

7409.4500 PRELIMINARY HEARING.

Subpart 1. **Preliminary hearing required.** A person must attend a preliminary hearing when the commissioner has sufficient cause to believe the person:

A. has committed a violation under Minnesota Statutes, section 171.22, for an unlawful or fraudulent act regarding a driver's license or Minnesota identification card;

B. has committed a second violation under Minnesota Statutes, section 171.09, except for total abstinence restrictions, for a violation of a restriction imposed on the person's driver's license; or

C. was not previously sent a warning letter under part 7409.2200, subpart 1, and is convicted of:

- (1) two misdemeanor traffic offenses within a 12-month period;
- (2) four traffic offenses within a 12-month period; or
- (3) five traffic offenses within a 24-month period.

Subp. 2. **Scope of review.** The commissioner shall review the evidence upon which the preliminary hearing was based, and any other material information brought to the attention of the commissioner.

The commissioner may seek additional information from the person undergoing the preliminary hearing or from an agency or person believed to have information relating to the facts underlying the preliminary hearing. The person required to undergo a preliminary hearing may present additional information to the commissioner at the hearing.

Subp. 3. **Suspension period.** If, after reviewing the evidence presented at the preliminary hearing, the commissioner has sufficient cause to believe that the person has committed an offense listed in:

A. subpart 1, item A or B, the commissioner shall suspend the driver's license or driving privilege for 30 days; or

B. subpart 1, item C, the commissioner shall suspend the driver's license of the person for 30 days or in accordance with the number of traffic convictions accumulated, as set forth in part 7409.2200, subpart 1, unless the person agrees to enter into a driver improvement agreement, as set forth in part 7409.4700, subpart 2.

Subp. 4. **Failure to attend preliminary hearing.** The commissioner shall:

A. cancel the driver's license or driving privilege of a person who fails to attend a preliminary hearing under subpart 1, item A or B, which remains in effect until the preliminary hearing has been held; or

B. suspend the driver's license of a person who fails to attend a preliminary hearing under subpart 1, item C, for 30 days or in accordance with the number of traffic convictions accumulated, as set forth in part 7409.2200, subpart 1.

Subp. 5. **Notice of preliminary hearing.** The commissioner shall send a notice to the person who is required to attend a preliminary hearing by first class mail to the person's last known address or to the address listed on the person's driver's license informing the person:

- A. the reason for the preliminary hearing;
- B. of the time, date, and place of the hearing and, if necessary, instructions to reschedule the hearing; and
- C. that failure to attend the hearing will result in suspension of the person's driver's license.

Statutory Authority: *MS s 14.06; 169.792; 169.795; 169.798; 299A.01*

History: *16 SR 1177; L 1992 c 571 art 14 s 13; 27 SR 466*

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