

provisions of section 471.59, jointly exercise such powers to improve and regulate the use of the body of water as are conferred on county boards by sections 378.31 and 378.32, and to establish and administer lake improvement districts as provided under sections 378.41 to 378.56 and section 16 of this act, provided that, no home rule charter or statutory city or town may establish and administer a lake improvement district or exercise any of the powers granted in this section if a lake improvement district covering the same territory has been created by a county board under sections 378.41 to 378.56 and section 16 of this act. References in sections 378.31 to 378.35 and 378.41 to 378.56 and section 16 of this act to the county board shall mean also be construed to refer to the appropriate governing body of a home rule charter or statutory city or the board of supervisors of a town.

Sec. 18. This act is effective the day following final enactment.

Approved April 5, 1978.

#### CHAPTER 727-S.F.No.804

[Coded in Part]

*An act relating to the operation of motor vehicles; defining the offense of driving while intoxicated; providing procedures for the testing of drivers who are under the influence of alcohol or controlled substances; providing procedures for the limitation, suspension, revocation and reinstatement of driving privileges; providing for alcohol problem assessments; providing penalties; amending Minnesota Statutes 1976, Sections 169.01, by adding a subdivision; 169.121; 169.123, as amended by Laws 1977, Chapter 82, Section 2; 169.124; 169.125; 169.126; 171.30, Subdivision 1; and Chapter 169, by adding sections; repealing Minnesota Statutes 1976, Sections 169.127; and 171.245.*

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

Section 1. Minnesota Statutes 1976, Section 169.01, is amended by adding a subdivision to read:

Subd. 61. ALCOHOL CONCENTRATION. "Alcohol concentration" means

(a) the number of grams of alcohol per 100 milliliters of blood, or

(b) the number of grams of alcohol per 210 liters of breath, or

(c) the number of grams of alcohol per 67 milliliters of urine.

Sec. 2. Minnesota Statutes 1976, Section 169.121, is amended to read:

**169.121 MOTOR VEHICLE DRIVERS UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE.** Subdivision 1. It shall be is a misdemeanor for any person described in clauses (a); (b); (c) or (d) to drive, operate or be in actual physical

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control of any motor vehicle within this state:

(a) A When the person who is under the influence of an alcoholic beverage or narcotic drug alcohol;

(b) A When the person who is an habitual user of narcotic drugs or who is under the influence of a controlled substance which impairs the ability to drive;

(c) A When the person who is under the influence of a combination of any two or more of the elements named in clauses (a) and (b) hereof; or

(d) A person whose blood contains When the person's alcohol concentration is 0.10 percent or more by weight of alcohol.

When a police officer has reason to believe from the manner in which a driver is driving, operating, or actually controlling, or has driven, operated, or actually controlled, a vehicle that such driver may be violating this subdivision he may require the driver to provide a sample of his breath for an immediate preliminary screening test or analysis before an arrest is made, using a device approved by the commissioner for this purpose. The results of such a preliminary screening test or analysis shall be used only for the purpose of guiding the officer in deciding whether an arrest should be made, and shall not be used as evidence in any court action.

The driver of any motor vehicle shall furnish such a sample of his breath when required to do so. The provisions of section 169.123, shall apply to any driver who refuses to furnish a sample of his breath; provided that the license or permit of a driver shall not be revoked pursuant to section 169.123, subdivision 4, for refusal to provide a sample of his breath for preliminary screening purposes, if he submits to a blood, breath or urine test to determine the alcoholic content of his blood pursuant to section 169.123, subdivision 2. Another test may be required of the driver following the screening test pursuant to the provisions of this chapter, which shall be admissible evidence in accordance therewith.

Nothing in this subdivision authorizing such preliminary screening test or analysis shall be construed as changing, limiting, or otherwise modifying the procedures, safeguards, and other provisions of sections 169.121 to 169.123 or ordinances in conformity therewith.

The provisions of this subdivision apply, but are not limited in application, to any person who drives, operates, or who is in actual physical control of any motor vehicle in the manner prohibited by this subdivision upon the ice of any lake, stream, or river, including but not limited to the ice of any boundary water.

Subd. 2. Upon the trial of any prosecution arising out of acts alleged to have been committed by any person arrested for driving, operating, or being in actual physical control of a motor vehicle in violation of subparagraphs a, e, or d of subdivision 1 hereof, the court may admit evidence of the amount of alcohol or a controlled substance in the person's blood, breath, or urine as shown by a medical or chemical analysis thereof, if

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said the test is taken voluntarily or pursuant to section 169.123.

For the purposes of this subdivision:

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

(b) evidence that there was at the time an alcohol concentration of more than 0.05 percent and less than 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 alcohol.

The foregoing provisions shall not be construed as limiting do not limit the introduction of any other competent evidence bearing upon the question whether or not such the person was under the influence of an alcoholic beverage alcohol or a controlled substance.

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

For the purposes of this section "percent by weight of alcohol" shall be defined as the number of grams of alcohol per 100 milliliters of blood.

Subd. 3. Every person who is convicted of a violation of this section or an ordinance in conformity therewith shall be is punishable by imprisonment of not less than ten days nor more than 90 days, or by a fine of not less than \$10 nor more than \$300 \$500, or both, and his driver's license shall be revoked for not less than 30 days, except that every person who is convicted of a violation of this section or an ordinance in conformity therewith, when such the violation is found to be the proximate cause of grievous great bodily injury harm as defined in section 609.02, subdivision 8, or death to another person, shall be punished by imprisonment for not less than 60 days nor more than 90 days, or by fine of not more than \$300 \$500, or both, and his driver's license shall be revoked for not less than 90 days.

Any person whose license has been revoked pursuant to section 169.123 is not subject to the mandatory revocation provision of this subdivision.

Subd. 4. Every person who is convicted of a violation of this section or an ordinance in conformity therewith within three years of any previous such conviction under this section shall be punished by imprisonment for not less than ten days nor more than 90 days, or a fine of not more than \$500, or both, and his driver's license shall be revoked for not less than 90 days.

Subd. 5. Whenever a person is charged with a violation of this section within three years of a previous conviction hereunder, and he shall forfeit his bail, it shall be the duty of the prosecuting officer to immediately apply to the forthwith issue a warrant for the arrest of the accused.

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Subd. 6 5. The court may stay imposition or execution of any sentence authorized by subdivision 3 or 4 on the condition that the convicted person submit to treatment by a public or private institution or a facility providing rehabilitation for chemical dependency licensed by the department of public welfare. A stay of imposition or execution shall be in the manner provided in section 609.135. The court shall report to the commissioner of public safety any stay of imposition or execution of sentence granted under the provisions of this section.

Subd. 7. Any person whose license has been revoked pursuant to section 169.127 shall not be subject to the mandatory revocation provision of subdivision 3.

Subd. 6. When a peace officer has reason to believe from the manner in which a person is driving, operating, or controlling a motor vehicle, or has driven, operated, or controlled a motor vehicle, that the driver may be violating or has violated subdivision 1, he may require the driver to provide a sample of his breath for a preliminary screening test using a device approved by the commissioner of public safety for this purpose. The results of this preliminary screening test shall be used for the purpose of deciding whether an arrest should be made and whether to require the chemical tests authorized in section 169.123, but shall not be used in any court action except to prove that a chemical test was properly required of a person pursuant to section 169.123, subdivision 2. Following the screening test additional tests may be required of the driver pursuant to the provisions of section 169.123.

The driver of a motor vehicle who refuses to furnish a sample of his breath is subject to the provisions of section 169.123 unless, in compliance with 169.123, he submits to a blood, breath or urine test to determine the presence of alcohol or a controlled substance.

Subd. 7. On behalf of the commissioner of public safety a court shall serve notice of revocation on a person convicted of a violation of this section. The court shall take the license or permit of the driver, if any, or obtain a sworn affidavit stating that the license or permit cannot be produced, and send it to the commissioner with a record of the conviction and issue a temporary license effective only for the period during which an appeal from the conviction may be taken. No person who is without driving privileges at the time shall be issued a temporary license and any temporary license issued shall bear the same restrictions and limitations as the driver's license or permit for which it is exchanged.

The commissioner shall issue additional temporary licenses until the final determination of whether there shall be a revocation under this section.

Sec. 3. Minnesota Statutes 1976, Section 169.123, as amended by Laws 1977, Chapter 82, Section 2, is amended to read:

**169.123 CHEMICAL TESTS FOR INTOXICATION.** Subdivision 1. **PEACE OFFICER DEFINED.** For purposes of this section and section 169.121, ~~subdivision 2,~~ the term peace officer means a state highway patrol officer, university of Minnesota peace officer, or full time police officer of any municipality, including towns having powers

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under section 368.01, or county having satisfactorily completed a prescribed course of instruction in a school for instruction of persons in law enforcement conducted by the university of Minnesota or a similar course considered equivalent by the commissioner of public safety.

Subd. 2. **IMPLIED CONSENT; CONDITIONS; ELECTION AS TO TYPE OF TEST.** (a) Any person who drives or, operates, or is in physical control of a motor vehicle upon the public highways of within this state shall be deemed to have given consent consents, subject to the provisions of this section and section 169.121, subdivision 2, to a chemical test of his blood, breath, or urine for the purpose of determining the alcoholic content of his blood presence of alcohol or a controlled substance. The test shall be administered at the direction of a peace officer. The test may be administered required of a person when the an officer has reasonable and probable grounds to believe that a the person was driving or, operating a motor vehicle while said person was under the influence of an alcoholic beverage, or in physical control of a motor vehicle in violation of section 169.121 and one of the following conditions exist: (1) the said person has been lawfully placed under arrest for alleged commission of the said described offense in violation of section 169.121, or an ordinance in conformity therewith; or; (2) the person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death; or (3) the person has refused to take the screening test provided for by section 169.121, subdivision 6; or (4) the screening test was administered and recorded an alcohol concentration of 0.10 or more. The test may also be administered when the officer has reason to believe that a person was driving or operating a motor vehicle in violation of section 169.121 or an ordinance in conformity therewith and the person has either refused to take the preliminary screening test provided for by section 169.121, subdivision 1, or such preliminary screening test was administered and recorded a blood alcohol level of .10 percent or more by weight of alcohol. Any person may decline to take a direct blood test and elect to take either a breath, or urine test, whichever is available, in lieu thereof, and either a breath or urine test shall be made available to the arrested person who makes such an election and offered. No action shall may be taken against the person for declining to take a direct blood test unless either a breath, or urine test was available and offered. At the time the peace officer requests such chemical test specimen, he shall inform the 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.

(b) At the time a chemical test specimen is requested, the person shall be informed:

(1) that if testing is refused, the person's right to drive will be revoked for a period of six months; and

(2) that if a test is taken and the results indicate that the person is under the influence of alcohol or a controlled substance, the person will be subject to criminal penalties and the person's right to drive may be revoked for a period of 90 days; and

(3) that the person has a right to consult with an attorney but that this right is limited to the extent that it cannot unreasonably delay administration of the test or the

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person will be deemed to have refused the test; and

(4) that after submitting to testing, the person has the right to have additional tests made by a person of his own choosing.

Subd. 2a. Notwithstanding subdivision 2, if there are reasonable and probable grounds to believe there is impairment by a controlled substance which is not subject to testing by a blood or breath test, a urine test may be required even after a blood or breath test has been administered.

**Subd. 3. MANNER OF MAKING TEST; ADDITIONAL TESTS.** Only a physician, medical technician, registered nurse, medical technologist or laboratory assistant acting at the request of a peace officer may withdraw blood for the purpose of determining the alcoholic content therein presence of alcohol or controlled substance. This limitation shall does not apply to the taking of a breath; or urine specimen. The person tested shall have has the right to a physician, a medical technician, medical technologist, laboratory assistant or registered nurse have a person of his own choosing to 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 the person be is obtained at the place where such the person is in custody, after the test administered at the direction of a peace officer, 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, medical technologist, laboratory assistant or registered nurse of his own choosing 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, medical technologist, laboratory assistant or registered nurse drawing blood at the request of a peace officer for the purpose of determining alcoholic content alcohol concentration shall in no manner be liable in any civil or criminal action except for negligence in drawing the blood. The person administering such a test at the request and direction of such a peace officer shall be fully trained in the administration of such the tests pursuant to standards promulgated by rule by the commissioner of public safety.

**Subd. 4. REFUSAL, CONSENT TO PERMIT TEST; REVOCATION OF LICENSE.** If a person refuses to permit chemical testing, none shall be given, but the commissioner of public safety; upon the receipt of a certificate of the peace officer that he had reasonable and probable grounds to believe the person had been driving or operating a motor vehicle upon the public highways while under the influence of an alcoholic beverage; and that the person had refused to permit the test, shall revoke his license or permit to drive and any nonresident operating privilege for a period of six months. If the person is a resident without a license or permit to operate a motor vehicle in this state, the commissioner of public safety shall deny to the person the issuance of a license or permit for a period of six months after the date of the alleged violation, subject to review as hereinafter provided peace officer shall report the refusal to the commissioner of public

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safety and the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the acts occurred. If a person submits to chemical testing and the test results indicate an alcohol concentration of 0.10 or more, the results of the test shall be reported to the commissioner of public safety and to the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the acts occurred.

Upon certification by the peace officer that there existed reasonable and probable grounds to believe the person had been driving, operating, or in physical control of a motor vehicle while under the influence of alcohol or a controlled substance and that the person refused to submit to chemical testing, the commissioner of public safety shall revoke the person's license or permit to drive, or his nonresident operating privilege, for a period of six months. Upon certification by the peace officer that there existed reasonable and probable grounds to believe the person had been driving, operating or in physical control of a motor vehicle while under the influence of alcohol or a controlled substance and that the person submitted to chemical testing and the test results indicate an alcohol concentration of 0.10 or more, the commissioner of public safety shall revoke the person's license or permit to drive, or his nonresident operating privilege, for a period of 90 days.

If the person is a resident without a license or permit to operate a motor vehicle in this state, the commissioner of public safety shall deny to the person the issuance of a license or permit for the same period after the date of the alleged violation as provided herein for revocation, subject to review as hereinafter provided.

**Subd. 5. NOTICE OF REVOCATION OR DETERMINATION TO DENY; REQUEST FOR HEARING.** No revocation under subdivision 4 shall be made is effective until the commissioner of public safety or a peace officer acting on his behalf notifies the person by certified or registered mail of the intention to revoke and of revocation and allows said the person a 20 30 day period after the date of receiving said notice to request of the commissioner of public safety, in writing, a hearing as herein provided. If no request is filed within the 20 30 day period the commissioner of public safety may then issue an order of revocation the order of revocation becomes effective. However If a request for hearing is filed, no a revocation hereunder shall be made is not effective until a final judicial determination resulting in an a decision adverse decision to said the person.

**Subd. 5a. PEACE OFFICER AGENT FOR NOTICE OF REVOCATION.** On behalf of the commissioner of public safety a peace officer offering a chemical test or directing the administration of a chemical test may serve immediate notice of intention to revoke and of revocation on a person who refuses to permit chemical testing or on a person who submits to a chemical test the results of which indicate an alcohol concentration of 0.10 or more. The officer shall take the license or permit of the driver, if any, and issue a temporary license effective only for 30 days. The peace officer shall send the person's driver's license to the commissioner of public safety along with the certificate required by subdivision 4.

If the person requests a hearing within the 30 day period, the commissioner shall issue additional temporary licenses until the final determination of whether there shall be

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a revocation under this section.

Subd. 6. **HEARING.** The A hearing under this section shall be before a municipal or county judge, learned in the law, in the county where the alleged offense 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; if applicable, 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 public safety for his further action. The hearing shall be to the court and may be conducted at the same time and in the same manner as hearings upon pre-trial motions in the criminal prosecution under section 169.121, if any. The hearing shall be recorded. The commissioner of public safety may appear through his own attorney or, by agreement with the jurisdiction involved, through the prosecuting authority for that jurisdiction.

The scope of the hearing shall cover the issues of: (1) whether the peace officer had reasonable and probable grounds to believe the person was driving, operating, or in physical control of a motor vehicle while under the influence of alcohol or a controlled substance, and whether the person was lawfully placed under arrest for violation of section 169.121, or the person was involved in a motor vehicle accident or collision resulting in property damage, personal injury or death, or the person refused to take a screening test provided for by section 169.121, subdivision 6, or the screening test was administered and recorded an alcohol concentration of 0.10 or more; and (2) whether at the time of the request for the test the peace officer informed the person of his rights and the consequences of taking or refusing the test as required by subdivision 2; and (3) either (a) whether the person refused to permit the test, or (b) whether a test was taken and the test results indicated an alcohol concentration of 0.10 or more, and whether the testing method used was valid and reliable, and whether the test results were accurately evaluated.

It shall be an affirmative defense for the person to prove that his refusal to permit the test was based upon reasonable grounds.

The court shall order either that the revocation be rescinded or sustained and forward the order to the commissioner of public safety. If the revocation is sustained, the court shall also forward the person's driver's license to the commissioner of public safety for his further action if the license is not already in the commissioner's possession.

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*

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commissioner of public safety file a petition for a hearing of the matter in the district court in the county 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 of public safety. It shall be ~~is~~ the duty of the court to set the matter for hearing on a day certain with reasonable notice thereof to the parties. The ~~matter hearing~~ shall be ~~heard de novo with a right of trial by jury on the record and shall be conducted in the same manner provided in sections 487.39 and 484.63 for appeal of misdemeanor convictions.~~

**Subd. 8. NOTICE OF ACTION TO OTHER STATES.** 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 commissioner of public safety 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.

**Subd. 9. LIMITED LICENSE.** In any case in which a license has been revoked under this section, the commissioner may issue a limited license to the driver. The commissioner in issuing a limited license may impose the conditions and limitations which in his judgment are necessary to the interests of the public safety and welfare, including re-examination of the driver's qualifications, attendance at a driver improvement clinic, or attendance at counseling sessions. The license may be limited to the operation of particular vehicles and to particular classes and time of operation. The limited license issued by the commissioner shall clearly indicate the limitations imposed and the driver operating under a limited license shall have the license in his possession at all times when operating as a driver. In determining whether to issue a limited license, the commissioner shall consider the number and the seriousness or prior convictions and the entire driving record of the driver.

**Subd. 10. TERMINATION OF REVOCATION PERIOD.** If the commissioner receives notice of the driver's attendance at a driver improvement clinic, attendance at counseling sessions, or participaton in treatment for an alcohol problem the commissioner may, 30 days prior to the time the revocation period would otherwise expire, terminate the revocation period. The commissioner shall not terminate the revocation period under this subdivision for a driver who has had a license revoked under section 169.121 or this section for another incident during the preceding three year period.

Sec. 4. Minnesota Statutes 1976, Section 169.124, is amended to read:

169.124 **ALCOHOL SAFETY PROGRAM.** Subdivision 1. The county board of every county having a population of more than 10,000 shall and the county board of every county having a population of less than 10,000 may establish an alcohol safety program designed to provide ~~presentence investigation~~ alcohol problem assessment and evaluation of persons convicted of one of the offenses enumerated in section 169.126, subdivision 1.

Subd. 2. The ~~presentence investigation~~ alcohol problem assessment shall be conducted under the direction of the court and by such persons or agencies as the court

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deems qualified to provide the ~~investigation and report~~ alcohol problem assessment and assessment report as described in section 169.126. The ~~presentence investigation alcohol problem assessment~~ may be conducted by court services probation officers having the required knowledge and skills in the assessment of alcohol problems, by alcoholism counselors, by persons conducting court sponsored driver improvement clinics if in the judgment of the court such persons have the required knowledge and skills in the assessment of alcohol problems, by appropriate staff members of public or private alcohol treatment programs and agencies or mental health clinics, by court approved volunteer workers such as members of Alcoholics Anonymous, or by such other qualified persons as the court may direct. The commissioner of public safety shall provide the courts with information and assistance in establishing ~~presentence investigation alcohol problem assessment~~ programs suited to the needs of the area served by each court. The commissioner shall consult with the alcohol and other drug abuse section in the department of public welfare and with local community mental health boards in providing such information and assistance to the courts. The commissioner of public safety shall promulgate rules and standards, consistent with this subdivision, for reimbursement under the provisions of subdivision 3. The promulgation of such rules and standards shall not be subject to chapter 15.

Subd. 3. The cost of ~~presentence investigation alcohol problem assessment~~ outlined in this section shall be borne by the county. Upon application by the county to the commissioner of public safety, the commissioner shall reimburse the county up to 50 percent of the cost of each ~~presentence investigation alcohol problem assessment~~ not to exceed \$25 in each case. Payments shall be made annually and prorated if insufficient funds are appropriated.

Sec. 5. Minnesota Statutes 1976, Section 169.125, is amended to read:

169.125 **COUNTY COOPERATION.** County boards may enter into an agreement to establish a regional ~~presentence investigation alcohol problem assessment~~ alcohol safety program. County boards may contract with other counties and agencies for ~~presentence investigation alcohol problem assessment~~ services.

Sec. 6. Minnesota Statutes 1976, Section 169.126, is amended to read:

169.126 **ALCOHOL PROBLEM ASSESSMENT.** Subdivision 1. A ~~presentence investigation~~ An alcohol problem assessment shall be conducted in counties of more than 10,000 population and a ~~an assessment~~ report submitted to the court by the county agency administering the alcohol safety counseling program when:

(a) The defendant is convicted of an offense described in section 169.121; or

(b) The defendant is arrested for committing an offense described in section 169.121, is not convicted therefor, but is convicted of another offense arising out of the circumstances surrounding such arrest.

Subd. 2. The assessment report shall contain an evaluation of the convicted defendant concerning his prior traffic record, characteristics and history of alcohol

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problems, and amenability to rehabilitation through the alcohol safety program. The assessment report shall include a recommendation as to a treatment or rehabilitation program for the defendant. The assessment report shall be classified as private data on individuals as defined in section 15.162, subdivision 5a.

Subd. 3. The assessment report required by this section shall be prepared by a person knowledgeable in diagnosis of chemical dependency.

Subd. 4. The court ~~before imposing sentence after conviction for one of the offenses described in subdivision 4~~ shall give due consideration to the agency's assessment report.

Subd. 5. Whenever a person is convicted of a second or subsequent offense described in subdivision 1 and the court is either provided with an appropriate treatment or rehabilitation recommendation from sources other than the ~~presentence investigation~~ alcohol problem assessment provided for in this section, or has sufficient knowledge both of the person's need for treatment and an appropriate treatment or rehabilitation plan, and the court finds that requiring a ~~presentence investigation~~ alcohol problem assessment would not substantially aid the court in sentencing, such a ~~presentence investigation~~ alcohol problem assessment need not be conducted.

Subd. 6. This section shall not apply to persons who are not residents of the state of Minnesota at the time of the offense and at the time of the ~~presentence investigation~~ alcohol problem assessment.

Sec. 7. Minnesota Statutes 1976, Chapter 169, is amended by adding a section to read:

**[169.1261] REINSTATEMENT OF DRIVING PRIVILEGES; NOTICE.** Upon expiration of any period of revocation under section 169.121 or section 169.123, the commissioner of public safety shall notify the person of the terms upon which his driving privileges can be reinstated, which terms are: (1) successful completion of a driving test and proof of compliance with any terms of alcohol treatment or counseling previously prescribed, if any; and (2) any other requirements imposed by the commissioner and applicable to that particular case. The commissioner shall also notify the person that if driving is resumed without reinstatement of driving privileges, the person will be subject to criminal penalties.

Sec. 8. Minnesota Statutes 1976, Chapter 169, is amended by adding a section to read:

**[169.128] RULES OF THE COMMISSIONER OF PUBLIC SAFETY.** The commissioner of public safety may promulgate rules to carry out the provisions of sections 169.121 and 169.123. The rules may include forms for notice of intention to revoke, which shall describe clearly the right to a hearing, the procedure for requesting a hearing, and the consequences of failure to request a hearing; forms for revocation and notice of reinstatement of driving privileges as provided in section 7; and forms for temporary licenses.

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Rules promulgated pursuant to this section are exempt from the procedure required by sections 15.0411 to 15.052.

Sec. 9. Minnesota Statutes 1976, Chapter 169, is amended by adding a section to read:

**[169.129] AGGRAVATED VIOLATIONS; PENALTY.** Any person who drives, operates, or is in physical control of a motor vehicle, the operation of which requires a driver's license, within this state in violation of section 169.121 or an ordinance in conformity therewith before his driver's license or driver's privilege has been reinstated following its cancellation, suspension or revocation (1) because he drove, operated, or was in physical control of a motor vehicle while under the influence of alcohol or a controlled substance or while he had an alcohol concentration of 0.10 or more or (2) because he refused to take a test which determines the presence of alcohol or a controlled substance when requested to do so by a proper authority, is guilty of a gross misdemeanor. Jurisdiction over prosecutions under this section is in the district court.

Sec. 10. Minnesota Statutes 1976, Section 171.30, Subdivision 1, is amended to read:

**171.30 LIMITED LICENSE.** Subdivision 1. In any case where a person's license has been suspended under ~~sections 169.123 or section~~ 171.18 or revoked under sections ~~169.123~~ 169.121 or 171.17, if the driver's livelihood or attendance at a chemical dependency treatment or counseling program depends upon the use of his driver's license, the commissioner may at his own discretion and shall upon recommendation by the court excluding justices of the peace in which the driver was convicted, issue a limited license to ~~such~~ the driver. ~~In cases involving a suspension or revocation of a driver's license under Minnesota Statutes 1969, Section 169.123, the commissioner shall not issue a limited license to anyone whose driver's license has been revoked under Minnesota Statutes 1969, Section 171.17, Clause (2), or under Minnesota Statutes 1969, Section 169.123, during the preceding three year period. The commissioner in issuing such a limited license may impose such conditions and limitations as in his judgment are necessary to the interests of the public safety and welfare including re-examination as to the driver's qualifications. Such~~ The license may be limited to the operation of particular vehicles, to particular classes and times of operation and to particular conditions of traffic.

The limited license issued by the commissioner shall clearly indicate the limitations imposed and the driver operating under ~~such~~ the limited license shall have ~~such~~ the license in his possession at all times when operating as a driver.

In determining whether to issue a limited license, the commissioner shall consider the number and the seriousness of prior convictions and the entire driving record of the driver and shall consider the number of miles driven by ~~such~~ the driver annually.

Sec. 11. **REPEALER.** Minnesota Statutes 1976, Sections 171.245 and 169.127, are repealed.

Sec. 12. **EFFECTIVE DATE.** Sections 4, 5, 6, and 8 of this act are effective the date following final enactment. Sections 1, 2, 3, 7, 9, 10 and 11 are effective September 1,

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1978 and shall apply to all offenses committed on or after that date. Cases pending in the courts of this state on September 1, 1978 shall be subject to the procedures in effect prior to the effective date of this act for adjudication and appellate review of the relevant offenses.

Approved April 5, 1978.

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CHAPTER 728-S.F.No.1106

[Not Coded]

*An act relating to solid and hazardous wastes and toxic substances; providing for technology assessments and related research directed to certain goals; requiring studies and reports by the state planning agency, the pollution control agency, and the energy agency; establishing a temporary joint legislative committee on solid and hazardous waste; appropriating money; suspending development of a hazardous waste facility; authorizing counties to designate disposal sites for solid waste generated within county boundaries.*

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

Section 1. **PURPOSES; OBJECTIVES.** It is the goal of sections 1 to 6 to assemble the information necessary to identify, evaluate, and select among alternative policies, programs, technologies, institutional arrangements, and proposals designed to further the following purposes:

- (a) Reduction in the volumes of solid and hazardous wastes generated and control of toxic substances produced and used in the state;
- (b) Separation and recovery or pretreatment of solid and hazardous wastes at their point of generation;
- (c) Recovery of materials and energy from solid and hazardous wastes;
- (d) Coordination of decisions on the production of energy from solid and hazardous wastes with decisions on the production of energy from coal and from other recoverable residual materials such as sewage sludge and agricultural and timber residues; and
- (e) Reduction in needless dependence on land disposal of solid and hazardous wastes.

The research under sections 1 to 6 shall be directed to help:

- (i) Identify the most important unrealized potentials for accomplishing these purposes;
- (ii) Identify the most important constraints or barriers which are preventing the

**Changes or additions indicated by underline deletions by ~~strikeout~~**