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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **651**

02/05/2015 Authored by Franson

The bill was read for the first time and referred to the Committee on Transportation Policy and Finance

1.1 A bill for an act  
1.2 relating to public safety; amending the crime of driving while impaired, implied  
1.3 consent, and administrative plate impoundment to include an impaired person  
1.4 supervising a permit holder; amending Minnesota Statutes 2014, sections  
1.5 169A.03, by adding a subdivision; 169A.20, subdivision 1; 169A.43, subdivision  
1.6 3; 169A.51, subdivision 1; 169A.52, subdivisions 3, 4; 169A.53, subdivision 3;  
1.7 169A.60, subdivision 1; 171.05, subdivision 1.

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

1.9 Section 1. Minnesota Statutes 2014, section 169A.03, is amended by adding a  
1.10 subdivision to read:

1.11 Subd. 18a. **Permit holder.** "Permit holder" means a person who has applied for  
1.12 and received an instruction permit under section 171.05.

1.13 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes  
1.14 committed on or after that date.

1.15 Sec. 2. Minnesota Statutes 2014, section 169A.20, subdivision 1, is amended to read:

1.16 Subdivision 1. **Driving while impaired crime; motor vehicle.** It is a crime for  
1.17 any person to drive, operate, or be in physical control of, or supervise a permit holder  
1.18 operating any motor vehicle, as defined in section 169A.03, subdivision 15, except for  
1.19 motorboats in operation and off-road recreational vehicles, within this state or on any  
1.20 boundary water of this state when:

1.21 (1) the person is under the influence of alcohol;

1.22 (2) the person is under the influence of a controlled substance;

2.1 (3) the person is knowingly under the influence of a hazardous substance that affects  
 2.2 the nervous system, brain, or muscles of the person so as to substantially impair the  
 2.3 person's ability to drive ~~or~~, operate, or supervise operation of the motor vehicle;

2.4 (4) the person is under the influence of a combination of any two or more of the  
 2.5 elements named in clauses (1) to (3);

2.6 (5) the person's alcohol concentration at the time, or as measured within two hours  
 2.7 of the time, of driving, operating, ~~or being in physical control of,~~ or supervising a permit  
 2.8 holder operating the motor vehicle is 0.08 or more;

2.9 (6) the vehicle is a commercial motor vehicle and the person's alcohol concentration  
 2.10 at the time, or as measured within two hours of the time, of driving, operating, or being in  
 2.11 physical control of the commercial motor vehicle is 0.04 or more; or

2.12 (7) the person's body contains any amount of a controlled substance listed in  
 2.13 Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

2.14 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes  
 2.15 committed on or after that date.

2.16 Sec. 3. Minnesota Statutes 2014, section 169A.43, subdivision 3, is amended to read:

2.17 Subd. 3. **Venue.** (a) A violation of section 169A.20, subdivision 2 (refusal to submit  
 2.18 to chemical test) may be prosecuted either in the jurisdiction where the arresting officer  
 2.19 observed the defendant driving, operating, ~~or in control of,~~ or supervising a permit holder  
 2.20 operating the motor vehicle or in the jurisdiction where the refusal occurred.

2.21 (b) An underage drinking and driving offense may be prosecuted as provided in  
 2.22 section 169A.33, subdivision 6 (underage drinking and driving).

2.23 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes  
 2.24 committed on or after that date.

2.25 Sec. 4. Minnesota Statutes 2014, section 169A.51, subdivision 1, is amended to read:

2.26 Subdivision 1. **Implied consent; conditions; election of test.** (a) Any person who  
 2.27 drives, operates, ~~or is in physical control of,~~ or supervises a permit holder operating a  
 2.28 motor vehicle within this state or on any boundary water of this state consents, subject to  
 2.29 the provisions of sections 169A.50 to 169A.53 (implied consent law), and section 169A.20  
 2.30 (driving while impaired), to a chemical test of that person's blood, breath, or urine for the  
 2.31 purpose of determining the presence of alcohol, a controlled substance or its metabolite, or  
 2.32 a hazardous substance. The test must be administered at the direction of a peace officer.

3.1 (b) The test may be required of a person when an officer has probable cause to  
 3.2 believe the person was driving, operating, ~~or~~ in physical control of, or supervising a permit  
 3.3 holder operating a motor vehicle in violation of section 169A.20 (driving while impaired),  
 3.4 and one of the following conditions exist:

3.5 (1) the person has been lawfully placed under arrest for violation of section 169A.20  
 3.6 or an ordinance in conformity with it;

3.7 (2) the person has been involved in a motor vehicle accident or collision resulting in  
 3.8 property damage, personal injury, or death;

3.9 (3) the person has refused to take the screening test provided for by section 169A.41  
 3.10 (preliminary screening test); or

3.11 (4) the screening test was administered and indicated an alcohol concentration of  
 3.12 0.08 or more.

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

3.16 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes  
 3.17 committed on or after that date.

3.18 Sec. 5. Minnesota Statutes 2014, section 169A.52, subdivision 3, is amended to read:

3.19 Subd. 3. **Test refusal; license revocation.** (a) Upon certification by the peace  
 3.20 officer that there existed probable cause to believe the person had been driving, operating,  
 3.21 ~~or~~ in physical control of, or supervising a permit holder operating a motor vehicle in  
 3.22 violation of section 169A.20 (driving while impaired), and that the person refused to  
 3.23 submit to a test, the commissioner shall revoke the person's license or permit to drive,  
 3.24 or nonresident operating privilege, even if a test was obtained pursuant to this section  
 3.25 after the person refused to submit to testing. The commissioner shall revoke the license,  
 3.26 permit, or nonresident operating privilege:

3.27 (1) for a person with no qualified prior impaired driving incidents within the past ten  
 3.28 years, for a period of not less than one year;

3.29 (2) for a person under the age of 21 years and with no qualified prior impaired  
 3.30 driving incidents within the past ten years, for a period of not less than one year;

3.31 (3) for a person with one qualified prior impaired driving incident within the past  
 3.32 ten years, or two qualified prior impaired driving incidents, for a period of not less than  
 3.33 two years;

4.1 (4) for a person with two qualified prior impaired driving incidents within the past  
 4.2 ten years, or three qualified prior impaired driving incidents, for a period of not less  
 4.3 than three years;

4.4 (5) for a person with three qualified prior impaired driving incidents within the past  
 4.5 ten years, for a period of not less than four years; or

4.6 (6) for a person with four or more qualified prior impaired driving incidents, for a  
 4.7 period of not less than six years.

4.8 (b) Upon certification by the peace officer that there existed probable cause to  
 4.9 believe the person had been driving, operating, or in physical control of a commercial  
 4.10 motor vehicle with the presence of any alcohol in violation of section 169A.20 (driving  
 4.11 while impaired), and that the person refused to submit to a test, the commissioner shall  
 4.12 disqualify the person from operating a commercial motor vehicle and shall revoke the  
 4.13 person's license or permit to drive or nonresident operating privilege according to the  
 4.14 federal regulations adopted by reference in section 171.165, subdivision 2.

4.15 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to  
 4.16 offenses committed on or after that date.

4.17 Sec. 6. Minnesota Statutes 2014, section 169A.52, subdivision 4, is amended to read:

4.18 Subd. 4. **Test failure; license revocation.** (a) Upon certification by the peace officer  
 4.19 that there existed probable cause to believe the person had been driving, operating, ~~or~~ in  
 4.20 physical control of, or supervising a permit holder operating a motor vehicle in violation  
 4.21 of section 169A.20 (driving while impaired) and that the person submitted to a test and  
 4.22 the test results indicate an alcohol concentration of 0.08 or more or the presence of a  
 4.23 controlled substance listed in Schedule I or II or its metabolite, other than marijuana or  
 4.24 tetrahydrocannabinols, then the commissioner shall revoke the person's license or permit  
 4.25 to drive, or nonresident operating privilege:

4.26 (1) for a period of 90 days, or, if the test results indicate an alcohol concentration of  
 4.27 twice the legal limit or more, not less than one year;

4.28 (2) if the person is under the age of 21 years, for a period of not less than 180 days  
 4.29 or, if the test results indicate an alcohol concentration of twice the legal limit or more, not  
 4.30 less than one year;

4.31 (3) for a person with one qualified prior impaired driving incident within the past  
 4.32 ten years, or two qualified prior impaired driving incidents, for a period of not less than  
 4.33 one year, or if the test results indicate an alcohol concentration of twice the legal limit  
 4.34 or more, not less than two years;

5.1 (4) for a person with two qualified prior impaired driving incidents within the past  
 5.2 ten years, or three qualified prior impaired driving incidents, for a period of not less  
 5.3 than three years;

5.4 (5) for a person with three qualified prior impaired driving incidents within the past  
 5.5 ten years, for a period of not less than four years; or

5.6 (6) for a person with four or more qualified prior impaired driving incidents, for a  
 5.7 period of not less than six years.

5.8 (b) On certification by the peace officer that there existed probable cause to believe  
 5.9 the person had been driving, operating, or in physical control of a commercial motor  
 5.10 vehicle with any presence of alcohol and that the person submitted to a test and the  
 5.11 test results indicated an alcohol concentration of 0.04 or more, the commissioner shall  
 5.12 disqualify the person from operating a commercial motor vehicle under section 171.165  
 5.13 (commercial driver's license disqualification).

5.14 (c) If the test is of a person's blood or urine by a laboratory operated by the Bureau  
 5.15 of Criminal Apprehension, or authorized by the bureau to conduct the analysis of a blood  
 5.16 or urine sample, the laboratory may directly certify to the commissioner the test results,  
 5.17 and the peace officer shall certify to the commissioner that there existed probable cause to  
 5.18 believe the person had been driving, operating, ~~or~~ in physical control of, or supervising a  
 5.19 permit holder operating a motor vehicle in violation of section 169A.20 and that the  
 5.20 person submitted to a test. Upon receipt of both certifications, the commissioner shall  
 5.21 undertake the license actions described in paragraphs (a) and (b).

5.22 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to  
 5.23 offenses committed on or after that date.

5.24 Sec. 7. Minnesota Statutes 2014, section 169A.53, subdivision 3, is amended to read:

5.25 Subd. 3. **Judicial hearing; issues, order, appeal.** (a) A judicial review hearing  
 5.26 under this section must be before a district judge in any county in the judicial district  
 5.27 where the alleged offense occurred. The hearing is to the court and may be conducted at  
 5.28 the same time and in the same manner as hearings upon pretrial motions in the criminal  
 5.29 prosecution under section 169A.20 (driving while impaired), if any. The hearing must be  
 5.30 recorded. The commissioner shall appear and be represented by the attorney general or  
 5.31 through the prosecuting authority for the jurisdiction involved. The hearing must be held  
 5.32 at the earliest practicable date, and in any event no later than 60 days following the filing  
 5.33 of the petition for review. The judicial district administrator shall establish procedures to  
 5.34 ensure efficient compliance with this subdivision. To accomplish this, the administrator

6.1 may, whenever possible, consolidate and transfer review hearings among the locations  
6.2 within the judicial district where terms of district court are held.

6.3 (b) The scope of the hearing is limited to the issues in clauses (1) to (10):

6.4 (1) Did the peace officer have probable cause to believe the person was driving,  
6.5 operating, ~~or~~ in physical control of, or supervising a permit holder operating a motor  
6.6 vehicle, or driving, operating, or in physical control of a commercial motor vehicle, in  
6.7 violation of section 169A.20 (driving while impaired)?

6.8 (2) Was the person lawfully placed under arrest for violation of section 169A.20?

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

6.11 (4) Did the person refuse to take a screening test provided for by section 169A.41  
6.12 (preliminary screening test)?

6.13 (5) If the screening test was administered, did the test indicate an alcohol  
6.14 concentration of 0.08 or more?

6.15 (6) At the time of the request for the test, did the peace officer inform the person  
6.16 of the person's rights and the consequences of taking or refusing the test as required by  
6.17 section 169A.51, subdivision 2?

6.18 (7) Did the person refuse to permit the test?

6.19 (8) If a test was taken by a person driving, operating, ~~or~~ in physical control of, or  
6.20 supervising a permit holder operating a motor vehicle, did the test results indicate at  
6.21 the time of testing:

6.22 (i) an alcohol concentration of 0.08 or more; or

6.23 (ii) the presence of a controlled substance listed in Schedule I or II or its metabolite,  
6.24 other than marijuana or tetrahydrocannabinols?

6.25 (9) If a test was taken by a person driving, operating, or in physical control of a  
6.26 commercial motor vehicle, did the test results indicate an alcohol concentration of 0.04 or  
6.27 more at the time of testing?

6.28 (10) Was the testing method used valid and reliable and were the test results  
6.29 accurately evaluated?

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

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

6.35 (e) The court shall order that the revocation or disqualification be either rescinded or  
6.36 sustained and forward the order to the commissioner. The court shall file its order within 14

7.1 days following the hearing. If the revocation or disqualification is sustained, the court shall  
7.2 also forward the person's driver's license or permit to the commissioner for further action by  
7.3 the commissioner if the license or permit is not already in the commissioner's possession.

7.4 (f) Any party aggrieved by the decision of the reviewing court may appeal the  
7.5 decision as provided in the Rules of Appellate Procedure.

7.6 (g) The civil hearing under this section shall not give rise to an estoppel on any  
7.7 issues arising from the same set of circumstances in any criminal prosecution.

7.8 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to  
7.9 offenses committed on or after that date.

7.10 Sec. 8. Minnesota Statutes 2014, section 169A.60, subdivision 1, is amended to read:

7.11 Subdivision 1. **Definitions.** (a) As used in this section, the following terms have the  
7.12 meanings given in this subdivision.

7.13 (b) "Family or household member" has the meaning given in section 169A.63,  
7.14 subdivision 1.

7.15 (c) "Motor vehicle" means a self-propelled motor vehicle other than a motorboat in  
7.16 operation or an off-road recreational vehicle.

7.17 (d) "Plate impoundment violation" includes:

7.18 (1) a violation of section 169A.20 (driving while impaired) or 169A.52 (license  
7.19 revocation for test failure or refusal), or an ordinance from this state or a statute or  
7.20 ordinance from another state in conformity with either of those sections, that results in  
7.21 the revocation of a person's driver's license or driving privileges, within ten years of a  
7.22 qualified prior impaired driving incident;

7.23 (2) a license disqualification under section 171.165 (commercial driver's license  
7.24 disqualification) resulting from a violation of section 169A.52 within ten years of a  
7.25 qualified prior impaired driving incident;

7.26 (3) a violation of section 169A.20 or 169A.52 while having an alcohol concentration  
7.27 of twice the legal limit or more as measured at the time, or within two hours of the time,  
7.28 of the offense;

7.29 (4) a violation of section 169A.20 or 169A.52 while having a child under the age of  
7.30 16 in the vehicle if the child is more than 36 months younger than the offender; or

7.31 (5) a violation of section 171.24 (driving without valid license) by a person whose  
7.32 driver's license or driving privileges have been canceled or denied under section 171.04,  
7.33 subdivision 1, clause (10) (persons not eligible for driver's license, inimical to public  
7.34 safety).

8.1 (e) "Violator" means a person who was driving, operating, or in physical control of,  
8.2 or supervising a permit holder operating the motor vehicle when the plate impoundment  
8.3 violation occurred.

8.4 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to  
8.5 offenses committed on or after that date.

8.6 Sec. 9. Minnesota Statutes 2014, section 171.05, subdivision 1, is amended to read:

8.7 Subdivision 1. **Person 18 or more years of age.** (a) Any person who is 18 or more  
8.8 years of age and who, except for a lack of instruction in operating a motor vehicle, would  
8.9 otherwise be qualified to obtain a class D driver's license under this chapter, may apply for  
8.10 an instruction permit and the department shall issue the permit. The instruction permit  
8.11 entitles the applicant to drive a motor vehicle for which a class D license is valid upon the  
8.12 highways for a period of two years if the permit holder:

8.13 (1) has the permit in immediate possession; and

8.14 (2) is driving the vehicle while ~~accompanied~~ supervised by an adult licensed driver  
8.15 who is actually occupying a seat beside the driver.

8.16 (b) Any license of a lower class may be used as an instruction permit to operate a  
8.17 vehicle requiring a higher class license for a period of six months after passage of the  
8.18 written test or tests required for the higher class and when the licensee is accompanied by  
8.19 and receiving instruction from a holder of the appropriate higher class license. A copy of  
8.20 the record of examination taken for the higher class license must be carried by the driver  
8.21 while using the lower class license as an instruction permit.

8.22 **EFFECTIVE DATE.** This section is effective August 1, 2015.