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LIQUOR LIABILITY ASSIGNED RISK PLAN 2783.0030

CHAPTER 2783

DEPARTMENT OF COMMERCE

LIQUOR LIABILITY ASSIGNED RISK PLAN

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2783.0010 PURPOSE AND SCOPE.

This chapter governs administration of the liquor liability assigned risk plan hereby established pursuant to Minnesota Statutes, section 340A.409.

Statutory Authority: *MS s 45.023; 340A.409*

History: *10 SR 592; L 1985 c 305 art 6 s 9*

2783.0020 AUTHORITY.

This chapter is adopted under the authority of Minnesota Statutes, sections 45.023 and 340A.409.

Statutory Authority: *MS s 45.023; 340A.409*

History: *10 SR 592; L 1985 c 305 art 6 s 9*

2783.0030 DEFINITIONS.

Subpart 1. Scope. For the purposes of this chapter, the terms defined in this part have the meanings given them unless the context clearly indicates a different meaning.

Subp. 2. Administrator. "Administrator" means the person or persons selected pursuant to part 2783.0040 to administer the assigned risk plan.

Subp. 3. Applicant. "Applicant" means a liquor vendor who makes application to the market assistance plan or the liquor liability assigned risk plan for insurance coverage.

Subp. 4. Assigned risk plan. "Assigned risk plan" means the methods and procedures established pursuant to Minnesota Statutes, section 340A.409, subdivision 3 to provide liquor liability coverage as required by Minnesota Statutes, section 340A.409, subdivisions 1, 2, and 4 to those liquor vendors unable to obtain coverage through insurance companies.

Subp. 5. Commissioner. "Commissioner" means the commissioner of the Department of Commerce.

Subp. 6. Liquor vendor. "Liquor vendor" means any person required by Minnesota Statutes, section 340A.409, subdivisions 1, 2, and 4 to demonstrate proof of financial responsibility.

Subp. 7. Loss. "Loss" means a demand for damages due or allegedly due on which some payment has been made or for which money has been reserved in good faith for actual or possible payment on the demand, exclusive of investigative or legal expenses.

Subp. 8. Market assistance program. "Market assistance program" means the methods and procedures established pursuant to Minnesota Statutes, section 340A.409, subdivisions 1, 2, and 4.

Subp. 9. Monoline liquor liability policy. "Monoline liquor liability policy" means an insurance policy for only one type of coverage. In regard to this chapter, it refers to a policy for only liquor liability insurance without any other type of coverage.

Subp. 10. **Multiline liquor liability policy.** "Multiline liquor liability policy" means an insurance policy which includes more than one type of insurance coverage. In regard to this chapter, it refers to liquor liability insurance offered in conjunction with other types of coverage such as general liability insurance, or fire insurance offered in a single package or policy.

Subp. 11. **Premium.** "Premium" means the price charged to a liquor vendor for coverage under the assigned risk plan for a one-year period.

Subp. 12. **Rate.** "Rate" means the cost of coverage under the assigned risk plan per \$100 of annual liquor sales.

Subp. 13. **Rating plan.** "Rating plan" means the criteria for calculation of rates.

Subp. 14. **Violation.** "Violation" means a conviction or citation for a violation of Minnesota Statutes, sections 340A.701 to 340A.705. If a citation is dismissed or does not result in a conviction within one year of issuance, the citation shall not be deemed to be a violation.

Statutory Authority: *MS s 45.023; 340A.409*

History: *10 SR 592; L 1985 c 305 art 6 s 9; art 9 s 1 to 5*

2783.0040 ASSIGNED RISK PLAN ADMINISTRATION.

Subpart 1. **Administrator.** The assigned risk plan shall be administered by a qualified insurer or vendor of risk management services selected by the commissioner. If the commissioner deems it necessary, he or she may select more than one person to administer the assigned risk plan.

Subp. 2. **Duties.** The administrator shall perform all services necessary to accomplish the purposes of the assigned risk plan, including the servicing of policies of contracts of coverage, data management, and collection of assessments.

Subp. 3. **Appeals.** A liquor vendor adversely affected by a decision of the administrator may object to the decision by appealing to the commissioner within 15 days after the decision. The appeal must be made by letter mailed to the commissioner, with a copy to the administrator, within the 15-day period. The letter must include a summary of the administrator's decision from which the appeal is taken, the basis for objection to the administrator's decision, and any argument or evidence in support of the appeal. Within 15 days after receipt of the letter, the administrator shall file a response, including the basis for the administrator's decision and all argument and evidence in support of the decision. Within ten days after receipt of the administrator's response, the commissioner shall either affirm, reverse, or modify the administrator's decision as the commissioner deems appropriate.

Statutory Authority: *MS s 45.023; 340A.409*

History: *10 SR 592*

2783.0050 ASSIGNED RISK COVERAGE.

Subpart 1. **Generally.** Eligibility for assigned risk coverage is subject to the terms and conditions of subparts 2 and 3.

Subp. 2. **Minimum qualifications.** A liquor vendor who has a current written notice of refusal to insure from an insurer offering liquor liability insurance pursuant to Minnesota Statutes, section 340A.409, subdivision 3, paragraph (b), is entitled to make written application to the assigned risk plan for coverage. Payment of the applicable premium or required portion thereof must be paid prior to coverage by the plan.

An offer of coverage at a rate in excess of the rate charged by the assigned risk plan for similar coverage and risk is a written notice of refusal for purposes of the assigned risk plan. It shall not be deemed to be a written notice of refusal

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if the rate for the coverage offered is less than 20 percent in excess of the assigned risk plan rates for similar coverage and risk. However, the offered rate must also be the rate that the insurer has filed with the Department of Commerce if the insurer is required to file its rates with the department. If the insurer is not required to file its rates with the department, the offered rate must be the rate generally charged by the insurer for similar coverage and risk.

Subp. 3. Disqualifying factors. A liquor vendor shall be denied or terminated from coverage through the assigned risk plan if the liquor vendor:

A. Applies for coverage for only a portion of the liquor vendor's statutory liability under Minnesota Statutes, section 340A.409, subdivisions 1, 2, and 4.

B. Has an outstanding debt due and owing to the assigned risk plan at the time of application or renewal arising from a prior policy.

C. Refuses to permit completion of an audit requested by the commissioner or administrator.

D. Submits misleading or erroneous information to the commissioner or administrator.

E. Disregards safety standards, laws, rules, or ordinances pertaining to the offer, sale, or other distribution of liquor. A combination of losses and violations within the last three years in excess of ten shall be a rebuttable presumption that a liquor vendor is ineligible for the assigned risk plan.

F. Fails to supply information requested by the commissioner or administrator.

G. Fails to comply with the terms of the policies or contracts for coverage issued pursuant to the assigned risk plan.

H. Has not satisfied the requirements of the market assistance program established pursuant to Minnesota Statutes, section 340A.409, subdivisions 1, 2, and 4.

Subp. 4. Disqualification after coverage granted. If an application is filed with the market assistance program less than 15 business days before the expiration date of the applicant's current insurance coverage, the market assistance program may continue to seek coverage for the applicant after coverage is extended by the assigned risk plan. The market assistance program will have 15 business days from the date of filing of the application with the market assistance program to obtain an offer of coverage for the applicant. If the market assistance program is able to secure an offer of coverage for the applicant within 15 business days of filing of the application and if the offer of coverage would not otherwise be considered a refusal for purposes of the assigned risk plan, the applicant will be deemed to not be qualified to participate in the assigned risk plan and coverage, if any, shall be terminated.

Subp. 5. Notice. An application for coverage under the assigned risk plan must be granted or denied within ten days after receipt by the administrator of a properly completed application and any supplemental information requested by the administrator. A liquor vendor covered under the assigned risk plan must be given at least 30 days' notice of nonrenewal or termination of the coverage.

Statutory Authority: *MS s 45.023; 340A.409*

History: *10 SR 592; L 1985 c 305 art 6 s 9*

2783.0060 RATING PLAN.

Rates Applicable To Minimum Coverage Required By Minnesota Statutes,
Section 340A.409, Subdivision 1

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Assigned Risk Liquor Liability Rates

Rate For Three or Fewer Incidents In The Last Three Years

Limits	Package Goods	Restaurants	Bars
50/100	\$.34	\$1.17	\$1.70

Rate For More Than Three Incidents

In The Last Three Years

Four Incidents

50/100 \$6.25

Each incident after the fourth incident will cause the rate charged to be increased by 20 percent over the rate charged for one less incident

For purposes of the rating plan, no experience or scheduled credits apply.

A combined bar and package establishment is rated as a bar for purposes of the plan.

A restaurant for purposes of the rating plan is a liquor vendor whose revenue from liquor sales is less than 50 percent of its combined liquor and food sales.

A bar for purposes of the rating plan is a liquor vendor whose revenues from liquor sales is 50 percent or more of its combined liquor and food sales.

An incident is either a loss or a violation. A loss and the violation that resulted in that loss are deemed to be one incident for purposes of the rating plan. A loss shall not be considered an incident for purposes of the rating plan if the circumstances which resulted in that loss would not result in a loss at the time of application to the assigned risk plan because state law prohibits recovery by an insurance company against any liquor vendor under subrogation clauses of the uninsured, underinsured, collision, or other first party coverages of a motor vehicle insurance policy as a result of payments made by the company to persons who have claims that arise in whole or in part under Minnesota Statutes, section 340A.801. The applicant shall have the burden of proof to establish that a loss which occurred prior to the adoption of Minnesota Statutes, section 340A.801 should not be classified as a loss.

The rates charged by the assigned risk plan shall not be deemed to be the maximum rates allowed to be charged for liquor liability insurance in Minnesota.

Upon adoption of this chapter any certificate of coverage previously issued by the assigned risk plan shall be subject to retroactive rebate, dividend, surcharge or other charge as may be necessitated by the adoption of this rating plan. Premiums for certificates of coverage previously issued shall be determined as if this rating plan were in effect at the time of issuance of the certificate of coverage.

Statutory Authority: *MS s 45.023; 340A.409*

History: *10 SR 592; L 1985 c 306 art 6 s 9; art 10 s 1; 13 SR 1774*

2783.0070 ASSESSMENTS.

In the event the commissioner deems it necessary to make an assessment pursuant to Minnesota Statutes, section 340A.409, subdivision 3, paragraph (d), an assessed insurer must pay the assessment within 30 days of receipt of notice of the assessment. The commissioner may suspend or revoke an insurer's certificate of authority, and/or impose a civil penalty in an amount not to exceed \$5,000, for an insurer's failure to pay the assessment within the 30-day period.

Statutory Authority: *MS s 45.023; 340A.409*

History: *10 SR 592; L 1985 c 305 art 6 s 9*

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2783.0080 POLICY AND RATE FILING.

All policies or riders of licensed insurers concerning liquor liability insurance, together with any rate schedules, must be filed with the Department of Commerce within 30 days of any sales in Minnesota.

All surplus lines brokers selling liquor liability insurance must file the policies, riders, as well as any scheduled rates regarding this insurance, with the Department of Commerce within 30 days of any sales in Minnesota.

Statutory Authority: *MS s 45.023; 340A.409*

History: *10 SR 592*

2783.0090 ASSIGNED RISK PLAN ADVISORY COMMITTEE.

Subpart 1. Appointment. The commissioner shall appoint a committee to advise the commissioner regarding operation of the assigned risk plan. The committee shall be comprised of 11 members, four of which shall be insurers, one of which shall be a vendor of risk management services, two of which shall be insurance agents, two of which shall be liquor vendors, and two of which shall be public members. The administrator and a representative of the commissioner shall be ex officio members of the assigned risk plan advisory committee.

Subp. 2. Meetings. The assigned risk plan advisory committee shall meet at such times as the commissioner may request.

Statutory Authority: *MS s 45.023; 340A.409*

History: *10 SR 592*

2783.0100 REQUEST FOR INFORMATION.

Subpart 1. Commissioner's power. The commissioner may require a liquor vendor or licensed insurer to provide the information the commissioner considers appropriate to implement the provisions and further the purposes of the assigned risk plan.

Subp. 2. Administrator's power. The administrator may require a liquor vendor to provide the information the administrator considers appropriate to administer the assigned risk plan.

Statutory Authority: *MS s 45.023; 340A.409*

History: *10 SR 592*