

CHAPTER 8850
DEPARTMENT OF TRANSPORTATION
MOTOR CARRIER SAFETY

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8850.6900 DEFINITIONS.

Subpart 1. **Scope.** Unless otherwise provided, the terms used in parts 8850.6900 to 8850.9050 and 8855.0300 to 8855.0850 have the meanings given them in this part.

Subp. 2. [Obsolete, L 1998 c 403 s 18,29]

Subp. 3. **Carrier.** "Carrier" includes motor carriers, private carriers, exempt carriers engaged in intrastate commerce, and for hire and private carriers engaged in interstate commerce.

Subp. 4. [Repealed, L 2003 1Sp19 art 2 s 79]

Subp. 5. **Certificate of insurance.** "Certificate of insurance" means the document issued by an insurer that states that the insurer provides the coverage required by Minnesota Statutes, section 221.141.

Subp. 6. [Repealed, L 2003 1Sp19 art 2 s 79]

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Transportation.

Subp. 8. **Employ.** "Employ" means to require, to use, or to permit a person to drive a motor vehicle in furtherance of the carrier's business, whether or not the carrier owns the vehicle.

Subp. 9. **Exempt carrier.** "Exempt carrier" means a carrier described in Minnesota Statutes, section 221.025.

Subp. 10. **Interstate carrier.** "Interstate carrier" has the meaning given it in Minnesota Statutes, section 221.012, subdivision 20.

Subp. 11. [Repealed, L 2003 1Sp19 art 2 s 79]

Subp. 12. [Repealed, L 2003 1Sp19 art 2 s 79]

Subp. 13. **Motor carrier.** "Motor carrier" means a carrier operating for hire under authority of Minnesota Statutes, chapter 221 and, for purposes of this chapter, does not include interstate carriers.

Subp. 14. **Owner.** "Owner" means a person to whom a certificate of title to equipment has been issued, or who has lawful possession of equipment.

Subp. 15. **Permit.** "Permit" has the meaning given it in Minnesota Statutes, section 221.012, subdivision 29.

Subp. 16. **Person.** "Person" has the meaning given it in Minnesota Statutes, section 221.012, subdivision 31.

Subp. 17. [Repealed, L 2003 1Sp19 art 2 s 79]

Subp. 18. **Petroleum transport.** "Petroleum transport" means a vehicle, trailer, or semitrailer with a tank (1) that is mounted on it or made an integral part of it, other than the fuel supply tank for the engine of that vehicle, (2) that is filled or emptied while on the vehicle, and (3) that is used to transport petroleum products in bulk.

Subp. 19. **Private carrier.** "Private carrier" has the meaning given it in Minnesota Statutes, section 221.012, subdivision 35.

Subp. 20. [Repealed, L 2005 1Sp6 art 3 s 108]

Subp. 21. **Responsible official.** "Responsible official" means an officer or the owner of the applicant or carrier or a person to whom authority to sign applications, renewals, and other documents filed by the applicant or carrier has been delegated in writing by the owner or the board of directors.

Subp. 22. **Vehicle.** "Vehicle" has the meaning given it in Minnesota Statutes, section 221.012, subdivision 42.

Statutory Authority: *MS s 221.031; 221.141*

History: *13 SR 38; L 1998 c 403 s 18,29; L 2003 1Sp19 art 2 s 79; L 2005 1Sp6 art 3 s 108*

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8850.7100 [Repealed, L 2003 1Sp19 art 2 s 79]

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8850.7200 INTRASTATE DRIVER QUALIFICATIONS; PHYSICAL, WAIVER.

A person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1) or (b)(2), as amended through October 1, 1987, and who is otherwise qualified to drive a motor vehicle, may drive a motor vehicle if the commissioner grants a waiver to that person under parts 8850.7200 to 8850.7675. Parts 8850.7200 to 8850.7700 apply only to drivers providing intrastate transportation.

Statutory Authority: *MS s 221.031; 221.141*

History: *13 SR 38*

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8850.7250 INTRASTATE TRANSPORTATION; WAIVER SUBMISSION.

Subpart 1. **Joint submission.** A letter of application for a waiver under part 8850.7200 may be submitted jointly by the driver applicant who seeks a waiver of the physical disqualification and by the carrier that will employ the driver applicant if the application is granted. The application must be submitted to the Office of Motor Carrier Services, Minnesota Department of Transportation.

Subp. 2. **By driver applicant.** A letter of application for a waiver may be submitted by a driver applicant alone. The driver applicant shall comply with the requirements of part 8850.7300, except item A, subitem (1). The driver applicant shall provide the information in part 8850.7300, item B, if the information is known to the driver.

Statutory Authority: *MS s 221.031; 221.141*

History: *13 SR 38*

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8850.7300 WAIVER APPLICATION CONTENTS.

A letter of application for a waiver under part 8850.7200 must contain:

- A. the name and address of the applicant, including:
 - (1) the name and complete address of the carrier coapplicant;
 - (2) the name and complete address of the driver applicant; and
 - (3) a description of the driver applicant's limb impairment for which a waiver is requested;
- B. a description of the type of operation the driver will be employed to perform, including:
 - (1) the average period of time the driver will be driving and on duty, per day;
 - (2) the type of commodities or cargo to be transported; and
 - (3) whether the driver operation is conducted as a sleeper team, relay, owner operator, or otherwise;

- C. the number of years the driver has operated the type of vehicle for which a waiver is requested and the total years of experience operating all types of motor vehicles;
- D. a description of the vehicle that the driver applicant intends to drive, including:
- (1) the truck or truck tractor make, model, and year;
 - (2) the drive train, including:
 - (a) whether the transmission type is automatic or manual and, if manual, the number of forward speeds;
 - (b) auxiliary transmission, if any, and number of forward speeds; and
 - (c) rear axle designation, whether single speed, two speed, or three speed;
 - (3) the type of brake system;
 - (4) the steering, whether manual or power assisted;
 - (5) a description of type of trailers, such as van, flatbed, cargo tank, drop frame, lowboy, or pole;
 - (6) the number of semitrailers or full trailers to be towed at one time; and
 - (7) a description of any vehicle modification made for the driver applicant and a photograph of the modification;
- E. a certification that the driver is otherwise qualified, as follows:
- (1) certification by the coapplicant carrier that the driver applicant is otherwise qualified under part 8850.7100; and
 - (2) in the case of a driver applicant, certification by the driver applicant that the applicant is otherwise qualified under part 8850.7100; and
- F. the signature of the applicant as follows:
- (1) the driver applicant's signature and date signed; and
 - (2) if the application has a coapplicant, the carrier official's signature, the official's title, and the date signed. The official who signs the application must be a responsible official of the carrier.

Statutory Authority: *MS s 221.031; 221.141*

History: *13 SR 38*

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8850.7350 DOCUMENTS ACCOMPANYING WAIVER APPLICATION.

The letter of application for a waiver under part 8850.7200 must be accompanied by:

- A. A copy of the results of the medical examination performed according to Code of Federal Regulations, title 49, section 391.43, as amended through October 1, 1987.
- B. A copy of the medical certificate completed according to Code of Federal Regulations, title 49, section 391.43, paragraph (e), as amended through October 1, 1987.
- C. A medical evaluation summary completed by either a board-qualified or board-certified psychiatrist (doctor of physical medicine) or orthopedic surgeon. The coapplicant carrier or the driver

applicant shall provide the physiatrist or orthopedic surgeon with a description of the job tasks the driver applicant will be required to perform.

(1) The medical evaluation summary for a driver applicant disqualified under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1), as amended through October 1, 1987, must include:

(a) an assessment of the driver's functional capabilities as they relate to the driver's ability to perform normal tasks associated with operating a motor vehicle; and

(b) a statement by the examiner that the applicant is capable of demonstrating precision prehension, that is, manipulating knobs and switches, and power grasp prehension, that is, holding and maneuvering the steering wheel, with each upper limb separately. This requirement does not apply to an applicant who was granted a waiver, absent a prosthetic device, before April 14, 1986.

(2) The medical evaluation summary for a driver applicant disqualified under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(2), as amended through October 1, 1987, must include:

(a) how and why the impairment interferes with the driver's ability to perform normal tasks associated with operating a commercial motor vehicle;

(b) an assessment and medical opinion of whether the condition is likely to remain medically stable over the driver applicant's lifetime; and

(c) a statement by the examiner that the applicant is capable of demonstrating precision prehension, that is, manipulating knobs and switches, and power grasp prehension, that is, holding and maneuvering the steering wheel, with each upper limb separately. This requirement does not apply to an applicant who was granted a waiver, absent a prosthetic device, before April 14, 1986.

D. A description of the prosthetic or orthotic device worn by the driver applicant, if any.

E. A copy of the driver applicant's road test administered by the carrier coapplicant and the certificate issued under Code of Federal Regulations, title 49, section 391.31, paragraphs (b) to (g), as amended through October 1, 1987. A driver applicant is responsible for having a road test administered by a carrier or a person competent to administer the test and evaluate its results.

F. A copy of the driver applicant's application for employment completed according to Code of Federal Regulations, title 49, section 391.21, as revised through October 1, 1987. A driver applicant is responsible for submitting a copy of the employment application for the last commercial driving position held by the applicant. If not previously employed as a commercial driver, the driver applicant must so state.

G. A copy of the driver applicant's state motor vehicle driving record for the past three years from each state where the driver had a motor vehicle driver's license or permit.

Statutory Authority: *MS s 221.031; 221.141*

History: *13 SR 38*

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8850.7400 AGREEMENT.

A carrier that employs a driver with a waiver under part 8850.7200 agrees to:

A. evaluate the driver granted a waiver for those nondriving, safety-related job tasks associated with the type of trailer to be used and any other nondriving, safety-related or job-related tasks unique to the operations of the employing carrier;

B. use the driver to operate the type of motor vehicle defined in the waiver only when the driver is in compliance with the conditions of the waiver; and

C. file documents and information with the commissioner within 30 days of the occurrence of the following events: a violation of a motor vehicle and motor carrier law or rule; an accident; an arrest; a license suspension, revocation, or withdrawal; and a conviction that involves the driver applicant. This item applies whether the driver's waiver is a unilateral one or has a coapplicant carrier.

Statutory Authority: *MS s 221.031; 221.141*

History: *13 SR 38*

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8850.7450 DRIVER SUPPLIES COPY.

The driver shall give each employing carrier a copy of the waiver.

Statutory Authority: *MS s 221.031; 221.141*

History: *13 SR 38*

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8850.7500 EVALUATION OF DRIVER'S ABILITY.

The commissioner may require a driver applying for a waiver under part 8850.7200 to demonstrate ability to safely operate the motor vehicle the applicant intends to drive. During the demonstration, the driver's ability to perform pretrip and post trip inspections and driving performance must be evaluated. Nondriving, safety-related tasks or other nondriving tasks unique to the type of trailer or other carrier operation must not be evaluated during this demonstration.

Statutory Authority: *MS s 221.031; 221.141*

History: *13 SR 38*

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8850.7550 EXTENT OF WAIVER.

The commissioner may deny the application for waiver under part 8850.7200 or may grant it totally or in part and may issue the waiver subject to terms, conditions, and limitations that protect the traveling public. A waiver is valid for a period not longer than two years from the date of issue and may be renewed 30 days before the expiration date.

The commissioner shall grant or deny the waiver in writing within 30 days from the date that the required information has been submitted.

A denial of the waiver must state the reason for the denial.

Statutory Authority: *MS s 221.031; 221.141*

History: *13 SR 38*

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8850.7600 WAIVER RENEWAL APPLICATION; REQUIRED INFORMATION.

The application to renew a waiver granted under part 8850.7200 must be submitted to the commissioner. It must contain:

- A. the name and complete address of the carrier currently employing the applicant;
- B. the name and complete address of the driver;
- C. the effective date of the current waiver;
- D. the expiration date of the current waiver;
- E. the total miles driven under the current waiver;
- F. the number of accidents incurred by the driver while driving under the current waiver, including the date of the accident, the number of fatalities, the number of injuries, and the estimated dollar amount of property damage;
- G. the driver's signature and date signed;
- H. the carrier coapplicant's signature and date signed;
- I. notification of a change in the type of vehicle the driver will operate;
- J. a copy of the driver's current state motor vehicle driving record for the period of time the current waiver has been in effect;
- K. a current medical examination report; and
- L. a medical evaluation summary according to part 8850.7350, item C, if an unstable medical condition exists. Disabilities conditions classified under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1), as amended through October 1, 1987, are considered unstable. A board-certified psychiatrist (doctor of physical medicine) or orthopedic surgeon shall determine whether a condition described in Code of Federal Regulations, title 49, section 391.41, paragraph (b)(2), as amended through October 1, 1987, is medically stable.

Statutory Authority: *MS s 221.031; 221.141*

History: *13 SR 38; L 2005 c 56 s 2*

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8850.7650 ON GRANTING WAIVER.

On granting a waiver under part 8850.7200, the commissioner shall notify the driver applicant, and coapplicant carrier if applicable, by letter. The terms, conditions, and limitations of the waiver must be set forth. A carrier shall maintain a copy of the waiver in its driver qualification file. A copy of the waiver must be kept in the carrier's file for three years after the driver's employment is terminated. The driver applicant shall have the waiver or a legible copy of the waiver in possession while on duty.

Statutory Authority: *MS s 221.031; 221.141*

History: *13 SR 38*

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8850.7675 RESOLUTION OF CONFLICTS OF MEDICAL EVALUATION.

Subpart 1. **Applications.** Applications for determination of a driver's medical qualifications under standards in this part must conform to the requirements of this subpart.

A. The application must contain the name and address of the driver, motor carrier, and the physicians involved in the proceeding.

B. The applicant shall submit proof that there is a disagreement between the physician for the driver and the physician for the motor carrier concerning the driver's qualifications.

C. The applicant shall submit a copy of an opinion and report, including the results of tests, of an impartial medical specialist in the field in which the medical conflict arose. The specialist must be one agreed to by the motor carrier and the driver.

D. If the driver refuses to agree on a specialist and the applicant is the motor carrier, the applicant shall submit a statement of agreement to submit the matter to an impartial medical specialist in the field, proof that the applicant has asked the driver to submit to the medical specialist, and the response, if any, of the driver to the request.

E. If the motor carrier refuses to agree on a medical specialist, the driver shall submit an opinion and test results of an impartial medical specialist, proof that the driver has asked the motor carrier to agree to submit the matter to the medical specialist, and the response, if any, of the motor carrier to the request.

F. The applicant shall include a statement explaining in detail why the decision of the medical specialist identified in item C is unacceptable.

G. The applicant shall submit proof that the medical specialist mentioned in item C was provided, before the specialist's determination, the medical history of the driver and an agreed upon statement of the work the driver performs.

H. The applicant shall submit the medical history and statement of work provided to the medical specialist under item G.

I. The applicant shall submit the medical records and statements of the physicians who have given opinions on the driver's qualifications.

J. The applicant shall submit a description and a copy of the written and documentary evidence upon which the party making the application relies.

K. The application must be accompanied by the driver's statement of intent to drive in intrastate commerce or a statement that the carrier has used or intends to use the driver for such work.

L. The applicant shall submit three copies of the application and records.

Subp. 2. **Information.** The commissioner may request further information from the applicant if the commissioner determines that a decision cannot be made on the evidence submitted.

Subp. 3. **Parties.** For the purposes of this part, a party includes the motor carrier and the driver, or anyone else submitting an application.

Subp. 4. **Action.** The commissioner shall make a determination after a hearing has been held under Minnesota Statutes, chapter 14. The decision of the commissioner may be appealed in the manner provided in chapter 14.

Statutory Authority: *MS s 221.031; 221.141*

History: *13 SR 38*

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8850.7700 REVOCATION.

The commissioner may revoke a waiver only after the person to whom it was issued is given notice of the proposed revocation and has been allowed an opportunity for hearing under Minnesota Statutes, chapter 14.

Statutory Authority: *MS s 221.031; 221.141*

History: *13 SR 38*

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8850.7750 FALSE INFORMATION.

Falsifying information in the letter of application, information in the renewal application, or information required by a medical evaluation, by either the applicant or carrier, is prohibited.

Statutory Authority: *MS s 221.031; 221.141*

History: *13 SR 38*

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8850.8050 Subpart 1. [Repealed, 17 SR 634]

Subp. 2. [Repealed, L 2010 c 320 art 1 s 20]

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8850.8350 [Repealed, L 2010 c 320 art 1 s 20]

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8850.8400 INSPECTORS; VEHICLES DECLARED OUT OF SERVICE.

Subpart 1. **Inspector's authority.** Every person authorized by Minnesota Statutes, chapter 221 or by other law, to enforce chapter 221 and rules of the commissioner adopted under authority of chapter 221, may inspect vehicles subject to chapter 221.

Subp. 2. **Motor vehicles declared out of service.** An authorized person described in subpart 1 shall place out of service a motor vehicle that, because of its mechanical condition or loading, is likely to cause an accident or a breakdown. An "out-of-service vehicle" sticker must be used to mark vehicles that are placed out of service by a motor transportation representative or hazardous material specialist.

Subp. 3. **Other forms used.** An authorized person described in subpart 1 who is not employed by the Minnesota Department of Transportation may use citations, checklists, warning tickets, report forms, and "out-of-service vehicle" stickers prescribed by the agency or law enforcement organization employing that person.

Statutory Authority: *MS s 221.031; 221.141*

History: *13 SR 38; L 2001 c 213 s 30*

Published Electronically: *July 30, 2010*

8850.8500 "OUT-OF-SERVICE VEHICLE" STICKER.

Subpart 1. **Statement required.** The "out-of-service vehicle" sticker used by the Minnesota Department of Transportation must contain the following statement:

"Out-of-service vehicle. This vehicle has been declared out of service by the Minnesota Department of Transportation. This vehicle must not be operated until repaired. This sticker may be removed only under the conditions stated on the out-of-service notice. The person responsible for unauthorized removal is liable to penalty under Minnesota Statutes, section 221.291. A person shall not remove this sticker or operate this vehicle until the repairs listed below are completed."

Subp. 2. **Space for description.** The "out-of-service vehicle" sticker must contain space for the motor transportation representative or hazardous material specialist to describe the mechanical condition requiring the vehicle to be declared out of service.

Subp. 3. **Information required.** The sticker must contain the following information:

- A. the make of the power unit;
- B. the model year of the power unit;
- C. the unit number of the power unit;
- D. the power unit license number;
- E. the towed unit license number;
- F. the make of the towed unit, if known;
- G. the unit number of the trailer;
- H. the signature of the driver of the vehicle in the space provided; and
- I. the signature of the motor transportation representative or hazardous material specialist in the space provided.

Subp. 4. **Serial numbering.** The "out-of-service vehicle" stickers must be serially numbered.

Statutory Authority: *MS s 221.031; 221.141*

History: *13 SR 38*

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8850.8550 CARRIER RESPONSIBILITY.

Subpart 1. **Repair before use.** Except as provided in subpart 2, a carrier shall not require or permit a person to operate nor shall a person operate a motor vehicle declared and marked out of service until the repairs required by the out-of-service notice have been satisfactorily completed. In this subpart, "operate" includes towing the vehicle, except that vehicles marked out of service may be towed away by means of a vehicle using a crane or hoist. A vehicle combination consisting of the emergency towing vehicle and the out-of-service vehicle must not be operated unless the combination meets the performance requirements of this chapter except for those conditions noted on the driver, vehicle, and equipment compliance checklist.

Subp. 2. **Exception.** A vehicle with an out-of-service defect may be moved under its own power to a place of repair only in the following circumstances:

- A. A vehicle transporting hazardous materials requiring the vehicle to be placarded may be escorted to a repair facility or safe parking place.
- B. When the imminently hazardous condition is one that is automatically removed by the disconnection of the power unit from the towed unit, the unit that is not out of service may be operated.
- C. If it is less hazardous to the public to operate the vehicle than to permit it to remain on the highway, the vehicle may be operated only to the nearest place where repairs can be made safely.

Subp. 3. **Prohibition.** A person shall not remove the "out-of-service vehicle" sticker from a motor vehicle before completion of the repairs required by the out-of-service notice.

Statutory Authority: *MS s 221.031; 221.141*

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8850.8900 [Repealed, L 2003 1Sp19 art 2 s 79]

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8850.8950 DRIVERS DECLARED OUT OF SERVICE.

Subpart 1. **Authority to declare drivers out of service.** A person authorized by Minnesota Statutes, chapter 221, or by other law, to enforce chapter 221 and the rules of the commissioner adopted under authority of that chapter is authorized to declare a driver out of service and to notify the carrier of that declaration, on finding at the time and place of examination that the driver has violated the out-of-service criteria in subpart 2.

Subp. 2. **Out-of-service criteria.** A driver shall not drive after being on duty for the maximum periods permitted by part 8850.8900 or after being declared out of service under Code of Federal Regulations, title 49, section 392.5, paragraph (c).

A driver required to maintain a record of duty status under part 8850.8900, subpart 1, shall not fail to have a record of duty status current on the day of examination and for the previous seven consecutive days; except that a driver failing only to have possession of a record of duty status current on the day of examination and the previous day, and who has completed records of duty status for the previous six days up to the day before examination, will be given the opportunity to make the duty status record current.

Subp. 3. **Responsibilities of carriers.** A carrier shall not require or permit a driver who has been declared out of service to operate a motor vehicle until that driver may lawfully do so, nor shall a carrier require a driver who has been declared out of service for failure to prepare a record of duty status, to operate a motor vehicle until that driver has been off duty for eight consecutive hours and is in compliance with this part. The consecutive eight-hour, off-duty period may include sleeper berth time.

Subp. 4. **Form.** A carrier shall complete the "Carrier Certification of Action Taken" portion of the driver, vehicle, and equipment checklist form, described in part 8850.8350, and return the copy of the form to the Minnesota Department of Transportation, Office of Motor Carrier Services within 15 days following the date of examination. If the carrier mails the form, delivery is made on the date it is postmarked.

Subp. 5. **Responsibilities of the driver.** A driver who has been declared out of service shall not operate a motor vehicle until that driver may lawfully do so.

A driver who has been declared out of service for failing to prepare a record of duty status shall not operate a motor vehicle until the driver has been off duty for eight consecutive hours and is in compliance with this part.

Statutory Authority: *MS s 221.031; 221.141*

History: *13 SR 38; L 2001 c 213 s 30*

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Subp. 2. [Repealed, L 2003 1Sp19 art 2 s 79]

Subp. 3. [Repealed, L 2010 c 320 art 1 s 20]

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