

MINNESOTA RULES 1991

7393

INCIDENTS FOR LICENSE REVOCATION 7503.0100

CHAPTER 7503

DEPARTMENT OF PUBLIC SAFETY BUREAU OF CRIMINAL APPREHENSION INCIDENTS FOR LICENSE REVOCATION

LICENSE REVOCATION FOR ALCOHOL AND CONTROLLED SUBSTANCE RELATED INCIDENTS

7503.0100	DEFINITIONS.	7503.1100	INFORMAL HEARING FOLLOWING LICENSE REVOCATION.
7503.0200	LICENSE SUSPENSION FOR ALCOHOL- OR CONTROLLED-SUBSTANCE-RELATED INCIDENTS.	7503.1200	REINSTATEMENT FOLLOWING LICENSE REVOCATION.
7503.0300	SUSPENSION PERIODS.	7503.1300	LICENSE CANCELLATION AND DENIAL FOLLOWING ALCOHOL- OR CONTROLLED-SUBSTANCE-RELATED INCIDENTS.
7503.0400	NOTICE OF SUSPENSION.	7503.1400	NOTICE OF LICENSE CANCELLATION AND DENIAL.
7503.0500	HEARING FOLLOWING SUSPENSION.	7503.1500	INFORMAL HEARING FOLLOWING CANCELLATION AND DENIAL.
7503.0600	REINSTATEMENT FOLLOWING SUSPENSION.	7503.1600	REINSTATEMENT FOLLOWING LICENSE CANCELLATION.
7503.0700	LICENSE REVOCATION FOR ALCOHOL- AND CONTROLLED-SUBSTANCE-RELATED INCIDENTS.	7503.1700	REHABILITATION.
7503.0800	REVOCATION PERIODS.	7503.1800	ISSUANCE OF LIMITED LICENSES.
7503.0900	NOTICE OF REVOCATION AND ISSUANCE OF TEMPORARY DRIVER'S LICENSES.	7503.1900	INFORMAL HEARING PROCEDURE.
7503.1000	WRITTEN ADMINISTRATIVE REVIEW OF LICENSE REVOCATION FOR IMPLIED CONSENT VIOLATION.	7503.2000	ALCOHOL PROBLEM ASSESSMENTS REQUIRED BY THE COMMISSIONER.
		7503.2100	SPECIAL REVIEW.
		7503.2200	CHEMICAL ABUSE REVIEW PANEL.

LICENSE REVOCATION FOR ALCOHOL AND CONTROLLED SUBSTANCE RELATED INCIDENTS

7503.0100 DEFINITIONS.

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

Subp. 2. **Alcohol problem assessment.** An "alcohol problem assessment" is a report prepared to evaluate a person's driving ability in relation to possible chemical abuse.

Subp. 3. **Alcohol- or controlled-substance-related incident.** An "alcohol- or controlled-substance-related incident" is a violation of Minnesota Statutes, section 169.121, subdivision 1; 169.123, subdivisions 2, 2a, 2b, 2c, and 4; 169.129; or 609.21, subdivision 1, clauses (2) and (3), and subdivision 2, clauses (2) and (3); Minnesota Statutes 1984, sections 169.127 and 171.245; or a violation of a statute from another state in conformity with one of these provisions.

Subp. 4. **Cancellation and denial.** "Cancellation and denial" is the commissioner's withdrawal of a person's driver's license and privilege to drive in Minnesota pursuant to Minnesota Statutes, sections 169.121; 171.04, clause (4), (8), or (9); 171.13, subdivision 4; or 171.14.

Subp. 5. **Chemical dependency treatment.** "Chemical dependency treatment" is treatment for chemical dependency in a program licensed or approved by the state of Minnesota, treatment in a comparable program licensed or approved by another state, or treatment in a hospital-based treatment program.

Subp. 6. **Commissioner.** "Commissioner" is the commissioner of the Department of Public Safety of the state of Minnesota, acting directly or through authorized officers and agents.

Subp. 7. **Informal hearing.** An "informal hearing" is the commissioner's review of driver licensure action under the procedure set forth in this chapter.

Subp. 8. **Personal injury.** A "personal injury" is an incapacitating injury, other than a fatal injury, which prevents the injured person from walking, driving, or normally continuing activities which he or she was capable of performing just before the accident.

Subp. 9. **Revocation.** "Revocation" is the commissioner's withdrawal of a person's driver's license and privilege to drive in this state for a specific period of time under Minnesota Statutes, section 169.121, 169.123, or 171.17.

Subp. 10. **Special review.** A "special review" is a personal conference with and examination of a driver for the purpose of evaluating the person's driving ability and possible chemical abuse following an alcohol- or controlled-substance-related incident.

Subp. 11. **Sufficient cause to believe.** "Sufficient cause to believe" means grounds put forth in good faith which are not arbitrary, irrational, unreasonable, or irrelevant and which 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 the applicant or driver;
- C. driver license and accident records;
- D. court documents and police records;

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

Subp. 12. **Suspension.** "Suspension" is the commissioner's temporary withdrawal of a person's driver's license and privilege to drive in this state under Minnesota Statutes, section 169.121, subdivision 8, or 171.18.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.0200 LICENSE SUSPENSION FOR ALCOHOL- OR CONTROLLED-SUBSTANCE-RELATED INCIDENTS.

Subpart 1. **Following revocable offense.** The commissioner shall suspend the driver's license or driving privilege of any person when there is sufficient cause to believe that the person committed an offense for which mandatory revocation of a driver's license is required upon conviction, unless the person's driver's license or driving privilege has been revoked for the same alcohol- or controlled-substance-related incident.

Subp. 2. **Failure to complete alcohol problem assessment.** The commissioner shall suspend the driver's license or driving privilege of any person who fails to complete an alcohol problem assessment as required by Minnesota Statutes, section 169.121, subdivision 8, and this chapter, or who fails to complete any action required by the assessment.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.0300 SUSPENSION PERIODS.

Subpart 1. **Suspension period imposed for revocable offenses.** The commissioner shall suspend the driver's license or driving privilege of a person who commits an offense for which mandatory revocation of a driver's license is required upon conviction for the revocation period that is imposed for conviction of the offense in Minnesota, up to a maximum period of one year. However, if the suspension is based on a criminal charge and 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. 2. **Suspension period imposed for failure to complete an alcohol problem assessment.** The commissioner shall suspend the driver's license or driving privi-

MINNESOTA RULES 1991

7395

INCIDENTS FOR LICENSE REVOCATION 7503.0800

lege of a person who fails to complete an alcohol problem assessment or any requirement imposed at the assessment for a period of 90 days or until the assessment or requirement is completed, whichever occurs first.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.0400 NOTICE OF SUSPENSION.

The commissioner shall notify a person of the suspension of the person's driver's license or driving privilege. The notice must be sent by first class mail to the person's address as shown on the driver license records of the Department of Public Safety.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.0500 HEARING FOLLOWING SUSPENSION.

The commissioner shall provide a hearing under the procedures in Minnesota Statutes, section 171.18 to any person whose driver's license or driving privilege has been suspended under Minnesota Statutes, sections 169.121, subdivision 8; 171.18; or this chapter.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.0600 REINSTATEMENT FOLLOWING SUSPENSION.

Except in the case of the issuance of a limited license, the commissioner shall not reinstate the driver's license or driving privilege of any person whose license or privilege was suspended under Minnesota Statutes, section 169.121, subdivision 8, or 171.18 as a consequence of an alcohol- or controlled-substance-related incident unless the following requirements have been satisfied:

A. the suspension period must expire or the person must satisfy all conditions of suspension; and

B. the person must pay a reinstatement fee as required by Minnesota Statutes.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.0700 LICENSE REVOCATION FOR ALCOHOL- AND CONTROLLED-SUBSTANCE-RELATED INCIDENTS.

Subpart 1. Following conviction. The commissioner shall revoke the driver's license or the nonresident driving privilege of any person convicted under Minnesota Statutes, section 169.121, 169.129, or 609.21.

Subp. 2. Following test for intoxication or refusal to take test. The commissioner shall revoke the driver's license or the nonresident driving privilege of any person who violates Minnesota Statutes, section 169.123.

Subp. 3. Following a conviction reported by another state. The commissioner shall revoke the driver's license or the nonresident driving privilege of any person convicted under a statute from another state in conformity with Minnesota Statutes, section 169.121, 169.129, or 609.21.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.0800 REVOCATION PERIODS.

Subpart 1. Statutory periods. The commissioner shall revoke driver's licenses or nonresident driving privileges for the periods prescribed in Minnesota Statutes, sections 169.121 and 169.123.

MINNESOTA RULES 1991

7503.0800 INCIDENTS FOR LICENSE REVOCATION

7396

Subp. 2. Criminal vehicular operation. The commissioner shall revoke the driver's license or driving privilege of any person convicted under Minnesota Statutes, section 609.21, subdivision 1, clause (2) or (3) for a period of five years from the date the conviction is reported to the commissioner. The commissioner shall revoke the driver's license or driving privilege of any person convicted under Minnesota Statutes, section 609.21, subdivision 2, clause (2) or (3) for a period of three years from the date the conviction is reported to the commissioner.

Subp. 3. Driving after revocation. The commissioner shall revoke the driver's license or driving privilege of any person convicted under Minnesota Statutes, section 169.129 for a period of 30 days, 90 days, or one year, depending on the number of convictions for violations of Minnesota Statutes, section 169.129 or 171.24 on the person's driving record during the one-year period preceding the date of the incident: The revocation shall be 30 days if there are no convictions for driving after withdrawal during the preceding year. The revocation period shall be 90 days if there is one conviction for driving after withdrawal during the preceding year. The revocation period shall be one year if there are two or more convictions for driving after withdrawal in the preceding year. A revocation ordered for a conviction under Minnesota Statutes, section 169.129 shall not run concurrently with any other revocation imposed as a consequence of the same incident upon which the revocation for conviction under Minnesota Statutes, section 169.129 is based.

Subp. 4. Out-of-state convictions. The period of revocation for incidents occurring outside this state shall be the period of revocation that would be imposed if the incident had occurred and the person were convicted in Minnesota.

Subp. 5. Personal injury or fatality. When the commissioner has sufficient cause to believe that a personal injury or fatality occurred in connection with an alcohol- or controlled-substance-related incident upon which a revocation under Minnesota Statutes, section 169.121, subdivision 4, is based, the period of revocation shall be increased as follows:

A. for a personal injury, the additional period of revocation shall be 90 days;

B. for a fatality, the additional period of revocation shall be six months.

Subp. 6. Revocation effective until reinstatement. In all cases the driver's license or driving privilege remains revoked until the person satisfies all conditions of reinstatement and the commissioner issues a new license or notifies the person of reinstatement.

Subp. 7. Terminating revocation periods following completion of alcohol problem assessment action. The commissioner shall terminate a revocation period in accordance with Minnesota Statutes, section 169.123, subdivision 10. The amount of the termination shall be 30 days or the length of time remaining in the revocation period, whichever is shorter. Termination of the revocation period under Minnesota Statutes, section 169.123, subdivision 10, shall not apply to persons with more than one alcohol- or controlled-substance-related incident on record or to persons who have outstanding licensure requirements, such as completion of a special review or conditions of licensure imposed by the commissioner following a special review. Termination of the revocation period applies only in the following circumstances.

A. When notified that a driver has undergone an alcohol problem assessment and that the driver is not required by the court to complete any driver improvement course, alcohol awareness program, or treatment for chemical dependency and that the driver has no identifiable chemical abuse problem, the commissioner shall terminate the revocation period. The person is not required to make an application to the commissioner under this circumstance, unless the

MINNESOTA RULES 1991

7397

INCIDENTS FOR LICENSE REVOCATION 7503.0900

court fails to notify the commissioner of the results of the alcohol problem assessment.

B. When notified that a driver has undergone an alcohol problem assessment and that the driver is required to complete a driver improvement course, alcohol awareness program, or treatment for chemical dependency, the commissioner shall terminate the revocation period upon receipt of the person's completed application for early reinstatement. The application must be made in writing and must be accompanied by documents showing attendance at the required driver improvement course, alcohol awareness program, or chemical dependency treatment, and the anticipated completion date of the course, program, or treatment. Within ten days of the completion of the driver improvement course, alcohol awareness program, or chemical dependency treatment, the driver shall provide to the department a written document from the course, program, or treatment attesting that the person has completed it. If the driver fails to notify the department within the ten-day period, the commissioner shall revoke the driver's license for a period of 30 days or for the remainder of the revocation period, whichever is shorter.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.0900 NOTICE OF REVOCATION AND ISSUANCE OF TEMPORARY DRIVER'S LICENSES.

Subpart 1. Temporary driver's licenses. Notice of revocation served by a court or by a peace officer is valid as a temporary driver's license for the same class and with the same restrictions, limitations, and certifications of the original driver's license. Notice of revocation shall not serve as a temporary driver's license if the person does not have a valid driver's license or driving privilege when the notice of revocation is served.

If the notice of revocation and temporary driver's license is issued by a court, the temporary driver's license period expires on the final day on which an appeal of the conviction can be taken from the court. If the notice of revocation and temporary driver's license is issued by a peace officer, the temporary driver's license expires on the seventh day after notice was served.

Subp. 2. Notice served by the court. Notice of license revocation is served by the court when a person is convicted of violating Minnesota Statutes, section 169.121. The commissioner shall provide forms to the court for serving the notice of revocation and the issuance of a temporary license. These forms must contain space for the following information and may contain other information as the commissioner deems appropriate:

A. the person's full name, date of birth, driver's license number, height and weight, and current residential address including street number, city, state, and zip code;

B. the date notice is served;

C. the date of the incident upon which the conviction is based;

D. the traffic citation number and court file number;

E. the length of the revocation period;

F. a statement that the person must surrender to the court all license certificates in the person's possession, unless the person is not a resident of Minnesota;

G. a statement informing the person that failing to surrender all driver's licenses may subject the person to criminal prosecution under Minnesota Statutes, sections 171.22 and 171.241, and suspension of the driver's license under Minnesota Statutes, section 171.18, clause (8);

H. a statement advising the person that all driving privileges are revoked after seven days or upon expiration of the temporary license period;

MINNESOTA RULES 1991

7503.0900 INCIDENTS FOR LICENSE REVOCATION

7398

I. a statement indicating that no temporary driver's license was issued if the person did not have valid driving privileges at the time of the incident;

J. a statement indicating that the driver's license cannot be surrendered because the license is lost, stolen, already surrendered, or otherwise unavailable; and

K. the signature of the judge issuing the revocation notice.

Subp. 3. Notice served by a peace officer. Notice of license revocation is served by a peace officer when a person is found to be in violation of Minnesota Statutes, section 169.123. The issuing peace officer shall forward to the commissioner on the same or next business day a copy of the notice of revocation together with any license certificates surrendered by the person, the peace officer's incident reports, and the implied consent advisory and peace officer's certificate. The commissioner shall provide the forms for notice of revocation and issuance of temporary licenses. These forms must contain space for the following information and may contain other information as the commissioner deems appropriate:

A. the person's full name, date of birth, driver's license number, height and weight, and current residential address including street number, city and state, and zip code;

B. the date that notice is served;

C. the date of the incident;

D. the traffic citation number;

E. the name, signature, and business telephone number of the peace officer serving the notice;

F. the reason for the revocation;

G. the length of the revocation period;

H. a statement that the person must surrender to the peace officer all driver's license certificates in the person's possession, unless the person is not a resident of Minnesota;

I. a statement advising the person that all driving privileges are revoked in seven days or upon expiration of a seven-day temporary license period;

J. a statement informing the person that failing to surrender all driver's licenses may subject the person to criminal prosecution under Minnesota Statutes, sections 171.22 and 171.241, and suspension of the driver's license under Minnesota Statutes, section 171.18, clause (8);

K. a statement indicating that no temporary license was issued, if the person did not have valid driving privileges at the time of the incident;

L. a statement indicating that the driver's license cannot be surrendered because the license is lost, stolen, already surrendered, or otherwise unavailable;

M. a statement informing the person that the person has a right to administrative and judicial review of the revocation order;

N. information explaining that an administrative review of the revocation order may be obtained by submitting a written request for review to the commissioner in accordance with Minnesota Statutes, section 169.123, subdivision 5b, and this chapter, and that judicial review may be obtained by filing a petition for judicial review within 30 days of receipt of the notice of revocation and otherwise in accordance with Minnesota Statutes, section 169.123, subdivision 5c;

O. a statement informing the person that failing to petition for judicial review in compliance with Minnesota Statutes, section 169.123, subdivision 5c, forfeits the person's right to judicial review of a revocation order under that section.

Subp. 4. Notice served by the commissioner. Notice of license revocation may be served by the commissioner when a person is found in violation of Minnesota

MINNESOTA RULES 1991

7399

INCIDENTS FOR LICENSE REVOCATION 7503.1000

Statutes, section 169.123, and notice is not served by a peace officer; when a person is convicted of violating Minnesota Statutes, section 169.121, and notice is not served by a court; when an additional revocation period is imposed pursuant to Minnesota Statutes, section 169.121, subdivision 4, in case of a personal injury or fatality; or when requirements imposed from a previous revocation have not been satisfied. The commissioner shall establish a form for serving notice of revocation, which must contain space for the following information and may contain other information as the commissioner deems appropriate:

A. the person's full name, date of birth, driver's license number, and current residential address obtained from the person's driver license record, including the street number, city and state, and zip code;

B. the date the notice of revocation is issued;

C. the effective date of the revocation order;

D. the reason for the revocation;

E. the length of the revocation period;

F. reinstatement requirements;

G. a demand for surrender of all license certificates issued to the person or submission of a sworn statement from the person that an outstanding certificate was lost, stolen, or destroyed;

H. a statement informing the person that the person has a right to administrative and judicial review of the revocation order under Minnesota Statutes, section 169.123;

I. information explaining that an administrative review of the revocation order issued under Minnesota Statutes, section 169.123, may be obtained by submitting a written request for review in accordance with Minnesota Statutes, section 169.123, subdivision 5b, and this chapter, and that judicial review may be obtained by petitioning for judicial review within 30 days after receiving notice of revocation and otherwise in accordance with Minnesota Statutes, section 169.123, subdivision 5c;

J. a statement informing the person that failing to petition for judicial review in compliance with Minnesota Statutes, section 169.123, subdivision 5c, forfeits the person's right to judicial review of a revocation order under that section.

Subp. 5. Notice of revocation to other states. If the driving privilege of a nonresident is revoked for a violation of Minnesota Statutes, section 169.121, 169.123, 169.129, or 609.21, the commissioner, pursuant to Minnesota Statutes, sections 169.123, subdivision 8, and 171.15, subdivision 1, shall forward a report of the revocation to the licensing authority of the nonresident's home state and to any other state in which the commissioner knows the person to hold a license.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.1000 WRITTEN ADMINISTRATIVE REVIEW OF LICENSE REVOCATION FOR IMPLIED CONSENT VIOLATION.

Subpart 1. Right to a written administrative review. Every person whose driver's license is revoked under Minnesota Statutes, section 169.123, has the right to an administrative review of the revocation order under the procedure outlined in this chapter. The review is final and no subsequent administrative review will be granted on the order of revocation.

Subp. 2. Procedure for requesting a written administrative review. A written administrative review of an order of revocation under Minnesota Statutes, section 169.123, is initiated by filing a written request for review with the commissioner at a driver evaluation office of the Department of Public Safety. The driver evaluation offices provide forms for requesting administrative review, and the request for review must contain the following information:

A. the person's full name, date of birth, and driver's license number; and
B. a written statement of the factual basis upon which the person seeks to have the revocation rescinded.

Subp. 3. Performance of administrative review. Upon receipt of a request for an administrative review, the commissioner shall review the submitted statement together with all the information upon which the order of revocation was based. The commissioner may seek additional written information from the person requesting the review or from any agency or person believed to possess information relating to the facts underlying the order of revocation. Written findings will be reported to the person by first class mail within 15 days after the commissioner received the request for administrative review.

Subp. 4. Personal appearance. A person requesting administrative review of a revocation order under Minnesota Statutes, section 169.123, shall also be granted a personal appearance with the commissioner. The person must request a personal appearance by filing a written request within five business days after the commissioner received the request for a written review, or by personally appearing at a driver evaluation office. Personal appearances are held without appointment during regular business hours at the driver evaluation office of the Minnesota Department of Public Safety in Saint Paul and may also be scheduled at other offices throughout the state. A person electing to make a personal appearance shall have the results of the administrative review reported within 15 days following the date the personal appearance was held or scheduled.

Subp. 5. Scope and standard of review. The scope of an administrative review of a revocation order under Minnesota Statutes, section 169.123, is limited to the issue of the validity of the order of revocation. Upon reviewing the evidence, the commissioner shall sustain the order if there is sufficient cause to believe that the revocation is authorized by law. If the commissioner finds that there is not sufficient cause to believe the revocation is authorized by law, the order shall be rescinded.

Subp. 6. Written administrative review distinguished. Administrative review of a revocation order under Minnesota Statutes, section 169.123, is separate and distinct from review by the chemical abuse review panel or review by the commissioner in an informal hearing procedure.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.1100 INFORMAL HEARING FOLLOWING LICENSE REVOCATION.

The commissioner shall grant an informal hearing to any person whose driver's license or driving privilege has been revoked as a consequence of an alcohol- or controlled-substance-related incident. No informal hearing will be granted to review the validity of an order of revocation under Minnesota Statutes, section 169.123.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.1200 REINSTATEMENT FOLLOWING LICENSE REVOCATION.

Subpart 1. Reinstatement conditions. Except in the case of the issuance of a limited license, the commissioner shall not reinstate a driver's license or nonresident driving privilege after revocation under Minnesota Statutes, section 169.121, 169.123, or 171.17, unless all of the following conditions have been satisfied:

- A. The revocation period must expire.
- B. The person must pay a reinstatement fee as required by Minnesota Statutes.

MINNESOTA RULES 1991

7401

INCIDENTS FOR LICENSE REVOCATION 7503.1500

C. The person must apply for a new license and pay the application fee for the class of license involved.

D. The person must pass the driver's license examination required for issuance of an original license.

E. If the incident is a second conviction under Minnesota Statutes, section 169.121, the person must submit a certification that the court-ordered treatment or rehabilitation has been completed.

Subp. 2. Notice of reinstatement. The commissioner shall notify a person whose period of revocation has expired. The notice shall be sent by first class mail, and shall contain a statement informing the person of the conditions of reinstatement and the consequences of driving prior to reinstatement.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.1300 LICENSE CANCELLATION AND DENIAL FOLLOWING ALCOHOL- OR CONTROLLED-SUBSTANCE-RELATED INCIDENTS.

Subpart 1. Failure to complete special review action. The commissioner shall cancel and deny the driver's license and driving privilege of any person who fails to complete a special review or who fails to complete a driver improvement course, alcohol awareness program, or chemical dependency treatment as prescribed in a special review, before the time for completion of the review or action has expired.

Subp. 2: Multiple alcohol- or controlled-substance-related incidents. The commissioner shall cancel and deny the driver's license or the driving privilege of any person who has incurred three alcohol- or controlled-substance-related incidents within the past five years or who has incurred three such incidents and a special review had been conducted prior to the third incident, or who has four or more such incidents on record.

Subp. 3. Consumption of alcohol or controlled substance after completing rehabilitation. The commissioner shall cancel and deny the driver's license or driving privilege of any person whose license or privilege has been reinstated after completion of rehabilitation when the commissioner has sufficient cause to believe that the person has consumed alcohol or a controlled substance since the date of reinstatement.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.1400 NOTICE OF LICENSE CANCELLATION AND DENIAL.

The commissioner shall notify a person of license cancellation and denial by first class mail. The notice must set forth the reason for the cancellation and denial and the conditions for reinstatement of the driver's license or privilege to drive.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.1500 INFORMAL HEARING FOLLOWING CANCELLATION AND DENIAL.

The commissioner shall grant an informal hearing to review the order of cancellation and denial to any person whose license has been canceled or whose application for a license has been denied.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.1600 REINSTATEMENT FOLLOWING LICENSE CANCELLATION.

The commissioner shall deny the application for a driver's license, including the application for a limited license, to any person whose license has been canceled unless the following conditions have been satisfied:

A. No revocation or suspension of the person's driver's license or driving privilege is outstanding.

B. The person must complete a special review and any special review action that is required.

C. If the incident is the third alcohol- or controlled-substance-related incident within a five-year period, or the third such incident on record and a special review was conducted after the second incident, or if the person has four or more such incidents on record, the person must complete rehabilitation.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.1700 REHABILITATION.

Subpart 1. When applicable. A person must complete rehabilitation when the person's driver's license or driving privileges have been canceled and denied following involvement in three or more alcohol- or controlled-substance-related incidents within five years, when a special review has been previously conducted and there are three alcohol- or controlled-substance-related incidents on record, or when there are four or more incidents on record.

Subp. 2. Rehabilitation requirements. The person must meet the following requirements in order to complete rehabilitation:

A. The person must successfully complete treatment for chemical dependency and submit evidence of chemical dependency treatment to the commissioner.

B. The person must participate in a generally recognized, ongoing chemical awareness program and submit evidence of attendance to the commissioner.

C. The person must abstain from the use of alcohol and the use of controlled substances, attest to such abstinence for a period of time prescribed in this chapter, and furnish evidence of abstinence for the required period to the commissioner.

D. The person must appear for a rehabilitation interview at a driver evaluation office of the Minnesota Department of Public Safety.

Subp. 3. Evidence of chemical dependency treatment. Evidence of chemical dependency treatment submitted to the commissioner shall consist of written material supplied by the treating program showing the starting and ending dates of treatment and completion of primary and postprimary treatment, including a discharge summary with a prognosis and any recommended aftercare program. If the prognosis is not favorable or if the person fails to complete an aftercare program recommended by the treating program, the commissioner shall reinstate the person's driver's license and driving privilege only following completion of an abstinence period of one year in addition to the abstinence periods prescribed in part 7503.1700, subpart 5.

Subp. 4. Abstinence documentation. Every person applying for reinstatement after rehabilitation must sign a statement acknowledging the person's awareness that abstinence from the use of alcohol and controlled substances is a condition of licensure. The commissioner shall provide a form to the person which contains the acknowledgment as well as an advisory that the commissioner shall cancel and deny the driver's license and driving privilege of the person if the commissioner has sufficient cause to believe that the person has consumed alcohol or a controlled substance, whether or not the circumstances involve the operation of a motor vehicle. The restriction must be placed on the person's driver's license and driving record.

To substantiate abstinence the person must sign a statement, on the form provided by the commissioner, attesting to the date on which alcohol or a controlled substance was last consumed. The person also must furnish to the commissioner at least five supporting statements from unrelated persons. The statements must be signed and include the full name, address, and telephone number of the person filing the statement, information as to how often they will be in contact with the person, what relationship they hold to the person, the period of time that the person can attest to abstinence, and a pledge to report promptly to the commissioner in writing any use of alcohol or a controlled substance by the person.

Subp. 5. Abstinence periods. Evidence of abstinence furnished by the person must substantiate a period of abstinence as provided in this chapter, and rehabilitation is not complete if the commissioner has sufficient cause to believe that the person has not abstained from the use of alcohol or a controlled substance for the period claimed.

The following periods of abstinence shall apply:

A. for a person who has not previously undergone rehabilitation, one year; or

B. for a person who has once completed rehabilitation, three years.

If the person is incarcerated or lives in a controlled environment, such as a halfway house, the length of time the person is under these conditions shall count as half-time towards completion of the abstinence periods required above.

Subp. 6. Consequences of using alcohol or a controlled substance after completing rehabilitation. The commissioner shall cancel and deny the driver's license and driving privilege of any person when there is sufficient cause to believe that the person has consumed alcohol or a controlled substance after completing rehabilitation. The commissioner shall not reinstate the driver's license or driving privilege of any person who has been reinstated following a second rehabilitation if the commissioner has sufficient cause to believe that the person has consumed alcohol or a controlled substance since the date that the second rehabilitation was completed. This subpart does not apply to the consumption of a controlled substance in accordance with a medical prescription.

Subp. 7. Rehabilitation interview. A person seeking reinstatement following rehabilitation shall appear in person for an interview at a driver evaluation office of the Minnesota Department of Public Safety for the purpose of discussing the effectiveness of rehabilitation on the person's driving ability and problem of chemical abuse. The person shall schedule the interview in advance and must provide the commissioner with all written material required for rehabilitation under this chapter before the date on which the interview is scheduled.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.1800 ISSUANCE OF LIMITED LICENSES.

Subpart 1. Authority. Pursuant to Minnesota Statutes, section 171.30, the commissioner shall issue a limited license following a revocation or suspension in connection with an alcohol- or controlled-substance-related incident when the conditions of issuing a limited license have been satisfied.

Subp. 2. Persons not eligible for a limited license. The commissioner shall not issue a limited license to any person whose driver's license or driving privilege has been canceled under Minnesota Statutes, section 171.14 or denied under Minnesota Statutes, section 171.04, subdivision 8. No limited license shall be issued to any person incurring a second alcohol- or controlled-substance-related incident within five years or to any person with three alcohol- or controlled-substance-related incidents on record unless one-half of the revocation period has expired, except that licenses shall be issued as required by Minnesota Statutes,

section 171.30, subdivision 3, to class A or class B license holders authorizing the person to drive vehicles whose operation is permitted only under a class A or class B license when such a license has been suspended under Minnesota Statutes, section 171.18, or revoked under Minnesota Statutes, section 171.17, for a violation of the Highway Traffic Regulation Act committed in a private passenger vehicle.

Subp. 3. Conditions of issuance of a limited license. Before a limited license may be issued the following conditions must be satisfied:

A. The person must apply for a new license and pay the application fee for the class of license involved.

B. The person must pass the driver license examination required for issuance of an original license.

C. The person must pay a reinstatement fee as required by Minnesota Statutes.

D. The person must appear personally, by telephone, or by mail at a driver evaluation office of the Department of Public Safety to request a limited license, except that a person who has two alcohol- or controlled-substance-related incidents within five years, or three such incidents on record must appear personally to request a limited license.

E. The person must demonstrate a need for a limited license. A limited license must be issued as needed for employment or attendance at chemical dependency treatment, counseling programs, or postsecondary education. A person requesting a limited license may demonstrate the need for a limited license using letters from the person's employer, proof of attendance at a chemical dependency treatment or counseling program, or proof of attendance at a postsecondary institution of education. The commissioner shall consider the particular circumstances and needs of the individual before issuing a limited license.

The commissioner shall waive items A, B, and C if the person has filed a petition for judicial review in the appropriate court and has furnished a copy of the petition to the commissioner. If the revocation is sustained on judicial review, the requirements must be met prior to reinstatement of driving privileges.

If a limited license is issued, the conditions need not be repeated when seeking reinstatement, but any additional conditions must be satisfied.

Subp. 4. Restrictions and limitations. The commissioner shall prescribe restrictions on the time and use of a limited license as provided in Minnesota Statutes, section 171.30, subdivisions 1 and 3.

Subp. 5. Informal hearing following denial of limited license application. The commissioner shall grant any person an informal hearing for the purpose of reviewing a decision not to issue a limited license.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.1900 INFORMAL HEARING PROCEDURE.

Informal hearings held pursuant to part 7503.1100, 7503.1500, or 7503.1800, subpart 5, may be held in writing, by telephone, or by personal appearance. The commissioner shall give a prompt decision to the person, and shall issue a written decision to the person upon request.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.2000 ALCOHOL PROBLEM ASSESSMENTS REQUIRED BY THE COMMISSIONER.

Subpart 1. Alcohol problem assessment required after 0.07 test. When an evidentiary test administered under authority of Minnesota Statutes, section 169.123 discloses an alcohol concentration of 0.07 percent or more, the result

MINNESOTA RULES 1991

7405

INCIDENTS FOR LICENSE REVOCATION 7503.2200

must be reported to the commissioner. If a second test of 0.07 percent or more occurs within two years, the commissioner shall require the person to appear for an alcohol problem assessment. The commissioner shall notify the person by first class mail that the assessment is required.

Subp. 2. By whom conducted. An alcohol problem assessment conducted under Minnesota Statutes, section 169.121, subdivision 8, must be conducted by an agency approved by the county or municipal court as outlined in Minnesota Statutes, section 169.126, or conducted by the Saint Paul driver evaluation office of the Minnesota Department of Public Safety or by another driver evaluation office at a scheduled time.

Subp. 3. Suspension for failure to complete assessment. If a person required to submit to an alcohol problem assessment under Minnesota Statutes, section 169.121, subdivision 8, fails to submit an assessment report to the commissioner or fails to appear for an assessment within 30 days after notification that an assessment is required, the commissioner shall suspend the driver's license or driving privilege of that person. If any treatment or action is required from the assessment, the commissioner shall establish a deadline based on the type of action or treatment required and the particular needs of the person, provided that the deadline shall not be less than 60 days from the date of the assessment. If the action or treatment is not completed before the established deadline, the commissioner shall suspend the driver's license or driving privilege of the person for the period of time prescribed in part 7503.0300, subpart 2. The commissioner shall not suspend any person's driver's license or driving privilege for failing to complete an assessment required exclusively under section 169.126.

Subp. 4. Cost of the assessment. The commissioner shall charge persons a fee for an alcohol problem assessment conducted by the Division of Driver and Vehicle Services in the amount of the cost of the assessment to the division.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.2100 SPECIAL REVIEW.

Subpart 1. When required. When a person incurs two alcohol- or controlled-substance-related incidents within five years or has three or more incidents on record, the commissioner shall require a person to undergo a special review of the person's driving and chemical dependency problems. The commissioner will notify the person by enclosing a notice to undergo a special review with the notice of revocation or by sending by first class mail a separate notice to undergo a special review. The review will be held at a driver evaluation office of the Department of Public Safety or at other locations throughout the state. A personal appearance is not required if the person resides out-of-state and a personal appearance in Minnesota would impose an undue hardship.

Subp. 2. Special review action. The commissioner shall determine at a special review whether the person must complete a driver improvement course, an alcohol awareness program, or chemical dependency treatment. If the action is not completed by the deadline established at the special review, the commissioner shall cancel the person's driver's license and driving privilege under Minnesota Statutes, section 171.13 until the action has been completed.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*

7503.2200 CHEMICAL ABUSE REVIEW PANEL.

Subpart 1. Establishment and composition. A chemical abuse review panel is established to review the type of chemical dependency treatment imposed by the commissioner or a diagnosis of chemical abuse accepted by the commissioner arising from an alcohol problem assessment, a special review, or rehabilitation.

Members of the panel shall be certified chemical dependency counselors or other health care professionals experienced in the area of chemical abuse and shall be selected by the commissioner based on the recommendation of the Department of Human Services.

Subp. 2. **Procedure.** Applications for review by the chemical abuse review panel will be governed by the following procedures:

A. A request for review by the chemical abuse review panel must be submitted to the commissioner in writing within 30 days from the date of the special review or alcohol problem assessment that is the subject of the person's complaint or within 30 days of the receipt of the order of cancellation and denial giving rise to rehabilitation. No personal appearance will be granted before the chemical abuse review panel.

B. The commissioner shall arrange for a "review date," not less than ten nor more than 30 days from receipt of the request for review, and shall inform the person by first class mail of the review date.

C. Four copies of any written material the person wishes to have considered by the chemical abuse review panel must be submitted to the commissioner not less than ten days before the review date.

D. The commissioner may submit written materials in addition to the record of the special review or alcohol problem assessment for consideration by the chemical abuse review panel not less than ten days before the review date, provided that copies of any additional materials are sent to the person requesting the review.

E. Both parties shall have the right to submit additional written material for purposes of rebuttal until the review date.

F. On the review date, all written material submitted by both parties will be transmitted to the chemical abuse review panel.

G. After receiving all written materials, the chemical abuse review panel shall recommend an alternative form of chemical dependency treatment or recommend acceptance of a different diagnosis to the commissioner if the person establishes that the type of treatment or diagnosis is not appropriate or correct under the individual circumstances of that person's case. The chemical abuse review panel shall recommend to the commissioner that the type of treatment not be changed or that a diagnosis other than the diagnosis which is contested not be accepted, if the person does not establish that the type of treatment or diagnosis is not appropriate or correct under the individual circumstances of that person's case.

H. The chemical abuse review panel shall report its recommendations to the commissioner within 15 days of submission of the written materials by the commissioner.

I. The commissioner shall promptly report the recommendations of the chemical abuse review panel to the person. The commissioner shall decide whether to follow the recommendations of the panel and shall promptly report that decision together with a statement of reasons for the decision to the person. Notice of the commissioner's decision shall contain a statement describing the person's right to challenge the final decision in district court.

Statutory Authority: *MS s 169.128*

History: *10 SR 1427*