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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. **1670**

02/23/2017 Authored by Zerwas, Lesch, Pinto, Runbeck, Youakim and others
The bill was read for the first time and referred to the Committee on Transportation and Regional Governance Policy
03/07/2017 Adoption of Report: Amended and re-referred to the Committee on Public Safety and Security Policy and Finance

1.1 A bill for an act
1.2 relating to transportation; making the driver diversion program permanent;
1.3 authorizing proof of insurance provided by courts; amending the uniform traffic
1.4 ticket; authorizing waiver of criminal surcharge; mandating court appearance for
1.5 certain driving offenses; appropriating money; amending Minnesota Statutes 2016,
1.6 sections 169.791, by adding a subdivision; 169.792, subdivision 7; 169.797, by
1.7 adding a subdivision; 169.99, subdivision 1c, by adding a subdivision; 171.24, by
1.8 adding a subdivision; 357.021, subdivision 6; Laws 2009, chapter 59, article 3,
1.9 section 4, subdivision 9, as amended; proposing coding for new law in Minnesota
1.10 Statutes, chapter 171.

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

1.12 Section 1. Minnesota Statutes 2016, section 169.791, is amended by adding a subdivision
1.13 to read:

1.14 Subd. 6a. **Mandatory court appearance.** A mandatory court appearance is required if
1.15 a person violates this section under circumstances involving a collision that caused bodily
1.16 harm or damage to the property of another.

1.17 Sec. 2. Minnesota Statutes 2016, section 169.792, subdivision 7, is amended to read:

1.18 Subd. 7. **License revocation.** Upon receiving the notification under subdivision 6 or
1.19 notification of a conviction for violation of section 169.791, the commissioner shall revoke
1.20 the person's driver's license or permit to drive. The revocation shall be effective beginning
1.21 14 days after the date of notification by the district court administrator or officer to the
1.22 Department of Public Safety. In order to be revoked, notice must have been mailed to the
1.23 person by the commissioner at least ten days before the effective date of the revocation. If
1.24 the person, before the effective date of the revocation, provides the commissioner or court
1.25 with the proof of insurance or other verifiable insurance information as determined by the

2.1 commissioner, establishing that the required insurance covered the vehicle at the time of
2.2 the original demand, the revocation must not become effective. ~~Revocation based upon~~
2.3 ~~receipt of a notification under subdivision 6 must be carried out regardless of the status or~~
2.4 ~~disposition of any related criminal charge.~~ The person's driver's license or permit to drive
2.5 shall be revoked for the longer of: (i) the period provided in section 169.797, subdivision
2.6 4, paragraph ~~(e)~~ (f), including any rules adopted under that paragraph, or (ii) until the driver
2.7 or owner files ~~proof of insurance~~ with the Department of Public Safety or judicial officer
2.8 proof of insurance satisfactory to the commissioner of public safety. If proof is filed with
2.9 the court under item (ii), the judicial officer must report the proof filing to the commissioner
2.10 of public safety. A license must not be revoked more than once based upon the same demand
2.11 for proof of insurance.

2.12 Sec. 3. Minnesota Statutes 2016, section 169.797, is amended by adding a subdivision to
2.13 read:

2.14 Subd. 4b. **Mandatory court appearance.** A mandatory court appearance is required if
2.15 a person violates this section under circumstances involving a collision that caused bodily
2.16 harm or damage to the property of another.

2.17 Sec. 4. Minnesota Statutes 2016, section 169.99, subdivision 1c, is amended to read:

2.18 Subd. 1c. **Notice of surcharge.** All parts of the uniform traffic ticket must ~~give~~ provide
2.19 conspicuous notice ~~of the fact that;~~

2.20 (1) if convicted, the person to whom it was issued ~~must~~ may be required to pay a
2.21 state-imposed surcharge under section 357.021, subdivision 6, and the current amount of
2.22 the required surcharge;

2.23 (2) all or part of the surcharge may be waived on a showing of indigency or undue
2.24 hardship on the convicted person or the convicted person's immediate family;

2.25 (3) programs, including diversion, may be available; and

2.26 (4) information on requesting a waiver of the surcharge or admission to a diversion
2.27 program may be obtained by calling the telephone number on the uniform citation.

3.1 Sec. 5. Minnesota Statutes 2016, section 169.99, is amended by adding a subdivision to
3.2 read:

3.3 Subd. 1d. **Collision.** In every charge of a violation of any provision of this chapter, the
3.4 uniform traffic ticket shall contain a blank or space where the officer shall specify whether
3.5 an offense involved a collision that caused bodily harm or damage to the property of another.

3.6 Sec. 6. Minnesota Statutes 2016, section 171.24, is amended by adding a subdivision to
3.7 read:

3.8 Subd. 4a. **Mandatory court appearance.** A court appearance is required if a person
3.9 violates subdivision 1, 2, or 3 under circumstances involving a collision that caused bodily
3.10 harm or damage to the property of another.

3.11 **EFFECTIVE DATE.** This section is effective August 1, 2017, and applies to violations
3.12 committed on or after that date.

3.13 Sec. 7. **[171.2405] LICENSE REINSTATEMENT DIVERSION PROGRAM.**

3.14 Subdivision 1. **Establishment.** A city or county may establish a license reinstatement
3.15 diversion program for holders of class D drivers' licenses who have been charged with
3.16 violating section 171.24, subdivision 1 or 2, but have not yet entered a plea in the
3.17 proceedings. An individual charged with driving after revocation under section 171.24,
3.18 subdivision 2, is eligible for diversion only if the revocation was due to a violation of section
3.19 169.791; 169.797; 169A.52; 169A.54; 171.17, subdivision 1, paragraph (a), clause (6); or
3.20 171.172. An individual who otherwise qualifies for the diversion program under this section
3.21 and who is also canceled under section 171.24, subdivision 5, is eligible for the diversion
3.22 program. An individual who otherwise qualifies for the diversion program under this section
3.23 and who is also canceled under section 171.24, subdivision 5, is eligible for license
3.24 reinstatement only if the individual complies with the requirements of section 171.306 and
3.25 other applicable restrictions, including the ignition interlock device program. An individual
3.26 who is a holder of a commercial driver's license or who has committed an offense in a
3.27 commercial motor vehicle is not eligible to participate in the diversion program.

3.28 Subd. 2. **Contract.** Notwithstanding any law or ordinance to the contrary, a city or
3.29 county may contract with a third party to create and administer the diversion program under
3.30 this section.

4.1 Subd. 3. **Diversion of an individual.** A prosecutor for a participating city or county
4.2 may, in consultation with the commissioner, determine whether to accept an individual for
4.3 diversion. When making the determination, the prosecutor must consider:

4.4 (1) whether the individual has a record of driving without a valid license or other criminal
4.5 record, or has previously participated in a diversion program;

4.6 (2) the strength of the evidence against the individual, along with any mitigating factors;
4.7 and

4.8 (3) the apparent ability and willingness of the individual to participate in the diversion
4.9 program and comply with program requirements.

4.10 Subd. 4. **Diversion driver's license.** (a) Notwithstanding any law to the contrary, the
4.11 commissioner of public safety may issue a diversion driver's license to a person who is a
4.12 participant in the diversion program, after receiving an application and payment of:

4.13 (1) the reinstatement fee under section 171.20, subdivision 4, by a participant whose
4.14 driver's license has been suspended;

4.15 (2) the reinstatement fee under section 171.29, subdivision 2, paragraph (a), by a
4.16 participant whose driver's license has been revoked under section 169.791; 169.797; or
4.17 171.17, subdivision 1, paragraph (a), clause (6); or

4.18 (3) the reinstatement fee under section 171.29, subdivision 2, paragraph (a), by a
4.19 participant whose driver's license has been revoked under section 169A.52 or 169A.54. The
4.20 reinstatement fee and surcharge under section 171.29, subdivision 2, paragraph (b), also
4.21 must be paid during the course of and as a condition of the diversion program.

4.22 (b) The commissioner may impose restrictions on a diversion driver's license that are
4.23 suitable to the licensee's driving ability or applicable to the licensee as the commissioner
4.24 deems appropriate to ensure the safe operation of a motor vehicle by the licensee. Restrictions
4.25 may include but are not limited to participation in the ignition interlock device program
4.26 under section 171.306.

4.27 (c) Payments of the reinstatement fee and surcharge under section 171.29, subdivision
4.28 2, paragraph (b), made by participants in the diversion program must be applied first toward
4.29 payment of the reinstatement fee and, after the reinstatement fee has been fully paid, toward
4.30 payment of the surcharge. Each payment that is applied toward the reinstatement fee must
4.31 be credited as provided in section 171.29, subdivision 2, paragraph (b), and each payment
4.32 that is applied toward the surcharge must be credited as provided in section 171.29,

5.1 subdivision 2, paragraphs (c) and (d). After the reinstatement fee and surcharge are satisfied,
5.2 the participant must pay the program participation fee.

5.3 (d) Notwithstanding any law to the contrary, a diversion driver's license issued to a
5.4 participant in the program must not be revoked or suspended for convictions entered due
5.5 to payments made under subdivision 5.

5.6 Subd. 5. **Components of program.** (a) At a minimum, the diversion program must
5.7 require individuals to:

5.8 (1) successfully attend and complete, at the individual's expense, educational classes
5.9 that provide, among other things, information on driver's licensure;

5.10 (2) pay, under a schedule approved by the prosecutor, all required fees, fines, and charges
5.11 that affect the individual's driver's license status, including applicable statutory license
5.12 reinstatement fees and costs of participation in the program;

5.13 (3) comply with all traffic laws; and

5.14 (4) demonstrate compliance with motor vehicle insurance requirements.

5.15 (b) An individual accepted into the diversion program is eligible to apply for a diversion
5.16 driver's license.

5.17 Subd. 6. **Termination of participation in diversion program.** (a) An individual's
5.18 participation in the diversion program may terminate when:

5.19 (1) during participation in the program, the individual is guilty of a moving traffic
5.20 violation or failure to provide vehicle insurance for an offense that occurred after the
5.21 individual attended the education class under subdivision 5, paragraph (a), clause (1);

5.22 (2) the third-party administrator of the diversion program informs the court and the
5.23 commissioner that the individual no longer satisfies the conditions of the diversion program;
5.24 or

5.25 (3) the third-party administrator informs the court, the prosecutor, and the commissioner
5.26 of public safety that the individual has met all conditions of the diversion program, including,
5.27 at a minimum, satisfactory fulfillment of the components under subdivision 5.

5.28 (b) Upon termination of an individual's participation in the diversion program, the
5.29 commissioner must cancel the individual's diversion driver's license.

5.30 (c) Upon receiving notice under paragraph (a), clause (3), the court must dismiss the
5.31 charge or the prosecutor must decline to prosecute the individual.

6.1 (d) The original charge against the individual for violating section 171.24 may be
6.2 reinstated against an individual if the individual's diversion program participation terminates
6.3 under paragraph (a), clause (1) or (2).

6.4 (e) The commissioner must reinstate the driver's license of an individual whose diversion
6.5 program participation terminates under paragraph (a), clause (3).

6.6 (f) If an individual terminates diversion program participation under paragraph (a), clause
6.7 (1) or (2), or voluntarily leaves the diversion program, the third-party administrator must
6.8 retain any fees paid under subdivision 4 for a period of five years from the termination date.
6.9 If the individual returns to the diversion program within the five-year period, the retained
6.10 fees may be applied to the subsequent diversion program participation. If the individual
6.11 does not return to the program within the five-year period, the returned fees are forfeited
6.12 to the third-party administrator.

6.13 Subd. 7. **Biennial report.** (a) By February 1 of each even-numbered year, each city and
6.14 county that participates in the diversion program must report to the legislative committees
6.15 with jurisdiction over transportation and the judiciary concerning the results of the program.
6.16 The report must be made available electronically and, upon request, in print. The report
6.17 must include, without limitation, the effect of the program on:

6.18 (1) recidivism rates for participants in the diversion program;

6.19 (2) payment of the fees and fines collected in the diversion program to cities, counties,
6.20 and the state;

6.21 (3) educational support provided to participants in the diversion program; and

6.22 (4) the total number of participants in the diversion program, including the number of
6.23 participants who have terminated from the program under clauses (1) to (3).

6.24 (b) The report must include recommendations regarding legislative changes, as
6.25 appropriate.

6.26 **EFFECTIVE DATE.** This section is effective July 1, 2020, or the day following the
6.27 date the Minnesota Licensing and Registration System is first used for driver's license
6.28 transactions, whichever is earlier.

6.29 Sec. 8. Minnesota Statutes 2016, section 357.021, subdivision 6, is amended to read:

6.30 Subd. 6. **Surcharges on criminal and traffic offenders.** (a) Except as provided in this
6.31 ~~paragraph~~ subdivision, the court shall impose and the court administrator shall collect a \$75
6.32 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or

7.1 petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle
7.2 parking, for which there shall be a \$12 surcharge. When a defendant is convicted of more
7.3 than one offense in a case, the surcharge shall be imposed only once in that case. In the
7.4 Second Judicial District, the court shall impose, and the court administrator shall collect,
7.5 an additional \$1 surcharge on every person convicted of any felony, gross misdemeanor,
7.6 misdemeanor, or petty misdemeanor offense, including a violation of a law or ordinance
7.7 relating to vehicle parking, if the Ramsey County Board of Commissioners authorizes the
7.8 \$1 surcharge. The surcharge shall be imposed whether or not the person is sentenced to
7.9 imprisonment or the sentence is stayed. The surcharge shall not be imposed when a person
7.10 is convicted of a petty misdemeanor for which no fine is imposed.

7.11 ~~(b) If the court fails to impose a surcharge as required by this subdivision, the court~~
7.12 ~~administrator shall show the imposition of the surcharge, collect the surcharge, and correct~~
7.13 ~~the record.~~

7.14 ~~(e) The court may not reduce the amount or waive payment of the surcharge required~~
7.15 ~~under this subdivision. Upon on a showing of indigency or undue hardship upon the convicted~~
7.16 ~~person or the convicted person's immediate family, the sentencing court may authorize~~
7.17 ~~payment of the surcharge in installments.~~

7.18 ~~(d)~~ (c) The court administrator or other entity collecting a surcharge shall forward it to
7.19 the commissioner of management and budget.

7.20 ~~(e)~~ (d) If the convicted person is sentenced to imprisonment and has not paid the surcharge
7.21 before the term of imprisonment begins, the chief executive officer of the correctional
7.22 facility in which the convicted person is incarcerated shall collect the surcharge from any
7.23 earnings the inmate accrues from work performed in the facility or while on conditional
7.24 release. The chief executive officer shall forward the amount collected to the court
7.25 administrator or other entity collecting the surcharge imposed by the court.

7.26 ~~(f)~~ (e) A person who enters a diversion program, continuance without prosecution,
7.27 continuance for dismissal, or stay of adjudication for a violation of chapter 169 must pay
7.28 the surcharge described in this subdivision. A surcharge imposed under this paragraph shall
7.29 be imposed only once per case.

7.30 ~~(g)~~ (f) The surcharge does not apply to administrative citations issued pursuant to section
7.31 169.999.

8.1 Sec. 9. Laws 2009, chapter 59, article 3, section 4, subdivision 9, as amended by Laws
8.2 2010, chapter 197, section 1, Laws 2011, chapter 87, section 1, subdivision 9, and Laws
8.3 2013, chapter 127, section 60, is amended to read:

8.4 Subd. 9. **Sunset; transition.** A city or county participating in this pilot program may
8.5 accept an individual for diversion into the pilot program ~~until June 30, 2017. The~~ and the
8.6 third party administering the diversion program may collect and disburse fees collected
8.7 pursuant to subdivision 6, paragraph (a), clause (2), ~~through December 31, 2018~~ until the
8.8 day following the date the permanent diversion program established under Minnesota
8.9 Statutes, section 171.2405, is effective, at which time the pilot program under this section
8.10 expires. An individual participating in but who has not completed the pilot program on the
8.11 date the pilot program expires is automatically transferred and enrolled in the permanent
8.12 diversion program under Minnesota Statutes, section 171.2405, and credited for any fees
8.13 paid or activities completed under the pilot program.

8.14 **EFFECTIVE DATE.** This section is effective the day following final enactment.

8.15 Sec. 10. **APPROPRIATIONS.**

8.16 \$..... in fiscal year and \$..... in fiscal year are appropriated from the general fund
8.17 to the commissioner of public safety for the administration of the license reinstatement
8.18 diversion program under Minnesota Statutes, section 171.2405.