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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 925

02/10/2021 Authored by Koegel, Moller and Lippert

The bill was read for the first time and referred to the Committee on Public Safety and Criminal Justice Reform Finance and Policy

1.1 A bill for an act  
1.2 relating to public safety; authorizing a pilot project for oral fluid roadside testing  
1.3 for drug-impaired driving; amending Minnesota Statutes 2020, sections 169A.41,  
1.4 by adding a subdivision; 169A.51, subdivision 1.

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

1.6 Section 1. Minnesota Statutes 2020, section 169A.41, is amended by adding a subdivision  
1.7 to read:

1.8 Subd. 5. Oral fluid preliminary testing; pilot project authorized. (a) The commissioner  
1.9 is authorized to design, plan, and implement a pilot project intended to determine the efficacy  
1.10 of oral fluid roadside testing to determine the presence of a controlled substance or  
1.11 intoxicating substance by trained law enforcement personnel. The project is further intended  
1.12 to gain a better assessment of the prevalence of drug-impaired drivers on Minnesota roads  
1.13 and to evaluate and validate the appropriate device that could be authorized for use.

1.14 (b) The results of this preliminary oral fluid test must be used for the purpose of deciding  
1.15 whether an arrest should be made and whether to require the tests authorized in section  
1.16 169A.51 (chemical tests for intoxication), but must not be used in any court action except  
1.17 the following:

1.18 (1) to prove that a test was properly required of a person pursuant to section 169A.51,  
1.19 subdivision 1;

1.20 (2) in a civil action arising out of the operation or use of the motor vehicle;

1.21 (3) in an action for license reinstatement under section 171.19;

2.1 (4) in a prosecution for a violation of section 169A.20, subdivision 2 (driving while  
 2.2 impaired; test refusal);

2.3 (5) in a prosecution or juvenile court proceeding concerning a violation of section  
 2.4 169A.33 (underage drinking and driving), or 340A.503, subdivision 1, paragraph (a), clause  
 2.5 (2) (underage alcohol consumption);

2.6 (6) in a prosecution under section 169A.31 (alcohol-related school or Head Start bus  
 2.7 driving) or 171.30 (limited license); or

2.8 (7) in a prosecution for a violation of a restriction on a driver's license under section  
 2.9 171.09, which provides that the license holder may not use or consume any amount of  
 2.10 alcohol or a controlled substance.

2.11 (c) Following the screening test, additional tests may be required of the driver pursuant  
 2.12 to the provisions of section 169A.51 (chemical tests for intoxication).

2.13 Sec. 2. Minnesota Statutes 2020, section 169A.51, subdivision 1, is amended to read:

2.14 Subdivision 1. **Implied consent; conditions; election of test.** (a) Any person who drives,  
 2.15 operates, or is in physical control of a motor vehicle within this state or on any boundary  
 2.16 water of this state consents, subject to the provisions of sections 169A.50 to 169A.53 (implied  
 2.17 consent law), and section 169A.20 (driving while impaired), to a chemical test of that  
 2.18 person's blood, breath, or urine for the purpose of determining the presence of alcohol, a  
 2.19 controlled substance or its metabolite, or an intoxicating substance. The test must be  
 2.20 administered at the direction of a peace officer.

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

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

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

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

2.30 (4) the screening test was administered and indicated an alcohol concentration of 0.08  
 2.31 or more, or the presence of a controlled or intoxicating substance.

- 3.1 (c) The test may also 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 a commercial motor
- 3.3 vehicle with the presence of any alcohol.