

1 Department of Commerce

2

3 Adopted Rules Relating to the Liquor Liability Assigned Risk
4 Plan

5

6 Rules as Adopted

7

CHAPTER 2783

8

DEPARTMENT OF COMMERCE

9

LIQUOR LIABILITY ASSIGNED RISK PLAN

10 2783.0010 PURPOSE AND SCOPE.

11 This chapter governs administration of the liquor liability
12 assigned risk plan hereby established pursuant to Minnesota
13 Statutes, section 340.11, subdivisions 21 and 23.

14 2783.0020 AUTHORITY.

15 This chapter is adopted under the authority of Minnesota
16 Statutes, sections 45.023 and 340.11, subdivisions 21 and 23.

17 2783.0030 DEFINITIONS.

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

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

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

27 Subp. 4. Assigned risk plan. "Assigned risk plan" means
28 the methods and procedures established pursuant to Minnesota
29 Statutes, section 340.11, subdivision 23 to provide liquor
30 liability coverage as required by Minnesota Statutes, section
31 340.11, subdivision 21 to those liquor vendors unable to obtain
32 coverage through insurance companies.

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

35 Subp. 6. Liquor vendor. "Liquor vendor" means any person

1 required by Minnesota Statutes, section 340.11, subdivision 21
2 to demonstrate proof of financial responsibility.

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

8 Subp. 8. Market assistance program. "Market assistance
9 program" means the methods and procedures established pursuant
10 to Minnesota Statutes, section 340.11, subdivision 21.

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

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

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

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

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

30 Subp. 14. Violation. "Violation" means a conviction or
31 citation for a violation of Minnesota Statutes, sections 340.70
32 to 340.86. If a citation is dismissed or does not result in a
33 conviction within one year of issuance, the citation shall not
34 be deemed to be a violation.

35 2783.0040 ASSIGNED RISK PLAN ADMINISTRATION.

36 Subpart 1. Administrator. The assigned risk plan shall be

1 administered by a qualified insurer or vendor of risk management
2 services selected by the commissioner. If the commissioner
3 deems it necessary, he or she may select more than one person to
4 administer the assigned risk plan.

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

9 Subp. 3. Appeals. A liquor vendor adversely affected by a
10 decision of the administrator may object to the decision by
11 appealing to the commissioner within 15 days after the
12 decision. The appeal must be made by letter mailed to the
13 commissioner, with a copy to the administrator, within the
14 15-day period. The letter must include a summary of the
15 administrator's decision from which the appeal is taken, the
16 basis for objection to the administrator's decision, and any
17 argument or evidence in support of the appeal. Within 15 days
18 after receipt of the letter, the administrator shall file a
19 response, including the basis for the administrator's decision
20 and all argument and evidence in support of the decision.
21 Within ten days after receipt of the administrator's response,
22 the commissioner shall either affirm, reverse, or modify the
23 administrator's decision as the commissioner deems appropriate.

24 2783.0050 ASSIGNED RISK COVERAGE.

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

28 Subp. 2. Minimum qualifications. A liquor vendor who has
29 a current written notice of refusal to insure from an insurer
30 offering liquor liability insurance pursuant to Minnesota
31 Statutes, section 340.11, subdivision 23, clause (2), is
32 entitled to make written application to the assigned risk plan
33 for coverage. Payment of the applicable premium or required
34 portion thereof must be paid prior to coverage by the plan.

35 An offer of coverage at a rate in excess of the rate
36 charged by the assigned risk plan for similar coverage and risk

1 is a written notice of refusal for purposes of the assigned risk
2 plan. It shall not be deemed to be a written notice of refusal
3 if the rate for the coverage offered is less than 20 percent in
4 excess of the assigned risk plan rates for similar coverage and
5 risk. However, the offered rate must also be the rate that the
6 insurer has filed with the Department of Commerce if the insurer
7 is required to file its rates with the department. If the
8 insurer is not required to file its rates with the department,
9 the offered rate must be the rate generally charged by the
10 insurer for similar coverage and risk.

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

14 A. Applies for coverage for only a portion of the
15 liquor vendor's statutory liability under Minnesota Statutes,
16 section 340.11, subdivision 21.

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

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

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

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

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

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

34 H. Has not satisfied the requirements of the market
35 assistance program established pursuant to Minnesota Statutes,
36 section 340.11, subdivision 21.

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

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

23 2783.0060 RATING PLAN.

24 RATES APPLICABLE TO MINIMUM COVERAGE REQUIRED BY
 25 MINNESOTA STATUTES, SECTION 340.11, SUBDIVISION 21,
 26 PARAGRAPH (a)

27
 28 ASSIGNED RISK LIQUOR LIABILITY RATES
 29 RATE FOR THREE OR FEWER INCIDENTS
 30 IN THE LAST THREE YEARS

31

32 LIMITS	33 PACKAGE GOODS	RESTAURANTS	BARS
34 50/100	35 \$.42	\$1.52	\$1.89

36
 37 RATE FOR MORE THAN THREE INCIDENTS
 38 IN THE LAST THREE YEARS

1 Four Incidents

2
3 50/100 \$6.254
5 Each incident after the fourth incident will
6 cause the rate charged to be increased by 20
7 percent over the rate charged for one less
8 incident

9

10 For purposes of the rating plan, no experience or scheduled
11 credits apply.12 A combined bar and package establishment is rated as a bar
13 for purposes of the plan.14 A restaurant for purposes of the rating plan is a liquor
15 vendor whose revenue from liquor sales is less than 50 percent
16 of its combined liquor and food sales.17 A bar for purposes of the rating plan is a liquor vendor
18 whose revenues from liquor sales is 50 percent or more of its
19 combined liquor and food sales.20 An incident is either a loss or a violation. A loss and
21 the violation that resulted in that loss are deemed to be one
22 incident for purposes of the rating plan. A loss shall not be
23 considered an incident for purposes of the rating plan if the
24 circumstances which resulted in that loss would not result in a
25 loss at the time of application to the assigned risk plan
26 because state law prohibits recovery by an insurance company
27 against any liquor vendor under subrogation clauses of the
28 uninsured, underinsured, collision, or other first party
29 coverages of a motor vehicle insurance policy as a result of
30 payments made by the company to persons who have claims that
31 arise in whole or in part under Minnesota Statutes, section
32 340.95. The applicant shall have the burden of proof to
33 establish that a loss which occurred prior to the adoption of
34 Minnesota Statutes, section 340.95, subdivision 2 should not be
35 classified as a loss.36 The rates charged by the assigned risk plan shall not be
37 deemed to be the maximum rates allowed to be charged for liquor
38 liability insurance in Minnesota.

39 Upon adoption of this chapter any certificate of coverage

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

7 2783.0070 ASSESSMENTS.

8 In the event the commissioner deems it necessary to make an
9 assessment pursuant to Minnesota Statutes, section 340.11,
10 subdivision 23, clause (4), an assessed insurer must pay the
11 assessment within 30 days of receipt of notice of the
12 assessment. The commissioner may suspend or revoke an insurer's
13 certificate of authority, and/or impose a civil penalty in an
14 amount not to exceed \$5,000, for an insurer's failure to pay the
15 assessment within the 30-day period.

16 2783.0080 POLICY AND RATE FILING.

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

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

25 2783.0090 ASSIGNED RISK PLAN ADVISORY COMMITTEE.

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

35 Subp. 2. Meetings. The assigned risk plan advisory

1 committee shall meet at such times as the commissioner may
2 request.

3 2783.0100 REQUEST FOR INFORMATION.

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

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