

MAY 20 1996

**Memorandum
Department of Public Safety
Driver and Vehicle Services**

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To: Legislative Commission to Review Administrative Rules

From: Catherine A. Moore
Management Analyst III-Administrative Rules

Date: May 13, 1996

Re: Driver Education Rules

Enclosed for your review is a copy of the Statement of Need and Reasonableness for the proposed driver education rules.

STATE OF MINNESOTA

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

STATE BOARD OF EDUCATION

**In the Matter of the Proposed Rules
Of the Department of Public Safety
& the State Board of Education
Governing Commercial and Public
School Driver Education.**

**STATEMENT OF NEED
AND REASONABLENESS**

General Statement

The Department of Public Safety and the State Board of Education have jointly developed a single set of rules for the administration of commercial, private, parochial, and public high school driver education programs. These rules were developed pursuant to a legislative mandate enacted by 1993 Minnesota Laws, Chapter 224, Article 12, Section 35.

These rules will simplify the regulation of driver education programs. Rather than having separate and potentially conflicting rules for private and public driver education programs, all driver education programs will now be regulated under one set of rules found in Minnesota Rules, Chapter 7411. Minnesota Rules Chapter 3500 will be repealed by the legislature on August 1, 1996.

A Joint Notice of Solicitation was published on August 28, 1995, in the State Registrar. Copies of this notice were sent to all persons on the certified mailing lists of both agencies.

An advisory task force was formed to assist in the development of these rules. The task force was composed of members from the Minnesota Driver and Traffic Safety Education Association, Easy Driving School West, Northland Professional Driving Center, Inc., Comprehensive Safety Systems, Inc., Minnesota Correctional Facility, Minnesota Congress of Parents, Teachers, and Students, and the Minnesota Counsel Serving Deaf and Hard of Hearing People, as well as private individuals. Also invited were the Minnesota Association of School Administrators, the Senate Education Committee, the Senate Transportation and Public Transit Committee, the House Education Committee, and the House Transportation and Transit Committee. The task force met on September 20, 1995, and October 18, 1995.

Statutory Authority

Statutory authority for the promulgation of rules by the Department of Public Safety is set forth in Minnesota Statutes §299A.01, subd. 6 and §14.06. Minnesota Statute §299a.01, subd. 6 provides that the Commissioner of Public Safety shall have the power to promulgate rules pursuant to Minnesota Statutes Chapter 14, as are necessary to carry out the purposes of the statute. Minnesota Statute §14.06 gives the department general rule making authority.

Minnesota Statutes §171.34 grants the specific statutory authority for the adoption of rules regulating commercial driver education, while Minnesota Statutes §126.115 grants authority for the adoption of rules regulating motorcycle safety education programs. Minnesota Statute §171.41 grants the commissioner the right to request and receive the assistance of other state agencies in the development of rules under Minnesota Statutes §§ 171.33 to 171.41. Minnesota Statute § 169.446 allows the commissioner the authority to adopt driver education rules requiring instruction related to the safety of school children.

Specific statutory authority for the joint development of these rules is set forth under Minnesota Laws 1993, Chapter 224, Article 12, Section 35. This law requires the State Board of Education to cooperate with the Department of Public Safety in developing a single set of rules for driver education programs.

Regulatory Analysis

Minnesota Statute §16A.1285 does not apply because the rules do not establish new fees or amend existing ones.

Minnesota Statutes §115.43, subd. 1, and §116.07, subd. 6, and §144A.29, do not apply to these rules.

All commercial driving schools, commercial driving instructors, public high school driving instructors, and driver education students will be affected by the changes to this rule.

Students who receive a better and more thorough driver education will benefit from these rules, as will the general public by virtue of having safer and better drivers. Driver education instruction programs will also benefit from having one set of consistent rules to follow. Costs will be borne by the commercial and public high school driver education programs. Additional costs will be minimal because the new joint rule is very similar to the existing rules.

There are no anticipated additional costs to the agency, or to any other agency for the implementation and enforcement of this rule. There is no anticipated effect on state revenues.

No less costly or intrusive methods for achieving the purpose of the proposed rule are known. Because this is a mandated rule project, no alternate methods were considered.

There is no anticipated increase or change in the cost of complying with the proposed rule versus the existing rules.

There are no significant differences between the proposed rules and existing federal regulations pertaining to this subject matter.

The Joint Notice of Solicitation was mailed to all persons on the certified mailing lists of both the Department of Public Safety and the State Board of Education. A copy of the Notice of Intent to Adopt Rules will be mailed to all persons on the certified mailing lists of both the Department of Public Safety and the State Board of Education. The Notice of Intent to Adopt Rules will also be mailed to all persons on the discretionary mailing lists of both the Department of Public Safety and the State Board of Education. This list includes, but is not limited to, commercial driver education schools, public high school driver education programs, and driver education instructors.

The Department of Public Safety will call Jerry Arvidson, Driving Training Coordinator, and Catherine Moore, Administrative Rulewriter, as witnesses if a hearing is required under Minnesota Statute §14.25.

Rule-by-Rule Analysis

7411.0100 DEFINITIONS

Subpart 2a. Approving authority. This rule has been changed to allow both the Department of Public Safety and the State Board of Education to use the same set of rules for driver education programs. This rule is necessary to reflect the new role each agency will play in the administration and enforcement of this single set of rules. This rule is reasonable because it simplifies the driver education rules and creates consistency among driver education programs.

Subpart 4. Certificate. The word “training” has been changed to “education.” This change is consistent with the original rules of the State Board of Education. In addition, it reflects a progressive approach to driver education with a focus on continued learning and participation, rather than a simple “training” procedure. This rule is necessary to create consistency between the original sets of rules. This change is reasonable because it creates consistency between the original and proposed rules without changing the effect or intent of the law.

Subpart 5. Certified; certified program. See 7411.0100, Subpart 4.

Subpart 9. Commercial driver education school. See 7411.0100, Subpart 4.

Subpart 12. Driver education program; program. See 7411.0100, Subpart 4.

Subpart 12, Item A. See 7411.0100, Subpart 4.

Subpart 12, Item D. This change is necessary to allow one set of rules to serve both the Department of Public Safety and the State Board of Education. It is reasonable because it reduces duplication and creates consistency within the law.

Subpart 13, Item E. See 7411.0100, Subpart 2a.

Subpart 18. Instructor. See 7411.0100, Subpart 4.

7411.0200 PURPOSE.

The word “training” was changed to “education” as described above at 7411.0100, Subpart 4. The remainder of this rule is necessary to explain the intent behind the development of these rules, as well as to clarify why changes were made. It is reasonable because it states this intent clearly and simply.

7411.0400 VEHICLE REQUIREMENTS.

Subpart 1. Safety standards. See 7411.0100, Subparts 2a and 4.

Subpart 1a. Equipment required. The word “training” has been changed to “education” as described above at 7411.0100, Subpart 4. It is necessary to add the requirement of a separate inside rearview or visor mirror for the safety of both the student and instructor. Obviously, if the rear view mirror is properly positioned for the driver of the vehicle, it is very difficult for the instructor to use. This rule is reasonable because it increases the safety of both the driver and passenger(s) with minimal cost and inconvenience.

Subpart 2. Vehicle age; exemption. Adding the word “program” is necessary to ensure that the specific vehicles being used for instruction have been properly insured and are on record with the Department of Public Safety. This is reasonable because insurance is mandatory for all vehicles using the public streets and highways in Minnesota. The word “training” was changed to “education” as described above at 7411.0100, Subpart 4.

Subpart 3. The requirement that a vehicle list be maintained should be repealed because the same information is available on the insurance forms that are filed with the commissioner. This change is necessary to reduce duplication. It is reasonable because it simplifies the administrative process without a loss of valuable information.

Subpart 4. Marking. The word “program” has been added as described in 7411.0400, Subpart 2. The words “and legally” have been added to clarify how the student driver sign must be displayed. This is necessary to prevent people from placing the signs in locations that are illegal and unsafe for driving. This rule is reasonable because it simply clarifies existing standards. The word “training” has been changed to “education” as described above at 7411.0100, Subpart

4. "Commissioner" has been changed to "approving authority" as described above at 7411.0100, Subpart 2A. The requirement that the sign be removed when the vehicle is used for purposes other than driver education is necessary to avoid traffic delays and congestion. People may react differently to a driver education vehicle than they would to an unmarked vehicle. They may refuse to pass the vehicle, divert from the vehicle's pathway, or take other action based upon the belief that the driver is inexperienced. This is unnecessary when the vehicle is not being used for driver education. In addition, this requirement was previously established in the Board of Education's original rules.

Subpart 5. Inspections. "Commissioner" was changed to "approving authority" as described above at 7411.0100, Subpart 2A. "Training" was changed to "education" as described above at 7411.0100, Subpart 4.

Subpart 6. Commercial use. "Training" was changed to "education" as described above at 7411.0100, Subpart 4.

Subpart 6, Item B. "Training" was changed to "education" as described above at 7411.0100, Subpart 4.

Subpart 7. Vehicle supplied by instructor or student. "Training" was changed to "education" as described above at 7411.0100, Subpart 4.

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

Subpart 1. Scope. "Training" was changed to "education" as described above at 7411.0100, Subpart 4.

Subpart 2. Required age and qualifications of students. "Training" was changed to "education" as described above at 7411.0100, Subpart 4.

Subpart 3. Classroom curriculum. "Commissioner" was changed to "approving authority" as described above at 7411.0100, Subpart 2a.

The phrase "The curriculum must present the student with the opportunity:" was changed to "The curriculum presented to the students must include at least the following:." This change is necessary for grammatical purposes, as well as clarity. It is reasonable because it simply clarifies the language of the law without changing its requirements.

Subpart 3, Item A. The words "the opportunity for students to" were added as a result of the language changes in Subpart 2. This change is necessary for grammatical purposes, as well as clarity. It is reasonable because it simply clarifies the language of the law without changing its requirements.

Subpart 3, Item B. The requirement to “analyze and simulate making decisions about the effect of alcohol and other drugs on behavior and driving performance” was expanded upon. The new rule will require providing information on how alcohol and other drugs affect a driver’s ability to safely operate a motor vehicle, as well as information on the effects of alcohol and drugs, the hazards of driving while under the influence of alcohol or drugs (including illegal, prescription, and nonprescription drugs) and the legal penalties and financial consequences which could result as violation of driving under the influence of alcohol or drugs. This change is necessary to create a more comprehensive yet focused alcohol and drug education.

Although alcohol usage among students has declined, there has been an increase in the number of students who drink regularly (once per month) and students who drink at least five drinks when they drink. (Minnesota Student Survey: Perspectives of Youth, 1989, 1992 & 1995.) In addition, the Minnesota Student Survey reported large increases in marijuana use (up from 9.2% to 21.3% for 9th graders and up from 19.3% to 26.8% for 12th graders) and that 12% of both 9th and 12th graders use amphetamines and other stimulants. The report also found that the use of inhalants, LSD, and other hallucinogens has more than doubled since 1992. The report recommends that there must be a continued focus on prevention efforts.

With prevalent use of alcohol and other drugs in Minnesota’s driving aged youth, it is reasonable to emphasize drug and alcohol education as a part of the state’s comprehensive effort of prevention and deterrents.

The language of this rule is consistent with Minn. Stat. §169.121, Subd. 12.

Subpart 3, Item C. See 7411.0510, Subpart 2, Item A.

Subpart 3, Item D. See 7411.0510, Subpart 2, Item A.

Subpart 3, Item E. See 7411.0510, Subpart 2, Item A.

Subpart 3, Item F. See 7411.0510, Subpart 2, Item A.

Subpart 3, Item G. See 7411.0510, Subpart 2, Item A.

Subpart 3, Item H. See 7411.0510, Subpart 2, Item A. The word “leasing” was added to reflect the growing trend of leasing vehicles rather than buying them. This rule is necessary to educate potential lessees about the advantages and disadvantages of leasing. This rule is reasonable in light of the complexity of auto leasing and the limited knowledge and experience new drivers have with auto leasing.

Subpart 3, Item I. See 7411.0510, Subpart 2, Item A.

Subpart 3, Item J. See 7411.0510, Subpart 2, Item A.

Subpart 3, Item M. It is necessary to require education regarding the principles and relationships of tires and surfaces during driving due to the variety of road surfaces Minnesota drivers face. This rule is reasonable because it will allow for a more thorough driver education and may help to decrease auto accidents.

Subpart 3, Item N. It is necessary to add the characteristics of both anti-lock brake and conventional brake systems to driver education programs because many drivers are unfamiliar with the differences between the two systems. This rule is reasonable because it will allow drivers to better utilize the equipment on their vehicles and may help to decrease auto accidents.

Subpart 4. Classroom schedule requirements. See 7411.0100, Subpart 4.

Subpart 6. Concurrent classroom and laboratory instruction. See 7411.0100, Subpart 4.

Subpart 8. Laboratory curriculum. See 7411.0100, Subpart 2a. The phrase the "The curriculum must include:" was changed to "The curriculum presented to the students must include at least the following:." This change is necessary for clarification. It is reasonable because it simply clarifies the language of the law without changing its requirements.

Subpart 9, Item B. See 7411.0100, Subpart 4.

Subpart 9, Item C. See 7411.0100, Subparts 2a and 4.

Subpart 10, Item D. See 7411.0100, Subpart 4.

Subpart 10, Item E. See 7411.0100, Subpart 4.

Subpart 10, Item F. See 7411.0100, Subpart 4.

Subpart 10, Item G. This rule was originally found in the Board of Education's driver education rules. It is necessary to add this rule to allow one set of rules to serve both entities and to ensure the adequate education of each student. This rule is reasonable because each driver has unique needs and characteristics. Tailoring on-street instruction to such needs will help to produce better drivers.

Subpart 10, Item H. This rule is necessary for the safety of both the instructor and the students. National surveys of school age-minors indicate that 15% of those students surveyed carry a gun to school daily. Twenty-two percent of those surveyed say they feel safer having a hand gun or other weapon in their possession when involved in a confrontation. A study by the Centers for Disease Control supports these findings by reporting that over 100,000 students carry guns to school daily (Harris Survey, 1993; Texas A&M University Study, 1992; Centers for Disease Control, 1993.) Reports from the Hennepin County Medical Center have also reported a steady increase in gun-related juvenile victims treated over the past decade.

Minnesota schools are also beginning to see their share of dangerous weapons. No part of the state, no matter how heavily populated, or isolated, is immune from this problem. During the 1993 and 1994 legislative sessions, Minnesota wrestled with the issue of weapons and escalating violence. One of the actions taken was to require schools to report incidents involving dangerous weapons to the Minnesota Department of Children, Families, and Learning.

During the 1994 to 1995 school year reporting period, there were 1224 weapons incident reports, an increase from the 872 reported during the 1993-1994 school year. Of the 385 local school districts reporting in 1994-1995, 156 reported at least one weapon incident. This represents a 12% increase in districts reporting weapon incidents over the 1993-1994 school year. ("Dangerous Weapons Incident Report in Minnesota Schools 1994-1995 School year," Minnesota Department of Children, Families, and Learning, April 1996).

Minnesota Statutes §127.48 requires that each school board have a policy requiring the appropriate school official to refer to the criminal justice or juvenile delinquency system any pupil who brings a firearm to school. Schools' responses to the serious problems of weapons in schools have included zero tolerance policies, suspensions and expulsions, due process investigations and hearings, as well as collaboration with law enforcement agencies.

Given the desire of Minnesota's citizens to address a decrease in weapons possession and use, particularly among adolescents, it is reasonable to prohibit the transportation of firearms in vehicles used for driver education. Driver education rules can play a role in the state's comprehensive efforts to deter the possession of weapons among school-age students and upon school property.

Subpart 12. Additional education for license holders. See 7411.0100, Subpart 4.

Subpart 13. Education limitations. See 7411.0100, Subpart 4.

7411.0550 STUDENT AND COURSE REQUIREMENTS; MOTORCYCLES.

Subpart 1. Scope. See 7411.0100, Subpart 4.

Subpart 2. Classroom curriculum. See 7411.0100, Subparts 2A and 4. The phrase "The curriculum must present a student with the opportunity to:" was changed to "The curriculum presented to the students must include at least the following:." This change is necessary for clarification. It is reasonable because it simply clarifies the language of the law without changing its requirements.

Subpart 2A. The words "become familiar with" were deleted for grammatical purposes. This change is reasonable because it simply clarifies the language of the law without changing its requirements.

Subpart 2B. The word “learn” was deleted for grammatical purposes. This change is reasonable because it simply clarifies the language of the law without changing its requirements.

Subpart 2C. The words “the opportunity for students to” were added for grammatical purposes. This change is reasonable because it simply clarifies the language of the law without changing its requirements.

Subpart 2D. The words “identify and become familiar with” were deleted for grammatical purposes. This change is reasonable because it simply clarifies the language of the law without changing its requirements.

Subpart 2E. The word “learn” was deleted and the word “the” was added for grammatical purposes. This change is reasonable because it simply clarifies the language of the law without changing its requirements.

Subpart 2F. The words “identify” and “prepare” were deleted and the words “the identification of” and “preparation” were added for grammatical purposes. This change is reasonable because it simply clarifies the language of the law without changing its requirements.

Subpart 2G. The words “become familiar with” and “minimize, separate, and compromise” were deleted and the words “reduce the risks of” were added for grammatical purposes. This change is reasonable because it simply clarifies the language of the law without changing its requirements.

Subpart 2H. The word “learn” was deleted and the word “the” was added for grammatical purposes. This change is reasonable because it simply clarifies the language of the law without changing its requirements.

Subpart 2I. The word “prepare” was changed to “preparation” for grammatical purposes. This change is reasonable because it simply clarifies the language of the law without changing its requirements.

Subpart 2J. The words “the opportunity for students to” were added for grammatical purposes. This change is reasonable because it simply clarifies the language of the law without changing its requirements.

Subpart 2K. The requirement to “understand how alcohol and other drugs affect a motorcyclist’s ability to ride safely” was expanded upon. The new rule will require providing information on how alcohol and other drugs affect a driver’s ability to safely operate a motor vehicle, as well as information on the effects of alcohol and drugs, the hazards of driving while under the influence of alcohol or drugs (including illegal, prescription, and nonprescription drugs) and the legal penalties and financial consequences which could result as violation of driving under the influence of alcohol or drugs. This change is necessary to create a more comprehensive yet focused alcohol and drug education.

Although alcohol usage among students has declined, there has been an increase in the number of students who drink regularly (once per month) and students who drink at least five drinks when they drink. (Minnesota Student Survey: Perspectives of Youth, 1989, 1992 & 1995). In addition, the Minnesota Student Survey reported large increases in marijuana use (up from 9.2% to 21.3% for 9th graders and up from 19.3% to 26.8% for 12th graders) and that 12% of both 9th and 12th graders use amphetamines and other stimulants. The report also found that the use of inhalants, LSD, and other hallucinogens has more than doubled since 1992. The report recommends that there must be a continued focus on prevention efforts.

With prevalent use of alcohol and other drugs in Minnesota's driving aged youth, it is reasonable to emphasize drug and alcohol education as a part of the state's comprehensive effort of prevention and deterrents.

The language of this rule is consistent with Minn. Stat. §169.121, Subd. 12.

Subpart 2L. The word "have" was changed to "having" for grammatical purposes. This change is reasonable because it simply clarifies the language of the law without changing its requirements.

Subpart 2M. The word "know" was deleted for grammatical purposes. This change is reasonable because it simply clarifies the language of the law without changing its requirements.

Subpart 2N. The word "know" was deleted for grammatical purposes. This change is reasonable because it simply clarifies the language of the law without changing its requirements.

Subpart 3. Classroom schedule requirement. See 7411.0100, Subpart 4.

Subpart 5. Laboratory curriculum. See 7411.0100, Subpart 2a. The phrase "the curriculum must include:" was changed to "the curriculum presented to the students must include at least the following:" for grammatical purposes. This change is reasonable because it simply clarifies the law without changing its requirements.

Subpart 5, Item B. The phrase "mounting, dismounting, starting, stopping, and walking the motorcycle" was changed to "mounting, dismounting, starting, and stopping the engine; moving the motorcycle." This is necessary for grammatical purposes and to reflect the language set forth in the Motorcycle Rider Course, published by the Motorcycle Safety Foundation. This change is reasonable because it clarifies the existing law and is consistent with nationally accepted standards.

Subpart 5, Item C. The phrase "riding in circles, weaving, making sharp turns, and straight line" was changed to "turning to include: slow, tight turns and higher speed turns." This is necessary for grammatical purposes and to reflect the language set forth in the Motorcycle Rider Course, published by the Motorcycle Safety Foundation.

The Motorcycle Safety Foundation, established in 1973, has set internationally recognized standards of excellence in motorcycle safety. In the past 18 years, the Foundation has trained more than 15,000 motorcycle education instructors, and has provided motorcycle safety instruction to over 824,000 students. Their Motorcycle Rider Course is available in all fifty states, forty of which provide it through legislated state programs. In addition, thirty-seven states use the Foundation's licensing test as a model for their own motorcycle licensing requirements. The Foundation has also drafted a legislative model to assist state authorities in drafting laws incorporating the Foundation's education and training curricula. The Foundation also works closely with the National Highway Traffic Safety Administration and the National Association of State Motorcycle Safety Administrators to promote safety programs and materials designed to improve motorcycle education, testing, and operator licensing.

This change is reasonable because it clarifies the existing law and is consistent with nationally accepted standards.

Subpart 5, Item D. The phrase "turning, adjusting speed, shifting, and accelerating in a turn" was changed to "braking to include: braking technique for stopping in a straight line and in a curve, emergency straight line braking, and emergency braking in a curve." This is necessary for grammatical purposes and to reflect the language set forth in the Motorcycle Rider Course published by the Motorcycle Safety Foundation. This change is reasonable because it clarifies the existing law and is consistent with nationally accepted standards.

Subpart 5, Item E. The word "obstacles" was changed to "hazards." This is necessary for grammatical purposes and to reflect the language set forth in the Motorcycle Rider Course published by the Motorcycle Safety Foundation. This change is reasonable because it clarifies the existing law and is consistent with nationally accepted standards.

Subpart 5, Item F. The phrase "rear wheel skids and quick stops" was changed to "controlling rear wheel skids." This is necessary for grammatical purposes and to reflect the language set forth in the Motorcycle Rider Course, published by the Motorcycle Safety Foundation. This change is reasonable because it clarifies the existing law and is consistent with nationally accepted standards.

Subpart 5, Item G. The phrase "changing lanes and stopping on a curve" was changed to "changing lanes." This is necessary for grammatical purposes and to reflect the language set forth in the Motorcycle Rider Course, published by the Motorcycle Safety Foundation. This change is reasonable because it clarifies the existing law and is consistent with nationally accepted standards.

Subpart 5, Item H. The phrase "selecting a safe speed in cornering maneuvers" was deleted. This is necessary for grammatical purposes and to reflect the language set forth in the Motorcycle Rider Course, published by the Motorcycle Safety Foundation. This change is reasonable because it clarifies the existing law and is consistent with nationally accepted standards.

Subpart 5, Item 1. This rule was renumbered as Subpart 5, Item H. This is necessary due to the deletion of Subpart 5, Item H.

Subpart 5, Item J. This was renumbered as Subpart 5, Item I. This is necessary due to the deletion of Subpart 5, Item H. The words “self evaluation, and planning for future improvement” were added. This is necessary to reflect the language set forth in the Motorcycle Safety Course, published by the Motorcycle Safety Foundation. This change is reasonable because it is consistent with nationally accepted standards.

Subpart 6. Laboratory schedule requirements. The word “driver” was changed to “rider” and the word “driving” was changed to “riding” to reflect the language set forth in the Motorcycle Rider Course, published by the Motorcycle Safety Foundation. This change is reasonable because it is consistent with nationally accepted standards. See also 7411.0100, Subpart 4.

Subpart 7, Item A. See 7411.0550, Subpart 6.

Subpart 7, Item B. See 7411.0550, Subpart 6.

Subpart 7, Item D. See 7411.0550, Subpart 6.

Subpart 7, Item F. See 7411.0550, Subpart 6 and 7411.0100, Subpart 2A.

Subpart 7, Item G. See 7411.0100, Subpart 4.

Subpart 7, Item H. This rule was originally found in the Board of Education’s driver education rules. It is necessary to add this rule to allow one set of rules to serve both entities and to ensure the adequate education of each student. This rule is reasonable because each driver has unique needs and characteristics and tailoring on-street instruction to such needs will produce better drivers.

Subpart 9. Consecutive classroom and laboratory instruction. See 7411.0100, Subpart 4.

Subpart 11. Additional education. See 7411.0100, Subpart 4.

Subpart 12. Education limitations. See 7411.0100, Subpart 4.

7411.0610. INSTRUCTOR REQUIREMENTS.

Subpart 1. License required. See 7411.0100, Subpart 4. The words “and public high school” were added. This change is necessary to allow one set of rules to serve both the Department of Public Safety as well as the Board of Education. This change is reasonable because it reduces duplication and creates consistency within the law. The phrase “parts

8700.4901 and 8700.4902” was changed to “part 8700.4901 or successor rules” to clarify that future licensure requirements must be met. This change is reasonable because it clarifies the law and reduces the need to continually update an existing rule.

Subpart 2. General. The word “commercial” was added before “program instructor.” This is necessary to distinguish a commercial program instructor from a public high school instructor. This change is reasonable because it allows one set of driver education rules to serve two entities.

Subpart 3, Item B. The words “or public high school” were added. This is necessary to ensure that both commercial program instructors and public high school instructors fulfill the requirements of this rule. This change is reasonable because it allows one set of driver education rules to serve two entities.

Subpart 3, Item C. See 7411.0100, Subpart 2A and 7411.0610, Subpart 3, Item B.

Subpart 3, Item D. See 7411.0100, Subpart 2A.

Subpart 4. Driving record. See 7411.0100, Subpart 2A and 7411.0610, Subpart 2. The requirement that instructors notify the Department of Public Safety of all motor vehicle accidents was changed to reporting only those motor vehicle accidents that are required to be reported by law. Under Minnesota Statute §169.09, subd. 7, the driver of a vehicle involved in an accident resulting in bodily injury, death, or property damage of \$500 or greater, must forward a written report of the accident to the commissioner of public safety within ten days. This change is necessary to make the rule consistent with other state laws and to avoid excessive administrative hassles. This rule is reasonable because those accidents that clearly reflect upon the instructor’s driving ability will still be reported to the department.

Subpart 4, Item A. The rule that a person is ineligible to be a commercial instructor if he or she has had a traffic violation, other than an insurance-related traffic violation, within the past three years was changed to a period of ineligibility of one year following the conviction. This is necessary to make this rule consistent with Minn. Stat. §171.38. This is reasonable because it is confusing and inefficient to have conflicting statutes and rules.

Subpart 5. Health. See 7411.0100, Subpart 2A.

Subpart 7. Criminal history. See 7411.0610, Subpart 2. The requirements for a passport picture were deleted because, with new technology, a digital image of each instructor is available from the instructor’s license. This change is necessary to reduce unnecessary administrative hassles. It is reasonable because the same result is met with less regulation and less cost.

Subpart 8. Education for truck, bus, and automobile instructors. See 7411.0100, Subpart 2A and 7411.0610, Subpart 3, Item B. It is both necessary and reasonable to exclude

public high school instructors from the additional training requirements because of the extensive driver training education they receive to become instructors.

Subpart 9. Tests for truck, bus, and automobile instructors. It is necessary and reasonable to exclude public high school driving instructors from additional testing since the necessary tests must be taken and passed as part of obtaining their driver's education teaching degree.

Subpart 10. Education for motorcycle instructors. Additional education requirements for public high school instructors were deleted because of the extensive training public high school instructors obtain in earning their driver education teaching degree.

The word "training" was changed to "education" as described at 7411.0100, Subpart 4.

Course requirements were changed to reflect the guidelines set forth in the Motorcycle Rider Course, published by the Motorcycle Safety Foundation. This change is reasonable because it results in a more comprehensive course of instruction and is consistent with nationally accepted standards.

Subpart 11. Test for motorcycle instructors. Additional education requirements for public high school instructors were deleted because of the extensive training public high school instructors obtain in earning their driving education teaching degree.

Subpart 11, Item D. See 7411.0100, Subpart 4.

Subpart 12. Other requirements for motorcycle instructors. It is necessary and reasonable to exclude public high school instructors from this rule because they are covered by the Board of Teaching licensure rules 8700.4901 and 8700.4902.

Subpart 13, Item A. See 7411.0100, Subpart 4.

Subpart 13, Item B. See 7411.0100, Subpart 4.

7411.0700 PROGRAM REQUIREMENTS.

Subpart 1, Item A. It is necessary to exclude public high schools from the liability insurance requirements to maintain consistency with the original Board of Education driver education rules. This is reasonable because the public school driving programs are already insured through the school systems.

The words "programs must maintain insurance" and "also" were simple grammatical changes. These changes are reasonable because they simply clarify the law without changing its requirements.

Additional insurance is not required when the program training does not occur on public streets. This is reasonable and necessary because the programs carry adequate coverage through their property and business liability insurance.

Subpart 1, Item B. It is necessary to exclude public high schools from the liability insurance requirements to maintain consistency with the original Board of Education driver education rules. This is reasonable because the public school driving programs are already insured through the school systems.

Subpart 1, Item C. The word “commercial” was added for clarification purposes. This change is necessary because these requirements do not apply to public schools as described immediately above. This change is reasonable because it clarifies the law, but does not change existing requirements.

Subpart 1, Item D. See 7411.0100, Subpart 4. The phrase “items B, C, and D do not apply to public high school driver education program” was added to this rule. It is necessary to exclude public high schools from the liability insurance requirements to maintain consistency with the original Board of Education driver education rules. This is reasonable because the public school driving programs are already insured through the school systems.

Subpart 2, Item A. See 7411.0610, Subpart 2, and 7411.0100, Subpart 4.

Subpart 2, Item B. See 7411.0610, Subpart 2.

Subpart 2, Item C. See 7411.0610, Subpart 2.

Subpart 2, Item E. See 7411.0610, Subpart 2.

Subpart 2, Item G. Public high school driver education programs were excluded from this requirement because the location and facilities for public high school driver education programs are regulated by the State Board of Education. This is reasonable because it allows one set of rules to serve both entities and reduces unnecessary regulation.

Subpart 3. Records. It is necessary to increase the record keeping time to a minimum of five years for insurance purposes and to ensure that records are kept until drivers turn 21. This is reasonable because driving records extending back five years are often required to obtain insurance.

Subpart 3, Item A. See 7411.0100, Subpart 4.

Subpart 3, Item C. The requirement that the program maintain a current vehicle file listing the vehicles used, along with their inspection and maintenance records, has been dropped. This is necessary and reasonable because this list of vehicles can be obtained from insurance

records already on file with the department. Additionally, maintenance of the vehicle is not required by statute or rule, therefore, maintenance records are not required.

It is necessary to delete the words “described in items A to C” for grammatical purposes. This change is reasonable because it simply clarifies the existing law without changing its requirements.

It is necessary and reasonable to exclude public high school driver education programs from requirement B because no contracts are used.

Subpart 4. Advertising. See 7411.0100, Subpart 4.

Subpart 4, Item E. It is necessary to add an exception for public high schools because public high school programs may encompass licensing by the Minnesota Department of Children, Families, and Learning. This is reasonable because it allows the rule to accurately reflect the true status of the different types of programs.

Subpart 4, Item F. The phrase “of which the commissioner has been notified” has been replaced with “if applicable.” Again, this change is necessary to allow one set of rules to serve both the Department of Public Safety and the State Board of Education. This is reasonable because it creates consistency amongst driver education programs and reduces duplicative regulation.

Subpart 5, Item A. See 7411.0610, Subpart 2.

Subpart 5, Item B. See 7411.0100, Subpart 4.

Subpart 5, Item E. See 7411.0100, Subpart 4.

Subpart 5, Item F. See 7411.0100, Subpart 4.

Subpart 5, Item G. It is reasonable and necessary to add the sentence “items A to F do not apply to public high school driver education programs.” because public high school driver education programs do not require business contracts with the student.

Subpart 7. Use of driver education vehicle for test. See 741.0100, Subpart 4.

Subpart 8. Authorized official; certificates. An exception for authorized officials is needed because school principals or superintendents often act as authorized officials for the school, in place of or in addition to a driver education instructor. This exception is reasonable because it allows certain school personnel to act as authorized officials, without unnecessarily requiring that they be licensed under Minnesota Rule 8700.4901.

Subpart 8, Item A. It is now required that the verification of completion be submitted on a form approved by the department. This is necessary to ensure consistency and to reduce the

number of incomplete or incorrect forms. This change is reasonable because it will improve the quality of driver education records and save time.

Subpart 8, Item B. See 7411.0100, Subpart 4.

Subpart 9. Instruction requirements. See 7411.0100, Subpart 2A.

Subpart 14. Types of instruction. See 7411.0610, Subpart 2 and 7411.0100, Subpart 4.

Subpart 15. Exemption for experimental programs. It was necessary to add this requirement to ensure that experimental programs meet basic minimum requirements and are reviewed on a regular basis. This is reasonable because of the public safety issues related to driver education, including both the adequate education of drivers and the physical safety of students, instructors, and the general public.

7411.0800 LICENSING AND CERTIFICATION PROVISIONS.

Subpart 1. Legal requirements. An exception for public high school driver education programs is necessary because public high school teachers are already certified as instructors. This is reasonable because it reduces duplication and unnecessary regulation.

Subpart 8, Item D. See 7411.0100, Subpart 4.

Subpart 8, Item F. See 7411.0100, Subpart 4.

Subpart 8, Item G. See 7411.0100, Subpart 4.

Subpart 9. Fees payable to commissioner. It is necessary to delete the words “public safety” because the identity of the commissioner has already been defined at 7411.0100, Subpart 10. This is reasonable because it reduces confusion and decreases unnecessary verbiage.

Subpart 10. Suspension and revocation. It is necessary to add this rule to provide provisions for the suspension or revocation of a public high school program license. This rule is reasonable because it is consistent with the original Board of Education rules and the provisions that apply to all public high school teachers.

7411.0900 EXEMPTION.

Subpart 1. Limited instruction. See 7411.0100, Subpart 4.

Subpart 1, Item A. See 7411.0100, Subpart 4.

Subpart 1, Item B. See 7411.0100, Subpart 4.

REPEALER.

Minnesota Rules, parts 3500.5000 is repealed. This change is necessary because Minnesota Rules, parts 3500.5010 through 3500.5030 will be repealed as of August 1, 1996. This change is reasonable because the rule would be meaningless without parts 3500.5010 through 3500.5030.

Minnesota Rules, part 7411.0400, subpart 3 is repealed. The requirement that a vehicle list be maintained should be repealed because the same information is available on the insurance forms that are filed with the commissioner. This change is necessary to reduce duplication. It is reasonable because it simplifies the administrative process without a loss of valuable information.

CHAPTER 3500, PARTS 3500.5010 TO 3500.5070

As noted above, Chapter 3500 will be repealed under 1993 Minnesota Laws, Chapter 224, Article 12, Sections 39. The effective date of this repeal is August 1, 1996. Because the repeal of these rules is the result of a legislative mandate rather than the rulemaking process, no justification of the reasonableness or necessity is required.

When the public safety and education rules were almost identical, the public safety rules were left intact. When the rules differed, the recommendations of the advisory task force and the needs of each agency were considered. In many of these cases, it was determined that the original public safety rule, even though it differed slightly from the education rule, would be kept. As a result, no amendments were made to the public safety rule and therefore, no explanation of any departure from the original education rule is given in the SONAR. When changes were made to the original public safety rule, the reasonableness and necessity of each change has been set forth above.