God forbids making "any likeness of male or female".

When the children of Israel made a journey through the land of Canaan, they were told to destroy all their pictures - Numb. 33:52.

Deut. 27:15 reads: "Cursed be the man that maketh any image" ... "the works of the hands of the craftsman" etc.

Some interpret the words as meaning only that we must not worship images and likenesses, but the words and their meaning are clear and to the point in both the Old and the New Testament.

The commandment regarding making of likenesses contains 36 words ~~regarding the making of them~~ and 9 words regarding the worshiping of them.

The reason for God's law against the making of likenesses, we understand to be as follows:

1. "God created man in his own image." Gen. 1:27. Making this likeness of Himself, should remind the human being of God's personal being and hinder man from making his own images.

2. When God in due time sent His Son into the world, He came as "the brightness of His glory, and the express image"of the invisible God. Hebr. 1:3. Christ represented the faith, and this exceeded by far the letter of the law and leads the believer into a deeper communication with God than the law could. Through the preaching of the gospel, the human being should become an image - a likeness - of Christ. This is held forth in the following testimonies: Col. 1:15 and 1 Chor. 15:49. The last testimony reads: "And as we have borne the image of the earthy, we shall also bear the image of the heavenly." How this is done is described in 2 Chor 3:18:
"But we all, with open face beholding as in a glass the glory of the Lord, are changed into the same image from glory to glory, even as by the Spirit of the Lord".

The picture of the faith, that is the likeness which the faith in Christ requires, is that man under the influence of the Word of God becomes a likeness of Christ, more and more like Him in thinking and in life. The conciense of such a person can not tolerate an artificial picture of himself.

During the time of the early christians, there were no images among them, and the Jews were so against all kinds of images that the whole people rose up to protest when the roman flag was brought into the country bearing the image of the emperor.

Exhibit 6

Envelope postmarked
July 20th 1974
Cal.

July 20, 1974

JUL 1974
DEPT. OF
PUBLIC SAFETY
D.L.



Dear Mr. Commissioner:

I would like to express my appreciation for what you are doing to help eliminate the photo requirement in some cases for drivers licenses. The religious group I belong to believes that this requirement would violate Gen's second Commandment.

The main change I would submit for the proposed legislation would be the elimination of the required letter from a pastor. This is because our group does not recognize a pastor in the belief that all are equal in the eyes of God, and that there is therefore no need for an intermediary such as a pastor between God and His people.

I thank you for your consideration and hope that you can help me and others like me in avoiding transgression of our religious beliefs.

Sincerely,

Mrs Esther Harney

Exhibit 9

July 12, 1974

To the Commissioner of Public Safety
State Highway Building
St. Paul, MInnesota 55155

RE: Chapter Two,
Drivers License without photo
Public Hearing July 1, 1974, 1:30 P.M.

Dear Sir:

We wish to express our gratitude for the consideration given us and others, who find that the "photo law" violates the second of the Ten Commandments, as per our statement submitted at the hearing. (Exhibit 5.)

May we suggest that the stipulation in DrivLic 27(b) be changed to exclude the three words "from his pastor", as we do not have a pastor. We study the Scriptures in the homes and try to follow Christ's teaching, which stresses obedience to His Father and self-improvement.

If additional proof to a personal statement would be required, we would favor a regulation whereby the applicant would swear (affirm) before a notary public or other public official.

We know of only a small number of people in this state who will ask for this exemption. Therefore, we doubt that the Highway Patrol will encounter any problems, if the Commissioner has approved the exemption and a notation to this effect appears on the drivers license.

Very truly yours,

Albin Weston
Albin Weston
3425 18th Avenue South
Minneapolis, Minnesota 55407

Ernest R Miller
Ernest Miller
4428 Nicollet Avenue South
Minneapolis, Minnesota 55409

Anna Fedors
Mrs. Anna Fedors
3111 Tyler Street Northeast
Minneapolis, Minnesota 55418

Helen Quist
Mrs. Helen Quist
5313 Ayreshire Boulevard
Edina, Minnesota 55436

Aina Wiklund
Aina Wiklund
Route 2
Rosemount, Minnesota 55068

Herbert Ovall
Herbert Ovall
1205 Elmwood Avenue
Mount, Minnesota 55364

Exhibit 8

Pengilly, Minn.
July 18, 1974.

Commissioner of Public Safety
State Highway Building
St. Paul, Minn.

Dear Sirs:

A copy of "DRIVER LICENSE VALID WITHOUT PHOTOGRAPH" has been studied by us, and we feel satisfied that the State of Minnesota's Safety Commissioners will place the wording:

VALID WITHOUT
PHOTO IN
COMPLIANCE WITH
M.S. S 171.071
AND MINN.
REGULATIONS
DRIV LIC 26-30

in it's place, as we are not willing to comply with a law forcing us to have our likeness (photograph) photographed.

The clause: "FROM HIS PASTOR" should not be a reason for having a photo on his license, as the word of GOD ALMIGHTY is our guide in this, and similar situations. This clause does not cover those who have no Pastor, and in the reading of Amendment 1 to "THE CONSTITUTION OF THE UNITED STATES OF AMERICA", it reads we have the right to petition the Government for a redress of grievances.

We personally feel free to express our views on this law requiring photographs, and when people apply for such freedom as asking for exemption on acconnt of their religious belief, they should be granted.

We have need of our cars for transportation, and hope we can get our license for driving without the photo.

Sincerely,

Wm H. Hanson

Wm H. Hanson
Victor Tholander } Rt. 1, Box 185, Pengilly, Minn. 55775
Henry Peterson 1220 S. 7th, Street, Minneapolis, Mn. 55415

ADMIN 1000

Exhibit 9

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL - 420 H.B.

Office Memorandum

TO : W. R. HOAGLUND
Commissioner of Public Safety

DATE: Jan. 8, 1974

FROM : FREDERICK S. SUHLER, JR.
Special Assistant Attorney General

SUBJECT: Regulations pursuant to M.S. § 171.071

The Attorney General has received some inquiry as to whether you have enacted any regulations pursuant to M.S. § 171.071 [for those having religious objections to pictures on driver licenses]. See attached.

Enclosed you will find a suggested draft of such a regulation drafted by George Reilly, who was the Deputy Attorney General in 1971 when this legislation was enacted.

With respect to this proposal, perhaps the affidavit format is the best idea; I think the problem may well be how to implement the mechanics of this with respect to processing.

In any case, we may expect some further pressure along this line if we don't enact some kind of regulation shortly.

FSS:mss
Attachment

cc: Erick B. Schultz



AMOS S. DEINARD
MELVIN H. SIEGEL
SIDNEY LORBER
SIDNEY BARROWS
IRENE SCOTT
HAROLD D. FIELD, JR.
ALLEN I. SAEKS
MORRIS M. SHERMAN
GEORGE F. REILLY
DAVID N. COX
STEPHEN R. PFLAUM
CHARLES A. MAYS
NANCY C. DREHER
FREDRIC T. ROSENBLATT
LOWELL J. NOTEBOOM
GEORGE F. McGUNNIGLE, JR.
STEVEN D. DeRUYTER
JAMES P. GERLACH

LAW OFFICES
LEONARD, STREET AND DEINARD
800 FARMERS & MECHANICS BANK BUILDING
520 MARQUETTE AVENUE
MINNEAPOLIS, MINNESOTA 55402
TELEPHONE 333-1346
AREA CODE 612

CABLE ADDRESS
"LEOND MINNEAPOLIS"

GEORGE B. LEONARD
1872-1956
ARTHUR L.H. STREET
1877-1961
BENEDICT DEINARD
1899-1969

November 20, 1973

Mr. Robert Hentges
Office of the Attorney General
102 Capitol
St. Paul, Minnesota

Dear Bob:

Enclosed is a proposed form of regulation, in connection with Minnesota Statutes Section 171.071, which I talked with you about some weeks ago. As you recall, in 1971 the legislature required pictures to be on drivers licenses issued or renewed in the future. That statute also provided that people could obtain exemptions from that requirement for religious reasons, in accordance with regulations to be drafted by the Commissioner of Public Safety. No such regulations have yet been promulgated by him. Enclosed is a proposed draft of the same.

I would appreciate your help.

Very truly yours,

LEONARD, STREET AND DEINARD

By George Reilly
George Reilly

GR:lj
Enclosure

RECEIVED
NOV 20 1973
ATTORNEY GENERAL
102 STATE CAPITOL
ST. PAUL, MINN. 55101

PROPOSED DRAFT OF REGULATION TO BE ADOPTED BY THE COMMISSIONER OF PUBLIC SAFETY PURSUANT TO M.S.A. § 171.071 (1971)

With respect to any driver's license or nonqualification certificate which is required to bear thereon a colored photograph of the licensee or applicant as provided in M.S.A. § 171.07 (as amended, 1971):

1. Any person who, at least 15 days prior to the application for such license or nonqualification certificate (or at least 15 days prior to the application for renewal of a previously issued driver's license or nonqualification certificate), files with the Director of Motor Vehicle Services a sworn affidavit stating that, because of religious training or belief and for no other reason, such person objects to the use of a photograph as means of identification shall, in lieu of a photograph, have depicted upon such license or nonqualification certificate the print of such person's right thumb;

2. The Director of Motor Vehicle Services shall adopt such procedures as are necessary to make effective the provisions of this Regulation.

Robert A. Mansfield

RECEIVED
NOV 20 [illegible]
ATTORNEY GENERAL

STATE OF MINNESOTA

BEFORE Edward G. Novak

COUNTY OF RAMSEY

COMMISSIONER OF PUBLIC SAFETY

In the matter of the proposed adoption of rules of the State Department of Public Safety relating to identification on a driver license in lieu of a photograph for persons having religious objections to the use of a photograph.

STATEMENT OF NEED

The above captioned rules are not amendments to existing rules of the Department of Public Safety.

The need to adopt these rules arises because of the obligation to protect the religious rights of certain groups of persons, as allowed by statute. In 1971, during the regular session, legislation was enacted requiring photographs on driver licenses. As a concession to a small group of religious objectors, the legislature, in its extra session that year, passed a law allowing exemptions from the photo requirement. M.S. Section 171.071 gives the Commissioner of Public Safety discretionary powers to adopt regulations permitting identification on a driver license in lieu of a photograph.

This regulation is needed to protect the rights of those people in Minnesota whose religious teachings prohibit the taking of or use of a photograph of themselves.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

Edward G Novak

COMMISSIONER OF PUBLIC SAFETY

9-4-74

DATE

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE Edward G. Novak

COMMISSIONER OF PUBLIC SAFETY

In the matter of the proposed adoption of rules of the State Department of Public Safety governing identification on a driver license in lieu of a photograph for persons having religious objections to the use of a photograph.

FINDINGS OF FACT

The above entitled matter came on for hearing before the Commissioner of Public Safety of the State of Minnesota on the 1st day of July, 1974, at 1:30 P.M. in room 211 Highway Building, St. Paul, Minnesota, after proper notice required by M.S. 1971, Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, I find the following:

1.) The Commissioner of Public Safety is specifically authorized, pursuant to M.S. 1971, Section 171.071, to adopt rules and regulations permitting identification on a driver license in lieu of a photograph for persons having religious objections to the use of a photograph.

2.) The purpose of and need for these rules and regulations is to protect the constitutional right of religious freedom. The Minnesota Constitution specifically states that "the right of every man to worship God according to the dictates of his own conscience shall never be infringed." In implementing that purpose, these rules permit the issuance of a driver license without the licensee's photograph on it, prescribe the conditions and methods of qualifying for such license, and specify the contents and identifying markings of such license.

3.) In 1971 legislation was enacted requiring that every license have on it a colored photograph of the licensee. As a concession to the religious objections of a small group of people, during the extra session that year the legislature passed a law allowing exemptions from the photo requirement according to rules and regulations of the Commissioner of Public Safety.

4.) Although the Commissioner's power is discretionary under the provisions of M.S.S. 171.071, there has been some concern and pressure from legal circles to adopt these regulations. The letter from George Reilly of Leonard, Street and Deinard Law Offices, and Fred Suhler's subsequent recommendation (Exhibit 9) is an example.

5.) At the public hearing on this matter and in subsequent correspondence addressed to this matter (within the post hearing 20 day period) several comments were made regarding the proposed rules and regulations.

(a) The major objection to the proposed rules came from persons having religious objections to the use of their photograph. They objected to the requirement that persons wishing to qualify for a photoless license would have to supply a letter from their pastor verifying their religious objections. They pointed out that they are a religious group with no pastor or specifically designated leader.

(b) A representative of the Highway Patrol expressed that organization's concern over the absence from the driver license of a vital identifying tool that this regulation would allow.

(c) Exhibit 7, a letter, submitted after the hearing, from several members of a religious group having objections to the use of their photograph, pointed out that in their opinion only a small number of people in this state would ask for an exemption from the photo requirement.

(d) In addition to those comments, George Reilly of Leonard, Street and Deinard Law Offices, in his letter (Exhibit 9) of November 20, 1973, prior to the hearing, suggested the use of the licensee's thumbprint in lieu of the photograph as identification on the driver license of persons having religious objections to the use of a photograph.

6.) The comments enumerated above were given careful consideration.

Since constitutional rights are in question here, the Highway Patrol's concern was not considered, especially in light of the fact that, at maximum, only a few thousand out of a total of approximately 2,235,000 licensed drivers would qualify for this exemption. If other states' experiences can be generalized to Minnesota, only a fraction of that few thousand would actually request the exemption.

The suggestion for use of a thumbprint was rejected due to the prohibitive cost involved. Each of the 130 driver examining stations and clerk of court offices would have to be supplied with the necessary equipment.

After receiving several oral and written objections to the requirement in the proposed regulation that applicants for the photo exemption submit a letter from their pastor, the qualifying requirement was changed to self certification.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

Edward G Novak

COMMISSIONER OF PUBLIC SAFETY

9-4-74

DATE

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE Edward G. Novak

COMMISSIONER OF PUBLIC SAFETY

In the matter of the proposed adoption of rules of the State Department of Public Safety governing identification on a driver license in lieu of a photograph for persons having religious objections to the use of a photograph.

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Commissioner of Public Safety of the State of Minnesota on the 1st day of July 1974, at 1:30 P.M. in room 211 Highway Building, St. Paul, Minnesota, after proper notice required by M.S. 1971, Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above-captioned rules;

NOW, THEREFORE, IT IS ORDERED that these rules identified as Department of Public Safety, Motor Vehicle Services Division, Chapter Two: Driver License Valid Without Photograph, DrivLic 26-30, are adopted this 4th day of September, 1974, pursuant to authority vested in me by M.S. 1971, Section 299A.01, Subd.6.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

Edward G Novak

COMMISSIONER OF PUBLIC SAFETY