

**7422.0600 ALCOHOL AND CONTROLLED SUBSTANCES USE PROHIBITION;
VIOLATION.**

Subpart 1. **Prohibition of alcohol consumption and controlled substances use.** A person who holds a motorcycle road guard certificate shall not perform the duties of a motorcycle road guard, either while operating a motor vehicle or while standing in, or in proximity to, an intersection, under part 7422.0200:

- A. while consuming alcoholic beverages or while using controlled substances; or
- B. while physical evidence is present in the person's body that the person has consumed alcohol or a controlled substance.

Subp. 2. **Use of preliminary screening test.** When a peace officer has reason to believe that a motorcycle road guard may be violating or has violated subpart 1, the officer may require the driver to provide a sample of the motorcycle road guard's breath for a preliminary screening using a device approved by the commissioner for this purpose.

Subp. 3. **Use of preliminary screening test result.** Upon a positive test administered under subpart 2 of a motorcycle road guard, or a test refusal of a motorcycle road guard, a peace officer shall:

- A. confiscate the road guard's certificate; and
- B. notify the commissioner.

Subp. 4. **Administrative disqualification.** When the commissioner is notified under subpart 3 that a person who holds a motorcycle road guard certificate has violated this part or that a person who holds a motorcycle road guard certificate has refused a test under subpart 2, the commissioner shall:

- A. disqualify the motorcycle road guard certificate; and
- B. not issue a motorcycle road guard certificate to the person described in this subpart for a period of ten years from the date of disqualification of the motorcycle road guard certificate.

Subp. 5. **Reason to believe.** For purposes of this part, "reason to believe" means from the manner in which a motorcycle road guard is driving, operating, controlling, or acting upon departure from a motor vehicle, or has driven, operated, or controlled a motor vehicle, or grounds put forth in good faith which are not arbitrary, irrational, unreasonable, or irrelevant and which make the proposition asserted more likely than not. Grounds upon which reason to believe are based include:

- A. facts or statements supplied by the motorcycle road guard;
- B. driver's license record and accident records;
- C. court documents and police records;

D. facts of which the peace officer has personal knowledge; and/or

E. a blood, breath, or urine test indicating the presence of alcohol or controlled substances, or a test refusal.

Subp. 6. **Appeal.** A person whose motorcycle road guard certificate is disqualified under this part may appeal the commissioner's disqualification under the contested case procedures of Minnesota Statutes, chapter 14.

Statutory Authority: *MS s 171.60*

History: *39 SR 157*

Published Electronically: *August 13, 2014*