

## CHAPTER 136—H.F.No. 825

*An act relating to traffic regulations; amending the implied consent law advisory; simplifying the contents of a petition for judicial review under the implied consent law; amending Minnesota Statutes 1990, section 169.123, subdivisions 2 and 5c.*

## BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 1990, section 169.123, subdivision 2, is amended to read:

Subd. 2. **IMPLIED CONSENT; CONDITIONS; ELECTION AS TO TYPE OF TEST.** (a) Any person who drives, operates, or is in physical control of a motor vehicle within this state or upon the ice of any boundary water of this state consents, subject to the provisions of this section and section 169.121, to a chemical test of that person's blood, breath, or urine for the purpose of determining the presence of alcohol or a controlled substance. The test shall be administered at the direction of a peace officer. The test may be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a motor vehicle in violation of section 169.121 and one of the following conditions exist:

- (1) the person has been lawfully placed under arrest for violation of section 169.121, or an ordinance in conformity with it;
- (2) the person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death;
- (3) the person has refused to take the screening test provided for by section 169.121, subdivision 6; or
- (4) the screening test was administered and recorded an alcohol concentration of 0.10 or more.

The test may also be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a commercial motor vehicle with the presence of any alcohol.

(b) At the time a test is requested, the person shall be informed:

(1) that Minnesota law requires the person to take a test to determine if the person is under the influence of alcohol or a controlled substance or, if the motor vehicle was a commercial motor vehicle, that Minnesota law requires the person to take a test to determine the presence of alcohol;

(2) that if testing is refused, ~~the person may be subject to criminal penalties,~~ and the person's right to drive will be revoked for a minimum period of one year or, if the person is under the age of 18 years, for a period of one year or until the person reaches the age of 18 years, whichever is greater and, if the vehicle was a commercial motor vehicle, that the person will be disqualified from operating a commercial motor vehicle for a minimum period of one year;

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(3) that if a test is taken and the results indicate ~~that the person is under the influence of alcohol or a controlled substance; the person will be subject to criminal penalties and~~ an alcohol concentration of 0.10 or more, the person's right to drive ~~may~~ will be revoked for a minimum period of 90 days or, if the person is under the age of 18 years, for a period of six months or until the person reaches the age of 18 years, whichever is greater, and, if the vehicle was a commercial motor vehicle, that if the test results indicate the presence of any alcohol, the person will be prohibited from operating a commercial motor vehicle for 24 hours from issuance of an out-of-service order, and if the results indicate an alcohol concentration of 0.04 or more, the person ~~will be subject to criminal penalties and~~ will be disqualified from operating a commercial motor vehicle for a minimum period of one year;

(4) that whether a test is taken or refused, the person may be subject to criminal prosecution for an alcohol or controlled substance related driving offense;

(5) that if testing is refused and the person's right to drive has been revoked once within the past five years or two or more times within the past ten years for an alcohol or controlled substance related driving offense, the person may be subject to criminal prosecution because the person refused testing;

(6) that after submitting to testing, the person has the right to consult with an attorney and to have additional tests made by someone of the person's own choosing; and

~~(5)~~ (7) that if the person refuses to take a test, the refusal ~~will~~ may be offered into evidence against the person at trial.

(c) The peace officer who requires a test pursuant to this subdivision may direct whether the test shall be of blood, breath, or urine. Action may be taken against a person who refuses to take a blood test only if an alternative test was offered and action may be taken against a person who refuses to take a urine test only if an alternative test was offered.

Sec. 2. Minnesota Statutes 1990, section 169.123, subdivision 5c, is amended to read:

Subd. 5c. **PETITION FOR JUDICIAL REVIEW.** Within 30 days following receipt of a notice and order of revocation or disqualification pursuant to this section, a person may petition the court for review, unless the person is entitled to review under section 171.166. The petition shall be filed with the district court administrator in the county where the alleged offense occurred, together with proof of service of a copy on the commissioner of public safety, and accompanied by the standard filing fee for civil actions. No responsive pleading shall be required of the commissioner of public safety, and no court fees shall be charged for the appearance of the commissioner of public safety in the matter.

The petition shall be captioned in the full name of the person making the

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petition as petitioner and the commissioner of public safety as respondent. The petition must include the petitioner's date of birth, driver's license number, and date of the offense. The petition shall state with specificity the grounds upon which the petitioner seeks rescission of the order of revocation, disqualification, or denial ~~and state the facts underlying each claim asserted.~~

The filing of the petition shall not stay the revocation, disqualification, or denial. The reviewing court may order a stay of the balance of the revocation or disqualification if the hearing has not been conducted within 60 days after filing of the petition upon terms the court deems proper. Judicial reviews shall be conducted according to the rules of civil procedure.

Sec. 3. **EFFECTIVE DATE.**

Section 2 is effective the day after final enactment.

Presented to the governor May 17, 1991

Signed by the governor May 21, 1991, 1:32 p.m.

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**CHAPTER 137—H.F.No. 1066**

*An act relating to health; modifying the definition of and requirements related to review organizations; amending Minnesota Statutes 1990, sections 145.61, subdivisions 4a, 5, and by adding a subdivision; 145.63, subdivision 1; and 145.64.*

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:**

Section 1. Minnesota Statutes 1990, section 145.61, subdivision 4a, is amended to read:

Subd. 4a. "Administrative staff" means the staff of a hospital ~~or~~ clinic, nonprofit health service plan corporation, or health maintenance organization.

Sec. 2. Minnesota Statutes 1990, section 145.61, is amended by adding a subdivision to read:

Subd. 4b. "Consumer director" means a director of a health service plan corporation or health maintenance organization who is not a licensed or registered health care professional.

Sec. 3. Minnesota Statutes 1990, section 145.61, subdivision 5, is amended to read:

Subd. 5. "Review organization" means a nonprofit organization acting according to clause (k) or a committee whose membership is limited to professionals ~~and~~, administrative staff, and consumer directors, except where other-

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