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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. 457

01/28/2019 Authored by Runbeck, Dettmer, Scott and Robbins The bill was read for the first time and referred to the Transportation Finance and Policy Division

1.1 A bill for an act
1.2 relating to transportation; requiring light rail transit operators to comply with
1.3 certain traffic regulations; establishing alcohol concentration limits for light rail
1.4 transit operators; amending Minnesota Statutes 2018, sections 169.035, by adding
1.5 a subdivision; 169A.20, subdivision 1; 169A.52, subdivisions 2, 4; 169A.53,
1.6 subdivision 3; 171.177, subdivisions 3, 5, 8, 12.

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

1.8 Section 1. Minnesota Statutes 2018, section 169.035, is amended by adding a subdivision
1.9 to read:

1.10 Subd. 5. Light rail transit. (a) Except for those provisions which by their nature cannot
1.11 reasonably apply to light rail transit vehicles, every person operating a light rail transit
1.12 vehicle has the rights and duties applicable to the driver of any other vehicle pursuant to
1.13 sections 169.06; 169.09; 169.13; 169.14; 169.15; 169.20; 169.202, subdivision 2; 169.21,
1.14 subdivision 2; 169.41; 169.444; and 169.475.

1.15 (b) Notwithstanding section 171.08, a light rail transit operator is not required to display
1.16 or furnish a driver's license to a peace officer in connection with the operation of a light rail
1.17 transit vehicle while being operated upon rails.

1.18 (c) Notwithstanding any provision of this subdivision, a person operating a light rail
1.19 transit vehicle that is subject to regulation by the United States Department of Transportation,
1.20 Federal Railroad Administration, or both shall comply with the more stringent or additional
1.21 requirement imposed by federal regulation.

1.22 EFFECTIVE DATE. This section is effective August 1, 2019, and applies to violations
1.23 committed on or after that date.

2.1 Sec. 2. Minnesota Statutes 2018, section 169A.20, subdivision 1, is amended to read:

2.2 Subdivision 1. **Driving while impaired crime; motor vehicle.** It is a crime for any
2.3 person to drive, operate, or be in physical control of any motor vehicle, as defined in section
2.4 169A.03, subdivision 15, except for motorboats in operation and off-road recreational
2.5 vehicles, within this state or on any boundary water of this state when:

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

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

2.8 (3) the person is under the influence of an intoxicating substance and the person knows
2.9 or has reason to know that the substance has the capacity to cause impairment;

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

2.12 (5) the person's alcohol concentration at the time, or as measured within two hours of
2.13 the time, of driving, operating, or being in physical control of the motor vehicle is 0.08 or
2.14 more;

2.15 (6) the vehicle is a commercial motor vehicle or a light rail transit vehicle and the person's
2.16 alcohol concentration at the time, or as measured within two hours of the time, of driving,
2.17 operating, or being in physical control of the commercial motor vehicle is 0.04 or more; or

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

2.20 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to violations
2.21 committed on or after that date.

2.22 Sec. 3. Minnesota Statutes 2018, section 169A.52, subdivision 2, is amended to read:

2.23 Subd. 2. **Reporting test failure.** (a) If a person submits to a test, the results of that test
2.24 must be reported to the commissioner and to the authority having responsibility for
2.25 prosecution of impaired driving offenses for the jurisdiction in which the acts occurred, if
2.26 the test results indicate:

2.27 (1) an alcohol concentration of 0.08 or more;

2.28 (2) an alcohol concentration of 0.04 or more, if the person was driving, operating, or in
2.29 physical control of a commercial motor vehicle or a light rail transit vehicle at the time of
2.30 the violation; or

3.1 (3) the presence of a controlled substance listed in Schedule I or II or its metabolite,
3.2 other than marijuana or tetrahydrocannabinols.

3.3 (b) If a person submits to a test and the test results indicate the presence of an intoxicating
3.4 substance, the results of that test must be reported to the authority having responsibility for
3.5 prosecution of impaired driving offenses for the jurisdiction in which the acts occurred.

3.6 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to violations
3.7 committed on or after that date.

3.8 Sec. 4. Minnesota Statutes 2018, section 169A.52, subdivision 4, is amended to read:

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

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

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

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

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

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

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

4.1 (b) On certification by the peace officer that there existed probable cause to believe the
 4.2 person had been driving, operating, or in physical control of a commercial motor vehicle
 4.3 or a light rail transit vehicle with any presence of alcohol and that the person submitted to
 4.4 a test and the test results indicated an alcohol concentration of 0.04 or more, the commissioner
 4.5 shall disqualify the person from operating a commercial motor vehicle under section 171.165
 4.6 (commercial driver's license disqualification).

4.7 (c) If the test is of a person's blood or urine by a laboratory operated by the Bureau of
 4.8 Criminal Apprehension, or authorized by the bureau to conduct the analysis of a blood or
 4.9 urine sample, the laboratory may directly certify to the commissioner the test results, and
 4.10 the peace officer shall certify to the commissioner that there existed probable cause to
 4.11 believe the person had been driving, operating, or in physical control of a motor vehicle in
 4.12 violation of section 169A.20 and that the person submitted to a test. Upon receipt of both
 4.13 certifications, the commissioner shall undertake the license actions described in paragraphs
 4.14 (a) and (b).

4.15 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to violations
 4.16 committed on or after that date.

4.17 Sec. 5. Minnesota Statutes 2018, section 169A.53, subdivision 3, is amended to read:

4.18 Subd. 3. **Judicial hearing; issues, order, appeal.** (a) A judicial review hearing under
 4.19 this section must be before a district judge in any county in the judicial district where the
 4.20 alleged offense occurred. The hearing is to the court and may be conducted at the same time
 4.21 and in the same manner as hearings upon pretrial motions in the criminal prosecution under
 4.22 section 169A.20 (driving while impaired), if any. The hearing must be recorded. The
 4.23 commissioner shall appear and be represented by the attorney general or through the
 4.24 prosecuting authority for the jurisdiction involved. The hearing must be held at the earliest
 4.25 practicable date, and in any event no later than 60 days following the filing of the petition
 4.26 for review. The judicial district administrator shall establish procedures to ensure efficient
 4.27 compliance with this subdivision. To accomplish this, the administrator may, whenever
 4.28 possible, consolidate and transfer review hearings among the locations within the judicial
 4.29 district where terms of district court are held.

4.30 (b) The scope of the hearing is limited to the issues in clauses (1) to (12):

4.31 (1) Did the peace officer have probable cause to believe the person was driving, operating,
 4.32 or in physical control of a motor vehicle or commercial motor vehicle in violation of section
 4.33 169A.20 (driving while impaired)?

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

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

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

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

5.8 (6) At the time of the request for the test, did the peace officer inform the person of the
5.9 person's rights and the consequences of taking or refusing the test as required by section
5.10 169A.51, subdivision 2?

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

5.12 (8) If a test was taken by a person driving, operating, or in physical control of a motor
5.13 vehicle, did the test results indicate at the time of testing:

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

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

5.17 (9) If a test was taken by a person driving, operating, or in physical control of a
5.18 commercial motor vehicle or a light rail transit vehicle, did the test results indicate an alcohol
5.19 concentration of 0.04 or more at the time of testing?

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

5.22 (11) Did the person prove the defense of necessity?

5.23 (12) Did the person prove the defense of controlled substance use in accordance with a
5.24 prescription?

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

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

5.29 (e) The court shall order that the revocation or disqualification be either rescinded or
5.30 sustained and forward the order to the commissioner. The court shall file its order within
5.31 14 days following the hearing. If the revocation or disqualification is sustained, the court

6.1 shall also forward the person's driver's license or permit to the commissioner for further
 6.2 action by the commissioner if the license or permit is not already in the commissioner's
 6.3 possession.

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

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

6.8 (h) It is an affirmative defense for the petitioner to prove a necessity.

6.9 (i) It is an affirmative defense to the presence of a Schedule I or II controlled substance
 6.10 that the person used the controlled substance according to the terms of a prescription issued
 6.11 for the person according to sections 152.11 and 152.12, unless the court finds by a
 6.12 preponderance of the evidence that the use of the controlled substance impaired the person's
 6.13 ability to operate a motor vehicle.

6.14 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to violations
 6.15 committed on or after that date.

6.16 Sec. 6. Minnesota Statutes 2018, section 171.177, subdivision 3, is amended to read:

6.17 Subd. 3. **License revocation pursuant to search warrant.** After executing a search
 6.18 warrant under sections 626.04 to 626.18 for the collection of a blood or urine sample based
 6.19 upon probable cause of a violation of section 169A.20, the peace officer acting under sections
 6.20 626.13 to 626.17 shall certify to the commissioner of public safety:

6.21 (1) when a person refuses to comply with the execution of the search warrant; or

6.22 (2) if a person submits to the test and the test results indicate:

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

6.24 (ii) an alcohol concentration of 0.04 or more, if the person was driving, operating, or in
 6.25 physical control of a commercial motor vehicle or a light rail transit vehicle at the time of
 6.26 the violation; or

6.27 (iii) the presence of a controlled substance listed in Schedule I or II or its metabolite,
 6.28 other than marijuana or tetrahydrocannabinols.

6.29 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to violations
 6.30 committed on or after that date.

7.1 Sec. 7. Minnesota Statutes 2018, section 171.177, subdivision 5, is amended to read:

7.2 Subd. 5. **Test failure; license revocation.** (a) Upon certification under subdivision 3,
7.3 pursuant to a search warrant under sections 626.04 to 626.18, that there existed probable
7.4 cause to believe the person had been driving, operating, or in physical control of a motor
7.5 vehicle in violation of section 169A.20, and that the person submitted to a test and the test
7.6 results indicate an alcohol concentration of 0.08 or more or the presence of a controlled
7.7 substance listed in Schedule I or II or its metabolite, other than marijuana or
7.8 tetrahydrocannabinols, the commissioner shall revoke the person's license or permit to drive
7.9 or nonresident operating privilege:

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

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

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

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

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

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

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

7.31 (c) If the test is of a person's blood or urine by a laboratory operated by the Bureau of
7.32 Criminal Apprehension or authorized by the bureau to conduct the analysis of a blood or
7.33 urine sample, the laboratory may directly certify to the commissioner the test results, and

8.1 the peace officer shall certify to the commissioner that there existed probable cause to
 8.2 believe the person had been driving, operating, or in physical control of a motor vehicle in
 8.3 violation of section 169A.20, and that the person submitted to a test. Upon receipt of both
 8.4 certifications, the commissioner shall undertake the license actions described in paragraphs
 8.5 (a) and (b).

8.6 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to violations
 8.7 committed on or after that date.

8.8 Sec. 8. Minnesota Statutes 2018, section 171.177, subdivision 8, is amended to read:

8.9 Subd. 8. **Test refusal; driving privilege lost.** (a) On behalf of the commissioner, a peace
 8.10 officer requiring a test or directing the administration of a chemical test pursuant to a search
 8.11 warrant under sections 626.04 to 626.18 shall serve immediate notice of intention to revoke
 8.12 and of revocation on a person who refuses to permit a test or on a person who submits to a
 8.13 test, the results of which indicate an alcohol concentration of 0.08 or more.

8.14 (b) On behalf of the commissioner, a peace officer requiring a test or directing the
 8.15 administration of a chemical test of a person driving, operating, or in physical control of a
 8.16 commercial motor vehicle or a light rail transit vehicle pursuant to a search warrant under
 8.17 sections 626.04 to 626.18 shall serve immediate notice of intention to disqualify and of
 8.18 disqualification on a person who refuses to permit a test or on a person who submits to a
 8.19 test, the results of which indicate an alcohol concentration of 0.04 or more.

8.20 (c) The officer shall:

8.21 (1) invalidate the person's driver's license or permit card by clipping the upper corner
 8.22 of the card in such a way that no identifying information including the photo is destroyed,
 8.23 and immediately return the card to the person;

8.24 (2) issue the person a temporary license effective for only seven days; and

8.25 (3) send the notification of this action to the commissioner along with the certificate
 8.26 required by subdivision 5 or 6.

8.27 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to violations
 8.28 committed on or after that date.

8.29 Sec. 9. Minnesota Statutes 2018, section 171.177, subdivision 12, is amended to read:

8.30 Subd. 12. **Judicial hearing; issues, order, appeal.** (a) A judicial review hearing under
 8.31 this section must be before a district judge in any county in the judicial district where the

9.1 alleged offense occurred. The hearing is to the court and may be conducted at the same time
9.2 and in the same manner as hearings upon pretrial motions in the criminal prosecution under
9.3 section 169A.20, if any. The hearing must be recorded. The commissioner shall appear and
9.4 be represented by the attorney general or through the prosecuting authority for the jurisdiction
9.5 involved. The hearing must be held at the earliest practicable date, and in any event no later
9.6 than 60 days following the filing of the petition for review. The judicial district administrator
9.7 shall establish procedures to ensure efficient compliance with this subdivision. To accomplish
9.8 this, the administrator may, whenever possible, consolidate and transfer review hearings
9.9 among the locations within the judicial district where terms of district court are held.

9.10 (b) The scope of the hearing is limited to the issues in clauses (1) to (13):

9.11 (1) Did the peace officer have probable cause to believe the person was driving, operating,
9.12 or in physical control of a motor vehicle or commercial motor vehicle in violation of section
9.13 169A.20?

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

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

9.17 (4) Did a licensed peace officer apply for a search warrant in accordance with the
9.18 requirements set forth in sections 626.04 to 626.18?

9.19 (5) Did a neutral magistrate review the application for a search warrant and determine
9.20 there was probable cause to believe that the person was driving, operating, or in physical
9.21 control of a motor vehicle or commercial motor vehicle in violation of section 169A.20?

9.22 (6) Was the search warrant and the process by which it was obtained valid?

9.23 (7) At the time of directing the person to take the test, did the peace officer inform the
9.24 person that refusing the test was a crime as required by subdivision 1?

9.25 (8) Did the person refuse to permit the test?

9.26 (9) If a test was taken by a person driving, operating, or in physical control of a motor
9.27 vehicle, did the test results indicate at the time of testing:

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

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

10.1 (10) If a test was taken by a person driving, operating, or in physical control of a
10.2 commercial motor vehicle or a light rail transit vehicle, did the test results indicate an alcohol
10.3 concentration of 0.04 or more at the time of testing?

10.4 (11) Was the testing method used valid and reliable and were the test results accurately
10.5 evaluated?

10.6 (12) Did the person prove the defense of necessity?

10.7 (13) Did the person prove the defense of controlled substance use in accordance with a
10.8 prescription?

10.9 (c) Certified or otherwise authenticated copies of laboratory or medical personnel reports,
10.10 records, documents, licenses, and certificates are admissible as substantive evidence.

10.11 (d) The court shall order that the revocation or disqualification be either rescinded or
10.12 sustained and forward the order to the commissioner. The court shall file its order within
10.13 14 days following the hearing. If the revocation or disqualification is sustained, the court
10.14 shall also forward the person's driver's license or permit to the commissioner for further
10.15 action by the commissioner if the license or permit is not already in the commissioner's
10.16 possession.

10.17 (e) Any party aggrieved by the decision of the reviewing court may appeal the decision
10.18 as provided in the Rules of Appellate Procedure.

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

10.21 (g) It is an affirmative defense for the petitioner to prove a necessity.

10.22 (h) It is an affirmative defense to the presence of a Schedule I or II controlled substance
10.23 that the person used the controlled substance according to the terms of a prescription issued
10.24 for the person according to sections 152.11 and 152.12, unless the court finds by a
10.25 preponderance of the evidence that the use of the controlled substance impaired the person's
10.26 ability to operate a motor vehicle.

10.27 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to violations
10.28 committed on or after that date.