

Sec. 9. Minnesota Statutes 1994, section 13.99, is amended by adding a subdivision to read:

Subd. 42b. **REPORT OF VIOLATIONS.** Certain reports of violations submitted to the board of medical practice are classified under section 147.121.

Sec. 10. Minnesota Statutes 1994, section 13.99, is amended by adding a subdivision to read:

Subd. 85a. **CERTIFICATE OF VALUE.** Data in a real estate certificate of value filed with the county auditor is classified under section 272.115, subdivision 1.

Sec. 11. Minnesota Statutes 1994, section 13.99, is amended by adding a subdivision to read:

Subd. 86a. **POLITICAL CONTRIBUTION REFUND.** Certain political contribution refund data in the revenue department are classified under section 290.06, subdivision 23.

Sec. 12. Minnesota Statutes 1994, section 13.99, is amended by adding a subdivision to read:

Subd. 86b. **GROSS EARNINGS TAXES.** Certain patient data provided to the department of revenue under chapter 295 are classified under section 295.57, subdivision 2.

Sec. 13. Minnesota Statutes 1994, section 13.99, is amended by adding a subdivision to read:

Subd. 92g. **LOTTERY PRIZE WINNER.** Certain data on lottery prize winners are classified under section 349A.08, subdivision 9.

Sec. 14. Minnesota Statutes 1994, section 13.99, is amended by adding a subdivision to read:

Subd. 100a. **CHILD SUPPORT ATTORNEYS.** Certain data provided by an applicant or recipient of child support enforcement services are classified under section 518.255.

Presented to the governor April 4, 1996

Signed by the governor April 11, 1996, 11:52 a.m.

CHAPTER 441—S.F.No. 315

VETOED

CHAPTER 442—S.F.No. 2340

An act relating to crimes; driving while intoxicated; expanding the prohibitions of the driving while intoxicated and criminal vehicular operation laws to include persons who operate a motor

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vehicle or airplane with the presence of any amount of certain controlled substances in their bodies; providing a defense for controlled substance use that complies with a lawfully issued prescription; expanding criminal vehicular operation law to include conduct resulting in bodily harm and to recodify certain hit and run crimes; requiring issuance of special registration plates to certain nonviolinator owners; recodifying law providing penalties and license suspension to youth under 21 who drive after drinking; providing a longer waiting period before the issuance of a limited license following DWI and certain other offenses if the driver is under the age of 18 years; clarifying the application of consecutive sentencing provisions to impaired driving and driver's license offenses arising out of a single course of conduct; requiring the POST board to develop a plan to train peace officers in drug recognition techniques; driving while intoxicated; making clarifying technical changes; prescribing penalties; appropriating money; amending Minnesota Statutes 1994, sections 168.042, subdivision 8, and by adding a subdivision; 169.01, by adding subdivisions; 169.121, subdivisions 1, 1c, 2, 3, 4, 6, and 10a; 169.123, subdivisions 2, 2a, 3, 4, and 6; 169.129; 169.791, by adding a subdivision; 169.797, subdivision 4; 171.30, by adding a subdivision; 360.0752, subdivisions 1, 2, 5, 6, and 7; 360.0753, subdivisions 2, 3, and 6; 609.21; and 629.471, subdivision 2; Minnesota Statutes 1995 Supplement, sections 171.18, subdivision 1; and 340A.503, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 169; and 171.

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

Section 1. Minnesota Statutes 1994, section 168.042, subdivision 8, is amended to read:

Subd. 8. **REISSUANCE OF REGISTRATION PLATES.** (a) The commissioner shall rescind the impoundment order of a person subject to an order under this section, other than the violator, if a:

(1) the violator had a valid driver's license on the date of the violation and the person subject to an impoundment order under this section, other than the violator, files with the commissioner an acceptable sworn statement containing the following information:

(1) (i) that the person is the registered owner of the vehicle from which the plates have been impounded under this section;

(2) (ii) that the person is the current owner and possessor of the vehicle used in the violation;

(3) (iii) the date on which the violator obtained the vehicle from the registered owner;

(4) (iv) the residence addresses of the registered owner and the violator on the date the violator obtained the vehicle from the registered owner;

(5) (v) that the person was not a passenger in the vehicle at the time of the violation; and

(6) (vi) that the person knows that the violator may not drive, operate, or be in physical control of a vehicle without a valid driver's license; or

(2) the violator did not have a valid driver's license on the date of the violation and the person made a report to law enforcement before the violation stating that the vehicle had been taken from the person's possession or was being used without permission.

(b) ~~The commissioner may not rescind the impoundment order nor reissue registration plates to a registered owner if the owner knew or had reason to know that the violator~~

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~~did not have a valid driver's license on the date the violator obtained the vehicle from the owner. A person who has failed to make a report as provided in paragraph (a), clause (2), may be issued special registration plates under subdivision 12 for a period of one year from the effective date of the impoundment order. At the next registration renewal following this period, the person may apply for regular registration plates.~~

(c) If the order is rescinded, the owner shall receive new registration plates at no cost, if the plates were seized and destroyed.

Sec. 2. Minnesota Statutes 1994, section 168.042, is amended by adding a subdivision to read:

Subd. 13a. ACQUIRING ANOTHER VEHICLE. If during the effective period of the plate impoundment the violator applies to the commissioner for registration plates for any vehicle, the commissioner shall not issue registration plates unless the violator qualifies for special registration plates under subdivision 12 and unless the plates issued are special plates as described in subdivision 12.

Sec. 3. Minnesota Statutes 1994, section 169.01, is amended by adding a subdivision to read:

Subd. 82. CONTROLLED SUBSTANCE. "Controlled substance" has the meaning given in section 152.01, subdivision 4.

Sec. 4. Minnesota Statutes 1994, section 169.01, is amended by adding a subdivision to read:

Subd. 83. HAZARDOUS SUBSTANCE. "Hazardous substance" means any chemical or chemical compound that is listed as a hazardous substance in rules adopted under chapter 182.

Sec. 5. Minnesota Statutes 1994, section 169.121, subdivision 1, is amended to read:

Subdivision 1. CRIME; ACTS PROHIBITED. It is a crime for any person to drive, operate, or be in physical control of any motor vehicle within this state or upon the ice of any boundary water of this state under any of the following circumstances:

- (a) when the person is under the influence of alcohol;
- (b) when the person is under the influence of a controlled substance, as defined in section 152.01, subdivision 4;
- (c) when the person is under the influence of a combination of any two or more of the elements named in clauses (a), (b), and (f);
- (d) when the person's alcohol concentration is 0.10 or more;
- (e) when the person's alcohol concentration as measured within two hours of the time of driving, operating, or being in physical control of the motor vehicle is 0.10 or more; or
- (f) when the person is knowingly under the influence of any chemical compound or combination of chemical compounds that is listed as a hazardous substance in rules adopted under section 182.655 and that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motor vehicle; or

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(g) when the person's body contains any amount of a controlled substance listed in schedule I or II other than marijuana or Tetrahydrocannabinols.

Sec. 6. Minnesota Statutes 1994, section 169.121, subdivision 1c, is amended to read:

Subd. 1c. **CONDITIONAL RELEASE.** Unless maximum bail is imposed under section 629.471, subdivision 2, a person charged with violating subdivision 1 within ten years of the first of three prior impaired driving convictions or within the person's lifetime after four or more prior impaired driving convictions may be released from detention only if the following conditions are imposed in addition to the other conditions of release ordered by the court:

- (1) the impoundment of the registration plates of the vehicle used to commit the violation, unless already impounded;
- (2) a requirement that the alleged violator report weekly to a probation agent;
- (3) a requirement that the alleged violator abstain from consumption of alcohol and controlled substances and submit to random, weekly alcohol tests or urine analyses; and
- (4) a requirement that, if convicted, the alleged violator reimburse the court or county for the total cost of these services.

Sec. 7. Minnesota Statutes 1994, section 169.121, subdivision 2, is amended to read:

Subd. 2. **EVIDENCE.** (a) Upon the trial of any prosecution arising out of acts alleged to have been committed by any person arrested for driving, operating, or being in physical control of a motor vehicle in violation of subdivision 1, the court may admit evidence of the presence or amount of alcohol or a controlled substance, or hazardous substances in the person's blood, breath, or urine as shown by an analysis of those items.

(b) For the purposes of this subdivision, evidence that there was at the time an alcohol concentration of 0.04 or more is relevant evidence in indicating whether or not the person was under the influence of alcohol.

(c) Evidence of the refusal to take a test is admissible into evidence in a prosecution under this section or an ordinance in conformity with it.

(d) If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of subdivision 1, clause (e), that the defendant consumed a sufficient quantity of alcohol after the time of actual driving, operating, or physical control of a motor vehicle and before the administration of the evidentiary test to cause the defendant's alcohol concentration to exceed 0.10. ~~Provided, that this evidence may not be admitted unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.~~ Evidence that the defendant consumed alcohol after the time of actual driving, operating, or being in physical control of a motor vehicle may not be admitted in defense to any alleged violation of this section unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

(e) If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of subdivision 1, clause (g), that the defendant used the controlled substance according to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12.

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(f) The foregoing preceding provisions do not limit the introduction of any other competent evidence bearing upon the question of whether ~~or not~~ the person violated this section, including tests obtained more than two hours after the alleged violation and results obtained from partial tests on an infrared breath-testing instrument. A result from a partial test is the measurement obtained by analyzing one adequate breath sample, as defined in section 169.123, subdivision 2b, paragraph (b).

Sec. 8. Minnesota Statutes 1994, section 169.121, subdivision 3, is amended to read:

Subd. 3. **CRIMINAL PENALTIES.** (a) As used in this subdivision:

(1) "prior impaired driving conviction" means a prior conviction under this section; section 84.91, subdivision 1, paragraph (a); 86B.331, subdivision 1, paragraph (a); 169.129; 360.0752; 609.21, subdivision 1, clauses (2) to (4) (6); 609.21, subdivision 2, clauses (2) to (4) (6); 609.21, subdivision 2a, clauses (2) to (4) (6); subdivision 2b, clauses (2) to (6); 609.21, subdivision 3, clauses (2) to (4) (6); 609.21, subdivision 4, clauses (2) to (4) (6); or an ordinance from this state, or a statute or ordinance from another state in conformity with any of them. A prior impaired driving conviction also includes a prior juvenile adjudication that would have been a prior impaired driving conviction if committed by an adult; and

(2) "prior license revocation" means a driver's license suspension, revocation, or cancellation under this section; section 169.123; 171.04; 171.14; 171.16; 171.17; or 171.18 because of an alcohol-related incident; 609.21, subdivision 1, clauses (2) to (4) (6); 609.21, subdivision 2, clauses (2) to (4) (6); 609.21, subdivision 2a, clauses (2) to (4) (6); subdivision 2b, clauses (2) to (6); 609.21, subdivision 3, clauses (2) to (4) (6); or 609.21, subdivision 4, clauses (2) to (4) (6); or an ordinance from this state, or a statute or ordinance from another state in conformity with any of them.

(b) A person who violates subdivision 1 or 1a, or an ordinance in conformity with either of them, is guilty of a misdemeanor.

(c) A person is guilty of a gross misdemeanor under any of the following circumstances:

(1) the person violates subdivision 1 within five years of a prior impaired driving conviction, or within ten years of the first of two or more prior impaired driving convictions;

(2) the person violates subdivision 1a within five years of a prior license revocation, or within ten years of the first of two or more prior license revocations;

(3) the person violates section 169.26 while in violation of subdivision 1; or

(4) the person violates subdivision 1 or 1a while a child under the age of 16 is in the vehicle, if the child is more than 36 months younger than the violator.

(d) The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section shall also be responsible for prosecution of gross misdemeanor violations of this section.

(e) The court must impose consecutive sentences when it sentences a person for a violation of this section or ~~section 169.29~~ 169.129 arising out of separate behavioral incidents. The court also must impose a consecutive sentence when it sentences a person for a

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violation of this section or section 169.129 and the person, at the time of sentencing, is on probation for, or serving, an executed sentence for a violation of this section or section ~~169.29~~ 169.129 and the prior sentence involved a separate behavioral incident. The court also may order that the sentence imposed for a violation of this section or section ~~169.29~~ 169.129 shall run consecutively to a previously imposed misdemeanor, gross misdemeanor or felony sentence for a violation other than this section or section 169.129.

(f) The court may impose consecutive sentences for offenses arising out of a single course of conduct as permitted in section 609.035, subdivision 2.

(g) When an attorney responsible for prosecuting gross misdemeanors under this section requests criminal history information relating to prior impaired driving convictions from a court, the court must furnish the information without charge.

(g) (h) A violation of subdivision 1a may be prosecuted either in the jurisdiction where the arresting officer observed the defendant driving, operating, or in control of the motor vehicle or in the jurisdiction where the refusal occurred.

Sec. 9. Minnesota Statutes 1994, section 169.121, subdivision 4, is amended to read:

Subd. 4. **ADMINISTRATIVE PENALTIES.** (a) The commissioner of public safety shall revoke the driver's license of a person convicted of violating this section or an ordinance in conformity with it as follows:

(1) ~~first~~ for an offense under subdivision 1: not less than 30 days;

(2) ~~first~~ for an offense under subdivision 1a: not less than 90 days;

(3) ~~second offense in less than five years, or third or subsequent offense on the record for an offense occurring within five years after a prior impaired driving conviction or a prior license revocation, or any time after two or more prior impaired driving convictions or prior license revocations:~~ (i) if the current conviction is for a violation of subdivision 1, not less than 180 days and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169.126; or (ii) if the current conviction is for a violation of subdivision 1a, not less than one year and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169.126;

(4) ~~third offense in less than five years for an offense occurring within five years after the first of two prior impaired driving convictions or prior license revocations:~~ not less than one year, together with denial under section 171.04, subdivision 1, clause (8), until rehabilitation is established in accordance with standards established by the commissioner;

(5) ~~fourth or subsequent offense on the record for an offense occurring any time after three or more prior impaired driving convictions or prior license revocations:~~ not less than two years, together with denial under section 171.04, subdivision 1, clause (8), until rehabilitation is established in accordance with standards established by the commissioner.

(b) If the person convicted of violating this section is under the age of 21 years, the commissioner of public safety shall revoke the offender's driver's license or operating privileges for a period of six months or for the appropriate period of time under paragraph (a), clauses (1) to (5), for the offense committed, whichever is the greatest period.

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(c) For purposes of this subdivision, a juvenile adjudication under this section, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them is an offense.

(d) Whenever department records show that the violation involved personal injury or death to any person, not less than 90 additional days shall be added to the base periods provided above.

(e) Except for a person whose license has been revoked under paragraph (b), and except for a person who commits a violation described in subdivision 3, paragraph (c), clause (4), (child endangerment), any person whose license has been revoked pursuant to section 169.123 as the result of the same incident, and who does not have a prior impaired driving conviction or prior license revocation as defined in subdivision 3 within the previous ten years, is subject to the mandatory revocation provisions of paragraph (a), clause (1) or (2), in lieu of the mandatory revocation provisions of section 169.123.

(f) As used in this subdivision, the terms "prior impaired driving conviction" and "prior license revocation" have the meanings given in subdivision 3, paragraph (a).

Sec. 10. Minnesota Statutes 1994, section 169.121, subdivision 6, is amended to read:

Subd. 6. **PRELIMINARY SCREENING TEST.** (a) When a peace officer has reason to believe from the manner in which a person is driving, operating, controlling, or acting upon departure from a motor vehicle, or has driven, operated, or controlled a motor vehicle, that the driver may be violating or has violated subdivision 1 or section 169.1211, the officer may require the driver to provide a sample of the driver's breath for a preliminary screening test using a device approved by the commissioner of public safety for this purpose.

(b) The results of this preliminary screening test shall be used for the purpose of deciding whether an arrest should be made and whether to require the tests authorized in section 169.123, but shall not be used in any court action except (1) to prove that a test was properly required of a person pursuant to section 169.123, subdivision 2; (2) in a civil action arising out of the operation or use of the motor vehicle; (3) in an action for license reinstatement under section 171.19; or (4) in a prosecution or juvenile court proceeding concerning a violation of section 340A.503, subdivision 1, paragraph (a), clause (2).

(c) Following the screening test additional tests may be required of the driver pursuant to the provisions of section 169.123.

(d) The driver who refuses to furnish a sample of the driver's breath is subject to the provisions of section 169.123 unless, in compliance with section 169.123, the driver submits to a blood, breath or urine test to determine the presence or amount of alcohol or a controlled substance substances, or hazardous substances.

Sec. 11. Minnesota Statutes 1994, section 169.121, subdivision 10a, is amended to read:

Subd. 10a. **CIVIL ACTION; PUNITIVE DAMAGES.** In a civil action involving a motor vehicle accident, it is sufficient for the trier of fact to consider an award of punitive damages if there is evidence that the accident was caused by a driver:

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- (1) with a blood ~~an~~ alcohol concentration of .10 or more;
- (2) who was under the influence of a controlled substance, ~~or~~;
- (3) who was under the influence of alcohol and refused to take a test required under section 169.123, subdivision 2, ~~is sufficient for the trier of fact to consider an award of punitive damages;~~ or
- (4) who was knowingly under the influence of a hazardous substance that substantially affects the person's nervous system, brain, or muscles so as to impair the person's ability to drive or operate a motor vehicle.

A criminal charge or conviction is not a prerequisite to consideration of punitive damages under this subdivision. At the trial in an action where the trier of fact will consider an award of punitive damages, evidence that the driver has been convicted of violating this section, section 169.129, or 609.21 is admissible into evidence.

Sec. 12. ~~[169.1218]~~ UNDERAGE DRINKING AND DRIVING.

- (a) It is a misdemeanor for a person under the age of 21 years to drive or operate a motor vehicle while consuming alcoholic beverages, or after having consumed alcoholic beverages while there is physical evidence of the consumption present in the person's body.
- (b) When a person is found to have committed an offense under paragraph (a), the court shall notify the commissioner of public safety of its determination. Upon receipt of the court's determination, the commissioner shall suspend the person's driver's license or operating privileges for 30 days, or for 180 days if the person has previously been found to have violated paragraph (a) or a statute or ordinance in conformity with paragraph (a).
- (c) If the person's conduct violates section 169.121, subdivision 1, or 169.1211, the penalties and license sanctions in those laws apply instead of the license sanction in paragraph (b).
- (d) An offense under paragraph (a) may be prosecuted either in the jurisdiction where consumption occurs or the jurisdiction where evidence of consumption is observed.

Sec. 13. Minnesota Statutes 1994, section 169.123, subdivision 2, is amended to read:

Subd. 2. IMPLIED CONSENT; CONDITIONS; ELECTION 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 sections 169.121 and 169.1211, 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 ~~substances,~~ or hazardous substances. 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;

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(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 indicated 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: (i) to determine if the person is under the influence of alcohol or, controlled substances, or hazardous substances; (ii) to determine the presence of a controlled substance or, listed in schedule I or II, other than marijuana or Tetrahydrocannabinols; and (iii) 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 refusal to take a test is a crime;

(3) if the peace officer has probable cause to believe the person has violated the criminal vehicular homicide and injury laws, that a test will be taken with or without the person's consent; and

(4) that the person has the right to consult with an attorney, but that this right is limited to the extent that it cannot unreasonably delay administration of the test.

(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. 14. Minnesota Statutes 1994, section 169.123, subdivision 2a, is amended to read:

Subd. 2a. **REQUIREMENT OF URINE OR BLOOD TEST.** Notwithstanding subdivision 2, a blood or urine test may be required even after a breath test has been administered if there is probable cause to believe that: (1) there is impairment by a controlled substance or hazardous substance that is not subject to testing by a breath test; or (2) a controlled substance that is not subject to testing by a breath test, a urine or blood test may be required even after a breath test has been administered listed in schedule I or II, other than marijuana or Tetrahydrocannabinols, is present in the person's body. Action may be taken against a person who refuses to take a blood test under this subdivision only if a urine test was offered and action may be taken against a person who refuses to take a urine test only if a blood test was offered.

Sec. 15. Minnesota Statutes 1994, section 169.123, subdivision 3, is amended to read:

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Subd. 3. MANNER OF MAKING TESTS; ADDITIONAL TESTS. (a) Only a

physician, medical technician, physician's trained mobile intensive care paramedic, registered nurse, medical technician or laboratory assistant acting at the request of a peace officer may withdraw blood for the purpose of determining the presence of alcohol or controlled substances, or hazardous substances. This limitation does not apply to the taking of a breath or urine sample. The person tested has the right to have someone of the person's own choosing administer a chemical test or tests in addition to any administered at the direction of a peace officer; provided, that the additional test sample on behalf of the person is obtained at the place where the person is in custody, after the test administered at the direction of a peace officer, and at no expense to the state.

(b) The failure or inability to obtain an additional test or tests by a person shall not preclude the admission in evidence of the test taken at the direction of a peace officer unless the additional test was prevented or denied by the peace officer.

(c) The physician, medical technician, physician's trained mobile intensive care paramedic, medical technician, laboratory assistant or registered nurse drawing blood at the request of a peace officer for the purpose of determining whether the concentration of alcohol, controlled substances, or hazardous substances shall in no manner be liable in any civil or criminal action except for negligence in drawing the blood. The person administering a breath test shall be fully trained in the administration of breath tests pursuant to training given by the commissioner of public safety.

Sec. 16. Minnesota Statutes 1994, section 169.123, subdivision 4, is amended to read:

Subd. 4. REFUSAL; REVOCATION OF LICENSE. (a) If a person refuses to

permit a test, none shall be given, but the peace officer shall report the refusal to the commissioner of public safety and the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the acts occurred. However, if a peace officer has probable cause to believe that the person has violated section 609.21, a test may be required and obtained despite the person's refusal. A refusal to submit to an alcohol concentration test does not constitute a violation of section 609.50, unless the refusal was accompanied by force or violence or the threat of force or violence.

(b) If a person submits to a test and the test results indicate an alcohol concentration of 0.10 or more or the presence of a controlled substance listed in schedule I or II, other than marijuana or Tetrahydrocannabinols, or if a person was driving, operating, or in physical control of a commercial motor vehicle and the test results indicate an alcohol concentration of 0.04 or more, the results of the test shall be reported to the commissioner of public safety and to the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the acts occurred.

(c) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle while under the influence of alcohol or a controlled substance in violation of section 169.121 and that the person refused to submit to a test, the commissioner of public safety shall revoke the person's license or permit to drive, or nonresident operating privilege, for a period of one year even if a test was obtained pursuant to this section after the person refused to submit to testing.

(d) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor

vehicle with the presence of any alcohol in violation of section 169.121 or 169.1211, and that the person refused to submit to a test, the commissioner shall disqualify the person from operating a commercial motor vehicle for a period of one year under section 171.165 and shall revoke the person's license or permit to drive or nonresident operating privilege for a period of one year.

(e) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating or in physical control of a motor vehicle while under the influence of alcohol or a controlled substance in violation of section 169.121 and that the person submitted to a test and the test results indicate an alcohol concentration of 0.10 or more or the presence of a controlled substance listed in schedule I or II, other than marijuana or Tetrahydrocannabinols, the commissioner of public safety shall revoke the person's license or permit to drive, or nonresident operating privilege;

(1) for: (1) a period of 90 days; or

(2) if the person is under the age of 21 years, for a period of six months; or

(3) if the person's driver's license or driving privileges have been revoked for a person with a prior impaired driving conviction or prior license revocation within the past five years under this section or section 169.121, for a period of 180 days.

(f) On certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with any presence of alcohol and that the person submitted to a test and the test results indicated an alcohol concentration of 0.04 or more, the commissioner of public safety shall disqualify the person from operating a commercial motor vehicle under section 171.165.

(g) If the person is a resident without a license or permit to operate a motor vehicle in this state, the commissioner of public safety shall deny to the person the issuance of a license or permit for the same period after the date of the alleged violation as provided herein for revocation, subject to review as hereinafter provided.

(h) As used in this subdivision, the terms "prior impaired driving conviction" and "prior license revocation" have the meanings given in section 169.121, subdivision 3, paragraph (a).

Sec. 17. Minnesota Statutes 1994, section 169.123, subdivision 6, is amended to read:

Subd. 6. **HEARING.** (a) A hearing under this section shall be before a ~~municipal or county~~ district judge, in any county in the judicial district where the alleged offense occurred. The hearing shall be to the court and may be conducted at the same time and in the same manner as hearings upon pretrial motions in the criminal prosecution under section 169.121, if any. The hearing shall be recorded. The commissioner of public safety shall appear and be represented by the attorney general or through the prosecuting authority for the jurisdiction involved. The hearing shall be held at the earliest practicable date, and in any event no later than 60 days following the filing of the petition for review. The judicial district administrator shall establish procedures to ensure efficient compliance with the provisions of this subdivision. To accomplish this, the administrator may, whenever possible, consolidate and transfer review hearings among the county courts within the judicial district.

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(b) The scope of the hearing shall be limited to the issues of in clauses (1) to (9):

(1) ~~whether~~ Did the peace officer had have probable cause to believe the person was driving, operating, or in physical control of:

(i) a motor vehicle ~~while under the influence of alcohol or a controlled substance,~~ in violation of section 169.121; or

(ii) a commercial motor vehicle ~~with any presence of alcohol,~~ and whether in violation of section 169.1211?

(2) Was the person was lawfully placed under arrest for violation of section 169.121 or 169.1211, ~~or?~~

(3) Was the person was involved in a motor vehicle accident or collision resulting in property damage, personal injury or death, ~~or?~~

(4) Did the person ~~refused~~ refuse to take a screening test provided for by section 169.121, subdivision 6, ~~or?~~

(5) If the screening test was administered and ~~recorded,~~ did the test indicate an alcohol concentration of 0.10 or more; ~~and?~~

(2) ~~whether~~ (6) At the time of the request for the test, did the peace officer ~~informed~~ inform the person of the person's rights and the consequences of taking or refusing the test as required by subdivision 2; ~~and?~~

(3) either (a) ~~whether~~ (7) Did the person ~~refused~~ refuse to permit the test, ~~or~~ (b) ~~whether?~~

(8) If a test was taken and:

(i) by a person driving, operating, or in physical control of a motor vehicle, did the test results ~~indicated~~ indicate an alcohol concentration of 0.10 or more at the time of testing; or the presence of a controlled substance listed in schedule I or II, other than marijuana or Tetrahydrocannabinols; ~~or if a test was taken~~

(ii) by a person driving, operating, or in physical control of a commercial motor vehicle and, did the test results ~~indicated~~ indicate an alcohol concentration of 0.04 or more at the time of testing; ~~whether?~~

(9) Was the testing method used was valid and reliable; ~~and whether were~~ the test results were accurately evaluated.?

(c) It shall be an affirmative defense for the petitioner to prove that, at the time of the refusal, the petitioner's refusal to permit the test was based upon reasonable grounds.

(d) Certified or otherwise authenticated copies of laboratory or medical personnel reports, records, documents, licenses and certificates shall be admissible as substantive evidence.

(e) The court shall order that the revocation or disqualification be either rescinded or sustained and forward the order to the commissioner of public safety. The court shall file its order within 14 days following the hearing. If the revocation or disqualification is sustained, the court shall also forward the person's driver's license or permit to the commissioner of public safety for further action by the commissioner of public safety if the license or permit is not already in the commissioner's possession.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 18. Minnesota Statutes 1994, section 169.129, is amended to read:

169.129 AGGRAVATED VIOLATIONS; PENALTY.

Any person is guilty of a gross misdemeanor who drives, operates, or is in physical control of a motor vehicle, the operation of which requires a driver's license, within this state or upon the ice of any boundary water of this state in violation of section 169.121 or an ordinance in conformity with it before the person's driver's license or driver's privilege has been reinstated following its cancellation, suspension, revocation, or denial under any of the following: section 169.121, 169.1211, or 169.123; section 171.04, 171.14, 171.16, 171.17, or 171.18 because of an alcohol-related incident; section 609.21, subdivision 1, clauses (2) to (4) (6); 609.21, subdivision 2, clauses (2) to (4) (6); 609.21, subdivision 2a, clauses (2) to (4) (6); subdivision 2b, clauses (2) to (6); 609.21, subdivision 3, clauses (2) to (4) (6); or 609.21, subdivision 4, clauses (2) to (4) (6).

The attorney in the jurisdiction in which the violation of this section occurred who is responsible for prosecution of misdemeanor violations of section 169.121 shall also be responsible for prosecution of violations of this section.

Sec. 19. Minnesota Statutes 1994, section 169.791, is amended by adding a subdivision to read:

Subd. 5a. CONSECUTIVE SENTENCES. The court may impose consecutive sentences for offenses arising out of a single course of conduct as permitted in section 609.035, subdivision 2.

Sec. 20. Minnesota Statutes 1994, section 169.797, subdivision 4, is amended to read:

Subd. 4. **PENALTY.** (a) A person who violates this section is guilty of a misdemeanor. A person is guilty of a gross misdemeanor who violates this section within ten years of the first of two prior convictions under this section, section 169.791, or a statute or ordinance in conformity with one of those sections. The operator of a vehicle who violates subdivision 3 and who causes or contributes to causing a vehicle accident that results in the death of any person or in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, is guilty of a gross misdemeanor. The same prosecuting authority who is responsible for prosecuting misdemeanor violations of this section is responsible for prosecuting gross misdemeanor violations of this section. In addition to any sentence of imprisonment that the court may impose on a person convicted of violating this section, the court shall impose a fine of not less than \$200 nor more than the maximum amount authorized by law. The court may allow community service in lieu of any fine imposed if the defendant is indigent.

(b) The court may impose consecutive sentences for offenses arising out of a single course of conduct as permitted in section 609.035, subdivision 2.

(c) In addition to the criminal penalty, the driver's license of an operator convicted under this section shall be revoked for not more than 12 months. If the operator is also an owner of the vehicle, the registration of the vehicle shall also be revoked for not more than 12 months. Before reinstatement of a driver's license or registration, the operator shall file with the commissioner of public safety the written certificate of an insurance carrier authorized to do business in this state stating that security has been provided by the operator as required by section 65B.48.

New language is indicated by underline, deletions by ~~strikeout~~.

(e) (d) The commissioner shall include a notice of the penalties contained in this section on all forms for registration of vehicles required to maintain a plan of reparation security.

Sec. 21. Minnesota Statutes 1995 Supplement, section 171.18, subdivision 1, is amended to read:

Subdivision 1. **OFFENSES.** The commissioner may suspend the license of a driver without preliminary hearing upon a showing by department records or other sufficient evidence that the licensee:

(1) has committed an offense for which mandatory revocation of license is required upon conviction;

(2) has been convicted by a court for violating a provision of chapter 169 or an ordinance regulating traffic and department records show that the violation contributed in causing an accident resulting in the death or personal injury of another, or serious property damage;

(3) is an habitually reckless or negligent driver of a motor vehicle;

(4) is an habitual violator of the traffic laws;

(5) is incompetent to drive a motor vehicle as determined in a judicial proceeding;

(6) has permitted an unlawful or fraudulent use of the license;

(7) has committed an offense in another state that, if committed in this state, would be grounds for suspension;

(8) has committed a violation of section 169.444, subdivision 2, paragraph (a), within five years of a prior conviction under that section;

(9) has committed a violation of section 171.22, except that the commissioner may not suspend a person's driver's license based solely on the fact that the person possessed a fictitious or fraudulently altered Minnesota identification card;

(10) has failed to appear in court as provided in section 169.92, subdivision 4; or

(11) has failed to report a medical condition that, if reported, would have resulted in cancellation of driving privileges; or

(12) has been found to have committed an offense under section 169.1218, paragraph (a).

However, an action taken by the commissioner under clause (2) or (5) must conform to the recommendation of the court when made in connection with the prosecution of the licensee.

Sec. 22. Minnesota Statutes 1994, section 171.30, is amended by adding a subdivision to read:

Subd. 2b. WAITING PERIODS FOR YOUTH UNDER 18. If a person whose driver's license was suspended or revoked for a violation listed under subdivision 2 or 2a is under the age of 18 years at the time of that violation, the commissioner shall not issue a limited license to the person for a period of time that is the longest of: (1) 90 days; or (2) twice the length of the period specified for that violation in subdivision 2 or 2a.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 23. **[171.302] LICENSE VIOLATIONS; CONSECUTIVE SENTENCING.**

When sentencing an offender for violating section 171.20, subdivision 2; 171.24; or 171.30, the court may impose consecutive sentences for offenses arising out of a single course of conduct as permitted in section 609.035, subdivision 2.

Sec. 24. Minnesota Statutes 1995 Supplement, section 340A.503, subdivision 1, is amended to read:

Subdivision 1. **CONSUMPTION.** (a) It is unlawful for any:

(1) retail intoxicating liquor or nonintoxicating liquor licensee, municipal liquor store, or bottle club permit holder under section 340A.414, to permit any person under the age of 21 years to drink alcoholic beverages on the licensed premises or within the municipal liquor store; or

(2) person under the age of 21 years to consume any alcoholic beverages. If proven by a preponderance of the evidence, it is an affirmative defense to a violation of this clause that the defendant consumed the alcoholic beverage in the household of the defendant's parent or guardian and with the consent of the parent or guardian.

(b) An offense under paragraph (a), clause (2), may be prosecuted either ~~at the place~~ in the jurisdiction where consumption occurs or the place jurisdiction where evidence of consumption is observed.

~~(c) When a person is convicted of or adjudicated for an offense under paragraph (a), clause (2), the court shall determine whether the person consumed the alcohol while operating a motor vehicle. If so, the court shall notify the commissioner of public safety of its determination. Upon receipt of the court's determination, the commissioner shall suspend the person's driver's license or operating privileges for 30 days, or for 180 days if the person has previously been convicted of or adjudicated for an offense under paragraph (a), clause (2).~~

(d) As used in this subdivision, "consume" includes the ingestion of an alcoholic beverage and the physical condition of having ingested an alcoholic beverage.

Sec. 25. Minnesota Statutes 1994, section 360.0752, subdivision 1, is amended to read:

Subdivision 1. **DEFINITION DEFINITIONS.** As used in this section and section 360.0753:

(1) "operate" includes the acts of all crew members with responsibility to operate the aircraft;

(2) "controlled substance" has the meaning given in section 152.01, subdivision 4; and

(3) "hazardous substance" means any chemical or chemical compound that is listed as a hazardous substance in rules adopted under chapter 182.

Sec. 26. Minnesota Statutes 1994, section 360.0752, subdivision 2, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **CRIME; ACTS PROHIBITED.** (a) It is a crime for any person to operate or attempt to operate an aircraft on or over land or water within this state or over any boundary water of this state under any of the following conditions:

(a) (1) when the person is under the influence of alcohol;

(b) (2) when the person is under the influence of a controlled substance, as defined in section 152.01, subdivision 4;

(c) (3) when the person is under the influence of a combination of any two or more of the elements named in clauses (a), (b) (1), (2), and (d) (6);

(d) (4) when the person's alcohol concentration is 0.04 or more;

(e) (5) when the person's alcohol concentration as measured within two hours of the time of operation or attempted operation is 0.04 or more;

(f) (6) when the person is knowingly under the influence of any chemical compound or combination of chemical compounds that is listed as a hazardous substance in rules adopted under section 182.655 and that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to operate the aircraft; or

(g) (7) when the person's body contains any amount of a controlled substance listed in schedule I or II, other than marijuana or Tetrahydrocannabinols; or

(8) within eight hours of having consumed any alcoholic beverage or used any controlled substance.

(b) If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of paragraph (a), clause (7), that the defendant used the controlled substance according to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12.

Sec. 27. Minnesota Statutes 1994, section 360.0752, subdivision 5, is amended to read:

Subd. 5. **EVIDENCE.** Upon the trial of any prosecution arising out of acts alleged to have been committed by any person arrested for operating or attempting to operate an aircraft in violation of subdivision 2, the court may admit evidence of the presence or amount of alcohol or a controlled substance substances, or hazardous substances in the person's blood, breath, or urine as shown by an analysis of those items.

Evidence of the refusal to take a test is admissible into evidence in a prosecution under this section.

If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of subdivision 2, clause (e) (5), that the defendant consumed a sufficient quantity of alcohol after the time of the violation and before the administration of the evidentiary test to cause the defendant's alcohol concentration to exceed 0.04; provided, that this evidence may not be admitted unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

The foregoing provisions do not limit the introduction of any other competent evidence bearing upon the question whether or not the person violated this section, including tests obtained more than two hours after the alleged violation and results obtained

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from partial tests on an infrared breath-testing instrument. A result from a partial test is the measurement obtained by analyzing one adequate breath sample, as defined in section 360.0753, subdivision 4, paragraph (b).

Sec. 28. Minnesota Statutes 1994, section 360.0752, subdivision 6, is amended to read:

Subd. 6. **CRIMINAL PENALTIES.** (a) A person who violates subdivision 2, paragraph (a), clause ~~(g)~~ (8), or subdivision 3, is guilty of a misdemeanor.

(b) A person who violates subdivision 2, paragraph (a), clauses ~~(a) to (f)~~, (1) to (7), or subdivision 2a, is guilty of a gross misdemeanor.

(c) The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations shall also be responsible for prosecution of gross misdemeanor violations of this section.

Sec. 29. Minnesota Statutes 1994, section 360.0752, subdivision 7, is amended to read:

Subd. 7. **PRELIMINARY SCREENING TEST.** When a peace officer has reason to believe that a person may be violating or has violated subdivision 2, the officer may require the person to provide a sample of the person's breath for a preliminary screening test using a device approved by the commissioner of public safety or the commissioner of transportation for this purpose. The results of this preliminary screening test shall be used for the purpose of deciding whether to require the tests authorized in section 360.0753, but shall not be used in any court action except to prove that a test was properly required of a person pursuant to section 360.0753. Following the screening test, additional tests may be required of the person pursuant to the provisions of section 360.0753.

A person who refuses to furnish a sample of the person's breath is subject to the provisions of section 360.0753 unless, in compliance with section 360.0753, the person submits to a blood, breath, or urine test to determine the presence or amount of alcohol or a controlled substance substances, or hazardous substances.

Sec. 30. Minnesota Statutes 1994, section 360.0753, subdivision 2, is amended to read:

Subd. 2. **IMPLIED CONSENT; CONDITIONS; ELECTION AS TO TYPE OF TEST.** (a) Any person who operates or attempts to operate an aircraft in or over this state or over any boundary water of this state consents, subject to the provisions of this section and section 360.0752, to a chemical test of that person's blood, breath, or urine for the purpose of determining the presence or amount of alcohol or a controlled substance substances, or hazardous substances. 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 operating or attempting to operate an aircraft in violation of section 360.0752 and one of the following conditions exists:

(1) the person has been lawfully placed under arrest for violation of section 360.0752;

(2) the person has been involved in an aircraft accident or collision resulting in property damage, personal injury, or death;

New language is indicated by underline, deletions by ~~strikeout~~.

(3) the person has refused to take the screening test provided for by section 360.0752;

(4) the screening test was administered and recorded an alcohol concentration of 0.04 or more or the presence of a controlled substance listed in schedule I or II other than marijuana or Tetrahydrocannabinols; or

(5) the officer had probable cause to believe that the person was operating or attempting to operate an aircraft with any amount of alcohol present in the person's body.

(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 the presence or amount of alcohol or a controlled substance listed in schedule I or II other than marijuana or Tetrahydrocannabinols, or to determine if the person is under the influence of alcohol ~~or a~~ controlled substance substances, or hazardous substances;

(2) that whether a test is taken or refused, the person may be subject to criminal prosecution for an alcohol ~~or~~ controlled substance, or hazardous substance related offense relating to the operation of an aircraft;

(3) that if testing is refused, the person may be subject to criminal prosecution because the person refused testing and the person will be disqualified from operating an aircraft for a minimum period of one year;

(4) if the peace officer has probable cause to believe the person has violated the criminal vehicular homicide and injury laws, that a test will be taken with or without the person's consent; and

(5) that the person has the right to consult with an attorney, but that this right is limited to the extent that it cannot unreasonably delay administration of the test.

(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. 31. Minnesota Statutes 1994, section 360.0753, subdivision 3, is amended to read:

Subd. 3. **REQUIREMENT OF URINE OR BLOOD TEST.** Notwithstanding subdivision 2, a blood or urine test may be required even after a breath test has been administered if there is probable cause to believe that: (1) there is impairment by a controlled substance or hazardous substance that is not subject to testing by a breath test; a urine; or blood test may be required even after a breath test has been administered (2) a controlled substance listed in schedule I or II, other than marijuana or Tetrahydrocannabinols, is present in the person's body. Action may be taken against a person who refuses to take a blood test under this subdivision only if a urine test was offered, and action may be taken against a person who refuses to take a urine test only if a blood test was offered.

Sec. 32. Minnesota Statutes 1994, section 360.0753, subdivision 6, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 6. **MANNER OF MAKING TEST; ADDITIONAL TESTS.** (a) Only a physician, medical technician, physician's trained mobile intensive care paramedic, registered nurse, medical technologist, or laboratory assistant acting at the request of a peace officer may withdraw blood for the purpose of determining the presence or amount of alcohol ~~or~~ controlled substances, or hazardous substances. This limitation does not apply to the taking of a breath or urine sample. The person tested has the right to have someone of the person's own choosing administer a chemical test or tests in addition to any administered at the direction of a peace officer; provided, that the additional test sample on behalf of the person is obtained at the place where the person is in custody, after the test administered at the direction of a peace officer, and at no expense to the state.

(b) The failure or inability to obtain an additional test or tests by a person shall not preclude the admission in evidence of the test taken at the direction of a peace officer unless the additional test was prevented or denied by the peace officer.

(c) The physician, medical technician, physician's trained mobile intensive care paramedic, medical technologist, laboratory assistant, or registered nurse drawing blood at the request of a peace officer for the purpose of determining ~~alcohol~~ the presence or concentration of alcohol, controlled substances, or hazardous substances shall in no manner be liable in any civil or criminal action except for negligence in drawing the blood. The person administering a breath test shall be fully trained in the administration of breath tests pursuant to training given by the commissioner of public safety or the commissioner of transportation.

Sec. 33. Minnesota Statutes 1994, section 609.21, is amended to read:

609.21 CRIMINAL VEHICULAR HOMICIDE AND INJURY.

Subdivision 1. **CRIMINAL VEHICULAR HOMICIDE.** ~~Whoever~~ A person is guilty of criminal vehicular homicide resulting in death and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the person causes the death of a human being not constituting murder or manslaughter as a result of operating a motor vehicle;

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of:
 - (i) alcohol;
 - (ii) a controlled substance; or
 - (iii) any combination of those elements;
- (3) while having an alcohol concentration of 0.10 or more; ~~or~~
- (4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving;
- (5) in a negligent manner while knowingly under the influence of a hazardous substance;
- (6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or Tetrahydrocannabinols, is present in the person's body; ~~is guilty of criminal vehicular homicide resulting in death and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both; or~~

New language is indicated by underline, deletions by ~~strikeout~~.

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 2. **RESULTING IN GREAT BODILY HARM.** ~~Whoever~~ A person is guilty of criminal vehicular operation resulting in great bodily harm and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person causes great bodily harm to another, not constituting attempted murder or assault, as a result of operating a motor vehicle;

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.10 or more; or

(4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or Tetrahydrocannabinols, is present in the person's body;

is guilty of criminal vehicular operation resulting in great bodily harm and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both; or

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 2a. **RESULTING IN SUBSTANTIAL BODILY HARM.** ~~Whoever~~ A person is guilty of criminal vehicular operation resulting in substantial bodily harm and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$10,000, or both, if the person causes substantial bodily harm to another, as a result of operating a motor vehicle;

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.10 or more; or

(4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving;

New language is indicated by underline, deletions by ~~strikeout~~.

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or Tetrahydrocannabinols, is present in the person's body;

is guilty of criminal vehicular operation resulting in substantial bodily harm and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$10,000, or both; or

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 2b. **RESULTING IN BODILY HARM.** A person is guilty of criminal vehicular operation resulting in bodily harm and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the person causes bodily harm to another, as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.10 or more;

(4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or Tetrahydrocannabinols, is present in the person's body;
or

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

Subd. 3. **RESULTING IN DEATH TO AN UNBORN CHILD.** Whoever A person is guilty of criminal vehicular operation resulting in death to an unborn child and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the person causes the death of an unborn child as a result of operating a motor vehicle;

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

New language is indicated by underline, deletions by ~~strikeout~~.

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.10 or more; ~~or~~

(4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or Tetrahydrocannabinols, is present in the person's body;

~~is guilty of criminal vehicular operation resulting in death to an unborn child and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both; or~~

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 4. RESULTING IN INJURY TO UNBORN CHILD. ~~Whoever~~ A person is guilty of criminal vehicular operation resulting in injury to an unborn child and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person causes great bodily harm to an unborn child who is subsequently born alive, as a result of operating a motor vehicle;

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.10 or more; ~~or~~

(4) while having an alcohol concentration of 0.10 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous substance;

(6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, other than marijuana or Tetrahydrocannabinols, is present in the person's body;

~~is guilty of criminal vehicular operation resulting in injury to an unborn child and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both; or~~

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6.

New language is indicated by underline, deletions by ~~strikeout~~.

A prosecution for or conviction of a crime under this subdivision is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

Subd. 4a. **AFFIRMATIVE DEFENSE.** It shall be an affirmative defense to a charge under subdivisions 1, clause (6); 2, clause (6); 2a, clause (6); 2b, clause (6); 3, clause (6); or 4, clause (6), that the defendant used the controlled substance according to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12.

Subd. 5. **DEFINITION DEFINITIONS.** For purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Motor vehicle" has the meaning given in section 609.52, subdivision 1.

(b) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

(c) "Hazardous substance" means any chemical or chemical compound that is listed as a hazardous substance in rules adopted under chapter 182.

Sec. 34. Minnesota Statutes 1994, section 629.471, subdivision 2, is amended to read:

Subd. 2. **QUADRUPLE THE FINE.** (a) For offenses under sections 169.09, 169.121, 169.129, 171.24, paragraph (c), 609.2231, subdivision 2, 609.487, and 609.525, the maximum cash bail that may be required for a person charged with a misdemeanor or gross misdemeanor violation is quadruple the highest cash fine that may be imposed for the offense.

(b) Unless the court imposes the conditions of release specified in section 169.121, subdivision 1c, the court must impose maximum bail when releasing a person from detention who has been charged with violating section 169.121, subdivision 1, if the person has three prior impaired driving convictions within the previous ten years or four or more prior impaired driving convictions in the person's lifetime. As used in this subdivision, "prior impaired driving conviction" has the meaning given in section 169.121, subdivision 3.

Sec. 35. **DRUG RECOGNITION TRAINING FOR PEACE OFFICERS; REPORT.**

(a) For purposes of this section, the following terms have the meanings given them:

(1) "drug" has the meaning given in Minnesota Statutes, section 151.01, subdivision 5;

(2) "drug recognition expert" means a peace officer who is certified by the International Association of Chiefs of Police to conduct the 12-step drug evaluation and classification process; and

(3) "12-step drug evaluation and classification process" means the systematic, standardized investigative procedure defined by the National Highway Traffic Safety Administration that is used to determine whether a driver is impaired, whether the impairment relates to drugs or a medical condition and, if drug related, the category of drugs likely to have caused the impairment.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) The board of peace officer standards and training, in consultation with the department of public safety, the Minnesota state patrol, the Minnesota chiefs of police, the Minnesota sheriffs' association, and the National Highway Traffic Safety Administration, shall develop a plan for requiring drug recognition training for peace officers. The goals of the plan are:

(1) to ensure that peace officers employed in traffic patrol activities are educated about the need to use a certified drug recognition expert to evaluate a person whom the officer reasonably suspects has been driving while impaired by drugs;

(2) to ensure that a sufficient number of peace officers are certified as drug recognition experts; and

(3) to ensure that drug recognition experts are available statewide at all time periods to evaluate suspected drug-impaired drivers.

(c) To accomplish paragraph (b), clause (1), the plan must consider the feasibility of making a basic level of drug recognition training a mandatory requirement for all new peace officer candidates and an in-service option for current peace officers.

(d) To the extent practicable, the plan must present alternative training requirement scenarios and timetables associated with different levels of training resources. The board shall report this plan to the legislature by January 16, 1997.

Sec. 36. APPROPRIATION.

Subdivision 1. PUBLIC SAFETY. (a) \$14,000 is appropriated to the commissioner of public safety from the highway user tax distribution fund for the fiscal year ending June 30, 1997 for license plate impoundments and special registration plates under Minnesota Statutes, section 168.042, subdivision 8.

(b) \$65,000 is appropriated to the commissioner of public safety from the trunk highway fund for the fiscal year ending June 30, 1997 for license plate impoundments and special registration plates under Minnesota Statutes, section 168.042, subdivision 8.

(c) \$5,000 is appropriated to the commissioner of public safety from the trunk highway fund for the fiscal year ending June 30, 1997 for DWI license revocation cross referencing under sections 9 and 16.

Subd. 2. BOARD OF PEACE OFFICER STANDARDS AND TRAINING. \$5,000 is appropriated to the board of peace officer standards and training from the trunk highway fund for the fiscal year ending June 30, 1997 to develop the plan for requiring drug recognition training for peace officers under section 35.

Sec. 37. EFFECTIVE DATES.

(a) Section 35 is effective the day after final enactment.

(b) Sections 1 to 4; 6; 7, paragraphs (a) to (d) and (f); 8; 10 to 12; 15; 18 to 24; and 34 are effective August 1, 1996, for crimes committed on or after that date.

(c) Sections 5; 7, paragraph (e); 9; 13; 14; 16; 17; and 25 to 33, are effective August 1, 1997, for crimes committed on or after that date.

(d) Section 33 is effective August 1, 1996, for crimes committed on or after that date, except that subdivisions 1, clause (6); 2, clause (6); 2a, clause (6); 2b, clause (6); 3, clause

New language is indicated by underline, deletions by ~~strikeout~~.

(6); and 4, clause (6), are effective August 1, 1997, for crimes committed on or after that date.

(e) The commissioner of public safety may consider violations occurring before August 1, 1997, as prior impaired driving convictions or prior license revocations under sections 9 and 16, except that violations of Minnesota Statutes, section 84.91 or 86B.331 occurring before August 1, 1994, may not be so considered.

(f) Notwithstanding Minnesota Statutes, section 645.26, subdivision 3, if appropriations for the same purposes as those described in section 36, subdivision 1, paragraphs (a) and (b) are enacted by another law during the 1996 legislative session, then section 36, subdivision 1, paragraphs (a) and (b) shall not take effect.

Presented to the governor April 4, 1996

Signed by the governor April 11, 1996, 11:54 a.m.

CHAPTER 443—H.F.No. 2332

An act relating to water; modifying permit requirements; approving a consumptive use of water; amending Minnesota Statutes 1995 Supplement, section 103G.245, subdivisions 3 and 5.

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

Section 1. Minnesota Statutes 1995 Supplement, section 103G.245, subdivision 3, is amended to read:

Subd. 3. **PERMIT APPLICATION.** Application for a public waters work permit must be in writing to the commissioner on forms prescribed by the commissioner. The commissioner may issue a state general permit to a governmental subdivision or to the general public for classes of activities having minimal impact upon public waters under which more than one project may be conducted under a single permit.

Sec. 2. Minnesota Statutes 1995 Supplement, section 103G.245, subdivision 5, is amended to read:

Subd. 5. **DELEGATION OF PERMIT AUTHORITY TO LOCAL UNITS OF GOVERNMENT.** The commissioner may adopt rules to identify classes of activities in waterbasins and classes of watercourses where the commissioner may delegate public waters work permit authority to the appropriate county or municipality or to watershed districts or watershed management organizations that have elected to assert local authority over protected waters. The public waters work permit authority must be delegated under guidelines of the commissioner and the delegation must be done by agreement with the involved county, municipality, watershed district, or water management organization and in compliance with section 103G.315.

Sec. 3. **LEGISLATIVE APPROVAL OF CONSUMPTIVE USE OF WATER.**

Pursuant to section 103G.265, subdivision 3, the legislature approves the consumptive use under a permit of more than 2,000,000 gallons per day average in a 30-day period

New language is indicated by underline, deletions by ~~strikeout~~.