

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
BUREAU OF CRIMINAL APPREHENSION

In the Matter of Proposed
Amendment to Rules of the
State Department of Public
Safety Governing Training for
Intoxication Testing

STATEMENT OF NEED
AND REASONABLENESS

The above captioned rules are amendments to existing rules of the Department of Public Safety. The captioned rules were last amended in April, 1984.

The department has considered the requirements of Minnesota Statutes, section 14.115, and has determined that the proposed amendments do not directly affect small businesses.

Paul J. Tschida
Commissioner

NEED AND REASONABLENESS

GENERALLY

These rules are necessary to provide uniform procedures for the training of persons who may administer the tests for intoxication. The amendments below are minor but necessary to assure the language within the rule is consistent with the positions which are involved in intoxication testing.

RULE-BY-RULE ANALYSIS

7502.0600 PERSONS WHO MAY INTERPRET BLOOD OR URINE TESTS.

This amendment, adding the term forensic science and forensic scientist to items A and B respectively, is necessary to make the terminology within the rule current. Since forensic scientist is not listed, some trial courts have determined that it does not matter that the position is identical to that of a crime laboratory analyst. The rule must be changed to list forensic scientists so they are recognized as equally trained and qualified to interpret intoxication tests. Recently the Civil Service title of the Crime Laboratory Analyst series in the Bureau of Criminal Apprehension was changed to Forensic Scientist. In addition, at some universities the Criminalistics program is called a Forensic Science program and the degree awarded is a bachelor's degree or higher degree in Forensic Science. This amendment reflects these changes in both item A and item B. However it continues to be appropriate to retain the criminalistics and crime laboratory analyst language in these items because of the continued use of these terms by universities and other laboratories.

An additional amendment to item B, deleting the phrase full-time, is necessary and reasonable. The original intent of item B was to prevent unqualified individuals from interpreting blood or urine alcohol tests. Whether a person is employed part-time or full-time has no affect on the qualifications or competence of that individual. Furthermore, since the job market is changing to include job sharing more frequently, this amendment allows for flexibility in hiring practices without compromising the hiring standards.

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY
BUREAU OF CRIMINAL APPREHENSION

In the Matter of the Proposed
Amendment of the Rule of the
State Department of Public
Safety governing Training
for Intoxication Testing

NOTICE OF
INTENT TO
ADOPT A RULE
WITHOUT A
PUBLIC HEARING

Notice is hereby given that the State Department of Public Safety intends to amend the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, sections 14.06 and 299A. 01 subdivision 6, which authorizes the commissioner of public safety to promulgate rules to implement Minnesota Statutes section 169.123, subdivision 3.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Katherine Burke Moore
Rules Coordinator
Department of Public Safety
211 Transportation Building
St. Paul, MN 55155
(612) 297-5755

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice. A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is also enclosed with this notice.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Katherine Burke Moore at the address listed above.

Paul J. Tschida, Commissioner
Department of Public Safety

1 Department of Public Safety

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3 Proposed Permanent Rules Relating to Bureau of Criminal

4 Apprehension Training for Intoxication

5

6 Rules as Proposed

7 7502.0600 PERSONS WHO MAY INTERPRET BLOOD OR URINE TESTS.

8 Any A person who meets the educational and occupational
9 standards ~~set-forth~~ in items A and B may interpret blood or
10 urine tests:

11 A. educational qualifications: a bachelor's or
12 higher degree in chemistry, biochemistry, biology, biological
13 sciences, pharmacology, criminalistics, forensic science,
14 toxicology, or medical technology;

15 B. occupational qualifications: ~~full-time~~ employment
16 or self-employment as a criminalist, crime laboratory analyst,
17 forensic scientist, toxicologist, pathologist, chemist,
18 biochemist, medical technologist, medical laboratory technician,
19 or medical laboratory assistant.