

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 3685

(SENATE AUTHORS: JOHNSON, Koran and Ingebrigtsen)

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Introduction and first reading
Referred to Judiciary and Public Safety Finance and Policy

OFFICIAL STATUS

- 1.1 A bill for an act
- 1.2 relating to public safety; creating a lifetime revocation of licenses and permits to
- 1.3 drive for certain repeat offenders; creating a reinstatement process for individuals
- 1.4 subject to lifetime revocation; amending Minnesota Statutes 2016, sections
- 1.5 169A.52, subdivisions 3, 4; 169A.55, subdivision 4, by adding a subdivision;
- 1.6 Minnesota Statutes 2017 Supplement, section 171.177, subdivisions 4, 5.
- 1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.8 Section 1. Minnesota Statutes 2016, section 169A.52, subdivision 3, is amended to read:
- 1.9 Subd. 3. **Test refusal; license revocation.** (a) Upon certification by the peace officer
- 1.10 that there existed probable cause to believe the person had been driving, operating, or in
- 1.11 physical control of a motor vehicle in violation of section 169A.20 (driving while impaired),
- 1.12 and that the person refused to submit to a test, the commissioner shall revoke the person's
- 1.13 license or permit to drive, or nonresident operating privilege, even if a test was obtained
- 1.14 pursuant to this section after the person refused to submit to testing. The commissioner shall
- 1.15 revoke the license, permit, or nonresident operating privilege:
- 1.16 (1) for a person with no qualified prior impaired driving incidents within the past ten
- 1.17 years, for a period of not less than one year;
- 1.18 (2) for a person under the age of 21 years and with no qualified prior impaired driving
- 1.19 incidents within the past ten years, for a period of not less than one year;
- 1.20 (3) for a person with one qualified prior impaired driving incident within the past ten
- 1.21 years, or two qualified prior impaired driving incidents, for a period of not less than two
- 1.22 years;

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

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

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

(7) notwithstanding the revocation periods in clauses (1) to (6), for a person with five or more qualified prior impaired driving incidents, for the remainder of the person's lifetime subject to the reinstatement provision under section 169A.55, subdivision 4a.

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

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to violations committed on or after that date.

Sec. 2. Minnesota Statutes 2016, section 169A.52, subdivision 4, is amended to read:

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

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

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

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

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

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

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

(7) notwithstanding the revocation periods in clauses (1) to (6), for a person with five or more qualified prior impaired driving incidents, for the remainder of the person's lifetime subject to the reinstatement provision under section 169A.55, subdivision 4a.

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

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

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to violations committed on or after that date.

Sec. 3. Minnesota Statutes 2016, section 169A.55, subdivision 4, is amended to read:

Subd. 4. **Reinstatement of driving privileges; multiple incidents.** (a) A person whose driver's license has been canceled or denied as a result of three or more qualified impaired

driving incidents shall not be eligible for reinstatement of driving privileges without an ignition interlock restriction until the person:

(1) has completed rehabilitation according to rules adopted by the commissioner or been granted a variance from the rules by the commissioner; and

(2) has submitted verification of abstinence from alcohol and controlled substances, as evidenced by the person's use of an ignition interlock device or other chemical monitoring device approved by the commissioner.

(b) The verification of abstinence must show that the person has abstained from the use of alcohol and controlled substances for a period of not less than:

(1) three years, for a person whose driver's license was canceled or denied for an offense occurring within ten years of the first of two qualified prior impaired driving incidents, or occurring after three qualified prior impaired driving incidents;

(2) four years, for a person whose driver's license was canceled or denied for an offense occurring within ten years of the first of three qualified prior impaired driving incidents; ~~or~~

(3) six years, for a person whose driver's license was canceled or denied for an offense occurring after four or more qualified prior impaired driving incidents; or

(4) six years after a person began use of an ignition interlock device, for a person made eligible for a restricted license pursuant to subdivision 4a.

(c) The commissioner shall establish performance standards and a process for certifying chemical monitoring devices. The standards and procedures are not rules and are exempt from chapter 14, including section 14.386.

Sec. 4. Minnesota Statutes 2016, section 169A.55, is amended by adding a subdivision to read:

Subd. 4a. Reinstatement of driving privileges; lifetime revocation. (a) A person whose driving privileges have been revoked or canceled for the remainder of the person's lifetime pursuant to section 169A.52, subdivision 3, paragraph (a), clause (7); 169A.52, subdivision 4, paragraph (a), clause (7); 171.177, subdivision 4, paragraph (a), clause (7); or 171.177, subdivision 5, paragraph (a), clause (7), may file a petition for a hearing in the matter in the district court in the county where the person resides and, in the case of a nonresident, in the district court in any county and the court is vested with jurisdiction. The court must set the matter for hearing upon 15 days' written notice to the commissioner and county attorney, take testimony and examine the facts of the case to determine whether the petitioner is

5.1 entitled to an order making the person eligible for reinstatement of driving privileges, and
5.2 render judgment accordingly.

5.3 (b) A petition may be filed under this subdivision no sooner than the later of:

5.4 (1) ten years after the date on which the person's driving privileges were revoked or
5.5 canceled;

5.6 (2) ten years after the person was released from confinement for any offense arising out
5.7 of the course of conduct that resulted in the license revocation or cancellation;

5.8 (3) five years after a court denied a petition under this subdivision; or

5.9 (4) if the person is convicted of a criminal offense involving a motor vehicle during the
5.10 revocation or cancellation period, ten years from the date of the most recent conviction
5.11 involving a motor vehicle.

5.12 (c) In determining whether to grant a petition filed under this subdivision, a court shall
5.13 consider:

5.14 (1) the nature of the offense for which the person's driving privileges were revoked or
5.15 canceled;

5.16 (2) relevant criminal and noncriminal behavior of the petitioner before and after the
5.17 revocation or cancellation;

5.18 (3) the recommendation, if any, of the petitioner's probation or supervised release agent;

5.19 (4) whether the person successfully completed a chemical dependency treatment program;

5.20 (5) any evidence or verification of abstinence from alcohol and controlled substances;
5.21 and

5.22 (6) any other relevant factors.

5.23 (d) The court may issue an order making the person eligible for reinstatement of driving
5.24 privileges or for a restricted license pursuant to section 171.306, subdivision 4, if the court
5.25 finds by clear and convincing evidence that the petitioner:

5.26 (1) is rehabilitated;

5.27 (2) does not pose a threat to public safety, or that any threat to public safety will be
5.28 addressed through participation in the ignition interlock program; and

5.29 (3) the person successfully completed a chemical dependency treatment program if
5.30 ordered by a court.

6.1 (e) A person made eligible for a restricted license is eligible for reinstatement of driving
6.2 privileges pursuant to subdivision 4.

6.3 (f) Upon receipt of a court order making a person eligible for reinstatement of driving
6.4 privileges or a restricted license, the commissioner shall require the person to comply with
6.5 section 171.29 before issuing a license or section 171.306 before issuing a restricted license.

6.6 Sec. 5. Minnesota Statutes 2017 Supplement, section 171.177, subdivision 4, is amended
6.7 to read:

6.8 Subd. 4. **Test refusal; license revocation.** (a) Upon certification under subdivision 3
6.9 that there existed probable cause to believe the person had been driving, operating, or in
6.10 physical control of a motor vehicle in violation of section 169A.20, and that the person
6.11 refused to comply with the execution of the search warrant under sections 626.04 to 626.18,
6.12 the commissioner shall revoke the person's license or permit to drive or nonresident operating
6.13 privilege. The commissioner shall revoke the license, permit, or nonresident operating
6.14 privilege:

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

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

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

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

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

6.27 (6) for a person with four or more qualified prior impaired driving incidents, for a period
6.28 of not less than six years; or

6.29 (7) notwithstanding the revocation periods in clauses (1) to (6), for a person with five
6.30 or more qualified prior impaired driving incidents, for the remainder of the person's lifetime
6.31 subject to the reinstatement provision under section 169A.55, subdivision 4a.

(b) When a person who had been driving, operating, or in physical control of a commercial motor vehicle refuses to comply with the search warrant and permit testing, the commissioner shall disqualify the person from operating a commercial motor vehicle and shall revoke the person's license or permit to drive or nonresident operating privilege according to the federal regulations adopted by reference in section 171.165, subdivision 2.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to violations committed on or after that date.

Sec. 6. Minnesota Statutes 2017 Supplement, section 171.177, subdivision 5, is amended to read:

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

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

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

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

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

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

8.1 (6) for a person with four or more qualified prior impaired driving incidents, for a period
8.2 of not less than six years; or

8.3 (7) notwithstanding the revocation periods in clauses (1) to (6), for a person with five
8.4 or more qualified prior impaired driving incidents, for the remainder of the person's lifetime
8.5 subject to the reinstatement provision under section 169A.55, subdivision 4a.

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

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

8.19 **EFFECTIVE DATE.** This section is effective August 1, 2018, and applies to violations
8.20 committed on or after that date.