

7503.1775 EMPLOYMENT EXCEPTION.

Subpart 1. **Authority.** Pursuant to Minnesota Statutes, section 171.306, subdivision 4, paragraph (b), the commissioner shall grant an employment exception variance to a program participant when the conditions of variance have been satisfied in order for the program participant to drive, operate, or be in physical control of an employer-owned motor vehicle.

Subp. 2. **Persons not eligible.** The commissioner shall not grant an employment exception variance to a program participant who is self-employed, or to a person who wholly or partially owns an entity that owns an employer-owned motor vehicle.

Subp. 3. **Restrictions and limitations.** A program participant who is granted an employment variance shall not drive, operate, or be in physical control of any of the following:

- A. a rental car in the normal course and scope of employment duties;
- B. an employer-owned motor vehicle for personal use; or
- C. a Type III vehicle, within the meaning of Minnesota Statutes, section 169.011, where the program participant is transporting children under the age of 18 or vulnerable adults within the meaning of Minnesota Statutes, section 626.5572, subdivision 21.

Subp. 4. **Variance procedure.** The program participant requesting the variance shall submit the variance request in writing to the commissioner. The request must include a letter from the program participant's employer that:

- A. describes the program participant's need for use of an employer-owned motor vehicle;
- B. specifies the normal course and scope of employment duties of the program participant;
- C. avers that the employer-owned motor vehicle to be operated by the program participant must display special registration plates under Minnesota Statutes, section 169A.60; and
- D. must be notarized or completed in the presence of an authorized representative of the commissioner.

Subp. 5. **Variance criteria; conditions.** The commissioner shall grant a variance request if:

- A. the request was made as prescribed in subpart 4;
- B. the variance will have no potential adverse effect on public safety;
- C. the variance has only future effect; and
- D. the variance does not vary a statutory standard.

Subp. 6. **Notice of decision.** The commissioner shall notify the program participant in writing of the commissioner's decision to grant or deny the variance.

A. If the variance is granted, the notice must specify the period of time for which the variance will be effective.

B. The commissioner shall deny the variance request if the commissioner determines that the criteria in subpart 4 or 5 are not met.

C. If the variance is denied, the denial notice must specify the reasons for the denial and indicate that the program participant may request a review of the commissioner's decision. A person who disagrees with a decision of the commissioner issued under this part may request a contested case hearing. The request for a contested case hearing must be submitted in writing to the commissioner within 15 days of the date of the commissioner's decision. The request for a contested case hearing must set out in detail the reasons why the person contends the decision of the commissioner should be reversed or modified. If the commissioner receives a written request for a contested case hearing, the commissioner shall schedule a hearing within 30 days after the request is received under the procedures in Minnesota Statutes, sections 14.57 to 14.62, and the contested case rules of the Office of Administrative Hearings in parts 1400.5010 to 1400.8400. The decision of the administrative law judge shall be submitted to the commissioner for the commissioner's consideration. The commissioner's decision on the issue under appeal is the final decision of the department.

D. The program participant must have proof of the variance in the program participant's possession while driving, operating, or being in physical control of the employer-owned motor vehicle.

E. If the program participant violates the conditions attached to the variance, the program participant is subject to the enforcement actions and penalties attached to the applicable law or rule.

F. The program participant to whom a variance has been granted shall notify the commissioner in writing within 15 calendar days of a change in the conditions on which the variance was granted, or if the program participant is no longer employed by the employer under whom the variance is granted.

Statutory Authority: *MS s 14.388*

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