

CHAPTER 7404
DEPARTMENT OF PUBLIC SAFETY
DRIVER LICENSING AGENTS

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7404.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter, the following terms have the meanings given them.

Subp. 2. **Agent.** "Agent" means an individual appointed under this chapter, Minnesota Statutes, section 171.061, and Laws, chapter 250, section 13.

Subp. 3. **Applicant.** "Applicant" has the meaning given in Minnesota Statutes, section 171.061, subdivision 1, clause (1).

Subp. 4. **Application.** "Application" has the meaning given in Minnesota Statutes, section 171.061, subdivision 1, clause (2).

Subp. 5. **Approved office location.** "Approved office location" means a location that has been approved by the commissioner as meeting the requirements of part 7404.0300 but for which an agent appointment has not been made.

Subp. 6. **Bureau.** "Bureau" means a county licensing bureau established under Minnesota Statutes, section 373.33. A bureau includes all approved office locations established under the bureau to accept applications.

Subp. 7. **Certificate of appointment.** "Certificate of appointment" means the documents appointing the agent.

Subp. 8. **Collected or collection.** "Collected" or "collection" means the receipt of fees paid by an applicant less the filing fee specified in Minnesota Statutes, section 171.061, subdivision 4, paragraph (c).

Subp. 9. **Commissioner.** "Commissioner" means the commissioner of public safety.

Subp. 10. **County board.** "County board" means the county board governed by the provisions in Minnesota Statutes, chapter 375.

Subp. 11. **Conviction of crime.** "Conviction of crime" means conviction of a felony, gross misdemeanor, or misdemeanor for which a jail sentence may be imposed.

Subp. 12. **Deputy registrar.** "Deputy registrar" means a person appointed under chapter 7406 and Minnesota Statutes, section 168.33.

Subp. 13. **Discontinuance or discontinued.** "Discontinuance" or "discontinued" means the immediate suspension, suspension, or revocation of an appointment.

Subp. 14. **Existing office.** "Existing office" means an agent office for which the location has been approved and the appointment of the agent has been made by or approved by the commissioner, as specified in a certificate of appointment. An existing office does not include state-operated application or examination sites.

Subp. 15. **Inventory.** "Inventory" means state-issued or required supplies and equipment necessary to process applications such as forms, vision-testing equipment, and photo identification equipment.

Subp. 16. **Metropolitan county.** "Metropolitan county" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 4.

Subp. 17. **Municipality.** “Municipality” means a statutory city, home rule charter city, town, or township.

Subp. 18. **Next working day.** “Next working day” means the 24-hour period following the daily close of the agent’s office. A working day does not include:

- A. a Saturday, Sunday, or legal holiday listed in Minnesota Statutes, section 645.44, subdivision 5;
- B. a nonbanking day of approved state depositories;
- C. a holiday authorized under Minnesota Statutes, section 373.052, subdivision 1, for agents who are county officers or employees; or
- D. a day that an office is not open for business, upon approval from the commissioner.

Subp. 19. **Office.** “Office” means an existing office unless otherwise specified.

Subp. 20. **Proposed office location.** “Proposed office location” means a location that has been submitted to the commissioner for consideration as an existing office under part 7404.0300, or a move under part 7404.0330.

Subp. 21. **Qualified newspaper.** “Qualified newspaper” means a newspaper that meets the requirements of Minnesota Statutes, chapter 331A.

Subp. 22. **Sufficient cause to believe.** “Sufficient cause to believe” means grounds that are put forth in good faith; that are not arbitrary, irrational, unreasonable, or irrelevant; that make the proposition asserted more likely than not; and that are based on at least one of the following sources:

- A. written information from an identified person;
- B. facts or statements by an applicant for appointment as an agent, or by an appointed agent;
- C. court documents, state records, and police records; or
- D. facts of which the commissioner or commissioner’s employees have personal knowledge.

Statutory Authority: *MS s 171.061*

History: *23 SR 1454*

7404.0200 PURPOSE.

The purpose of this chapter is to carry out the mandate of the legislature as set forth in Minnesota Statutes, section 171.061, with respect to the appointment and regulation of driver’s license agents.

Statutory Authority: *MS s 171.061*

History: *23 SR 1454*

OFFICE LOCATION

7404.0300 LOCATION OF AGENT OFFICE.

Subpart 1. **General.** This part applies to:

- A. the establishment of an agent office not in existence; and
- B. the appointment of an agent when there has been a discontinuance of an agent or when the appointed agent resigns, discontinues service, retires, or dies.

Subp. 2. **State-operated application sites.** A state-operated application site is not considered an existing office when determining the distance or numbers of applications specified in this part.

Subp. 3. **Hennepin and Ramsey counties.** The conditions listed in items A to E must be met before a proposed office location for an agent is approved or continued in either Ramsey or Hennepin County.

- A. The proposed office location must not be within a five-mile radius of an existing office.

B. The estimated number of applications a proposed office location will process annually must be at least 12,000 within two years after the establishment of the office. The number of applications will be estimated as 30 percent of the applications processed within the preceding calendar year by existing offices located within a radius of the proposed office location of over five miles and less than 9-1/2 miles.

C. The proposed office location may not be established if the use of the percentage of applications processed by an existing office to establish a proposed office would reduce the number of applications to less than:

(1) 12,000 for an existing office located in either Hennepin or Ramsey County;

(2) 6,500 for an existing office located in an area under subpart 4; or

(3) 1,250 for an existing office located in an area under subpart 5.

D. If a percentage of applications processed by an existing office was used to establish a new office, that percentage may not be used again in consideration of another proposed office within a two-year period. The two-year period starts from the date the agent was appointed.

E. A proposed office location may not be considered if the proposed office location is within a ten-mile radius of an existing office that was established within the last two years. The two-year period starts from the date the agent was appointed.

Subp. 4. Other metropolitan counties; municipalities with over 50,000 population. The conditions listed in items A to E must be met before a proposed office location is approved in a metropolitan county, not including Hennepin and Ramsey Counties, or in a municipality with a population exceeding 50,000, not including municipalities in Hennepin and Ramsey counties.

A. The proposed office location must not be located within a five-mile radius of an existing office.

B. The estimated number of applications a proposed office location will process annually must be at least 6,500 within two years after the establishment of the office. The number of applications will be estimated as the largest number computed in subitem (1), (2), or (3):

(1) 30 percent of the applications processed within the preceding calendar year by existing offices located within a radius of the proposed office location of over five miles but less than 6-1/2 miles;

(2) 20 percent of the applications processed within the preceding calendar year by existing offices located within a radius of the proposed office location of at least 6-1/2 miles but less than eight miles; or

(3) ten percent of the applications processed within the preceding calendar year by existing offices located within a radius of the proposed office location of at least eight miles but less than 9-1/2 miles.

C. The proposed office location may not be established if the use of a percentage of applications processed by an existing office to establish a proposed office would reduce the number of applications to less than:

(1) 12,000 for an existing office located in an area under subpart 3;

(2) 6,500 for an existing office located in an area under this subpart; or

(3) 1,250 for an existing office located in an area under subpart 5.

D. If a percentage of applications processed by an existing office was used to establish a new office, that percentage may not be used again in consideration of another proposed office within a two-year period. The two-year period starts from the date the agent was appointed.

E. A proposed office location may not be considered if the proposed office location is within a ten-mile radius of the existing office that was established within the last two years. The two-year period starts from the date the agent was appointed.

Subp. 5. **Other areas.** In all other municipalities not included in subpart 3 or 4, the conditions listed in items A to E must be met before a proposed office location is approved.

A. The proposed office location must not be located within a 25-mile radius of an existing office, except that:

(1) in municipalities having a population of 25,000 to 50,000, a maximum of two existing offices may be established and the proposed office location must not be located within a three-mile radius of an existing office in that municipality; and

(2) the proposed office location must not be located in a municipality of less than 25,000 population if there is an existing office in that municipality.

B. The estimated number of applications that a proposed office location will process annually must be at least 1,250 within two years after the establishment of the office. The number of applications must be estimated as follows:

(1) 20 percent of the applications processed within the preceding year by existing offices located within a 20-mile radius of the proposed office location; or

(2) if there is no existing office located within a 20-mile radius of the proposed office location, 85 percent of the population of the municipalities that are closer to the proposed office location than to other existing offices.

C. The proposed office location may not be established if the use of the percentage of applications processed by an existing office, to establish a proposed office, would reduce the number of transactions to less than:

(1) 12,000 for an existing office located in an area under subpart 3;

(2) 6,500 for an existing office located in an area under subpart 4; or

(3) 1,250 for an existing office located in an area under this subpart.

D. If a percentage of applications processed by an existing office was used to establish a new office, that percentage may not be used again in consideration of another proposed office within a two-year period. The two-year period starts from the date the agent was appointed.

E. A proposed office location may not be considered if the proposed office location is within a 30-mile radius of an existing office that was established within the last two years. The two-year period starts from the date the agent was appointed.

Subp. 6. **Restriction on processing proposed office location.** When a request for a proposed office location is submitted to the commissioner, no other requests for a proposed office location may be made for that proposed office location or a location within a 25-mile radius of that proposed office location until:

A. the commissioner determines that the proposed office location does not meet the requirements of this part; or

B. the appointment of an agent for the approved office location under this chapter is completed.

Statutory Authority: *MS s 171.061*

History: *23 SR 1454*

7404.0310 EXCEPTIONS.

Subpart 1. **One agent per county bureau.** Pursuant to Minnesota Statutes, sections 373.33 and 373.35, if the county board appoints the county license bureau director as a licensing agent, the license bureau director is responsible for all bureau sites where applications are accepted in the county. Each bureau site where applications are accepted must meet the criteria for establishment of an office as specified in part 7404.0300.

Subp. 2. **Low volume existing office; county board decision.** Notwithstanding part 7404.0300, an agent may be appointed at an existing office location that does not comply with the application numbers for the establishment of an office specified in part

7404.0300, plus or minus two percent of the average application numbers in the preceding three years, only if:

A. the county board notifies the commissioner within one week of the next regularly scheduled county board meeting after the death, resignation, discontinuance, or retirement of the existing agent, that the county board wants to reappoint an agent and maintain that existing office location;

B. the county board appoints a new agent within 90 days from the time the notice was given to the state in item A;

C. there is not another existing office located within the distances specified in part 7404.0300; and

D. the county board or the new agent agrees to procure and maintain the photo identification and vision-testing equipment necessary to process applications.

Subp. 3. Low volume location; commissioner's appointment. If the county board declines to reappoint an agent at the existing location described in subpart 2, the appointment of the agent and all state-provided inventory reverts to the commissioner.

A. The commissioner shall decide whether to appoint another agent at the existing office within six months after notice by the county board that it will not appoint another agent or that an agent was not appointed within the deadline specified, whichever date comes first.

B. The commissioner shall appoint an agent at the existing office with a low application volume and procure and maintain the photo identification and vision-testing equipment for the site only if the office is not in a metropolitan county and there is not another application site, including state-operated sites, within 35 miles of the existing low volume office.

Subp. 4. Minimum distance exception. Notwithstanding part 7404.0300, a new agent may be appointed at an office location in existence as of January 1, 1999, which does not meet the minimum distance in part 7404.0300, if the number of applications accepted by the office meet or exceed the minimums specified in part 7404.0300 during each of the three years preceding the date of application for a new agent appointment.

Statutory Authority: *MS s 171.061*

History: *23 SR 1454*

7404.0330 MOVE OF EXISTING OFFICE LOCATION.

Subpart 1. In general. A move of an existing office must meet the requirements of part 7406.0300, be within the same county, and be approved by the commissioner. This part does not apply to the location of state-operated application or examination sites.

Subp. 2. Variance. An agent may apply to the commissioner for a variance from the requirements of subpart 1, except that no existing office is allowed to move to a different county.

A. An agent may apply for a variance by submitting a written request to the commissioner.

B. The variance request must specify and the commissioner shall consider the following factors when reviewing the variance request:

(1) each rule part from which the variance is requested and why the proposed office location does not meet requirements of part 7404.0300;

(2) the reasons for the request to move from the existing office location;

(3) the distance of the proposed office location from the agent's existing office;

(4) whether the proposed office location would serve the same community or neighborhood and is in close proximity to the original location;

(5) whether the proposed office location is in another county;

(6) any comments in opposition or support from other existing agent offices of the proposed office location;

- (7) building considerations of the proposed office location including:
 - (a) parking space; and
 - (b) compliance with part 7404.0400;
- (8) destruction or other loss of the existing office building, including loss of building lease;
- (9) the number of previous moves of the existing office and the reasons for the moves;
- (10) whether the proposed move is a result of or in connection with misfeasance or malfeasance on the part of the agent; and
- (11) other information requested by the commissioner or supplied by the agent.

Subp. 3. **Commissioner's decision.** The commissioner shall review the request for a variance and grant or deny it within 60 days after its receipt or within 60 days after the date of the commissioner's request for additional information, whichever is later.

A. The commissioner shall give the agent written justification for a decision to deny the variance.

B. Failure to submit the required information under this subpart within 30 days of the commissioner's request for information is cause to deny an agent's request for a variance.

Subp. 4. **Right to review commissioner's decision.** An agent may contest the denial of a variance of the commissioner by requesting a hearing.

A. The agent shall submit, within 15 days of the receipt of the commissioner's decision, a request for a hearing.

B. The request for a hearing must set forth in detail the reasons why the agent contends the decision of the commissioner should be changed.

C. The hearing must follow the hearing procedures in parts 7406.1100 to 7406.2600.

Statutory Authority: *MS s 171.061*

History: *23 SR 1454*

APPOINTMENT PROCEDURES

7404.0350 AGENT APPOINTED BY COUNTY; COMMISSIONER'S APPROVAL.

Subpart 1. **In general.** Upon request by an individual that has met the office location requirements under part 7404.0300, the commissioner shall begin the appointment process for an approved office location.

A. The request for appointment must be referred by the commissioner to the county board in the same county as the approved office location.

B. The county board shall choose one of the options listed in subpart 2 regarding the appointment.

Subp. 2. **County board appointment.** When the commissioner refers the appointment of an agent to the county board in the county in which the approved office location is located, the county board shall choose one of the options listed in items A to D. The county board shall:

A. appoint an employee or equivalent officer of the county to operate the approved office location and serve as the agent;

B. appoint an employee or equivalent officer of a statutory or home rule charter city within the county to operate the approved office location and serve as the agent;

C. appoint any other individual to operate the approved office location and serve as the agent; or

D. decline to appoint an agent.

Subp. 3. **Notice to commissioner required.** The county board shall notify the commissioner, in writing, of the option chosen under subpart 2 regarding the appointment of an agent for an approved office location. The notice must be received by the commissioner within 30 days of referral to the county board of the request for appointment of an individual as an agent and approval of an office location by the commissioner.

Subp. 4. **Failure to notify commissioner; consequences.** If the county board declines to appoint an agent or fails to notify the commissioner within 30 days of referral of the request for appointment to the county board, the appointment of the agent must then be considered by the commissioner under part 7404.0360.

Subp. 5. **Criteria and procedures.** When appointing an agent, the county board shall follow the procedures in part 7404.0360.

Subp. 6. **Change in county board-appointed agent.** A county board-appointed agent shall notify the county board and commissioner, in writing, no less than 30 days before the agent resigns, retires, or discontinues service. If the office is vacated upon the death of the agent, a county official authorized by the county board must notify the commissioner within ten days of the vacancy.

Subp. 7. **Transfer of appointment.** An agent appointment may not be transferred to another individual or office without the approval of the commissioner.

Statutory Authority: *MS s 171.061*

History: *23 SR 1454*

7404.0360 APPOINTMENT PROCEDURE.

Subpart 1. **In general.** An agent appointment may only be made for an approved office location that qualifies under part 7404.0300. The appointment procedures in this part apply to appointments made by a county board with the approval of the commissioner, and to appointments made by the commissioner.

Subp. 2. **Publication of vacancy notice.** After approval of an office location under part 7404.0300, notice of the agent vacancy for the approved office location must be published for two successive weeks in a qualified newspaper in the county where the approved office location is located.

A. For an appointment being made by a county board with the approval of the commissioner, the notice must be published by the county board within 30 days after the date the county board notified the commissioner that the county board intends to make an appointment under part 7404.0350, subpart 2.

B. For an appointment being made by the commissioner, the notice must be published within 30 days after notice of refusal of the county board to appoint an agent is received by the commissioner or 30 days after the deadline for the county board to respond to a referral for appointment of an individual to an approved office location.

C. The notice of agent vacancy must specify the:

- (1) approved office location;
- (2) county board's or commissioner's intent to appoint an agent at that location;
- (3) responsibility of the agent to accept applications;
- (4) authority under statute and rule to make the appointment;
- (5) name, address, telephone and facsimile numbers, and E-mail address of the individual to contact about the appointment; and
- (6) deadline for submission of a request for appointment, which must be received by the entity publishing the notice no later than 4:30 p.m. on the deadline date via United States mail, facsimile transmission, or E-mail communication.

Subp. 3. **Request for appointment.** A request for appointment as an agent must be submitted by the individual seeking appointment to the entity publishing the notice for appointment. The request must specify:

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A. the individual's full name, address, states of residency for the last five years, date of birth, and telephone number;

B. whether the individual has or had any other license with a federal, state, or municipal government agency; the current status of that license; and an explanation of any cancellation, revocation, suspension, or other disciplinary proceeding in connection with the license;

C. whether the individual owns or is a partner, officer, or five-percent shareholder in an entity that:

(1) operates a driver training or driver improvement clinic; or

(2) sells vehicle insurance;

D. the address of the proposed office location;

E. a floor plan of the proposed office, including the area and dimensions of the space allocated to process applications, public service area, and storage area;

F. information about the individual's prior education, work experience, and training;

G. a history of prior appointments as an agent, deputy registrar, or public official and the reasons for the denial, suspension, revocation, or cancellation of any prior appointment;

H. whether the individual is currently the subject of bankruptcy proceedings;

I. a certified copy of the individual's criminal history and, if the individual is a nonresident or if the individual has resided in Minnesota for less than five years, a certified copy of a criminal records check of the national criminal records repository including the criminal justice data communications network; and

J. the signature of the individual verifying that the information on the application is true. The signature must be notarized.

Subp. 4. Age of agent. The agent and the manager at each office must be 18 years of age or older.

Subp. 5. Criminal history check. The commissioner may conduct a criminal history check at any time while an individual is serving as an agent.

Subp. 6. Change in agent application conditions. An agent shall report to the commissioner changes or anticipated changes of the information in subpart 3.

A. The changes must be reported to the commissioner within ten calendar days of the date the change is to occur or within ten calendar days of the the date the agent learns the changes will occur, whichever occurs first.

B. Changes are subject to approval by the commissioner.

C. A change may be cause for discontinuance of an appointment if the change violates this chapter or Minnesota Statutes, section 161.061.

Subp. 7. Reasons to deny agent appointment. An agent appointment must be denied for any of the reasons listed in this subpart.

A. The request for appointment or an item filed with the request for appointment does not meet the requirements of subpart 3.

B. The individual requesting an appointment is a partner, officer, or five-percent or greater shareholder in an entity that:

(1) operates a driver education, driver training, or driver improvement clinic; or

(2) sells vehicle insurance.

C. The individual has been convicted of a felony.

D. The individual has been convicted of a crime in Minnesota or in another jurisdiction that, if committed in Minnesota, would be a violation of a Minnesota statute of the following type:

(1) affecting a public officer or employee;

(2) theft or a related crime;

- (3) forgery or a related crime; or
- (4) directly relating to the position of an agent.

E. The proposed office location does not meet the requirements under part 7404.0300 or 7404.0400 and a variance has not been granted by the commissioner.

F. The commissioner of revenue notifies the commissioner, or the commissioner has sufficient cause to believe, that the individual owes delinquent taxes, penalties, or interest.

G. The individual is in the midst of bankruptcy proceedings.

H. The individual's request for appointment is incomplete or contains a statement that is false, misleading, fraudulent, or otherwise constitutes misrepresentation.

Statutory Authority: *MS s 171.061*

History: *23 SR 1454*

7404.0370 APPOINTMENT OF AGENT.

Subpart 1. **In general.** An appointment must be based on information contained in the request for appointment, an interview, an inspection of the proposed office location for compliance with this chapter, and other relevant information or documentation.

A. The individual must possess communication and customer service skills.

B. The individual must possess or demonstrate knowledge or experience in the laws and rules pertinent to the acceptance of applications, office management, accounting, and record keeping.

C. The individual must indicate a willingness to successfully complete initial and annual training provided by the commissioner.

Subp. 2. **Certificate of appointment.** The commissioner shall execute and sign a certificate of appointment that specifies the individual appointed as an agent, the location of the approved office, and the responsibility of the agent to accept applications.

A. The certificate of appointment must be signed by the individual appointed.

B. When an appointment is made by the county board with the approval of the commissioner, the certificate must also be signed by the authorized representative of the county board.

Subp. 3. **Bond.** If an agent appointed under this chapter is not an officer or employee of a county or statutory or home rule charter city, the agent shall give a surety bond to the state to cover the application receipts accepted on behalf of the commissioner, and inventory provided and maintained by the commissioner.

A. The bond must be conditioned upon the faithful discharge of duties as an agent.

B. If an agent is also a deputy registrar, the bond must be in addition to the bond required to be held to cover the deputy registrar vehicle title and registration transactions.

C. The bond must be a continuous bond in the amount of:

- (1) \$1,000 or the value of all state-issued inventory, whichever amount is greater; plus
- (2) \$3,000 for every \$50,000 of annual application receipts or portion thereof.

D. The amount of application receipts for an initial bond must be based on the highest projected amount of annual application receipts in the five years after an agent is appointed as the number of applications for a new office is estimated under part 7404.0300.

E. The continuous bond must be adjusted every five years, starting with the date of initial issuance, to reflect the total annual application receipt amount and inventory value of the previous calendar year.

Statutory Authority: *MS s 171.061*

History: *23 SR 1454*

OFFICE REQUIREMENTS

7404.0400 AGENT OFFICE REQUIREMENTS.

Subpart 1. **In general.** A proposed office location must comply with this part.

A. For an existing office when there is a discontinuance of the agent appointment or death, resignation, or retirement of an agent, and for which a new appointment is requested, the requirements of this part apply.

B. An existing agent subject to reappointment by January 1, 1999, must have an office that complies with this part. However a variance may be granted under subpart 2 from compliance with subpart 8.

Subp. 2. **Variance.** An existing agent subject to appointment by January 1, 1999, may apply to the commissioner for a variance from compliance with subpart 8 within six months of January 1, 1999, if compliance constitutes a substantial hardship.

A. The agent may apply for a variance to the commissioner. The commissioner shall consider the following factors when reviewing the variance request:

- (1) why the office does not meet the requirements of subpart 8;
- (2) the options available to the agent to bring the office into compliance with subpart 8;
- (3) the financial cost for meeting the options listed in item B, estimated with reasonable efforts; and
- (4) other information requested by the commissioner or supplied by the agent.

B. The variance must expire upon the discontinuance, death, retirement, or resignation of the agent or a period specified within the variance, whichever period is less.

C. The commissioner's decision and the right to review of the decision must follow the procedures in part 7404.0330, subparts 3 and 4.

Subp. 3. **Area for applications.** An agent:

A. must have an office that contains a separate and distinct area used exclusively for taking and storing completed applications;

B. may not use the application area for living space or for transacting any other business, except that a deputy registrar authorized by the commissioner may process vehicle title and registration transactions, Department of Natural Resources transactions, and additional county transactions as specified under Minnesota Statutes, section 373.33; and

C. must install a counter or divider within the application area to separate the public from the application areas of the office.

Subp. 4. **Inventory.** Inventory must be maintained in a secure manner so it is not accessible to the public either during or after business hours.

A. The agent shall procure and maintain a dedicated telephone line for the transmission of license application data at each office site.

B. An agent who does not, as of January 5, 1999, have dedicated vision-testing equipment provided by the commissioner, shall procure or lease and maintain at least one dedicated vision-testing machine per office from a vendor specified by the department.

C. Pursuant to Minnesota Statutes, section 171.061, subdivision 4, paragraph (b), an agent appointed before January 1, 1999, who does not have photo identification

equipment provided by the department and any new agent appointed after December 31, 1998, shall procure or lease, and maintain, photo identification equipment from a vendor specified by the department. This equipment includes a dedicated computer and all software and security features provided by the vendor, and signature-capture equipment.

D. For an agent appointed before January 1, 1999, who has photo identification and signature-capture equipment provided by the department, the department shall continue to provide and maintain the equipment.

E. If the photo identification equipment is being provided and maintained by the department at a county license bureau, county office, or municipal office and the agent dies, retires, or discontinues service, the equipment must revert to the department unless:

(1) the county board notifies the commissioner within one week after the next scheduled board meeting that the county board wants to maintain the office and reappoint an agent;

(2) within 90 days of the date of the notice in subitem (1), the county board appoints another agent for the office; and

(3) the office location or locations comply with the criteria for establishment of an office for a driver licensing agent in part 7404.0300.

F. At a licensing agent office where the agent is responsible for the procurement of photo identification equipment, the agent is responsible for the procurement of any additional photo identification equipment.

G. Where photo identification or vision-testing equipment provided by the department reverts back to the department, the equipment must be distributed according to subitems (1) and (2).

(1) The equipment must be used at a state-operated examination or application site if initial or additional equipment is needed at that location.

(2) If there is no need for the equipment at a state-owned or state-operated examination or application site, the equipment must be sold or sublet to another approved office.

Subp. 5. **Size of office area.** The size of the office area includes the application area, the public service area, and the inventory storage area of the office.

A. The size of the office area must contain a minimum of 100 square feet.

B. If the agent office is adjacent to another nonconflicting use, the other use may not encroach on the office space of the agent office.

C. The agent office must be separate and distinct from any other business.

Subp. 6. **Accessibility.** The office must be accessible to the disabled.

Subp. 7. **Identification.** An indoor or outdoor sign must be prominently displayed to identify the office as a location where applications are taken.

Subp. 8. **Conflicting interests.** An agent may not be employed by, own, or have a financial interest as a partner, officer, or five percent shareholder in, an entity that sells vehicle insurance, or operates a driver education, driver training, or driver improvement clinic.

A. An agent's office may not be located in the same office area with an entity that sells or serves alcoholic beverages, issues vehicle insurance, or operates a driver training or driver improvement clinic.

B. An agent office that is located adjacent to an entity described in item A must be separated from that entity by floor-to-ceiling walls.

C. The agent's office must have:

(1) an entrance that is separate from the conflicting entity; and

(2) a door that can be shut and locked to close off the entire entrance.

Statutory Authority: *MS s 171.061*

History: *23 SR 1454*

7404.0450 REPORTING AND DEPOSITING PRACTICES.

Subpart 1. **Reporting applications; fees.** An agent must report to the commissioner, on forms or electronically as prescribed by the commissioner, a summary report of the applications collected each day the office is open to the public, before the end of the next working day.

A. The summary report must contain:

(1) the applicant's full name, date of birth, or state driver's license number;

(2) the type of application;

(3) the application fees collected;

(4) the completed applications and required information as specified by the commissioner; and

(5) a report to the commissioner showing the total amount of application fees collected and deposited under subpart 2.

B. On the summary report submitted to the commissioner, the agent shall specify the day the applications were made and fees collected and the date and location where the fees were deposited in the state depository or by other approved method.

C. The agent shall provide the validated bank deposit slip or other written verification by the bank of the time of deposit.

D. All applications taken must be included with the summary report for the day the applications were taken at the office.

E. A minimum of one summary report must be completed for all applications taken during a working day.

F. More than one summary report may be submitted for one day with prior approval from the commissioner.

G. If an agent does not take any applications on a day the office is scheduled to be open, a summary report must still be filed with the commissioner indicating that no applications were taken that day.

H. The agent shall transmit the summary report to the commissioner before the end of the next working day following the receipt of the applications and application fees by:

(1) United States mail;

(2) a package delivery service;

(3) electronic transfer;

(4) hand delivery; or

(5) another method approved by the commissioner.

I. If the United States mail is used to transmit the summary report to the commissioner, the date of transmission by United States mail is the actual day on which the delivery is deposited in a United States mail receptacle, regardless of whether the date is the same as the date the summary report is postmarked.

Subp. 2. **Depositing application fees.** Before the end of each working day, an agent shall deposit an amount equal to the fees collected the previous working day, excluding the filing fees collected under Minnesota Statutes, section 171.061, subdivision 4.

A. The agent shall make all deposits in approved state depositories to the credit of the state.

B. The date of deposit is the actual day on which the deposit is made regardless of whether that date is the same as the date the deposit is recorded by the state depository.

C. Deposit may be made by any method acceptable to the state depository, including wire transfer.

Subp. 3. **Maintaining records.** At the agent's office, the agent shall keep complete records for deposits made to approved state depositories and the daily summary reports prepared under subpart 1.

A. The records must be maintained for three years.

B. Once an application is received by the agent, the application and the information contained on the application and any attached documents become the property of the state of Minnesota and are subject to the terms of the Data Practices Act under *Minnesota Statutes, chapter 13*.

C. The application information and summary report information may not be released by the agent without prior approval from the commissioner, except when authorized by statute for law enforcement personnel and by court order.

Subp. 4. **Late payment charge.** On discovering a violation of the depositing requirements specified in subpart 2, the commissioner shall send a notice to the agent.

A. The notice must identify the violation and tell the agent that if the agent violates the depositing requirements in subpart 2 again in the following calendar month, a late payment charge will be imposed.

B. For each calendar month immediately following a month for which the agent receives a notice or is issued a late payment charge, in which the agent violates subpart 2 again, the commissioner shall impose a late payment charge of \$30 or an amount computed by the following formula, whichever is greater:

(1) Days late x delinquent amount x daily rate = late payment charge,

where:

(a) days late = actual number of days each deposit is delinquent;

(b) delinquent amount = actual amount each deposit is delinquent;

and

(c) daily rate = interest on all state funds without authority to be invested separately, as determined by the Minnesota Department of Finance, for the month the deposit was due, divided by 365 days.

(2) In determining the number of days a deposit is late, weekends and holidays are included only if the deposit is determined by the commissioner to be already at least two days late.

(3) The commissioner shall continue to impose monthly late payment charges until the agent no longer is in violation of this part.

Subp. 5. **Notice of late payment charge.** The commissioner shall send a written notice of a late payment charge to the agent by certified mail.

A. The notice must identify the violations for which the late payment charge is imposed.

B. The notice must also inform the agent when the late payment charge is due, how the late payment charge must be paid, and how to obtain a review of the late payment charge.

Subp. 6. **Unpaid late payment charges.** If a late payment charge remains unpaid for 30 days from the date the commissioner mailed the notice of late payment charge and if no review is requested, the commissioner shall make a claim for payment against the agent's bond, or in the case of a public official or employee serving as an agent, the commissioner shall demand payment from the county treasurer.

Subp. 7. **Administrative review.** When the commissioner notifies an agent that a late payment charge has been imposed, the agent may ask the commissioner to review the late payment charge.

A. The agent may request a review by submitting a statement, together with written materials showing that the agent processed the applications in compliance with this chapter and *Minnesota Statutes, chapter 171*.

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B. The request for review must be submitted within ten days from the date the notice of late payment charge was issued.

C. The commissioner shall review the request and notify the agent within ten days of receipt of the request for review, whether the late payment charge will be affirmed or rescinded.

D. An agent may withhold the late payment charge during the review period but must pay the late payment charge to the state depository account by the end of the working day following notice that the late payment charge is affirmed.

E. The commissioner shall affirm the late payment charge only if the charge was calculated correctly and the late deposit was the result of foreseeable circumstances within the control of the agent.

Subp. 8. **Discontinuance.** An agent who fails to comply with a late payment charge notice is subject to discontinuance of the agent's appointment under part 7404.0800.

Statutory Authority: *MS s 171.061*

History: *23 SR 1454*

7404.0500 GENERAL OPERATING PRACTICES.

Subpart 1. **Management of office.** An agent shall manage the agent's office according to this part.

A. The agent:

(1) shall not delegate to another individual the authority or responsibility of operating the office; and

(2) shall designate a manager for the office.

B. The agent shall provide written notice to the commissioner of the name of the manager and of a change in the manager within ten calendar days of the change.

C. The manager must be an individual who actively participates in the acceptance of applications and who is in the office on a full-time basis.

D. The manager shall act as a liaison between the commissioner and the agent's office to discuss and address problems or questions that may arise on a daily basis.

Subp. 2. **Hours of operation.** An agent's office must be open to the public at least 40 hours each week.

A. The legal holidays listed in Minnesota Statutes, section 645.44, subdivision 5, and holidays authorized under Minnesota Statutes, section 373.052, subdivision 1, for county offices are included in the 40-hour calculation.

B. The agent shall provide the commissioner with an accurate written schedule of the hours the office is open to the public.

C. A written request for a change in office hours must be made to the commissioner at least ten calendar days before a change in hours.

D. The commissioner must approve changes in hours the office is open to the public before the hours become effective.

Subp. 3. **Closure of office; variance procedure.** An office must be open for at least 40 hours each week unless the commissioner grants a variance to allow an office to be closed for a specified period of time.

A. To request a variance for closure of an office for two days or more, the agent must submit a written request to the commissioner.

B. The commissioner shall consider the following factors before allowing an office to close:

(1) reason the closure is requested;

(2) length of time the closure is requested;

(3) day of the month and time of the year that the closure is requested;

(4) number of applications that an office processes on an annual basis and number of applications processed at the requested time of closure, if known;

(5) ability to keep the office open with current, additional, or temporary staff; and

(6) the number of variances granted that calendar year.

C. The commissioner shall review the information submitted with the variance request and grant or deny the variance within two working days after receipt of the request.

D. If a variance is granted for office closure, the agent must provide notice to the public at the agent's office of the dates and times of the office closure.

E. If the office is to be closed for four working days or less, the agent must post notice in a conspicuous place inside and outside the office for up to two consecutive weeks before closure.

F. If the office is to be closed for five or more working days, the notice must be posted at the office and also published in a qualified newspaper or aired on a radio station in the county or city in which the office is located.

(1) The notice must be published at least two weeks before the closing for two consecutive weeks, or a shorter time as approved by the commissioner.

(2) The notice of closure must contain the dates and times that the office will be closed and the location and address of the nearest office where alternative service may be obtained.

Subp. 4. Emergency and short-term closure of office. For requests of an office closure that is for one day or that is due to an emergency situation or illness, the agent must notify the commissioner by telephone or other means at the earliest opportunity to request a variance from the 40-hour work week.

A. The commissioner shall follow the criteria in subpart 3 when deciding to grant or deny the variance.

B. If a variance is granted for closure of an office, the agent must provide notice to the public, as soon as practicable, at the office of the dates and times of the office closure.

C. If the closure of an office is for more than one day, the agent must follow the variance procedures in subpart 3.

Subp. 5. Application fees. An agent shall charge and receive the full application fees specified by Minnesota Statutes, chapter 171.

A. Rebates are prohibited.

B. No application fee may be charged for a document returned for a refund due to an error made by the department or an agent.

Subp. 6. Telephone use charges. An agent may not charge a customer for long-distance telephone calls, unless:

A. the charge is for the exact per-minute charge of the telephone call and does not include any charges for other basic or optional telephone services;

B. the long-distance telephone call was made at the request of the customer; and

C. the agent maintains a record of the long-distance telephone calls made each day, which includes the charges assessed and the name and address of the customer for whom the telephone call was made.

Subp. 7. Cash register. A separate cash register or cash receptacle must be maintained for application funds.

A. No other funds from other activities may be kept with application funds, except funds from deputy registrar vehicle title and registration transactions, Department of Natural Resources transactions, or county license bureau transactions.

B. The agent must be able to determine at all times which funds are attributable to agent applications, deputy registrar vehicle transactions, Department of Natural Resources transactions, and county license bureau transactions.

C. Funds from other sources are permitted in the cash register other than those funds listed in items A and B if the agent's fee receipt system can differentiate funds from various sources and the agent has received written approval from the commissioner to use such a system.

Subp. 8. **Imprest cash.** An agent shall maintain a verifiable and identical amount of start-up funds in the cash register or cash receptacle on a daily basis.

A. The agent shall inform the commissioner, in writing, of the amount of money that will be used during the day for start-up funds.

B. The amount of the start-up funds must not be changed without prior written notification to the commissioner.

Subp. 9. **Inventory to remain in office.** Inventory assigned to the agent by the commissioner must remain in the office, except in the following authorized circumstances:

A. return of inventory to the commissioner;

B. destruction or removal of inventory that is obsolete; or

C. other removal or transfer of inventory that is authorized by the commissioner such as approval to reassign inventory to another office or approval to remove inventory through other means such as through newly established technology.

Subp. 10. **State-issued property; accountability.** State-issued property provided to an office must be accounted for by submitting the property to the commissioner. If state-issued property is unaccounted for, the agent is responsible for the replacement cost of the state property.

Statutory Authority: *MS s 171.061*

History: *23 SR 1454*

7404.0800 ACTIONS FOR FAILURE TO COMPLY WITH LAWS OR RULES.

The failure of an agent or employee of an agent to comply with applicable laws or rules governing the appointment of an agent and the operation of an office is cause for discontinuance of the agent appointment using the grounds specified for a deputy registrar under parts 7406.0900 to 7406.1000 and following the procedures specified in parts 7406.1100 to 7406.2600. The commissioner may issue a correction order according to the procedures in part 7406.1000. The grounds for discontinuance of an agent appointment or issuance of a correction order as specified in part 7406.1000 also include:

A. a violation or failure to comply with a provision of this chapter; Minnesota Statutes, chapter 171; or a correction order issued by the commissioner;

B. misappropriation, conversion, or illegal withholding of application fees required to be deposited in accordance with this chapter and Minnesota Statutes, chapter 171;

C. grounds for denial of an appointment under part 7404.0360, subpart 7; and

D. failure to successfully complete training required by the commissioner.

Statutory Authority: *MS s 171.061*

History: *23 SR 1454*