

8840.5900 DRIVER QUALIFICATIONS.

Subpart 1. **Physical qualification.** No driver may operate a special transportation service vehicle providing special transportation unless the driver is physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraphs (a) and (b), which is incorporated by reference.

Subp. 2. [Renumbered Subp. 13]

Subp. 3. [Repealed, 28 SR 1578]

Subp. 4. [Renumbered Subp. 17]

Subp. 5. **Evidence of physical qualification.** Before driving a special transportation service vehicle providing special transportation, a driver must have a valid medical examiner's certificate under Code of Federal Regulations, title 49, section 391.43, which is incorporated by reference, certifying that the driver meets the requirements in subpart 1. A copy of the medical examiner's certificate must be in the driver's possession while operating a special transportation service vehicle.

Subp. 6. **Waiver for physical defects.** A person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraph (b), clause (1) or (2), and who is otherwise qualified to drive a motor vehicle, may drive a special transportation service vehicle if the commissioner grants a waiver to that person under Minnesota Statutes, section 221.0314, subdivisions 3, 3a, and 3b. A copy of the waiver must be given to the provider who employs the driver and must be in the driver's possession while operating a special transportation service vehicle.

Subp. 7. **Other evidence of physical qualifications.** A driver who has a driver's license with a valid school bus endorsement issued under Minnesota Statutes, section 171.321, or the rules of the commissioner of public safety, may furnish the provider with a copy of that endorsement instead of furnishing the medical examiner's certificate described in subpart 5.

Subp. 8. **Ability to inspect vehicle and assist passenger.** Each driver must be able to perform a vehicle safety inspection. Each driver and attendant, when a vehicle is staffed by both a driver and an attendant, must be able to assist a passenger into and out of the vehicle and operate a wheelchair lift or ramp if the vehicle is equipped with it.

Subp. 9. **Driver's license.** A driver must have a driver's license valid for the class of vehicle driven.

Subp. 10. **Age and experience.** A driver must be at least 18 years of age and have not less than one year of experience as a licensed driver.

Subp. 11. **Driving record.** A driver must, for the past three years:

A. have not had a driver's license canceled under Minnesota Statutes, section 171.14, revoked under Minnesota Statutes, section 171.17, or suspended under Minnesota Statutes, section 171.18, clause (2), (3), (4), (5), (7), or (11);

B. have a driving record clear of convictions for driving a motor vehicle without a valid current license for the class of vehicle driven; and

C. have a driving and criminal record clear of convictions for driving under the influence of alcohol or a controlled substance under Minnesota Statutes, section 169A.20, or an ordinance in conformity with that section, of alcohol-related driving by commercial vehicle drivers under Minnesota Statutes, section 169A.20, and of driver's license revocations under Minnesota Statutes, sections 169A.51 to 169A.53.

Subp. 12. **Criminal record.** A driver must not have a criminal record for which the person was convicted of or pled guilty to, either crimes against persons or crimes reasonably related to providing special transportation services.

A. For purposes of this subpart, "criminal record" means the conviction records of the Minnesota Bureau of Criminal Apprehension or other states' criminal history repository in which the last date of discharge from the criminal justice system is less than 15 years.

B. Conviction has the meaning given it in Minnesota Statutes, section 171.01, subdivision 29.

C. Criminal record and driving record includes a conviction, suspension, cancellation, or revocation for a crime in another jurisdiction that would be a violation under this part.

D. The following offenses are considered crimes against persons or reasonably related to providing special transportation services, or both:

- (1) Minnesota Statutes, section 609.17, attempts;
- (2) Minnesota Statutes, section 609.175, conspiracy;
- (3) Minnesota Statutes, section 609.185, murder in the first degree;
- (4) Minnesota Statutes, section 609.19, murder in the second degree;
- (5) Minnesota Statutes, section 609.195, murder in the third degree;
- (6) Minnesota Statutes, section 609.20, manslaughter in the first degree;
- (7) Minnesota Statutes, section 609.205, manslaughter in the second degree;
- (8) Minnesota Statutes, section 609.21, criminal vehicular homicide and injury;
- (9) Minnesota Statutes, section 609.215, suicide;

- (10) Minnesota Statutes, section 609.221, assault in the first degree;
- (11) Minnesota Statutes, section 609.222, assault in the second degree;
- (12) Minnesota Statutes, section 609.223, assault in the third degree;
- (13) Minnesota Statutes, section 609.2231, assault in the fourth degree;
- (14) Minnesota Statutes, section 609.224, assault in the fifth degree;
- (15) Minnesota Statutes, section 609.228, great bodily harm caused by distribution of drugs;
- (16) Minnesota Statutes, section 609.23, mistreatment of persons confined;
- (17) Minnesota Statutes, section 609.231, mistreatment of residents or patients;
- (18) Minnesota Statutes, section 609.235, use of drugs to injure or facilitate crime;
- (19) Minnesota Statutes, section 609.24, simple robbery;
- (20) Minnesota Statutes, section 609.245, aggravated robbery;
- (21) Minnesota Statutes, section 609.25, kidnapping;
- (22) Minnesota Statutes, section 609.255, false imprisonment;
- (23) Minnesota Statutes, section 609.265, abduction;
- (24) Minnesota Statutes, section 609.2661, murder of an unborn child in the first degree;
- (25) Minnesota Statutes, section 609.2662, murder of an unborn child in the second degree;
- (26) Minnesota Statutes, section 609.2663, murder of an unborn child in the third degree;
- (27) Minnesota Statutes, section 609.2664, manslaughter of an unborn child in the first degree;
- (28) Minnesota Statutes, section 609.2665, manslaughter of an unborn child in the second degree;
- (29) Minnesota Statutes, section 609.267, assault of an unborn child in the first degree;
- (30) Minnesota Statutes, section 609.2671, assault of an unborn child in the second degree;

- (31) Minnesota Statutes, section 609.2672, assault of an unborn child in the third degree;
- (32) Minnesota Statutes, section 609.268, injury or death of an unborn child in the commission of a crime;
- (33) Minnesota Statutes, section 609.322, solicitation, inducement, and promotion of prostitution;
- (34) Minnesota Statutes, section 609.323, receiving profit from prostitution;
- (35) Minnesota Statutes, section 609.324, subdivisions 1 and 1a, other prohibited acts;
- (36) Minnesota Statutes, section 609.33, disorderly house;
- (37) Minnesota Statutes, section 609.342, criminal sexual conduct in the first degree;
- (38) Minnesota Statutes, section 609.343, criminal sexual conduct in the second degree;
- (39) Minnesota Statutes, section 609.344, criminal sexual conduct in the third degree;
- (40) Minnesota Statutes, section 609.345, criminal sexual conduct in the fourth degree;
- (41) Minnesota Statutes, section 609.3451, criminal sexual conduct in the fifth degree;
- (42) Minnesota Statutes, section 609.352, solicitation of children to engage in sexual conduct;
- (43) Minnesota Statutes, section 609.365, incest;
- (44) Minnesota Statutes, section 609.377, malicious punishment of a child;
- (45) Minnesota Statutes, section 609.378, neglect or endangerment of a child;
- (46) Minnesota Statutes, section 609.498, tampering with a witness;
- (47) Minnesota Statutes, section 609.52, felony theft;
- (48) Minnesota Statutes, section 609.561, arson in the first degree;
- (49) Minnesota Statutes, section 609.582, subdivisions 1 and 2, burglary;
- (50) Minnesota Statutes, section 609.713, terroristic threats;
- (51) Minnesota Statutes, section 609.749, nonfelony, harassment and stalking;

- (52) Minnesota Statutes, section 617.23, indecent exposure;
- (53) Minnesota Statutes, section 617.241, obscene materials and performances;
- (54) Minnesota Statutes, section 617.243, indecent literature, distribution;
- (55) Minnesota Statutes, section 617.246, use of minors in sexual performance;
- (56) Minnesota Statutes, section 617.247, possession of pictorial representations of minors;
- (57) Minnesota Statutes, section 617.293, harmful materials; dissemination and display to minors; and
- (58) felony convictions under Minnesota Statutes, chapter 152, prohibited drugs.

Subp. 13. **Provider responsibility; employee's driver's license.** Before using or hiring a driver to provide special transportation service, a provider must obtain and review a copy of the driver's license showing that the driver has a valid driver's license.

Subp. 14. **Provider responsibility; driver's traffic and criminal record.** Before using or hiring a driver to provide special transportation service, a provider must obtain and review the driving and criminal records of a driver. In addition, a provider shall annually review the driving and criminal record of a driver it uses or employs.

A. The driving and criminal record review must include an examination of the records of the Department of Public Safety, Division of Driver and Vehicle Services, to determine if the driver meets the standards of subparts 9, 10, and 11. The review must also include an examination of the conviction records of the Minnesota Bureau of Criminal Apprehension to determine if the driver has a criminal record of convictions for crimes listed in subpart 12.

B. A provider satisfies the requirements of this subpart by obtaining a background check from the Minnesota Bureau of Criminal Apprehension. A private business or local law enforcement agency may be used for conducting the criminal background check if the review consists of an examination of the records of the Minnesota Bureau of Criminal Apprehension.

C. If a person has resided in Minnesota for less than ten years, the provider shall also conduct a search of the criminal history repository records in each state where the person has resided for the preceding ten years.

D. If a person has held a driver's license in a state other than Minnesota for the preceding three years, the provider shall review the driving record in each state where the person has held a driver's license for the preceding three-year period.

Subp. 15. **Provider responsibility; statement of physical qualifications.** Before using or hiring a driver to provide special transportation service, a provider must obtain and review a copy of the statement of physical qualifications or other evidence of physical qualifications listed in subpart 5 or 6 that the driver meets the physical qualifications in subpart 1.

Subp. 16. **Provider responsibility; failure to maintain qualifications.** If, during the time a provider is using or employing a driver, the driver no longer meets the standards of this part, the provider shall immediately stop using or employing the driver as a special transportation vehicle driver or attendant and shall report the withdrawal, the reason the driver no longer meets the standards, or both, to the commissioner.

Subp. 17. **Complaint records.** A provider shall keep a record of a complaint, report, or allegation of misconduct made against a driver it uses or employs. The record must contain a copy of the complaint or report or a detailed written summary of the allegation. A provider shall investigate the accuracy of the complaint, report, or allegation and shall include a summary of the investigation and resulting action taken, if any, in the record. These records must be included in the driver's file or in a separate file kept by the provider.

Statutory Authority: *MS s 174.30*

History: *L 1984 c 654 art 5 s 58; 17 SR 634; L 1992 c 571 art 14 s 13; L 2000 c 478 art 2 s 7; L 2001 1Sp9 art 14 s 35; 28 SR 1578*

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