

**STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
DRIVER AND VEHICLE SERVICES DIVISION**

STATEMENT OF NEED AND REASONABLENESS

**IN THE MATTER OF THE PROPOSED PERMANENT RULES RELATING TO
COMMERCIAL DRIVER TRAINING SCHOOLS**

Minnesota Rules, chapter 7411, regulates driver training programs of commercial driver training schools, certified programs of private or parochial colleges, universities or high schools and private or commercial schools or institutes offering two-wheeled vehicle driver's safety courses. The department of public safety (department) is authorized under Minnesota Statutes, section 171.04, to regulate driver education courses by private and parochial high schools and other non-public schools, under Minnesota Statutes, section 171.33 to 171.41, to regulate commercial driver training schools, and under Minnesota Statutes, sections 169.974, to regulate motorcycle safety courses.

The rules regulating driver training programs were first promulgated in 1960 and 1970. Amendments were made to the rules in 1982 and in 1990. The rules are being amended at this time to update and clarify portions of the rules since the 1990 amendments. The amendments are further explained in the rule-by-rule analysis.

STATUTORY AUTHORITY

The department's general statutory authority to adopt these rules is set forth in Minnesota Statutes, section 299A.01, subdivision 6, and section 14.06 of the Administrative Procedure Act. Minnesota Statutes, section 299A.01, subdivision 6, provides that the commissioner of public safety shall have the power to promulgate such rules pursuant to chapter 14, as are necessary to carry out the duties of the commissioner. Section 14.06 of the Administrative Procedure Act gives the department of public safety general rulemaking authority. Under section 14.06, the commissioner of public safety has the authority to promulgate rules that directly affect the rights of and procedures available to the public.

The department is authorized under Minnesota Statutes, section 171.04, subdivision 1, to regulate driver education courses offered by private and parochial high schools and other non-public schools. The regulation of these driver education courses by the department directly affects the rights of and procedures available to the driver training programs and to the students of these programs. Therefore, when such regulations of the department directly affect the public, the department has the authority under section 14.06 to adopt rules.

In addition to the general statutory authority listed above, specific statutory authority to adopt rules for commercial driver training schools is contained in Minnesota Statutes, section 171.34, which states in part: "No commercial driver training school shall be established or operated...unless such school has applied for and obtained a license from the commissioner [of public safety]. The commissioner shall issue or adopt rules governing the requirements for a license...."

The department's specific statutory authority to adopt rules for instructors at

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commercial driver training schools is contained in Minnesota Statutes, section 171.35, which states in part: "The commissioner shall issue or adopt rules governing the requirements for an instructor's license...."

The department's statutory authority to adopt rules governing motorcycle safety courses is contained in Minnesota Statutes, section 169.974, subdivision 2. Section 169.974, subdivision 2, requires applicants for a motorcycle endorsement who are under 18 years of age to successfully complete an approved motorcycle safety course. This course must be approved "in accordance with...rules promulgated by the commissioner of public safety for courses offered by a private or commercial school or institute."

SMALL BUSINESS CONSIDERATIONS

Minnesota Statutes, section 14.115, subdivision 2, requires the department, when proposing rules, to consider the impact such rules will have on small businesses. The department is to consider the following methods for reducing the impact of the rules on small businesses:

- (a) the establishment of less stringent compliance or reporting requirements for small businesses;
- (b) the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- (c) the consolidation or simplification of compliance or reporting requirements for small businesses;
- (d) the establishment of performance standards for small businesses to replace design or operational standards required in the rule; and
- (e) the exemption of small businesses from any or all requirements of the rule.

Minnesota Statutes, section 14.115, subdivision 3, requires agencies to incorporate into proposed rules any of the above methods "that it finds to be feasible, unless doing so would be contrary to the statutory objectives that are the basis of the proposed rulemaking."

The rules have a direct effect on commercial driver training schools and on driver training programs at private and parochial high schools and other nonpublic schools. All of the commercial schools are small businesses as defined by section 14.115, subdivision 1. All of the private, parochial, and other nonpublic schools are arguably small businesses also.

As previously mentioned, many of the rule amendments that have been made are to update and clarify the rules since the last time the rules were amended in 1990. Therefore, many of the rule amendments have no substantial impact on businesses.

However, the rule amendments do establish less stringent compliance requirements by extending the vehicle age limitation for motorcycles and class A or B vehicles which are used for driver training under part 7411.0400, subpart 2. Under part 7411.0610, subpart 5, less stringent reporting requirements have been implemented with the elimination of the physical exam for an applicant or instructor. The physical examination was previously required by an applicant or instructor upon application and every three years thereafter. The Statement contains further explanations as to the above requirements and other rule amendments.

OTHER STATUTORY REQUIREMENTS

Minnesota Statutes, section 16A.128, subdivisions 1a and 2a, do not apply because the rules do not fix fees. Minnesota Statutes, section 14.11, subdivision 1, does not apply because adoption of these rules will not result in additional spending by local public bodies in excess of \$100,000 per year for the first two years following adoption of the rules. Minnesota Statutes, section 14.11, subdivision 2, does not apply because adoption of these rules will not have an impact on agricultural land. Minnesota Statutes, sections 115.43, subdivision 1, 116.07, subdivision 6, and 144A.29, subdivision 4, do not apply to these rules.

WITNESSES

If these rules go to a public hearing, the following individuals may testify on behalf of the department of public safety in support of the need for and reasonableness of the rules:

Jerry Arvidson, Driver Training Coordinator, Driver and Vehicle Services Division, Department of Public Safety, 395 John Ireland Blvd., St. Paul, MN 55155

J. Gary Cunningham, Driver Services Administrator, Driver and Vehicle Services Division, Department of Public Safety, 395 John Ireland Blvd., St. Paul, MN. 55155

Laura Nehl-Trueman, Administrative Rulewriter, Driver and Vehicle Services Division, Department of Public Safety, 395 John Ireland Blvd., St. Paul, MN 55155

Other employees of the Department of Public Safety.

If the rules go to a public hearing, it is anticipated that the agency may call expert witnesses or witnesses outside the department staff. If a hearing is required, a list of such witnesses will be attached to this Statement of Need and Reasonableness and will be sent to all persons who requested a copy of the Statement of Need and Reasonableness.

RULE-BY-RULE ANALYSIS

7411.0100 DEFINITIONS.

Subparts 6, 7, and 8. Class A, B, and C vehicles. Subparts 6, 7, and 8 have been amended to add the new requirements of Minnesota state law and federal regulations regarding commercial driver licensing standards. In October 1986, the United States Congress passed the Commercial Motor Vehicle Safety Act of 1986. This law required each state to meet minimum standards for commercial driver licensing.

The federal standards required commercial motor vehicle drivers to obtain a Commercial Driver's License (CDL). A CDL is a license issued by a state or other jurisdiction, in accordance with the federal standards contained in 49 CFR 383, to an individual which authorizes the individual to operate a class of a commercial motor vehicle. Therefore, in Minnesota, a person must have a CDL to operate any class A, B, or CC commercial vehicle. Such commercial driver's license may also require an endorsement if a person is operating a school bus, special transportation vehicle, tank vehicle, double-trailer or triple-trailer combination, vehicle transporting hazardous materials or bus. Driver's license classifications and endorsement requirements are set forth under Minnesota Statutes, section 171.02, subdivision 2. The definition of a commercial motor vehicle is set forth in Minnesota Statutes, section 171.01, subdivision 22.

Therefore, because of the addition of the new legislation regarding commercial motor vehicles, the term "commercial" and the requirement of having the "proper endorsements" have been added to the definitions of class A, B, and C vehicles.

7411.0400 VEHICLE REQUIREMENTS.

Subpart 2. Vehicle age; exemption. Item A. Under item A, subitem 1 was stricken. The deletion of subitem 1 will extend the number of years a class A or B vehicle may be used for driver training. Currently a class A or B vehicle may be used for driver training beyond ten years from the date it was first put into service if the vehicle is used only on the program's driving range.

The amendment in item A allows a program to use class A and B vehicles that are ten years or older on the driving range as well as off the driving range. Therefore, programs that teach driver training for class A and B vehicles will not have to maintain separate vehicles for training conducted off the driving range. Because of the expense of class A and B vehicles, maintaining separate vehicles for on and off the driving range is not economically feasible.

To balance the amendment of the extended age limitation, the department is proposing that the vehicle inspection of the class A and class B vehicles be increased from every 12 months to every 6 months. Under former subitem 2, now subitem 1, the six month inspection can be conducted either by an authorized diesel truck dealer or by a person certified to inspect commercial motor vehicles under Minnesota Statutes, section 169.781. Section 169.781 requires a commercial motor vehicle registered in the state of Minnesota to have an annual safety inspection by an inspector certified by the commissioner. The statute lists the persons who are eligible for certification and the requirements for certification.

Individuals who are certified pursuant to this statute receive a Certificate of Completion certifying that the individual has successfully completed the Minnesota State Patrol's vehicle inspection training course. The State Patrol's training course is designed to provide the necessary knowledge to identify defective components as set forth in 49 CFR 396, Appendix G. Appendix G sets forth the inspection criteria for identifying defective parts on a commercial vehicle. Appendix G contains an extensive checklist that an inspector must complete in order to ascertain whether all the components of the commercial motor vehicle are in compliance. A vehicle will not pass inspection if it has a defect or deficiency listed in Appendix G.

Inspection by a certified inspector under section 169.781 will ensure that class A and B vehicles used for driver training will be inspected by competent personnel who have been trained in accordance with federal guidelines. Having a comprehensive six month inspection program will ensure that the vehicles have been properly maintained and are safe for students to use.

Item C. Item C has been amended to state that a motorcycle may be used for more than six years from the date it was first put into service if the factors in subitems 1 through 3 have been met. Subitems 1 and 2, regarding motorcycle parts, have been merged into subitem 1. Therefore, subitem 1 has been amended to state that the tires, tubes, and control cables do not have to be replaced every three years but instead must be inspected every 12 months and be replaced if the parts do not meet operating specifications contained in the manufacturer's factory repair manual as is required of the other parts

listed. Subitem 3 has been renumbered as subitem 2 and item C contains a new subitem 3.

Subitem 3 was added to balance the extended age limitation for motorcycles used by driver training programs. Under subitem 3, a motorcycle may be used for more than six years from the date it was first put into service if the motorcycle has been inspected during the previous 12 months by a mechanic for an authorized motorcycle dealer or by a certified technical college motorcycle mechanic instructor.

The amendments to item C were made in response to the May 21, 1991 rulemaking petition from Beth Miller, Chairperson of the Motorcycle Safety Advisory Committee. The petition requested that Minnesota Rule, part 7411.0400, subpart 2 "be changed to allow that the vehicle age be exempted, when the vehicle is used for training purposes only. We believe repair and replacement of these motorcycles should be based on safety criteria that is supported with documentation of inspection and maintenance."

The petition further stated that the committee was opposed to the current eight year age limitation on motorcycles because the motorcycles used by the Minnesota Motorcycle Training Program are not operated above 20 miles per hour and are only operated on an approved parking lot. All of the motorcycles in the program are thoroughly inspected every year by the equipment coordinator, who is specially trained in this area. That each instructor, before each course, gives each training motorcycle a sixteen point maintenance review.

Ms. Miller further indicated in the petition that many of the motorcycles used in the Minnesota Motorcycle Safety Program have been in operation for eight years and are mechanically sound and safe to use. Karen Kadar, project director of the Minnesota Motorcycle Safety Program also wrote supporting amendments to the vehicle age limitation on motorcycles.

One of the reasons that Ms. Kadar opposes the current rule is that it treats motorcycles used for training in the same category as automobiles used for driver training. "We do not believe that this is proper. Our courses are only offered during six months of the year and not year-round as driver training courses. During the winter months, each motorcycle is thoroughly inspected and all repairs that are completed on the motorcycles are documented. When finished with this process, the motorcycles meet and/or exceed manufacturers' specifications. Our motorcycles are also not driven on the street, but rather only on parking lots. Given the limited number of miles each motorcycle is driven at low speeds and the length of time it is used during the year (six months or less), we believe it should be given special consideration or be given the same consideration offered Class A or Class B vehicles."

To address Ms. Miller's petition and the other comments received, the department gathered data from other state coordinated programs and the national Motorcycle Safety Foundation to see what vehicle age limitations other states have with respect to motorcycles used for training.

The Motorcycle Safety Foundation commented in a July 15, 1992, letter that they allow any age motorcycle to be used for their training programs provided that the machine is in good mechanical condition. The Motorcycle Safety Foundation noted that research conducted by the National Traffic Safety Administration of over 3,600 motorcycle accidents revealed that vehicle failure accounted for less than three percent of the motorcycle accidents and most of these were single-vehicle accidents where control was lost due to a puncture flat. The Motorcycle Safety Foundation also noted that data provided by the Motorcycle Industry Council indicates that 23% of all on-highway motorcycles are still in use after 12 years of operation and travel an average of 2,517 miles per year. The average

annual mileage for other types of vehicles exceeds 30,00 miles.

Furthermore, the Motorcycle Safety Foundation reported in a February 18, 1992, letter that the Federal Motor Vehicle Safety Standard (FMVSS-123), effective September 1, 1974, mandated control standardization for all motorcycles sold in the United States. "This insures that any machine sold since that date will have a control configuration similar to all newer motorcycles and eliminates some potential problems in the training environment."

The Motorcycle Safety Foundation is aware of, and is not opposed to, state programs that safely utilize training motorcycles over 15 years old in rider education classes. In the 19 years that the Motorcycle Safety Foundation has been in existence, it is not aware of any documented case of vehicle failure resulting in an accident during a rider education class.

In addition to information about program requirements in other states, the department also reviewed results of a survey of other state rider training programs. The department received 25 responses to the survey. Of the 25 responses, no other state besides Minnesota had specific vehicle age requirements for motorcycles in its state rules or program guidelines. The other states had general requirements, such as the motorcycles had to be maintained in a "high state of appearance and operation," "in good working order," or in a "safe operating condition." The model age of the motorcycles used by the programs ranged from two to 22. The states were also asked how often their motorcycles were replaced. States responded that they were replaced on an as needed basis, when the cost of the repair became excessive or as they obtained new motorcycles, including new motorcycles received through a dealer loan program.

As previously stated, to balance the extended vehicle age for motorcycles, the department is requiring that motorcycles that are used more than six years from the date of service comply with the requirements under subitem 1 regarding replacement of parts. The program must also document and keep records of the inspections and replacement of parts under subitem 2. Under subitem 3, the program must have the motorcycle inspected during the previous 12 months by a motorcycle mechanic from an authorized motorcycle dealer or by a certified technical college motorcycle mechanic instructor.

Annual inspections will be conducted either by a motorcycle mechanic from an authorized motorcycle dealer or by a certified technical college motorcycle mechanic instructor. Mechanics from a dealership or technical college are competent technicians who will provide a reliable inspection from an independent source other than the inspection conducted by the program itself.

The record keeping requirements and the annual inspections will allow for adequate checks to ensure the safety of the motorcycles. The rules will still require that vehicles be maintained in safe operating condition and that unsafe vehicles be taken out of service until the unsafe condition is corrected. Also, the Commissioner retains the authority to require an inspection when there is good cause to believe that a vehicle does not meet the requirements of the rules.

Subpart 7. Vehicle supplied by instructor or student. In subpart 7, the words safety, age, and equipment were stricken and replaced with the specific subpart references that related to the safety, age, and equipment requirements. A specific subpart reference was also added to clarify that the insurance requirement refers to part 7411.0700, subpart 1.

The exemption for vehicles used by driver training programs for licensed drivers has been divided into items A and B. Item B is a new amendment which specifies what

insurance requirements a vehicle used by a licensed student must meet. Currently, subpart 7 states that if a licensed student supplies the vehicle to be used for driver training, the program must verify that the vehicle meets the "insurance requirements." It is ambiguous as to whether this refers to program insurance requirements under part 7411.0700 subpart 1, or to an individual's insurance requirements under Minnesota Statutes, chapter 65B. It is unlikely that a student would meet program insurance requirements on a vehicle, nor is it necessary to require such insurance limits. Therefore, item B reasonably states that if a licensed student supplies the vehicle, the vehicle must meet at least the minimum amount of insurance as required under Minnesota Statutes, chapter 65B.

7411.0510 STUDENT AND COURSE REQUIREMENTS; CLASS A, B, AND C VEHICLES.

Subpart 3. Classroom curriculum. The first amendment to subpart 3 requires that separate curriculums must be submitted to the department for approval if the program conducts both consecutive and concurrent classroom and laboratory instruction. Driver training may be conducted by either the consecutive method or the concurrent method. Under the consecutive method, the 30 hours of classroom are completed first before the laboratory training is started. Under the concurrent program, the program will start the laboratory training before the classroom training is completed. In other words, the classroom training will run concurrently with the laboratory training.

If a program operates a concurrent program, the classroom and laboratory curriculum must be approved separately by the department. Separate approval of the curriculums is necessary to ensure that the student receives the proper classroom training before starting laboratory training. The laboratory training needs to build on and relate directly to the classroom training. For example, the student should receive classroom training on the rules of road before receiving classroom training on such topics such as vehicle maintenance. A concurrent program requires classroom training that is adequately coordinated with the laboratory training.

The second amendment under subpart 3 specifically states that the classroom instruction must be conducted in a classroom location complying with part 7411.0700, subpart 2, and the instructor must be physically present with the students during the classroom instruction to instruct as well as to address the questions and comments of the students. While it may be implied that the instruction must be given in a classroom with both the instructor and student present, the rule did not specifically state this. Therefore, the requirement is now specifically set forth. The requirement is necessary to ensure that the students are able to react with the instructor during the instruction. Face-to-face interaction between the student and the instructor will provide more opportunity for questions and comments with regard to the material presented during classroom training.

Item K. Item K was added to comply with school bus legislation enacted in 1991. Minnesota Statutes, section 169.446, subdivision 2, which now provides that the commissioner of public safety shall adopt rules requiring thorough instruction concerning section 169.444 for persons enrolled in driver training programs. The instruction must encompass at least the responsibilities of drivers, the content and requirements of section 169.444, and the penalties for violating that section. Item K reflects this statutory mandate.

Item L. Item L was added to comply with legislation enacted in 1991. Minnesota Statutes, section 169.26, subdivision 3, provides that driver education courses approved by the commissioner must include instruction on railroad-highway grade crossing safety. The legislation further provided that the commissioner shall by rule establish standards of course content relating to operation of vehicles at railroad-highway grade crossings. With

this amendment in subpart 3, a program's course will be evaluated by the department for compliance with this statutory mandate.

Subpart 6. Concurrent classroom and laboratory instruction. An amendment has been made in subpart 6 to raise the required number of classroom hours from five to 15 hours before a student can be given laboratory instruction in a concurrent program. Under subpart 4, a program is required to provide a driver training student who is less than 18 years old with a minimum of 30 hours of approved classroom training and, under subpart 9, with a minimum of 6 hours of laboratory instruction.

Therefore, in comparison to the number of hours of laboratory training that is required it is reasonable that at least one-half, 15 hours, of classroom instruction be given before a student begins laboratory training. It is necessary that a student receives adequate knowledge and information before starting instruction behind the wheel of a car. Currently, the majority of programs offering concurrent programs are giving laboratory instruction only after the student has received 15 hours of classroom instruction.

Subpart 8. Laboratory curriculum. The amendment in subpart 8 regarding approval for separate curriculums for consecutive and concurrent programs is the same amendment that was made in subpart 3. See subpart 3 for an explanation of the amendment.

Subpart 9. Laboratory schedule requirements. Subpart 9 has been amended to state that a program may offer no more than two hours of laboratory instruction per day to a student in a class C vehicle. Currently, subpart 9 allows an instructor to teach a student who has a driver's license more than two hours behind-the-wheel.

Two hours is an adequate amount of training time per day for laboratory instruction because of the intensity and amount of attention that must be focused on the training. Behind-the-wheel training not only requires a lot of attention but it can also be very emotionally demanding which can take its toll on the young driver as well as the elderly driver. The two hour time limit not only protects first time drivers but also people who already have a driver's license. Today it is more common for people to come back for a review session to either address driving situations that they may not have experienced before or have not experienced for some period of time, such as winter driving. The time limit is a safeguard to eliminate extensive training which can be too much of a strain on a student.

Subpart 10. Laboratory instruction requirements. Items D and E. The amendments in items D and E are not a change in substance but just reword the requirements from the negative to the positive tense.

Subpart 12. Additional training for license holders. This part has been amended to insert cross-references to other subparts that contain hourly requirements for classroom and laboratory training.

Subpart 13. Training limitations. In the second paragraph, the reference to subpart 4 has been removed because a person receiving class A or B driver training will have a driver's license and will not be subject to the three hour classroom limitation. The reference to subpart 9 has been removed because subpart 9 only applies to limitations of laboratory training for a student receiving training in a class C vehicle.

The phrase "who is receiving class A or B driver training" has been added to the second paragraph to clarify that students receiving class A or B driver training may have up to eight hours of training per day.

7411.0550 STUDENT AND COURSE REQUIREMENTS; MOTORCYCLES.

Subpart 2. Classroom Curriculum. The amendments in subpart 2 are the same amendments that have been made in part 7411.0510, subpart 3. See subpart 3 for an explanation as to the amendments.

Item M. Item M has been amended to comply with 1991 school bus legislation. Minnesota Statutes, section 169.446, subdivision 2, provides that the commissioner of public safety shall adopt rules requiring thorough instruction concerning section 169.444 for persons enrolled in driver training programs. The instruction must encompass at least the responsibilities of drivers, the content and requirements of section 169.444, and the penalties for violating that section. Item M reflects that statutory mandate.

Item N. Item N has been amended to comply with 1991 legislation. Minnesota Statutes, section 169.26, subdivision 3, provides that driver education courses approved by the commissioner must include instruction on railroad-highway grade crossing safety. The amendment states that the commissioner shall by rule establish standards of course content relating to operation of vehicles at railroad-highway grade crossings. With this addition to subpart 3, a program's course will be evaluated by the department for compliance with this statutory mandate.

Subpart 5. Laboratory curriculum. The amendment in subpart 5 is the same amendment that was made in subpart 2 above with respect to separate curriculums for consecutive and concurrent programs.

7411.0610 INSTRUCTOR REQUIREMENTS.

Subpart 4. Driving record. Subpart 4 has been amended to state that an instructor shall provide written notification of a conviction of a traffic violation or a motor vehicle accident to the driver training office of the department. The written notification shall be provided to the driver training office of the department within 10 days following the accident or conviction.

This amendment has been made to provide for a clear and consistent method of providing notification to the driver training office if an instructor has an accident or conviction. Written notification takes away any ambiguity as to when the driver training office was notified of such accident. The ten day time limit is a reasonable time period and provides the person with guidance as to when the notification must be made. Notification should be made promptly so that appropriate action can be taken. By having the report in writing and in a timely manner, any doubt of reporting would be eliminated.

Item A. Item A has been amended to state that a person will be ineligible to be an instructor if the person's driver's license has been revoked or suspended for a traffic violation, other than an insurance-related traffic violation within the preceding three years. Currently, under item A, a revocation or suspension for an insurance-related traffic violation would render an instructor ineligible for three years. This amendment is necessary because the current requirement has been found to be too strict. For example, under Minnesota Statutes, section 169.792, subdivision 7, a person's driver's license may be revoked for failure to produce proof of insurance as required by the statute. However, the person may have had insurance at the time of the traffic incident but was unable to produce the proof under the time limit as required by the statute. Once proof is provided to the department the person is eligible for early reinstatement. However, the fact that the

person's license was revoked will remain on the person's driving record. In such a case, the revocation on the person's driving record would render the person ineligible to be an instructor for up to three years.

The three year ineligibility period for insurance-related violations has proven to be more harsh than necessary. One revocation or suspension for an insurance violation may not necessarily reflect on the instructor's ability to teach driver training. However, insurance-related violations will still continue to count toward instructor ineligibility under items B and C. If a person continues to accrue insurance violations or other traffic violations, such violations will reflect on the person's ability to teach driver training and he or she will be subject to a period of ineligibility.

Subpart 5. Health. The department has proposed the elimination of the requirement of an applicant or instructor submitting a physician's statement to the department with the original application and every three years thereafter. However, the rule will continue to state that the commissioner may require a physician's statement from an applicant or an instructor upon a showing of good cause. In addition, the applicant or instructor will still have to meet the vision and hearing requirements, but those requirements may not have to be met by obtaining a physician's statement.

Therefore, information regarding communicable diseases under item A and physical and mental disabilities under item C will not be required unless the commissioner has good cause to require such information. The elimination of the physician's statement is reasonable because there are other laws and rules which address a person's physical condition with relation to the person's ability to safely operate a motor vehicle.

For example, Minnesota Rules, chapter 7410, deals with various physical and mental qualifications in determining eligibility for driving. Chapter 7410 contains rules setting forth regulations regarding vision, loss of consciousness or voluntary control, diabetes and mental illness or deficiency. If the commissioner has good cause to believe that someone is unable to safely operate a motor vehicle, these rules and the laws under chapter 171 provide the means whereby the commissioner can require a physician's statement.

Furthermore, the physician's statement is being eliminated because the cost of obtaining a physician's statement has outweighed the benefits in determining the ability of an instructor to safely operate a motor vehicle.

Subpart 5a. Hearing. The hearing requirement is the same but is now set forth in this separate subpart.

Subpart 6. Vision. Subpart 6 has been amended to remove the particular reference of 20/40 corrected vision and replace it with a reference to meeting the vision requirements of an unrestricted class C license, except for a corrective lense restriction. Currently 20/40 is the vision standard for obtaining a class C license. However, if the vision requirements change or are expanded for class C drivers, then instructors would have to meet the new requirements. The rule amendment will allow the department to stay current with the vision requirements under Minnesota Rules, part 7410.2400, without amending the rules in this subpart.

Subpart 7. Criminal history. Subpart 7 has been amended to require an updated passport-type photograph with an instructor's renewal every five years after the original application. A problem exists where the person's photograph may be outdated when originally submitted and five years later is even more outdated. The main purpose of the photograph is for identification. Therefore, it is reasonable to require an updated passport-type photograph every five years.

7411.0700. PROGRAM REQUIREMENTS.

Subpart 1. Insurance and safety. Item B. Item B has been amended to require that the evidence of insurance coverage be provided in the form of an original certificate of insurance from the insurance company. Currently, the program provides the required insurance information to the department on a form provided by the department and filled out by the insurance company. To provide for uniformity among other divisions within the department and to comply with the recommendation of the Office of the Attorney General, the department will require the original insurance certificate from the insurance company as proof that the insurance requirements under this part have been met.

Item C. Item C has been amended to clarify the timing of the termination of a program. Item C now provides that if the insurance is canceled the license or certificate terminates automatically on the date the insurance cancellation becomes effective. A clarification was also made to state that the license must be surrendered within ten days "from the date the insurance was canceled." If a program's license has been terminated due to the cancellation of the insurance, the program will be able to apply for a new license upon meeting the insurance requirements again.

Item D. Item D has been amended to state that if a program's bond is canceled, the program's license will automatically terminate on the date the bond cancellation becomes effective. Program licenses terminated under this item must be surrendered to the commissioner within ten days from the date the insurance was canceled. The program can apply for a license again upon fulfilling the bond requirements.

This requirement is consistent with the insurance requirements, where cancellation of a program's insurance will also result in the termination of the program license. The bonding requirements are just as important as the insurance requirements. Bond requirements protect the students who attend the classes. The bond can be used by the commissioner to compensate persons injured or suffering financial loss because of failure of a program to properly perform the duties under this chapter.

Subpart 3. Records. Subpart 3, item A, has been amended to include a requirement that not only the first date of instruction and completion dates of instruction are to be recorded but also the other dates of instruction as well. Recording all dates of instruction and the number of hours is necessary to verify the number of hours a student attended the instruction and who the instructor was. The department needs to compare the instruction with the individual. The department needs more than a canceled check to verify that the student actually attended. This is information that most schools already have available as part of their normal business practice.

Subpart 8. Authorized official; certificates. Subpart 8 has been amended to clarify that only one authorized official shall be designated by the program. To verify this, the department is requiring that written notification be made to the department if the designated official changes. The programs are already informing the department of the designated authorized officials. However, it is important that we update that list because enrollment cards and course completion cards are signed by the authorized official. The department will verify that it is the authorized official's signature on the cards. The program will just need to submit a letter notifying the department of the change and include the signature of the authorized official.

Item B. Item B has been amended to update the rule in response to a 1990 legislative change. The language of Minnesota Statutes, section 171.05, subdivision 2, was

amended by Minnesota Laws 1990, chapter 529, section 7, as follows:

"Notwithstanding any provision in subdivision 1 to the contrary, the department, upon application therefor, may issue an instruction permit to an applicant who is 15, 16, or 17 years of age and who is enrolled in an approved driver education program including behind the wheel training...."

Because of the statutory amendment, the rule has been amended to require 16 and 17 year olds as having to be in an approved driving training program in order to be eligible for an instruction permit. Therefore, the program shall notify the department when a student who is 15, 16, or 17 years of age fails to continue or complete the required automobile driver training course, including laboratory instruction.

Subpart 9. Instruction requirements. Item A. Item A has been amended to clarify what types of programs have to have a Minnesota instructor's license or a Minnesota teaching license. If a person is instructing at a commercial driver training school, a Minnesota instructor's license is required. If a person is instructing at a certified program, a Minnesota teaching license is required.

Subpart 13. Situations requiring notification. Subpart 13 has been amended to add that a program shall notify the driver training office of the department, in writing, if one of its students, while receiving instruction, is involved in a motor vehicle accident. The written notification must be submitted to the driver training office within 10 days from the date of the accident. This is the same requirement that was added to part 7411.0610, subpart 4, regarding notification to the driver training office by instructors who receive convictions for traffic violations or if they are involved in an accident. As previously mentioned in that subpart, a report filed in writing, in a timely manner, will remove any ambiguity as to when the driver training office was notified.

7411.0800 LICENSING AND CERTIFICATION PROVISIONS

Subpart 8. Suspension and revocation. Items J and K. Items J and K have been added to the list of acts that, if committed by an instructor or program, may result in suspension, revocation or refusal to renew a license. Items J and K expand upon item G and specify in more detail other acts which substantially depart from the commonly accepted practices as used by other driver training programs and instructors.

Subpart 8a. Administrative review. Subpart 8a has been amended to state that the notice of revocation, suspension or refusal to renew is deemed received three days after mailing to the last known address of the program or instructor as listed by the records of the driver training office of the department. This language is modeled after the Rules of Civil Procedure for District Courts, Rule 6 for service by mail.

Subpart 8a has also been amended to state that the commissioner or a designated agent shall perform the review and notify the program or instructor within ten days after the review whether the revocation, suspension, or refusal will be affirmed or rescinded. This amendment is needed to clarify when the ten day period starts.

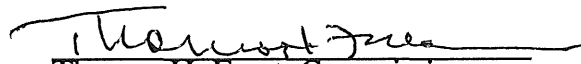
Subpart 8b. Surrender of License. Subpart 8b was added to put in the rule a procedure that was already required. Upon revocation, suspension or refusal to renew, a person or program has been surrendering the license to the commissioner. The second sentence of subpart 8b states that the withdrawal of the license will begin to run once the license is surrendered. This language is modeled after driver's license surrender legislation under Minnesota Statutes, section 171.20.

Subpart 8c. Settlement conference. This is a new subpart which notifies the person that even though options A and B are available for administrative review, the person can also chose to settle the matter more informally with the department through the settlement conference. Or if a person just wants more information from the department the person can contact the department without going through the more formal options under items A or B.

CONCLUSION

Based on the foregoing, the department's proposed rule amendments are both necessary and reasonable.

11-30-92
Date


Thomas H. Frost, Commissioner

