

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 1076

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 9-21-84
DATE FOR REVIEW 9-30-84
DATE DUE 10-5-84

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved October 3, 1984 (LCC) Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 10-3-84 Revisor approved 10/2/84 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 6.23.84 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 26.84

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
? Sufficiency no small biz statement.

✓ Affidavit of Mailing Notice or rulemaking
6.14.84 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
6.18 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

Agency's Findings of Fact

LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

✓ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness contains small biz statement & attached statement from Dick Gomsrud

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SP-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Michael A. Hatch
Commissioner, Department of Commerce

DATE: October 3, 1984

ATTN: Richard G. Gomsrud
Agency Counsel

FROM : Larry D. Starns LDS

PHONE: 297-3493
Special Assistant Attorney General

SUBJECT: In the Matter of the Proposed Adoption of Rules Relating to Automobile Insurance Nonrenewal

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. Please 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 stamps of the Attorney General and Secretary of State;

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

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

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

LDS:slz

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

AG copy

Department of Commerce

Adopted Rules Relating to Automobile Insurance Nonrenewals

Rules as Adopted

2770.7500 STATUTORY AUTHORITY.

Parts 2770.7500 to 2770.8500 apply to all companies writing policies of private passenger vehicle insurance. They are adopted under Minnesota Statutes, section 65B.17, subdivision 2.

2770.7600 PURPOSE.

Parts 2770.7500 to 2770.8500 are designed to limit the reasons a policy of private passenger vehicle insurance may not be renewed.

2770.7700 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 2770.7500 to 2770.8500, the terms defined in this part have the meanings given them.

Subp. 2. **Chargeable accident.** "Chargeable accident" means an accident in which the insurer nonrenewing the policy makes a payment under bodily injury, property damage, or collision coverages, except under the following conditions:

A. In a collision loss, where the insurer recovers 80 percent or more of the insurers loss through subrogation.

B. The automobile was damaged through being struck while being lawfully parked. An automobile rolling from a parked position, or a door opened into traffic causing an accident, is not considered being lawfully parked.

C. The insured or other driver of the automobile has been paid by the other party, or has a judgment against the other party in the accident.

D. The accident was one in which the damage was caused by the vehicle being rear-ended by another vehicle, unless the driver of the struck vehicle has been convicted of a moving traffic violation in conjunction with the accident.

E. The driver of the other vehicle in the accident

has been convicted of a moving violation in conjunction with the accident, and the driver of the insured vehicle has not been convicted of a moving violation in conjunction with the accident.

F. The insured automobile was damaged by contact with a "hit-and-run" vehicle, if this contact is reported to the police, highway patrol, or sheriff within 24 hours after discovery.

"Chargeable accident" also includes any accident for which payment is made under the comprehensive portion of the physical damage coverage of a policy under the following conditions:

(1) a vehicle falling through the ice of any body of water;

(2) a single vehicle accident in which the loss would normally be paid under collision coverage but glass breakage is paid under the comprehensive coverage of a policy that does not have collision coverage; or

(3) payments made under personal injury protection coverage to an insured driver who is involved in a single vehicle accident in which damage to property occurs.

Subp. 3. **Commercial vehicle.** "Commercial vehicle" is as defined in Minnesota Statutes, section 65B.43, subdivision 12.

Subp. 4. **Emergency vehicle.** "Emergency vehicle" means an automobile used in response to an emergency if the operator is responding to a call of duty as a paid or volunteer member of any police or fire departmnt, first aid squad, or any law enforcement agency.

Subp. 5. **Experience period.** "Experience period" means three years from the date of a chargeable accident or incident referred to in part 2770.7800, subpart 2, to the renewal date of the policy and in the case of a moving traffic violation, three years from the date of occurrence to the renewal date of the policy.

Subp. 6. **Hit and run vehicle.** "Hit and run vehicle" means a vehicle that leaves the scene of an accident in violation of Minnesota Statutes, section 169.09, subdivisions 1, 2, 4, and 5, or the comparable provisions of the laws of another jurisdiction

where the accident occurred.

Subp. 7. **Multiline contract.** "Multiline contract" means an insurance contract that insures more than one line of insurance under one contract, such as homeowners and automobile coverages within one contract.

Subp. 8. **Nonrenewal.** "Nonrenewal" includes any nonrenewal notice sent to a named insured informing the named insured that the insurer is terminating or intends to terminate a policy as of a certain date. In order to be valid, the notice must comply with all other applicable laws and rules, including Minnesota Statutes, section 65B.17, and part 2770.8100.

Nonrenewal also includes:

A. any reduction in the limits of liability of coverage, except a termination or modification of towing coverage;

B. an increase of a physical damage deductible unless all the existing policies and those policies to be accepted as new business by the insurer in this state will have the same higher deductibles applied; and

C. the transfer of a named insured from one rating plan to another within the same company, or the transfer of a named insured from one company to another within a group of insurance companies, if the transfer results in a higher premium. This does not apply to a surcharge on an existing policy.

Subp. 9. **Points.** "Points" means the grading system by which each chargeable accident and violation is assigned a certain number of points to determine if a policy is subject to nonrenewal.

Subp. 10. **Policy.** "Policy" means a policy of automobile insurance as defined in Minnesota Statutes, section 65.14, subdivision 2. The term also includes motorcycles and commercially rated policies of less than five vehicles.

Subp. 11. **Private passenger vehicle.** "Private passenger vehicle" is as defined in Minnesota Statutes, section 65B.001, subdivision 3.

Subp. 12. **Private passenger vehicle insurance.** "Private passenger vehicle insurance" is as defined in Minnesota Statutes, section 65B.001, subdivision 2. The term includes commercially rated policies of less than five vehicles.

Subp. 13. **Violations.** "Violations" means all moving traffic violations that are recorded by the Department of Public Safety on a household member's motor vehicle record, and violations reported by a similar authority in another state, or reported by the insured, except for equipment violations, driving an unregistered vehicle, driving with an expired driver's license, or driving without a valid driver's license in possession.

2770.7800 REASONS FOR NONRENEWAL.

Subpart 1. **Entire policy.** The grounds for nonrenewal of an entire policy are limited to one or more of the following reasons:

A. The reasons stated in Minnesota Statutes, section 65B.15, subdivision 1.

B. An insured equals or exceeds the relevant number of points specified in part 2770.8000.

C. Termination of the agency contract, provided that if a named insured is 65 years of age or older, the insurer shall notify the named insured of his or her right to continue the policy in force if the named insured makes the request in writing prior to the termination date. This item does not apply if the insurer assigns the terminated agent's book of business to another agent.

D. An insurer ceases to write auto insurance in Minnesota. An insurer writing both commercial vehicle insurance and private passenger auto insurance can cease to write either line and continue to offer coverage in the other line.

E. A commercial auto policy governed by these parts may be nonrenewed if the insurer ceases writing a selected classification and all insureds in the classification are nonrenewed. It may do so by nonrenewing all risks in the classification, and by not rewriting any business in that class

for a period of one year after the last risk is nonrenewed.

F. Failure of the insured to provide necessary underwriting information upon written request from the insurer. Before a nonrenewal notice can be issued under this part, two written requests asking for the information must be sent to the insured stating the reasons why the information is necessary. The second notice must inform the insured of the intent to nonrenew the policy if the information is not received. Medical reports and examinations required by the insurer must be paid for by the insurer.

G. An insured has two or more total theft of vehicle claims during the experience period and the vehicles are not recovered.

H. If an insurer encounters a situation in which the insurer believes that the nonrenewal would not be arbitrary and capricious but the situation is not addressed by these parts, the following procedure may be taken:

(1) Notify the commissioner in writing, at least 90 days prior to the policy renewal date, by referring to this part and by stating the reasons for the proposed nonrenewal action.

(2) If the commissioner determines that the situation is not covered by these parts, but could possibly warrant a nonrenewal, the penalties in part 2770.8500 must be waived. The commissioner may decline to render an opinion.

(3) The waiver of penalty decision must be retained by the insurer. A copy of the waiver of penalty decision must be returned to the commissioner by the insurer with its response to a written complaint made by the insured.

(4) The commissioner's decision regarding waiver of penalties will have no bearing on the final decision as to the approval or disapproval of the nonrenewal action.

(5) There is no precedential value in the commissioner's action under this part and each request must be judged on individual considerations.

Subp. 2. Physical damage portion of policy. The grounds

for nonrenewal of the physical damage portion of a policy are limited to the following:

A. If three or more comprehensive claim payments have been made during the experience period, or two or more comprehensive payments have been made during the most recent 12-month period, a policy that does not have a comprehensive deductible may be changed to a deductible not greater than $100, or a policy that has a comprehensive deductible may be increased to the next highest deductible level offered by the insurer or up to $100, whichever is greater. Only one increase of deductibles is allowed during the experience period unless additional payments are made after the increase of a deductible. A change in a deductible requires a nonrenewal notice.

B. The physical damage portion of a policy may be nonrenewed if there has been a total of three payments for a single vehicle insured or four payments for a multiple vehicle insured during the experience period for any combination of the following:

(1) comprehensive payments, except towing and those caused by natural causes;

(2) chargeable accident collision payments; or

(3) collision payments due to hit and run vehicles.

2770.7900 SCHEDULE OF POINTS FOR VIOLATION OR CHARGEABLE ACCIDENT.

Subpart 1. **In general.** Subparts 2 to 7 show the points assigned to each violation and chargeable accident during the experience period.

Subp. 2. **Four points.** Four points will be assigned for each of the following:

A. leaving the scene of an accident without stopping to report;

B. a felony involving the use of a motor vehicle, including manslaughter, criminal negligence, or assault originating out of the use of a motor vehicle;

C. theft of, or unlawful taking of, a motor vehicle;

D. any violation that results in the suspension or revocation of an operators' license, such as an implied consent or a DWI; and

E. unlawful driving after suspension or revocation of an operators' license.

Subp. 3. **Two and one-half points.** Two and one-half points will be assigned for reckless driving.

Subp. 4. **One and one-half points.** One and one-half points will be assigned for careless driving.

Subp. 5. **One point.** One point will be assigned for:

A. a chargeable accident where total payment exceeds $500, not including payments made under uninsured motorist, underinsured motorist coverage, or personal injury protection, unless defined as a chargeable accident; and

B. an open bottle violation.

Subp. 6. **Three-fourths point.** Three-fourths of a point will be assigned for the second and each subsequent violation for speeding during the experience period per individual operator.

Subp. 7. **One-half point.** One-half point will be assigned for:

A. the first violation for speeding during the experience period per individual operator;

B. a chargeable accident where total payment is $500 or less, not including payments made under uninsured motorist, underinsured motorist coverage, or personal injury protection, unless defined as a chargeable accident;

C. allow open bottle violation; and

is this a typo ?

D. all other violations.

2770.8000 POINTS FOR NONRENEWAL.

Subpart 1. **Schedule.** The following schedule shows the number of points that must be accumulated before a policy can be nonrenewed:

Number of household vehicles insured by	Number of Points required to nonrenew

the same insurer	
1	2
2	3
3	3-1/2
4 or more	4

Subp. 2. Exceptions. If one operator accumulates three points or more, a policy or policies may be nonrenewed regardless of the number of insured vehicles in the household. If at the time the nonrenewal was sent, a nonspouse household member owns an automobile and a policy of his or her own, then that household member's driving record cannot be used to determine a basis for nonrenewal of policies of other household members, except for violations in the four-point category.

Accidents or violations occurring while operating a commercial vehicle or an emergency vehicle cannot be used to accumulate points for nonrenewing a private passenger vehicle policy, except for violations in the four-point category.

2770.8100 NONRENEWAL NOTICES.

A nonrenewal notice must be on a form approved by the Department of Commerce and it must contain on the front of the the notice specific reasons for the nonrenewal and the information required by Minnesota Statutes, section 65B.19 regarding the right of complaint and the availability of the Minnesota Automobile Insurance Plan. The make and year of the vehicle being nonrenewed must be shown on the notice. The specific reason given for the nonrenewal must include the following information:

A. in the case of violations: the name of the driver, the type of violation, the date of the violation, and the point value of each violation;

B. in the case of chargeable accidents: the name of the driver, whether the payment is in excess of or under $500, the date of the accident, and the point value of each accident; and

C. in the case of physical damage nonrenewals under part 2770.7800, subpart 2, items A and B: the date of the loss

and the type of the loss.

The printing of these items on the back of the notice or on a separate sheet will not comply with this part.

The named insured cannot waive his or her right to receive a nonrenewal notice unless advised fully, in writing, as to his or her rights under the nonrenewal statutes and these parts.

2770.8200 RECORD KEEPING.

Each insurance company shall keep a register of all cancellations, as defined in Minnesota Statutes, section 65B.15, and nonrenewals, as defined in Minnesota Statutes, section 65B.17 and part 2770.7800, subpart 1, item B. This register must be available to the commissioner of commerce, or his designee, at any time. The termination register must be retained for three years and need not include terminations for nonpayment of premium.

2770.8300 AUTOMATIC COVERAGE ON NEWLY ACQUIRED AND REPLACEMENT VEHICLES.

Parts 2770.7500 to 2770.8500 also apply to newly acquired vehicles and replacement vehicles which qualify for the automatic coverage provisions of a policy.

2770.8400 NONRENEWAL OF MULTILINE CONTRACTS.

Nothing in parts 2770.7500 to 2770.8500 prohibits an insurance company from nonrenewing a multiline insurance contract. However, if these parts prevent nonrenewal of the automobile insurance portion of the contract, then the insurance company shall issue to the named insured a policy of automobile insurance providing coverage as included in the multiline contract.

2770.8500 PENALTIES.

Subpart 1. **Generally.** Failure to comply with parts 2770.7500 to 2770.8500 subjects the insurers to the following penalties during each calendar year period:

A. first violation, $100;

B. second violation, $300; and

C. third and subsequent violation, $500.

Monetary penalties must be waived if the commissioner determines that the nonrenewal notice was based on a good faith judgment supported by evidence that was in the possession of the insurer at the time of the sending of the nonrenewal notice, or if the nonrenewal was subject to the waiver of penalty provisions in part 2770.7800, subpart 1, item H.

Subp. 2. **Disapproval by commissioner.** Any nonrenewal of a policy in violation of parts 2770.7500 to 2770.8500 must be disapproved by the commissioner of commerce under Minnesota Statutes, section 65B.21.

Subp. 3. **Additional penalties.** Nothing contained in this part prohibits the commissioner of commerce from applying additional penalties or remedies as may be imposed under Minnesota Statutes, chapter 72A.

Subp. 4. **Application and effective date.** Monetary penalties become effective for any nonrenewal in violation of parts 2770.7500 to 2770.8500 sent on or after January 1, 1984.

EFFECTIVE DATE. Parts 2770.7500 to 2770.8500 supercede 4 MCAR SS 1.9081-1.90892 [Temporary] from the effective date of parts 2770.7500 to 2770.8500.

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

AR0515

Agency: Department of Commerce

Division:

Agency Contact: Deb Lindlief

Minnesota Rules: Parts 2770.7500 to 2770.8500

Title: Adopted Rules Relating to Automobile Insurance Nonrenewals

Type of Rules: Permanent

Incorporations by Reference: None

Duplication of Statutory Language: None

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT - 3 1984
Joan Anderson Growe
Secretary of State
3:31 PM

Steven C. Cross
Revisor of Statutes

Paul M. Marinac
Assistant Deputy Revisor
Phone: 296-0948
Date: October 2, 1984

APPROVED AS TO LEGALITY
October 3, 1984
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY
SPECIAL ASSISTANT ATTORNEY GENERAL

Rules as Proposed (all new material)

2770.7500 STATUTORY AUTHORITY.

Parts 2770.7500 to 2770.8500 apply to all companies writing policies of private passenger vehicle insurance. They are adopted under Minnesota Statutes, section 65B.17, subdivision 2.

2770.7600 PURPOSE.

Parts 2770.7500 to 2770.8500 are designed to limit the reasons a policy of private passenger vehicle insurance may not be renewed.

2770.7700 DEFINITIONS.

Subpart 1. Scope. For the purposes of parts 2770.7500 to 2770.8500, the terms defined in this part have the meanings given them.

Subp. 2. Chargeable accident. "Chargeable accident" means an accident in which the insurer nonrenewing the policy makes a payment under bodily injury, property damage, or collision coverages, except under the following conditions:

A. In a collision loss, where the insurer recovers 80 percent or more of the insurers loss through subrogation.

B. The automobile was damaged through being struck while being lawfully parked. An automobile rolling from a parked position, or a door opened into traffic causing an accident, is not considered being lawfully parked.

C. The insured or other driver of the automobile has been paid by the other party, or has a judgment against the other party in the accident.

D. The accident was one in which the damage was caused by the vehicle being rear-ended by another vehicle, unless the driver of the struck vehicle has been convicted of a moving traffic violation in conjunction with the accident.

E. The driver of the other vehicle in the accident has been convicted of a moving violation in conjunction with the accident, and the driver of the insured vehicle has not been convicted of a moving violation in conjunction with the accident.

F. The insured automobile was damaged by contact with

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a "hit-and-run" vehicle, if this contact is reported to the police, highway patrol, or sheriff within 24 hours after discovery.

"Chargeable accident" also includes any accident for which payment is made under the comprehensive portion of the physical damage coverage of a policy under the following conditions:

(1) a vehicle falling through the ice of any body of water;

(2) a single vehicle accident in which the loss would normally be paid under collision coverage but glass breakage is paid under the comprehensive coverage of a policy that does not have collision coverage; or

(3) payments made under personal injury protection coverage to an insured driver who is involved in a single vehicle accident in which damage to property occurs.

Subp. 3. **Commercial vehicle.** "Commercial vehicle" is as defined in Minnesota Statutes, section 65B.43, subdivision 12.

Subp. 4. **Emergency vehicle.** "Emergency vehicle" means an automobile used in response to an emergency if the operator is responding to a call of duty as a paid or volunteer member of any police or fire departmnt, first aid squad, or any law enforcement agency.

Subp. 5. **Experience period.** "Experience period" means three years from the date of a chargeable accident or incident referred to in part 2770.7800, subpart 2, to the renewal date of the policy and in the case of a moving traffic violation, three years from the date of occurrence to the renewal date of the policy.

Subp. 6. **Hit and run vehicle.** "Hit and run vehicle" means a vehicle that leaves the scene of an accident in violation of Minnesota Statutes, section 169.09, subdivisions 1, 2, 4, and 5, or the comparable provisions of the laws of another jurisdiction where the accident occurred.

Subp. 7. **Multiline contract.** "Multiline contract" means an insurance contract that insures more than one line of insurance under one contract, such as homeowners and automobile

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coverages within one contract.

Subp. 8. **Nonrenewal.** "Nonrenewal" includes any nonrenewal notice sent to a named insured informing the named insured that the insurer is terminating or intends to terminate a policy as of a certain date. In order to be valid, the notice must comply with all other applicable laws and rules, including Minnesota Statutes, section 65B.17, and part 2770.8100.

Nonrenewal also includes:

A. any reduction in the limits of liability of coverage, except a termination or modification of towing coverage;

B. an increase of a physical damage deductible unless all the existing policies and those policies to be accepted as new business by the insurer in this state will have the same higher deductibles applied; and

C. the transfer of a named insured from one rating plan to another within the same company, or the transfer of a named insured from one company to another within a group of insurance companies, if the transfer results in a higher premium. This does not apply to a surcharge on an existing policy.

Subp. 9. **Points.** "Points" means the grading system by which each chargeable accident and violation is assigned a certain number of points to determine if a policy is subject to nonrenewal.

Subp. 10. **Policy.** "Policy" means a policy of automobile insurance as defined in Minnesota Statutes, section 65.14, subdivision 2. The term also includes motorcycles and commercially rated policies of less than five vehicles.

Subp. 11. **Private passenger vehicle.** "Private passenger vehicle" is as defined in Minnesota Statutes, section 65B.001, subdivision 3.

Subp. 12. **Private passenger vehicle insurance.** "Private passenger vehicle insurance" is as defined in Minnesota Statutes, section 65B.001, subdivision 2. The term includes commercially rated policies of less than five vehicles.

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Subp. 13. **Violations.** "Violations" means all moving traffic violations that are recorded by the Department of Public Safety on a household member's motor vehicle record, and violations reported by a similar authority in another state, or reported by the insured, except for equipment violations, driving an unregistered vehicle, driving with an expired driver's license, or driving without a valid driver's license in possession.

2770.7800 REASONS FOR NONRENEWAL.

Subpart 1. **Entire policy.** The grounds for nonrenewal of an entire policy are limited to one or more of the following reasons:

A. The reasons stated in Minnesota Statutes, section 65B.15, subdivision 1.

B. An insured equals or exceeds the relevant number of points specified in part 2770.8000.

C. Termination of the agency contract, provided that if a named insured is 65 years of age or older, the insurer shall notify the named insured of his or her right to continue the policy in force if the named insured makes the request in writing prior to the termination date. This item does not apply if the insurer assigns the terminated agent's book of business to another agent.

D. An insurer ceases to write auto insurance in Minnesota. An insurer writing both commercial vehicle insurance and private passenger auto insurance can cease to write either line and continue to offer coverage in the other line.

E. A commercial auto policy governed by these parts may be nonrenewed if the insurer ceases writing a selected classification and all insureds in the classification are nonrenewed. It may do so by nonrenewing all risks in the classification, and by not rewriting any business in that class for a period of one year after the last risk is nonrenewed.

F. Failure of the insured to provide necessary underwriting information upon written request from the insurer. Before a nonrenewal notice can be issued under this part, two

STATUTES

written requests asking for the information must be sent to the insured stating the reasons why the information is necessary. The second notice must inform the insured of the intent to nonrenew the policy if the information is not received. Medical reports and examinations required by the insurer must be paid for by the insurer.

G. An insured has two or more total theft of vehicle claims during the experience period and the vehicles are not recovered.

H. If an insurer encounters a situation in which the insurer believes that the nonrenewal would not be arbitrary and capricious but the situation is not addressed by these parts, the following procedure may be taken:

(1) Notify the commissioner in writing, at least 90 days prior to the policy renewal date, by referring to this part and by stating the reasons for the proposed nonrenewal action.

(2) If the commissioner determines that the situation is not covered by these parts, but could possibly warrant a nonrenewal, the penalties in part 2770.8500 must be waived. The commissioner may decline to render an opinion.

(3) The waiver of penalty decision must be retained by the insurer. A copy of the waiver of penalty decision must be returned to the commissioner by the insurer with its response to a written complaint made by the insured.

(4) The commissioner's decision regarding waiver of penalties will have no bearing on the final decision as to the approval or disapproval of the nonrenewal action.

(5) There is no precedential value in the commissioner's action under this part and each request must be judged on individual considerations.

Subp. 2. **Physical damage portion of policy.** The grounds for nonrenewal of the physical damage portion of a policy are limited to the following:

A. If three or more comprehensive claim payments have been made during the experience period, or two or more

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comprehensive payments have been made during the most recent 12-month period, a policy that does not have a comprehensive deductible may be changed to a deductible not greater than $100, or a policy that has a comprehensive deductible may be increased to the next highest deductible level offered by the insurer or up to $100, whichever is greater. Only one increase of deductibles is allowed during the experience period unless additional payments are made after the increase of a deductible. A change in a deductible requires a nonrenewal notice.

B. The physical damage portion of a policy may be nonrenewed if there has been a total of three payments for a single vehicle insured or four payments for a multiple vehicle insured during the experience period for any combination of the following:

(1) comprehensive payments, except towing and those caused by natural causes;

(2) chargeable accident collision payments; or

(3) collision payments due to hit and run vehicles.

2770.7900 SCHEDULE OF POINTS FOR VIOLATION OR CHARGEABLE ACCIDENT.

Subpart 1. **In general.** Subparts 2 to 7 show the points assigned to each violation and chargeable accident during the experience period.

Subp. 2. **Four points.** Four points will be assigned for each of the following:

A. leaving the scene of an accident without stopping to report;

B. a felony involving the use of a motor vehicle, including manslaughter, criminal negligence, or assault originating out of the use of a motor vehicle;

C. theft of, or unlawful taking of, a motor vehicle;

D. any violation that results in the suspension or revocation of an operators' license, such as an implied consent or a DWI; and

E. unlawful driving after suspension or revocation of an operators' license.

Subp. 3. **Two and one-half points.** Two and one-half points will be assigned for reckless driving.

Subp. 4. **One and one-half points.** One and one-half points will be assigned for careless driving.

Subp. 5. **One point.** One point will be assigned for:

A. a chargeable accident where total payment exceeds $500, not including payments made under uninsured motorist, underinsured motorist coverage, or personal injury protection, unless defined as a chargeable accident; and

B. an open bottle violation.

Subp. 6. **Three-fourths point.** Three-fourths of a point will be assigned for the second and each subsequent violation for speeding during the experience period per individual operator.

Subp. 7. **One-half point.** One-half point will be assigned for:

A. the first violation for speeding during the experience period per individual operator;

B. a chargeable accident where total payment is $500 or less, not including payments made under uninsured motorist, underinsured motorist coverage, or personal injury protection, unless defined as a chargeable accident;

C. allow open bottle violation; and

D. all other violations.

2770.8000 POINTS FOR NONRENEWAL.

Subpart 1. **Schedule.** The following schedule shows the number of points that must be accumulated before a policy can be nonrenewed:

Number of household vehicles insured by the same insurer	Number of Points required to nonrenew
1	2
2	3
3	3-1/2

4 or more 4

Subp. 2. **Exceptions.** If one operator accumulates three points or more, a policy or policies may be nonrenewed regardless of the number of insured vehicles in the household. If at the time the nonrenewal was sent, a nonspouse household member owns an automobile and a policy of his or her own, then that household member's driving record cannot be used to determine a basis for nonrenewal of policies of other household members, except for violations in the four-point category.

Accidents or violations occurring while operating a commercial vehicle or an emergency vehicle cannot be used to accumulate points for nonrenewing a private passenger vehicle policy, except for violations in the four-point category.

2770.8100 NONRENEWAL NOTICES.

A nonrenewal notice must be on a form approved by the Department of Commerce and it must contain on the front of the the notice specific reasons for the nonrenewal and the information required by Minnesota Statutes, section 65B.19 regarding the right of complaint and the availability of the Minnesota Automobile Insurance Plan. The make and year of the vehicle being nonrenewed must be shown on the notice. The specific reason given for the nonrenewal must include the following information:

A. in the case of violations: the name of the driver, the type of violation, the date of the violation, and the point value of each violation;

B. in the case of chargeable accidents: the name of the driver, whether the payment is in excess of or under $500, the date of the accident, and the point value of each accident; and

C. in the case of physical damage nonrenewals under part 2770.7800, subpart 2, items A and B: the date of the loss and the type of the loss.

The printing of these items on the back of the notice or on a separate sheet will not comply with this part.

The named insured cannot waive his or her right to receive

APPROVED IN THE REVISOR OF STATUTES

a nonrenewal notice unless advised fully, in writing, as to his or her rights under the nonrenewal statutes and these parts.

2770.8200 RECORD KEEPING.

Each insurance company shall keep a register of all cancellations, as defined in Minnesota Statutes, section 65B.15, and nonrenewals, as defined in Minnesota Statutes, section 65B.17 and part 2770.7800, subpart 1, item B. This register must be available to the commissioner of commerce, or his designee, at any time. The termination register must be retained for three years and need not include terminations for nonpayment of premium.

2770.8300 AUTOMATIC COVERAGE ON NEWLY ACQUIRED AND REPLACEMENT VEHICLES.

Parts 2770.7500 to 2770.8500 also apply to newly acquired vehicles and replacement vehicles which qualify for the automatic coverage provisions of a policy.

2770.8400 NONRENEWAL OF MULTILINE CONTRACTS.

Nothing in parts 2770.7500 to 2770.8500 prohibits an insurance company from nonrenewing a multiline insurance contract. However, if these parts prevent nonrenewal of the automobile insurance portion of the contract, then the insurance company shall issue to the named insured a policy of automobile insurance providing coverage as included in the multiline contract.

2770.8500 PENALTIES.

Subpart 1. Generally. Failure to comply with parts 2770.7500 to 2770.8500 subjects the insurers to the following penalties during each calendar year period:

A. first violation, $100;

B. second violation, $300; and

C. third and subsequent violation, $500.

Monetary penalties must be waived if the commissioner determines that the nonrenewal notice was based on a good faith judgment supported by evidence that was in the possession of the

insurer at the time of the sending of the nonrenewal notice, or if the nonrenewal was subject to the waiver of penalty provisions in part 2770.7800, subpart 1, item H.

Subp. 2. **Disapproval by commissioner.** Any nonrenewal of a policy in violation of parts 2770.7500 to 2770.8500 must be disapproved by the commissioner of commerce under Minnesota Statutes, section 65B.21.

Subp. 3. **Additional penalties.** Nothing contained in this part prohibits the commissioner of commerce from applying additional penalties or remedies as may be imposed under Minnesota Statutes, chapter 72A.

Subp. 4. **Application and effective date.** Monetary penalties become effective for any nonrenewal in violation of parts 2770.7500 to 2770.8500 sent on or after January 1, 1984.

EFFECTIVE DATE. Parts 2770.7500 to 2770.8500 supercede 4 MCAR SS 1.9081-1.90892 [Temporary] from the effective date of parts 2770.7500 to 2770.8500.

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of
Rules Relating to Automobile Insurance
Nonrenewal

ORDER ADOPTING
RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on June 18, 1984 and was sent by the United States mail to all persons on the list maintained by the Department of Commerce pursuant to Minn. Stat. Section 14.14, subd. 1a, on June 14, 1984.

After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than twenty-five (25) written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Automobile Insurance Nonrenewal are adopted this 23rd day of June, 1984 pursuant to authority vested in me by Minn. Stat. Section 65B.17, subd. 2.

Michael A. Hatch
Commissioner of Commerce

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Commerce

Outside Opinion Sought Regarding Proposed Rules Relating to Automobile Insurance Nonrenewals Including the Impact of the Rules on Small Businesses

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules governing automobile insurance nonrenewals. Promulgation of these rules is authorized by Minnesota Statutes, section 65B.17, subd. 2.

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subd. 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: William Kyle, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 296-6944.

All statements of information and comment shall be accepted until March 7, 1984. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Department of Commerce

Outside Opinion Sought Regarding Proposed Rules Relating to Self-Insurance Plan Administrators Including the Impact of the Rules on Small Businesses

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules governing self-insurance plan administrators. Promulgation of these rules is authorized by Minnesota Statutes, section 60A.23, subd. 8.

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subd. 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Rose Ortiz, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 297-4017.

All statements of information and comment shall be accepted until March 7, 1984. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

Ethical Practices Board

Request for Advisory Opinion Re: Hennepin County Disclosure Law—Administration

The Minnesota State Ethical Practices Board solicits opinions and comments to the following request for an advisory opinion which will be discussed at its March 9, 1984 Board meeting. Written comments concerning the opinion request should be forwarded to arrive at the Board's office prior to February 24, 1984.

Ms. Mary Ann McCoy, Executive Director
State Ethical Practices Board
41 State Office Building
St. Paul, MN 55155

Dear Ms. McCoy:

I am the official responsible for administration of the election laws for Hennepin County and am requesting an advisory opinion in regards to Chapter 362, Laws of 1980.

State of Minnesota
Department of Commerce

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Relating to Automobile Insurance Nonrenewals including the Impact of the Rules on Small Businesses

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules governing automobile insurance nonrenewals. Promulgation of these rules is authorized by Minnesota Statutes, section 65B.17, subd. 2.

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes § 14.115, subd. 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: William Kyle, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 296-6944.

All statements of information and comment shall be accepted until March 7, 1984. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

Michael A. Hatch
Commissioner of Commerce

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of Rules Relating to Automobile Insurance Nonrenewal

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 4th day of June, 1984 that Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the Department of Commerce for that purpose and be published in the State Register.

Michael A. Hatch
Commissioner of Commerce

In the Matter of the Proposed Adoption of
Rules Relating to Automobile Insurance
Nonrenewal

AFFIDAVIT OF
MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Robin Hanson, being first duly sworn, deposes and says:

That on the 14th day of June, 1984, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules.

A copy of the proposed rules is attached.

Subscribed and sworn to before me this
14th day of June, 1984.

Nancy J. Link

NANCY J. LINK
NOTARY PUBLIC - MINNESOTA
HENNEPIN COUNTY
My Commission Expires Nov. 22, 1984

State of Minnesota
Department of Commerce

In the Matter of the Proposed Adoption of Rules
Relating to Automobile Insurance Nonrenewal

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to William Kyle, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 (612) 296-6944. Any person requesting a public hearing should state her/his name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, section 65B.17, subd. 2. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Debbi Lindlief, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this Notice.

Copies of this Notice and the proposed rules are available and may be obtained by contacting Debbi Lindlief at the above address.

Michael A. Hatch

In the Matter of the Proposed Adoption of Rules Relating to Automobile Insurance Nonrenewal

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Robin Hanson, being first duly sworn, deposes and says:

That on the 21 day of September , 1984, in the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing at the City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, to all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Robin Hanson

Subscribed and sworn to before me this 21st day of September, 1984.

Nancy J. Fisk

NANCY J. FISK
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My Commission Expires Nov. 22, 1984

progressive

State of Minnesota
JUL 20 1984
Department of Commerce

July 17, 1984

Ms. Debbi Lindlief
Department of Commerce
500 Metro Square Building
St. Paul, MN 55101

RE: Proposed Adoption of Rules Relating to
Automobile Insurance Non-Renewal

Ms. Lindlief, a recent Notice from the Commissioner of Commerce indicates that the above proposed rules will be adopted without a public hearing. We wish to receive a copy of the final rules as proposed for adoption as soon as possible. Please advise of the effective date.

Thank you very much for your assistance.

Moira A. Gambrill

Moira A. Gambrill
Assistant Vice President
Progressive Casualty Insurance Company

MAG:jai

Y5188N

6300 Wilson Mills Road, P.O. Box 5070, Cleveland, Ohio 44101 Phone (216) 461-5000

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of
Rules Relating to Automobile Insurance
Nonrenewal

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes, section 14.14, subd. 1a, that their names be placed on file with and maintained by the Department of Commerce for the purpose of receiving notice of the proposed adoption of rules is accurate and complete as of 12:00 P.M., this 14th day of June, 1984.

_____

Robert R. Abrohams
Robert R. Abrohams Age[redacted], Inc.
1112 Plymouth Bldg.
Minneapolis, MN 55402

John B. LaMacchia & Associates
Actuaries Management Consultants
12 North Central Avenue
St. Louis, MO 63105

Sam Ruhle
Office of Administrative Hearings
400 Summit Bank Building
Minneapolis, MN 55415

Joseph T. Justice, Counsel
Alexander Howden Group U.S. Inc.
P.O. Box 19539
Atlanta, GA 30325

Alliance of American Insurers
Attn: Debra G. Wozniak
1501 Woodfield Rd., Suite 400 West
Schaumberg, IL 60195

Willys P. Jones
Allison-Williams Co.
2300 IDS Center
Minneapolis, MN 55402

Mr. Robert J. Demichelis
American Council of Life Insurance
1850 K Street NW
Washington, DC 20006

Fred McGarvey
American Insurance Association
230 W. Monroe
Chicago, IL 60606

Daniel D. Foth
Associated Builders & Contractors
6300 Walker Street, Room 109
Minneapolis, MN 55416

Morris J. Anderson, Exec. Dir.
Association of Minnesota Counties
555 Park Street, Suite 300
St. Paul, MN 55103

R. G. Lanham, Dir. of Research
Carleton Financial Computations

John F. Sheski, Counsel
Central Life Assurance Company
P.O. Box 5620
Madison, WI 53705

Glen Tullman
Certified Collateral Corporation
640 N. LaSalle, Suite 640
Chicago, IL 60610

M. D. Monette, V. P. & Counsel
Colonial Penn Group, Inc.
5 Penn Center Plaza
Philadelphia, PA 19181

Timothy L. Tucker
Consumer Credit Insurance Assoc.
307 N. Michigan Ave.
Chicago, IL 60601

Coury, Schwinn, Kodadek & McRoberts
1380 Soo Line Bldg.
Minneapolis, MN 55402

Norman E. Nelson, Govt. Affairs Dept.
Crum & Forster Corporation
305 Madison Avenue
Morristown, NJ 07960

Gerard P. Davey
Attorney at Law
One Newport Pl., Suite 900
Newport Beach, CA 92660

Michael Bernardino, Mgr.
Dean Witter Reynolds, Inc.
5 World Trade Center
New York, NY 10048

Gerald G. Dederick, Esq.
6800 France Ave. S., #750
Edina, MN 55435

Director
Developmental Disabilities Office
201 Capitol Square Building
St. Paul, MN 55101

David L. Boehnen
Dorsey & Whitney

Nicholas T. Kakos
Federal Cartridge Corporation
Twin Cities Army Ammunition Plant
New Brighton, MN 55112

Richard Russell, Esq.
Finley, Kumble, Wagner, et al
425 Park Ave.
New York, NY 10022

Fireman's Fund Emp. Ins. Co.
Contracts Department
P.O. Box 1100
Green Bay, WI 54305

Conrad M. Fredin
811 Norwest Center
Duluth, MN 55802

George H. Frisch
1781 Saunders
St. Paul, MN 55116

Michael D. Johnson
Frundt, Frundt & Johnson
117 W. 5th Street
Blue Earth, MN 56013

Mr. Larry A. Bakken
Hamline Law School
1536 Hewitt
St. Paul, MN 55102

John A. Knapp, Esq.
Hessian, McKasy & Soderberg, P. A.
1500 Midwest Plaza Building
Minneapolis, MN 55402

Norbert A. McCrady
Independent Bankers of Minn.
7850 Metro Pkway., Suite 213
Bloomington, MN 55420

Investment Company Institute
1775 K Street NW
Washington, DC 20006

J. David Wise
Investors Diversified Serv., Inc.

Stan Jacobson
Research Dept., State MN
Room 17, State Capitol
St. Paul, MN 55155

Kathleen P. Burek
Exec. Dir., LCRAR
Rm. 510, State Office Building
St. Paul, MN 55155

Susan J. Ladwig
900 Midland Bank Building
Minneapolis, MN 55401

Richard H. Smith, Dir.
Dept. of Land Registration
P.O. Box 569
Bentonville, AR 72712

Vincent A. Pellerito, President
Land Registrations, Inc.
4603 N. 16th St., Suite 2
Phoenix, AZ 85016

League Service Corporation
575 University Avenue
St. Paul, MN 55103

John R. Houston, Esq.
Lindquist & Vennum
4200 IDS Center
Minneapolis, MN 55402

Mary Beth Brody
MacIntosh & Commers
430 Marquette
Minneapolis, MN 55402

Jean M. Reynolds, Treasurer
Mairs and Power, Inc.
W-2062 First National Bank Bldg.
St. Paul, MN 55101

Ron Marien
9604 13th Ave. S.
Bloomington, MN 55420

Katie McLenighan
299 E. State Office Bldg.

Mr. Ronald R. Radtke, Mgr., Comp. Svcs.
Metropolitan Prop. & L[redacted]ility Ins. Co.
700 Quaker Lane
Warwick, RI 02887

D. F. Hennen, Plant Manager
Midland Glass Company, Inc.
P.O. Box 69
Shakopee, MN 55379

Jerrold T. Miller
J. T. Miller Company
1000 Currie Avenue
Minneapolis, MN 55403

John S. Jackson, Gen. Counsel
Minnesota Bankers Association
332 Baker Building
Minneapolis, MN 55402

Gene Johannes
Minnesota Chiropractic Assoc.
2353 Rice St., Suite 125
St. Paul, MN 55113

Minn. Consumer Finance Confer.
810 Norwest Center
St. Paul, MN 55101

Jean Dawson
Minn. Government Report
B-12 Press Room, State Capitol
St. Paul, MN 55155

Minnesota League of Credit Unions
575 University Ave.
St. Paul, MN 55103

Joan M. Archer
Minn. Mfg. Housing Assoc.
222 E. Little Canada Rd., S222
St. Paul, MN 55117

Ms. Lois Wattman DeWitt
Minnesota Medical Association
2221 University Ave. SE, #400
Minneapolis, MN 55414

James N. Denn
Minnesota Motor Transport Assn.

Minn. Petroleum Council
1025 Northern Federal B[illegible]g.
St. Paul, MN 55102

John Van Doorn
Minn. Retail Merchants Assoc.
180 Metro Square Bldg.
St. Paul, MN 55101

Minn. School of Real Est. Inc.
140 W. 98th St.
Oxboro Plaza Bldg.
Bloomington, MN 55420

Maureen Adrian, Exec. Asst.
Minn. State Builders Assoc.
666 Transfer Rd.
St. Paul, MN 55114

Abe Rosenthal, Exec. Vice Pres.
Minn. Transport Services Assn.
1821 University Ave.
St. Paul, MN 55104

Philip B. Sears, Esq.
Mosburg & Wright, Inc.
2200 Classen Blvd., 4th Fl.
Oklahoma City, OK 73106

Michael J. Ahern
Moss & Barnett
200 S. Sixth St.
Minneapolis, MN 55402

John F. Stone
Moss & Barnett
200 S. Sixth St.
Minneapolis, MN 55402

NIARS Corporation
Three Eighteen West Franklin
Minneapolis, MN 55404

Mark A. Welshons, Secretary
NWNL Reinsurance Company
P.O. Box 20
Minneapolis, MN 55440

John B. Crosby, V.P. & Gen. Couns.
Natl. Assoc. of Ind. Insurers

William R. Anderson, Counsel
Natl. Assoc. of Life Underwriters
1922 F Street, NW
Washington, D.C. 20006

Richard Bouhan, Gov't. Relations Dir.
Natl. Assoc. of Prof. Surplus Lines Off.
P.O. Box 1507
Roswell, GA 30077

Lee T. Peterson
Nelson, Nelson, Kufus & Assoc.
665 N. Snelling Ave.
St. Paul, MN 55104

Ohio State Life Insurance Company
Attn: Harold I. Phillian
471 E. Broad Street
Columbus, OH 43215

Orion Group, Inc.
Law Division
9 Farm Springs Dr.
Farmington, CT 06032

Howard McDowell, I-5
Pennsylvania Life Insurance Company
3130 Wilshire Blvd.
Santa Monica, CA 90406

Roger A. Peterson
Peterson, Engberg & Peterson
700 Title Insurance Bldg.
Minneapolis, MN 55401

Peter S. Popovich
Peterson, Popovich, Knutson & Flynn
345 Cedar Building, Suite 800
St. Paul, MN 55101

Phillips Legislative Service, Inc.
459 Rice Street
St. Paul, MN 55103

Celeste B. Relyea, Dir. of St. Affairs
Professional Insurance Agents
400 N. Washington St.
Alexandria, VA 22314

Bruce A. Poulsen, V.P. & Counsel
Prudential Insurance Co. of America

Charles A. Kroeger
QSS, Inc.
P.O. Box 838
Faribault, MN 55021

James M. Shamberger, Vice President
Reinsurance Association of America
1025 Connecticut Ave., Suite 512
Washington, D.C. 20036

John P. Flaten
Rider, Bennett, Egan & Arundel
2500 First Bank Pl. W.
Minneapolis, MN 55402

Richard B. Allyn
Robins, Zelle, Larson & Kaplan
33 S. Fifth St.
Minneapolis, MN 55402

Bernard Rosenberg
Robins, Zelle, Larson & Kaplan
33 S. Fifth St.
Minneapolis, MN 55402

W. J. Hay
St. Paul Companies, Inc.
385 Washington Street
St. Paul, MN 55102

Kernel L. Armbruster, Gen. Counsel
St. Paul Fire & Marine Ins. Co.
385 Washington St.
St. Paul, MN 55102

Jim Schloner
7733 W. 24th St.
Minneapolis, MN 55426

Kevin J. Nolan, Atty.
Securities Industry Association
120 Broadway
New York, NY 10271

Cezar M. Froelich, Esq.
Shefsky, Saitlin & Froelich, Ltd.
444 N. Michigan Ave., Suite 2300
Chicago, IL 60611

Stan Bass
Snyder, Larsen & Peters

Archibald Spencer
4040 IDS Center
Minneapolis, MN 55402

Ron Landsman
Spiegel & McDearmid
2600 Virginia Ave. NW, S 312
Washington, DC 20037

Dominic J. Sposeto
Dominic Sposeto & Associates
3916 Chowen Ave. S.
Minneapolis, MN 55410

David A. Peterson
State Bond & Mortgage Company
100 North Minnesota Street
New Ulm, MN 56073

Charles F. Happach, Treas. & Gen. Mgr.
State Capitol Credit Union
95 Sherburne
St. Paul, MN 55103

A. Edward Hunter, Asst. Director
State Planning Agency
101 Capitol Square Building
St. Paul, MN 55101

Mary Stanton, Staff Assoc./Fin.
State University System
555 Park St., Suite 230
St. Paul, MN 55103

Gary Gandrud
Stolpestad, Brown & Smith
2000 North Central Tower
St. Paul, MN 55101

Robert E. Swift, Vice President
Title Insurance Company of MN
400 Second Avenue South
Minneapolis, MN 55401

Union Fidelity Life Insurance Co.
Union Fidelity Office Park
Trevose, PA 19049
Attn: Edward G. Farmer, Jr., V.P.

Jerome Scheibl, Vice President
Wausau Insurance Group

Workers Comp. Reinsurance Assoc.
900 Minnesota Mutual Li[redacted] Center
400 North Robert Street
St. Paul, MN 55101

Reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Debbi Lindlief, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this notice.

Copies of this notice and the proposed rules are available and may be obtained by contacting Debbi Lindlief at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed

2755.0400 LIABILITY OF PRIOR CARRIER.

The prior carrier remains liable to the extent of its accrued liability and any contractual liability for extension of benefits ~~pursuant to its existing contractual liability~~ at the time of replacement. "Accrued liability" includes, but is not limited to, responsibility for inpatient hospital expenses incurred by a covered individual who is confined in a hospital on the date of replacement. The responsibility on the part of the prior carrier continues until the covered individual is discharged from the hospital or contract maximums have been reached, whichever first occurs.

2755.0500 LIABILITY OF SUCCEEDING CARRIER.

Subpart 1. [Unchanged.]

Subp. 2. Coverage for individuals not eligible under subpart 1. Each individual who is not eligible for coverage in accordance with subpart 1 shall nevertheless be covered by the succeeding carrier in accordance with the following rules, provided that such individual (including an individual who has exercised the option for ~~extension of benefits~~ continuation of coverage pursuant to Minnesota Statutes, sections 62A.148 and 62A.17) was validly covered under the prior plan on the date it was discontinued and such individual is a member of a class of individuals otherwise eligible for coverage under the succeeding carrier's plan.

A. and B. [Unchanged.]

Subp. 3. to 6. [Unchanged.]

Department of Commerce

Proposed Rules Relating to Automobile Insurance Nonrenewals

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change.

No public hearing will be held unless twenty-five (25) or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to William Kyle, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101 (612) 296-6944. Any person requesting a public hearing should state her/his name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Authority for the adoption of these rules is contained in Minnesota Statutes, section 65B.17, subd. 2. Additionally, a statement of need and reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Debbi Lindlief, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

A copy of the proposed rules is attached to this notice.

Copies of this notice and the proposed rules are available and may be obtained by contacting Debbi Lindlief at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed (all new material)

2770.7500 STATUTORY AUTHORITY.

Parts 2770.7500 to 2770.8500 apply to all companies writing policies of private passenger vehicle insurance. They are adopted under Minnesota Statutes, section 65B.17, subdivision 2.

2770.7600 PURPOSE.

Parts 2770.7500 to 2770.8500 are designed to limit the reasons a policy of private passenger vehicle insurance may not be renewed.

2770.7700 DEFINITIONS.

Subpart 1. Scope. For the purposes of parts 2770.7500 to 2770.8500, the terms defined in this part have the meanings given them.

Subp. 2. Chargeable accident. "Chargeable accident" means an accident in which the insurer nonrenewing the policy makes a payment under bodily injury, property damage, or collision coverages, except under the following conditions:

A. In a collision loss, where the insurer recovers 80 percent or more of the insurers loss through subrogation.

B. The automobile was damaged through being struck while being lawfully parked. An automobile rolling from a parked position, or a door opened into traffic causing an accident, is not considered being lawfully parked.

C. The insured or other driver of the automobile has been paid by the other party, or has a judgment against the other party in the accident.

D. The accident was one in which the damage was caused by the vehicle being rear-ended by another vehicle, unless the driver of the struck vehicle has been convicted of a moving traffic violation in conjunction with the accident.

E. The driver of the other vehicle in the accident has been convicted of a moving violation in conjunction with the accident, and the driver of the insured vehicle has not been convicted of a moving violation in conjunction with the accident.

F. The insured automobile was damaged by contact with a "hit-and-run" vehicle, if this contact is reported to the police, highway patrol, or sheriff within 24 hours after discovery.

"Chargeable accident" also includes any accident for which payment is made under the comprehensive portion of the physical damage coverage of a policy under the following conditions:

(1) a vehicle falling through the ice of any body of water;

(2) a single vehicle accident in which the loss would normally be paid under collision coverage but glass breakage is paid under the comprehensive coverage of a policy that does not have collision coverage; or

(3) payments made under personal injury protection coverage to an insured driver who is involved in a single vehicle accident in which damage to property occurs.

Subp. 3. Commercial vehicle. "Commercial vehicle" is as defined in Minnesota Statutes, section 65B.43, subdivision 12.

Subp. 4. Emergency vehicle. "Emergency vehicle" means an automobile used in response to an emergency if the operator is responding to a call of duty as a paid or volunteer member of any police or fire department, first aid squad, or any law enforcement agency.

Subp. 5. Experience period. "Experience period" means three years from the date of a chargeable accident or incident

referred to in part 2770.7800, subpart 2, to the renewal date of the policy and in the case of a moving traffic violation, three years from the date of occurrence to the renewal date of the policy.

Subp. 6. Hit and run vehicle. "Hit and run vehicle" means a vehicle that leaves the scene of an accident in violation of Minnesota Statutes, section 169.09, subdivisions 1, 2, 4, and 5, or the comparable provisions of the laws of another jurisdiction where the accident occurred.

Subp. 7. Multiline contract. "Multiline contract" means an insurance contract that insures more than one line of insurance under one contract, such as homeowners and automobile coverages within one contract.

Subp. 8. Nonrenewal. "Nonrenewal" includes any nonrenewal notice sent to a named insured informing the named insured that the insurer is terminating or intends to terminate a policy as of a certain date. In order to be valid, the notice must comply with all other applicable laws and rules, including Minnesota Statutes, section 65B.17, and part 2770.8100.

Nonrenewal also includes:

A. any reduction in the limits of liability of coverage, except a termination or modification of towing coverage;

B. an increase of a physical damage deductible unless all the existing policies and those policies to be accepted as new business by the insurer in this state will have the same higher deductibles applied; and

C. the transfer of a named insured from one rating plan to another within the same company, or the transfer of a named insured from one company to another within a group of insurance companies, if the transfer results in a higher premium. This does not apply to a surcharge on an existing policy.

Subp. 9. Points. "Points" means the grading system by which each chargeable accident and violation is assigned a certain number of points to determine if a policy is subject to nonrenewal.

Subp. 10. Policy. "Policy" means a policy of automobile insurance as defined in Minnesota Statutes, section 65.14, subdivision 2. The term also includes motorcycles and commercially rated policies of less than five vehicles.

Subp. 11. Private passenger vehicle. "Private passenger vehicle" is as defined in Minnesota Statutes, section 65B.001, subdivision 3.

Subp. 12. Private passenger vehicle insurance. "Private passenger vehicle insurance" is as defined in Minnesota Statutes, section 65B.001, subdivision 2. The term includes commercially rated policies of less than five vehicles.

Subp. 13. Violations. "Violations" means all moving traffic violations that are recorded by the Department of Public Safety on a household member's motor vehicle record, and violations reported by a similar authority in another state, or reported by the insured, except for equipment violations, driving an unregistered vehicle, driving with an expired driver's license, or driving without a valid driver's license in possession.

2770.7800 REASONS FOR NONRENEWAL.

Subpart 1. Entire policy. The grounds for nonrenewal of an entire policy are limited to one or more of the following reasons:

A. The reasons stated in Minnesota Statutes, section 65B.15, subdivision 1.

B. An insured equals or exceeds the relevant number of points specified in part 2770.8000.

C. Termination of the agency contract, provided that if a named insured is 65 years of age or older, the insurer shall notify the named insured of his or her right to continue the policy in force if the named insured makes the request in writing prior to the termination date. This item does not apply if the insurer assigns the terminated agent's book of business to another agent.

D. An insurer ceases to write auto insurance in Minnesota. An insurer writing both commercial vehicle insurance and private passenger auto insurance can cease to write either line and continue to offer coverage in the other line.

E. A commercial auto policy governed by these parts may be nonrenewed if the insurer ceases writing a selected classification and all insureds in the classification are nonrenewed. It may do so by nonrenewing all risks in the classification, and by not rewriting any business in that class for a period of one year after the last risk is nonrenewed.

F. Failure of the insured to provide necessary underwriting information upon written request from the insurer. Before a nonrenewal notice can be issued under this part, two written requests asking for the information must be sent to the insured stating the reasons why the information is necessary. The second notice must inform the insured of the intent to nonrenew the

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policy if the information is not received. Medical reports and examinations required by the insurer must be paid for by the insurer.

G. An insured has two or more total theft of vehicle claims during the experience period and the vehicles are not recovered.

H. If an insurer encounters a situation in which the insurer believes that the nonrenewal would not be arbitrary and capricious but the situation is not addressed by these parts, the following procedure may be taken:

(1) Notify the commissioner in writing, at least 90 days prior to the policy renewal date, by referring to this part and by stating the reasons for the proposed nonrenewal action.

(2) If the commissioner determines that the situation is not covered by these parts, but could possibly warrant a nonrenewal, the penalties in part 2770.8500 must be waived. The commissioner may decline to render an opinion.

(3) The waiver of penalty decision must be retained by the insurer. A copy of the waiver of penalty decision must be returned to the commissioner by the insurer with its response to a written complaint made by the insured.

(4) The commissioner's decision regarding waiver of penalties will have no bearing on the final decision as to the approval or disapproval of the nonrenewal action.

(5) There is no precedential value in the commissioner's action under this part and each request must be judged on individual considerations.

Subp. 2. Physical damage portion of policy. The grounds for nonrenewal of the physical damage portion of a policy are limited to the following:

A. If three or more comprehensive claim payments have been made during the experience period, or two or more comprehensive payments have been made during the most recent 12-month period, a policy that does not have a comprehensive deductible may be changed to a deductible not greater than $100, or a policy that has a comprehensive deductible may be increased to the next highest deductible level offered by the insurer or up to $100, whichever is greater. Only one increase of deductibles is allowed during the experience period unless additional payments are made after the increase of a deductible. A change in a deductible requires a nonrenewal notice.

B. The physical damage portion of a policy may be nonrenewed if there has been a total of three payments for a single vehicle insured or four payments for a multiple vehicle insured during the experience period for any combination of the following:

(1) comprehensive payments, except towing and those caused by natural causes;

(2) chargeable accident collision payments; or

(3) collision payments due to hit and run vehicles.

2770.7900 SCHEDULE OF POINTS FOR VIOLATION OR CHARGEABLE ACCIDENT.

Subpart 1. In general. Subparts 2 to 7 show the points assigned to each violation and chargeable accident during the experience period.

Subp. 2. Four points. Four points will be assigned for each of the following:

A. leaving the scene of an accident without stopping to report;

B. a felony involving the use of a motor vehicle, including manslaughter, criminal negligence, or assault originating out of the use of a motor vehicle;

C. theft of, or unlawful taking of, a motor vehicle;

D. any violation that results in the suspension or revocation of an operators' license, such as an implied consent or a DWI; and

E. unlawful driving after suspension or revocation of an operators' license.

Subp. 3. Two and one-half points. Two and one-half points will be assigned for reckless driving.

Subp. 4. One and one-half points. One and one-half points will be assigned for careless driving.

Subp. 5. One point. One point will be assigned for:

A. a chargeable accident where total payment exceeds $500, not including payments made under uninsured motorist, underinsured motorist coverage, or personal injury protection, unless defined as a chargeable accident; and

B. an open bottle violation.

Subp. 6. Three-fourths point. Three-fourths of a point will be assigned for the second and each subsequent violation for speeding during the experience period per individual operator.

Subp. 7. One-half point. One-half point will be assigned for:

A. the first violation for speeding during the experience period per individual operator;

B. a chargeable accident where total payment is $500 or less, not including payments made under uninsured motorist, underinsured motorist coverage, or personal injury protection, unless defined as a chargeable accident;

C. allow open bottle violation; and

D. all other violations.

2770.8000 POINTS FOR NONRENEWAL.

Subpart 1. Schedule. The following schedule shows the number of points that must be accumulated before a policy can be nonrenewed:

Number of household vehicles insured by the same insurer	Number of Points required to nonrenew
1	2
2	3
3	3½
4 or more	4

Subp. 2. Exceptions. If one operator accumulates three points or more, a policy or policies may be nonrenewed regardless of the number of insured vehicles in the household. If at the time the nonrenewal was sent, a nonspouse household member owns an automobile and a policy of his or her own, then that household member's driving record cannot be used to determine a basis for nonrenewal of policies of other household members, except for violations in the four-point category.

Accidents or violations occurring while operating a commercial vehicle or an emergency vehicle cannot be used to accumulate points for nonrenewing a private passenger vehicle policy, except for violations in the four-point category.

2770.8100 NONRENEWAL NOTICES.

A nonrenewal notice must be on a form approved by the Department of Commerce and it must contain on the front of the notice specific reasons for the nonrenewal and the information required by Minnesota Statutes, section 65B.19 regarding the right of complaint and the availability of the Minnesota Automobile Insurance Plan. The make and year of the vehicle being nonrenewed must be shown on the notice. The specific reason given for the nonrenewal must include the following information:

A. in the case of violations: the name of the driver, the type of violation, the date of the violation, and the point value of each violation;

B. in the case of chargeable accidents: the name of the driver, whether the payment is in excess of or under $500, the date of the accident, and the point value of each accident; and

C. in the case of physical damage nonrenewals under part 2770.7800, subpart 2, items A and B: the date of the loss and the type of the loss.

The printing of these items on the back of the notice or on a separate sheet will not comply with this part.

The named insured cannot waive his or her right to receive a nonrenewal notice unless advised fully, in writing, as to his or her rights under the nonrenewal statutes and these parts.

2770.8200 RECORD KEEPING.

Each insurance company shall keep a register of all cancellations, as defined in Minnesota Statutes, section 65B.15, and nonrenewals, as defined in Minnesota Statutes, section 65B.17 and part 2770.7800, subpart 1, item B. This register must be available to the commissioner of commerce, or his designee, at any time. The termination register must be retained for three years and need not include terminations for nonpayment of premium.

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2770.8300 AUTOMATIC COVERAGE ON NEWLY ACQUIRED AND REPLACEMENT VEHICLES.

Parts 2770.7500 to 2770.8500 also apply to newly acquired vehicles and replacement vehicles which qualify for the automatic coverage provisions of a policy.

2770.8400 NONRENEWAL OF MULTILINE CONTRACTS.

Nothing in parts 2770.7500 to 2770.8500 prohibits an insurance company from nonrenewing a multiline insurance contract. However, if these parts prevent nonrenewal of the automobile insurance portion of the contract, then the insurance company shall issue to the named insured a policy of automobile insurance providing coverage as included in the multiline contract.

2770.8500 PENALTIES.

Subpart 1. Generally. Failure to comply with parts 2770.7500 to 2770.8500 subjects the insurers to the following penalties during each calendar year period:

A. first violation, $100;

B. second violation, $300; and

C. third and subsequent violation, $500.

Monetary penalties must be waived if the commissioner determines that the nonrenewal notice was based on a good faith judgment supported by evidence that was in the possession of the insurer at the time of the sending of the nonrenewal notice, or if the nonrenewal was subject to the waiver of penalty provisions in part 2770.7800, subpart 1, item H.

Subp. 2. Disapproval of commissioner. Any nonrenewal of a policy in violation of parts 2770.7500 to 2770.8500 must be disapproved by the commissioner of commerce under Minnesota Statutes, section 65B.21.

Subp. 3. Additional penalties. Nothing contained in this part prohibits the commissioner of commerce from applying additional penalties or remedies as may be imposed under Minnesota Statutes, chapter 72A.

Subp. 4. Application and effective date. Monetary penalties become effective for any nonrenewal in violation of parts 2770.7500 to 2770.8500 sent on or after January 1, 1984.

EFFECTIVE DATE. Parts 2770.7500 to 2770.8500 supercede 4 MCAR §§ 1.9081-1.90892 [Temporary] from the effective date of parts 2770.7500 to 2770.8500.

Board of Dentistry

Proposed Rule Amending Fees of the Board of Dentistry

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Board of Dentistry (hereinafter "Board") proposes to amend Minn. Rule p. 3100.2000 (formerly 7 MCAR § 3.005). A copy of the proposed amendments is attached to his notice.

The Board has determined that these proposed amendments will be noncontroversial in nature. Therefore, the Board intends to utilize the provisions of Minn. Stat. §§ 14.21 to 14.28 and adopt the rule changes without a public hearing.

THE PUBLIC IS HEREBY ADVISED that:

1. They have 30 days in which to submit comment in support of or in opposition to the proposed amendment, and comment is encouraged;

2. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed;

3. If twenty-five or more persons make a written request for a public hearing within the 30-day comment period, a public hearing will be held;

4. All comments and any written requests for a public hearing shall be submitted to Dale J. Forseth, Executive Secretary, Minnesota Board of Dentistry, 717 Delaware Street Southeast, Minneapolis, Minnesota 55414;

5. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed;

6. The proposed amendments may be modified if the modifications are supported by the data and views submitted and do not result in a substantial change in the proposed language;

State of Minnesota
Department of Commerce

In the Matter of the Proposed Rules Governing Automobile Insurance Nonrenewals Pursuant to Minn. Stat. § 65B.17

Statement of Need and Reasonableness of Proposed Rules

Statement of Need and Authority

Minnesota Statute § 65B.17 as amended by laws of Minnesota, chapter 203, section 2, limited the rights of insurers to fail to renew automobile insurance policies except under certain specified conditions. Subdivision 2 of said Minn. Stat. § 65B.17 provided that the Commissioner of Commerce may adopt rules pursuant to chapter 14 to specify the grounds of the nonrenewal of automobile policies. Said subd. 2 also limited the basis for nonrenewal to certain enumerated factors. The rules were required to specify the manner in which these factors will be considered and to reflect the severity or reoccurrence of any moving violation, the amount of any payment made and the number of vehicles insured. Administrative penalties in monetary amounts not greater than $500 per occurrence were authorized.

The rules as proposed set forth the criteria for nonrenewal of automobile insurance policies based upon the statutory directions of Minn. Stat. § 65B.17.

Definitions. Part 2770.7700.

Part 2770.7700, subpart 2. Chargeable accident defines what accidents may be considered in determining whether or not an automobile insurance policy may be nonrenewed. Certain exceptions to the definition are included. The basis of the exceptions are instances when the insured under the subject automobile insurance policy was either not at fault or the insurer recovered from third parties substantially all of the compensation he was obligated to pay the insured. The mere occurrence of an accident without the accident being the fault of the insured or resulting in substantial payments by the insurer should not give rise to a chargeable accident for purposes of nonrenewal.

Certain instances which may not be clearly within the main definition of chargeable accident are specifically mentioned as being included in this section. They include: payments under the comprehensive portion of the physical damage coverage of a policy when a vehicle falls through the ice of any bodied water, when glass breakage is paid under the comprehensive coverage of a policy where it would normally be paid under the collision coverage but the policy does not have collision coverage, when payments under the personal injury protection coverage to an insured driver in a single vehicle accident in which damage to property occurs. The inclusion of these particular incidents is made for the purpose of clarifying that certain incidents in which there might be some ambiguity as to whether or not they were included within the definition of chargeable

accident because of unique interpretations of the applicable statutes were so included within the definition. They fall within the basic intent of the statute of the definition of chargeable accident.

Subpart 3 of Part 2770.7700. Commercial vehicle includes the statutory definition of commercial vehicle. The purpose of this definition is to remove any ambiguity as to whether or not another definition from that found in the statute is meant under these rules.

Subpart 4 of Part 2770.7700. Emergency vehicle defines emergency vehicle by setting forth the instances in which a private passenger automobile may be deemed to be an emergency vehicle. The definition determines those instances by the manner in which the vehicle is being used and by whom. This definition is necessary to clarify when a private passenger automobile is an emergency vehicle for purposes of these rules.

Subpart 5 of Part 2770.7700. Experience period defines the period of time which may be used in determining the chargeable accidents which may be applicable to justifying the nonrenewal of an automobile insurance policy. The basic period is the three years immediately proceeding the renewal date of the policy. A period of three years was deemed proper as it was reasonably proximate to the date of non-renewal.

Subpart 6 of Part 2770.7700. Hit and run vehicle defines hit and run vehicle by reference to Minn. Stat. § 169.09, Subds. 1, 2, 4 and 5 or comparable statutes of another jurisdiction. This definition incorporates the statutory definition and the case law

pertaining to it thereby making use of the considerable body of law available in this area to determine what is a hit and run accident and the responsibilities in regard to the same.

Subpart 7 of Part 2770.7700. Multi-line contract defines the term multi-line contract as incorporating various types of policies which traditionally have been sold as separate insurance policies but are now sold as a package. In the definition homeowners and automobiles insurance coverages within one contract is offered as an example. Other examples would be packages for small businesses including workers' compensation, automobile, general liability and fire policies. The definition recognizes the current state of the industry.

Subpart 8 of Part 2770.7700. Nonrenewal defines exactly what nonrenewal is. The definition is broadly drafted to include various instances that effectly result in nonrenewal whether or not they are so specified as such in the notice. The definition carries out the intent expressed in the statute.

Subpart 9 of Part 2770.7700. Points defines points as being the method of determining the severity of each chargeable act and violation so as to be able to determine when sufficient cumulative grounds or "points" exist to allow an insurer to nonrenew a policy. Parts 2770.7900 and 2770.8000 more fully deal with the point system.

Subpart 10 of Part 2770.7700. Policy incorporates the statutory definition of policy as set forth in Minn. Stat. § 65B.14, Subd. 2, with the additional modification that the term includes motorcycles and commercially rated vehicles of less than five vehicles. Commercially rated vehicle policies for less than five

vehicles are used by many persons to secure a lower premium but the people who are subject to these policies are no different than any other private passenger automobile owner and should have the same benefits and protections.

Subpart 11 of Part 2770.7700. Private passenger vehicle clarifies that the definition of private passenger vehicle as set forth in Minn. Stat. § 65B.0017, Subd. 3, is the definition to be used in these rules.

Subpart 12 of Part 2770.7700. Private passenger vehicle insurance clarifies that the definition of private passenger vehicle insurance as set forth in Minn. Stat. § 65B.001, Subd. 2, with the modifications previously mentioned of the inclusion of commercially rated policies of less than five vehicles is the definition to be used in these rules.

Subpart 13 of Part 2770.7700. Violations. The definition of violations for the purposes of these rules include all violations that are a matter of record with the Department of Public Safety or other similar authorities in other states. Certain violations such as equipment violations, driving an unregistered vehicle, driving with an expired drivers license, or driving without a valid drivers license in possession which are deemed not to be of the type that would be deemed to raise the insurer's risk or exposure so as to justify nonrenewing the policy are excluded. These violations are excluded because they merely constitute violations under the broader definition in determining whether or not the insurer has sufficient grounds for points to nonrenew the subject policy but as noted don't in fact raise the risk or exposure of the insurer.

Part 2770.7800 sets forth the specific limits on the nonrenewal of an insurance policy.

Subpart 1 specifies the reasons for nonrenewal of the entire policy of insurance.

Subpart 1(a) incorporates the reasons specified in Minn. Stat. § 65B.17, Subd. 2(a).

Subpart 1(b) allows nonrenewal if the relevant number of points specified in Part 2770.8000 are equalled or exceeded. Further explanation of this particular provision will be made in regard to the discussion of Part 2770.8000.

Subpart 1(c) allows for termination of the contract if the agency contract between the insurer and agent is terminated. This particular exclusion is included because it does not go to nonrenewal for the type of reasons specified in the other section of rules but rather because of a business decision regarding the agent and not the insured. Certain protections are included for those over 65 years of age and where all of the terminated agent's business is transferred to someone else. The effect is that all insureds dealt with through the terminated agent must be treated in the same manner.

Subpart 1(d) allows all insureds of a particular insurer in the State of Minnesota to be terminated. This allows an insurer to cease business in the State of Minnesota and not be forced to continue to write business because of the nonrenewal rules.

Subpart 1(e) is of the same type as Subparts 1(c) and (d) in that it allows an insurer to cease writing a selected classification. All insureds in a classification must be treated equally and no new business in that particular class can be written in the state for at

least a year after the last nonrenewal. The aforementioned Subpart 1(c), (d) and (e) allow an entire group or class to be nonrenewed as long as all are treated in exactly the same manner. Nonrenewal under these circumstances cannot be a subterfuge for nonrenewing certain people.

Subpart 1(f) allows nonrenewal for failure to provide the insurer with sufficient information in regard to underwriting to assess the risks and other factors in regard to the insured. This is a misconduct situation by the insured and allows the insurer to nonrenew when he is prevented by the insured from determining the risks involved.

Subpart 1(g) allows nonrenewal in the limited instance in which two or more total theft of vehicles occurs and the vehicles are not recovered. This recognizes the right to nonrenew where there is proven high risk situation.

Subpart 1(h) provides the mechanism by which nonrenewal can be accomplished for reasons not specified in the proceeding sections if by following the procedures set forth an insurer can convince the commissioner to waive the penalties for nonrenewal. It should be noted that the waiver of the penalties does not affect the right of the insured to appeal the nonrenewal nor does it preclude the commissioner from disapproving the nonrenewal. It is merely a mechanism to allow the insurer in advance and when acting in a nonarbitrary and capricious manner to avoid later monetary penalty if the nonrenewal is later disallowed.

Subpart 2 of Part 2770.7800 specifies the reasons for nonrenewal of the physical damage portion of the policy. They are limited to the following:

Subpart 2(a) requires if three or more comprehensive claims have been made during the experience period or two or more comprehensive claims have been made during the most recent twelve month period then a policy not having a comprehensive deductible may be changed to a comprehensive policy that has a deductible of no more than $100 or a policy having such a comprehensive deductible may be increased to the next highest deductible level or $100 whichever is greater. This right is limited to only one such increase during the experience paid unless additional comprehensive claim payments occur after said increase. It recognizes the limited right to react to a proven risk or exposure situation by adjusting the deductible.

Subpart 2(b) allows nonrenewal where three payments for a single vehicle or four payments under a multiple vehicle insured during the experience period have been made for any combination of (1) comprehensive payments, except towing and those caused by natural causes; (2) chargeable accident collision payments; or (3) collision payments due to hit and run vehicles. The purpose of subparts 2(a) and 2(b) is to allow nonrenewal in the limited instances in which there have been substantial payments made or numerous occurrences in which payments have been made during the experience period, where there is in fact proven risk or exposure as evidenced by these payments.

Part 2770.7900 sets forth the schedule of points to be used in determining whether or not nonrenewal will be allowed. A point value is assigned to various violations and chargeable accidents occurring during the experience. The highest points assigned being 4 and the lowest 1/2. The higher of 4 points being assigned to the most severe violations and instances in which the exposure of the insured is the greatest. Four point situations are: (a) hit and run situations; (b) felonies involving the use of a motor vehicle; (c) theft and similar takings of motor vehicles; (d) violations of such severity that suspension or revocation of the operators license occurs, such as DWI and implied consent; and (e) driving after the suspension or revocation of operators license.

Subpart 3 assigns 2-1/2 points to less severe actions by the insured, such as reckless driving.

Subpart 4 assigns 1-1/2 points to careless driving.

Subpart 5 assigns 1 point for chargeable accidents where total payments exceed $500 not including certain specified incidences, such as uninsured motorist payments, underinsured motorist coverage or personnel injury protection payments unless otherwise defined as a chargeable accident and open bottle violations.

Subpart 6 assigns 3/4 points to the second subsequent speeding violations for each individual operator during the experience period.

Subpart 7 assigns 1/2 point for the first speeding violation for an individual operator chargeable accidents except in the special instances previously specified where the total payment is $500 or less allow open bottle violation and all other violations. The

purpose of this part is to assign points on a basis which assigns the greater number of points to situations or activities where the insured exposes the insurer to the greatest potential for liability.

Section 2770.8000 sets forth the number of points necessary to justify nonrenewals. The points are assigned pursuant to section 2770.7900. The number of vehicles in the household and the number of points necessary to renew for that number of vehicles are as follows: for one vehicle in the household, 2 points; for two vehicles in the household, 3 points; for three vehicles in the household, 3-1/2 points; for four or more vehicles in the household, 4 points. An exception to the foregoing is that if one operator accumulates 3 or more points by himself a policy or policies may be nonrenewed regardless of the number of insured vehicles in the house. That right is further limited by the fact that where a nonspouse household members owns a vehicle and has a policy of his or her own then that household member's drivers record cannot be used to determine the basis for nonrenewal except for violations in the four point category. Commercial vehicle violations cannot be used to accumulate points except for violations of the four point category. The foregoing sets forth a specific and definite method of calculating the points that will justify nonrenewal of an automobile insurance policy. The purpose is to limit nonrenewal to instances where by accumulation of the requisite number of points the insured has shown the potential for greater than normal risk or exposure to the insurer.

Part 2770.8100 specifies the form of the nonrenewal notice and the information to be included in it. The specific reasons for nonrenewal and the information to be included in the notice are governed by Minn. Stat. § 65B.19. Notice as to the right of complaint and the availability of the Minnesota Automobile Insurance Plan must be included in that notice. The make and year of the vehicle being nonrenewed must be on the notice as well. The specific reasons for nonrenewal must include the following information: (a) as to any violations being used to justify nonrenewal - the name of the driver, the type of violation, the date of the violation, and the point value of each violation must be specified; (b) as to chargeable accidents - the name of the driver, whether the payment is in excess of or under $500, the date of the accident, and the point value of each accident must be specified; (c) in the case of physical damage nonrenewals - the date of the loss and the type of the loss must be specified. All of the foregoing requirements of the specific instances cited allow the insured to validate the correctness of the basis upon which the nonrenewal occurs and to be aware of all rights that he or she has in regard to contesting the nonrenewal. No waiver is sufficient without full and adequate notice of the insured's nonrenewal right. All of these requirements provide the insured sufficient information as to the basis of the nonrenewal so as to determine the veracity of said nonrenewal. The requirements also inform him of his rights, including the right to dispute the nonrenewal.

Part 2770.8200 requires the insurance company to keep a register of cancellations that will be available to the commissioner of commerce for a period of at least three years to assure compliance

with these rules and statute. This provides the commissioner with a means to assure compliance on a company wide basis or after discovering a high number of improper nonrenewals to contact others who may not have complained of their nonrenewal to assure that all their rights were granted to them.

Part 2770.8300 extends the scope of the rules to newly acquired vehicles and replacement vehicles which qualify for automatic coverage under the provisions of an automobile insurance policy. The purpose of this section is to preclude any ambiguity that might arise over this type of situation by clearly stating that the rules govern these situations.

Part 2770.8400 prohibits nonrenewal of a multi-line insurance contract including an automobile insurance policy. It does, however, allow the insurance company to nonrenew the rest of the multi-line contract if they issue to the named insured a separate policy of automobile insurance providing the same coverage as was afforded for automobile insurance under the multi-line policy. This would preclude a situation in which nonrenewal might be justified under one of the other policies covered by the multi-line contract but not nonrenewal of the automobile insurance coverage. It forecloses the possibility of nonrenewal for any reason other than those specified in these rules.

Part 2770.8500 sets the penalties for violation of these rules. The statute provides for penalties of up to $500 per violation. The rule creates an incremental penalty for each violation during any calendar period with the initial violation incurring a $100 penalty; the second violation, $300; and the third and all other violations,

$500. Waiver by the commissioner of the monetary penalties is allowable based upon a showing of good faith on the part of the insurer and adequate proof as to the reasonable basis of that good faith. Penalties may also be waived if compliance with Part 2770.7800, Subpart 1(h), previously described, is shown. This penalty method allows the penalty more appropriately to fit the situation. Companies that consistently violate these rules will have a much greater burden than those that may inadvertently fail, upon occasion, to satisfy them. It creates an incentive for compliance.

Subpart 2 of this section provides for disapproval of any nonrenewal if the nonrenewal is not in compliance with these rules. The commissioner is charged with disapproving said nonrenewal in the manner set forth in Minn. Stat. § 65B.21.

Subpart 3 of Part 2770.8500 acknowledges the right of the commissioner to not be limited in applying penalties or remedies by these rules if additional penalties and remedies are available under Minn. Stat. § 72A. Subpart 2 and subpart 3 preclude any ambiguity as to the commissioner powers under the rules and the effect of rules.

Subpart 4 specifies the effective date as being January 1, 1985 thereby giving sufficient notice to all parties so they can bring their practices into compliance with the rules.

SMALL BUSINESS CONSIDERATIONS

Minnesota Statutes § 14.115 requires that the impact of proposed rules on small businesses be considered in the development of those rules. Specifically, the statute, at subdivision 2, requires that less stringent compliance standards and reporting

requirements for small businesses be considered. The statute also requires that methods designed to reduce the impact of the rules on small businesses be incorporated into the rules if they are feasible and consistent with the statutory objectives associated with the rules.

Despite the lack of comments, the Department considered whether the provisions of the rule might be modified to accomodate the interests of small businesses.

A small business as authorized to insure would be affected by the rule's requirements. Consideration was given to possible ways in which the requirements might be relaxed for small businesses or amended to reduce any burden on small businesses. It was concluded, however, the the requirements of the rule are necessary to the attainment of the statutory objectives upon which the rules are based. The statutory objective upon which these rules are based is to limit the grounds upon which all insurers may nonrenew automobile policies. The insured's protection is uppermost in the intent of Minnesota Statute § 65B.17. It was determined that no requirements of the rules could be relaxed for insurers that might be small businesses without reducing the protections granted to their insureds. If the public perception then became that they would have less protection if their policy was with an insurer that was a small business the result could be a disinclination to purchase a policy from such a company.

Each of the methods described at Minnesota Statutes § 14.115, subdivision 2 (a) - (e) was considered in proposing the rule. The provisions contained in the proposed rule are believed to be necessary to achieve the legislative purposes.

State of Minnesota
Department of Commerce

In the Matter of the Proposed Adoption of Rules
Relating to Automobile Insurance Nonrenewal

Notice Regarding Statement of Need and Reasonableness for Auto Insurance Nonrenewal

The Statement of Need and Reasonableness for Auto Insurance Nonrenewal was drafted prior to publication of the rules in the State Register. However, a copy of the same was not placed in the rules file until some time after publication. The draft copy was final in all respects and identical to the final copy except for correction of typographical errors. No one requested a copy of the Statement of Need and Reasonableness.

Richard G. Gomsrud
Department Counsel

In the Matter of the Proposed Adoption of Rules Relating to Automobile Insurance Nonrenewal

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General John C. Bjork, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below:

The Statement of Need and Reasonableness was not prepared in final form, as required by Minn. Stat. § 14.23 (1982), as amended, prior to the notification required by Minn. Stat. § 14.22 (1982), as amended. See enclosed statement by Richard G. Gomsrud.

John C. Bjork

Dated: September 6, 1984

STATEMENT OF RICHARD G. GOMSRUD

I am the Agency Counsel for the Department of Commerce. As part of my job responsibilities, I oversee the rulemaking process of the Department. At the time the auto nonrenewal rules were published, the Statement of Need and Reasonableness had been drafted and was available to anyone requesting the same. No one requested to see the Statement of Need and Reasonableness or to be provided a copy. When preparing the materials for review by the members of the Attorney General's office assigned to our Department, prior to submission to the Administrative Section of the Attorney General's Office it became known that the draft of the Statement of Need and Reasonableness existed as a single copy in my possession and electronically on a word processor. Both versions were identical but had several typographical and grammatical corrections that were needed. Those corrections were made and are reflected in the enclosed Statement of Need and Reasonableness. No substantive changes were necessary or made.

Richard G. Gomsrud

Dated: _____, 1984

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE

In the Matter of the Proposed Adoption of Rules Relating to Automobile Insurance Nonrenewal

NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minn. Stat. Section 14.26:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, September 21, 1984, for review as to form and legality. Pursuant to Minn. Stat. Section 14.26, the Attorney General will approve or disapprove the rules within 14 calendar days after receipt. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, G-25 State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, (612) 296-7030.

If you are interested in determining what changes, if any, were made in the proposed rules after publication in the State Register and before submission to the Attorney General, you may contact Robin Hanson, Department of Commerce, 500 Metro Square Building, St. Paul, Minnesota 55101.

Michael A. Hatch
Commissioner of Commerce