

CHAPTER 2782
DEPARTMENT OF COMMERCE
MARKET ASSISTANCE; LIQUOR LIABILITY

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2782.0100 PURPOSE.

Parts 2782.0100 to 2782.0800 establish a marketing assistance program to assist liquor licensees in obtaining liquor liability insurance coverage.

Statutory Authority: *MS s 45.023; 340A.409*

History: *10 SR 592*

2782.0200 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 2782.0100 to 2782.0800, the terms defined in this part have the meanings given them.

Subp. 2. **Applicant.** "Applicant" means a liquor vendor who makes application to the market assistance plan or the liquor liability assigned risk plan for insurance coverage.

Subp. 3. **Assigned risk plan.** "Assigned risk plan" means the methods and procedures established pursuant to Minnesota Statutes, section 340A.409, subdivision 3 to provide liquor liability coverage as required by Minnesota Statutes, section 340A.409, subdivisions 1, 2, and 4 to those liquor vendors unable to obtain coverage through insurance companies.

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Department of Commerce.

Subp. 5. **Liquor vendor.** "Liquor vendor" means any person required by Minnesota Statutes, section 340A.409, subdivisions 1, 2, and 4 to demonstrate proof of financial responsibility.

Subp. 6. **Market assistance plan.** "Market assistance plan" means the methods and procedures established pursuant to Minnesota Statutes, section 340A.409, subdivisions 1, 2, and 4.

Subp. 7. **Monoline liquor liability policy.** "Monoline liquor liability policy" means an insurance policy for only one type of coverage. In regard to this chapter, it refers to a policy for only liquor liability insurance without any other type of coverage.

Subp. 8. **Multiline liquor liability policy.** "Multiline liquor liability policy" means an insurance policy which includes more than one type of insurance coverage. In regard to this chapter, it refers to liquor liability insurance offered in conjunction with other types of coverage such as general liability insurance, or fire insurance offered in a single package or policy.

Statutory Authority: *MS s 45.023; 340A.409*

History: *10 SR 592; L 1985 c 305 art 6 s 9*

2782.0300 MARKETING ASSISTANCE PROGRAM COMMITTEE.

Subpart 1. **Structure.** A market assistance program committee is created consisting of 12 members appointed by the commissioner of commerce. The commissioner or the commissioner's designated representative shall serve as an ex officio member.

The commissioner shall appoint four members representing casualty insurance companies; two members who are surplus lines agents or brokers; two members who are insurance agents; two members from the liquor industry; and two public members. If at any time after their appointment a member of the committee through change of employment or similar circumstances no longer is representative of the group he or she was appointed to represent, that member will be deemed to be unable to continue to serve as a member of the committee.

Subp. 2. **Terms and vacancies.** In the event of a member's inability to continue to serve, the commissioner shall appoint a replacement. The committee shall elect a chairperson and a

vice chairperson from among the members. The term of each member is one year commencing on the first day of June.

Statutory Authority: *MS s 45.023; 340A.409*

History: *10 SR 592*

2782.0400 MEETINGS.

The committee shall convene upon the call of the commissioner, the chairperson, or the vice chairperson, or at the request of one-third of the committee members. No quorum requirements are necessary.

Statutory Authority: *MS s 45.023; 340A.409*

History: *10 SR 592*

2782.0500 ELIGIBILITY FOR ASSISTANCE.

A Minnesota liquor vendor or an insurance agent licensed by the Department of Commerce must submit a copy of the completed assigned risk plan application form to the Department of Commerce. The Department of Commerce will immediately advise the committee of the receipt of the application and forward the copy to the committee at an address the committee designates. Submission of the copy of the application to the Department of Commerce is submission to the market assistance program for all purposes under this chapter or applicable statutes.

Statutory Authority: *MS s 45.023; 340A.409*

History: *10 SR 592*

2782.0600 DISPOSITION OF APPLICATION.

Subpart 1. Action upon application. Upon receipt of an application, the committee or such persons as the committee appoints or designates will immediately review the application to determine what assistance the committee can give. The assistance may include:

A. discussion with the applicant liquor vendor's most recent underwriter, if any, to determine if the applicant's coverage can be maintained with the most recent carrier;

B. discussion with other known available insurance markets to determine if any other carrier will accept the applicant;

C. negotiating extensions of coverage with the most recent carrier or temporary carrier, if possible, to permit additional exploration of insurance markets or accumulation of essential underwriting data; and

D. referring the application to the first five participating insurers (participants) on the list in subpart 2. Subsequent applications will be sent to the next five participants on a rotating basis. If at any time there are less than ten participants on the master list this item will no longer be utilized.

Subp. 2. List of participating insurers. A list of participants shall be prepared and updated at least every two years in the following manner:

A. The committee will secure a mailing list from the Department of Commerce of every licensed casualty insurer admitted to do business in Minnesota as an eligible surplus lines licensee.

B. The committee will mail to each admitted casualty insurer and eligible surplus lines licensee an outline of the conditions of participation. The department will assist the committee by including the committee's mailing with any appropriate departmental mailings.

C. A master list of participants willing to take part in the market assistance program will be created from responses to the initial mailing. The master list will be updated at least every two years pursuant to items A and B. Order on the master list shall be determined by random selection.

Subp. 3. Referral to participants. Upon receipt of an application, the committee or such persons as the committee appoints or designates may mail or telex copies of the application to the first five participants on the master list.

Subp. 4. Quotes. A participant must quote on at least one out of every three applications submitted to it. Each participant will have the right to individually evaluate the risk the applicant poses and develop a price commensurate with that risk.

Subp. 5. **Rereferral.** If no quote is received from the first five participants on the list, the next five participants on the list shall receive the application and the same procedure shall be followed until a quote is obtained or the list is exhausted. All participants may, if the committee feels it appropriate, be given the application at once.

Subp. 6. **Response from participant.** Participants may provide a quote on the same coverage basis they normally provide liquor liability insurance in Minnesota. Participants will return their quotation or refusal to quote for a monoline liquor liability policy or a multi-line liquor liability policy to the committee within ten days. The applicant or the applicant's agent, if any, will be notified of quotations. The agent will then complete the placement of the insurance, if the applicant accepts coverage from a participant at the price quoted, without need for an agency appointment from that participant. The insurer is not required to pay the agent any commission, but the agent may negotiate a fee with the applicant prior to initial submission of the copy of the application.

Subp. 7. **Limitation on reapplication.** An applicant provided a quotation in accordance with the above procedure will not be eligible to seek additional quotations from the market assistance plan or to obtain coverage from the liquor liability assigned risk plan if the quotation received would not be a notice of refusal for purposes of determining eligibility for participation in the assigned risk plan.

Subp. 8. **Review by full committee.** If the procedures in subparts 1 to 7 do not produce a quote, the application may be submitted to the committee. The committee, after reviewing the application, shall proceed as follows:

- A. attempt to place the applicant with a single carrier;
 - B. attempt to arrange coverage on a quota-share basis with a number of carriers;
- and
- C. advise the applicant on where it may engage loss control or consulting services that will enhance its marketability or reduce future premium costs.

Subp. 9. **Disqualification after coverage granted.** If an application is filed with the market assistance program less than 15 business days before the expiration date of the applicant's current insurance coverage, the market assistance program may continue to seek coverage for the applicant after coverage is extended by the assigned risk plan. The market assistance program will have 15 business days from the date of filing of the application with the market assistance program to obtain an offer of coverage for the applicant. If the market assistance program is able to secure an offer of coverage for the applicant within 15 business days of filing of the application and if the offer of coverage would not otherwise be considered a refusal for purposes of the assigned risk plan, the applicant will be deemed to not be qualified to participate in the assigned risk plan and coverage, if any, shall be terminated.

Subp. 10. **Notification of failure to place.** If the market assistance program does not produce a quota, it shall advise the submitting agent or the applicant with a copy to the commissioner at least 24 hours before the time the applicant's current insurance coverage terminates. Notwithstanding this subpart the market assistance program may continue to act pursuant to subpart 9. Notice that the market assistance program is continuing to act pursuant to subpart 9 shall be included in the notice required by this subpart.

Statutory Authority: *MS s 45.023; 340A.409*

History: *10 SR 592*

2782.0700 PROGRAM PARTICIPATION.

Subpart 1. **Termination.** A participant may terminate its participation in the program at any time by providing written notice 90 days in advance of the termination to the commissioner and to the committee.

Subp. 2. **New participants.** New participants may join the program at any time by submitting a written request to the commissioner and to the committee.

Statutory Authority: *MS s 45.023; 340A.409*

History: *10 SR 592*

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2782.0800 REPORTS.

The committee shall prepare and submit to the commissioner an annual report specifying the number and type of applicant liquor vendors assisted and results of the assistance for each liquor vendor. At the request of the commissioner, periodic reports shall be prepared.

Statutory Authority: *MS s 45.023; 340A.409*

History: *10 SR 592*