

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

DEPARTMENT: Office of the Attorney General

STATE OF MINNESOTA

OFFICE MEMORANDUM

DATE: October 17, 1991

TO: Carol Manteuffel
Driver & Vehicle Services
208 Transportation Building

FROM: MARY JO MURRAY
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-3258

SUBJECT: In the Matter of the Adopted Rule Relating to Disposition of Driver's License Following Non-Alcohol-Related Vehicle Offenses

The above-referenced rule has been approved as to its legality by the Attorney General on October 11, 1991.

Enclosed is your copy of the approved rule. This office has already filed two copies with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJM:jj
Enclosures
cc: Nancy Bode
William Brown, Chief Judge
MaryAnn Hruby

MJM
10/1/91

RULE REVIEW CHECKLIST

File No. 1856
DATE RECEIVED 9-27-91
REVIEW DATE 10-2-91
DUE DATE ~~10-11-91~~ 10-1-91
~~(DIS)~~APPROVED 10-11-91
WITHDRAWN _____

Docket No. 05.0909.0712
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 10/2/91
REVISOR (DIS)APPROVED 10/2/91
FILED W/SEC. OF STATE _____
RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
Sept 10, 1990 Date published in State Register
_____ Comments

_____ Petition for Adoption of a Rule

_____ Board's Authorizing Resolution
_____ Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
65B.68. subd 1 Statutory Authority 169.795
_____ Small Business Statement
_____ Expenditure of public money statement
5-2-91 Signature

✓ Statement of Need and Reasonableness (if applicable)
_____ Small Business Statement
_____ Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
March 15, 1991 Dated 30/25 days before adoption
✓ Notice attached indicates it is attached
_____ Copy of rule or summary attached

✓ Publication in State Register
May 20, 1991 Date 30/25 days before adoption

✓ 180-day deadline from:
✓ Effective date of law requiring rule (14.12) (both rules) amendments don't apply
✓ end of comment period (§ 14.26) (rules without hearing)
_____ effective date of statutory authority (§ 14.29) (emergency rules)

_____ Resolution Adopting
_____ Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
Sept 26, 1991 Date

_____ Written Requests, Submissions or Comments

_____ Declaration of Attorney
Nancy Buel Name of SAAG representing agency

_____ Notice of Submission to Attorney General (if applicable)

_____ Affidavit of Mailing Notice to Attorney General (if applicable)

Department of Public Safety

Driver and Vehicle Services Division

Adopted Permanent Rules Relating to Disposition of Driver's License Following Non-Alcohol-Related Vehicle Offenses

Rules as Adopted

7409.0100 DEFINITIONS.

[For text of subpart 1, see 15 SR 1675]

Subp. 1a. **Cancellation.** "Cancellation" means the commissioner's rescission of a person's driver's license for which the person must meet the requirements of part 7409.4300 for reinstatement of the person's driver's license.

Subp. 1b. **Certificate of insurance.** "Certificate of insurance" means a letter, a signed policy of vehicle liability insurance as required by Minnesota Statutes, section 65B.48, or a completed insurance certificate form from the authorized representative of the insurance carrier authorized to do business in the state stating that the vehicle will be covered by a plan of reparation security as required by Minnesota Statutes, section 65B.48, for one calendar year or that the operator will be covered by a plan of reparation security for a period of six months.

[For text of subps 2 to 6, see 15 SR 1675]

Subp. 6a. **Driver improvement clinic.** "Driver improvement clinic" has the meaning given in Minnesota Statutes, section 171.20, subdivision 3.

[For text of subp 7, see 15 SR 1675]

Subp. 7a. **Owner.** "Owner" has the meaning given in Minnesota Statutes, section 65B.43, subdivision 4.

Subp. 7b. **Personal injury.** "Personal injury" means a class A, incapacitating injury, other than a fatal injury, that prevents the injured person from walking, driving, or normally continuing the activities the person was capable of performing

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before the injury occurred, such as a severe laceration, broken or distorted limb, or skull, chest, or abdominal injury.

Subp. 7c. **Plan of reparation security.** "Plan of reparation security" has the meaning given in Minnesota Statutes, section 65B.43, subdivision 15.

Subp. 7d. **Proof of insurance.** "Proof of insurance" has the meaning given in Minnesota Statutes, section 169.791, subdivision 1.

Subp. 8. **Revocation.** "Revocation" means the commissioner's rescission of a person's driver's license for a specific minimum period of time under Minnesota Statutes, section 65B.67, 169.792, 171.165, or 171.17, for which the person must meet the requirements of part 7409.0600, 7409.3800, 7409.4000, or 7409.4100 for reinstatement of the person's driver's license.

Subp. 8a. **Sufficient cause to believe.** "Sufficient cause to believe" means grounds put forth in good faith, which are not arbitrary, irrational, unreasonable, or irrelevant, and that make the proposition asserted more likely than not, provided the grounds are based on at least one of the following sources:

A. written information from an identified person;

B. facts or statements by the applicant or driver;

C. driver's license and accident records;

D. court documents and police records; or

E. facts of which the commissioner or a department employee has personal knowledge.

Subp. 9. **Suspension.** "Suspension" means the commissioner's temporary removal of a person's driver's license under Minnesota Statutes, section 65B.67, subdivision 4a, 171.09, or 171.18 for which the person must meet the requirements of part 7409.3900 or 7409.4200 for reinstatement of the person's driver's license.

Subp. 10. **Withdrawal or withdrawn.** "Withdrawal" or "withdrawn" means the suspension, revocation, or cancellation of a person's driver's license.

Subp. 11. **Withdrawal period.** "Withdrawal period" means

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the time after a license withdrawal during which the person's driving privilege has been withdrawn and has not been reinstated.

REVOCATION

7409.1000 CRIMINAL VEHICULAR HOMICIDE AND INJURY OR MANSLAUGHTER.

The commissioner shall revoke the driver's license of a person upon receiving a record of conviction, for a period of:

A. five years, if the person is convicted under:

(1) Minnesota Statutes, section 609.21, subdivision 1, clause (1), or subdivision 3, clause (1);

(2) Minnesota Statutes, section 609.20, manslaughter in the first degree, resulting from the operation of a motor vehicle; or

(3) Minnesota Statutes, section 609.205, manslaughter in the second degree, resulting from the operation of a motor vehicle; or

B. three years, if the person is convicted under Minnesota Statutes, section 609.21, subdivision 2, clause (1); subdivision 2a, clause (1); or subdivision 4, clause (1).

7409.1100 FLEEING FROM PEACE OFFICER.

The commissioner shall revoke the driver's license of a person upon receiving a record of conviction, for a period of:

A. 90 days, if the person is convicted under Minnesota Statutes, section 609.487, subdivision 3;

B. 180 days, if the person is convicted under Minnesota Statutes, section 609.487, subdivision 4, clause (b) or (c); or

C. one year, if the person is convicted under Minnesota Statutes, section 609.487, subdivision 4, clause (a).

7409.1200 FELONY WITH MOTOR VEHICLE.

The commissioner shall revoke the driver's license of a person for a period of 180 days upon receiving a record of conviction of a felony in the commission of which a motor vehicle was used.

7409.1300 LEAVING SCENE OF ACCIDENT.

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The commissioner shall revoke the driver's license of a person upon receiving a record of conviction under Minnesota Statutes, section 169.09, for failure to stop and disclose identity and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another, for a period of:

A. 180 days, if the accident upon which the conviction is based resulted in personal injury to another person; or

B. one year, if the accident upon which the conviction is based resulted in the death of another person.

7409.1400 PERJURY, FALSE AFFIDAVIT OR STATEMENT.

The commissioner shall revoke the driver's license of a person for a period of 180 days, upon receiving a record of conviction for perjury or the making of a false affidavit or statement to the department under any law relating to the ownership or operation of a motor vehicle.

7409.1500 MULTIPLE MISDEMEANOR AND GROSS MISDEMEANOR OFFENSES.

The commissioner shall revoke the driver's license of a person upon receiving a record of a certified misdemeanor or gross misdemeanor conviction under Minnesota Statutes, chapter 169, for a period of:

A. 30 days, if the person has been convicted of three misdemeanor or gross misdemeanor offenses under that chapter within a 12-month period;

B. 90 days, if the person has been convicted of four misdemeanor or gross misdemeanor offenses under that chapter within a 12-month period; or

C. one year, if the person has been convicted of five or more misdemeanor or gross misdemeanor offenses under that chapter within a 12-month period.

7409.1600 INSURANCE-RELATED OFFENSES.

Subpart 1. **Failure to maintain insurance.** The commissioner shall revoke the driver's license of a person upon

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receiving a record of conviction under Minnesota Statutes, section 65B.67, for operating an uninsured vehicle, for a period of:

A. 30 days, if the person has no other convictions under Minnesota Statutes, section 65B.67, within a five-year period;

B. 90 days, if the person has been convicted two times under Minnesota Statutes, section 65B.67, within a five-year period;

C. 180 days, if the person has been convicted three times under Minnesota Statutes, section 65B.67, within a five-year period; or

D. one year, if the person has been convicted four or more times under Minnesota Statutes, section 65B.67, within a five-year period.

Subp. 2. **Failure to produce proof of insurance.** The commissioner shall revoke the driver's license of a person who fails to produce proof of insurance under Minnesota Statutes, section 169.792. The revocation period is 30 days or until the person files proof of insurance, whichever period is longer.

SUSPENSION

7409.2000 CRIMINAL VEHICULAR HOMICIDE AND INJURY OR MANSLAUGHTER.

Subpart 1. **Record of criminal charge.** The commissioner shall suspend the driver's license of a person upon receiving a record of a criminal charge for criminal vehicular homicide and injury or manslaughter arising out of the operation of a motor vehicle. The license must be suspended for a period of not more than one year.

Subp. 2. **Dismissal or acquittal.** If the commissioner receives notice that the criminal charge was dismissed or that the person was acquitted of the criminal charge, the commissioner shall terminate the suspension period.

Subp. 3. **Converted to revocation.** If the person is later convicted of criminal vehicular homicide and injury or manslaughter, then the commissioner shall convert the suspension

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to a revocation. Time accrued under the suspension period must be credited toward the revocation period imposed upon conviction of criminal vehicular homicide and injury or manslaughter.

7409.2100 VIOLATION RESULTING IN FATALITY OR PERSONAL INJURY.

The commissioner shall suspend the driver's license of a person upon receiving a record of conviction under Minnesota Statutes, chapter 169 or an ordinance regulating traffic, except traffic laws specifically excluded from the driving record by statute, ~~when it appears from the~~ and department records show that the violation ~~for which the person was convicted~~ contributed in causing an accident resulting in the death or ~~class A~~ personal injury of another. The driver's license must be suspended for a period of:

A. 90 days, if the violation upon which the conviction was based resulted in the personal injury of another person;

B. 180 days, if the violation upon which the conviction was based resulted in the death of another person; or

C. as recommended by the court, when made in connection with the prosecution of the licensee.

7409.2200 HABITUAL VIOLATORS.

Subpart 1. **In general.** The commissioner shall suspend the driver's license of a person upon receiving a record of conviction for a violation of a traffic law under Minnesota Statutes, chapter 169 or 171, or other statutes regulating the operation of motor vehicles on streets or highways, except traffic laws specifically excluded from the driving record by statute. The driver's license must be suspended for a period of:

A. 30 days, if the commissioner has previously sent a violation warning letter to the person and the person is convicted of:

(1) four traffic offenses within a 12-month period; or

(2) five traffic offenses within a 24-month period;

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B. 90 days, if the person is convicted of:

(1) five traffic offenses within a 12-month period; or

(2) six traffic offenses within a 24-month period;

C. 180 days, if the person is convicted of seven traffic offenses within a 24-month period; or

D. one year, if the person is convicted of eight or more traffic offenses within a 24-month period.

The commissioner shall send a warning letter or conduct a preliminary hearing under part 7409.4500 if the person is convicted of two misdemeanors or convicted of three or more traffic offenses, under this subpart, occurring within a 24-month period.

The warning letter must be sent by first class mail to the person's last known address or to the address listed on the person's driver's license, informing the person of the number and type of traffic violations on the person's driving record and the consequences of additional traffic violations.

Subp. 2. **License, permit, and endorsement violations.** The commissioner shall suspend the driver's license of a person for a period of 30 days upon receiving a record of conviction of two or more violations of Minnesota Statutes, section 169.974, subdivision 2; 171.02; 171.05; or 171.321, if the two violations are more than 60 days apart.

Subp. 3. **Limited license violations.** The commissioner shall suspend the driver's license of a person upon receiving a record of conviction for violating a condition or limitation of a limited license under Minnesota Statutes, section 171.30, for a period of:

A. 30 days, if the person has no other convictions under that section within a five-year period;

B. 90 days, if the person has been convicted two times under that section within a five-year period;

C. 180 days, if the person has been convicted three times under that section within a five-year period; or

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D. one year, if the person has been convicted four or more times under that section within a five-year period.

Subp. 4. **Driving after withdrawal.** The commissioner shall suspend the driver's license of a person upon receiving a record of conviction of a traffic law under Minnesota Statutes, chapter 169, 171, or other statutes regulating the operation of motor vehicles on streets or highways, except traffic laws specifically excluded from the driving record by statute, committed while the person was driving under a period of withdrawal. The driver's license must be suspended for a period of:

A. 30 days, if the person has no other incidents of driving after withdrawal within a five-year period;

B. 90 days, if the person has two incidents of driving after withdrawal within a five-year period;

C. 180 days, if the person has three violations of driving after withdrawal within a five-year period; or

D. one year, if the person has four or more violations of driving after withdrawal within a five-year period.

7409.2300 MISUSE OF LICENSE.

Except as otherwise provided in Minnesota Statutes, section 171.171, the commissioner shall suspend the driver's license of a person upon receiving a record of conviction under Minnesota Statutes, section 171.22, for a period of:

A. 90 days, if the person has no other convictions under that section within a five-year period; or

B. 180 days if the person has been convicted two or more times under that section within a five-year period.

7409.2400 FAILURE TO MAINTAIN INSURANCE.

Subpart 1. **Authority; suspension periods.** Under Minnesota Statutes, section 65B.67, subdivision 4a, the commissioner shall suspend the driver's license of an operator upon a showing by department records, including accident reports or other sufficient evidence, that a plan of reparation security had not been provided and maintained at the time of the incident. The

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driver's license must be suspended for a period of:

A. 30 days, if the operator's driver's license has not been withdrawn under Minnesota Statutes, section 65B.67, within a five-year period;

B. 90 days, if the operator's driver's license has been withdrawn once under Minnesota Statutes, section 65B.67, within a five-year period;

C. 180 days, if the operator's driver's license has been withdrawn twice under Minnesota Statutes, section 65B.67, within a five-year period; or

D. one year, if the operator's driver's license has been withdrawn three or more times under Minnesota Statutes, section 65B.67, within a five-year period.

Subp. 2. **Converted to revocation.** If a person is later convicted under Minnesota Statutes, section 65B.67, subdivision 4, paragraph (b), for the same offense, then the commissioner shall convert the suspension imposed under this part to a revocation under part 7409.1600, subpart 1.

Subp. 3. **Suspension time credited to revocation period.** Time accrued under the suspension period in this part must be credited toward the revocation period imposed upon conviction under Minnesota Statutes, section 65B.67, subdivision 4, paragraph (b).

CANCELLATION

7409.2800 CANCELLATION; GROUNDS.

The commissioner shall cancel the driver's license of a person on determining that the person:

A. was not entitled to be issued a driver's license;

B. has failed to give the required or correct information in the application for a driver's license;

C. has committed a fraud or deceit in applying for a driver's license;

D. at the time of cancellation, would not have been entitled to receive a license under Minnesota Statutes, section 171.04; or

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E. has failed to submit to an examination under Minnesota Statutes, section 171.13.

WITHDRAWAL PERIODS, ACTION; LICENSE SURRENDER

7409.3000 MULTIPLE LICENSE WITHDRAWALS.

Subpart 1. **Consecutive, generally.** When a person is subject to more than one withdrawal period under this chapter, the withdrawal periods shall run consecutively, except as otherwise provided in this part.

Subp. 2. **Concurrent.** Withdrawal periods imposed under chapter 7503 run concurrently with withdrawal periods imposed under this chapter when the withdrawal periods arise from the same incident.

Subp. 3. **Vehicular liability violations.** Withdrawal periods imposed for vehicular liability violations under parts 7409.1600 and 7409.2400 run concurrently with other withdrawal periods arising from the same incident. Vehicular liability violations under parts 7409.1600 and 7409.2400 not arising from the same incident, run consecutively with each other and with other withdrawal periods that have been imposed under this chapter.

Subp. 4. **Suspension periods.** Suspension periods imposed under part 7409.2200, subpart 1, shall run concurrently with revocation periods imposed under part 7409.1500 when the withdrawal periods arise from the same incident. The total period of withdrawal must not exceed the longer of the two withdrawal periods.

Subp. 5. **Court order.** Withdrawal periods imposed by a court order run concurrently with other withdrawal periods imposed under this chapter, unless otherwise ordered by the court.

Subp. 6. **Total suspension period.** The total suspension period must not exceed one year unless otherwise recommended by a court.

7409.3100 DRIVING INCIDENTS OUT OF STATE; WITHDRAWAL.

Upon receiving a record of conviction, the commissioner

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shall impose the same period of withdrawal of a person's driving privilege if a person commits or is convicted of an offense in another state that, if committed in this state, would be grounds for the withdrawal of the driving privilege.

7409.3200 NOTICE OF WITHDRAWAL ACTION.

The commissioner shall notify a person whose driver's license is subject to withdrawal or has been withdrawn. The notification must be in writing and be personally served or sent by first class mail to the person's last known address or the address listed on the person's driver's license. The notice shall contain the reason for withdrawal, the length of withdrawal, and the requirements for reinstatement of the person's driver's license. The commissioner shall place the notices sent by first class mail on the department's certified mailing list.

7409.3400 DRIVER'S LICENSE SURRENDER.

Subpart 1. **License surrender.** A person holding a license of any class issued by the department shall surrender the license when the person's driver's license has been revoked, suspended, or canceled. If the license subject to surrender has been lost, stolen, or destroyed, an affidavit or written statement explaining the loss must be submitted in its place. Affidavit forms must be available at the department driver examination and evaluation offices, where the person may surrender the withdrawn license or submit the affidavit or written statement.

Subp. 2. **Refusal to surrender license.** If a person fails or refuses to surrender a license following suspension, revocation, or cancellation within 30 days of notice under part 7409.3200, the commissioner shall inform the local law enforcement agency. The department shall request that the agency obtain the license or written statement regarding the license's whereabouts. The suspension, revocation, or cancellation period is in effect upon notifying the licensee, but credit must not be given toward the suspension, revocation,

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or cancellation period until the license is surrendered.

LIMITED LICENSE

7409.3600 LIMITED LICENSE.

The commissioner shall issue a limited license following a revocation under Minnesota Statutes, section 65B.67, 169.792, or 171.17, or suspension under Minnesota Statutes, section ~~169.792, 171.17, or~~ 171.18, when the person has met the following conditions:

A. the person has demonstrated a need and has met the requirements for a limited license under Minnesota Statutes, section 171.30;

B. the person has paid the reinstatement fee required by statute;

C. the person has surrendered the license issued by the department, as required by Minnesota Statutes, section 171.20;

D. the person has passed the driver's license examination, has applied for a new license, and has paid the application fee for the class of license involved, as required for issuing an original license, if the person's driver's license was revoked ~~other than under Minnesota Statutes, section 169.792~~;

E. one-half of the revocation or suspension period has expired, if the person has been issued a limited license within the previous 12 months;

F. the person requests a limited license by written correspondence, by personal appearance at the department, or by telephone if the person resides outside the seven-county metropolitan area; and

G. the person has fulfilled all outstanding requirements for all other driver's license withdrawals.

REINSTATEMENT

7409.3800 REINSTATEMENT AFTER INSURANCE-RELATED REVOCATION; 65B.67, SUBD. 4.

The commissioner shall reinstate the driver's license of a

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person whose license has been revoked under Minnesota Statutes, section 65B.67, subdivision 4, paragraph (b), when the operator has met the reinstatement conditions listed under part 7409.4100 and the operator files with the commissioner:

A. if the operator is also the owner of the vehicle involved in the incident, a certificate of insurance for:

(1) the vehicle cited on the traffic citation; or

(2) if no vehicle is cited on the traffic citation or if the vehicle has been sold or junked, the vehicle currently being operated;

B. if the operator is not the owner of the vehicle involved in the incident, a certificate of insurance for the vehicle owned and currently being operated; or

C. if the operator is not the owner of the vehicle involved in the incident and the operator does not own a vehicle, a certificate of insurance for a nonowner operator policy or a certificate of insurance verifying the operator is a named insured.

7409.3900 REINSTATEMENT AFTER INSURANCE-RELATED SUSPENSION; 65B.67, SUBD. 4A.

The commissioner shall reinstate the driver's license of a person whose license has been suspended under Minnesota Statutes, section 65B.67, subdivision 4a, when the operator has met the reinstatement conditions listed under part 7409.4200 and:

A. if the person's driver's license has not been withdrawn under Minnesota Statutes, section 65B.67, within a five-year period, the operator provides the commissioner with verifiable insurance information, including the name of the insurance company, the insurance policy number, and the name of the policyholder for:

(1) the vehicle cited, as shown on department records, or if no vehicle is shown on department records as being cited or if the vehicle has been sold or junked, the vehicle currently being operated if the operator was also the owner of the vehicle involved in the incident; or

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(2) the vehicle owned and currently being operated, if the operator is not the owner of the vehicle involved in the incident and the operator knew or had reason to know that the vehicle did not have a plan of reparation security complying with the terms of Minnesota Statutes, section 65B.48; or

B. if the person's driver's license has been withdrawn two or more times under Minnesota Statutes, section 65B.67, within a five-year period, the operator provides the commissioner with a certificate of insurance for:

(1) the vehicle cited, as shown on department records, or if no vehicle is shown on department records as being cited or if the vehicle has been sold or junked, the vehicle currently being operated if the operator was also the owner of the vehicle involved in the incident; or

(2) the vehicle owned and currently being operated, if the operator is not the owner of the vehicle involved in the incident and the operator knew or had reason to know that the vehicle involved in the incident did not have a plan of reparation security complying with the terms of Minnesota Statutes, section 65B.48.

7409.4000 REINSTATEMENT AFTER INSURANCE-RELATED REVOCATION; 169.792.

The commissioner shall reinstate the driver's license of a person whose license has been revoked under Minnesota Statutes, section 169.792, when the driver has met the reinstatement requirements under part 7409.4100, items A to D, and the driver or owner files with the commissioner:

A. if the driver is also the owner of the vehicle involved in the incident, proof of insurance for:

(1) the vehicle operated at the time of the incident; or

(2) the vehicle currently being operated, if no vehicle is cited on the "no proof of insurance" report or if the vehicle involved in the incident has been sold or junked;

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B. if the driver is not the owner of the vehicle involved in the incident, proof of insurance for a vehicle owned and currently being operated by the driver; or

C. if the driver is not the owner of the vehicle involved in the incident and the driver does not own a vehicle, proof of insurance for a nonowner operator policy or proof of insurance verifying that the person is a named insured.

7409.4100 REINSTATEMENT AFTER REVOCATION, GENERALLY.

Except as provided in parts 7409.3800 and 7409.4000, the commissioner shall reinstate the driver's license of a person whose license is revoked when the following conditions have been satisfied:

A. the revocation period has expired;

B. no withdrawal of the person's driver's license is outstanding;

C. the person has paid the reinstatement fee as required by statute;

D. the person's driver's license was surrendered under Minnesota Statutes, section 171.20; and

E. the person applied for a new license, paid the application fee for the class of license involved, and has passed the driver's license examination, as required for issuing an original license.

7409.4200 REINSTATEMENT AFTER SUSPENSION, GENERALLY.

Except as provided in part 7409.3900, the commissioner shall reinstate the driver's license of a person whose driver's license is suspended when the following conditions have been satisfied:

A. the suspension period has expired or the person has satisfied the requirements of suspension;

B. no withdrawal of the person's driver's license is outstanding;

C. the person has paid the suspension reinstatement fee as required by statute; and

D. the person's driver's license was surrendered

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under Minnesota Statutes, section 171.20.

7409.4300 REINSTATEMENT AFTER CANCELLATION.

The commissioner shall reinstate the driver's license of a person whose license is canceled when the following conditions have been satisfied:

A. no withdrawal of the person's license is outstanding;

B. the person's driver's license was surrendered under Minnesota Statutes, section 171.20;

C. the person has applied for a new license, has paid the application fee for the class of license involved, and has passed the driver's license examination, as required for issuing an original license; and

D. the person is otherwise eligible for a driver's license under Minnesota Statutes.

HEARINGS

7409.4500 PRELIMINARY HEARING.

Subpart 1. **Preliminary hearing required.** The commissioner shall require a person to attend a preliminary hearing when the commissioner has sufficient cause to believe that the person:

A. has committed a violation under Minnesota Statutes, section 171.22, for an unlawful or fraudulent act regarding a driver's license or Minnesota identification card;

B. has committed a second violation under Minnesota Statutes, section 171.09, for a violation of a restriction imposed on the person's driver's license;

C. has committed a violation under Minnesota Statutes, section 171.30, of a condition or limitation of a limited license; or

D. was not previously sent a warning letter under part 7409.2200, subpart 1, and is convicted of:

(1) two misdemeanor traffic offenses within a 12-month period;

(2) four traffic offenses within a 12-month period; or

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(3) five traffic offenses within a 24-month period.

Subp. 2. **Scope of review.** The commissioner shall review the evidence upon which the preliminary hearing was based, and any other material information brought to the attention of the commissioner.

The commissioner may seek additional information from the person undergoing the preliminary hearing or from an agency or person believed to have information relating to the facts underlying the preliminary hearing. The person required to undergo a preliminary hearing may present additional information to the commissioner at the hearing.

Subp. 3. **Suspension period.** If, after reviewing the evidence presented at the preliminary hearing, the commissioner has sufficient cause to believe that the person has committed an offense listed in subpart 1, the commissioner shall suspend the driver's license of the person for a minimum period of 30 days or in accordance with the number of traffic convictions accumulated, as set forth in part 7409.2200, subpart 1, unless the person agrees to enter into a driver improvement agreement, as set forth in part 7409.4600, subpart 5.

Subp. 4. **Failure to attend preliminary hearing.** The commissioner shall suspend the driver's license of a person who fails to attend a preliminary hearing for a minimum period of 30 days or in accordance with the number of traffic convictions accumulated, as set forth in part 7409.2200, subpart 1.

Subp. 5. **Notice of preliminary hearing.** The commissioner shall send a notice to the person who is required to attend a preliminary hearing by first class mail to the person's last known address or to the address listed on the person's driver's license informing the person:

A. the reason for the preliminary hearing;

B. of the time, date, and place of the hearing and, if necessary, instructions to reschedule the hearing; and

C. that failure to attend the hearing will result in suspension of the person's driver's license.

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7409.4600 ADMINISTRATIVE HEARING.

Subpart 1. **Right to hearing.** The commissioner shall grant a hearing to a person whose driver's license has been withdrawn or is subject to withdrawal.

Subp. 2. **Procedure for requesting hearing.** A hearing is initiated by a request for review at the department. The hearing may be held by written correspondence, by telephone, or by a personal appearance. The person requesting the review must inform the department of the person's full name, date of birth, driver's license number, and the date of the incident for which review is being requested.

Subp. 3. **Scope of review.** On receiving a request for a hearing, the commissioner shall review the order, the evidence upon which the order was based, and any other material information brought to the attention of the commissioner to determine whether sufficient cause exists to sustain the order.

The commissioner may seek additional information from the person requesting the review or from an agency or person believed to have information relating to the facts underlying the order of withdrawal. The person requesting the review may present additional information to the commissioner at the hearing.

Subp. 4. **Decision.** Upon reviewing the evidence, the commissioner shall sustain the withdrawal order if there is sufficient cause to believe that the withdrawal is authorized by law. If the commissioner finds that there is not sufficient cause to believe the withdrawal order is authorized by law, the order must be rescinded.

The commissioner shall give a prompt decision to the person and shall issue a copy of the decision to the person upon request.

Subp. 5. **Driver improvement agreement.** The commissioner may waive department action on the person's driver's license if:

A. the person's driver's license has been suspended under Minnesota Statutes, section 171.09 or 171.18;

Approved
by Revisor _____

B. after reviewing the person's entire driving record, the commissioner has sufficient cause to believe that the person will improve the person's driving conduct or has demonstrated improved driving conduct; and

C. the person agrees to enter into a driver improvement agreement with the commissioner.

A driver improvement agreement is an agreement between a driver and the commissioner whereby the driver agrees to improve driving conduct in consideration for the department taking no action on the suspension that the person currently has pending.

The driver improvement agreement must not be for a period less than the period of suspension that the person currently has pending.

If the person commits a violation arising out of the operation of a motor vehicle while a driver improvement agreement is in effect, the person's driver's license will be withdrawn for 30 days or according to this chapter, chapter 7503, or Minnesota Statutes, whichever is the longer period.

RECEIVED
OCT 11 1991
SECRETARY OF STATE
LEGISLATION DIVISION

Approved
by Revisor _____

APPROVED AS TO FORM AND LEGALITY

Oct 11 19 91

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY
SPECIAL ASSISTANT ATTORNEY GENERAL

RECEIVED

OCT 11 1991

SECRETARY OF STATE
ELECTION DIVISION

12:15 PM

PB

65B.68 subd 1 - ~~such cite~~
Except as provide . . a person authorized
to obtain basic separation . . .

169.795
The Commissioner of public Safety
shall ~~&~~ adopt rules necessary
to implement sections 168.041 . . .

end of comment period June 19, 1991

180 deadline
14.12 didn't mak deadline but sent
appropriate letters to gov and
appropriate committees

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DRIVER AND VEHICLE SERVICES DIVISION

In The Matter Of The Proposed Adoption Of Rules Of The State Department Of Public Safety Relating To Disposition Of Driver's License Following Non-Alcohol-Related Offenses	FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES WITHOUT PUBLIC HEARING

Notice of the Commissioner's intent to adopt the above-entitled rules was published in the State Register on May 20, 1991, and was sent by United States mail to all persons on the list maintained by the Department pursuant to Minnesota Statutes, sections 14.14, subdivision 1a, and 14.22, on May 13, 1991. The Statement Of Need And Reasonableness was prepared before the Notice Of Intent To Adopt Rules was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public. A copy of the Statement Of Need And Reasonableness was sent to the Legislative Commission To Review Administrative Rules when it became available to the public.

All persons were given the opportunity to submit comments on the rules for 30 days after notice of proposed rulemaking. The Department received no comments or submissions on the rules in response to the Notice Of Intent To Adopt Rules. The Department received no requests for notice of submission to the Attorney General. The Department received no requests for a public hearing. Therefore, there are not 25 or more outstanding requests for a public hearing.

Based on the comments and evidence in the record before the Department, I find the following:

1. The first sentence of part 7409.2100 of the proposed rules is amended as follows:

> "The commissioner shall suspend the driver's license of a person upon receiving a record of conviction under Minnesota Statutes, chapter 169 or an ordinance regulating traffic, except traffic laws specifically excluded from the driving record by statute, ~~when it appears from the~~ and department records show that the violation ~~for which the person was convicted~~ contributed in causing an accident resulting in the death or ~~class A~~ personal injury of another."

The words "class A" were deleted for clarification purposes. Personal injury is defined, in part, as a class A injury. Therefore, the words "class A" are not essential to the meaning of the rule and should be omitted. The remainder of the deletions and additions in

the rule were made to conform to the statutory change in the language of Minnesota Statutes, section 171.18, as provided by Minnesota Laws 1991, chapter 277, section 15.

2. Part 7409.3600 of the proposed rules is amended to add a reference to Minnesota Statutes, section 65B.67.

   This amendment to the proposed rules conforms with Minnesota Laws 1991, chapter 333, section 31, which amends Minnesota Statutes, section 171.30, as follows:

   > "In any case where a person's license has been suspended under section 171.18 or revoked under section 65B.67, 169.121, 169.123, 169,792 or 171.17, the commissioner may issue a limited license to the driver including under the following conditions: . . . ."

3. Part 7409.3600, paragraph D, of the proposed rules is amended by striking the phrase "other than under Minnesota Statutes, section 169.792." The phrase has been stricken due to a legislative change in Minnesota Statues, section 171.02. Minnesota Statutes, section 171.02, subdivision 1, now requires that a person pass a driver examination if the person's license was revoked under Minnesota Statutes, section 169.792.

   The amendment to section 171.02 is set forth in Minnesota Laws 1991, chapter 333, section 25, as follows:

   > "Subdivision 1. No person whose ~~drivers~~ driver's license has been revoked by reason of conviction, plea of guilty, or forfeiture of bail not vacated, under section 171.17 or 65B.67, or revoked under section 169.123 or 169.792 shall be issued another license unless and until that person shall have successfully passed an examination as required for an initial license."

4. Part 7409.4000, item C, of the proposed rules has been amended to read:

   > "C. if the driver is not the owner of the vehicle involved in the incident and the driver does not own a vehicle, proof of insurance for a nonowner operator policy or proof of insurance verifying that the person is a named insured."

   The language inserted above makes paragraph C consistent with the language in the proposed rules, part 7409.3800, item C, which also deals with reinstatement of a driver's license after an insurance related incident. The additional language does not change the meaning of item C, but provides for consistent language within the rules.

5. The above modifications are not substantial in that the modifications do not affect a new class of persons who did not have an opportunity to respond to the proposed rules as originally noticed.

6. The above modifications are not substantial in that the modifications do not introduce significant new subject matter which a reasonable person, on the basis of the proposed rules as originally noticed, would not have anticipated would occur during the rulemaking proceeding.

7. The above modifications are not substantial in that the modifications do not make a major substantive change that was not raised by the proposed rules as originally noticed in such a way as to invite reaction.

8. The modifications of the above-captioned rules do not result in inadequate notice to affected parties.

9. The above captioned rules are needed and reasonable. 8

NOW, THEREFORE, IT IS ORDERED that the rules identified as the Rules of the State Department of Public Safety Relating To Disposition Of Driver's License Following Non-Alcohol-Related Offenses, in the form set out in the Revisor's draft, file number AR1875, dated 08/20/91, as modified, are adopted this 26th day of September, 1991, pursuant to authority vested in me by Minnesota Statutes, sections 65B.68, 169.795, 14.06, and 299A.01.

(9)

Ralph Church, Commissioner
Department of Public Safety

OFFICE OF THE COMMISSIONER

211 Transportation Building

Telephone: _____

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

SAINT PAUL 55155

September 27, 1991

Ms. Christie Eller
Assistant Attorney General
Public Finance Division
Office of the Attorney General
404 Capital Office Building
525 Park Street
St. Paul, Minnesota 55103

Re: In The Matter Of The Adopted Rules Of The State Department Of Public Safety Relating to Disposition of Driver's License Following Non-Alcohol-Related Offenses

Dear Ms. Eller:

On September 26, 1991, the Minnesota Department of Public Safety adopted the above-captioned rules relating to disposition of driver's license following non-alcohol-related offenses. Enclosed for your review are the following:

A. A photocopy of the Notice of Solicitation of Outside Information or Opinions as published in the State Register. No written comments were received in response to the Notice.

B. No copy of a rulemaking petition is enclosed because no such petition was filed regarding these rules.

C. No certificate of an authorizing resolution or copy of a delegation of authority is enclosed because the Department of Public Safety is not a multi-member agency.

D. A copy of the proposed rules with a certificate of approval as to form by the Revisor of Statutes attached.

E. A copy of the notice of intent to adopt rules without a public hearing, as mailed. The notice is in the form of dual notices of intent to adopt rules without a hearing or with a hearing, depending on the number of persons who request a hearing.

F. The Statement of Need and Reasonableness in support of the proposed rules.

G. A copy of the affidavit of mailing the notice of intent to adopt rules without a public hearing. This affidavit is titled "Affidavit of Mailing The Notice of Public Hearing." Also enclosed is a copy of the Affidavit of Certificate of Mailing List.

H. A photocopy of the notice of intent to adopt the rules without a public hearing, as published in the State Register. The notice is in the form of dual notices of intent to adopt rules with a hearing or without a hearing, depending on the number of persons who request a hearing.

I. Four copies of the rules as adopted. The modifications to the proposed rules are reflected on the rules as adopted and are approved as to form by the Revisor of Statutes.

J. No certificate of a resolution adopting the rules is enclosed because the Department of Public Safety is not a multi-member agency.

K. A copy of the Findings of Fact, Conclusions of Law, and Order Adopting the Rules.

L. Copies of all written requests, withdrawals of requests for a hearing, submissions, or comments on the rules received by the Department except for requests solely for copies of the rules or of the Statement of Need and Reasonableness. No such requests, submissions, or comments were received by the Department.

M. A copy of the Declaration of Counsel signed by Assistant Attorney General Nancy Bode.

N. No notice of submission of the rules to the attorney general is enclosed because no persons requested notification of the date of submission of the rules to the attorney general.

O. No affidavit of mailing of notice of submission of the rules to the attorney general is enclosed because no such notices were given.

P. A copy of the Affidavit of Mailing the Rules and Statement of Need and Reasonableness to the Legislative Commission to Review Administrative Rules.

Q. No notice to the chairs of the house appropriations and senate finance committees is enclosed because the rules do not establish or adjust fees.

R. Copies of letters to the Legislative Commission to Review Administrative Rules, other appropriate committees of the legislature, and the governor, pursuant to Minnesota Statutes, section 14.12. The letters are dated January 3, 1990, July 26, 1990, and April 30, 1991.

If you have any questions about the enclosed documents or if you wish to discuss anything about the rules with me, please contact me at 296-2631.

Yours very truly,

Dave Orren

Dave Orren
Rules Coordinator

enclosures

Department of Public Safety

Driver and Vehicle Services

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing Non-Alcohol-Related Driver's License Withdrawal Including No-Fault Insurance

NOTICE IS HEREBY GIVEN that the State Department of Public Safety is seeking information or opinions from sources outside the agency in preparing to propose the adoption of the rule governing the non-alcohol-related driver's license withdrawal including no-fault insurance. The adoption of the rule is authorized by *Minnesota Statutes*, section 169.795, which requires the agency to adopt rules to assure proof of motor vehicle insurance.

On November 13, 1989, the Department of Public Safety published notice in the *State Register* soliciting outside opinion regarding proposed rules on non-alcohol-related driver's license withdrawal including commercial driver disqualification and license reinstatement. The Department has made the decision to include the proof of motor vehicle insurance rule in this proposed rule and is again publishing notice to ensure that all persons are given the opportunity to comment on all sections of the proposed rule.

The State Department of Public Safety requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Carol Manteuffel
Driver & Vehicle Services
208 Transportation Building
St. Paul, MN 55155

Oral statements will be received during regular business hours over the telephone at (612) 296-2608 and in person at the above address.

Any written material received by the State Department of Public Safety shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Paul J. Tschida, Commissioner
Department of Public Safety

Office of the Secretary of State

Notice of Vacancies in Multi-Member Agencies

NOTICE IS HEREBY GIVEN to the public that vacancies have occurred in multi-member state agencies, pursuant to *Minnesota Statutes* 15.0597, subdivision 4. Application forms may be obtained from the Office of the Secretary of State, Open Appointments, 180 State Office Building, St. Paul, MN 55155-1299; (612) 297-5845, or in person at Room 174 of the State Office Building. More specific information about these vacancies may be obtained from the agencies listed below. The application deadline is October 2, 1990.

PIPELINE SAFETY ADVISORY COUNCIL
Dept. of Public Safety, 211 Transportation Bldg., St. Paul 55155. 612-296-6642.
Minnesota Statutes 299J.06

APPOINTING AUTHORITY: Commissioner of Public Safety. COMPENSATION: $55 per diem plus expenses.
VACANCY: One member: a representative of the gas pipeline industry.

The council advises the commissioner, director and other appropriate federal, state, and local government agencies and officials on matters relating to pipeline safety and operation. The council consists of nine members including one member from the hazardous liquid pipeline industry, one member from the gas pipeline industry, one member from personnel who design or construct pipelines, three members who are state or local government employees, and three members who are state residents unaffiliated with state or local government or the pipeline or utility industries.

MN BOARD OF CHIROPRACTIC EXAMINERS PEER REVIEW COMMITTEE
2700 University Ave. W., Suite 20, St. Paul 55114-1089. 612-642-0591.
Minnesota Statutes 148.01-148.106

APPOINTING AUTHORITY: Executive Director, State Board of Chiropractic Examiners. COMPENSATION: $55 per diem.
VACANCY: Two professional members: licensed Minnesota chiropractors.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DRIVER AND VEHICLE SERVICES DIVISION

In the Matter of the Proposed Permanent Rules of the State Department of Public Safety Relating to Disposition of Driver's License Following Non-Alcohol-Related Offenses

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING IF TWENTY-FIVE OR MORE PERSONS REQUEST A HEARING

NOTICE IS HEREBY GIVEN that the State Department of Public Safety intends to adopt the above-entitled rules without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the proposed rules is Minnesota Statutes, sections 65B.68, subdivision 1, 169.795, and 14.06.

All persons have 30 days, until 4:30 p.m., June 19, 1991, in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. Any requests or comments must be received by the Department of Public Safety no later than 4:30 p.m. on the final day of the comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20. **PLEASE NOTE: That if twenty-five or more persons submit written requests for a public hearing within the 30-day comment period, a hearing will be held on July 23, 1991, unless a sufficient number withdraw their request. The hearing will be in accordance with the notice of public hearing on these same rules published in this State Register and mailed to persons registered with the Department of Public Safety.** To verify whether a hearing will be held, please call the Department of Public Safety, Driver and Vehicle Services Division, on or after June 20, 1991, between the hours of 8:00 a.m. and 4:30 p.m. at (612)-296-2608.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Laura Nehl-Trueman, Department of Public Safety, 208 Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155, (612)-296-2608.

The proposed rules may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rules as noticed.

A free copy of these rules is available on request for your review from Laura Nehl-Trueman at the address and telephone number listed above.

(11) The proposed rules set forth existing departmental policy and practice with regard to driver's license withdrawal for non-alcohol-related vehicle offenses. The proposed rules address the revocation, suspension, and cancellation of a person's driver's license for violations of insurance laws under Minnesota Statutes, sections 65B.67, 169.791, and 169.792, for violations of traffic laws under Chapters 169 and 171, and for violations of other laws related to the operation of a motor vehicle. The proposed rules also address limited licenses and reinstatement procedures, as well as procedures for administrative review.

(12) **A Statement of Need and Reasonableness** that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Laura Nehl-Trueman upon request at the address and telephone number listed above.

(14) In preparing these rules, the Department has considered the requirements of Minnesota Statutes, section 14.115, in regard to the impact of the proposed rules on small businesses. The adoption of the rules will not directly affect small businesses. Insofar as there is an indirect effect upon a business caused by an employee's loss of driving privileges, the effect is outweighed by the department's need to keep the roads and highways safe. The department's evaluation of the small business requirements and of legislation which reduces the impact of license withdrawal on businesses is further addressed in the Statement of Need and Reasonableness.

(13) Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption of the rules nor have an impact on agricultural land under Minnesota Statutes, section 14.11. Minnesota Statutes, section 16A.128, subdivision 2a, does not apply because the rules do not fix any fees.

(9) If no hearing is required upon adoption of the rules, the rules and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rules, must submit the written request to: Laura Nehl-Trueman, Department of Public Safety, 208 Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155.

5-2-91
Date

Ralph Church, Commissioner
Department of Public Safety

In the Matter of the Proposed Permanent Rules of the State Department of Public Safety Relating to Disposition of Driver's License Following Non-Alcohol-Related Offenses

NOTICE OF HEARING AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Room 116A, Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, on Tuesday, July 23, 1991, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rules hearing process.

PLEASE NOTE, HOWEVER: that the hearing will be cancelled if fewer than twenty-five persons request a hearing in response to the notice of intent to adopt these same rules without a public hearing published in this State Register and mailed to persons registered with the Department of Public Safety. To verify whether a hearing will be held, please call the Department of Public Safety, Division of Driver and Vehicle Services, on or after June 20, 1991 between the hours of 8:00 a.m. and 4:30 p.m. at (612)-296-2608.

Following the Department's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to George Beck, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, MN 55415, telephone (612)-341-7601, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings.

Following the close of the comment period, the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. Any written material or responses must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the final day. The written responses shall be added to the rulemaking record. Upon the close of the record, the Administrative Law Judge will write a report as provided in Minnesota Statutes, sections 14.15 to 14.50. The rule hearing is governed by Minnesota Statutes, sections 14.14 to 14.20, and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The proposed rules set forth existing departmental policy and practice with regard to driver's license withdrawal for non-alcohol-related vehicle offenses. The proposed rules address the revocation, suspension, and cancellation of a person's driver's license for violations of insurance laws under Minnesota Statutes, sections 65B.67, 169.791, and 169.792, for violations of traffic laws under Chapters 169 and 171, and for violations of other laws related to the operation of a motor vehicle. The proposed rules also address limited licenses and reinstatement procedures, as well as procedures for administrative review.

The agency's statutory authority to adopt the proposed rules is Minnesota Statutes, sections 65B.68, subdivision 1, 169.795, and 14.06.

In preparing these rules, the Department has considered the requirements of Minnesota Statutes, section 14.115, in regard to the impact of the proposed rules on small businesses. The adoption of the rules will not directly affect small businesses. Insofar as there is an indirect effect upon a business caused by an employee's loss of driving privileges, the effect is outweighed by the department's need to keep the roads and highways safe. The department's evaluation of the small business requirements and of legislation which reduces the impact of license withdrawal on businesses is further addressed in the Statement of Need and Reasonableness.

Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption of the rules nor have an impact on agricultural land under Minnesota Statutes, section 14.11.

Copies of the proposed rules are now available and a free copy may be obtained by writing to or calling: Laura Nehl-Trueman, Department of Public Safety, 208 Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155, (612)-296-2608.

Additional copies will be available at the hearing. If you have any questions on the content of the rules contact Laura Nehl-Trueman at the address or telephone number listed above.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Department at any time prior to the filing of the rules with the Secretary of State.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the Department and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the Department anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the Department or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Lobbyists must register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612)-296-5148.

5-2-91
Date

Ralph Church, Commissioner
Department of Public Safety

(G)

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DRIVER AND VEHICLE SERVICES DIVISION

In the Matter of the Proposed Permanent Rules of the State Department of Public Safety Relating to Disposition of Driver's License Following Non-Alcohol-Related Offenses

AFFIDAVIT OF MAILING THE NOTICE OF PUBLIC HEARING

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

Brenda Klecker, being sworn says:

That on the thirteenth day of May, 1991, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, with postage prepaid, to all persons and associations on the Department of Public Safety rulemaking mailing list. The mailing list is attached.

Brenda Klecker
Brenda Klecker

Subscribed and sworn to before me this 15th day of May, 1991.

David E Orren
Notary Public

DAVID E. ORREN
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires May 4, 1992

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DRIVER AND VEHICLE SERVICES DIVISION

In the Matter of the Proposed Permanent Rules of the State Department of Public Safety Relating to Disposition of Driver's License Following Non-Alcohol-Related Offenses

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING AND NOTICE OF INTENT TO ADOPT RULES WITH A PUBLIC HEARING IF TWENTY-FIVE OR MORE PERSONS REQUEST A HEARING

NOTICE IS HEREBY GIVEN that the State Department of Public Safety intends to adopt the above-entitled rules without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the proposed rules is Minnesota Statutes, sections 65B.68, subdivision 1, 169.795, and 14.06.

All persons have 30 days, until 4:30 p.m., June 19, 1991, in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. Any requests or comments must be received by the Department of Public Safety no later than 4:30 p.m. on the final day of the comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20. **PLEASE NOTE: That if twenty-five or more persons submit written requests for a public hearing within the 30-day comment period, a hearing will be held on July 23, 1991, unless a sufficient number withdraw their request. The hearing will be in accordance with the notice of public hearing on these same rules published in this State Register and mailed to persons registered with the Department of Public Safety.** To verify whether a hearing will be held, please call the Department of Public Safety, Driver and Vehicle Services Division, on or after June 20, 1991, between the hours of 8:00 a.m. and 4:30 p.m. at (612)-296-2608.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Laura Nehl-Trueman, Department of Public Safety, 208 Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155, (612)-296-2608.

The proposed rules may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rules as noticed.

A free copy of these rules is available on request for your review from Laura Nehl-Trueman at the address and telephone number listed above.

The proposed rules set forth existing departmental policy and practice with regard to driver's license withdrawal for non-alcohol-related vehicle offenses. The proposed rules address the revocation, suspension, and cancellation of a person's driver's license for violations of insurance laws under Minnesota Statutes, sections 65B.67, 169.791, and 169.792, for violations of traffic laws under Chapters 169 and 171, and for violations of other laws related to the operation of a motor vehicle. The proposed rules also address limited licenses and reinstatement procedures, as well as procedures for administrative review.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Laura Nehl-Trueman upon request at the address and telephone number listed above.

In preparing these rules, the Department has considered the requirements of Minnesota Statutes, section 14.115, in regard to the impact of the proposed rules on small businesses. The adoption of the rules will not directly affect small businesses. Insofar as there is an indirect effect upon a business caused by an employee's loss of driving privileges, the effect is outweighed by the department's need to keep the roads and highways safe. The department's evaluation of the small business requirements and of legislation which reduces the impact of license withdrawal on businesses is further addressed in the Statement of Need and Reasonableness.

Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption of the rules nor have an impact on agricultural land under Minnesota Statutes, section 14.11. Minnesota Statutes, section 16A.128, subdivision 2a, does not apply because the rules do not fix any fees.

If no hearing is required upon adoption of the rules, the rules and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rules, must submit the written request to: Laura Nehl-Trueman, Department of Public Safety, 208 Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155.

5-2-91
Date

Ralph Church, Commissioner
Department of Public Safety

In the Matter of the Proposed Permanent Rules of the State Department of Public Safety Relating to Disposition of Driver's License Following Non-Alcohol-Related Offenses

NOTICE OF HEARING AND NOTICE OF INTENT TO CANCEL HEARING IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Room 116A, Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, on Tuesday, July 23, 1991, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rules hearing process.

PLEASE NOTE, HOWEVER: that the hearing will be cancelled if fewer than twenty-five persons request a hearing in response to the notice of intent to adopt these same rules without a public hearing published in this State Register and mailed to persons registered with the Department of Public Safety. To verify whether a hearing will be held, please call the Department of Public Safety, Division of Driver and Vehicle Services, on or after June 20, 1991 between the hours of 8:00 a.m. and 4:30 p.m. at (612)-296-2608.

Following the Department's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to George Beck, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, MN 55415, telephone (612)-341-7601, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings.

Following the close of the comment period, the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. Any written material or responses must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the final day. The written responses shall be added to the rulemaking record. Upon the close of the record, the Administrative Law Judge will write a report as provided in Minnesota Statutes, sections 14.15 to 14.50. The rule hearing is governed by Minnesota Statutes, sections 14.14 to 14.20, and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The proposed rules set forth existing departmental policy and practice with regard to driver's license withdrawal for non-alcohol-related vehicle offenses. The proposed rules address the revocation, suspension, and cancellation of a person's driver's license for violations of insurance laws under Minnesota Statutes, sections 65B.67, 169.791, and 169.792, for violations of traffic laws under Chapters 169 and 171, and for violations of other laws related to the operation of a motor vehicle. The proposed rules also address limited licenses and reinstatement procedures, as well as procedures for administrative review.

The agency's statutory authority to adopt the proposed rules is Minnesota Statutes, sections 65B.68, subdivision 1, 169.795, and 14.06.

In preparing these rules, the Department has considered the requirements of Minnesota Statutes, section 14.115, in regard to the impact of the proposed rules on small businesses. The adoption of the rules will not directly affect small businesses. Insofar as there is an indirect effect upon a business caused by an employee's loss of driving privileges, the effect is outweighed by the department's need to keep the roads and highways safe. The department's evaluation of the small business requirements and of legislation which reduces the impact of license withdrawal on businesses is further addressed in the Statement of Need and Reasonableness.

Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption of the rules nor have an impact on agricultural land under Minnesota Statutes, section 14.11.

Copies of the proposed rules are now available and a free copy may be obtained by writing to or calling: Laura Nehl-Trueman, Department of Public Safety, 208 Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155, (612)-296-2608.

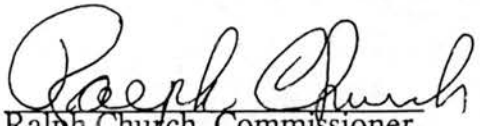
Additional copies will be available at the hearing. If you have any questions on the content of the rules contact Laura Nehl-Trueman at the address or telephone number listed above.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Department at any time prior to the filing of the rules with the Secretary of State.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the Department and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the Department anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the Department or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Lobbyists must register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612)-296-5148.

5-2-91
Date



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STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DRIVER AND VEHICLE SERVICES DIVISION

In the Matter of the Proposed Permanent Rules of the State Department of Public Safety Relating to Disposition of Driver's License Following Non-Alcohol-Related Offenses

AFFIDAVIT OF CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

Joan Lundberg, being sworn says:

I hereby certify that the attached list is of persons and associations who have requested that their names be placed on the Department of Public Safety rulemaking mailing list, pursuant to Minnesota Statutes, sections 14.14, subdivision 1a, 14.22, or 14.30. I certify that this list is accurate, complete, and current as of the thirteenth day of May, 1991.

Joan Lundberg
Joan Lundberg

Subscribed and sworn to before me this 15th day of May, 19 91.

David E Orren
Notary Public

DAVID E. ORREN
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Expires May 4, 1992

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No person shall engage in brawling or fighting, or use offensive, obscene, or abusive language, or engage in boisterous and noisy conduct tending reasonably to arouse alarm, anger, or resentment in others.

A person's possession and use of drugs shall be in accordance with state laws.

6100.1610 SWIMMING AT STATE FOREST CAMPGROUNDS OR STATE FOREST DAY USE AREAS.

It is unlawful to swim in or enter any area where posted to prohibit entry. It is unlawful in any area where swimming is permitted, including designated beaches, to:

A. allow any dog or other pet to enter the water with swimmers;

B. enter the water before sunrise or after sunset;

C. engage in any activity which is hazardous and could cause injury to others; or

D. use any soap, detergent, or shampoo.

In addition to items A to D, it is unlawful to possess glass containers; to enter with any boat, canoe, or raft; fish; or change clothes except in a facility designated for that use, where a facility is provided.

Department of Public Safety

Driver and Vehicle Services Division

Proposed Permanent Rules Relating to Disposition of Driver's License Following Non-Alcohol-Related Vehicle Offenses

Notice of Intent to Adopt Rules Without a Public Hearing and Notice of Intent to Adopt Rules With a Public Hearing If Twenty-five or More Persons Request a Hearing

NOTICE IS HEREBY GIVEN that the State Department of Public Safety intends to adopt the above-entitled rules without a public hearing following the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the proposed rules is *Minnesota Statutes*, sections 65B.68, subdivision 1, 169.795, and 14.06.

All persons have 30 days, until 4:30 p.m., June 19, 1991, in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. Any requests or comments must be received by the Department of Public Safety no later than 4:30 p.m. on the final day of the comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20. **PLEASE NOTE: That if twenty-five or more persons submit written requests for a public hearing within the 30-day comment period, a hearing will be held on July 23, 1991, unless a sufficient number withdraw their request. The hearing will be in accordance with the notice of pubic hearing on these same rules published in this *State Register* and mailed to persons registered with the Department of Public Safety.** To verify whether a hearing will be held, please call the Department of Public Safety, Driver and Vehicle Services Division, on or after June 20, 1991, between the hours of 8:00 a.m. and 4:30 p.m. at (612) 296-2608.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to: Laura Nehl-Trueman, Department of Public Safety, 208 Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155, (612) 296-2608.

The proposed rules may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rules as noticed.

A free copy of these rules is available on request for your review from Laura Nehl-Trueman at the address and telephone number listed above.

The proposed rules set forth existing departmental policy and practice with regard to driver's license withdrawal for non-alcohol-related vehicle offenses. The proposed rules address the revocation, suspension, and cancellation of a person's driver's license for violations of insurance laws under *Minnesota Statutes*, sections 65B.67, 169.791, and 169.792, for violations of traffic laws under Chapters 169 and 171, and for violations of other laws related to the operation of a motor vehicle. The proposed rules also address limited licenses and reinstatement procedures, as well as procedures for administrative review.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Laura Nehl-Trueman upon request at the address and telephone number listed above.

In preparing these rules, the Department has considered the requirements of *Minnesota Statutes*, section 14.115, in regard to the impact of the proposed rules on small businesses. The adoption of the rules will not directly affect small businesses. Insofar as there is an indirect effect upon a business caused by an employee's loss of driving privileges, the effect is outweighed by the department's need to keep the roads and highways safe. The department's evaluation of the small business requirements and of legislation which reduces the impact of license withdrawal on businesses is further addressed in the Statement of Need and Reasonableness.

Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption of the rules nor have an impact on agricultural land under *Minnesota Statutes*, section 14.11. *Minnesota Statutes*, section 16A.128, subdivision 2a, does not apply because the rules do not fix any fees.

If no hearing is required upon adoption of the rules, the rules and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. 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 adopted rules, must submit the written request to: Laura Nehl-Trueman, Department of Public Safety, 208 Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155.

Dated: 2 May 1991

Ralph Church, Commissioner
Department of Public Safety

Notice of Hearing and Notice of Intent to Cancel Hearing If Fewer Than Twenty-five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Room 116A, Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, on Tuesday, July 23, 1991, commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rules hearing process.

PLEASE NOTE, HOWEVER: that the hearing will be cancelled if fewer than twenty-five persons request a hearing in response to the notice of intent to adopt these same rules without a public hearing published in this *State Register* and mailed to persons registered with the Department of Public Safety. To verify whether a hearing will be held, please call the Department of Public Safety, Division of Driver and Vehicle Services, on or after June 20, 1991 between the hours of 8:00 a.m. and 4:30 p.m. at (612) 296-2608.

Following the Department's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to George Beck, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, MN 55415, telephone (612) 341-7601, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings.

Following the close of the comment period, the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. Any written material or responses must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the final day. The written responses shall be added to the rulemaking record. Upon the close of the record, the Administrative Law Judge will write a report as provided in *Minnesota Statutes*, sections 14.15 to 14.50. The rule hearing is governed by *Minnesota Statutes*, sections 14.14 to 14.20, and by *Minnesota Rules*, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The proposed rules set forth existing departmental policy and practice with regard to driver's license withdrawal for non-alcohol-

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related vehicle offenses. The proposed rules address the revocation, suspension, and cancellation of a person's driver's license for violations of insurance laws under *Minnesota Statutes*, sections 65B.67, 169.791, and 169.792, for violations of traffic laws under Chapters 169 and 171, and for violations of other laws related to the operation of a motor vehicle. The proposed rules also address limited licenses and reinstatement procedures, as well as procedures for administrative review.

The agency's statutory authority to adopt the proposed rules is *Minnesota Statutes*, sections 65B.68, subdivision 1, 169.795, and 14.06.

In preparing these rules, the Department has considered the requirements of *Minnesota Statutes*, section 14.115, in regard to the impact of the proposed rules on small businesses. The adoption of the rules will not directly affect small businesses. Insofar as there is an indirect effect upon a business caused by an employee's loss of driving privileges, the effect is outweighed by the department's need to keep the roads and highways safe. The department's evaluation of the small business requirements and of legislation which reduces the impact of license withdrawal on businesses is further addressed in the Statement of Need and Reasonableness.

Adoption of these rules will not result in additional spending by local public bodies in excess of $100,000 per year for the first two years following adoption of the rules nor have an impact on agricultural land under *Minnesota Statutes*, section 14.11.

Copies of the proposed rules are now available and a free copy may be obtained by writing to or calling: Laura Nehl-Trueman, Department of Public Safety, 208 Transportation Building, 395 John Ireland Boulevard, St. Paul, Minnesota 55155, (612) 296-2608.

Additional copies will be available at the hearing. If you have any questions on the content of the rules contact Laura Nehl-Trueman at the address or telephone number listed above.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the Department at any time prior to the filing of the rules with the Secretary of State.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the Department and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the Department anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the Department or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Lobbyists must register with the State Ethical Practices Board. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101-2520, telephone (612) 296-5148.

Dated: 2 May 1991

Ralph Church, Commissioner
Department of Public Safety

Rules as Proposed

7409.0100 DEFINITIONS.

[For text of subpart 1, see 15 SR 1675]

Subp. 1a. **Cancellation.** "Cancellation" means the commissioner's rescission of a person's driver's license for which the person must meet the requirements of part 7409.4300 for reinstatement of the person's driver's license.

Subp. 1b. **Certificate of insurance.** "Certificate of insurance" means a letter, a signed policy of vehicle liability insurance as required by *Minnesota Statutes*, section 65B.48, or a completed insurance certificate form from the authorized representative of the insurance carrier authorized to do business in the state stating that the vehicle will be covered by a plan of reparation security as required by *Minnesota Statutes*, section 65B.48, for one calendar year or that the operator will be covered by a plan of reparation security for a period of six months.

[For text of subps 2 to 6, see 15 SR 1675]

Subp. 6a. **Driver improvement clinic.** "Driver improvement clinic" has the meaning given in *Minnesota Statutes*, section 171.20, subdivision 3.

[For text of subp 7, see 15 SR 1675]

Subp. 7a. **Owner.** "Owner" has the meaning given in *Minnesota Statutes*, section 65B.43, subdivision 4.

Subp. 7b. **Personal injury.** "Personal injury" means a class A, incapacitating injury, other than a fatal injury, that prevents the injured person from walking, driving, or normally continuing the activities the person was capable of performing before the injury occurred, such as a severe laceration, broken or distorted limb, or skull, chest, or abdominal injury.

Subp. 7c. **Plan of reparation security.** "Plan of reparation security" has the meaning given in *Minnesota Statutes*, section 65B.43, subdivision 15.

Subp. 7d. **Proof of insurance.** "Proof of insurance" has the meaning given in *Minnesota Statutes*, section 169.791, subdivision 1.

Subp. 8. **Revocation.** "Revocation" means the commissioner's ~~withdrawal~~ rescission of a person's driver's license ~~and privilege to drive in this state~~ for a specific minimum period of time under *Minnesota Statutes*, section ~~169.121, 169.123,~~ 65B.67, 169.792, 171.165, or 171.17, for which the person must meet the requirements of part 7409.0600, 7409.3800, 7409.4000, or 7409.4100 for reinstatement of the person's driver's license.

Subp. 8a. **Sufficient cause to believe.** "Sufficient cause to believe" means grounds put forth in good faith, which are not arbitrary, irrational, unreasonable, or irrelevant, and that make the proposition asserted more likely than not, provided the grounds are based on at least one of the following sources:

A. written information from an identified person;

B. facts or statements by the applicant or driver;

C. driver's license and accident records;

D. court documents and police records; or

E. facts of which the commissioner or a department employee has personal knowledge.

Subp. 9. **Suspension.** "Suspension" means the commissioner's temporary ~~withdrawal~~ removal of a person's driver's license ~~and privilege to drive in this state~~ under *Minnesota Statutes*, section ~~169.121, subdivision 8,~~ 65B.67, subdivision 4a, 171.09, or 171.18 for which the person must meet the requirements of part 7409.3900 or 7409.4200 for reinstatement of the person's driver's license.

Subp. 10. **Withdrawal or withdrawn.** "Withdrawal" or "withdrawn" means the suspension, revocation, or cancellation of a person's driver's license.

Subp. 11. **Withdrawal period.** "Withdrawal period" means the time after a license withdrawal during which the person's driving privilege has been withdrawn and has not been reinstated.

REVOCATION

7409.1000 CRIMINAL VEHICULAR HOMICIDE AND INJURY OR MANSLAUGHTER.

The commissioner shall revoke the driver's license of a person upon receiving a record of conviction, for a period of:

A. five years, if the person is convicted under:

(1) *Minnesota Statutes*, section 609.21, subdivision 1, clause (1), or subdivision 3, clause (1);

(2) *Minnesota Statutes*, section 609.20, manslaughter in the first degree, resulting from the operation of a motor vehicle; or

(3) *Minnesota Statutes*, section 609.205, manslaughter in the second degree, resulting from the operation of a motor vehicle; or

B. three years, if the person is convicted under *Minnesota Statutes*, section 609.21, subdivision 2, clause (1); subdivision 2a, clause (1); or subdivision 4, clause (1).

7409.1100 FLEEING FROM PEACE OFFICER.

The commissioner shall revoke the driver's license of a person upon receiving a record of conviction, for a period of:

A. 90 days, if the person is convicted under *Minnesota Statutes*, section 609.487, subdivision 3;

B. 180 days, if the person is convicted under *Minnesota Statutes*, section 609.487, subdivision 4, clause (b) or (c); or

C. one year, if the person is convicted under *Minnesota Statutes*, section 609.487, subdivision 4, clause (a).

7409.1200 FELONY WITH MOTOR VEHICLE.

The commissioner shall revoke the driver's license of a person for a period of 180 days upon receiving a record of conviction of a felony in the commission of which a motor vehicle was used.

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7409.1300 LEAVING SCENE OF ACCIDENT.

The commissioner shall revoke the driver's license of a person upon receiving a record of conviction under *Minnesota Statutes*, section 169.09, for failure to stop and disclose identity and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another, for a period of:

A. 180 days, if the accident upon which the conviction is based resulted in personal injury to another person; or

B. one year, if the accident upon which the conviction is based resulted in the death of another person.

7409.1400 PERJURY, FALSE AFFIDAVIT OR STATEMENT.

The commissioner shall revoke the driver's license of a person for a period of 180 days, upon receiving a record of conviction for perjury or the making of a false affidavit or statement to the department under any law relating to the ownership or operation of a motor vehicle.

7409.1500 MULTIPLE MISDEMEANOR AND GROSS MISDEMEANOR OFFENSES.

The commissioner shall revoke the driver's license of a person upon receiving a record of a certified misdemeanor or gross misdemeanor conviction under *Minnesota Statutes*, chapter 169, for a period of:

A. 30 days, if the person has been convicted of three misdemeanor or gross misdemeanor offenses under that chapter within a 12-month period;

B. 90 days, if the person has been convicted of four misdemeanor or gross misdemeanor offenses under that chapter within a 12-month period; or

C. one year, if the person has been convicted of five or more misdemeanor or gross misdemeanor offenses under that chapter within a 12-month period.

7409.1600 INSURANCE-RELATED OFFENSES.

Subpart 1. **Failure to maintain insurance.** The commissioner shall revoke the driver's license of a person upon receiving a record of conviction under *Minnesota Statutes*, section 65B.67, for operating an uninsured vehicle, for a period of:

A. 30 days, if the person has no other convictions under *Minnesota Statutes*, section 65B.67, within a five-year period;

B. 90 days, if the person has been convicted two times under *Minnesota Statutes*, section 65B.67, within a five-year period;

C. 180 days, if the person has been convicted three times under *Minnesota Statutes*, section 65B.67, within a five-year period; or

D. one year, if the person has been convicted four or more times under *Minnesota Statutes*, section 65B.67, within a five-year period.

Subp. 2. **Failure to produce proof of insurance.** The commissioner shall revoke the driver's license of a person who fails to produce proof of insurance under *Minnesota Statutes*, section 169.792. The revocation period is 30 days or until the person files proof of insurance, whichever period is longer.

SUSPENSION

7409.2000 CRIMINAL VEHICULAR HOMICIDE AND INJURY OR MANSLAUGHTER.

Subpart 1. **Record of criminal charge.** The commissioner shall suspend the driver's license of a person upon receiving a record of a criminal charge for criminal vehicular homicide and injury or manslaughter arising out of the operation of a motor vehicle. The license must be suspended for a period of not more than one year.

Subp. 2. **Dismissal or acquittal.** If the commissioner receives notice that the criminal charge was dismissed or that the person was acquitted of the criminal charge, the commissioner shall terminate the suspension period.

Subp. 3. **Converted to revocation.** If the person is later convicted of criminal vehicular homicide and injury or manslaughter, then the commissioner shall convert the suspension to a revocation. Time accrued under the suspension period must be credited toward the revocation period imposed upon conviction of criminal vehicular homicide and injury or manslaughter.

7409.2100 VIOLATION RESULTING IN FATALITY OR PERSONAL INJURY.

The commissioner shall suspend the driver's license of a person upon receiving a record of conviction under *Minnesota Statutes*, chapter 169 or an ordinance regulating traffic, except traffic laws specifically excluded from the driving record by statute, when it appears from the department records that the violation for which the person was convicted contributed in causing an accident resulting in the death or class A personal injury of another. The driver's license must be suspended for a period of:

A. 90 days, if the violation upon which the conviction was based resulted in the personal injury of another person;

B. 180 days, if the violation upon which the conviction was based resulted in the death of another person; or

C. as recommended by the court, when made in connection with the prosecution of the licensee.

7409.2200 HABITUAL VIOLATORS.

Subpart 1. **In general.** The commissioner shall suspend the driver's license of a person upon receiving a record of conviction for a violation of a traffic law under *Minnesota Statutes*, chapter 169 or 171, or other statutes regulating the operation of motor vehicles on streets or highways, except traffic laws specifically excluded from the driving record by statute. The driver's license must be suspended for a period of:

A. 30 days, if the commissioner has previously sent a violation warning letter to the person and the person is convicted of:

(1) four traffic offenses within a 12-month period; or

(2) five traffic offenses within a 24-month period;

B. 90 days, if the person is convicted of:

(1) five traffic offenses within a 12-month period; or

(2) six traffic offenses within a 24-month period;

C. 180 days, if the person is convicted of seven traffic offenses within a 24-month period; or

D. one year, if the person is convicted of eight or more traffic offenses within a 24-month period.

The commissioner shall send a warning letter or conduct a preliminary hearing under part 7409.4500 if the person is convicted of two misdemeanors or convicted of three or more traffic offenses, under this subpart, occurring within a 24-month period.

The warning letter must be sent by first class mail to the person's last known address or to the address listed on the person's driver's license, informing the person of the number and type of traffic violations on the person's driving record and the consequences of additional traffic violations.

Subp. 2. **License, permit, and endorsement violations.** The commissioner shall suspend the driver's license of a person for a period of 30 days upon receiving a record of conviction of two or more violations of *Minnesota Statutes*, section 169.974, subdivision 2; 171.02; 171.05; or 171.321, if the two violations are more than 60 days apart.

Subp. 3. **Limited license violations.** The commissioner shall suspend the driver's license of a person upon receiving a record of conviction for violating a condition or limitation of a limited license under *Minnesota Statutes*, section 171.30, for a period of:

A. 30 days, if the person has no other convictions under that section within a five-year period;

B. 90 days, if the person has been convicted two times under that section within a five-year period;

C. 180 days, if the person has been convicted three times under that section within a five-year period; or

D. one year, if the person has been convicted four or more times under that section within a five-year period.

Subp. 4. **Driving after withdrawal.** The commissioner shall suspend the driver's license of a person upon receiving a record of conviction of a traffic law under *Minnesota Statutes*, chapter 169, 171, or other statutes regulating the operation of motor vehicles on streets or highways, except traffic laws specifically excluded from the driving record by statute, committed while the person was driving under a period of withdrawal. The driver's license must be suspended for a period of:

A. 30 days, if the person has no other incidents of driving after withdrawal within a five-year period;

B. 90 days, if the person has two incidents of driving after withdrawal within a five-year period;

C. 180 days, if the person has three violations of driving after withdrawal within a five-year period; or

D. one year, if the person has four or more violations of driving after withdrawal within a five-year period.

7409.2300 MISUSE OF LICENSE.

Except as otherwise provided in *Minnesota Statutes*, section 171.171, the commissioner shall suspend the driver's license of a person upon receiving a record of conviction under *Minnesota Statutes*, section 171.22, for a period of:

A. 90 days, if the person has no other convictions under that section within a five-year period; or

B. 180 days if the person has been convicted two or more times under that section within a five-year period.

7409.2400 FAILURE TO MAINTAIN INSURANCE.

Subpart 1. **Authority; suspension periods.** Under *Minnesota Statutes*, section 65B.67, subdivision 4a, the commissioner shall

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suspend the driver's license of an operator upon a showing by department records, including accident reports or other sufficient evidence, that a plan of reparation security had not been provided and maintained at the time of the incident. The driver's license must be suspended for a period of:

A. 30 days, if the operator's driver's license has not been withdrawn under *Minnesota Statutes*, section 65B.67, within a five-year period;

B. 90 days, if the operator's driver's license has been withdrawn once under *Minnesota Statutes*, section 65B.67, within a five-year period;

C. 180 days, if the operator's driver's license has been withdrawn twice under *Minnesota Statutes*, section 65B.67, within a five-year period; or

D. one year, if the operator's driver's license has been withdrawn three or more times under *Minnesota Statutes*, section 65B.67, within a five-year period.

Subp. 2. **Converted to revocation.** If a person is later convicted under *Minnesota Statutes*, section 65B.67, subdivision 4, paragraph (b), for the same offense, then the commissioner shall convert the suspension imposed under this part to a revocation under part 7409.1600, subpart 1.

Subp. 3. **Suspension time credited to revocation period.** Time accrued under the suspension period in this part must be credited toward the revocation period imposed upon conviction under *Minnesota Statutes*, section 65B.67, subdivision 4, paragraph (b).

CANCELLATION

7409.2800 CANCELLATION; GROUNDS.

The commissioner shall cancel the driver's license of a person on determining that the person:

A. was not entitled to be issued a driver's license;

B. has failed to give the required or correct information in the application for a driver's license;

C. has committed a fraud or deceit in applying for a driver's license;

D. at the time of cancellation, would not have been entitled to receive a license under *Minnesota Statutes*, section 171.04; or

E. has failed to submit to an examination under *Minnesota Statutes*, section 171.13.

WITHDRAWAL PERIODS, ACTION; LICENSE SURRENDER

7409.3000 MULTIPLE LICENSE WITHDRAWALS.

Subpart 1. **Consecutive, generally.** When a person is subject to more than one withdrawal period under this chapter, the withdrawal periods shall run consecutively, except as otherwise provided in this part.

Subp. 2. **Concurrent.** Withdrawal periods imposed under chapter 7503 run concurrently with withdrawal periods imposed under this chapter when the withdrawal periods arise from the same incident.

Subp. 3. **Vehicular liability violations.** Withdrawal periods imposed for vehicular liability violations under parts 7409.1600 and 7409.2400 run concurrently with other withdrawal periods arising from the same incident. Vehicular liability violations under parts 7409.1600 and 7409.2400 not arising from the same incident, run consecutively with each other and with other withdrawal periods that have been imposed under this chapter.

Subp. 4. **Suspension periods.** Suspension periods imposed under part 7409.2200, subpart 1, shall run concurrently with revocation periods imposed under part 7409.1500 when the withdrawal periods arise from the same incident. The total period of withdrawal must not exceed the longer of the two withdrawal periods.

Subp. 5. **Court order.** Withdrawal periods imposed by a court order run concurrently with other withdrawal periods imposed under this chapter, unless otherwise ordered by the court.

Subp. 6. **Total suspension period.** The total suspension period must not exceed one year unless otherwise recommended by a court.

7409.3100 DRIVING INCIDENTS OUT OF STATE; WITHDRAWAL.

Upon receiving a record of conviction, the commissioner shall impose the same period of withdrawal of a person's driving privilege if a person commits or is convicted of an offense in another state that, if committed in this state, would be grounds for the withdrawal of the driving privilege.

7409.3200 NOTICE OF WITHDRAWAL ACTION.

The commissioner shall notify a person whose driver's license is subject to withdrawal or has been withdrawn. The notification must be in writing and be personally served or sent by first class mail to the person's last known address or the address listed on the

person's driver's license. The notice shall contain the reason for withdrawal, the length of withdrawal, and the requirements for reinstatement of the person's driver's license. The commissioner shall place the notices sent by first class mail on the department's certified mailing list.

7409.3400 DRIVER'S LICENSE SURRENDER.

Subpart 1. **License surrender.** A person holding a license of any class issued by the department shall surrender the license when the person's driver's license has been revoked, suspended, or canceled. If the license subject to surrender has been lost, stolen, or destroyed, an affidavit or written statement explaining the loss must be submitted in its place. Affidavit forms must be available at the department driver examination and evaluation offices, where the person may surrender the withdrawn license or submit the affidavit or written statement.

Subp. 2. **Refusal to surrender license.** If a person fails or refuses to surrender a license following suspension, revocation, or cancellation within 30 days of notice under part 7409.3200, the commissioner shall inform the local law enforcement agency. The department shall request that the agency obtain the license or written statement regarding the license's whereabouts. The suspension, revocation, or cancellation period is in effect upon notifying the licensee, but credit must not be given toward the suspension, revocation, or cancellation period until the license is surrendered.

LIMITED LICENSE

7409.3600 LIMITED LICENSE.

The commissioner shall issue a limited license following a revocation or suspension under *Minnesota Statutes*, section 169.792, 171.17, or 171.18, when the person has met the following conditions:

A. the person has demonstrated a need and has met the requirements for a limited license under *Minnesota Statutes*, section 171.30;

B. the person has paid the reinstatement fee required by statute;

C. the person has surrendered the license issued by the department, as required by *Minnesota Statutes*, section 171.20;

D. the person has passed the driver's license examination, has applied for a new license, and has paid the application fee for the class of license involved, as required for issuing an original license, if the person's driver's license was revoked other than under *Minnesota Statutes*, section 169.792;

E. one-half of the revocation or suspension period has expired, if the person has been issued a limited license within the previous 12 months;

F. the person requests a limited license by written correspondence, by personal appearance at the department, or by telephone if the person resides outside the seven-county metropolitan area; and

G. the person has fulfilled all outstanding requirements for all other driver's license withdrawals.

REINSTATEMENT

7409.3800 REINSTATEMENT AFTER INSURANCE-RELATED REVOCATION; 65B.67, SUBD. 4.

The commissioner shall reinstate the driver's license of a person whose license has been revoked under *Minnesota Statutes*, section 65B.67, subdivision 4, paragraph (b), when the operator has met the reinstatement conditions listed under part 7409.4100 and the operator files with the commissioner:

A. if the operator is also the owner of the vehicle involved in the incident, a certificate of insurance for:

(1) the vehicle cited on the traffic citation; or

(2) if no vehicle is cited on the traffic citation or if the vehicle has been sold or junked, the vehicle currently being operated;

B. if the operator is not the owner of the vehicle involved in the incident, a certificate of insurance for the vehicle owned and currently being operated; or

C. if the operator is not the owner of the vehicle involved in the incident and the operator does not own a vehicle, a certificate of insurance for a nonowner operator policy or a certificate of insurance verifying the operator is a named insured.

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.

7409.3900 REINSTATEMENT AFTER INSURANCE-RELATED SUSPENSION; 65B.67, SUBD. 4A.

The commissioner shall reinstate the driver's license of a person whose license has been suspended under *Minnesota Statutes*, section 65B.67, subdivision 4a, when the operator has met the reinstatement conditions listed under part 7409.4200 and:

A. if the person's driver's license has not been withdrawn under *Minnesota Statutes*, section 65B.67, within a five-year period, the operator provides the commissioner with verifiable insurance information, including the name of the insurance company, the insurance policy number, and the name of the policyholder for:

(1) the vehicle cited, as shown on department records, or if no vehicle is shown on department records as being cited or if the vehicle has been sold or junked, the vehicle currently being operated if the operator was also the owner of the vehicle involved in the incident; or

(2) the vehicle owned and currently being operated, if the operator is not the owner of the vehicle involved in the incident and the operator knew or had reason to know that the vehicle did not have a plan of reparation security complying with the terms of *Minnesota Statutes*, section 65B.48; or

B. if the person's driver's license has been withdrawn two or more times under *Minnesota Statutes*, section 65B.67, within a five-year period, the operator provides the commissioner with a certificate of insurance for:

(1) the vehicle cited, as shown on department records, or if no vehicle is shown on department records as being cited or if the vehicle has been sold or junked, the vehicle currently being operated if the operator was also the owner of the vehicle involved in the incident; or

(2) the vehicle owned and currently being operated, if the operator is not the owner of the vehicle involved in the incident and the operator knew or had reason to know that the vehicle involved in the incident did not have a plan of reparation security complying with the terms of *Minnesota Statutes*, section 65B.48.

7409.4000 REINSTATEMENT AFTER INSURANCE-RELATED REVOCATION; 169.792.

The commissioner shall reinstate the driver's license of a person whose license has been revoked under *Minnesota Statutes*, section 169.792, when the driver has met the reinstatement requirements under part 7409.4100, items A to D, and the driver or owner files with the commissioner:

A. if the driver is also the owner of the vehicle involved in the incident, proof of insurance for:

(1) the vehicle operated at the time of the incident; or

(2) the vehicle currently being operated, if no vehicle is cited on the "no proof of insurance" report or if the vehicle involved in the incident has been sold or junked;

B. if the driver is not the owner of the vehicle involved in the incident, proof of insurance for a vehicle owned and currently being operated by the driver; or

C. if the driver does not own a vehicle, a nonowner operator policy or proof of insurance verifying that the person is a named insured.

7409.4100 REINSTATEMENT AFTER REVOCATION, GENERALLY.

Except as provided in parts 7409.3800 and 7409.4000, the commissioner shall reinstate the driver's license of a person whose license is revoked when the following conditions have been satisfied:

A. the revocation period has expired;

B. no withdrawal of the person's driver's license is outstanding;

C. the person has paid the reinstatement fee as required by statute;

D. the person's driver's license was surrendered under *Minnesota Statutes*, section 171.20; and

E. the person applied for a new license, paid the application fee for the class of license involved, and has passed the driver's license examination, as required for issuing an original license.

7409.4200 REINSTATEMENT AFTER SUSPENSION, GENERALLY.

Except as provided in part 7409.3900, the commissioner shall reinstate the driver's license of a person whose driver's license is suspended when the following conditions have been satisfied:

A. the suspension period has expired or the person has satisfied the requirements of suspension;

B. no withdrawal of the person's driver's license is outstanding;

C. the person has paid the suspension reinstatement fee as required by statute; and

D. the person's driver's license was surrendered under *Minnesota Statutes*, section 171.20.

7409.4300 REINSTATEMENT AFTER CANCELLATION.

The commissioner shall reinstate the driver's license of a person whose license is canceled when the following conditions have been satisfied:

A. no withdrawal of the person's license is outstanding;

B. the person's driver's license was surrendered under *Minnesota Statutes*, section 171.20;

C. the person has applied for a new license, has paid the application fee for the class of license involved, and has passed the driver's license examination, as required for issuing an original license; and

D. the person is otherwise eligible for a driver's license under *Minnesota Statutes*.

HEARINGS

7409.4500 PRELIMINARY HEARING.

Subpart 1. **Preliminary hearing required.** The commissioner shall require a person to attend a preliminary hearing when the commissioner has sufficient cause to believe that the person:

A. has committed a violation under *Minnesota Statutes*, section 171.22, for an unlawful or fraudulent act regarding a driver's license or Minnesota identification card;

B. has committed a second violation under *Minnesota Statutes*, section 171.09, for a violation of a restriction imposed on the person's driver's license;

C. has committed a violation under *Minnesota Statutes*, section 171.30, of a condition or limitation of a limited license; or

D. was not previously sent a warning letter under part 7409.2200, subpart 1, and is convicted of:

(1) two misdemeanor traffic offenses within a 12-month period;

(2) four traffic offenses within a 12-month period; or

(3) five traffic offenses within a 24-month period.

Subp. 2. **Scope of review.** The commissioner shall review the evidence upon which the preliminary hearing was based, and any other material information brought to the attention of the commissioner.

The commissioner may seek additional information from the person undergoing the preliminary hearing or from an agency or person believed to have information relating to the facts underlying the preliminary hearing. The person required to undergo a preliminary hearing may present additional information to the commissioner at the hearing.

Subp. 3. **Suspension period.** If, after reviewing the evidence presented at the preliminary hearing, the commissioner has sufficient cause to believe that the person has committed an offense listed in subpart 1, the commissioner shall suspend the driver's license of the person for a minimum period of 30 days or in accordance with the number of traffic convictions accumulated, as set forth in part 7409.2200, subpart 1, unless the person agrees to enter into a driver improvement agreement, as set forth in part 7409.4600, subpart 5.

Subp. 4. **Failure to attend preliminary hearing.** The commissioner shall suspend the driver's license of a person who fails to attend a preliminary hearing for a minimum period of 30 days or in accordance with the number of traffic convictions accumulated, as set forth in part 7409.2200, subpart 1.

Subp. 5. **Notice of preliminary hearing.** The commissioner shall send a notice to the person who is required to attend a preliminary hearing by first class mail to the person's last known address or to the address listed on the person's driver's license informing the person:

A. the reason for the preliminary hearing;

B. of the time, date, and place of the hearing and, if necessary, instructions to reschedule the hearing; and

C. that failure to attend the hearing will result in suspension of the person's driver's license.

7409.4600 ADMINISTRATIVE HEARING.

Subpart 1. **Right to hearing.** The commissioner shall grant a hearing to a person whose driver's license has been withdrawn or is subject to withdrawal.

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.

Subp. 2. **Procedure for requesting hearing.** A hearing is initiated by a request for review at the department. The hearing may be held by written correspondence, by telephone, or by a personal appearance. The person requesting the review must inform the department of the person's full name, date of birth, driver's license number, and the date of the incident for which review is being requested.

Subp. 3. **Scope of review.** On receiving a request for a hearing, the commissioner shall review the order, the evidence upon which the order was based, and any other material information brought to the attention of the commissioner to determine whether sufficient cause exists to sustain the order.

The commissioner may seek additional information from the person requesting the review or from an agency or person believed to have information relating to the facts underlying the order of withdrawal. The person requesting the review may present additional information to the commissioner at the hearing.

Subp. 4. **Decision.** Upon reviewing the evidence, the commissioner shall sustain the withdrawal order if there is sufficient cause to believe that the withdrawal is authorized by law. If the commissioner finds that there is not sufficient cause to believe the withdrawal order is authorized by law, the order must be rescinded.

The commissioner shall give a prompt decision to the person and shall issue a copy of the decision to the person upon request.

Subp. 5. **Driver improvement agreement.** The commissioner may waive department action on the person's driver's license if:

A. the person's driver's license has been suspended under *Minnesota Statutes*, section 171.09 or 171.18;

B. after reviewing the person's entire driving record, the commissioner has sufficient cause to believe that the person will improve the person's driving conduct or has demonstrated improved driving conduct; and

C. the person agrees to enter into a driver improvement agreement with the commissioner.

A driver improvement agreement is an agreement between a driver and the commissioner whereby the driver agrees to improve driving conduct in consideration for the department taking no action on the suspension that the person currently has pending.

The driver improvement agreement must not be for a period less than the period of suspension that the person currently has pending.

If the person commits a violation arising out of the operation of a motor vehicle while a driver improvement agreement is in effect, the person's driver's license will be withdrawn for 30 days or according to this chapter, chapter 7503, or *Minnesota Statutes*, whichever is the longer period.

Department of Revenue

Proposed Permanent Rules Relating to Florists and Nurseries

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Revenue intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* section 270.06, subdivision 13 (1990).

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. 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. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20 (1990).

Comments or written requests for a public hearing must be submitted to:

Terese Koenig Smith, Attorney
Business Tax Unit
Appeals and Legal Services Division
10 River Park Plaza
Mail Station 2220
St. Paul, MN 55146-2220
(612) 296-1902 Extension 128

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DRIVER AND VEHICLE SERVICES DIVISION

In the Matter of the Proposed Permanent Rules of the State Department of Public Safety Relating to Disposition of Driver's License Following Non-Alcohol-Related Offenses	AFFIDAVIT OF MAILING THE RULES AND STATEMENT OF NEED AND REASONABLENESS TO THE LEGISLATIVE COMMISSION TO REVIEW ADMINISTRATIVE RULES

STATE OF MINNESOTA)
)ss
COUNTY OF RAMSEY)

David E. Orren, being sworn says:

I hereby declare that the above-captioned Rules and the corresponding Statement Of Need And Reasonableness were mailed to the Legislative Commission To Review Administrative Rules in compliance with Minnesota Statutes, sections 14.131 and 14.23, on this seventh day of May, 1991. The mailing was done through the interoffice mail of the State of Minnesota.

David E. Orren

Subscribed and sworn to before me this 7 day of May, 1991.

Laura Nehl-Trueman
Notary Public

Laura Nehl-Trueman
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires 4-4-96

my file (R)

OFFICE OF THE COMMISSIONER

211 Transportation Building

Telephone: _____

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

SAINT PAUL 55155

January 3, 1990

Ms. Maryanne V. Hruby, Executive Director
Legislative Commission to Review Administrative Rules
Room 55, State Office Building
100 Constitution Avenue
St. Paul, MN 55155

Dear Ms. Hruby:

Minnesota Statutes, section 169.795, effective August 1, 1989, directs the Commissioner of Public Safety to adopt rules to implement proof of automobile insurance statutes. These rules have not been promulgated and will not be within 180 days of the effective date. The delay is the result of a staff position that has been vacant since August, 1989. The hiring process is underway and someone will be in that position and begin working on these rules by late February, 1990. We anticipate the promulgation of these rules by April, 1991.

If you have any questions or wish to discuss this matter further, please contact me at your convenience.

Respectfully,

/s/

Katherine Burke Moore
Administrative Rules Coordinator

CC: Rudy Perpich, Governor
Room 130 State Capitol
St. Paul, MN 55155

Virginia Lockman
Accident Records & No-Fault Supervisor
Driver & Vehicle Services
Room 161 Transportation Building
St. Paul, MN 55155

OFFICE OF THE COMMISSIONER

211 Transportation Building

Telephone: _____

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

SAINT PAUL 55155

July 26, 1990

Ms. Maryanne V. Hruby, Executive Director
Legislative Commission to Review
Administrative Rules
Room 55, State Office Building
Saint Paul, Minnesota 55155

Dear Ms. Hruby:

The Department of Public Safety is in the process of promulgating the rules required by Minnesota Statutes, section 169.795. We anticipate that the rules will be adopted by April, 1991. The delay was caused when the staff position assigned to promulgating these rules became vacant in August of 1989. The position has been filled and the work on the rules has begun.

I have enclosed a first draft of the rules. These rules encompass all nonalcohol offenses. Also enclosed, please find forms used by the Driver and Vehicle Services Division to administer Minnesota Statutes, sections 169.791 to 169.796 and section 168.041. I have attached a copy of the most recent office procedures, outlined in an internal memo from the no-fault compliance section.

If you have any further questions regarding these rules or the existing procedures, please contact Marlene Swanson, Director of the Driver and Vehicle Services Division, at 161 Transportation Building, Saint Paul, Minnesota 55155. She may be reached by telephone at (612) 296-9525.

Sincerely,

Paul Tschida
Commissioner

cc: M. Duske

Enclosures

bcc: Dick M.
Kathy B.✓

AN EQUAL OPPORTUNITY EMPLOYER

OFFICE OF THE COMMISSIONER
211 Transportation Building
Telephone: _____

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

SAINT PAUL 55155

April 30, 1991

Ms. Maryanne V. Hruby, Executive Director
Legislative Commission to Review Administrative Rules
Room 55, State Office Building
100 Constitution Avenue
St. Paul, Minnesota 55155

Re: In the Matter of the Proposed Permanent Rules of the State Department of Public Safety Relating to Disposition of Driver's License Following Non-Alcohol-Related Offenses

Dear Ms. Hruby:

Minnesota Statutes, section 169.795, effective August 1, 1989, directs the Commissioner of Public Safety to adopt rules to implement proof of automobile insurance statutes. In a letter to you dated January 3, 1990, we notified you that the rules would not be promulgated within 180 days of the effective date and gave you reasons for the delay. In the letter, we stated that we anticipated the promulgation of the rules by April 1991.

Completion of these rules has taken slightly longer than anticipated. The final draft of the rules has been completed and has been certified by the Revisor. A request for hearing along with the rules and other required documents were delivered to the Office of Administrative Hearings today. If the Office of Administrative Hearings approves the rules and accompanying documents by Monday, May 6, 1991, as we expect, we will submit a State Register publishing order at that time. This means that our dual Notices of Intent to Adopt the Rules will be published on May 20, 1991. We have requested a hearing date of July 23, 1991, although at this time, we do not expect that a hearing will be necessary.

If you have any questions or wish to discuss this matter further, please contact me at your convenience.

Yours very truly,

David E. Orren

David E. Orren
Rules Coordinator

cc: Governor Arne Carlson
Room 130 State Capitol
St. Paul, Minnesota 55155

Senator Gary M. DeCramer, Chair
Senate Transportation Committee
Room 309 State Capitol
St. Paul, Minnesota 55155

Representative Henry J. Kalis, Chair
House Transportation Committee
543 State Office Building
St. Paul, Minnesota 55155

Katherine Burke Moore, Director
Driver and Vehicle Services
161 Transportation Building
395 John Ireland Boulevard
St. Paul, Minnesota 55155

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY
DRIVER AND VEHICLE SERVICES DIVISION

STATEMENT OF NEED AND REASONABLENESS

In the matter of proposed rules of the Department of Public Safety governing disposition of driver's license following non-alcohol-related vehicle offenses.

GENERAL STATEMENT

The Statement of Need and Reasonableness ("Statement") is prepared by the Department of Public Safety ("department") pursuant to Minnesota Statutes, section 14.131. The Statement contains a summary of the department's evidence and arguments justifying both the need for the rules and why the proposed action is an appropriate solution for meeting that need.

The proposed rules set forth procedures and policies for the administration of revocation, suspension and cancellation of a person's driver's license for non-alcohol related offenses. Such offenses include insurance offenses, traffic offenses such as speeding and more severe traffic offenses such as criminal vehicular homicide. (The department's procedures and policies for alcohol-related and controlled substance-related incidents are covered separately under Minnesota Rules, Chapter 7503.)

The proposed rules regarding the insurance related offenses are mandated by the legislature, as set forth under the Statutory Authority section of the Statement. The legislature has not mandated rules for the remaining non-alcohol related offenses. However, even though such rules are not mandated by the legislature, the department has elected to promulgate such rules. The department currently administers driver's license withdrawal laws pursuant to the internal policy of the department. These department policies directly affect the rights of or procedures available to the public with respect to driver's license withdrawal. When the internal policies of an agency directly affect the public, the policies should be adopted through the formal rulemaking process as required by Minnesota Statutes, section 14.06.

The legislature has delegated the responsibility for the enforcement and administration of driver's license laws to the Commissioner of Public Safety ("commissioner"). Under the driver's license laws the commissioner has the exclusive authority to issue, revoke, suspend or cancel a person's driver's license.

The driver's license laws set forth the circumstances for which a person's driver's license can be revoked, suspended or canceled. However, the driver's license laws do not set forth the procedures necessary to govern and administer the withdrawal of a person's driver's license. Therefore, the proposed rules set forth the administrative procedures under which the commissioner enforces the statutory mandate of the legislature regarding driver's license laws. The department's administrative policies and procedures, which are set forth in the proposed rules, are consistent with the statutory authority delegated to the commissioner.

The authority for the commissioner's policies and procedures is set forth in each section of the Statement.

The procedures developed by the commissioner in the administration of the driver's license laws include the length of time for which a person's driver's license will be withdrawn, notice requirements, the circumstances under which a limited license will be issued, the conditions that must be met for reinstatement of a person's driver's license and the procedures for administrative review.

In addition to establishing a need for the rules, the commissioner must also make an affirmative presentation of facts establishing the reasonableness of the proposed rules. The proposed rules need only present an appropriate solution for meeting that need, one that is not arbitrary or capricious.

The majority of the procedures set forth in the proposed rules have been used by the department since the enactment of the driver's license laws. The department's procedures were developed with the use of public input, judicial decisions, legal research, legislative direction, technological advancements and fiscal restraints. The proposed rules reasonably represent the department's expertise and knowledge in the driver's license area.

With the promulgation of the proposed rules, the department is continuing its policy of treating traffic violators in a consistent, reasonable and fair manner. The department is committed to maintaining the progress that has been achieved and committed to improving the driver's license system. However, department procedures must be cost-effective. The driver licensing system, like all state programs, must operate within the fiscal constraints of a pubic entity. Therefore, in the promulgation of its policies and procedures, the department has reasonably balanced the public interest in keeping roads and highways safe against the public interest in avoiding fiscal and administrative burdens.

STATUTORY AUTHORITY

The statutory authority for the promulgation of rules on insurance requirements is found in Minnesota Statutes, section 65B.68, subdivision 1 and 169.795.

Section 65B.68 provides: "The commissioner of public safety shall have the power and perform the duties imposed by sections 65B.41 to 65B.71 and may adopt rules to implement and provide effective administration of the provisions requiring security and governing termination of security." In addition, section 169.795 provides: "The commissioner of public safety shall adopt rules necessary to implement sections...169.791 to 169.796."

In addition to the specific grant of authority, the department has general rulemaking authority under Minnesota Statutes, section 14.06, of the Administrative Procedure Act. Under section 14.06, the commissioner of public safety has the authority to promulgate rules that directly affect the rights of and procedures available to the public. It is under the statutory authority of section 14.06 that the remainder of the rules relating to non-alcohol related offenses are promulgated.

SMALL BUSINESS CONSIDERATIONS

Minnesota Statutes, section 14.115, subdivision 2, requires the department, when proposing rules, to consider the impact such rules will have on small businesses. The

department is to consider the following methods for reducing the impact of the rules on small businesses:

(a) the establishment of less stringent compliance or reporting requirements for small businesses;
(b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
(c) the consolidation or simplification of compliance or reporting requirements for small businesses;
(d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and
(e) the exemption of small businesses from any or all requirements of the rule.

Minnesota Statutes, section 14.115, subdivision 3, requires agencies to incorporate into proposed rules any of the above methods "that it finds to be feasible, unless doing so would be contrary to the statutory objectives that are the basis of the proposed rulemaking."

Incorporating the above methods into the proposed rules would not be feasible because these rules directly affect individuals, not small businesses. The legislature has enacted laws mandating the withdrawal of a person's driver's license when a person commits certain offenses. Reducing the impact of the rules on businesses, large or small, would be contrary to the statutory mandate of withdrawing a person's driver's license under the required circumstances. Insofar as there is an indirect effect upon a business caused by an employee's loss of driving privileges, the effect is outweighed by the department's need to keep the roads and highways safe.

Furthermore, if an employee of a business is subject to the loss of driving privileges, the impact on the business can be reduced if the employee meets the eligibility requirements necessary to obtain a limited license. An employee may qualify for a limited license upon meeting the requirements of part 7409.3600 and the requirements of Minnesota Statutes, section 171.30.

In addition, Minnesota Statutes, section 171.30, subdivision 3, requires the commissioner to issue a limited license restricted to the vehicles authorized under a valid class A, class B or class CC license. Either alternative reduces the impact on a small business and allows the business to continue with its operations.

FEES IMPOSED BY THE RULES

The rules do not fix any fees nor do the statutes authorizing promulgation of the rules require that any fees be fixed. Therefore, no approval from the commissioner of finance is required.

FISCAL IMPACT

Adoption of these rules will not require the expenditure of public money by local public bodies.

ENVIRONMENTAL EFFECTS

Adoption of these rules will not affect the quality of air or water in the state nor will the rules affect the quality and amount of agricultural land.

RULE BY RULE ANALYSIS

7409.0100 Definitions.

This part provides definitions necessary for clarification and definition of the rules. Some of the definitions are taken directly from statute and some pertain to terms that are used throughout the rules but that are not defined in statute. The provisions are necessary to specify limits within which the definitions are applicable. The defined terms apply throughout the chapter but do not apply to other rules promulgated by the Department of Public Safety or in any other context.

Subpart 1a is the definition of "cancellation." It is necessary to define this term because the term is used throughout the rules and in Minnesota Statutes without adequate definition. Cancellation of a person's driver's license is authorized by specific statutes, as set forth in part 7409.2800. When a person's driver's license is cancelled, the driver's license is surrendered to the department and destroyed. If the person wants to obtain another driver's license, the person must apply for a new license and must meet the reinstatement requirements under part 7409.4300.

Subpart 1b defines "certificate of insurance." This definition is necessary because the term is used in Minnesota Statutes and the rules without adequate definition. It is reasonable to define this term because a certificate of insurance states the requirements that will be necessary upon reinstatement of a driver's license for insurance violations under parts 7409.3800, and 7409.3900.

Minnesota Statutes, section 65B.67, subdivision 4, clause (b) provides that the commissioner shall require a written certificate of insurance before a person's driver's license is reinstated. Section 65B.67, subdivision 4a provides that the certificate of insurance shall not exceed a period of one year. Therefore, under parts 7409.3800, and 7409.3900, a person will be required to provide a certificate of insurance stating that a vehicle is covered by a plan of reparation security as required by Minnesota Statutes, section 65B.48 for one calendar year or that the operator is covered by a plan of reparation security for a period of six months.

A certificate of insurance is reasonable because it is required when a person is convicted under section 65B.67 or if a person's driver's license has been withdrawn under section 65B.67 two or more times within a five year period for failure to maintain the required insurance. If a person is convicted or commits multiple offenses under section 65B.67 they have demonstrated a willful intent not to maintain the required insurance or to operate a motor vehicle knowing that the vehicle is not covered by the required insurance.

A one year certificate of insurance on a vehicle provides the department with proof from the insurance company that the vehicle is insured for one year. A certificate of insurance effectively places the person on a period of probation for one year. If a plan of reparation security is cancelled during that one year period, the insurance company will notify the department under the procedures in Minnesota Statutes, section 65B.69. If the person does not meet the requirements under section 65B.69, the person is required to immediately surrender the registration certificate and motor vehicle license plates to the commissioner and may not operate or permit operation of the vehicle in this state until security is provided.

A certificate of insurance for an operator is required for the same reasons as above. However, the operator policy is only required for a six month period. A six month operator policy is reasonable because the operator policy is more expensive and more difficult to obtain. The department has reasonably taken into account the financial burden this policy may have on an individual and has limited the certificate to a six month period. For further discussion on the requirements of an operator policy, see part 7409.3800.

A certificate of insurance can only be issued by an authorized representative of the insurance company, not an agent of the insurance company. The department of public safety has on file a list of representatives from the insurance company who are authorized to sign insurance policies for companies. Insurance certificates from the agent are not acceptable because the department has no guarantee that the policy issued by the agent will be approved by the insurance company. It is the insurance company, not the agent, that approves the insurance policy and accepts the risk of the insured.

Subpart 6a is the definition of "driver improvement clinic." This definition is necessary because the term is used throughout the rules without adequate definition. It is reasonable to define this term because the term relates to the type of driving courses used to assist persons in correcting improper driving habits. The definition directs the person to the correct statutory definition for clarification on the term.

Minnesota Statutes, section 171.20, refers to courses promulgated by the commissioner. See Minnesota Rules, Chapter 7411, for rules promulgated by the department regarding driver improvement clinics.

Subpart 7a is the definition of "owner." This definition is necessary because the term is used in the rules without adequate definition. It is reasonable to refer the public to the correct statutory definition for clarification of this term.

Subpart 7b is the definition of "personal injury." This definition is necessary because the term is used throughout the rules without adequate definition. The category of class A, incapacitating injury is reasonable because it is a term that is used nationally and is a term that has been approved as an American National Standard by the American National Standards Institute. The definition of incapacitating injury is the same as the definition contained in the nationally used Manual on Classification of Motor Vehicle Traffic Accidents, 5th ed. (1989). (hereinafter referred to as "manual.") The term incapacitating injury is also used on the Minnesota Motor Vehicle Accident Report.

Minnesota is one of many states that uses the manual in evaluating traffic accidents. The manual is prepared by the Committee on Motor Vehicle Traffic Accident Classification under the direction of the Traffic Records Committee of the National Safety Council, Highway Traffic Safety Division. The primary purpose of the manual is to promote uniformity of motor vehicle traffic accident statistics now being developed in states and local jurisdictions.

The term incapacitating injury is reasonable because it allows for classification of an injury based on the conditions at the scene of the accident. "The injury classification applies to any person involved in road vehicle accidents while either in or out of a road vehicle. The categories are so defined that, for the most part, neither medical attention nor special tests are required for classification. Classification usually can be done by ordinary observation at the time of the accident or from information submitted on the accident report." Manual p. 32.

Subpart 7c is the definition of "plan of reparation security." The definition is necessary because the term is used throughout the rules without adequate definition. It is reasonable to define this term because the term has a specific meaning as set forth in statute. Therefore, it is reasonable to refer the person to the correct statute for clarification of this term.

Subpart 7d is the definition of "proof of insurance." This definition is necessary because the term is used in the rules without adequate definition. It is reasonable to refer the public to the correct statutory definition for clarification of this term.

Subpart 8 is the definition of "revocation." It is necessary to amend this subpart to substitute the word rescission for the word withdrawal. The term "withdrawal" is separately defined in part 7409.0100, subpart 10 of this chapter. Therefore, the term withdrawal has a distinct meaning that is not applicable to this definition. The term rescission is a reasonable substitute which will not change the meaning of this definition.

Subpart 8a is the definition of "sufficient cause to believe." This definition is necessary because the term is used throughout the rules without definition elsewhere. It is reasonable to define "sufficient cause to believe" because it is the standard by which the department makes decisions as set forth in the rules. This is the same standard that has been adopted in chapter 7503, for the withdrawal of licenses for alcohol and controlled-substance-related offenses. It is reasonable that these proposed rules be consistent with other rules promulgated by the department regarding licensing action.

The definition of "sufficient cause to believe" contains objective standards used to determine when it is necessary for the department to take administrative action. Administrative action taken by the department affects private interests. Therefore, it is necessary to include safeguards in the rules to prevent arbitrary action or the appearance of arbitrary action by the department.

Sufficient cause to believe is a proposition which rests on good faith and reasonable grounds, is based on one or more of five specified sources, and is more likely than not to be true. It is well settled that a driver's license withdrawal is a civil proceeding. Scheetz v. Commissioner of Public Safety, 343 N.W.2d 305 (Minn. App. 1984). Therefore, the civil proceeding standard of "more likely than not" is reasonable.

Item A includes written information from an identified person. Such identified information is reasonable because it allows for people in the system, such as the police, as well as the public to provide relevant information to the department. Anonymously submitted information is not acceptable. Anonymously submitted information is excluded to protect persons from bad faith or frivolous allegations.

Item B refers to facts or statements by the applicant or driver. Such facts or statements provide a reasonable basis for action by the department since they are provided by the individual whose driving record or driving conduct is in question.

Item C refers to driver's license records and accident records. Such records reasonably provide the department with an accurate picture of the driver's past driving conduct. Such a record can reasonably be relied upon by the department in making decisions. In addition, under Minnesota Statutes, section 169.09, the driver of a vehicle involved in an accident,

under certain circumstances, is required to forward a written report of the accident to the commissioner. Anyone who wants to inspect or challenge such records can do so through the administrative hearing process.

Item D refers to court documents and police records. It is reasonable to rely on such documents because they are the official documents of those agencies and are provided to the department based on department procedures and statutory authority.

Item E relates to facts within the personal knowledge of the commissioner or the commissioner's employees. This provision is reasonable in that it applies to the information gathered at a hearing or other personal appearances made by a driver which concerns the driver's conduct. This is information which is conveyed to the agency by an identified source and is relevant to the offense currently under discussion.

Subpart 9 is the definition of "suspension." It is reasonable to amend this section by substituting the word "removal" for the word withdrawal because the word "withdrawal" is now separately defined in the chapter under part 7409.0100, subpart 10. The word "withdrawal" now has a separate and distinct meaning which is not appropriate to this section. The word "removal" does not change the meaning of the definition and is more accurately describes the term.

Unlike revocation and cancellation, suspension only involves the temporary removal of the person's driver's license. Once the suspension period has expired and the person has met the other reinstatement requirements, the license will be returned to the person if the license has not expired or is not otherwise invalid.

Subpart 10 is the definition of "withdrawal" or "withdrawn." This definition is necessary because the term is used in the rules without definition elsewhere. This definition reasonably provides a general term which is used to describe the sanctions of revocation, suspension and cancellation.

Subpart 11 is the definition of "withdrawal period." This definition is necessary because the term is used in the rules without definition elsewhere. The definition is reasonable because it provides for a common term to refer to the period during which the person does not have driving privileges.

REVOCATION

The revocation section sets forth the circumstances under which a person's license will be revoked. The part also sets forth the time periods of revocation for designated offenses. This is necessary because the statutes under which the commissioner has the authority to revoke a person's driver's license do not specify the period of time for which a person's driver's license will be revoked.

The commissioner will revoke a person's license "upon receiving a record of conviction." A record of conviction is required because this is a reliable means of determining when a person has been convicted of a crime. Under Minnesota Statutes, section 171.16, subdivision 1, the court is required to forward to the department, within ten days, a record of the conviction of any person involving the operation of a motor vehicle. The conviction date

is usually not the same as the offense date. However, where a conviction is required for department action, the department will not take action until a record of conviction is received by the department for the offense.

7409.1000 Criminal vehicular homicide and injury or manslaughter.

Part 7409.1000 implements the legislative mandate of Minnesota Statutes, section 171.17, subdivision 1, by revoking a driver's license upon receiving a record of conviction under specified subdivisions of Minnesota Statutes, section 609.21, for criminal vehicular homicide and for specified subdivisions of Minnesota Statutes, sections 609.20 and 609.205, for manslaughter in the first and second degree, resulting from the operation of a motor vehicle. This subpart is necessary because the statute does not define the revocation periods.

Criminal vehicular homicide and manslaughter are crimes which are committed at a great cost to the public because of the way in which the crimes are committed. A person who is convicted of criminal vehicular homicide or manslaughter has shown an indifference to the laws of this state and a total disregard of the legal obligations as far as others may be affected.

For example, a person convicted of criminal vehicular operation has operated a motor vehicle in a grossly negligent manner which results in the death or the personal injury of another. Gross negligence, unlike recklessness, requires a conscious and intentional action which the actor knows, or should know, creates an unreasonable risk of harm to others. State v. Brehmer, 160 N.W.2d 669, 673 (Minn. 1968). Gross negligence rests on the assumption that one knew the results of his or her acts, but was recklessly or wantonly indifferent to the results.

It is because of this indifference toward the law and the reckless and wanton manner in which these crimes are committed that the legislature has enacted severe criminal sanctions for these crimes. The revocation periods imposed under this subpart are reasonable because they reflect the severity of the criminal penalties imposed by the legislature.

Under item A, a person's driver's license will be revoked for five years if the person is convicted of criminal vehicular homicide that causes the death of another or causes the death of an unborn child as a result of gross negligence. Upon conviction, a person may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

A person's driver's license will also be revoked for five years if the person is convicted of manslaughter in the first or second degree resulting from the operation of a motor vehicle. Upon conviction of manslaughter in the first degree a person may be sentenced to imprisonment for not more than 15 years or to payment of a fine of not more than $30,000, or both. For a conviction of second degree manslaughter, the person may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than $20,000, or both.

Under item B, a person's driver's license will be revoked for three years if the person is convicted of criminal vehicular homicide that causes personal injury to another or to an unborn child as a result of gross negligence. For such a conviction, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than $10,000, or both.

Furthermore, the revocation periods of five and three years are reasonable because they are the same as the revocation periods imposed for alcohol and controlled substance related incidents in Minnesota Rules, 7503.0800, subpart 2, for criminal vehicular homicide.

The revocation periods in both rules are the same for criminal vehicular homicide because the legislature has set forth identical criminal penalties regardless of whether the crime was committed in a grossly negligent manner or whether the crime was committed in a negligent manner involving alcohol or a controlled substance.

Because the legislature has made a determination that a crime committed with gross negligence is as serious as a crime involving alcohol or a controlled substance, the department imposes consistent revocation periods for non-alcohol offenses and offenses involving alcohol or controlled substances.

7409.1100 Fleeing from peace officer.

Part 7409.1100 implements the legislative mandate of Minnesota Statutes, section 171.17, subdivision 2, by revoking a driver's license upon receiving a record of conviction under Minnesota Statutes, section 609.487, for fleeing a peace officer in a motor vehicle. This subpart is necessary because the statute does not define the revocation period. This part sets forth different periods of revocation based on whether the conviction is under subdivision 3 or 4 of section 609.487.

Under item A, a person's driver's license will be revoked for 90 days if convicted under 609.487, subdivision 3. A conviction under this subdivision does not involve death or bodily harm. The conviction is either a gross misdemeanor or a felony, depending on the number of previous convictions a person has received under the subdivision.

Under item B, if a person is convicted under 609.487, subdivision 4, clause (b) or (c), the revocation period will be for 180 days. If a person is convicted under this subdivision it means that the act resulted in either great or substantial bodily harm to another person. Great or substantial bodily harm is defined in Minnesota Statutes, section 609.02, subdivisions 7a and 8.

For a conviction under section 609.487, subdivision 4, clause (a), a person's driver's license will be revoked for one year. A conviction under this section indicates that the act of fleeing a peace officer resulted in the death of another person. This revocation period is reasonable because it is longer than the revocation period imposed under this subpart when the driver's acts do not cause the death of another but shorter than the revocation period for criminal vehicular homicide which requires gross negligence.

The revocation periods of 90 days, if the offense does not result in bodily harm, 180 days if the offense results in bodily harm, and one year if the offense results in a fatality are reasonable. The intention of the rules is to provide progressive withdrawal periods based on the severity of the crime. The relationship between the threat to public safety and the length of revocation is reasonable because it removes the driver from the road for the longer period of time when the person has committed a serious crime and is therefore, more threatening to the safety of the public. It is reasonable to assume that drivers who cause death or injury to others by using a motor vehicle to flee a peace officer are more dangerous to public safety than those who hurt no one.

Fleeing a police officer is a deliberate attempt on the part of the driver to frustrate the driver safety laws. The severity of the criminal penalties imposed by Minnesota Statutes, section 609.487 is directly related to the severity of the result of the perpetrator's act. This offense interferes directly with the efforts of peace officers to enforce compliance with the law and public safety on the roads.

7409.1200 Felony with motor vehicle.

Part 7409.1200 implements the legislative mandate of Minnesota Statutes, section 171.17, subdivision 3, by revoking a driver's license upon receiving a record of conviction of any felony in the commission of which a motor vehicle was used. This subpart is necessary because the statute does not define the revocation period.

Revocation of a person's driver's license serves the legislative purpose of deterring the use of motor vehicles in crimes. "Promotion of public welfare requires that every felon who uses a motor vehicle in the commission of a crime should be subject to the license revocation provisions of section 171.17. The felon who is a passenger is as fully subject to the statute as the felon who is driving the vehicle." Langsfield v. Dept. of Public Safety, 449 N.W.2d 738, 740-41 (Minn. App. 1990).

This subpart addresses felonies in the commission of which a motor vehicle was used that do not have a specific revocation period set forth in these rules or statutes. The term "any felony in the commission of which a motor vehicle was used" has been interpreted to mean that "the motor vehicle was integral to and contributed in a reasonable degree to the commission of the crime." Dehn v. Com'r of Dept. of Public Safety, 442 N.W.2d 830,832 (Minn. App. 1989). Since there are a number of felonies that this section could apply to it is reasonable to impose an intermediate period of revocation.

In establishing an intermediate revocation period of 180 days, the department has been consistent with the other revocation periods imposed under these rules. For example, if a person is convicted of fleeing a peace officer, the rule sets forth a progressive period of revocation based on whether the crime resulted in bodily harm or fatality. For a conviction of fleeing a peace officer, the driver's license will be revoked for 90 days if there was no bodily harm that resulted from the crime, 180 days if there was bodily harm that resulted from the crime and one year if the crime resulted in a fatality.

The types of felonies that this subpart could apply to may result in any of the above three circumstances: bodily harm, fatality or no bodily harm. Therefore, it is reasonable to impose a revocation period that will fairly cover all three possible results. The revocation period of 180 days is reasonable in that it is the midpoint between the lessor revocation period of 90 days and the greater revocation period of one year.

7409.1300 Leaving scene of accident.

Part 7409.1300 implements the legislative mandate of Minnesota Statutes, section 171.17, subdivision 4, by revoking a driver's license upon receiving a record of conviction under Minnesota Statutes, section 169.09, for failure to stop, disclose identity and render aid, in the event of a motor vehicle accident resulting in the death or personal injury of another. This subpart is necessary because the statute does not define the revocation period.

The criminal penalties imposed under Minnesota Statutes, section 169.09, subdivision 14, reflect differences based on whether the accident resulted in a personal injury or fatality. A driver who leaves the scene of an accident involving personal injury or death is a much greater threat to public safety than a driver who leaves the scene of an accident involving only property damage. Furthermore, when a person is convicted of leaving the scene of an accident and the accident resulted in a personal injury or fatality, the person can be found guilty of either a gross misdemeanor or a felony.

The revocation periods imposed under this subpart are consistent with the criminal penalties. The revocation periods are also consistent with the previous revocation periods under part 7409.1100 fleeing a peace officer. Under part 7409.1100 or this subpart, if the

accident resulted in personal injury, a 180 day revocation period is imposed. A revocation period of one year is imposed if the accident resulted in the death of another.

The revocation periods are reasonable because drivers involved in an accident resulting in a personal injury or death are required to stop at the scene of the accident. Leaving the scene of an accident involving personal injury or death can have serious consequences to the victims of the accident. Leaving the scene of an accident can also frustrate the efforts of police officers in conducting an investigation of the accident. It is necessary for the commissioner to remove these drivers from the road for the protection of the public.

7409.1400 Perjury, false affidavit or statement.

Part 7409.1400 implements the legislative mandate of Minnesota Statutes, section 171.17, subdivision 5, by revoking a driver's license upon receiving a record of conviction for perjury or the making of a false affidavit or statement to the department under a law relating to the ownership or operation of a motor vehicle. This subpart is necessary because the statute does not define the revocation period.

False statements made to the department interfere with the department's regulation of the ownership and operation of motor vehicles. The department is entrusted with the regulation of the ownership and operation of motor vehicles to protect the safety of the public. People who are convicted of such crimes threaten the fundamental purpose behind the department's role in the regulation of drivers to ensure the safety of the public.

False statements made to the department relating to the ownership or operation of a motor vehicle are often committed in an attempt to obtain a driver's license. Therefore, revocation of a person's driver's license is an effective and reasonable sanction for the department to impose to deter the commission of such crimes.

The 180 day revocation period imposed for convictions of these offenses is reasonable. A revocation period of 30 days or 90 days is not appropriate because this offense requires planning and a deliberate decision to violate the law. While this offense does not directly cause the personal injury of another, it can lead to a personal injury or a fatality if the person is driving illegally because of a false statement made to the department.

7409.1500 Multiple misdemeanor and gross misdemeanor offenses.

Part 7409.1500 implements the legislative mandate of Minnesota Statutes, section 171.17, subdivision 6, by revoking a person's driver's license upon receiving a record of conviction of three or more charges of violating any of the provisions of Chapter 169 within a period of twelve months for which the accused may be punished upon conviction by imprisonment. This subpart is necessary because the statute does not define the revocation period.

This subpart provides for the revocation of the driver's license of an individual who frequently and repeatedly commits misdemeanor or gross misdemeanors offenses under Chapter 169. Drivers that frequently and repeatedly commit such serious traffic offenses constitute a threat to the general public and therefore must be taken off the road. Section 171.17, subdivision 6, provides the commissioner with broad discretion in the determination of the appropriate period of time the person's driver's license will be revoked. Benson v. Commissioner of Public Safety, 356 N.W.2d 799 (Minn. App. 1984).

The revocation period for three misdemeanor offenses is relatively short, 30 days, whereas the revocation periods for additional offenses increase to 90 days, or one year. A person with only three misdemeanor or gross misdemeanor traffic offenses poses less of a public risk than a person with four or more such driving offenses. It is reasonable to increase the length of revocation as a deterrent to a driver with a pattern of multiple offenses.

The revocation periods of 90 days and one year are not unreasonable in comparison to the number of traffic offenses a person has to commit during that 12 month period. It is logical to interpret successive violations occurring within a twelve month period as evidence that the previous action did not have an effect, warranting more severe action. A person committing five or more offense under this subpart has shown a blatant disregard for public safety.

The severity of the revocation period is determined by the seriousness of the person's driver's record. Under this system, the revocation period increases as the number and severity of misdemeanor and gross misdemeanor offenses under Chapter 169 increase. For several years, the department has successfully used the system of progressive withdrawal periods as a method of disincentive and rehabilitation which has a reasonable relation to the purpose of the suspension and revocation laws.

Furthermore, the progressive withdrawal system allows the department to provide gradual and supervised monitoring of a person within the driver improvement system. Imposing progressively longer sanctions for each additional offense is also reasonable because the person has demonstrated that he or she is a multiple offender with a pattern of unlawful behavior.

It should be noted that under the penalties section of Minnesota Statutes, section 169.89, subdivision 1, this subpart includes misdemeanors such as careless and reckless driving where the statute indicates that such a violation is a misdemeanor. Also included under this subpart are petty misdemeanors that are certified by the court as a misdemeanor if the violation is committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property and a petty misdemeanor certified as a misdemeanor because it is the person's third petty misdemeanor within a 12 month period.

7409.1600 Insurance-related offenses.

Subpart 1 Failure to maintain insurance. Part 7409.1600, subpart 1 implements the legislative mandate of Minnesota Statutes, section 65B.67, subdivision 4, clause (b), by revoking a person's driver's license upon receiving a record of conviction for operating a motor vehicle for which security has not been provided as required by section 65B.48. This subpart is necessary because the statute only defines the maximum revocation period of 12 months.

The purposes of the Minnesota No-Fault Automobile Insurance Act are set forth in Minnesota Statutes, section 65B.42, as follows:

> (1) To relieve the severe economic distress of uncompensated victims of automobile accidents within this state by requiring automobile insurers to offer and automobile owners to maintain automobile insurance policies or other pledges of indemnity which will provide prompt payment of specified basic economic loss benefits to victims of automobile accidents without regard to whose fault caused the accident;

(2) To prevent the overcompensation of those automobile accident victims suffering minor injuries by restricting the right to recover general damages to cases of serious injury;

(3) To encourage appropriate medical and rehabilitation treatment of the automobile accident victim by assuring prompt payment for such treatment;

(4) To speed the administration of justice, to ease the burden of litigation on the courts of this state, and to create a system of small claims arbitration to decrease the expense of and to simplify litigation, and to create a system of mandatory intercompany arbitration to assure a prompt and proper allocation of the costs of insurance benefits between motor vehicle insurers;

(5) To correct imbalances and abuses in the operation of the automobile accident tort liability system, to provide offsets to avoid duplicate recovery, to require medical examination and disclosure, and to govern the effect of advance payments prior to final settlement of liability.

The legislature has mandated that the commissioner shall revoke a person's driver's license if the person is convicted under section 65B.67. The revocation of a person's driver's license promotes public safety and carries out the purposes of the Minnesota No-Fault Automobile Insurance Act. The revocation provisions contained in this subpart are effective remedial measures for the enforcement of the above legislative policies.

Minnesota Statutes, section 65B.67, subdivision 4, clause (b), mandates that the department shall revoke the driver's license when a person is convicted of operating an uninsured motor vehicle. The subpart provides for driver's license revocation for the person who was operating the vehicle. The department in imposing the revocation period reasonably relies on the conviction report to show that a person who operated the uninsured vehicle knew or had reason to know that the vehicle was uninsured.

Although not specifically addressed in these rules, if the operator is also an owner of the motor vehicle, the registration of the motor vehicle shall be revoked in addition to the driver's license under Minnesota Statutes 65B.67, subdivision 4, clause (b). The revocation of the owners registration is set out in Minnesota Rules, part 7413.0700.

The revocation periods required by the subpart are 30 days, 90 days, 180 days, or one year depending on the number of convictions for driving without no-fault insurance on the person's driving record. Imposing progressively longer sanctions for each additional offense is reasonable because a multiple offender has demonstrated a pattern of unlawful behavior, making the likelihood of future violations greater. A person convicted under Minnesota Statutes, section 65B.67, who has no prior offenses on record, poses less of a public risk than a multiple offender.

The revocation period imposed on a first time offender is relatively short, 30 days, whereas the revocation periods imposed on multiple offenders are progressively more severe, 90 days, 180 days, or one year depending on the number of convictions for driving without no-fault insurance on their driving record within the past five years. The five year period used by the department in counting the number of violations on a person's driver's record is reasonable because five years is how long the department keeps no-fault violations on a person's driving record. The department uses the date of the reported incident for which the action is being taken as the starting point for counting back over the five year period

As stated above, one of the purposes of no-fault automobile insurance is to relieve the severe economic distress of uncompensated victims of automobile accidents within this state. Therefore, it is the goal of the department to impress upon people that the operation of a motor vehicle requires the maintenance of automobile insurance at all times for the protection of not only the operator, but of other persons as well.

Subpart 2 Failure to produce proof of insurance. Part 7409.1600, subpart 2 implements the legislative mandate of Minnesota Statutes, sections 169.791 and 169.792, by revoking a person's driver's license upon notification to the department of failing to produce the required proof of insurance when requested by a peace officer.

Proof of insurance for purposes of this section is defined in Minnesota Statutes, section 169.791, subdivision 1, clause (d), as "an insurance identification card, written statement, or insurance policy as defined by section 65B.14, subdivision 2."

Under Minnesota Statutes, section 169.792, subdivision 1, any driver or owner of a motor vehicle consents, subject to the provisions of 169.792 and 169.791, to the requirement of having possession of proof of insurance while operating a motor vehicle, and to the revocation of the person's license if the requirements of section 169.791 or 169.792 are not met.

Under section 169.792, subdivision 7, the department is directed to revoke the driver's license of a person if the driver has not provided the requested insurance information. The revocation is effective beginning 14 days after the date of notification by the officer to the department. The person's driver's license shall be revoked for the longer of 30 days or until the driver or owner files proof of insurance with the department.

The revocation period is set by statute. However, this subpart is still necessary because of the various requirements that must be met upon reinstatement of the person's driver's license. See part 7409.4000 for the discussion regarding the reinstatement requirements.

SUSPENSION

The suspension section sets forth the circumstances under which a person's driver's license will be suspended under Minnesota Statutes. There are several statutes regarding traffic regulation which authorize the commissioner to suspend a person's driver's license. However, these rules are not meant to include all statutes under which a person's driver's license is subject to suspension. Statutes which are self-governing, and include the grounds for the suspension and the length of the suspension period are not included in these rules. Such statutes stand alone and do not need to be repeated in these rules.

The department has developed consistent suspension periods using the progressive withdrawal period system as previously discussed in the statement under part 7409.1500. Under the suspension section, a person's driver's license will be suspended for either 30 days, 90 days, 180 days, or one year depending on the type of violation committed or the number of violations committed. The suspension periods apply to insurance related violations as well as to other non-alcohol-related driving violations.

7409.2000 Criminal vehicular homicide and injury or manslaughter.

Part 7409.2000 implements the legislative mandate of Minnesota Statutes, section 171.18, subdivision 1, by suspending the person's driver's license upon receiving a record of a

criminal charge for criminal vehicular homicide and injury or manslaughter arising out of the operation of a motor vehicle. This subpart is necessary to set forth the circumstances under which such a suspension will occur and how the suspension relates to a possible acquittal or conviction under the offense.

"Section 171.18 gives the commissioner the authority to suspend the license of any driver without preliminary hearing upon showing by department records or other sufficient evidence that the licensee has violated certain state laws." State v. Moseng, 95 N.W.2d 6, 10 (Minn. 1959).

Therefore, section 171.18, subdivision 1, allows the department to suspend the person's driver's license upon receipt of a criminal charge for criminal vehicular homicide and injury or manslaughter. The department's receipt of a criminal charge, usually in the form of an indictment, is sufficient evidence that the licensee has violated the criminal vehicular homicide and injury or manslaughter statutes.

The suspension is reasonable because it allows the department to remove the driver's license from the person during the time delay between the initial filing of criminal charges and the actual conviction. It is not uncommon for the time delay in the criminal process to be up to one year. Due to the serious nature of the charges of criminal vehicular homicide and manslaughter, it is reasonable to remove these drivers from the roads during the interim period.

The one year maximum suspension is reasonable because Minnesota Statutes, section 171.18, provides that the commissioner shall not suspend a license for a period of more than one year. The suspension period may be less than a year if the person is acquitted of the criminal charge or if the person is convicted of the charge during the one year period.

Subparts 2 and 3 provide that if the criminal charge is dismissed or the person is acquitted, the suspension period shall be terminated. Likewise, if the person is later convicted of the offense, then the commissioner shall convert the suspension to the appropriate revocation period. It is reasonable that the time served under the initial suspension is credited toward the revocation period. If the person is convicted of the crime the person's driver's license should only be revoked for the maximum revocation period to avoid a double penalty.

7409.2100 Violation resulting in fatality or personal injury.

Part 7409.2100 implements the legislative mandate of Minnesota Statutes, section 171.18, subdivision 2, which allows the commissioner to suspend the driver's license of person upon receiving a record of conviction for committing a violation of a provision of the highway traffic regulation act, Chapter 169, or an ordinance regulating traffic, except traffic violations specifically excluded from the driving record by statute. The suspension is mandated where it appears from department records that the traffic violation for which the person was convicted contributed in causing an accident resulting in the death or personal injury of another. This part is necessary because the suspension period is not set forth in the statute.

The suspension period under this subpart is 90 days, 180 days or as recommended by the court. The suspension period of 90 days is reasonable because the traffic violation upon which the conviction is based resulted in a personal injury to another person. Therefore, the lessor suspension period of 30 days is not appropriate.

It is reasonable to impose a 180 day suspension period because the violation upon which the conviction was based resulted in the death of another person. A suspension period

of one year is not reasonable even though the accident causes a death, because the person's violation of the traffic regulation did not cause the accident but just contributed in causing the accident. The culpability and dangerousness of the driver is not as great as a driver who directly causes an accident.

If the person was directly responsible for another's death as a result of a traffic accident, then he or she may also be subject to the criminal penalties under other statutes such as the criminal vehicular homicide statute. If convicted of a more serious offense, such as criminal vehicular homicide, then the person would be subject to the appropriate revocation period.

Section 171.18 also provides that any action taken under this subpart shall conform to the recommendation of the court when made in connection with the prosecution of the licensee. Therefore, a suspension period imposed by a court will be followed by the department.

The part excludes traffic violations that the legislature has designated will not go on a person's driving record. Minnesota Statutes, section 171.16, provides that the court shall forward to the department a record of the conviction of any person for a violation of any laws or ordinances, except parking violations and defective vehicle equipment or vehicle size or weight violations.

Seat belt violations are excluded from the driving record pursuant to Minnesota Statutes, section 169.686, which states, "the department of public safety shall not record a violation of this subdivision on a person's driving record." Minnesota Statutes, section 171.12, subdivision 6, provides that "the department shall not keep on the record of a driver any conviction for a violation of section 169.141 unless the violation consisted of a speed greater than ten miles per hour in excess of the lawful speed designated under that section."

If the legislature decides to change what violations should or should not go on the driving record, the change would be applicable to this section.

7409.2200 Habitual violators.

Subpart 1. In general. Subpart 1 implements the legislative mandate of Minnesota Statutes, section 171.18, subdivision 4, which allows the commissioner to suspend the driver's license of a person who habitually violates traffic laws. Subpart 1 is necessary because the statute does not set forth the period of suspension.

Minnesota has enacted laws designed to remove those drivers with the worst driving records from its highways in an effort to protect the public. Habitual offenders constitute a threat to the public because of the number and seriousness of their driving violations. Habitual traffic violators are extremely high risk drivers, with a prior accident rate 5 times, and a fatal or injury accident rate 10 times that of the general driving population. Helander, C.J. An Evaluation of the California Habitual Traffic Offender Law, (Report No. CAL-DMS-RSS-86-107). Sacramento: California State Department of Motor Vehicles, (May, 1986).

Minnesota Statutes, 171.18, subdivision 4, dictates that a person is to be suspended for habitual violations of "traffic laws." While the term "traffic law" is not specifically defined, there is Minnesota case law and other statutes that interpret its meaning to include violations of Chapter 169 as well as Chapter 171 that regulate the operation of motor vehicles.

The term "traffic law" has been interpreted by the court in Anderson v. Commissioner of Highways, 126 N.W.2d 778 (Minn. 1964). In Anderson, the petitioner contended that traffic laws under chapter 169 and driver's license laws under chapter 171 are different laws and acts and violations of chapter 171 are not covered as grounds for suspension under 171.18, subdivision 4.

The court in Anderson disagreed with the petitioner and concluded that violations of driver's license laws under chapter 171 could be considered by the commissioner as traffic laws within the meaning of 171.18. The court stated that both chapters 169 and 171

> relate to the regulation of vehicular traffic, and their general purpose comprehends that unsafe drivers be kept off our highways. Although a violation of a provision of c. 171 does not in itself impair safety on our highways, driving after suspension or revocation of a license can reasonably be considered to be evidence of an irresponsible attitude toward laws concerning the operation of motor vehicles, which in turn is strong evidence that the driver in question continues to be an unsafe driver. The overriding object of these laws is to protect the public in the rightful use of highways. We are of the view that in carrying out the legislative purpose of securing highway safety, the commissioner may properly consider driver's license laws to be "traffic laws" within the meaning of [section] 171.18.

The court in Anderson went on to conclude that Minnesota Statutes, 171.16, "incorporates a guide as to the meaning of the term traffic laws." Pursuant to Minnesota Statutes, section, 171.16, the court shall forward to the department a record of conviction for a violation of any laws regulating the operation of motor vehicles, excluding parking violations, defective vehicle equipment or vehicle size or weight violations. "The driver's license laws appear to be included among such laws since they state conditions which must be met in order to lawfully operate a motor vehicle on streets and highways." Since the conviction reports "are being used by the highway commissioner in deciding on suspensions, section 171.16 would be a nullity so far as driver's license laws are concerned if violations of these laws cannot be a basis of suspension." Anderson, at 783.

There are a few traffic laws that are outside chapters 169 and 171 that will also be included in this section. These laws relate to the regulation of motor vehicles but are found outside of chapters 169 and 171. Examples of additional traffic laws that are not included in chapters 169 or 171 but which are included in this part are Minnesota Statutes, section 219.20, subdivision 2, and section 160.27, subdivision 5. Minnesota Statutes, section 219.20, subdivision 2, pertains to the failure to stop at a railroad crossing. Section 160.27, subdivision 5, clause 13, makes it illegal to "drive over, through, or around any barricade, fence, or obstruction erected for the purpose of preventing traffic from passing over a portion of a highway closed to public travel...."

Such traffic statutes are not commonly used because there is usually a statute in chapter 169 that is also applicable. However, if the peace officer uses these statutes, the violations should be included within the meaning of "traffic laws" under section 171.18, subdivision 4. For a discussion as to why certain traffic violations are excluded from a person's driving record, see part 7409.2100 of the Statement.

The term "habitual violator" is also not defined in section 171.18, subdivision 4. The petitioner in Anderson contended that the term "habitual violator" was vague and did "not provide a clear and precise standard for the guidance of the commissioner in acting upon the suspension of driver's licenses, and is therefore unconstitutional and void." However, the

court in Anderson upheld the constitutionality of the term "habitual violator." The court in Anderson stated,

> the sufficiency of the standard expressed by the term "habitual violator" must be viewed in light of the purpose for which the statute was enacted.... It is not unreasonable to assume that the legislature may well have considered that to prescribe a more specific standard would only place the commissioner in a straitjacket and interfere with the fair and efficient administration of his duties.... In dealing with this vast area of administrative action, a flexible and practical guide is necessary.

Furthermore, the court in Anderson concluded that "denial of any discretion to the highway commissioner would prevent consideration of many factors which are relevant to the regulation of unsafe drivers on our highways. Considering the numerous relative factors which are important to consider in making his determination, there is not here an unreasonable delegation of authority to the commissioner."

The Anderson case makes it clear that the commissioner has wide discretion in administering the traffic laws of this state. The suspension of a driver's license because the driver is a habitual traffic offender is an exercise of police power for the protection of the public. And a denial of discretion to the commissioner would prevent the consideration of those many factors which are relevant to the regulation of unsafe drivers on highways.

While it is the function of the state legislature to make the laws, obviously the legislature has neither the time, staff or facilities to operate or oversee the enforcement and implementation of such laws. The laws must be put into effect by and through proper administrative agencies of government, operating under the power and authority delegated to them by the legislature. The commissioner of public safety has exclusive authority to issue, suspend, revoke or cancel driver's licenses upon conditions prescribed by the legislature. Those conditions provide the basis for the department's policies that implement the provisions of the driver licensing laws.

For several years the department has had a consistent policy of suspending driver's licenses under section 171.18, subdivision 4. The department in promulgating these rules will now be setting forth that policy in a written format. The proposed rules will furnish reasonable and clear standards for actions taken by the department in suspending a person's driver's license. The rules will be a guide to the public in ascertaining the circumstances under which the "habitual violator" law will apply.

The suspension periods imposed under this subpart are reasonably progressive and relate to the number of violations the person has accumulated within a specific period of time. Items A, B, C, and D provide progressive suspension periods that are based on the number of offenses that a person is convicted of within a 12 or 24 month period.

The department uses the dates of the offenses to calculate the number of offenses that occur within the designated time frame. The department action will not be taken until the conviction is actually reported to the department by the court. However, the suspension period will not start to run until the person surrenders his or her driver's license to the department pursuant to Minnesota Statutes, section 171.20.

The length of suspension ranges from 30 days to one year. The progressive length of suspension for an increasing number of violations provides a reasonable incentive to change or correct driving practices and to discontinue the pattern of violations. Progressive

suspension periods are necessary to take the driver off the road for a longer period of time when the driver poses a greater safety risk.

Habitual traffic offenders can be convicted of petty misdemeanors, misdemeanors or gross misdemeanors depending on the severity of the act. As the number of offenses and the risk of public endangerment increases, so does the length of suspension. The more times an offender breaks the traffic laws, the greater the danger to public safety. Therefore, it is reasonable that the length of the suspension period be directly related to the frequency of violation by the habitual offender.

Item A sets forth a suspension period of 30 days if a person is convicted of four offenses within a 12 month period or five offenses within a 24 month period. A brief period of suspension may be all that is needed to motivate these initial habitual offenders to improve their driving conduct. Furthermore, under item A, a person will only be subject to the suspension if he or she was previously sent a warning letter by the department, as discussed later in this subpart.

Under items B, C, and D, a person's driver's license will be suspended for 90 days, 180 days or one year as the number of traffic violations increase. As previously mentioned, the longer period of suspension is justified by the need to provide stronger incentives for improving the driving record, and the desirability of reducing the driver's vehicle operation for a longer period. The more dangerous the driver is to public safety, the longer the suspension period will be.

Under this subpart, the department will count the number of traffic violations a person has accumulated within a 12 or 24 month period. Considering violations within the past 12 or 24 months is consistent with part 7409.1500, where the department considers misdemeanors or gross misdemeanors that have occurred within the past 12 months. Multiple misdemeanor or gross misdemeanor offenses are of the same category as the types of violations committed under this subpart.

Furthermore, using a 12 or 24 month period for counting the number of traffic violations a person has accumulated allows the department to involve a person in the driver improvement system as soon as possible. One of the goals of the department is to improve the driving conduct of people who habitually commit traffic violations. The shorter period of 12 months allows the department to have contact with the person who is developing a habitual pattern of violations. A person who has been suspended under this part will probably be in contact with the department's driver improvement specialists if the person has questions regarding his or her driving record or if the person wants to request a limited license. Such contact with the department gives the driver improvement specialist the opportunity to discuss with the person the number of driving violations on the person's driving record and the consequences of future violations.

This subpart also informs the public that if persons who are convicted of two misdemeanors or three or more traffic offenses under this subpart within a 24 month period will either receive a warning letter or be required to attend a preliminary hearing as set forth in part 7409.4500. If a person receives a warning letter, then the next violation that occurs within that 12 or 24 month period will subject them to an automatic period of suspension. However, if a conviction is reported to the department in such a manner so that an automatic suspension is not generated by the computer, then the department will send a notice out to the person informing them of the time and date for their preliminary hearing.

The majority of habitual violators will receive a warning letter after they commit three traffic violations within a 12 or 24 month period. However, there are times when the

convictions are reported in such a way that the department's computer will not generate a warning letter. This can happen if there is a time lag between the date of the offense and the date the conviction is reported to the department.

Where a warning letter is not generated, the preliminary hearing is used as a back-up procedure by the department to ensure that people who do not receive a warning letter after their third offense do not slip through the system. The preliminary hearing will give the department an opportunity to meet with the driver to discuss driving conduct. For further discussion on the preliminary hearing see part 7409.4500 of this Statement.

The department sends a warning letter to a driver after three traffic offenses within 12 or 24 months because the record of violations is sufficient to warrant concern. The warning letter is a cost-effective way to inform the driver that he or she is approaching the level of traffic violations that will result in a period of suspension. The letter notifies the person of the number and severity of traffic offenses on their driving record, and the consequences of additional traffic violations. The warning letter gives the person the opportunity to change driving conduct on his or her own initiative.

The department is in agreement with the U.S. Department of Transportation that the warning letter is designed to discourage unsafe driving and motivate drivers to change driving conduct and to drive safely. The warning letter is sent to inform drivers of the need to improve their driving and to provide information that will make them concerned about their unsafe driving conduct and indicating that further action will be taken for continued violations.

The warning is a way of giving the driver "fair warning" that subsequent traffic violations will result in a period of suspension. The U.S. Department of Transportation also notes that studies have shown that warning letters "have been important to the effectiveness of subsequent driver improvement actions" as well as preventing subsequent accidents. Warning letters can also produce positive effects of either less driving or more cautious driving or both. Driver Improvement System for Traffic Violators, U.S. Department of Transportation National Highway Traffic Safety Administration in cooperation with American Association of Motor Vehicle Administrators, DOT HS 806 284, (November 1982.)

Subpart 2. License, permit, and endorsement violations. Subpart 2 implements the legislative mandate of Minnesota Statutes, section 171.18, subdivision 4, by suspending a person's driver's license upon receiving a record of conviction of two or more violations under Minnesota Statutes, sections 169.974, subdivision 2; 171.02; 171.05 or 171.321, if the violations are more than sixty days apart. This subpart is necessary because the statute does not define the suspension period.

This subpart follows the legislative mandate by suspending a person's driver's license if a person receives two or more convictions for traffic violations under the above named statutes and who fail to correct the problem within 60 days. The statutes listed in the subpart deal with licenses, instruction permits and endorsements.

Minnesota Statutes, section, 169.974, subdivision 2, involves license requirements for motorcycles, motor scooters and motor bikes. Minnesota Statutes, section, 171.02, involves license requirements for motor vehicles. All motor vehicles operated in this state shall have a valid license for the type or class of vehicle being driven. Minnesota Statutes, section 171.05, involves requirements for instruction permits. Minnesota Statutes, section 171.321, involves requirements for a school bus endorsement.

These statutes have a separate suspension period because these drivers have not yet met the initial requirement of obtaining their driving privilege, that of having a valid driver's license, instruction permit or endorsement. The above named statutes are necessary for the protection of public safety. If a driver intends to continue violating these statutes the department must get that driver off the road so they can get the proper license, endorsement or permit needed to drive legally within Minnesota.

This subpart reasonably provides a driver 60 days after the first violation in which to correct the problem. If the department receives another conviction under this subpart, the person will be subject to a period of suspension for 30 days. Drivers subject to this provision are habitual violators of traffic laws and, therefore, are subject to license suspension under Minnesota Statutes, section 171.18, subdivision 4.

Subpart 3. Limited license violations. Subpart 3 implements the legislative mandate of Minnesota Statutes, section 171.18, subdivision 4, by suspending a driver's license upon receiving a record of conviction for violating a condition or limitation of a limited license under Minnesota Statutes, section 171.30. This subpart is necessary because the statute does not define the suspension period.

A person who violates a limited license is a habitual traffic law offender. Such a driver has demonstrated a pattern of traffic violations in that the driver has already violated a sufficient number of offenses that resulted in the initial withdrawal of the person's driver's license.

As stated by the Minnesota Supreme Court in Anderson v. Commissioner of Public Safety, 126 N.W.2d 778, 783 (Minn. 1964) violations under Chapter 171 are properly considered traffic law violations. Carrying out the purposes of Chapter 171, including the limited license section, 171.30, secures and promotes highway safety. Chapter 171 includes laws that were enacted to protect the public in the rightful use of highways.

The driver who violates a condition of the limited license did not meet the conditions and limitations that the commissioner has imposed for the issuance of the limited license. Therefore, the driver, by not meeting the conditions necessary to lawfully operate a motor vehicle on streets or highways, has posed a threat to the public safety.

The suspension periods under this subpart are 30 days, 90 days, 180 days and one year depending on the number of convictions of a limited license a driver has had within the last five years. Thirty days is the minimum suspension period. The suspension periods rise progressively as the number of convictions under section 171.30 increase. The suspension periods are reasonable because violating the limited license conditions means that the driver has not taken seriously the limited license privilege.

The department counts the number of convictions that have accumulated under section 171.30 within the past five years to determine the period of suspension. The five year period is reasonable because that is how long the department keeps traffic violations on a person's driving record. It is reasonable to monitor the driving conduct of people for the length of the driving record.

Subpart 4. Driving after withdrawal. Subpart 4 implements the legislative mandate of Minnesota Statutes, section 171.18, subdivision 4, by suspending a persons driver's license upon receiving a record of conviction of a traffic violation committed while under a period of

withdrawal. This subpart is necessary because the statute does not set forth the suspension period.

Drivers subject to this provision are habitual violators of traffic laws and are subject to license suspension under Minnesota Statutes, section 171.18, subdivision 4. Drivers who are suspended pursuant to this subpart are convicted of a traffic violation during a period of withdrawal.

The court in Anderson v. Commissioner of Public Safety, 126 N.W.2d 778, 783 (Minn. 1964), stated that "...driving after suspension or revocation of a license can reasonably be considered to be evidence of an irresponsible attitude toward laws concerning the operation of motor vehicles, which in turn is strong evidence that the driver in question continues to be an unsafe driver."

"The offense of driving after revocation requires only that the defendant be shown to have driven an automobile, on a public highway, while his license was under revocation." State v. Coady, 412 N.W.2d 39 (Minn. App. 1987) Section 171.18, subdivision 4, allows the commissioner to suspend the driver's license of a person upon a showing of department records or other sufficient evidence that the person is a habitual violator of traffic laws.

Therefore, under this subpart, the department will suspend a person's driver's license for either a conviction of driving after withdrawal or for a conviction of a traffic violation committed while under a period of withdrawal. This is reasonable because a person is driving after withdrawal whether or not they receive a conviction for that particular offense.

For example, a person may be facing two violations at a court proceeding, one for driving after withdrawal and one for the underlying traffic violation. Because of plea bargaining, the charge of driving after withdrawal may be dismissed and the person may only be convicted of the underlying traffic violation. However, it is clear that the person has been driving after withdrawal and should not escape the appropriate sanction because of a plea bargain.

The license suspension periods of 30 days, 90 days, 180 days and one year are consistent with other department action. As previously stated, it is reasonable that the length of the suspension period increases with the number of violations committed by the individual. Additional violations show the individual is continuing to drive while the intent of this subpart is to prevent driving during withdrawal. As with limited license violations, the department will use the period of five years for counting the number of violations accumulated under this subpart.

It should also be noted that the suspension period imposed for driving after withdrawal is consecutive and added on to other outstanding withdrawal periods as is dictated by part 7409.3000 of these rules. The consecutive suspension period is reasonable because it is unlawful for a person whose driver's license has been withdrawn to continue to drive. Driving after withdrawal is even more serious when that person not only continues to drive but also continues to commit violations of the traffic laws while under a period of withdrawal. Studies have determined that persons who drive while under a period of withdrawal have more accidents per mile driven than other drivers. Involvement of Suspended/Revoked Drivers in Traffic Crashes, National Highway Traffic Safety Administration, June, 1979.

7409.2300 Misuse of license.

Part 7409.2300 implements the legislative mandate of Minnesota Statutes, section 171.18, subdivisions 6 and 8, by suspending a person's driver's license upon the department

receiving a record of conviction under Minnesota Statutes, section 171.22. This subpart is necessary because the statute does not define the suspension period.

A person is convicted under Minnesota Statutes, section 171.22, for committing or permitting an unlawful act with a driver's license or Minnesota identification card. The driver's license is an important instrument used by the department in regulating driving activities to protect the public. The unlawful or fraudulent use of a driver's license interferes with the department's regulation of those driving activities.

The suspension period imposed under this subpart is 90 days, if a person has no other convictions under 171.22, or 180 days, if a person has been convicted two or more times under 171.22 within a five year period.

It is reasonable to impose a 90 day suspension period because the legislature has determined that a person who violates a provision of section 171.22 is guilty of either a gross misdemeanor or a misdemeanor depending upon which section the person is convicted under. The majority of the other traffic violations are classified as petty misdemeanors. Therefore, because of the higher criminal penalty that can be imposed, it is reasonable to impose the 90 day suspension period.

Doubling the suspension period to 180 days for two or more convictions within a five year period is reasonable because a multiple conviction under this statute is substantial evidence that the driver has an irresponsible attitude concerning the operation of motor vehicles and the safety of the public. Doubling the suspension period for subsequent violations is a reasonable way to deter the driver from committing additional unlawful or fraudulent acts with a driver's license.

A person who is suspended under this subpart has received a conviction under 171.22. However, section 171.18, subdivisions 6 and 8, give the commissioner authority to suspend the person's driver's license upon department records or other sufficient evidence if the person has permitted or committed a violation under 171.22. If the department has determined that the person has committed or permitted such an offense, then the department will have the person attend a preliminary hearing as set forth in part 7409.4500.

7409.2400 Failure to maintain insurance.

Part 7409.2400 implements the legislative mandate of Minnesota Statutes, section 65B.67, subdivision 4a, by suspending the driver's license of any operator upon a showing of department records, including accident reports or other sufficient evidence, that a plan of reparation security has not been provided and maintained. This part is necessary because the statute does not define the suspension period.

The suspension periods imposed by subpart 1 are 30 days, 90 days, 180 days, or one year depending on the number of violations of Minnesota Statutes, section 65B.67, subdivision 4a, the operator has accumulated within a five year period. Imposing progressively longer suspension periods for each additional offense, as described in the preceding subparts of this chapter, is reasonable because a multiple offender has demonstrated a pattern of unlawful behavior. The operator by violating this statute has shown a lack of concern for the laws which govern driving by failing to have motor vehicle insurance. Therefore, an effective deterrent is necessary to prevent further violations.

Subparts 2 and 3 provide that if a person is later convicted under section 65B.67, subdivision 4, clause (b), for the same offense, then the commissioner shall convert the

suspension imposed under this part to a revocation under part 7409.1600, subpart 1. Any time accrued under the suspension period shall be credited toward the revocation period.

It is reasonable that the suspension be converted to a revocation because the purpose is to get the driver off the road until the required insurance is obtained by the driver as is set forth by the reinstatement requirements. The revocation period is the minimum period of withdrawal. The revocation period will continue to run until the insurance is obtained. Therefore, the revocation period can be longer if the person does not fulfill the reinstatement requirements as set forth in part 7409.3800.

Cancellation

7409.2800 Cancellation; grounds.

Part 7409.2800 implements the legislative mandate of Minnesota Statutes, sections 171.04, 171.13 and 171.14, by cancelling a person's driver's license under the circumstances prescribed in those statutes. This part is necessary because it draws together for the public the circumstances under which a person's driver's license will be cancelled. The department is responsible for effectively administering these statutes.

The conditions under items A through D of this subpart are taken directly from Minnesota Statutes, section 171.14. Item E sets forth the circumstances under which a person's driver's license may be cancelled under Minnesota Statutes, section 171.13. Section 171.13, subdivision 4, provides that if a person fails to submit to an examination required under the provisions of subdivision 3 of section 171.13, the commissioner may cancel the driver's license of the person.

WITHDRAWAL PERIODS, ACTION; LICENSE SURRENDER

7409.3000 Multiple license withdrawals.

Subpart 1. Consecutive, generally. Subpart 1 provides that when a person is subject to more than one withdrawal period under this chapter, the periods of withdrawal shall run consecutively except in a limited number of circumstances. This part is necessary because there is no provision in the statutes that determines the procedure when two or more periods of withdrawal are imposed upon one person.

It is reasonable to assume that drivers who incur more than one withdrawal period pose a greater threat to public safety than drivers that incur only one period of withdrawal. Therefore, it is reasonable for the periods of withdrawal to run consecutively. If withdrawal periods ran concurrently, drivers who incur multiple withdrawal periods would be treated the same as drivers who incur one withdrawal period. It is reasonable to run periods of withdrawal consecutively and thereby keep the drivers that pose the greatest risk off the road for the longest period of time.

Subpart 2. Concurrent. Subpart 2 provides that periods of withdrawal imposed under chapter 7409 shall run concurrently with periods of withdrawal imposed under chapter 7503. Chapter 7503 administers withdrawal periods for those individuals who have committed offenses that involve alcohol or controlled substances. It is reasonable to run the periods of withdrawal concurrently because Chapter 7503 and the statutes that they mandate are inclusive and are separate from these rules.

Subpart 3. Vehicular liability violations. Subpart 3 provides that periods of withdrawal imposed under the Minnesota No-Fault Automobile Insurance Act, subparts 1 and 2 under part 7409.1600 and part 7409.2400, run concurrently with other periods of withdrawal arising from the same incident. Periods of withdrawal imposed under the Minnesota No-Fault Insurance Act have a distinct purpose which is to motivate drivers to obtain the required insurance. Because the periods of withdrawal imposed for No-Fault violations have a different purpose from other periods of withdrawal, it is reasonable that such withdrawals should run concurrently with other types of withdrawal periods arising from the same incident. (See part 7409.1600, subpart 1, of the Statement for the purposes of the Minnesota No-Fault Automobile Insurance Act.)

However, no-fault violations that do not arise from the same incident shall run consecutively with each other and with other withdrawal periods that are imposed under this chapter. If a person continues to violate no-fault provisions and traffic laws, that person has shown an indifference to the laws of this state. Such a driver has not improved his or her driving conduct. Therefore, it is reasonable to run the withdrawal periods consecutively with other no-fault violations.

Subpart 4. Suspension periods. Subpart 4 provides that when a suspension period is imposed under part 7409.2200, subpart 1 it shall run concurrently with the revocation period imposed under part 7409.1500 when the withdrawal periods arise from the same incident. The total period of withdrawal shall not exceed the longer of the two withdrawal periods. It is reasonable to run the withdrawal periods concurrently because one offense could subject the person to two separate withdrawal periods.

This subpart applies when a person commits one traffic offense that will make them subject to a withdrawal period under the habitual suspension subpart and also under the multiple misdemeanor and gross misdemeanor section. For example, a person is convicted of careless driving, which is a misdemeanor and the misdemeanor is the person's third misdemeanor within a period of 12 months. Therefore, the person is subject to a revocation period of 30 days under part 7409.1500.

However, the careless driving misdemeanor violation also happens to be the person's sixth driving violation within 24 months. Therefore, the person is subject to a license suspension for a period of 90 days under part 7409.2200, subpart 1. Under this subpart, the suspension period of 90 days and the revocation period of 30 days would run concurrently since they arise from the same incident. The total withdrawal period for this person would be 90 days.

Subpart 5. Court order. Subpart 5 provides that withdrawal periods imposed by a court order shall run concurrently with other withdrawal periods imposed under this chapter unless otherwise ordered by the court. This is reasonable because withdrawal periods issued by the court are separate and distinct. The department does not impose the withdrawal period but only monitors it for the court.

Subpart 6. Total suspension period. Subpart 6 states that the total period of suspension shall not exceed one year unless otherwise recommended by a court. Minnesota Statutes, section 171.18, provides that the department shall not suspend a license for a period of more than one year. This subpart provides for consecutive suspension periods up to the statutory maximum of one year, at which point additional suspensions imposed by the department will run concurrently with other suspensions.

7409.3100 Driving incidents out of state; withdrawal.

Part 7409.3100 implements the legislative mandate of Minnesota Statutes, section 171.17, subdivision 7; 171.18, subdivision 7; and 171.55, by imposing the same period of withdrawal of a person's drivers privilege if the person commits or is convicted of an offense in another state which, if committed in Minnesota, would be grounds for withdrawal of the driving privileges.

It is necessary to have this part in the rules to put the public on notice that the consequences of their unlawful driving conduct in Minnesota as well as outside the state will be reported to the state of Minnesota and the department can act on a person's driver's license based on such driving incidents.

7409.3200 Notice of withdrawal action.

Part 7409.3200 requires the commissioner to notify a person whose driver's license is subject to withdrawal or has been withdrawn.

Notice of withdrawal is necessary to protect the driver's right to due process. Proper notice of revocation is given by mailing a true copy to the address on the person's driver's license. "Actual receipt of the notice is not required to meet due process requirements." State v. Coady, 412 N.W.2d 39 (Minn. App. 1987), citing State v. Green, 351 N.W.2d 42,44 (Minn. Ct.. App. 1984). Under Minnesota Statutes, section 171.24 it is not a defense that a person failed to file a change of address with the post office or failed to notify the Department of Public Safety as required under section 171.11.

A person whose driver's license is withdrawn is sent a notice by first class mail to the person's last known address or the address listed on the person's driver's license. All notices that are mailed by first class mail are placed on the department's certified mailing list. Under Minnesota Statutes, section 171.24, notice is also sufficient if personally served. The notice contains the reason for withdrawal, the length of withdrawal and the requirements for reinstatement.

Minnesota Statutes, section 171.24, provides that "notice is also sufficient if the person was informed that revocation, suspension, cancellation, ... would be imposed upon a condition occurring or failing to occur, and where the condition has in fact occurred or failed to occur." Notices in the insurance area will often be of the type that inform a person that withdrawal will be imposed if the person fails to meet a condition. For example, the department will send a notice of proposed suspension if a person was involved in an accident and the department has not received the required insurance information.

The insurance notice will state that failure to file the required insurance information by the date shown on the notice will result in suspension of all driving privileges. The driver is also informed that this is the only notice that will be sent. Therefore, if the driver does not provide to the department the required insurance information by the effective date, the driver's driving privileges will be automatically suspended. Such a notice is sufficient under Minnesota Statutes, section 171.24, as quoted above.

7409.3400 Driver's license surrender.

Subpart 1. License surrender. Subpart 1 is necessary to implement the legislative mandate of Minnesota Statutes, section 171.20. Minnesota Statutes, section 171.20 provides that upon suspending, revoking, or canceling a license, the commissioner shall require that all license certificates issued to the licensee be surrendered to and be retained by the department. The subpart outlines an alternative procedure for the person who has misplaced his or her license. An affidavit explaining the loss of the license is a reasonable method for the department to use when the actual license is not available to surrender.

Subpart 2. Refusal to surrender license. Subpart 2 outlines the process the department will follow should a person refuse to surrender a license. The department's authority for this action is contained in Minnesota Statutes, section 171.20, subdivision 1. Subpart 2 states that the department will inform the local law enforcement agency within 30 days if the person fails or refuses to surrender the license to the department. It is necessary to set a time period because the statute does not set forth a time period. The 30 day time period is reasonable because for a license suspension, revocation or cancellation the department will mail out one or two notices to the person informing them of the withdrawal and the requirement of the license suspension. Each notice will give the person approximately 15 days to comply with the surrender requirement. If the person does not surrender the license within 30 days, the department then informs the law enforcement agency.

LIMITED LICENSE

7409.3600 Limited license.

Part 7409.3600 sets forth the conditions under which the commissioner can issue a limited license if a person's driver's license has been withdrawn. This part is necessary to implement the legislative mandate of Minnesota Statutes, section 171.30. The requirements set forth in this part are designed to protect public safety and to ensure that all applicants are treated similarly.

The availability of the limited license procedure can been seen as relieving the tension of being unable to drive and provides further due process support for the summary suspension procedure. The initiative in obtaining a limited license is with the driver. Minnesota Statutes, section 171.30, sets forth a number of requirements that a person must meet before becoming eligible for a limited license.

Section 171.30 also gives the commissioner discretion to issue additional conditions and limitations on a limited license as the commissioner deems necessary to protect the interests of public safety and welfare. "The determination of whether to issue a limited license and under what circumstances such a license should be issued is also an exercise of police power for the protection of the public." Norman v. Commissioner of Public Safety, 404 N.W.2d 315, 318 (Minn. App. 1987). The additional conditions that the departments imposes are clearly related to highway safety and proper operation of a motor vehicle.

Item A states that a person must meet the requirements of Minnesota Statutes, section 171.30. Item A includes all the requirements that are listed in section 171.30. Because a rule is not supposed to repeat the statute, all the requirements set out in section 171.30 are not spelled out again in the rule. A person can refer to the statute to see if he or she meets those requirements.

Under section 171.30, a person is eligible for a limited license if the person's driver's license was suspended or revoked under 171.18, 169.792 or 171.17. A person may be granted a limited license if the driver's livelihood depends upon the use of the driver's license, if the use of a driver's license by a homemaker is necessary to prevent the substantial disruption of the education, medical, or nutritional needs of the family of the homemaker or if attendance at a post-secondary institution of education by an enrolled student of that institution depends upon the use of the driver's license.

The commissioner may limit the license to the operation of particular vehicles, to particular classes and times of operation and to particular conditions of traffic. The commissioner may require that an applicant for a limited license affirmatively demonstrate that use of public transportation or carpooling as an alternative to a limited license would be a significant hardship.

Furthermore, under section 171.30, in deciding whether or not to issue a limited license, the commissioner shall consider the number and the seriousness of prior convictions and the entire driving record of the driver and shall consider the number of miles driven by the driver annually.

Under subdivision 3, the commissioner shall allow certain drivers who commit a violation of a traffic law in their private passenger motor vehicle to obtain a limited license to drive vehicles which may be driven only with a Class A, B, or CC license. These vehicles are often limited to employment purposes, when the driver is more likely to be regulated and supervised. This is relevant to the purpose of the law, which is to allow drivers who otherwise would be prohibited from driving at all to use their licenses for specified purposes.

Item B implements the legislative mandate of Minnesota Statutes, sections 171.20 and 171.29. Section 171.20 authorizes the commissioner to require a reinstatement fee if a person's license is suspended under 171.16, subdivision 2, 171.18, or 171.182. Section 171.29 authorizes the commissioner to require a reinstatement fee if the person's driver's license is revoked under 171.17 or 65B.67.

Item C requires that the person surrender his or her license in compliance with Minnesota Statutes, section 171.20. This item gives drivers additional incentive to surrender their licenses because until the license is surrendered a limited license cannot be issued.

Item D implements the legislative mandate of 171.29 by requiring a person to pass the driver's license examination, to apply for a new license and pay the correct application fee if the person's license has been revoked under section 171.17 or 65B.67. Revocation is the permanent removal of a person's driver's license. Therefore, it is reasonable for a person to meet the initial requirements necessary to obtain a license.

Section 171.29 does not require the conditions in item D to be met if the person's driver's license was revoked under Minnesota Statutes, section 169.792, part 7409.1600, subpart 1.

Item E requires that one-half of the revocation or suspension period has expired if the person has been issued a limited license within the previous 12 months. This requirement is necessary because a driver who has had a limited within the previous 12 months has continued to commit traffic violations. This provision is reasonable because, pursuant to section 171.30, it imposes conditions and limitations as in the commissioner's judgement are necessary to the interests of the public safety and welfare.

Such a requirement reasonably imposes a waiting period for repeat traffic offenders. This requirement demonstrates that the limited license is not an automatic process. A driver that has not complied with driver license limitations in the past will have no motivation to reform if he or she can just get another limited license.

Item F states that the person requests a limited license by written correspondence, by a personal appearance at the Department of Public Safety or by telephone if the person resides outside the seven county metropolitan area. The person must request the limited license and give the department an opportunity to examine all the necessary factors to make a determination in whether or not to issue a limited license.

It is reasonable to allow people who reside outside the metropolitan area to request a limited license by telephone because of the distance they may live from the department. It is not reasonable for the department to require these people to personally appear at the department. However, people inside the seven county metropolitan area do reside within a close enough distance where it is not unreasonable for them to personally come into the department to request a limited license. A person always has the option to request a limited license through written correspondence.

The department encourages personal appearances because it provides an opportunity for face to face interaction. Through face to face encounters, the department's staff have more of an opportunity to talk to the person about his or her driving conduct and methods for improving driving conduct.

Item G requires that the person has fulfilled all outstanding requirements for all other driver's license withdrawals. This requirement is reasonable because the limited license is a privilege and before that privilege is extended, the driver has to complete the other withdrawal requirements. Completing other requirements demonstrates that the person is serious about complying with the laws.

REINSTATEMENT

The reinstatement section sets forth the department's procedure for reinstating a driver's license after withdrawal. This part is necessary because the department needs a policy in which to carry out the reinstatement process once the driver's license has been withdrawn. The procedures set forth in this part are designed to ensure that all drivers complete the necessary requirements before their driver's licenses are reinstated.

Drivers who remain violation free during the period of withdrawal are eligible for reinstatement after completion of the reinstatement requirements. Some of the reinstatement requirements may have already been fulfilled at the limited license stage. If a person has met the requirements for a limited license the person does not have to repeat the same requirements upon reinstatement of the driver's license for the same offense.

7409.3800 Reinstatement after insurance-related revocation; 65B.67, subdivision 4.

Part 7409.3800 is necessary to implement the legislative mandate of Minnesota Statutes, section 65B.67, subdivision 4, paragraph (b). Section 65B.67, subdivision 4, paragraph (b) states, "Before reinstatement of a driver's license..., the operator shall file with the commissioner of public safety the written certificate of an insurance carrier authorized to

do business in this state stating that security has been provided by the operator as required by 65B.48" (emphasis added).

In accordance with above statutory mandate, item A requires the operator to file with the commissioner a certificate of insurance prior to reinstatement. The term "certificate of insurance" is defined and further discussed under part 7409.0100, subpart 1b, of the Statement.

Under item A, if the operator is also the owner of the vehicle involved in the incident, then a certificate of insurance is required for the vehicle cited on the traffic citation or the vehicle currently being operated if no vehicle is cited on the traffic citation or the vehicle has been sold or junked.

The vehicle involved in the incident should be the vehicle listed on the traffic citation. However, there are times when the citation fails to identify the vehicle being operated at the time of the incident. For administrative efficiency, the department will take an insurance certificate for the vehicle currently being operated by the person.

There are also times when the vehicle involved in the incident has been sold. If the car has been sold, it is no longer feasible to require the operator to have an insurance certificate for that car. The same is true if the vehicle has been junked. A car will usually be junked if the car has been in an accident. The damaged car usually will be sold to a salvage yard or kept for parts. It the car has been sold or junked, it is reasonable to require an insurance certificate on the vehicle currently being operated by the person. If a car has been sold or junked, the department will require a written statement from the operator to that effect so the information can be verified.

Under item B, if the operator is not the owner of the vehicle involved in the incident, the department requires a certificate of insurance for the vehicle currently being operated by the person. An operator's driver's license will only be revoked under section 65B.67, subdivision 4, clause (b), if the person has been convicted under section 65B.67. If the non-owner/operator is convicted of such a violation, it has already been determined by the court that the operator knew or had reason to know that the owner did not have security complying with section 65B.67 at the time of the incident.

It is reasonable for the operator to show that the vehicle currently operated is covered by a certificate of insurance because in this situation the owner's registration would be revoked and the owner will have to meet individual insurance requirements regarding the vehicle involved in the incident before the registration would be reinstated. Section 65B.67, subdivision 4a requires the commissioner to revoke the registration of any motor vehicle upon a showing of sufficient evidence that security required by section 65B.48 has not been provided and maintained.

Under item C, if the operator is not the owner of the vehicle involved in the incident and the operator does not own a vehicle, the operator shall file with the commissioner a certificate of insurance for a non-owner operator policy or file a certificate of insurance showing the operator is a named insured on another person's insurance policy. It is reasonable for the department to require an operator policy or to require the operator to be a named insured because the statute specifically states that the operator shall file a certificate of insurance with the department upon reinstatement. The legislature could have used the term owner/operator if it was the intention to exclude the non-owner operator from the insurance certificate requirement. Requiring the operator to provide insurance reasonably reinforces the principle that insurance directly relates to the operation or use of the motor vehicle regardless of who is the owner.

This part also provides that the operator must meet the additional reinstatement requirements under part 7409.4100. Part 7409.4100 includes the reinstatement requirements upon revocation of non-insurance violations. See Part 7409.4100 for a discussion regarding these requirements.

7409.3900. Reinstatement after insurance-related suspension; 65B.67, subdivision 4a.

Under Item A, the operator is required to provide the commissioner with verifiable insurance information if the person's driver's license has not been withdrawn under section 65B.67 within a five year period. Verifiable insurance information includes the name of the insurance company, the insurance policy number, and the name of the policyholder.

Verifiable insurance information is reasonable because section 65B.67, subdivision 4a, does not specify that a certificate of insurance is required upon reinstatement. If a person has had no other withdrawals under section 65B.67, it is reasonable to require verifiable insurance information instead of a certificate of insurance. The department is still requiring that proper vehicular insurance be maintained upon reinstatement but will not require a certificate of insurance if it is the first violation within a five year period.

This part also provides that the operator must meet the reinstatement requirements for all other suspension under part 7409.4200. See part 7409.4200 for a discussion of those reinstatement requirements.

Subitem 1 under item A has the same requirements as item A, under part 7409.3800, except that the vehicle information will be listed on the department record, which could be a traffic citation, accident report or other sufficient information. See part 7409.3800, item A, for further discussion on the type of vehicle the insurance coverage is to be provided for.

Subitem 2 requires that if the operator was not the owner of the vehicle involved in the incident the operator is to provide verifiable insurance information on the vehicle currently being operated by the person. This insurance information will only be required if the operator knew or had reason to know that the vehicle did not have a plan of reparation security complying with the terms of section 65B.48.

If a person is convicted under section 65B.67 the court has already made the determination that the person knew or had reason to know that vehicle did not have the required insurance. Under section 65B.67, subdivision 4a, there is no conviction. The suspension under subdivision 4a is based on sufficient evidence that the vehicle was not properly maintained. Therefore, in accordance with section 65B.67, subdivision 3 the department has to make the determination as to whether the person knew or had reason to know that the vehicle was not insured. If the operator provides the department with a statement stating that he or she did not know or had no reason to know the vehicle was uninsured, the person will not be suspended under subdivision 4a. Therefore it is only those operators who knew that the vehicle was uninsured who will be suspended and who will have to provide insurance information under this subitem.

Under item B, an operator must provide a certificate of insurance if the person's driver's license has been withdrawn two or more times under section 65B.67 within a five year period. Section 65B.67, subdivision 4a, provides that the commissioner may require a certificate of insurance to be filed with respect to any vehicles required to be insured under 65B.48 and owned by any person whose driving privileges have been suspended under this section.

A certificate of insurance is reasonable if the person commits two or more offenses under section 65B.67 within 5 years because the person has demonstrated a pattern of not maintaining the required insurance. The department needs to be sure that the person takes the requirement of insurance seriously. The certificate of insurance will require the person to maintain the appropriate insurance for one year.

For subitems 1 and 2 under item B, see prior discussion under item A, of this part

7409.4000 Reinstatement after insurance-related revocation; 169.792.

Section 169.792, subdivision 10, provides that before reinstatement of a driver's license, the driver or owner shall produce proof of insurance indicating that the driver or owner has insurance coverage satisfactory to the commissioner. Proof of insurance is defined under Minnesota Statutes, section 169.791, subdivision 1, clause (d). The use of the terms "driver or owner" indicates that the legislature intended the operator to have insurance upon reinstatement regardless of whether the operator also owned the vehicle.

Items A, B, and C of this part are the same as items A B, and C under part 7409.3800, except that the vehicle information is provided on the "no proof of insurance" report instead of a traffic citation and "proof of insurance" is required instead of a "certificate of insurance." See part 7409.3800, for discussion as to what type of vehicle the insurance is to be provided for and the discussion on the requirement of an operator policy.

However, under section 169.792, subdivision 10 the legislature has used the terms "driver or owner" instead of "operator" as was used in section 65B.67. The meaning of driver or owner is consistent with the term operator in that the legislature has made a determination that the non-owner operator is not to be excluded from the requirements of providing insurance information upon reinstatement.

7409.4100 Reinstatement after revocation, generally.

Except as provided in part 7409.3900, part 7409.4100 sets forth the requirements for reinstatement of a driver's license after revocation.

Item A requires that the revocation period expire before the person's driver's license is reinstated. This provision is necessary to support the revocation sanctions imposed under the revocation section of this chapter.

Item B requires that no withdrawal of the person's driver's license is outstanding. A person may have multiple withdrawal periods imposed. The person cannot be reinstated unless the other withdrawal requirements have also been met. This is necessary to ensure that a person is not reinstated when he or she is currently under withdrawal for a separate offense.

Item C is necessary to implement the legislative mandate of Minnesota Statutes, section 171.29, subdivision 2. Section 171.29, subdivision 2, authorizes the commissioner to require a reinstatement fee if the person's license was revoked under Minnesota Statutes, section 171.17 or 65B.67.

Item D requires that the person has surrendered the driver's license to the department under Minnesota Statutes, section 171.20.

Item E is necessary to implement the legislative mandate of Minnesota Statutes, section 171.29, subdivision 1. Section 171.29, subdivision 1, requires the person to successfully

pass an examination as required for an initial license. Since revocation involves the permanent removal of a person's driver's license, it is also necessary to have the person apply for a new license and pay the application fee.

A driver's license that is revoked is invalidated meaning that once the license is surrendered, it will be destroyed. Once the person's revocation period is completed, the person must complete the reinstatement requirements which include applying for a new license. This is compared to a suspension in which the license is temporarily removed from the person but is returned to the person after meeting the reinstatement requirements unless the driver's license has expired or is otherwise invalid.

Minnesota Statutes, section 171.29 does not require an examination if a person's license was revoked under 169.792.

7409.4200 Reinstatement after suspension, generally.

Except as provided in part 7409.3900, part 7409.4200 sets forth the reinstatement requirements if a person's driver's license was suspended.

Item A requires that the suspension periods set out in this chapter be completed or that the person has satisfied the requirements of suspension before the license can be reinstated. This provision is necessary to support the sanctions imposed under the suspension section of these rules.

Item B requires that no withdrawal of the person's driver's license is outstanding. A person may have multiple withdrawal periods imposed. The person cannot be reinstated unless all the withdrawal requirements have also been met. This is necessary to ensure that a person is not reinstated when he or she is currently under withdrawal.

Item C is necessary to implement the legislative mandate of Minnesota Statutes, section 171.20, subdivision 4. Section 171.20, subdivision 4, authorizes the commissioner to collect a reinstatement fee if the person's driver's license is suspended under section 171.16, 171.18 or 171.182.

Item D requires that the person surrendered the license in compliance with the statutory requirements of 171.20.

7409.4300 Reinstatement after cancellation.

Item A requires that all other periods of withdrawal be completed before a cancelled license is reinstated. This provision is necessary to support the sanctions imposed upon revocation and suspension under this chapter.

Item B requires that the person has fulfilled the surrender requirements of Minnesota Statutes, section 171.20.

Item C requires the person to successfully pass an examination as required for an initial license. Since cancellation involves the permanent removal of a person's driver's license, it is necessary to have the person apply for a new license and pay the application fee.

A driver whose driver's license is cancelled will have his or her license invalidated, meaning that once the license is surrendered, it will be destroyed. When the person becomes eligible for a license, the person will have to complete the reinstatement requirements which

will include applying for a new license. Minnesota Statutes, section 171.13 sets forth the examination procedures for those who have applied for a driver's license.

Item D requires that a person is otherwise eligible for a driver's license under Minnesota Statutes. This item is necessary because the person must be eligible for a driver's license under statutes, such as Minnesota Statutes, section 171.04. However, the person must also be eligible in the sense that they complete the requirements or cure the problem for which the driver's license was initially cancelled. For example, if a person's driver's license was cancelled under section 171.13 for failure to attend a driver's license examination, the person must complete the examination before the person can be eligible for a new license.

HEARING

7409.4500 Preliminary hearing.

Part 7409.4500 sets out the circumstances under which a person will be required to attend a preliminary hearing. The preliminary hearing is a hearing that is required by the department. Sections 171.18 and 171.09 provide that the commissioner shall have authority to and may suspend the license of any driver without preliminary hearing upon a showing by department records or other sufficient evidence that the person has committed a particular offense.

Sections 171.18 and 171.09 authorize the commissioner to suspend a person's driver's license without a preliminary hearing based upon sufficient evidence. Parts 7409.2000 to 7409.2400 set forth the circumstances under which a person will be suspended without a preliminary hearing.

However, as set forth below there are certain circumstances for which the commissioner will conduct a preliminary hearing prior to suspension. The preliminary hearing is based upon sufficient and satisfactory evidence received by the department. The person will receive notice of the time and place of the hearing.

Subpart 1. Preliminary hearing required. Item A requires a person to attend a preliminary hearing when the commissioner has sufficient cause to believe that the person has committed an unlawful or fraudulent act with regard to a driver's license or identification card under Minnesota Statutes, section 171.22. Section 171.22 lists a number of unlawful acts regarding driver's licenses or identification cards. Such offenses are either misdemeanors or gross misdemeanors depending upon which provision of the statute is violated.

Item A is different than part 7409.2300, in which a person's driver's license will be suspended upon a conviction under 171.22. Under this part, the department will conduct a preliminary hearing when the commissioner has sufficient cause to believe that a person has committed a violation under 171.22.

Under 171.18, subdivisions 6 and 8 the commissioner has authority to suspend a person's driver's license if the person commits or permits a violation of section 171.22. Therefore, if the commissioner has sufficient cause to believe the person has committed or permitted such a violation, the commissioner will require the person to attend a preliminary hearing.

Item B requires a preliminary hearing when the commissioner has sufficient cause to believe that a person has violated a second restriction imposed on a driver's license under Minnesota Statute 171.09.

The department feels it is important to require a preliminary hearing for these individuals because a license restriction violation can be harmful to public safety. The preliminary hearing is necessary to ensure the safe operation of a motor vehicle by the licensee. The department wants to personally talk to the person to stress the importance of complying with the license restriction and to inform the person of the consequences of future violations.

Item C requires a person to attend a preliminary hearing if the person has committed a violation of a condition or limitation of a limited license under section 171.30. This item works in conjunction with part 7409.2200, subpart 3. Subpart 3 requires the commissioner to suspend a person's driver's license upon receiving a record of conviction under Minnesota Statutes, section 171.30.

The discretion to suspend the person upon evidence of committing a violation is authorized by section 171.18, subdivision 4. As previously discussed in part 7409.2200, subpart 3 of the Statement, if a person violates a condition of a limited license the person is a habitual offender because he or she has already committed a sufficient number of violations to acquire a limited license.

A person may have been operating a motor vehicle in violation of the limited license. However, there are certain circumstances in which the person will not receive a conviction for a limited license violation. For example, if the person goes to court, the person may be facing two charges, one for the limited license violation and one for the underlying traffic violation. However, because of plea bargaining, the charge of violating a limited license could be dismissed.

If the department is notified of the limited license violation the department will require the person to attend a preliminary hearing to discuss the possible violation. The preliminary hearing allows the department to reach more people who may have slipped through the system because they were not actually convicted of a limited license violation.

Item D requires a person to submit to a preliminary hearing if the person was not previously sent a violation warning letter and the person is a habitual traffic offender. This item handles those individuals who do not get suspended under part 7409.2200, subpart 1, item A.

As was previously discussed in part 7409.2200, subpart 1, the preliminary hearing provides for a backup system to get people who did not receive a computer generated warning letter into the driver improvement system. It is important to require these people to attend a preliminary hearing because their driving records reflect that they are habitual traffic offenders.

The preliminary hearing allows the department staff to review with the person the number and severity of traffic violations on the person's driving record and to review the consequences of present and future traffic violations. At the preliminary hearing the department and the individual can also discuss means of improving the person's driving conduct.

Subpart 2. Scope of review. The purpose of the preliminary hearing is to conduct a one-on-one conference between the department staff and the driver. At the preliminary hearing, the driver improvement specialist will review with the person the reason for the hearing and the condition for which the hearing was required. The staff will discuss with the person the information available in the record that has prompted the hearing.

Administrative reviews are conducted by driver improvement specialists who have experience with the laws and rules governing license withdrawal. The driver improvement specialists have undergone training in the administrative review process and in the legal principles in this area.

The hearing is a process whereby both parties have an opportunity to present evidence available for review. The driver and the department have the opportunity to bring in additional information to support the case. The driver also may have legal counsel present at the hearing. In conducting an administrative review, the staff considers information provided by the driver and all relevant reports provided by law enforcement agencies.

The preliminary hearing affords the person an opportunity to present his or her side of the story, and to call attention to any obvious errors in the department's determination of the facts. The purpose of the review is to provide sufficient due process to prevent clearly erroneous license withdrawals which could cause irreparable injury to the licensee.

Subpart 3. Suspension period. The commissioner may suspend the person's driver's license if after the hearing the commissioner still has sufficient cause to believe the person has committed the offenses listed in subpart 1. The suspension period will be for a minimum of 30 days or in accordance with the number of traffic violations as set forth in part 7409.2200, subpart 1, unless the person agrees to enter into a driver improvement agreement, as set forth in part 7409.4600, subpart 5.

At the hearing the driver improvement specialist will determine whether the circumstances under which the violations occurred warrant suspension of the person's driver's license. Based upon the additional information received at the hearing, the driver improvement specialist will make a determination as to what type of department action is necessary.

Subpart 4. Failure to attend preliminary hearing. If a person fails to attend an interview, the person's driver's license will be suspended for a minimum period of 30 days or in accordance with the number of traffic convictions accumulated under part 7409.2200, subpart 1. The suspension period for failure to attend the hearing is reasonable because this is the same period of suspension the person could be subject to if the person attended the hearing.

Furthermore, the person is notified of the hearing by mail. The notice informs the person of the time and date of the hearing. If the person is unable to attend the hearing at the scheduled time, they are given information in the notice on how to reschedule the hearing. Furthermore, the notice informing the person of the hearing also notifies the person that his or her driver's license will be suspended if the person fails to attend the hearing. If a person decides not to attend they will have been informed of the consequences of not attending the hearing. After suspension, the person has the right to further administrative review under part 7409.4600.

Subpart 5. Notice of preliminary hearing. Subpart 5 states that the commissioner shall send a notice to the person who is required to attend a preliminary hearing by first class mail to the person's last known address or to the address listed on the person's driver's license.

The notice informs the person of the reason for the preliminary hearing, of the time, date and place of the hearing, instructions on how to reschedule the hearing if necessary and that the failure to attend the hearing will result in suspension of the person's driver's license. If a person's driver's license is withdrawn because of the failure to attend a preliminary hearing the person will be notified promptly of the withdrawal under the procedures set forth in part 7409.3200.

7409.4600 Administrative hearing.

Subpart 1. Right to a hearing. Subpart 1 sets forth that the commissioner shall grant a hearing to any person whose driver's license has been withdrawn or is subject to withdrawal. An administrative hearing is necessary to fulfill due process requirements. There is a due process guarantee that the state must ensure that all individuals are treated with fundamental fairness. Patagonia Corp. v. Board of Governors, 517 F.2d 803, 816 (9th Cir. 1975); American Airlines v. CAB, 359 F.2d 624 (D.C. Cir.), cert. denied, 385 U.S. 843 (1966).

"The United States Supreme Court has consistently held that some form of hearing is required before an individual is finally deprived of a property interest." Heddan v. Dirkswager, 336 N.W.2d 54, 59 (Minn. 1983). citing Wolff v. McDonnell, 418 U.S. 539, 557-558, 94 S.Ct. 2963, 2975-2976, 41 L.Ed.2d 935 (1974). "The fundamental requirement of due process is the opportunity to be heard `at a meaningful time and in a meaningful manner.'" Heddan, at 59, citing Armstrong v. Manzo, 380 U.S. 545, 552, 85 S.Ct. 1187, 1191, 14 L.Ed.2d 62 (1965).

The Minnesota Supreme Court in Heddan has examined the constitutionality of the prehearing license revocation proceedings. The court, in Heddan, concluded that the prehearing license revocation provisions of Minnesota Statute, section 169.123, do not violate due process of law as guaranteed by the United States and the Minnesota Constitutions. The court, in Heddan, stated, "[a] license to drive is an important property interest....The state does not dispute that appellants' licenses are property interests subject to due process protection; rather it concludes that the existing procedures,... provide all the process that is constitutionally due before a driver can be deprived of his license." Heddan, at 59.

Subpart 2. Procedure for requesting a hearing. Subpart 2 sets forth the procedures for requesting a hearing. The hearing is requested by the person when the person wants to review with the department his or her driving record or the order of driver's license withdrawal.

The hearing may be held by written correspondence, by telephone or by a personal appearance. The informality of the procedure is necessary to accommodate all persons who seek review. The person requesting the review informs the department of the date of the incident for which review is being granted. This information is necessary so the agency can locate its record on the incident and furnish necessary evidence for the hearing.

Subpart 3. Scope of Review. See discussion under part 7409.4500, subpart 2.

Subpart 4. Decision. Subpart 4 requires that if the commissioner determines on the basis of the review of the record that there is sufficient cause to believe the withdrawal is authorized by the law, then the withdrawal order will be sustained. If there is not sufficient cause to believe the order is authorized by law the withdrawal order will be rescinded. If requested, the department will promptly issue a copy of the decision to the person.

Administrative review under this subpart does not preclude judicial review under Minnesota Statutes, section 171.19.

Subpart 5. Driver improvement agreement. Subpart 5 provides that the commissioner has the discretion to waive department action of the person's driver's license under limited circumstances set forth under this subpart. This subpart implements the legislative mandate of Minnesota Statutes, sections 171.18 and 171.09, and is necessary to set forth the criteria establishing when such a waiver is warranted.

Minnesota Statutes, section 171.18 provides "The commissioner shall have the authority to and may suspend the license of any driver...." (emphasis added). The use of the word "may" by the legislature in the statute indicates that the commissioner has discretion in deciding whether or not to issue a suspension under section 171.18.

Likewise, Minnesota Statutes, section 171.09 states, "The commissioner may, upon receiving satisfactory evidence of any violation of the restrictions of such license, suspend or revoke the same,...." (emphasis added). The statute also gives the commissioner discretion in determining whether to suspend a person's driver's license if the person violates a provision of a license restriction.

The legislature has delegated the enforcement and administration of the above driver's license laws to the commissioner. Therefore, the legislature has made the determination that the department has the knowledge and expertise in the driver's license area and the department is in the best position to make the appropriate determination regarding the suspension.

This subpart reasonably sets forth the factors and procedures used by the commissioner in making an objective determination of whether or not to suspend the person's driver's license under sections 171.18 or 171.09. Department experience has demonstrated that a significant portion of drivers whose suspension has been waived will improve their driving behavior as a result of the waiver procedure. The driver improvement agreement is an effective approach to driver improvement. The agreement places the control in the hands of the driver to make the determination of whether or not to improve his or her driving conduct.

Before a person can be considered eligible for a waiver of his or her suspension period a person must meet the eligibility requirements under items A through C. Under item A, a person's driver's license must have been suspended under Minnesota Statutes, section 171.18 or 171.09. This is reasonable because, as previously discussed in this subpart these statutes allow the commissioner the discretion of whether or not to suspend a person's driver's license. Item A limits the number of people who will be eligible for this consideration of a waiver of department action.

Item B requires the department to consider the entire driving record of the person that is available to the department. The driving record shows the department the person's driving history over the past five years.

The driving record will include such information as the nature, gravity and number of violations the person has committed, previous license withdrawals and whether the person's driver's license is currently under withdrawal. The person's driving record can consist of information from previous hearings conducted by the department, and correspondence from the public or peace officers if applicable. The information in the person driving record, combined with the information provided by the individual at the hearing, provides the driver improvement specialist with the necessary data to make a fair determination of whether or not to consider a waiver of the suspension period.

The driving record will also reflect whether a person has made an attempt to improve his or her driving conduct. The department staff reviews the record to see whether a person has a consistent pattern of violations or whether the person has gone several months without receiving a violation. It is important to make sure that the driver understands his or her complete record. A review of the record is an appropriate way of making sure that those attending the hearing understand the reason for the license withdrawal. Being confronted with a record that contains a series of violations can create an awareness of the difference between the driver's own record and the record of an average driver.

Item C requires the person to enter into a driver improvement agreement with the commissioner. Under a driver improvement agreement a person agrees to improve his or her driving conduct in consideration for the department not taking action on the suspension that the person currently has pending.

At the time of the hearing, the person understands that his or her driving privileges are now subject to suspension. When the driver enters into the driver improvement agreement the commissioner will not impose the suspension that is pending at that time. In consideration for the waiver of the suspension the driver agrees to make a definite effort to improve his or her driving habits, obey all traffic laws and take additional driver improvement clinics as recommended. The driver improvement agreement offers the driver an opportunity to prove that he or she can drive within the limits of the law.

The length of the driver improvement agreement is normally one year from the last violation. The driver improvement agreement, in effect, is placing the person on a period of probation. If a person fails to abide by the terms of the agreement, his or her driver's license will be withdrawn. The driver improvement agreement is reasonable because the suspension period is not waived without the driver facing consequences of future withdrawals if they fail to abide by the agreement.

The agreement allows the driver to take control of his or her driving conduct. The driver is making the effort to improve his or her driving and to demonstrate improved driving conduct. A willingness to make such an improvement is an important factor considered by the driver improvement specialist in determining whether to allow a person to enter into a driver improvement agreement. The agreement allows the department to continue the goals and objectives of the department to positively influence driver behavior.

However, even if the person does meet the eligibility requirements under this subpart, the department will not automatically waive the pending suspension period. Through the hearing process, the department carefully considers the effect the waiver will have on public safety. The department must consider the overall, bottom line impact of its decision on the safety of the public. The driver improvement specialist weighs all the evidence presented at the hearing and balances that evidence against the public safety factor.

If a waiver of the suspension is granted, the driver improvement specialist carefully explains the consequences of future violations. Such consequences include risk of accident, financial penalties, suspension and revocation of license and direct consequences of unsafe behavior on drivers and passengers.

Failure to abide by the terms of the agreement will result in review of the driver's record for loss of driving privileges. If the person commits a violation arising out of the operation of a motor vehicle while a driver improvement agreement is in effect, the person's driver's license will be withdrawn for 30 days or according to the withdrawal periods established by chapter 7503, this chapter, or by Minnesota Statutes, whichever is the longer period.

4/30/91

Department of Public Safety

Driver and Vehicle Services Division

Proposed Permanent Rules Relating to Disposition of Driver's License Following Non-Alcohol-Related Vehicle Offenses

Rules as Proposed

7409.0100 DEFINITIONS.

[For text of subpart 1, see 15 SR 1675]

Subp. 1a. **Cancellation.** "Cancellation" means the commissioner's rescission of a person's driver's license for which the person must meet the requirements of part 7409.4300 for reinstatement of the person's driver's license.

Subp. 1b. **Certificate of insurance.** "Certificate of insurance" means a letter, a signed policy of vehicle liability insurance as required by Minnesota Statutes, section 65B.48, or a completed insurance certificate form from the authorized representative of the insurance carrier authorized to do business in the state stating that the vehicle will be covered by a plan of reparation security as required by Minnesota Statutes, section 65B.48, for one calendar year or that the operator will be covered by a plan of reparation security for a period of six months.

[For text of subps 2 to 6, see 15 SR 1675]

Subp. 6a. **Driver improvement clinic.** "Driver improvement clinic" has the meaning given in Minnesota Statutes, section 171.20, subdivision 3.

[For text of subp 7, see 15 SR 1675]

Subp. 7a. **Owner.** "Owner" has the meaning given in Minnesota Statutes, section 65B.43, subdivision 4.

Subp. 7b. **Personal injury.** "Personal injury" means a class A, incapacitating injury, other than a fatal injury, that prevents the injured person from walking, driving, or normally continuing the activities the person was capable of performing

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before the injury occurred, such as a severe laceration, broken or distorted limb, or skull, chest, or abdominal injury.

Subp. 7c. **Plan of reparation security.** "Plan of reparation security" has the meaning given in Minnesota Statutes, section 65B.43, subdivision 15.

Subp. 7d. **Proof of insurance.** "Proof of insurance" has the meaning given in Minnesota Statutes, section 169.791, subdivision 1.

Subp. 8. **Revocation.** "Revocation" means the commissioner's ~~withdrawal~~ rescission of a person's driver's license ~~and privilege to drive in this state~~ for a specific minimum period of time under Minnesota Statutes, section ~~169.121, 169.123,~~ 65B.67, 169.792, 171.165, or 171.17, for which the person must meet the requirements of part 7409.0600, 7409.3800, 7409.4000, or 7409.4100 for reinstatement of the person's driver's license.

Subp. 8a. **Sufficient cause to believe.** "Sufficient cause to believe" means grounds put forth in good faith, which are not arbitrary, irrational, unreasonable, or irrelevant, and that make the proposition asserted more likely than not, provided the grounds are based on at least one of the following sources:

A. written information from an identified person;

B. facts or statements by the applicant or driver;

C. driver's license and accident records;

D. court documents and police records; or

E. facts of which the commissioner or a department employee has personal knowledge.

Subp. 9. **Suspension.** "Suspension" means the commissioner's temporary ~~withdrawal~~ removal of a person's driver's license ~~and privilege to drive in this state~~ under Minnesota Statutes, section ~~169.121, subdivision 8,~~ 65B.67, subdivision 4a, 171.09, or 171.18 for which the person must meet the requirements of part 7409.3900 or 7409.4200 for reinstatement of the person's driver's license.

Subp. 10. **Withdrawal or withdrawn.** "Withdrawal" or "withdrawn" means the suspension, revocation, or cancellation of

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a person's driver's license.

Subp. 11. **Withdrawal period.** "Withdrawal period" means the time after a license withdrawal during which the person's driving privilege has been withdrawn and has not been reinstated.

REVOCATION

7409.1000 CRIMINAL VEHICULAR HOMICIDE AND INJURY OR MANSLAUGHTER.

The commissioner shall revoke the driver's license of a person upon receiving a record of conviction, for a period of:

A. five years, if the person is convicted under:

(1) Minnesota Statutes, section 609.21, subdivision 1, clause (1), or subdivision 3, clause (1);

(2) Minnesota Statutes, section 609.20, manslaughter in the first degree, resulting from the operation of a motor vehicle; or

(3) Minnesota Statutes, section 609.205, manslaughter in the second degree, resulting from the operation of a motor vehicle; or

B. three years, if the person is convicted under Minnesota Statutes, section 609.21, subdivision 2, clause (1); subdivision 2a, clause (1); or subdivision 4, clause (1).

7409.1100 FLEEING FROM PEACE OFFICER.

The commissioner shall revoke the driver's license of a person upon receiving a record of conviction, for a period of:

A. 90 days, if the person is convicted under Minnesota Statutes, section 609.487, subdivision 3;

B. 180 days, if the person is convicted under Minnesota Statutes, section 609.487, subdivision 4, clause (b) or (c); or

C. one year, if the person is convicted under Minnesota Statutes, section 609.487, subdivision 4, clause (a).

7409.1200 FELONY WITH MOTOR VEHICLE.

The commissioner shall revoke the driver's license of a person for a period of 180 days upon receiving a record of

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conviction of a felony in the commission of which a motor vehicle was used.

7409.1300 LEAVING SCENE OF ACCIDENT.

The commissioner shall revoke the driver's license of a person upon receiving a record of conviction under Minnesota Statutes, section 169.09, for failure to stop and disclose identity and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another, for a period of:

A. 180 days, if the accident upon which the conviction is based resulted in personal injury to another person; or

B. one year, if the accident upon which the conviction is based resulted in the death of another person.

7409.1400 PERJURY, FALSE AFFIDAVIT OR STATEMENT.

The commissioner shall revoke the driver's license of a person for a period of 180 days, upon receiving a record of conviction for perjury or the making of a false affidavit or statement to the department under any law relating to the ownership or operation of a motor vehicle.

7409.1500 MULTIPLE MISDEMEANOR AND GROSS MISDEMEANOR OFFENSES.

The commissioner shall revoke the driver's license of a person upon receiving a record of a certified misdemeanor or gross misdemeanor conviction under Minnesota Statutes, chapter 169, for a period of:

A. 30 days, if the person has been convicted of three misdemeanor or gross misdemeanor offenses under that chapter within a 12-month period;

B. 90 days, if the person has been convicted of four misdemeanor or gross misdemeanor offenses under that chapter within a 12-month period; or

C. one year, if the person has been convicted of five or more misdemeanor or gross misdemeanor offenses under that chapter within a 12-month period.

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7409.1600 INSURANCE-RELATED OFFENSES.

Subpart 1. **Failure to maintain insurance.** The commissioner shall revoke the driver's license of a person upon receiving a record of conviction under Minnesota Statutes, section 65B.67, for operating an uninsured vehicle, for a period of:

A. 30 days, if the person has no other convictions under Minnesota Statutes, section 65B.67, within a five-year period;

B. 90 days, if the person has been convicted two times under Minnesota Statutes, section 65B.67, within a five-year period;

C. 180 days, if the person has been convicted three times under Minnesota Statutes, section 65B.67, within a five-year period; or

D. one year, if the person has been convicted four or more times under Minnesota Statutes, section 65B.67, within a five-year period.

Subp. 2. **Failure to produce proof of insurance.** The commissioner shall revoke the driver's license of a person who fails to produce proof of insurance under Minnesota Statutes, section 169.792. The revocation period is 30 days or until the person files proof of insurance, whichever period is longer.

SUSPENSION

7409.2000 CRIMINAL VEHICULAR HOMICIDE AND INJURY OR MANSLAUGHTER.

Subpart 1. **Record of criminal charge.** The commissioner shall suspend the driver's license of a person upon receiving a record of a criminal charge for criminal vehicular homicide and injury or manslaughter arising out of the operation of a motor vehicle. The license must be suspended for a period of not more than one year.

Subp. 2. **Dismissal or acquittal.** If the commissioner receives notice that the criminal charge was dismissed or that the person was acquitted of the criminal charge, the

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commissioner shall terminate the suspension period.

Subp. 3. **Converted to revocation.** If the person is later convicted of criminal vehicular homicide and injury or manslaughter, then the commissioner shall convert the suspension to a revocation. Time accrued under the suspension period must be credited toward the revocation period imposed upon conviction of criminal vehicular homicide and injury or manslaughter.

7409.2100 VIOLATION RESULTING IN FATALITY OR PERSONAL INJURY.

The commissioner shall suspend the driver's license of a person upon receiving a record of conviction under Minnesota Statutes, chapter 169 or an ordinance regulating traffic, except traffic laws specifically excluded from the driving record by statute, when it appears from the department records that the violation for which the person was convicted contributed in causing an accident resulting in the death or class A personal injury of another. The driver's license must be suspended for a period of:

A. 90 days, if the violation upon which the conviction was based resulted in the personal injury of another person;

B. 180 days, if the violation upon which the conviction was based resulted in the death of another person; or

C. as recommended by the court, when made in connection with the prosecution of the licensee.

7409.2200 HABITUAL VIOLATORS.

Subpart 1. **In general.** The commissioner shall suspend the driver's license of a person upon receiving a record of conviction for a violation of a traffic law under Minnesota Statutes, chapter 169 or 171, or other statutes regulating the operation of motor vehicles on streets or highways, except traffic laws specifically excluded from the driving record by statute. The driver's license must be suspended for a period of:

A. 30 days, if the commissioner has previously sent a violation warning letter to the person and the person is convicted of:

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(1) four traffic offenses within a 12-month period; or

(2) five traffic offenses within a 24-month period;

B. 90 days, if the person is convicted of:

(1) five traffic offenses within a 12-month period; or

(2) six traffic offenses within a 24-month period;

C. 180 days, if the person is convicted of seven traffic offenses within a 24-month period; or

D. one year, if the person is convicted of eight or more traffic offenses within a 24-month period.

The commissioner shall send a warning letter or conduct a preliminary hearing under part 7409.4500 if the person is convicted of two misdemeanors or convicted of three or more traffic offenses, under this subpart, occurring within a 24-month period.

The warning letter must be sent by first class mail to the person's last known address or to the address listed on the person's driver's license, informing the person of the number and type of traffic violations on the person's driving record and the consequences of additional traffic violations.

Subp. 2. **License, permit, and endorsement violations.** The commissioner shall suspend the driver's license of a person for a period of 30 days upon receiving a record of conviction of two or more violations of Minnesota Statutes, section 169.974, subdivision 2; 171.02; 171.05; or 171.321, if the two violations are more than 60 days apart.

Subp. 3. **Limited license violations.** The commissioner shall suspend the driver's license of a person upon receiving a record of conviction for violating a condition or limitation of a limited license under Minnesota Statutes, section 171.30, for a period of:

A. 30 days, if the person has no other convictions under that section within a five-year period;

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B. 90 days, if the person has been convicted two times under that section within a five-year period;

C. 180 days, if the person has been convicted three times under that section within a five-year period; or

D. one year, if the person has been convicted four or more times under that section within a five-year period.

Subp. 4. **Driving after withdrawal.** The commissioner shall suspend the driver's license of a person upon receiving a record of conviction of a traffic law under Minnesota Statutes, chapter 169, 171, or other statutes regulating the operation of motor vehicles on streets or highways, except traffic laws specifically excluded from the driving record by statute, committed while the person was driving under a period of withdrawal. The driver's license must be suspended for a period of:

A. 30 days, if the person has no other incidents of driving after withdrawal within a five-year period;

B. 90 days, if the person has two incidents of driving after withdrawal within a five-year period;

C. 180 days, if the person has three violations of driving after withdrawal within a five-year period; or

D. one year, if the person has four or more violations of driving after withdrawal within a five-year period.

7409.2300 MISUSE OF LICENSE.

Except as otherwise provided in Minnesota Statutes, section 171.171, the commissioner shall suspend the driver's license of a person upon receiving a record of conviction under Minnesota Statutes, section 171.22, for a period of:

A. 90 days, if the person has no other convictions under that section within a five-year period; or

B. 180 days if the person has been convicted two or more times under that section within a five-year period.

7409.2400 FAILURE TO MAINTAIN INSURANCE.

Subpart 1. **Authority; suspension periods.** Under Minnesota Statutes, section 65B.67, subdivision 4a, the commissioner shall

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suspend the driver's license of an operator upon a showing by department records, including accident reports or other sufficient evidence, that a plan of reparation security had not been provided and maintained at the time of the incident. The driver's license must be suspended for a period of:

A. 30 days, if the operator's driver's license has not been withdrawn under Minnesota Statutes, section 65B.67, within a five-year period;

B. 90 days, if the operator's driver's license has been withdrawn once under Minnesota Statutes, section 65B.67, within a five-year period;

C. 180 days, if the operator's driver's license has been withdrawn twice under Minnesota Statutes, section 65B.67, within a five-year period; or

D. one year, if the operator's driver's license has been withdrawn three or more times under Minnesota Statutes, section 65B.67, within a five-year period.

Subp. 2. **Converted to revocation.** If a person is later convicted under Minnesota Statutes, section 65B.67, subdivision 4, paragraph (b), for the same offense, then the commissioner shall convert the suspension imposed under this part to a revocation under part 7409.1600, subpart 1.

Subp. 3. **Suspension time credited to revocation period.** Time accrued under the suspension period in this part must be credited toward the revocation period imposed upon conviction under Minnesota Statutes, section 65B.67, subdivision 4, paragraph (b).

CANCELLATION

7409.2800 CANCELLATION; GROUNDS.

The commissioner shall cancel the driver's license of a person on determining that the person:

A. was not entitled to be issued a driver's license;

B. has failed to give the required or correct information in the application for a driver's license;

C. has committed a fraud or deceit in applying for a

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driver's license;

D. at the time of cancellation, would not have been entitled to receive a license under Minnesota Statutes, section 171.04; or

E. has failed to submit to an examination under Minnesota Statutes, section 171.13.

WITHDRAWAL PERIODS, ACTION; LICENSE SURRENDER

7409.3000 MULTIPLE LICENSE WITHDRAWALS.

Subpart 1. **Consecutive, generally.** When a person is subject to more than one withdrawal period under this chapter, the withdrawal periods shall run consecutively, except as otherwise provided in this part.

Subp. 2. **Concurrent.** Withdrawal periods imposed under chapter 7503 run concurrently with withdrawal periods imposed under this chapter when the withdrawal periods arise from the same incident.

Subp. 3. **Vehicular liability violations.** Withdrawal periods imposed for vehicular liability violations under parts 7409.1600 and 7409.2400 run concurrently with other withdrawal periods arising from the same incident. Vehicular liability violations under parts 7409.1600 and 7409.2400 not arising from the same incident, run consecutively with each other and with other withdrawal periods that have been imposed under this chapter.

Subp. 4. **Suspension periods.** Suspension periods imposed under part 7409.2200, subpart 1, shall run concurrently with revocation periods imposed under part 7409.1500 when the withdrawal periods arise from the same incident. The total period of withdrawal must not exceed the longer of the two withdrawal periods.

Subp. 5. **Court order.** Withdrawal periods imposed by a court order run concurrently with other withdrawal periods imposed under this chapter, unless otherwise ordered by the court.

Subp. 6. **Total suspension period.** The total suspension

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period must not exceed one year unless otherwise recommended by a court.

7409.3100 DRIVING INCIDENTS OUT OF STATE; WITHDRAWAL.

Upon receiving a record of conviction, the commissioner shall impose the same period of withdrawal of a person's driving privilege if a person commits or is convicted of an offense in another state that, if committed in this state, would be grounds for the withdrawal of the driving privilege.

7409.3200 NOTICE OF WITHDRAWAL ACTION.

The commissioner shall notify a person whose driver's license is subject to withdrawal or has been withdrawn. The notification must be in writing and be personally served or sent by first class mail to the person's last known address or the address listed on the person's driver's license. The notice shall contain the reason for withdrawal, the length of withdrawal, and the requirements for reinstatement of the person's driver's license. The commissioner shall place the notices sent by first class mail on the department's certified mailing list.

7409.3400 DRIVER'S LICENSE SURRENDER.

Subpart 1. **License surrender.** A person holding a license of any class issued by the department shall surrender the license when the person's driver's license has been revoked, suspended, or canceled. If the license subject to surrender has been lost, stolen, or destroyed, an affidavit or written statement explaining the loss must be submitted in its place. Affidavit forms must be available at the department driver examination and evaluation offices, where the person may surrender the withdrawn license or submit the affidavit or written statement.

Subp. 2. **Refusal to surrender license.** If a person fails or refuses to surrender a license following suspension, revocation, or cancellation within 30 days of notice under part 7409.3200, the commissioner shall inform the local law

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enforcement agency. The department shall request that the agency obtain the license or written statement regarding the license's whereabouts. The suspension, revocation, or cancellation period is in effect upon notifying the licensee, but credit must not be given toward the suspension, revocation, or cancellation period until the license is surrendered.

LIMITED LICENSE

7409.3600 LIMITED LICENSE.

The commissioner shall issue a limited license following a revocation or suspension under Minnesota Statutes, section 169.792, 171.17, or 171.18, when the person has met the following conditions:

A. the person has demonstrated a need and has met the requirements for a limited license under Minnesota Statutes, section 171.30;

B. the person has paid the reinstatement fee required by statute;

C. the person has surrendered the license issued by the department, as required by Minnesota Statutes, section 171.20;

D. the person has passed the driver's license examination, has applied for a new license, and has paid the application fee for the class of license involved, as required for issuing an original license, if the person's driver's license was revoked other than under Minnesota Statutes, section 169.792;

E. one-half of the revocation or suspension period has expired, if the person has been issued a limited license within the previous 12 months;

F. the person requests a limited license by written correspondence, by personal appearance at the department, or by telephone if the person resides outside the seven-county metropolitan area; and

G. the person has fulfilled all outstanding requirements for all other driver's license withdrawals.

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REINSTATEMENT

7409.3800 REINSTATEMENT AFTER INSURANCE-RELATED REVOCATION; 65B.67, SUBD. 4.

The commissioner shall reinstate the driver's license of a person whose license has been revoked under Minnesota Statutes, section 65B.67, subdivision 4, paragraph (b), when the operator has met the reinstatement conditions listed under part 7409.4100 and the operator files with the commissioner:

A. if the operator is also the owner of the vehicle involved in the incident, a certificate of insurance for:

(1) the vehicle cited on the traffic citation; or

(2) if no vehicle is cited on the traffic citation or if the vehicle has been sold or junked, the vehicle currently being operated;

B. if the operator is not the owner of the vehicle involved in the incident, a certificate of insurance for the vehicle owned and currently being operated; or

C. if the operator is not the owner of the vehicle involved in the incident and the operator does not own a vehicle, a certificate of insurance for a nonowner operator policy or a certificate of insurance verifying the operator is a named insured.

7409.3900 REINSTATEMENT AFTER INSURANCE-RELATED SUSPENSION; 65B.67, SUBD. 4A.

The commissioner shall reinstate the driver's license of a person whose license has been suspended under Minnesota Statutes, section 65B.67, subdivision 4a, when the operator has met the reinstatement conditions listed under part 7409.4200 and:

A. if the person's driver's license has not been withdrawn under Minnesota Statutes, section 65B.67, within a five-year period, the operator provides the commissioner with verifiable insurance information, including the name of the insurance company, the insurance policy number, and the name of the policyholder for:

(1) the vehicle cited, as shown on department

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records, or if no vehicle is shown on department records as being cited or if the vehicle has been sold or junked, the vehicle currently being operated if the operator was also the owner of the vehicle involved in the incident; or

(2) the vehicle owned and currently being operated, if the operator is not the owner of the vehicle involved in the incident and the operator knew or had reason to know that the vehicle did not have a plan of reparation security complying with the terms of Minnesota Statutes, section 65B.48; or

B. if the person's driver's license has been withdrawn two or more times under Minnesota Statutes, section 65B.67, within a five-year period, the operator provides the commissioner with a certificate of insurance for:

(1) the vehicle cited, as shown on department records, or if no vehicle is shown on department records as being cited or if the vehicle has been sold or junked, the vehicle currently being operated if the operator was also the owner of the vehicle involved in the incident; or

(2) the vehicle owned and currently being operated, if the operator is not the owner of the vehicle involved in the incident and the operator knew or had reason to know that the vehicle involved in the incident did not have a plan of reparation security complying with the terms of Minnesota Statutes, section 65B.48.

7409.4000 REINSTATEMENT AFTER INSURANCE-RELATED REVOCATION; 169.792.

The commissioner shall reinstate the driver's license of a person whose license has been revoked under Minnesota Statutes, section 169.792, when the driver has met the reinstatement requirements under part 7409.4100, items A to D, and the driver or owner files with the commissioner:

A. if the driver is also the owner of the vehicle involved in the incident, proof of insurance for:

(1) the vehicle operated at the time of the

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incident; or

(2) the vehicle currently being operated, if no vehicle is cited on the "no proof of insurance" report or if the vehicle involved in the incident has been sold or junked;

B. if the driver is not the owner of the vehicle involved in the incident, proof of insurance for a vehicle owned and currently being operated by the driver; or

C. if the driver does not own a vehicle, a nonowner operator policy or proof of insurance verifying that the person is a named insured.

7409.4100 REINSTATEMENT AFTER REVOCATION, GENERALLY.

Except as provided in parts 7409.3800 and 7409.4000, the commissioner shall reinstate the driver's license of a person whose license is revoked when the following conditions have been satisfied:

A. the revocation period has expired;

B. no withdrawal of the person's driver's license is outstanding;

C. the person has paid the reinstatement fee as required by statute;

D. the person's driver's license was surrendered under Minnesota Statutes, section 171.20; and

E. the person applied for a new license, paid the application fee for the class of license involved, and has passed the driver's license examination, as required for issuing an original license.

7409.4200 REINSTATEMENT AFTER SUSPENSION, GENERALLY.

Except as provided in part 7409.3900, the commissioner shall reinstate the driver's license of a person whose driver's license is suspended when the following conditions have been satisfied:

A. the suspension period has expired or the person has satisfied the requirements of suspension;

B. no withdrawal of the person's driver's license is outstanding;

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C. the person has paid the suspension reinstatement fee as required by statute; and

D. the person's driver's license was surrendered under Minnesota Statutes, section 171.20.

7409.4300 REINSTATEMENT AFTER CANCELLATION.

The commissioner shall reinstate the driver's license of a person whose license is canceled when the following conditions have been satisfied:

A. no withdrawal of the person's license is outstanding;

B. the person's driver's license was surrendered under Minnesota Statutes, section 171.20;

C. the person has applied for a new license, has paid the application fee for the class of license involved, and has passed the driver's license examination, as required for issuing an original license; and

D. the person is otherwise eligible for a driver's license under Minnesota Statutes.

HEARINGS

7409.4500 PRELIMINARY HEARING.

Subpart 1. **Preliminary hearing required.** The commissioner shall require a person to attend a preliminary hearing when the commissioner has sufficient cause to believe that the person:

A. has committed a violation under Minnesota Statutes, section 171.22, for an unlawful or fraudulent act regarding a driver's license or Minnesota identification card;

B. has committed a second violation under Minnesota Statutes, section 171.09, for a violation of a restriction imposed on the person's driver's license;

C. has committed a violation under Minnesota Statutes, section 171.30, of a condition or limitation of a limited license; or

D. was not previously sent a warning letter under part 7409.2200, subpart 1, and is convicted of:

(1) two misdemeanor traffic offenses within a

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12-month period;

(2) four traffic offenses within a 12-month period; or

(3) five traffic offenses within a 24-month period.

Subp. 2. **Scope of review.** The commissioner shall review the evidence upon which the preliminary hearing was based, and any other material information brought to the attention of the commissioner.

The commissioner may seek additional information from the person undergoing the preliminary hearing or from an agency or person believed to have information relating to the facts underlying the preliminary hearing. The person required to undergo a preliminary hearing may present additional information to the commissioner at the hearing.

Subp. 3. **Suspension period.** If, after reviewing the evidence presented at the preliminary hearing, the commissioner has sufficient cause to believe that the person has committed an offense listed in subpart 1, the commissioner shall suspend the driver's license of the person for a minimum period of 30 days or in accordance with the number of traffic convictions accumulated, as set forth in part 7409.2200, subpart 1, unless the person agrees to enter into a driver improvement agreement, as set forth in part 7409.4600, subpart 5.

Subp. 4. **Failure to attend preliminary hearing.** The commissioner shall suspend the driver's license of a person who fails to attend a preliminary hearing for a minimum period of 30 days or in accordance with the number of traffic convictions accumulated, as set forth in part 7409.2200, subpart 1.

Subp. 5. **Notice of preliminary hearing.** The commissioner shall send a notice to the person who is required to attend a preliminary hearing by first class mail to the person's last known address or to the address listed on the person's driver's license informing the person:

A. the reason for the preliminary hearing;

B. of the time, date, and place of the hearing and,

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if necessary, instructions to reschedule the hearing; and

C. that failure to attend the hearing will result in suspension of the person's driver's license.

7409.4600 ADMINISTRATIVE HEARING.

Subpart 1. **Right to hearing.** The commissioner shall grant a hearing to a person whose driver's license has been withdrawn or is subject to withdrawal.

Subp. 2. **Procedure for requesting hearing.** A hearing is initiated by a request for review at the department. The hearing may be held by written correspondence, by telephone, or by a personal appearance. The person requesting the review must inform the department of the person's full name, date of birth, driver's license number, and the date of the incident for which review is being requested.

Subp. 3. **Scope of review.** On receiving a request for a hearing, the commissioner shall review the order, the evidence upon which the order was based, and any other material information brought to the attention of the commissioner to determine whether sufficient cause exists to sustain the order.

The commissioner may seek additional information from the person requesting the review or from an agency or person believed to have information relating to the facts underlying the order of withdrawal. The person requesting the review may present additional information to the commissioner at the hearing.

Subp. 4. **Decision.** Upon reviewing the evidence, the commissioner shall sustain the withdrawal order if there is sufficient cause to believe that the withdrawal is authorized by law. If the commissioner finds that there is not sufficient cause to believe the withdrawal order is authorized by law, the order must be rescinded.

The commissioner shall give a prompt decision to the person and shall issue a copy of the decision to the person upon request.

Subp. 5. **Driver improvement agreement.** The commissioner

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may waive department action on the person's driver's license if:

A. the person's driver's license has been suspended under Minnesota Statutes, section 171.09 or 171.18;

B. after reviewing the person's entire driving record, the commissioner has sufficient cause to believe that the person will improve the person's driving conduct or has demonstrated improved driving conduct; and

C. the person agrees to enter into a driver improvement agreement with the commissioner.

A driver improvement agreement is an agreement between a driver and the commissioner whereby the driver agrees to improve driving conduct in consideration for the department taking no action on the suspension that the person currently has pending.

The driver improvement agreement must not be for a period less than the period of suspension that the person currently has pending.

If the person commits a violation arising out of the operation of a motor vehicle while a driver improvement agreement is in effect, the person's driver's license will be withdrawn for 30 days or according to this chapter, chapter 7503, or Minnesota Statutes, whichever is the longer period.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Disposition of Driver's License Following Non-Alcohol-Related Vehicle Offenses

AGENCY: Department of Public Safety

DIVISION: Driver and Vehicle Services

MINNESOTA RULES: Chapter 7409

The attached rules are approved for publication in the State Register

Ron Ray
Senior Assistant Revisor

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DRIVER AND VEHICLE SERVICES DIVISION

In the Matter of the Adoption of Rules of the State Department of Public Safety Relating to Disposition of Driver's License Following Non-Alcohol-Related Offenses

DECLARATION OF COUNSEL

I, Nancy Bode, Assistant Attorney General, do hereby declare that I have examined the above-captioned Rules, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010, have been followed. Any exceptions are listed below. For Attorney General Billing purposes, the four-digit docket client code is 0712.

Nancy Bode
Assistant Attorney General

Dated: 9-27-91