

CHAPTER 7409
DEPARTMENT OF PUBLIC SAFETY
DRIVING PRIVILEGES; LOSS, REINSTATEMENT

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7409.0100 DEFINITIONS.

Subpart 1. **Scope.** For this chapter, the terms defined in this part have the meanings given them.

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.

Subp. 2. **Commercial motor vehicle.** "Commercial motor vehicle" has the meaning given it in Minnesota Statutes, section 171.01, subdivision 22.

A commercial motor vehicle does not include a farm truck, fire truck or other emergency fire equipment, or recreational equipment operated by a person within the scope of Minnesota Statutes, section 171.02, subdivision 2, paragraph (a).

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Public Safety, acting directly or through authorized officers and agents.

Subp. 4. **Conviction; convicted.** "Conviction" or "convicted" has the meaning given it in Minnesota Statutes, section 171.01, subdivision 13.

Subp. 5. **Department.** "Department" means the Minnesota Department of Public Safety.

Subp. 6. **Disqualification; disqualify.** "Disqualification" or "disqualify" means the commissioner's removal of the privilege to drive commercial motor vehicles for a specific period under Minnesota Statutes, section 171.165.

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

Subp. 7. **License.** "License" means an operator's license or other license or permit to operate a motor vehicle issued or issuable by the commissioner including:

- A. a temporary license or instruction permit;
- B. the privilege of a person to drive a motor vehicle, whether or not that person holds a valid license;
- C. a nonresident's driving privilege; and
- D. the plastic or paper license certificates.

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 rescission of a person's driver's license for a specific minimum period of time under Minnesota Statutes, section 169.792, 169.797, 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 169.797, 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.

Statutory Authority: *MS s 14.06; 169.795; 169.798; 171.165*

History: *15 SR 2406; 16 SR 1177; L 1992 c 571 art 14 s 13*

DISQUALIFICATION

7409.0200 COMMERCIAL DRIVER'S LICENSE DISQUALIFICATION.

Subpart 1. **Leaving accident scene.** Upon receiving a record of conviction, the commissioner shall disqualify a person from holding a commercial driver's license if the person was convicted under Minnesota Statutes, section 169.09, subdivision 1 or 2, and the person was driving, operating, or in physical control of a commercial motor vehicle at the time of violation of section 169.09, subdivision 1 or 2. The disqualification period is:

- A. one year, for the first conviction;
- B. three years, if the person was transporting hazardous materials at the time of the violation; or
- C. life, if the person has a previous disqualification under this subpart, subpart 2 or 3, or Minnesota Statutes, section 171.165, subdivision 1, clause (1), or subdivision 2.

Subp. 2. **Felony, using commercial vehicle.** Upon receiving a record of conviction, the commissioner shall disqualify a person from holding a commercial driver's license if the person was convicted of a felony in which a commercial motor vehicle was used, other than a felony described in subpart 4. The disqualification period is:

- A. one year, for the first conviction;
- B. three years, if the person was transporting hazardous materials at the time of the commission of the felony; or
- C. life, if the person has a previous disqualification under this subpart, subpart 1 or 3, or Minnesota Statutes, section 171.165, subdivision 1, clause (1), or subdivision 2.

Subp. 3. **Out-of-state convictions.** Upon receiving a record of conviction from another state, the commissioner shall disqualify the convicted person from holding a commercial driver's license if the conviction would be grounds for disqualification under Minnesota Statutes, section 171.165, subdivision 1, clause (2) or (3). The disqualification is:

- A. one year, for the first conviction;
- B. three years, if the person was transporting hazardous materials at the time of the violation; or
- C. life, if the person has a previous disqualification under this subpart, subpart 1 or 2, or Minnesota Statutes, section 171.165, subdivision 1, clause (1), or subdivision 2.

Subp. 4. **Manufacture, sale, or distribution of controlled substance.** Upon receiving a record of conviction, the commissioner shall disqualify a person from holding a commercial driver's license if the person is convicted under Minnesota Statutes, chapter 152, of the manufacture, sale, or distribution of a controlled substance or possession of a controlled substance with the intent to manufacture, sell, or distribute it, and it is found that a commercial motor vehicle was used in the commission of the felony. The disqualification period is for life.

Subp. 5. **Serious traffic violations.** Upon receiving a record of conviction, the commissioner shall disqualify a person from holding a commercial driver's license if the person was convicted of two or more serious traffic violations in a commercial motor vehicle within a three-year period. "Serious traffic violations" includes any combination of the following offenses:

- A. operating the commercial motor vehicle at a speed 15 miles per hour or more above the posted speed limit;
- B. reckless or careless driving under Minnesota Statutes, section 169.13;
- C. fleeing a peace officer under Minnesota Statutes, section 609.487; and

D. a violation of a moving traffic statute of Minnesota or another state, or an ordinance in conformity with a Minnesota statute, that arose in connection with a fatal accident.

The disqualification period is 60 days for two, or 120 days for three or more serious traffic violations occurring within a three-year period. The department shall use the date of the driving incident to establish the number of violations.

Subp. 6. **Reduction of lifetime disqualification.** The commissioner shall reduce the lifetime disqualification period imposed under subpart 1, item C, subpart 2, item C, or subpart 3, item C, to a minimum of ten years disqualification if the person demonstrates rehabilitated driving practices in the ten-year period following the effective date of the lifetime disqualification. A person is considered rehabilitated if during that ten-year period there is no revocation or conviction resulting from the operation of any type of vehicle for an offense listed in Minnesota Statutes, section 171.165, subdivision 1, or if the person's license is not revoked under Minnesota Statutes, section 169.123, or a statute or ordinance from another state in conformity with it. If rehabilitation is not so demonstrated during the initial ten-year period, the disqualification period remains lifetime.

Statutory Authority: *MS s 171.165*

History: *15 SR 2406*

7409.0300 NOTICE OF LICENSE ACTION.

Subpart 1. **Notice of possible disqualification.** The commissioner shall notify a person who is subject to possible disqualification under this chapter or when requirements from a previous disqualification have not been satisfied. The notification must be in writing and sent by first class mail to the address shown on department records. The notice must contain the following information and may contain other information that the commissioner considers appropriate:

- A. the person's full name, date of birth, driver's license number, height, and weight;
- B. the current address obtained from the person's driver's license record, including street number, city, state, and zip code;
- C. the date the notice is mailed;
- D. the effective date of the disqualification order;
- E. the reason for the disqualification;
- F. the type of vehicle being operated at the time of the driving incident;
- G. the length of the disqualification period;
- H. a statement that the person has a right to administrative review under Minnesota Statutes, section 171.166; and
- I. the length of time during which administrative review is available under Minnesota Statutes, section 171.166.

Subp. 2. **Notice of disqualification.** The commissioner shall notify a person who is disqualified under Minnesota Statutes, section 171.165, subdivision 1, clause (2), (3), or (4); subdivision 3; or subdivision 4, or when requirements from a previous disqualification have not been satisfied. The disqualification will be effective when all available possibilities of administrative review under Minnesota Statutes, section 171.166, have been completed. The notification must be in writing and sent by first class mail to the address shown on department records. The notice must contain the following information and may contain other information that the commissioner considers appropriate:

- A. the person's full name, date of birth, height, weight, and driver's license number;
- B. the current address obtained from the person's driver's license record, including street number, city, state, and zip code;
- C. the date the notice is mailed;
- D. the effective date of the disqualification order;

- E. the reason for the disqualification;
- F. the type of vehicle being operated at the time of the driving incident;
- G. the length of the disqualification period;
- H. a statement that by the effective date of disqualification, the person must surrender all license certificates or submit a sworn statement if a license was lost, stolen, or destroyed; and
- I. a statement informing the person of the requirements to reinstate the commercial driver's license.

Subp. 3. **Notice to other states.** When a nonresident is convicted of driving incidents that occurred while driving, operating, or in physical control of a commercial motor vehicle, the commissioner shall report that conviction to the driver's state of residence.

Statutory Authority: *MS s 171.165*

History: *15 SR 2406*

7409.0400 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 has been disqualified and received notification under part 7409.0300, subpart 2. If the person requests review of the disqualification under Minnesota Statutes, section 171.166, then the request to surrender the driver's license is effective upon receipt of the commissioner's decision. 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 within 15 days of the notice given under part 7400.0300, subpart 2, 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 disqualification period is in effect upon notifying the licensee, but credit must not be given toward the disqualification period until the license is surrendered.

Subp. 3. **Class D eligibility.** A person who is disqualified from holding a commercial driver's license but whose license is not otherwise under suspension, revocation, or cancellation and denial, must be issued a class D license. The class D license is valid until its expiration date or until the commercial driver's license is reinstated, whichever is earlier, if the driver's privileges are not suspended, revoked, or canceled and denied at any time during that period. If the class D license expires during the disqualification period, the person has the option of paying the commercial driver's license fee at the time of renewal for the classification under disqualification, but commercial motor vehicle privileges must not be reinstated until the requirements of part 7409.0600 are fulfilled.

Subp. 4. **Obtaining class D license.** A person who has been disqualified from operating commercial motor vehicles and is eligible for a class D license under subpart 3 must be issued a temporary class D license with the notice of disqualification. A paper license will be mailed by the department to the person at no cost. A person who would prefer a class D license card must apply for a duplicate class D license. The duplicate license fee must be paid and a receipt will be issued to the person showing the existence of class D driving privileges. The class D license card will be mailed to the person when it has been manufactured. A minimum of 90 days must be remaining in the disqualification period before a class D license card will be issued.

Subp. 5. **Class A, B, or C license status.** The disqualified person will receive the original class A, B, or C license when the person has fulfilled the reinstatement requirements under part 7409.0600, unless the license has expired and more than one

year has elapsed since the expiration date. If the license has expired and more than one year has elapsed, the person must reapply and retest for a class A, B, or C license.

Statutory Authority: *MS s 171.165*

History: *15 SR 2406; 21 SR 458*

7409.0500 ADMINISTRATIVE REVIEW.

The commissioner shall follow the review provided for in Minnesota Statutes, section 171.166.

Statutory Authority: *MS s 171.165*

History: *15 SR 2406*

7409.0600 REINSTATEMENT.

Subpart 1. **Reinstatement following disqualification.** The commissioner shall reinstate the commercial motor vehicle driving privileges of a person who has been disqualified from holding a commercial driver's license when:

A. the disqualification period has been served and expired;

B. the person has paid the reinstatement fee as required by Minnesota Statutes;

C. the requirements imposed during this or a previous disqualification period have been satisfied; and

D. if issued, the class D license card is returned to the department.

Subp. 2. **Reinstatement notice.** After the person completes the requirements for reinstatement, the department shall notify the person of reinstatement.

Statutory Authority: *MS s 171.165*

History: *15 SR 2406; 21 SR 458*

REVOCATION

7409.1000 VEHICULAR HOMICIDE OR INJURY; 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).

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

7409.1100 FLEEING FROM PEACE OFFICER.

The commissioner shall revoke the driver's license of a person upon receiving a record of conviction under Minnesota Statutes, section 609.487, subdivision 3 or 4, or an ordinance in conformity with those subdivisions pertaining to use of a motor vehicle to flee a peace officer as specified in Minnesota Statutes, section 171.174.

Statutory Authority: *MS s 14.06; 14.388; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13; 23 SR 1932*

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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

7409.1500 MANY MISDEMEANOR, 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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

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 169.797, for operating an uninsured vehicle, for a period of:

A. 30 days, if the person has no other convictions under Minnesota Statutes, section 169.797, within a five-year period;

B. 90 days, if the person has been convicted two times under Minnesota Statutes, section 169.797, within a five-year period;

C. 180 days, if the person has been convicted three times under Minnesota Statutes, section 169.797, within a five-year period; or

D. one year, if the person has been convicted four or more times under Minnesota Statutes, section 169.797, 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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

SUSPENSION

7409.2000 VEHICULAR HOMICIDE OR INJURY; 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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

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, and department records show that the violation contributed in causing an accident resulting in the death or 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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

7409.2400 FAILURE TO MAINTAIN INSURANCE.

Subpart 1. **Authority; suspension periods.** Under Minnesota Statutes, section 169.797, 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 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 169.797, within a five-year period;

B. 90 days, if the operator's driver's license has been withdrawn once under Minnesota Statutes, section 169.797, within a five-year period;

C. 180 days, if the operator's driver's license has been withdrawn twice under Minnesota Statutes, section 169.797, 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 169.797, within a five-year period.

Subp. 2. **Converted to revocation.** If a person is later convicted under Minnesota Statutes, section 169.797, 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 169.797, subdivision 4, paragraph (b).

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

LIMITED LICENSE

7409.3600 LIMITED LICENSE.

The commissioner shall issue a limited license following a revocation under Minnesota Statutes, section 169.792, 169.797, or 171.17, or suspension under Minnesota Statutes, section 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;

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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

IGNITION INTERLOCK DEVICES

7409.3700 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7409.3700 to 7409.3770 have the meanings given them in this part and part 7409.0100.

Subp. 2. **AC.** "AC" is the abbreviation for alcohol concentration and means the number of grams of alcohol per 210 liters of breath.

Subp. 3. **Alcohol.** "Alcohol" means ethanol or ethyl alcohol.

Subp. 4. **Alcohol setpoint.** "Alcohol setpoint" means the minimum AC at which a BAIID is set to lock a motor vehicle's ignition.

Subp. 5. **Authorized person.** "Authorized person" means a participant or any other licensed driver who has completed the orientation provided for in part 7409.3750, subpart 4.

Subp. 6. **BAIID.** "BAIID" is the abbreviation for breath alcohol ignition interlock device and means a device designed to allow a vehicle ignition to start the vehicle engine when the AC test result is below the alcohol setpoint and to lock the vehicle ignition to prevent the vehicle engine from starting when the AC test result is at or above the alcohol setpoint.

Subp. 7. **Breath sample.** "Breath sample" means expired human breath containing primarily air from the deep lung.

Subp. 8. **Circumvention or bypass.** "Circumvention" or "bypass" means an overt, conscious attempt to provide an air sample to the BAIID other than a breath sample from an authorized person and thus to permit a person with an AC at or above the

alcohol setpoint to start the vehicle engine. Circumvention or bypass includes the use of a human breath sample that has intentionally been altered so as to remove or reduce the amount of alcohol contained in the breath sample.

Subp. 9. **Commissioner.** "Commissioner" means the commissioner of the Department of Public Safety or an authorized agent.

Subp. 10. **Department.** "Department" means the Department of Public Safety or an authorized officer or agent.

Subp. 11. **Fail-safe.** "Fail-safe" means the BAIID must lock a motor vehicle's ignition.

Subp. 12. **Participant.** "Participant" means a person who has been issued a limited license under Minnesota Statutes, section 171.305, subdivision 5.

Subp. 13. **Service provider.** "Service provider" means a dealer, distributor, supplier, or service center of a BAIID used in Minnesota, designated by the manufacturer and approved by the department.

Subp. 14. **Sufficient cause to believe.** "Sufficient cause to believe" means grounds put forth in good faith that 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 supplied by a manufacturer of a BAIID;
- C. facts or statements supplied by a designated service provider;
- D. court documents and police records; and

E. facts of which the commissioner or the commissioner's employees have personal knowledge.

Subp. 15. **Tampering.** "Tampering" means an overt, conscious attempt to disable or disconnect the BAIID from its power source, or any other act intended to start the vehicle engine without providing a breath sample to the BAIID for analysis.

Statutory Authority: *MS s 171.305; 299A.01*

History: *17 SR 1456*

7409.3710 PURPOSE AND SCOPE.

The purpose of parts 7409.3700 to 7409.3770 is to establish performance standards for BAIIDs and certification standards and fees for manufacturers of BAIIDs, to be used pursuant to Minnesota Statutes, section 171.305.

Statutory Authority: *MS s 171.305; 299A.01*

History: *17 SR 1456*

7409.3720 STANDARDS AND SPECIFICATIONS.

Subpart 1. **Alcohol setpoint.** The alcohol setpoint is 0.020 AC.

Subp. 2. **Breath samples.** A BAIID must meet all of the following specifications concerning breath samples and vehicle operation:

- A. A BAIID must determine the AC of a breath sample.
- B. A minimum pressure requirement of 12 inches of water is required for the BAIID to accept a breath sample for analysis of AC.
- C. The BAIID must lock the vehicle ignition at least 90 percent of the time when the AC of the breath sample is 0.03 or more. The BAIID must lock the vehicle ignition at least 99.5 percent of the time when the AC of the breath sample is 0.04 or more.
- D. The BAIID must lock the vehicle ignition no more than ten percent of the time when the AC of the breath sample is 0.01 or less. The BAIID must lock the vehicle ignition no more than 0.5 percent of the time when the AC of the breath sample is 0.00.

E. When the BAIID allows the vehicle engine to start, the BAIID must require a breath sample to determine AC at variable time intervals ranging from five to 30 minutes while the engine is running.

F. The BAIID must be prepared to accept a breath sample for analysis within three minutes of an AC result of 0.05 or less.

G. If the vehicle stalls after the BAIID has allowed the vehicle engine to start, the BAIID must permit the vehicle engine to start without requiring a breath sample for the next two minutes after the stall.

Subp. 3. Power source. The BAIID must be designed to be operated from a 12-volt DC vehicle battery. The BAIID must meet the requirements of this part when operated with automotive voltages of 11 to 16 volts DC. When operated with voltages of less than 11 volts or more than 16 volts, the BAIID must meet the requirements of this part or fail-safe.

Subp. 4. Temperature. The BAIID must meet the requirements of this part when operated within a temperature range of +85 degrees Celsius to -40 degrees Celsius (+185 degrees Fahrenheit to -40 degrees Fahrenheit). If the BAIID is exposed to temperatures above +85 degrees Celsius or below -40 degrees Celsius, then the BAIID must meet the requirements of this part or fail-safe. The BAIID must be ready for operation within five minutes of being turned on at -20 degrees Celsius (-4 degrees Fahrenheit).

Subp. 5. Electromagnetic interference. The BAIID must either fail-safe or meet the requirements of this part when exposed to radio frequency interference or electromagnetic interference sources normally found in an operating motor vehicle.

Subp. 6. Tampering, circumvention, or bypass. The BAIID must provide a method to detect tampering, circumvention, or bypass. The BAIID must have a method to deter an unauthorized person from operating the BAIID. A warning label visible to front seat occupants must be attached to the BAIID stating: "It is a misdemeanor to circumvent, bypass, or tamper with this device."

Subp. 7. Data recording. A BAIID must record the following information:

A. the date and time of any attempt to tamper with, circumvent, or bypass the BAIID;

B. the date and time of any use of the vehicle or any attempt to use the vehicle, including all times that the vehicle engine was started or stopped;

C. the date, time, and AC of each breath sample provided to the BAIID;

D. the date and time of any malfunction of the BAIID;

E. the date and time that a breath sample was required under subpart 2, item E, and a breath sample was not provided;

F. the date a "service required" message was issued; and

G. the date service is performed.

Subp. 8. Driver messages. The BAIID must provide the following information to the driver:

A. BAIID readiness for acceptance of a breath sample, including samples required under subpart 2, item E;

B. either the AC of each breath sample or an indication for each breath sample of pass if the AC is below the alcohol setpoint or fail if the AC is at or above the alcohol setpoint; and

C. a notice to obtain service within seven days if a breath sample has an AC at or above the alcohol setpoint, if the BAIID detects tampering, circumvention, or bypass, or if a breath sample is not provided as required by subpart 2, item E.

Subp. 9. Need for service. The BAIID must meet the requirements of this part for a minimum period of 37 days without requiring intervening service.

Subp. 10. **Ignition lockout.** The BAIID must permanently lock the ignition if service under subpart 8, item C, or part 7409.3750, subpart 5, item A, is not obtained within seven days.

Statutory Authority: *MS s 171.305; 299A.01*

History: *17 SR 1456*

7409.3730 CERTIFICATION REQUIREMENTS.

Subpart 1. **Application for certification.** A manufacturer may submit a BAIID model to the commissioner for certification. Application for certification must be on a form prescribed by the department. Each application must be for only one model or type of BAIID. A manufacturer must make separate applications for models or types of BAIIDs that differ in any operational aspect. An application for certification must include, in addition to other information necessary to the administration of the pilot program that the department may require:

A. the name and address of the manufacturer;

B. the name and model number of the BAIID;

C. a detailed description of the BAIID, including instructions for installation and operation, and technical specifications describing the BAIID's accuracy, security, data collection and recording, tamper detection, and environmental features;

D. a certification by the manufacturer that all BAIIDs sold, offered for sale, leased, or installed in Minnesota will meet the requirements for certification set forth in these specifications;

E. a certification by the manufacturer that the requirements of part 7409.3760 have been met; and

F. a certification fee of \$5,000.

Subp. 2. **Testing data.** For any BAIID model submitted for certification, the manufacturer must provide data from an independent laboratory approved by the department, demonstrating that the BAIID model meets each of the requirements of part 7409.3720. The data must be obtained from a production line unit or from production line units of the BAIID model. The data must include the following information:

A. The data must show the AC for a minimum of five human subjects with an AC ranging from 0.030 to 0.039. A minimum of three breath samples must be provided to the BAIID by each human subject for a total of 30 breath samples. The requirements of part 7409.3720, subpart 2, item C, must be met.

B. The data must show the AC for a minimum of five human subjects with an AC ranging from 0.040 to 0.049. A minimum of three breath samples must be provided to the BAIID by each human subject for a total of 30 breath samples. The requirements of part 7409.3720, subpart 2, item C, must be met.

Subp. 3. **Equipment.** For any BAIID model submitted for certification, two BAIIDs and the materials necessary to conduct 100 breath tests must be submitted by the manufacturer to the department. The BAIIDs must be installed in vehicles provided by the manufacturer for independent testing by the department, at no expense to the department.

Subp. 4. **Design changes.** The manufacturer shall notify the department in writing of any changes in the components, design, or installation and operation instructions of any BAIID model certified by the commissioner. The manufacturer shall supply supportive documentation to the department establishing that the changes do not affect the ability of the BAIID to comply with the requirements of part 7409.3720.

Subp. 5. **Length of certification.** Certification is effective until revocation under part 7409.3770, subpart 1, or expiration of the program established under Minnesota Statutes, section 171.305, whichever is earlier.

Statutory Authority: *MS s 171.305; 299A.01*

History: *17 SR 1456*

7409.3740 MANUFACTURER'S RESPONSIBILITIES.

Subpart 1. **Designated service provider.** Upon certification of the BAIID by the commissioner, the manufacturer shall submit to the department for approval its designated service providers. The manufacturer may designate itself as a service provider. To receive department approval, the manufacturer shall submit to the department:

A. certification from each service provider that the service provider's responsibilities as listed in parts 7409.3750 and 7409.3760 will be met; and

B. a certificate of insurance as required in part 7409.3760.

Subp. 2. **Installation instructions.** The manufacturer shall develop written instructions for installing the BAIID. The instructions must include inspection procedures to ensure the vehicle in which the BAIID will be installed is in a mechanical and electrical condition that will allow the BAIID to meet the specifications in part 7409.3720. The instructions must be provided to all service providers that will install the BAIID.

Statutory Authority: *MS s 171.305; 299A.01*

History: *17 SR 1456*

7409.3750 SERVICE PROVIDER'S RESPONSIBILITIES.

Subpart 1. **Service locations and hours.** A service provider shall provide for service locations as follows:

A. The service provider shall make available a minimum of one permanent installation and service location within the state. The permanent service center must establish and maintain reasonable business hours for a minimum of five days a week. A schedule stating those hours must be submitted to the department.

B. The service provider shall provide service locations so that there is a service location within 100 straight-line miles of the residence or employment site of any participant for service. Service locations may be provided through installation and service centers or through mobile service. A plan describing the service locations must be submitted to the department.

Subp. 2. **Security.** A service provider shall comply with all of the following security requirements:

A. Only authorized employees of the service provider, manufacturer, or department are permitted to observe the installation of the BAIID. Reasonable security measures must be taken to prevent other individuals from observing installation or obtaining access to installation materials.

B. The service provider shall not facilitate tampering, circumvention, or bypass of a BAIID. If the service provider is aware of a participant operating a vehicle that is not equipped with a BAIID, the service provider shall immediately notify the department.

C. A participant may not be employed by a manufacturer or service provider in a position that has access to installation instructions or materials.

Subp. 3. **Installation.** A service provider shall comply with the following installation service requirements:

A. Installation must be done in compliance with the installation instructions provided by the manufacturer and in accordance with accepted trade standards of the automotive repair industry.

B. The service provider shall inspect each vehicle before installing the BAIID. The inspection must include screening procedures to ensure the vehicle in which the BAIID is to be installed is in a mechanical and electrical condition that will allow the BAIID to meet the specifications in part 7409.3720. Conditions that the manufacturer has determined would prevent the BAIID from meeting the specifications of part 7409.3720, must be repaired before the BAIID is installed. The participant shall bear the costs of any repairs to the vehicle.

C. The service provider shall provide a certificate of installation to the participant and the department upon completing installation of the BAIID. The certificate must include the following information:

- (1) the participant's full name, address, date of birth, and telephone number;
- (2) the full names and dates of birth of all authorized persons other than the participant;
- (3) the vehicle's make, model, vehicle identification number, model year, license plate number, and state of registration;
- (4) the vehicle owner's full name and date of birth;
- (5) the serial number of the installed BAIID;
- (6) the date of installation;
- (7) the frequency of required service and monitoring; and
- (8) any additional information necessary to the administration of the pilot program requested by the department.

Subp. 4. **Orientation.** The service provider shall provide an orientation to the participant and any other licensed driver authorized to operate the vehicle. The orientation must include information on the proper use of the BAIID, service locations, and procedures for regular service and emergency situations.

Subp. 5. **Service requirements.** A service provider shall comply with the following ongoing service requirements:

A. The service provider shall service and monitor the installed BAIID a minimum of every 30 days after initial installation. If during the regular service appointment the service provider determines the BAIID to be defective, it must be repaired or replaced within 24 hours of that determination. If the participant fails to obtain regular service, the service provider shall immediately notify the department.

B. Each time the BAIID is serviced, the service provider shall review the data recorded under part 7409.3720, subpart 7, and provide a copy to the department within five business days of the service date. The service provider shall immediately notify the department by telephone or facsimile if any of the following is indicated:

- (1) tampering, circumvention, or bypass;
- (2) failure to provide a breath sample as required under part 7409.3720, subpart 2, item E; or
- (3) AC at or above the setpoint.

Immediate notification must be followed by written notice to the department within three days of the service.

C. The service provider must have and make known to all authorized persons a 24-hour toll-free telephone number for use in the event of questions or emergencies related to the BAIID.

D. The service provider shall respond to an emergency report related to the BAIID within one business day of the report. If the service provider determines the emergency to be the result of a defective BAIID, the service provider shall repair or replace the BAIID within 48 hours of that determination.

Subp. 6. **BAIID removal.** A service provider shall comply with the following requirements for BAIID removal:

A. Upon removal of the BAIID, the service provider shall restore the vehicle to its original operating condition. All wires that were connected to the BAIID must be reconnected and insulated.

B. If the service provider removes the BAIID and installs a different BAIID, the service provider shall notify the department by mail of the serial number of the newly installed BAIID. If the BAIID is installed in a replacement vehicle, the service provider shall submit a new certificate of installation to the department.

C. If the service provider removes the BAIID for reasons other than service, the service provider shall immediately notify the department by telephone or facsimile. If removal occurs after the department's normal business hours, notification must be made at the earliest time possible. Telephone notification must be followed by written notification within three days of removal of the BAIID.

Subp. 7. **Program evaluation.** The service provider shall submit a report to the department every six months containing the following information:

- A. all written complaints received from authorized persons;
- B. all incidents of customer error in operating the BAIID;
- C. all incidents of mechanical or electrical conditions of the motor vehicle that may have affected the ability of the BAIID to meet the requirements of part 7409.3720;
- D. all incidents of failure of a BAIID to meet the requirements of part 7409.3720 and the cause for the failure; and
- E. all incidents of attempts to tamper with, circumvent, or bypass the BAIID and whether the participant was able to operate the vehicle.

Subp. 8. **Cost determination.** The cost of installation, monthly service, and monitoring must not vary according to the location of the residence or employment site of the participant.

Subp. 9. **Inspection.** To ensure compliance with the specifications in this part, the service provider shall make available any service location and any BAIID at the service location for inspection by a representative of the department during the service provider's reported business hours.

Statutory Authority: *MS s 171.305; 299A.01*

History: *17 SR 1456*

7409.3760 LIABILITY.

Subpart 1. **Insurance coverage.** The manufacturer and each service provider shall maintain comprehensive general liability insurance in the amount of \$1,000,000 per person and \$3,000,000 per incident. All insurance policies must be endorsed to provide the department with 45 days prior written notice of cancellation, material change, or intent to lapse.

Subp. 2. **Indemnification.** The manufacturer and each service provider shall indemnify and hold harmless the department from any and all claims, demands, actions, and costs related to the BAIID program.

Statutory Authority: *MS s 171.305; 299A.01*

History: *17 SR 1456*

7409.3770 REVOCATION OF CERTIFICATION OR APPROVAL.

Subpart 1. **BAIID certification.** The department shall revoke the certification of the BAIID when it has sufficient cause to believe any of the following:

- A. the BAIID model does not meet the requirements of part 7409.3720;
- B. the manufacturer has changed the components, design, or installation and operation instructions in such a way that the requirements of part 7409.3720 are no longer met;
- C. the manufacturer fails to maintain the liability insurance as required in part 7409.3760; or
- D. the manufacturer fails to maintain a service provider as required in part 7409.3740, subpart 1.

Subp. 2. **Service provider.** The department shall revoke the approval of a designated service provider when it has sufficient cause to believe that the service provider is not meeting the requirements of part 7409.3750 or 7409.3760.

Subp. 3. **Review of denial or revocation of certification.** If a BAIID certification or a service provider approval is denied or revoked, the manufacturer or service provider

may request review of the denial or revocation by the commissioner. The request must be in writing and made within 20 days of the notification of the denial or revocation. The commissioner shall issue a decision within 20 days of receiving a request for review. The commissioner's decision is a final agency action.

Statutory Authority: *MS s 171.305; 299A.01*

History: *17 SR 1456*

REINSTATEMENT

7409.3800 REINSTATEMENT AFTER INSURANCE-RELATED REVOCATION.

The commissioner shall reinstate the driver's license of a person whose license has been revoked under Minnesota Statutes, section 169.797, 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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

7409.3900 REINSTATEMENT AFTER INSURANCE-RELATED SUSPENSION.

The commissioner shall reinstate the driver's license of a person whose license has been suspended under Minnesota Statutes, section 169.797, 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 169.797, 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 169.797, 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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

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 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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*

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;
- 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.

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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.

Statutory Authority: *MS s 14.06; 169.795; 169.798*

History: *16 SR 1177; L 1992 c 571 art 14 s 13*