

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

STATE OF MINNESOTA

BEFORE JOHN P. SOPSIC

COMMISSIONER OF PUBLIC SAFETY

In the matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing Certification of Insurance for Registration or Transfer of a Motor Vehicle or Motorcycle.

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Commissioner of Public Safety of the State of Minnesota on the 12th day of December, 1979, at 1:00 p.m. in Room B9, Transportation Building, St. Paul, Minnesota 55155, after proper notice required by Minn. Stat. 15.0412 (1978) 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 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 and the reasonableness thereof.

NOW, THEREFORE, IT IS ORDERED that these rules identified as 11 MCAR 1.4051 through 1.4056 and 11 MCAR 1.4061-1.4062 are adopted this 25th day of July, 1980, pursuant to authority vested in me by Minn. Stat. 299A.01, Subd. 6 (1978).

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

COMMISSIONER OF PUBLIC SAFETY

Driver License Division

Chapter Five: Certification of insurance for registration or transfer of a motor vehicle; requests for verification.

11 MCAR 1.4051 Purpose

The purpose of these rules is to implement and provide effective administration of the provisions requiring and governing termination of a plan of reparation security as required by Minn. Stat. Ch. 65B (1979 Supplement).

11 MCAR 1.4052 Scope

The scope of these rules is intended to be consistent with the provisions of Minn. Stat. Section 65B.68 (1979 Supplement).

11 MCAR 1.4053 Definitions

For the purposes of these rules, the following terms shall have the meanings ascribed to them:

A. Commissioner. The Commissioner of the Minnesota Department of Public Safety.

B. Owner. A person other than a lienholder or secured party who owns or holds legal title to a motor vehicle or motorcycle, or in the event that a motor vehicle or motorcycle is the subject of a security agreement or lease, having an initial term of six months or longer with option to purchase and the debtor or lessee is entitled to the immediate use or possession of the motor vehicle or motorcycle, then the debtor or lessee shall be deemed the owner.

C. Insurance Policy. A plan of reparation security as required by Minn. Stat. Ch. 65B (1979 Supplement).

D. Reparation Obligor. An insurer or self-insurer as defined by Minn. Stat. Section 65B.43.

11 MCAR 1.4054 Every owner when applying for registration, re-registration, or transfer of ownership shall supply any information the Commissioner reasonably requires to determine that the motor vehicle or motorcycle is covered by a plan

of reparation security. Such information shall include but is not limited to the name and address of the owner, the name of the reparation obligor, the insurance policy number, and any other data the Commissioner requires. In lieu of the information regarding reparation security, the owner may submit an affidavit, in a form prescribed by the Commissioner, that the motor vehicle or motorcycle will not be used or operated.

11 MCAR 1.4055 The owner shall provide such information as required by provisions of 11 MCAR 1.4054 when the records of the department indicate that a required insurance policy is not in effect or as circumstances indicate such information is necessary.

11 MCAR 1.4056 All reparation obligors shall comply with all written requests from the department to furnish information concerning the effective dates of an insurance policy.

Chapter Six: Suspension and surrender of the registration certificate and license plates.

11 MCAR 1.4061 If department records indicate that any owner has ceased to maintain a required insurance policy, the Commissioner shall suspend the registration certificate and license plates for the motor vehicle or motorcycle and may demand their immediate surrender by the owner. The Commissioner may direct any peace officer to serve an order of suspension or revocation and secure any registration certificate and license plates not surrendered.

11 MCAR 1.4062 Upon certification that the motor vehicle or motorcycle is covered by an insurance policy and application and payment of all applicable fees, the Commissioner may issue a replacement registration certificate and license plates to the owner of a motor vehicle or motorcycle for which the registration certificate and license plates have been suspended.

APPROVED AS TO FORM AND LEGALITY

Sept 24 1980

WARREN SPANNAUS, ATTORNEY GENERAL

BY A Theodore Grindal

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
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Joan Anderson Growe
Secretary of State

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Our File [redacted]630

STATE OF [redacted]NNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : JOHN P. SOPSIC
Commissioner
Department of Public Safety

DATE: 9/24/80

Attn: JOEL A. WATNE
SAAG

FROM : H. THEODORE GRINDAL HTG
Special Assistant
Attorney General

PHONE: 297-3471

SUBJECT: Rules as Approved In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing Certification of Insurance for Registration or Transfer of a Motor Vehicle or Motorcycle

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Note that they have NOT been filed with the State Register; this must be done promptly by your agency.

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

1. Affixation of the stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages of the rules in the approved set.

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

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

HTG/bw
Encl.
cc: Duane Harves
Susan Robertson

File # 630

Permanent Rule_____

Temporary Rule_____

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 9/4 DUE DATE 9/24

Resubmitted and Received_____

a. Returned to Agency w/o Filing w/Secretary of State_____
b. Approved 9/24 Date Sent Back to Agency 9/24

- -

1. Rules as Adopted ✓
2. Rules as Proposed ✓
3. Certificate of Board's Authorizing Resolution, where applicable N/A
4. Order for Hearing ✓
5. Notice of Hearing ✓ 12.12.79
   Sufficiency ✓
6. Secretary of State's List ✓ (one copy only)
7. Certificate of Acquisition of Secretary of State's List ✓
8. Secretary of State's Certification of Delivery of Secretary of State's List to Agency ✓
9. Affidavit of Mailing ✓
   At least 30 days prior to hearing ✓ 11.9.79
10. Publication in State Register ✓ copy not submitted but see HEP 2
    At least 30 days prior to hearing ✓ 11.12.79
11. Statement of Need and Evidence ✓
12. Hearing Examiner's Report ✓
13. Agency's Findings of Fact ✓
14. Certificate of Board's Resolution Adopting Rules, where applicable N/A
15. Order Adopting ✓
16. Report of Chief Hearing Examiner ✓
17. Order Approving Incorporation by Reference, where applicable N/A
18. Certificate of Compliance with Rulemaking Procedures ✓
19. Copy of Notice of Intent to Solicit Outside Opinion, where applicable_____
20. Petition by Public, where applicable N/A

DPS-80-001-JL

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF PUBLIC SAFETY

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE DEPARTMENT OF PUBLIC SAFETY GOVERNING CERTIFICATION OF INSURANCE FOR REGISTRATION OR TRANSFER OF A MOTOR VEHICLE OR MOTORCYCLE.

ORDER OF THE CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on December 12, 1979, before Jon L. Lunde, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Report of the Hearing Examiner made pursuant to Minn. Stat. § 15.052, subd. 3, was issued to the Department of Public Safety (hereinafter "Department") on January 14, 1980; and

WHEREAS, the Department has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Department has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4, and Rule 9 MCAR § 2.110; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Department has met all requirements of Minn. Stat. § 15.0412, subd. 4.

NOW, THEREFORE, upon receipt of this Order, the Department has the responsibility of submitting the complete hearing record and the rules as adopted by the Department to the Attorney General, notifying all persons who requested to be informed that the hearing record has been submitted to the Attorney General, and publiching in the State Register, all pursuant to Minn. Stat. § 15.0412, subd. 4.

Dated this 31st day of July, 1980.

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA

BEFORE John P. Sopsic

COUNTY OF RAMSEY

COMMISSIONER OF PUBLIC SAFETY

In the matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing Certification of Insurance for Registration or Transfer of a Motor Vehicle or Motorcycle.

ORDER FOR HEARING

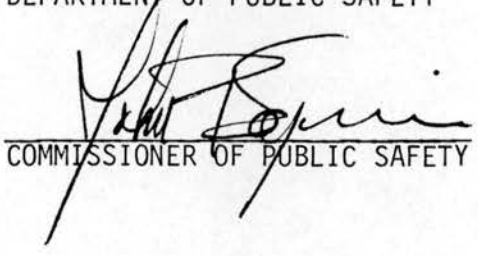
To effectively implement Laws 1979 Chapter 190, the Minnesota Commissioner of Public Safety deems it necessary to consider adoption of the proposed rules captioned above pursuant to the authority vested in me by Minn. Stat. 299A.01, subd. 6 (1978).

NOW, THEREFORE, IT IS ORDERED this 15th day of October, 1979, that a public hearing on the proposed rules captioned above be held in Room B9 Transportation Building, St. Paul, Minnesota, on December 12, 1979, commencing at 1:00 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 a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED, that the Notice of Hearing be published in the State Register.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY



COMMISSIONER OF PUBLIC SAFETY

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Special Assistant Attorney General Joel Watne, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed.

Joel A. Watne

Special Assistant Attorney General

Dated: August 29, 1980

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ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

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ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Minnesota Department of Public Safety

Driver License Division

Chapter Five: Certification of insurance for registration or transfer of a motor vehicle; requests for verification.

11 MCAR 1.4051 Purpose ~~and Scope~~.

The purpose of these ~~regulations~~ rules is to implement and provide effective administration of the provisions requiring and governing termination of a plan of reparation security as required by Minn. Stat. ~~1974~~, Ch. 65B (1979 Supplement).

11 MCAR 1.4052 Scope.

The scope of these ~~regulations~~ rules is intended to be consistent with the provisions of Minn. Stat. ~~1974~~, Section 65B.68 (1979 Supplement).

11 MCAR 1.4053 Definitions.

For the purposes of these rules, the following terms shall have the meanings ascribed to them:

A. Commissioner. The Commissioner of the Minnesota Department of Public Safety ~~of the State of Minnesota~~.

B. Owner. ~~Owner means a~~ A person who holds legal title to a motor vehicle or motorcycle, or in the event that a motor vehicle or motorcycle is the subject of a security agreement or lease with option to purchase and the debtor or lessee is entitled to the immediate use or possession of the motor vehicle or motorcycle, then the debtor or lessee shall be deemed the owner.

C. Insurance Policy. ~~Insurance policy means a~~ A plan of reparation security as required by Minn. Stat. ~~1974~~, Ch. 65B (1979 Supplement).

D. Reparation Obligor. ~~Reparation Obligor means an~~ An insurer or self-insurer as defined by Minn. Stat. ~~1974~~, Section 65B.43 (1979 Supplement).

11 MCAR 1.4054 Every owner when applying for registration, re-registration or transfer of ownership shall supply any information the Commissioner reasonably requires to determine that the motor vehicle or motorcycle

is covered by a pl[redacted]of reparation security. Such [redacted]formation shall include but is not limited to the name and address of the owner, the name of the reparation obligor, the insurance policy number and any other data the Commissioner requires. In lieu of the information regarding reparation security, the owner may submit an affidavit, in a form prescribed by the Commissioner, that the motor vehicle or motorcycle will not be used or operated.

11 MCAR 1.4055 The owner shall provide such information as required by provisions of ~~DrivLic-54,~~ 11 MCAR 1.4054 when the records of the department indicate that a required insurance policy is not in effect or as circumstances indicate such information is necessary.

11 MCAR 1.4056 All reparation obligors shall comply with all written requests from the department to furnish information concerning the effective dates of an insurance policy.

Chapter Six: Suspension and surrender of the registration certificate and license plates.

11 MCAR 1.4061 If department records indicate that any owner has ceased to maintain a required insurance policy, the Commissioner shall suspend the registration certificate and license plates for the motor vehicle or motorcycle and ~~shall~~ may demand their immediate surrender by the owner. The Commissioner ~~shall~~ may direct any peace officer to serve an order of suspension or revocation and secure any registration certificate and license plates not surrendered.

11 MCAR 1.4062 Upon certification that the motor vehicle or motorcycle is covered by an insurance policy and application and payment of all applicable fees, the Commissioner may issue a replacement registration certificate and license plates to the owner of a motor vehicle or motorcycle for which the registration certificate and license plates have been suspended.

STATE OF MINNESOTA

BEFORE JOHN P. SOPSIC

COMMISSIONER OF PUBLIC SAFETY

In the matter of the Proposed Adoption
of Rules of the State Department of
Public Safety Governing Certification
of Insurance for Registration or
Transfer of a Motor Vehicle or Motorcycle.

FINDINGS OF FACT

The above-entitled matter came on for hearing before Jon L. Lunde, Office of Hearing Examiners of the State of Minnesota on the 12th day of December, 1979, at 1:00 p.m. in Room B9, Transportation Building, St. Paul, Minnesota, 55155, after proper notice required by Minn. Stat. 15.0412 (1978) 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, the Hearing Examiner has made his findings, attached. Upon review of the Hearing Examiner's findings, and the evidence and statements submitted by interested parties, I find that the report of the hearing examiner is adopted as the findings of the Commisssioner of Public Safety, with the exception that the requirement that evidence of security be provided by owners of motorcycles prior to registration be retained.

Laws 1979, Ch. 190, Section 5, provided in part:

> Before a motor vehicle or motorcycle may be registered in this state, the owner must file with the Commissioner of Public Safety satisfactory evidence that security has been provided as required by Section 65B.48. If a person who is required to furnish evidence ceases to maintain the required security, he shall immediately surrender the registration certificate and license plates for the motor vehicle or motorcycle.

It goes on to provide for expiration of that requirement on December 31, 1979, or on the date the Commissioner promulgates a rule making the same requirement.

Not requiring a motorcycle registration applicant to furnish evidence of security is misleading. Laws 1979, Ch. 190, Section 5, amends Minn. Stat. 65B.67, Subdivision 1, to make owners of motorcycles liable for not providing security:

> 65B.67 (PENALTIES FOR FAILURE TO PROVIDE SECURITY FOR BASIC REPARATION BENEFITS) Subdivision 1. Every owner of a motor vehicle or motorcycle for which security has not been provided as required by Section 65B.48, shall not by the provisions of this chapter be relieved of tort liability arising out of the operation, ownership, maintenance, or use of the motor vehicle or motorcycle.

In addition, failure to provide security is a misdemeanor, applicable to motorcycle owners by Laws 1979, Chapter 190, which amended Minn. Stat. 65B.67, Subdivision 2:

> Subd. 2. Any owner of a motor vehicle or motorcycle with respect to which security is required under sections 65B.41 to 65B.71 who operates ~~such~~ the motor vehicle or motorcycle or permits it to be operated upon a public highway, street, or road in this state and who knows or ~~who~~ has reason to know that the motor vehicle or motorcycle does not have security complying with the terms of section 65B.48, is guilty of a misdemeanor.

Laws 1979, Ch. 190, Section 5, goes on to make any person, operating a motorcycle with knowledge that the owner does not have required security, guilty of a misdemeanor. It also mandates that any person convicted of a misdemeanor under section 5 shall have his driver license revoked for not more than 12 months, and if the operator is the owner of the motorcycle, the registration of the motorcycle shall be revoked for not more than 12 months. Then, in order to have his driver license or registration reinstated, the operator is required to file with the Commissioner of Public Safety the written certificate of an authorized insurance carrier. Finally, section 5 authorizes the Commissioner to revoke the motorcycle registration and suspend the driver license of any operator if department records, including accident records, or other evidence indicate that security has not been provided and maintained.

Again, proof of security is required to be furnished in order to reinstate the driver license and registration. It is a disservice to not require such proof prior to registration. It contributes to noncompliance with the law.

It is grossly misleading to not require the filing of evidence of security upon registration. It gives the impression that reparation security is not required to be maintained and the operator would be under the mistaken impression that he or she is operating the motorcycle legally with no insurance coverage in effect. The law requires administrative action by the department when the motorcycle is involved in an accident or where the department's records indicate lack of security coverage. The law is quite specific in that it is a misdemeanor to operate a motorcycle without the required insurance. Consequently, persons upon whom such administrative or judicial action has been taken because of failure of maintaining insurance, could feel that the department is intentionally misleading the public.

Therefore, amendments to proposed rule 11 MCAR 1.4054 requiring motorcycle registration, re-registration, or transfer of ownership applicants to furnish proof of reparation security coverage is retained in the adopted rules. The amendments to proposed rule 11 MCAR 1.4061 and 1.4062, to include motorcycles in the provisions concerning suspension and surrender of registration certificates and license plates are retained in the adopted rules, recommended by the hearing examiner. The definition of "owner" has been amended in the adopted rules, as recommended by the hearing examiner, to exclude lienholders, secured parties, and lessees for less than six months.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

COMMISSIONER OF PUBLIC SAFETY

7-25-80
DATE

DPS-80-001-JL

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing Certification of Insurance for Registration or Transfer of a Motor Vehicle or Motorcycle.

REPORT OF THE HEARING EXAMINER

The above-entitled matter came on for hearing before Jon L. Lunde, duly appointed Hearing Examiner, on December 12, 1979, at 1:00 p.m. at the Transportation Building, Room B-9, St. Paul, Minnesota, 55155, pursuant to Notice of Hearing dated October 31, 1979.

Joel A. Watne, Special Assistant Attorney General, 515 Transportation Building, St. Paul, Minnesota, 55155, appeared as counsel for the Minnesota Department of Public Safety. Marlene Swanson, Acting Director; John F. Middelstadt, Assistant Director; Bernie Scheidness, Research and Development Specialist, Jerome L. Jacobson, Supervisor of the No-fault Insurance Compliance Section, and Diane Hamilton, Management Analyst, all of the Driver and Vehicle Services Division, appeared on behalf of the Department of Public Safety. The hearing continued until all interested groups or persons had had an opportunity to be heard concerning the adoption of the proposed amendments to the rules involved. However, there were no other appearances and no one spoke in opposition to the proposed amendments.

This was a rules hearing held pursuant to Minn. Stat. Ch. 15 to determine whether proposed amendments to existing rules should be adopted.

Pursuant to Minn. Stat. § 15.0412, subd. 4 (1978), this Report shall be available for review to all affected individuals upon request for at least five days. Thereafter, the Department shall, if it proposes to adopt the rules as originally proposed or amended, submit a copy of the Order Adopting Rules, a copy of any additional agency findings, a copy of the rules as originally proposed, and a copy of the rules as adopted to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4 (1978). The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his report to the Department on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 (1978) within ten calendar days. The Department will be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On October 19, 1979, the Department filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.
(b) The Order for Hearing proposed to be issued.
(c) The Notice of Hearing proposed to be issued.
(d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On November 12, 1979, a Notice of Hearing and a copy of the proposed rules were published at 4 State Register 757.

3. On November 9, 1979, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On November 16, 1979, the Department filed the following documents:

(a) The Order for Hearing.
(b) The Notice of Hearing as mailed.
(c) The Affidavit of Receipt of the Secretary of State's list.
(d) The Affidavit of Mailing the Notice to all persons on the Secretary of State's list.
(e) The Secretary of State's Certificate and list.
(f) The Statement of Need and Reasonableness.
(g) The names of Department personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Department to appear on its behalf.

The Department did not seek to obtain outside information or opinions in preparing the proposed amendments involved in this hearing and it did not, therefore, receive any comments from outside sources which were required to be submitted to the Office of Hearing Examiners.

5. The record remained open through December 19, 1979 for the receipt of written comments and statements. None were submitted.

6. On December 12, 1979, at the hearing on this matter, the Department introduced into evidence the following documents:

(a) The Order for Hearing;
(b) The Notice of Hearing;
(c) The Proposed Rule as published;
(d) The Statement of Need and Reasonableness;
(e) Certification of Secretary of State's List;
(f) The affidavit of receipt of Secretary of State's list;
(g) The affidavit of mailing of the Notice of Hearing to the persons on the Secretary of State's list;
(h) The Notice of Hearing and the proposed rule amendments as published at 4 State Register 757-758.

Statutory Authority

7. The statutory authority of the Department to amend these rules (DRIV LIC 51-62, renumbered as 11 MCAR §§ 1.4051-1.4062) is found in Laws of Minnesota, 1979, Ch. 190, § 5, which provided as follows:

> Sec. 6. Minnesota Statutes 1978, Section 65B.68, is amended by adding a subdivision to read:
>
> Subd. 3. Before a motor vehicle or motorcycle may be registered in this state, the owner must file with the commissioner of public safety satisfactory evidence that security has been provided as required by section 65B.48. If a person who is required to furnish evidence ceases to maintain the required security, he shall immediately surrender the registration certificate and license plates for the motor vehicle or motorcycle.

This subdivision shall expire on December 31, 1979, or on the date the commissioner of public safety promulgates a rule requiring an owner of a motor vehicle or a motorcycle to file evidence of security prior to registration of the motor vehicle or motorcycle, whichever occurs first. (Emphasis added)

8. The Department has additional authority to promulgate rules concerning security and registration as is set forth in Minn. Stat. § 65B.68 which provides as follows:

> Subdivision 1. The Commissioner of public safety shall have the power and perform the duties imposed upon him by sections 65B.41 to 65B.71 and may adopt rules to implement and provide effective administration of the provisions requiring security and governing termination of security.
>
> Subd. 2. The commissioner of public safety may by rule provide that motor vehicles owned by certain persons may not be registered in this state unless satisfactory evidence is furnished that security has been provided as required by section 65B.48. If a person who is required to furnish evidence ceases to maintain security, he shall immediately surrender the registration certificate and license plates for the vehicle. These requirements may be imposed if:
>
> (1) The registrant has not previously registered a motor vehicle in this state; or
> (2) An owner or operator of the vehicle has previously failed to comply with the security requirements of sections 65B.41 to 65B.71 or of prior law; or
> (3) The driving record of an owner or operator of the vehicle evidences his continuing disregard of the laws of this state enacted to protect the public safety; or
> (4) Other circumstances indicate that such action is necessary to effectuate the purposes of sections 65B.41 to 65B.71.

The Amendments

9. Laws of Minnesota, 1979, Ch. 190, amends various provisions of the Minnesota No-Fault Automobile Insurance Act, Minn. Stat. § 65B.41 et seq. Insofar as relevant here, § 5 thereof amends Minn. Stat. § 65B.67 so that owners and operators of motorcycles are subject to some of the same penalties and liabilities imposed upon owners and operators of motor vehicles generally. Thus, the operation of a motorcycle without proper security (insurance) does not relieve the owner of tort liability arising out of the motorcycle's use or operation, and any person using or operating a motorcycle knowing it is uninsured is subject to criminal penalties, driver's license revocation and motorcycle registration revocation. Furthermore, revocation of the registration of a motorcycle is permitted whenever departmental records or other sufficient evidence indicates that security (insurance) required by law has not been provided or maintained. In these respects, motorcycles were subjected to the same provisions previously applicable only to motor vehicles.

Section 265B.68, subd. 2, authorizes the Commissioner by rule to provide that motor vehicles owned by "certain persons" may not be registered in this state unless satisfactory evidence is first furnished that security has been provided as required by § 65B.48. Under this section, not all owners of motor vehicles are required to provide such evidence and no owners of motorcycles are so required. For purposes of Chapter 65B, motor vehicles are defined as:

> . . . every vehicle, other than a motorcycle or other vehicle with fewer than four wheels, which (a) is required to be registered pursuant to Minnesota Statutes, Chapter 168, (b) is designed to be self-propelled by an engine or motor for use primarily upon public roads, highways or streets in the transportation of persons or property, or (c) is a trailer, when connected to or being towed by a motor vehicle.

Laws 1979, Ch. 190, § 6, modified § 265B.68by adding a new subdivision 3 to that section requiring that, at least until December 31, 1979, "before a motor vehicle or a motorcycle may be registered in the state, the owners must file with the commissioner of public safety satisfactory evidence that security has been provided." That subdivision expired by its own terms on December 31, 1979 because no rule was promulgated by the Department prior to that date. As a result, § 265B.68, subd. 2, is the only existing statutory provision requiring certain persons to furnish evidence that security has been provided before a motor vehicle can be registered. Since the legislature has indicated the situations when the Department may require evidence of security prior to registration, it must be concluded that such requirements are not applicable in other cases, and no evidence that security has been provided need be filed by owners of motorcycles prior to the registration of motorcycles under current law.

The amendments involved renumber existing rules of the Department of Public Safety, Drivers License Division,[1] update definitions and statutory citations and expand prior coverages from motor vehicles to motor vehicles and motorcycles in order to conform to the changes made by Laws of Minnesota, 1979, Ch. 190. In addition, the rules substitute the word "rules" for the word "regulations" wherever the latter previously appeared in order to conform to current, preferred usage (the word "rules" being proper).

11 MCAR § 1.4053 amending the definition of the word "owner" by including owners of motorcycles is consistent with legislative changes making motorcycle owners subject to certain provisions of Chapter 65B. However, the definition, insofar as owners of motor vehicles are concerned, is at variance with the current definition of the word "owner" in § 65B.43, subd. 4, as amended by Laws 1979, Ch. 190, § 1. Consequently, the definition should be amended by the Department to conform to law, by excluding lienholders, secured parties and lessees for less than six months.[2] complied

11 MCAR § 1.4054 provides that "every owner" applying for registration must provide information required by the Commissioner in order for him to determine that the motorcycle or motor vehicle sought to be registered is covered by insurance (a plan of reparation security), or the owner must sign an affidavit that the motor vehicle or motorcycle will not be used or operated.

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[1] These rules adopted April 14, 1975, were last numbered Chapters 5 and 6, DrivLic 51-62, inclusive, and are now renumbered to 11 MCAR §§ 1.4051 through 1.4061, inclusive.

[2] The amended definition of an owner is:

> "Owner means a person, other than a lienholder or secured party, who owns or holds legal title to a motor vehicle or is entitled to the use and possesson of a motor vehicle subject to a security interest held by another person. If a motor vehicle is the subject of a lease having an initial term of six months or longer, the lessee shall be deemed the owner for the purposes of sections 65B.41 to 65B.71, and 170.54, notwithstanding the fact that the lessor retains title to the vehicle and notwithstanding the fact that the lessee may be the owner for the purposes of chapter 168A.

11 MCAR § 1.4055 makes § 1.4054 applicable only when "records of the Department indicate that a required insurance policy is not in effect or as circumstances indicate such information is necessary." This latter provision appears to be derived from § 65B.68, subd. 2, which authorizes the Commissioner by rule to require certain owners of motor vehicles to provide satisfactory evidence of insurance (security) prior to registration but only when:

* * *

> (1) The registrant has not previously registered a motor vehicle in this state; or
>
> (2) An owner or operator of the vehicle has previously failed to comply with the security requirements of sections 65B.41 to 65B.71 or of prior law; or
>
> (3) The driving record of an owner or operator of the vehicle evidences his continuing disregard of the laws of this state enacted to protect the public safety; or
>
> (4) Other circumstances indicate that such action is necessary to effectuate the purposes of sections 65B.41 to 65B.71.

11 MCAR § 1.4054. which requires certain owners of motorcycles to provide evidence that security has been furnished prior to the registration of their motorcycles is inconsistent with § 65B.68, subd. 2, which authorizes the Commissioner only to prescribe limitations on registration of certain motor vehicles sought to be registered with the state. Although § 65B.68, subd. 3, (1979 Supp.) required that satisfactory evidence that security had been provided was required prior to the registration of a motor vehicle or motorcycle, that subdivision expired on December 31, 1979 and is no longer the law. A close reading of that subdivision and the current provisions in subdivision 2 of that section clearly indicate that the Commissioner is not authorized to require motorcycle owners to submit satisfactory evidence that security (insurance) has been provided as a condition to the registration of the motorcycle, and the Agency referred to no other authority for such a requirement. Therefore, 11 MCAR § 1.4054 should be amended by excluding motorcycles from its coverage. Furthermore, the section could be amended by making it clear that the affidavit authorized in some cases is proper when the motor vehicle will not be used or operated "in this state". The quoted language could be added to the last sentence of that section for clarification.

not complie
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11 MCAR §§ 1.4061 and 1.4062 are authorized under § 65B.67 (1979 Supp.) which permit the Commissioner to revoke motorcycle registration on the same terms and conditions under which motor vehicle registrations were previously revocable and these latter two proposed rules are a necessary and reasonable implementation of the 1979 amendment.

All the other amendments to this rule were in the nature of housekeeping amendments which merely updated statutory citations and clarified existing definitions. All those clarifications and modifications were necessary in view of legislative changes and were a reasonable exercise of the Department's authority.

CONCLUSIONS

1. Due, timely and adequate legal notice of the hearing was properly served and published by the Department.

2. The Agency fulfilled all relevant, substantive and procedural requirements imposed by law or rule.

3. With the exceptions noted in the Findings, the Department has demonstrated the need for and the reasonableness of the proposed rules.

4. Except for applying the requirements of 11 MCAR § 1.4054 to motorcycles, the Department has demonstrated its statutory authority to amend the rules and the need for and reasonableness of those amendments.

Based on the foregoing Conclusions, the Hearing Examiner makes the following

RECOMMENDATION

That the proposed rules be modified as suggested in the Findings and that, as so modified, they be adopted.

Dated this 14 day of January, 1980.

JON L. LUNDE
Hearing Examiner

Chapter Five: Certification of insurance for registration or transfer of a motor vehicle; requests for verification.

11 MCAR 1.4051 Purpose

The purpose of these rules is to implement and provide effective administration of the provisions requiring and governing termination of a plan of reparation security as required by Minn. Stat. Ch. 65B (1979 Supplement).

11 MCAR 1.4052 Scope

The scope of these rules is intended to be consistent with the provisions of Minn. Stat. Section 65B.68 (1979 Supplement).

11 MCAR 1.4053 Definitions

For the purposes of these rules, the following terms shall have the meanings ascribed to them:

A. Commissioner. The Commissioner of the Minnesota Department of Public Safety.

B. Owner. A person other than a lienholder or secured party who owns or holds legal title to a motor vehicle or motorcycle, or in the event that a motor vehicle or motorcycle is the subject of a security agreement or lease, having an initial term of six months or longer with option to purchase and the debtor or lessee is entitled to the immediate use or possession of the motor vehicle or motorcycle, then the debtor or lessee shall be deemed the owner.

C. Insurance Policy. A plan of reparation security as required by Minn. Stat. Ch. 65B (1979 Supplement).

D. Reparation Obligor. An insurer or self-insurer as defined by Minn. Stat. Section 65B.43.

11 MCAR 1.4054 Every owner when applying for registration, re-registration, or transfer of ownership shall supply any information the Commissioner reasonably requires to determine that the motor vehicle or motorcycle is covered by a plan

of reparation security. Such information shall include but is not limited to the name and address of the owner, the name of the reparation obligor, the insurance policy number, and any other data the Commissioner requires. In lieu of the information regarding reparation security, the owner may submit an affidavit, in a form prescribed by the Commissioner, that the motor vehicle or motorcycle will not be used or operated.

11 MCAR 1.4055 The owner shall provide such information as required by provisions of 11 MCAR 1.4054 when the records of the department indicate that a required insurance policy is not in effect or as circumstances indicate such information is necessary.

11 MCAR 1.4056 All reparation obligors shall comply with all written requests from the department to furnish information concerning the effective dates of an insurance policy.

Chapter Six: Suspension and surrender of the registration certificate and license plates.

11 MCAR 1.4061 If department records indicate that any owner has ceased to maintain a required insurance policy, the Commissioner shall suspend the registration certificate and license plates for the motor vehicle or motorcycle and may demand their immediate surrender by the owner. The Commissioner may direct any peace officer to serve an order of suspension or revocation and secure any registration certificate and license plates not surrendered.

11 MCAR 1.4062 Upon certification that the motor vehicle or motorcycle is covered by an insurance policy and application and payment of all applicable fees, the Commissioner may issue a replacement registration certificate and license plates to the owner of a motor vehicle or motorcycle for which the registration certificate and license plates have been suspended.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE John P. Sopsic

COMMISSIONER OF PUBLIC SAFETY

In the matter of the Proposed Adoption
of Rules of the State Department of Public
Safety Governing Certification of Insurance
for Registration or Transfer of a Motor Vehicle
or Motorcycle

NOTICE OF HEARING

Notice is hereby given that a public hearing in the above-entitled matter will be held in Room B9 Transportation Building, John Ireland Blvd., St. Paul, Minnesota on December 12, 1979, commencing at 1:00 p.m., and continuing until all persons have had an opportunity to be heard concerning adoption of the proposed rules captioned above.

All interested or affected persons or representatives of groups or organizations will have an opportunity to participate, by submitting either oral or written data, statement, or arguments. Written materials may be submitted by mail to Mr. Jon L. Lunde, Office of Hearing Examiners, 1745 University Avenue, St. Paul, MN, either before the hearing or within 5 days after the close of the hearing (or within 20 days if so ordered by the hearing examiner). The proposed rules are subject to change as a result of the rule hearing process. The department therefore strongly urges those who may potentially be affected by the substance of the proposed rules to participate in the hearing process.

The Commissioner proposes to adopt rules relating to the following matters:

> To amend existing rules relating to the certification of insurance for registration or transfer of a motor vehicle, which rules require owners to certify, upon registration or transfer of ownership, that the vehicle is covered by a plan of reparation security (no-fault insurance). The amendments propose to include motorcycles within the scope of the rules. The proposed rules also change from mandatory to discretionary certain language in the existing rules concerning the requirement for immediate surrender of the registration certificate and license plates when department records indicate that an owner has ceased to maintain the required insurance coverage.

The Department's authority to promulgate the proposed rules is contained in Laws 1979 Chapter 190. One free copy of the proposed rules is available and may be obtained by writing to "Rules," Department of Public Safety, Room 211 Transportation Building, St. Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing.

Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the Hearing Examiner's Report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Notice is hereby given that 25 days prior to the hearing, a Statement of Need and Reasonableness will be available for review at the Department of Public Safety and at the Office of Hearing Examiners. The Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the department at the hearing, justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge. 9

The department estimates that there will be no cost to local public bodies in the state to implement the rules for the two years immediately following their adoption, within the meaning of Minnesota Statutes Section 15.0412, Subd. of (1978). 10

Please be advised that Minnesota Statutes, Chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he commences lobbying. Minnesota Statutes Section 10A.01, Subd. 11 defines a lobbyist as any individual engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or who spends more than $250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, phone (612) 296-5615. 6

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

COMMISSIONER OF PUBLIC SAFETY

10-31-79
DATE

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed Adoption
of Rules of the State Department of
Public Safety Governing Certification
of Insurance for Registration or
Transfer of a Motor Vehicle or Motorcycle.

AFFIDAVIT OF MAILING

LeeAnn K. Hoffer, being first duly sworn, deposes and says:

That on the 9th day of Nov, 1979, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the Notice of Hearing to all persons on the Secretary of State's list by depositing in the United State mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid.

LeAnn K. Hoffer

Subscribed and sworn to before me
this 16th day of November,
1979.

Notary Public, Ramsey County, Minn.
My Commission Expires
April 24 1981

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing Certification of Insurance for Registration or Transfer of a Motor Vehicle or Motorcycle.

AFFIDAVIT OF RECEIPT OF SECRETARY OF STATE's LIST

LeeAnn K. Hoffer, being duly sworn on oath deposes and says:

1) That she is an employee of the Department of Public Safety of the State of Minnesota.

2) That on the 7th day of Nov. 19 79, she went to the Secretary of State Office of the State of Minnesota and requested a current list of all representatives of association or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to Minn. Stat. 15.0412 (1978).

3) That on the 7th day of Nov., 19 79, in response to the above request, the Secretary of State provided her with such a list, a copy of which is attached hereto and incorporated by reference.

LeAnn K. Hoffer

Subscribed and sworn to before me

this 16th day of November 19 79.

D. N. Lee

D. N. LEE
Notary Public, Hennepin County Minn.
MY COMMISSION EXPIRES
April 24 1981

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the matter of the Proposed Adoption
of Rules of the State Department of
Public Safety Governing Certification
of Insurance for Registration or Transfer
of a Motor Vehicle or Motorcycle.

CERTIFICATE

I hereby certify that the enclosed 332 general labels and Public Safety list constitute the complete list of persons, associations, and other interested groups who as of 2:00 o'clock P M., this 7th day of November 1979, have requested pursuant to Minn. Stat. 15.0412, subd. 4 (1978), 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

JOAN ANDERSON GROWE

Joan Anderson Growe

By Donna M. Scott

STATE OF MINNESOTA

BEFORE JOHN P. SOPSIC

COUNTY OF RAMSEY

COMMISSIONER OF PUBLIC SAFETY

In the matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing Certification of Insurance for Registration or Transfer of a Motor Vehicle or Motorcycle.

STATEMENT OF NEED AND REASONABLENESS

The above captioned rules are amendments to existing rules of the Department of Public Safety, Driver and Vehicle Services Division. The last time the above captioned rules were amended was April 14, 1975.

The need to adopt these rules arises because of the legislative mandate of Laws 1979 Chapter 190, requiring motorcycle owners to provide security for basic reparation benefits and providing penalties for failure to do so. Chapter 190 requires the Commissioner of Public Safety to promulgate rules requiring an owner of a motor vehicle or a motorcycle to file evidence of security prior to registration of the motor vehicle or motorcycle. Existing rules of the Department of Public Safety require the filing of evidence of security when applying for motor vehicle registration; the proposed amendments expand the requirements of the existing rules to apply to motorcycles.

The justification establishing the need for and reasonableness of the specific substantive provisions of the rules is as follows:

11 MCAR 1.4051 and 1.4052. The term "regulations" is changed to "rules" to conform with current language usage, and the statutory citations are updated.

11 MCAR 1.4053A. The definition of the title of the commissioner is clarified to include the term "department."

11 MCAR 1.4053B. Motorcycle owners are included in the definition of owner so that the rules will conform to changes made in Laws 1979, Chapter 190.

11 MCAR 1.4053C. The definition of insurance policy is clarified by eliminating redundant verbiage and updates statutory citations.

11 MCAR 1.4053D. The definition of reparation obligor is clarified by eliminating redundant verbiage, and updates statutory citations.

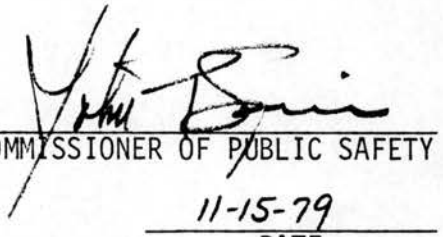
11 MCAR 1.4054. This section includes owners of motorcycles in the requirement of supplying insurance information applying to their motorcycles, at such times and in such forms as the Commissioner may require. It also allows owners of motorcycles to execute and file affidavits of non use of their motorcycles in lieu of filing insurance information, when their motorcycles are not being used or operated.

11 MCAR 1.4055. The amendment in this section converts the previous rule code and prefix to the new MCAR citation.

11 MCAR 1.4061. This section includes motorcycle owners in the group from whom the Commissioner may suspend registration certificates and license plates when department records indicate those owners have ceased to maintain a required insurance policy. It further allows the Commissioner discretion in demanding the surrender of suspended registration certificates and license plates. This change is necessary to accommodate those persons who immediately obtain proper insurance after suspension of their registration certificate and license plates. It has been found that requiring surrender in all cases is an unmanageable burden on both the well meaning owners and the department. This change will allow the Commissioner discretion to demand surrender and direct any peace officer to secure the registration certificates and license plates of those owners who, after repeated attempts, still fail to provide necessary insurance information or surrender the items after suspension has been effected.

11 MCAR 1.4062. This section includes owners of motorcycles into that group to whom the Commissioner may issue replacement registration certificate and license plates after those items have been previously suspended and proper insurance information subsequently filed and and all appropriate fees paid.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY



COMMISSIONER OF PUBLIC SAFETY

11-15-79
DATE