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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. **1671**

02/23/2017 Authored by Zerwas, Lesch and Bahr, C.,
The bill was read for the first time and referred to the Committee on Transportation and Regional Governance Policy

1.1 A bill for an act
1.2 relating to transportation; making the driver diversion program permanent;
1.3 appropriating money; amending Laws 2009, chapter 59, article 3, section 4,
1.4 subdivision 9, as amended; proposing coding for new law in Minnesota Statutes,
1.5 chapter 171.

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

1.7 Section 1. **[171.2405] LICENSE REINSTATEMENT DIVERSION PROGRAM.**

1.8 Subdivision 1. **Establishment.** A city or county may establish a license reinstatement
1.9 diversion program for holders of class D drivers' licenses who have been charged with
1.10 violating section 171.24, subdivision 1 or 2, but have not yet entered a plea in the
1.11 proceedings. An individual charged with driving after revocation under section 171.24,
1.12 subdivision 2, is eligible for diversion only if the revocation was due to a violation of section
1.13 169.791; 169.797; 169A.52; 169A.54; 171.17, subdivision 1, paragraph (a), clause (6); or
1.14 171.172. An individual who otherwise qualifies for the diversion program under this section
1.15 and who is also canceled under section 171.24, subdivision 5, is eligible for the diversion
1.16 program. An individual who otherwise qualifies for the diversion program under this section
1.17 and who is also canceled under section 171.24, subdivision 5, is eligible for license
1.18 reinstatement only if the individual complies with the requirements of section 171.306 and
1.19 other applicable restrictions, including the ignition interlock device program. An individual
1.20 who is a holder of a commercial driver's license or who has committed an offense in a
1.21 commercial motor vehicle is not eligible to participate in the diversion program.

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

2.1 Subd. 3. **Diversion of an individual.** A prosecutor for a participating city or county
2.2 may determine whether to accept an individual for diversion. When making the determination,
2.3 the prosecutor must consider:

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

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

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

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

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

2.15 (2) the reinstatement fee under section 171.29, subdivision 2, paragraph (a), by a
2.16 participant whose driver's license has been revoked under section 169.791; 169.797; or
2.17 171.17, subdivision 1, paragraph (a), clause (6); or

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

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

2.27 (c) Payments of the reinstatement fee and surcharge under section 171.29, subdivision
2.28 2, paragraph (b), made by participants in the diversion program must be applied first toward
2.29 payment of the reinstatement fee and, after the reinstatement fee has been fully paid, toward
2.30 payment of the surcharge. Each payment that is applied toward the reinstatement fee must
2.31 be credited as provided in section 171.29, subdivision 2, paragraph (b), and each payment
2.32 that is applied toward the surcharge must be credited as provided in section 171.29,

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

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

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

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

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

3.13 (3) comply with all traffic laws; and

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

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

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

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

3.22 (2) the third-party administrator of the diversion program informs the court and the
3.23 commissioner that the individual no longer satisfies the conditions of the diversion program;
3.24 or

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

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

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

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

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

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

4.13 Subd. 7. **Biennial report.** (a) By February 1 of each even-numbered year, the
4.14 commissioner of public safety and each eligible city and county that participates in the
4.15 diversion program must report to the legislative committees with jurisdiction over
4.16 transportation and the judiciary concerning the results of the program. The report must be
4.17 made available electronically and, upon request, in print. The report must include, without
4.18 limitation, the effect of the program on:

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

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

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

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

4.25 (b) The report must include recommendations regarding legislative changes, as
4.26 appropriate.

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

5.1 Sec. 2. Laws 2009, chapter 59, article 3, section 4, subdivision 9, as amended by Laws
5.2 2010, chapter 197, section 1, Laws 2011, chapter 87, section 1, subdivision 9, and Laws
5.3 2013, chapter 127, section 60, is amended to read:

5.4 Subd. 9. **Sunset; transition.** A city or county participating in this pilot program may
5.5 accept an individual for diversion into the pilot program ~~until June 30, 2017, and the third~~
5.6 party administering the diversion program may collect and disburse fees collected pursuant
5.7 to subdivision 6, paragraph (a), clause (2), ~~through December 31, 2018~~ until the day following
5.8 the date the permanent diversion program established under Minnesota Statutes, section
5.9 171.2405, is effective, at which time the pilot program under this section expires. An
5.10 individual participating in but who has not completed the pilot program on the date the pilot
5.11 program expires is automatically transferred and enrolled in the permanent diversion program
5.12 under Minnesota Statutes, section 171.2405, and credited for any fees paid or activities
5.13 completed under the pilot program.

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

5.15 Sec. 3. **FUNDING.**

5.16 \$..... in fiscal year 2018 and \$..... in fiscal year 2019 are appropriated from the general
5.17 fund to the commissioner of public safety for the administration of the license reinstatement
5.18 diversion program under Minnesota Statutes, section 171.2405.