

Subd. 2. **Traffic regulations; intoxication; evidence.** Upon the trial of any prosecution arising out of acts alleged to have been committed by any person arrested for driving, operating, or in actual physical control of a motor vehicle while under the influence of an alcohol beverage, the court may admit evidence of the amount of alcohol in the person's blood taken voluntarily or pursuant to section 169.123 ~~within two hours of the time of the offense~~ as shown by a medical or chemical analysis of his ~~breath, blood, urine or saliva or of his breath or urine if the person arrested elected to take such test in lieu thereof.~~

For the purposes of this subdivision:

(a) evidence that there was at the time 0.05 percent or less by weight of alcohol in the person's blood is prima facie evidence that such person was not under the influence of an alcoholic beverage;

(b) evidence that there was at the time more than 0.05 percent and less than ~~0.15~~ 0.10 percent by weight of alcohol in the person's blood is relevant evidence but it is not to be given prima facie effect in indicating whether or not the person was under the influence of an alcoholic beverage;

(c) evidence that there was at the time ~~0.15~~ 0.10 percent or more by weight of alcohol in the person's blood may be admitted as prima facie evidence that the person was under the influence of an alcoholic beverage.

The foregoing provisions shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether or not such person was under the influence of an alcoholic beverage, but the refusal to permit the taking of specimens for such chemical analysis shall not be admissible in evidence. *In the event of a breath or urine test, the percentages above shall be increased by 10 percent. In the event of a breath, saliva or urine test, the percentages above shall be increased by 20 percent.*

For the purposes of this section, an "alcoholic beverage" means any liquid containing more than one-half of one percent of alcohol by volume.

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CHAPTER 284—H. F. No. 25

An act relating to highway traffic regulation; modifying provisions for chemical testing for intoxication and hearings incident to

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refusal to submit to such testing; amending Minnesota Statutes 1965, Section 169.123, Subdivisions 2, 3, 5, 6, 7, and 8.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1965, Section 169.123, Subdivision 2, is amended to read:

Subd. 2. Traffic regulations; implied consent; conditions; election as to type of test. Any person who drives or operates a motor vehicle upon the public highways of this state shall be deemed to have given consent subject to the provisions of Laws 1961, Chapter 454, to a chemical test of his blood, breath, ~~saliva~~ or urine for the purpose of determining the alcoholic content of his blood. The test shall be administered at the direction of a peace officer, when (1) the officer has reasonable and probable grounds to believe that a person was driving or operating a motor vehicle while said person was under the influence of an alcoholic beverage, and (2) the said person has been lawfully placed under arrest for alleged commission of the said described offense in violation of Minnesota Statutes, Section 169.121, *or an ordinance in conformity therewith*. No action shall be taken hereunder against the said person unless the two enumerated conditions existed at the time the officer requested the chemical test specimen. Any person may *decline to take a direct blood test and elect to take either a breath, ~~saliva~~ or urine test, whichever is available, in lieu of a direct blood test; and thereof, and either a breath or urine test shall be made available to the arrested person who makes such an election.* No action shall be taken *against the person* for declining *a to take a direct blood test* unless either a breath, ~~saliva~~, or urine test was available. At the time the peace officer requests such chemical test specimen, he shall inform the ~~said~~ *arrested* person that his right to drive may be revoked or denied if he refuses to permit the test and that he has the right to have additional tests made by a person of his own choosing.

Sec. 2. Minnesota statutes 1965, Section 169.123, Subdivision 3, is amended to read:

Subd. 3. Manner of making test; additional tests. Only a physician, or a medical technician, or registered nurse acting at the request of a peace officer may withdraw blood for the purpose of determining the alcoholic content therein. This limitation shall not apply to the taking of a breath, ~~saliva~~ or urine specimen. The person tested shall have the right to a physician, or a medical technician, or registered nurse of his own choosing administer a chemical test or tests in addition to any administered at the direction of a peace officer; provided, that the additional test specimen on behalf of said

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person be obtained at the place where such person is in custody and at no expense to the state. Said person shall have the right to immediately communicate with his attorney, doctor or any other person in order to secure a physician, medical technician or registered nurse, for the purpose of administering such additional test or tests; but this shall in no way delay the administering of the test at the direction of the peace officer. The failure or inability to obtain an additional test or tests by a person shall not preclude the admission in evidence of the test taken at the direction of a peace officer unless the additional test was prevented or denied by the peace officer. Upon the request of the person who is tested, full information concerning the test or tests taken at the direction of the peace officer shall be made available to him. The physician, medical technician or registered nurse drawing blood at the request of a peace officer for the purpose of determining alcoholic content shall in no manner be liable in any civil or criminal action except for negligence in drawing the blood. The person administering such test at the request and direction of such peace officer shall be fully trained in the administration and interpretation of such tests pursuant to standards promulgated by rule by the commissioner of highways.

Sec. 3. Minnesota Statutes 1965, Section 169.123, Subdivision 5, is amended to read:

Subd. 5. **Notice of revocation or determination to deny; request for hearing.** No revocation under subdivision 4 shall be made until the commissioner notifies the person by certified or registered mail of the intention to revoke and allows said person a 20 day period after the date of receiving said notice to request of the commissioner, in writing, a hearing before the commissioner as herein provided. If no request is filed within the 20 day period the commissioner may then issue an order of revocation. However if a request for hearing is filed, no revocation hereunder shall be made until final judicial determination resulting in an adverse decision to said person. ~~Nothing hereunder shall affect the right to suspend or revoke authorized under other provisions of law. In the case of a resident without a license or permit to operate a motor vehicle who becomes subject to denial of a license or permit under subdivision 4; the commissioner shall give notice under this subdivision and the driver shall have the same right to request a review within a 20 day period. Further procedure shall be the same as in case of revocation; except that the denial shall continue in effect for the six month period after the date of the alleged violation or until the date of a determination before the commissioner or in district court in favor of said driver.~~

Sec. 4. Minnesota Statutes 1965, Section 169.123, Subdivision 6, is amended to read:

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Subd. 6. Hearing. The hearing shall be before a municipal judge, or probate judge if no municipal judge is available, learned in the law, in the county of the residence of the person arrested *where the arrest occurred*, unless there is agreement that the hearing may be held in some other county. The hearing shall be recorded and proceed as in a criminal matter, without the right of trial by jury, and its scope shall cover the issues of whether the peace officer had reasonable and probable grounds to believe the person was driving or operating a motor vehicle while under the influence of an alcoholic beverage; whether the person was lawfully placed under arrest; whether he refused to permit the test, and if he refused whether he had reasonable grounds for refusing to permit the test; and whether at the time of request for the test the peace officer informed the said person that his right to drive might be revoked or denied if he refused to permit the test and of his right to have additional tests made by a person of his own choosing. The municipal court shall order either that the revocation or denial be rescinded or sustained and refer such order to the commissioner of highways for his further action.

Sec. 5. Minnesota Statutes 1965, Section 169.123, Subdivision 7, is amended to read:

Subd. 7. Review by district court. If the revocation or denial is sustained, the person whose license or permit to drive, or nonresident operating privilege has been revoked or denied, may within 20 days after notice of the determination by the commissioner of highways file a petition for a hearing of the matter in the district court in the county of ~~the defendant's residence~~ *where the hearing pursuant to subdivision 6 was held unless there is agreement that the hearing may be held in some other county*. The petition shall be filed with the clerk of the said court together with proof of service of a copy thereof on the commissioner. It shall be the duty of the court to set the matter for hearing on a day certain with reasonable notice thereof to the parties. The matter shall be heard de novo with a right of trial by jury.

Sec. 6. Minnesota Statutes 1965, Section 169.123, Subdivision 8, is amended to read:

Subd. 8. Notice of action to other states. In the event of a request for a hearing by a nonresident of the state of Minnesota ~~as provided by subdivision 6; or an appeal by a nonresident of the state of Minnesota as provided by subdivision 7;~~ *such hearing or appeal shall be heard in the county where the offense occurred*. When it has been finally determined that a nonresident's privilege to operate a motor vehicle in this state has been revoked or denied, the commis-

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sioner of highways shall give information in writing of the action taken to the official in charge of traffic control or public safety of the state of the person's residence and of any state in which he has a license.

Sec. 7. *Sections 2 to 6 shall apply only to cases in which the refusal or alleged refusal to permit chemical testing occurs on or after the effective date of this act. All other cases shall be governed by the law in effect on the date of such refusal or alleged refusal.*

Approved May 3, 1967.

CHAPTER 285—H. F. No. 372

An act relating to taxation; tree growth tax law; amending Minnesota Statutes 1965, Section 270.38, Subdivision 5; and repealing Minnesota Statutes 1965, Section 270.38, Subdivision 3.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Minnesota Statutes 1965, Section 270.38, Subdivision 5, is amended to read:

Subd. 5. **Taxation; Tree Growth Tax Law.** The owner of any timber lands made subject to sections 270.31 to 270.39 may at any time apply to withdraw any governmental subdivisions from taxation under sections 270.31 to 270.39. Such application made in writing and giving the reasons for withdrawal may be approved by the county board subject to the payment of all back taxes and penalties on the basis of ad valorem taxes in the area giving due credit for taxes paid under sections 270.31 to 270.39; provided that after an agreement has been in effect for more than six years, no penalties *or ad valorem taxes* as above specified shall be assessed and the owner shall not be required to pay such penalties *or ad valorem taxes*. If approved, the lands shall be deemed to be withdrawn from taxation under sections 270.31 to 270.39 and shall be returned to taxation under the general real property tax law beginning with the calendar year next immediately following the date upon which the withdrawal was approved by the county board.

Sec. 2. *Minnesota Statutes 1965, Section 270.38, Subdivision 3, is repealed.*

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