

(5) At any time after acquiring a tax-forfeited parcel of property pursuant to the provisions of this subdivision, the board may direct the commissioner of administration to convey the parcel of property by quitclaim deed to the city of Saint Paul housing and redevelopment agency. The conveyance of property shall be without compensation and shall be subject to any restrictive easements which the board may determine to be necessary for implementation of the comprehensive plan.

Approved March 15, 1982

CHAPTER 423 — H.F.No. 1484

An act relating to highway traffic regulations; providing for arrest without a warrant; defining admissible evidence; providing for alcohol problem assessments; providing alternative testing procedures; providing for administrative driving privilege revocations for failure to submit to chemical testing or exceeding prescribed alcohol concentration; authorizing revocations prior to judicial review; revising the procedure for hearings and appeals on administrative revocations; authorizing introduction into evidence certain peace officer records and reports; prescribing penalties; providing for detoxification of drivers; amending Minnesota Statutes 1980, Sections 3.736, Subdivision 3; 169.121, Subdivisions 1, 2, 3, 4, and 6, and by adding subdivisions; 169.123; 171.19; 171.30, Subdivision 1; 466.03, by adding a subdivision; and 634.15; proposing new law coded in Minnesota Statutes, Chapter 169.

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

Section 1. Minnesota Statutes 1980, Section 3.736, Subdivision 3, is amended to read:

Subd. 3. **EXCLUSIONS.** Without intent to preclude the courts from finding additional cases where the state and its employees should not, in equity and good conscience, pay compensation for personal injuries or property losses, the legislature declares that the state and its employees are not liable for the following losses:

- (a) Any loss caused by an act or omission of a state employee exercising due care in the execution of a valid or invalid statute or regulation;
- (b) Any loss caused by the performance or failure to perform a discretionary duty, whether or not the discretion is abused;
- (c) Any loss in connection with the assessment and collection of taxes;
- (d) Any loss caused by snow or ice conditions on any highway or other public place, except when the condition is affirmatively caused by the negligent acts of a state employee;

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- (e) Any loss caused by wild animals in their natural state;
- (f) Any loss other than injury to or loss of property or personal injury or death;
- (g) Any loss caused by the condition of unimproved real property owned by the state, which means land that the state has not improved, and appurtenances, fixtures and attachments to land that the state has neither affixed nor improved;
- (h) Any loss arising from the construction, operation, or maintenance of the outdoor recreation system, as defined in section 86A.04, or from the clearing of land, removal of refuse, and creation of trails or paths without artificial surfaces, except that the state is liable for conduct that would entitle a trespasser to damages against a private person.
- (i) Any loss of benefits or compensation due under a program of public assistance or public welfare, except where state compensation for loss is expressly required by federal law in order for the state to receive federal grants-in-aid;
- (j) Any loss based on the failure of any person to meet the standards needed for a license, permit, or other authorization issued by the state or its agents;
- (k) Any loss based on the usual care and treatment, or lack of care and treatment, of any person at a state hospital or state corrections facility where reasonable use of available appropriations has been made to provide care;
- (l) Any loss, damage, or destruction of property of a patient or inmate of a state institution;

(m) Any loss for which recovery is prohibited by section 8.

The state will not pay punitive damages.

Sec. 2. Minnesota Statutes 1980, Section 169.121, Subdivision 1, is amended to read:

Subdivision 1. **CRIME.** It is a misdemeanor for any person to drive, operate or be in physical control of any motor vehicle within this state:

- (a) When the person is under the influence of alcohol;
- (b) When the person is under the influence of a controlled substance;
- (c) When the person is under the influence of a combination of any two or more of the elements named in clauses (a) and (b); or
- (d) When the person's alcohol concentration is 0.10 or more.

The provisions of this subdivision apply, but are not limited in application, to any person who drives, operates, or is in physical control of any motor vehicle

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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.

When an accident has occurred, a peace officer may lawfully arrest a person for violation of this section without a warrant upon probable cause, without regard to whether the violation was committed in the officer's presence.

Sec. 3. Minnesota Statutes 1980, Section 169.121, Subdivision 2, is amended to read:

Subd. 2. **EVIDENCE.** 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 physical control of a motor vehicle in violation of subdivision 1, 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 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 or less is prima facie evidence that the person was not under the influence of alcohol;

(b) evidence that there was at the time an alcohol concentration of more than 0.05 and less than 0.10 is relevant evidence in indicating whether or not the person was under the influence of alcohol.

Evidence of the absence of tests is admissible in a prosecution under this section without any comment and with a jury instruction, where applicable, that there shall be no speculation as to the reason for the absence and that no inference is to be drawn from the absence.

For purposes of this section and section 169.123, the result of an evidentiary test administered within two hours of the alleged violation is deemed to be the alcohol concentration at the time of the violation.

The foregoing provisions do not limit the introduction of any other competent evidence bearing upon the question whether or not the person was under the influence of alcohol or a controlled substance, including tests obtained more than two hours after the alleged violation.

Sec. 4. Minnesota Statutes 1980, Section 169.121, Subdivision 3, is amended to read:

Subd. 3. **CRIMINAL PENALTIES.** Every A person convicted of a violation of who violates this section or an ordinance in conformity therewith is punishable by imprisonment of not more than 90 days, or by a fine of not more than \$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 the violation is found to be the

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proximate cause of great bodily harm as defined in section 609.02, subdivision 8, or death to another person, shall be punished by imprisonment for not more than 90 days, or by fine of not more than \$500, or both, and his driver's license shall be revoked for not less than 90 days guilty of a misdemeanor.

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

The following persons are guilty of a gross misdemeanor:

(a) A person who violates this section or an ordinance in conformity therewith within five years of a prior conviction under this section or an ordinance in conformity therewith; and

(b) A person who violates this section or an ordinance in conformity therewith within ten years of two or more prior convictions under this section or an ordinance in conformity therewith.

The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of section 169.121 shall also be responsible for prosecution of gross misdemeanor violations of section 169.121.

Sec. 5. Minnesota Statutes 1980, Section 169.121, Subdivision 4, is amended to read:

Subd. 4. **PENALTIES.** Every A person who is convicted of a violation of violating this section or an ordinance in conformity therewith within three years of any previous such conviction shall be punished by imprisonment for not 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 shall have his driver's license or operating privileges revoked by the commissioner of public safety as follows:

(a) First offense: not less than 30 days;

(b) Second offense in less than five years: not less than 90 days and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169.126;

(c) Third offense in less than five years: not less than one year, together with denial under section 171.04, clause (8), until rehabilitation is established in accordance with standards established by the commissioner;

(d) Fourth or subsequent offense on the record: not less than two years, together with denial under section 171.04, clause (8), until rehabilitation is established in accordance with standards established by the commissioner.

Whenever department records show that the violation involved personal injury or death to any person, not less than 90 additional days shall be added to the base periods provided above.

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Any person whose license has been revoked pursuant to section 169.123 as the result of the same incident is not subject to the mandatory revocation provisions of clause (a) or (b).

Sec. 6. Minnesota Statutes 1980, Section 169.121, Subdivision 6, is amended to read:

Subd. 6. **PRELIMINARY SCREENING TEST.** When a peace officer has reason to believe from the manner in which a person is driving, operating, or controlling, or acting upon departure from 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 section 169.123, he submits to a blood, breath or urine test to determine the presence of alcohol or a controlled substance.

Sec. 7. Minnesota Statutes 1980, Section 169.121, is amended by adding a subdivision to read:

Subd. 8. **ALCOHOL ASSESSMENT.** When the evidentiary test shows an alcohol concentration of 0.07 or more, that result shall be reported to the commissioner of public safety. The commissioner shall record that fact on the driver's record. When the driver's record shows a second or subsequent report of an alcohol concentration of 0.07 or more within two years of a recorded report, the commissioner may require that the driver have an alcohol problem assessment meeting the commissioner's requirements. The assessment shall be at the driver's expense. In no event shall the commissioner deny the license of a person who refuses to take the assessment or to undertake treatment, if treatment is indicated by the assessment, for longer than 90 days. If an assessment is made pursuant to this section, the commissioner may waive the assessment required by section 169.126.

Sec. 8. Minnesota Statutes 1980, Section 169.121, is amended by adding a subdivision to read:

Subd. 9. **IMMUNITY FROM LIABILITY.** (a) The state or political subdivision by which a peace officer making an arrest for violation of section 169.121 is employed shall have immunity from any liability, civil or criminal, for

the care or custody of the motor vehicle being driven by, operated by, or in the physical control of the person arrested if the peace officer acts in good faith and exercises due care.

(b) For purposes of this subdivision, "political subdivision" means a county, statutory or home rule charter city, or town.

Sec. 9. Minnesota Statutes 1980, Section 169.123, is amended to read:

Subdivision 1. **PEACE OFFICER DEFINED.** For purposes of this section and section 169.121, the term peace officer means a state highway patrol officer, university of Minnesota peace officer, a constable as defined in section 367.40, subdivision 3, or police officer of any municipality, including towns having powers under section 368.01, or county.

Subd. 2. **IMPLIED CONSENT; CONDITIONS; ELECTION AS TO TYPE OF TEST.** (a) Any person who drives, operates, or is in physical control of a motor vehicle within this state consents, subject to the provisions of this section and section 169.121, to a chemical test of his blood, breath, or urine for the purpose of determining the presence of alcohol or a controlled substance. The test shall be administered at the direction of a peace officer. The test may be required of a person when an officer has reasonable and probable grounds to believe the person was driving, operating, or in physical control of a motor vehicle in violation of section 169.121 and one of the following conditions exist: (1) the person has been lawfully placed under arrest for 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. ~~Any person may decline to take a direct blood test and elect to take either a breath or urine test, whichever is available and offered.~~ No action may be taken against the person for declining to take a direct blood test, if offered, unless ~~either a breath or urine~~ an alternative test was available and offered.

(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 person will be deemed to have refused the test; and

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(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. **REQUIREMENT OF URINE TEST.** 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, physician's trained mobile intensive care paramedic, registered nurse, medical technologist or laboratory assistant acting at the request of a peace officer may withdraw blood for the purpose of determining the presence of alcohol or controlled substance. This limitation does not apply to the taking of a breath or urine specimen. The person tested has the right to have a person 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 the person is obtained at the place where the person is in custody, after the test administered at the direction of a peace officer, and at no expense to the state. 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, physician's trained mobile intensive care paramedic, medical technologist, laboratory assistant or registered nurse drawing blood at the request of a peace officer for the purpose of determining alcohol concentration shall in no manner be liable in any civil or criminal action except for negligence in drawing the blood. The person administering a test at the request and direction of a peace officer shall be fully trained in the administration of 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 peace officer shall report the refusal to the commissioner of public 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

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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 A revocation under subdivision 4 is becomes effective until at the time the commissioner of public safety or a peace officer acting on his behalf notifies the person of the intention to revoke and of revocation and allows the person a 30 day period to request of the commissioner of public safety, in writing, a hearing as herein provided. If no request is filed within the 30 day period the order of revocation becomes effective. If a request for hearing is filed, a revocation is not effective until a final judicial determination resulting in a decision adverse to the person. The notice shall advise the person of the right to obtain administrative and judicial review as provided in this section. If mailed, the notice and order of revocation is deemed received three days after mailing to the last known address of 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~~ shall 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~~ 7 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 a revocation under this section.

Subd. 5b. ADMINISTRATIVE REVIEW. At any time during a period of revocation imposed under this section a person may request in writing a review

of the order of revocation by the commissioner of public safety. Upon receiving a request the commissioner or his designee shall review the order, the evidence upon which the order was based, and any other material information brought to the attention of the commissioner, and determine whether sufficient cause exists to sustain the order. Within 15 days of receiving the request the commissioner shall report in writing the results of his review. The review provided in this subdivision is not subject to the contested case provisions of the administrative procedure act in sections 15.041 to 15.052.

The availability of administrative review for an order of revocation shall have no effect upon the availability of judicial review under this section.

Subd. 5c. PETITION FOR JUDICIAL REVIEW. Within 30 days following receipt of a notice and order of revocation pursuant to this section, a person may petition the court for review. The petition shall be filed with the clerk of county or municipal court in the county where the alleged offense occurred, together with proof of service of a copy on the commissioner of public safety, and accompanied by the standard filing fee for civil actions. No responsive pleading shall be required of the commissioner of public safety, and no court fees shall be charged for his appearance in the matter.

The petition shall be captioned in the name of the person making the petition as petitioner and the commissioner of public safety as respondent. The petition shall state with specificity the grounds upon which the petitioner seeks rescission of the order of revocation or denial.

The filing of the petition shall not stay the revocation or denial. The reviewing court may order a stay of the balance of the revocation if the hearing has not been conducted within 60 days after filing of the petition upon terms the court deems proper. Judicial reviews shall be conducted according to the rules of civil procedure.

Subd. 6. HEARING. A hearing under this section shall be before a municipal or county judge, in ~~the~~ any county in the judicial district where the alleged offense occurred, unless there is agreement that the hearing may be held in some other county. 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 hearing shall be held at the earliest practicable date, and in any event no later than 60 days following the filing of the petition for review. The judicial district administrator shall establish procedures to ensure efficient compliance with the provisions of this subdivision. To accomplish this, the administrator may, whenever possible, consolidate and transfer review hearings among the county courts within the judicial district.

The scope of the hearing shall ~~cover~~ be limited to 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 at the time of testing, 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~~ petitioner to prove that, at the time of the refusal, his refusal to permit the test was based upon reasonable grounds.

Certified or otherwise authenticated copies of laboratory or medical personnel reports, records, documents, licenses and certificates shall be admissible as substantive evidence.

The court shall order either that the revocation be rescinded or sustained and forward the order to the commissioner of public safety. The court shall file its order within 14 days following the hearing. If the revocation is sustained, the court shall also forward the person's driver's license or permit to the commissioner of public safety for his further action if the license or permit 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 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 court together with proof of service of a copy thereof on the commissioner of public safety. It is the duty of the court to set the matter for hearing on a day certain with reasonable notice thereof to the parties. The hearing shall be on the record and shall be conducted in the same manner provided in sections 487.39 and 484.63 for appeal of misdemeanor convictions. Any party aggrieved by the decision of the

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reviewing court may appeal the decision to the district court as provided in sections 484.63 and 487.39.

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 of 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 participation 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. 10. [169.1231] DRIVING WHILE UNDER THE INFLUENCE; DETOXIFICATION.

Subdivision 1. GROUNDS FOR TAKING DRIVER TO DETOXIFICATION CENTER OR ALCOHOL DRUG REHABILITATION CENTER. Whenever a peace officer administers a preliminary screening test to a person and the test results indicate a blood alcohol content of .10 or more, the peace officer shall either take the person to a detoxification center or alcohol drug rehabilitation center established pursuant to section 254A.08 or arrange for another authorized person to do so. A peace officer shall also take, or arrange for another authorized person to take to a detoxification center or alcohol drug rehabilitation center established pursuant to section 254A.08, any person who refuses to take a preliminary screening test if the officer has reasonable and probable grounds to believe that the person was driving, operating, or in physical control of a motor

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vehicle in violation of section 169.121 or an ordinance in conformity therewith, and the person reasonably appears to the officer to be too intoxicated to resume driving safely.

Subd. 2. DETOXIFICATION CENTER OR ALCOHOL DRUG REHABILITATION CENTER; RELEASE PROCEDURE. The detoxification center or alcohol drug rehabilitation center to which a person is transported pursuant to subdivision 1 shall hold the person until he is completely sober, unless another responsible person appears and requests that the intoxicated person be released for the purpose of taking him home or to a medical facility. The person requesting release of the intoxicated person shall assure that the intoxicated person does not drive until completely sober; an intentional violation of this assurance is a misdemeanor.

Subd. 3. INTOXICATED PERSON TO PAY COSTS. A person taken to a detoxification center or alcohol drug rehabilitation center pursuant to this section shall pay the detoxification center or alcohol drug rehabilitation center for the cost of his stay, transportation, treatment, and other expenses in the detoxification center or alcohol drug rehabilitation center, if he does not meet the standards of indigency necessary to qualify for the services of the public defender and does not have health insurance coverage which would pay for this cost.

Sec. 11. Minnesota Statutes 1980, Section 171.19, is amended to read:

171.19 PETITION FOR REINSTATEMENT OF LICENSES.

Any person whose driver's license has been refused, revoked, suspended, or canceled by the commissioner, except where the license is revoked under section 169.123, may file a petition for a hearing in the matter in the district court in the county wherein such person shall reside and, in the case of a non-resident, in the district court in any county, and such court is hereby vested with jurisdiction, and it shall be its duty, to set the matter for hearing upon 15 days' written notice to the commissioner, and thereupon to take testimony and examine into the facts of the case to determine whether the petitioner is entitled to a license or is subject to revocation, suspension, cancelation, or refusal of license, under the provisions of this chapter, and shall render judgment accordingly. The petition shall be heard by the court without a jury and may be heard in or out of term. The commissioner may appear in person, or by his agents or representatives, and may present his evidence upon the hearing by affidavit by himself, his agents, or representatives. The petitioner may present his evidence by affidavit, except that the petitioner must be present in person at such hearing for the purpose of cross-examination. In the event the department shall be sustained in these proceedings, the petitioner shall have no further right to make further petition to any court for the purpose of obtaining a driver's license until after the expiration of one year after the date of such hearing.

Sec. 12. Minnesota Statutes 1980, Section 171.30, Subdivision 1, is amended to read:

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Subdivision 1. **ISSUANCE.** In any case where a person's license has been suspended under section 171.18 or revoked under sections 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 the driver. The commissioner in issuing 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. 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 the 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 of prior convictions and the entire driving record of the driver and shall consider the number of miles driven by the driver annually.

Sec. 13. Minnesota Statutes 1980, Section 466.03, is amended by adding a subdivision to read:

Subd. 6a. DRIVING UNDER THE INFLUENCE; CUSTODY OF MOTOR VEHICLE. Any claim for which recovery is prohibited by section 8.

Sec. 14. Minnesota Statutes 1980, Section 634.15, is amended to read:

634.15 ADMISSION INTO EVIDENCE OF CERTAIN CERTIFICATES OF ANALYSIS AND BLOOD SAMPLE REPORTS.

Subdivision 1. **CERTIFICATES OF ANALYSIS; BLOOD SAMPLE REPORTS.** In any hearing or trial of a criminal offense or petty misdemeanor or proceeding pursuant to section 169.123, subdivision 4 6, the following reports shall be admissible in evidence:

(a) A report of the facts and results of a laboratory analysis or examination ~~shall be admissible in evidence~~ if it is prepared and attested by the person performing the laboratory analysis or examination in any laboratory operated by the bureau of criminal apprehension or authorized by the bureau to conduct an analysis or examination, or in any laboratory of the federal bureau of investigation, the federal postal inspection service, the federal bureau of alcohol, tobacco and firearms, or the federal drug enforcement administration; and

(b) A report of a blood sample withdrawn under the implied consent law if:

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- (i) The report was prepared by the person who administered the test;
- (ii) The person who withdrew the blood sample was competent to administer the test under section 169.123, subdivision 3; and
- (iii) The report was prepared consistent with any applicable rules promulgated by the commissioner of public safety.

A report described in clause (a) purported to be signed by the person performing the analysis or examination in a laboratory named above in that clause, or a blood sample report described in clause (b) purported to be signed by the person who withdrew the blood sample shall be admissible as evidence without proof of the seal, signature or official character of the person whose name is signed to it.

Subd. 2. **TESTIMONY AT TRIAL.** An accused person or his attorney may request, by notifying the prosecuting attorney at least ten days before the trial, that the person who performed the laboratory analysis or examination following persons testify in person at the trial on behalf of the state:

(a) A person who performed the laboratory analysis or examination for the report described in subdivision 1, clause (a); or

(b) A person who prepared the blood sample report described in subdivision 1, clause (b).

Sec. 15. **EFFECTIVE DATE.**

The provisions of sections 1 to 6, section 8, section 9, subdivision 3, and sections 11, 13 and 14 are effective April 1, 1982. The provisions of section 7, section 9, subdivisions 2, 5, 5a, 5b, 5c, 6 and 7, and section 12 are effective July 1, 1982. The provisions of section 10 are effective July 1, 1983. All provisions apply to violations occurring on or after their effective dates.

Approved March 19, 1982

CHAPTER 424 — H.F.No. 2175

An act relating to Minnesota Statutes, correcting erroneous, ambiguous, omitted and obsolete references and text; eliminating certain redundant, conflicting and superseded provisions; authorizing the revisor of statutes to make necessary reference changes if the administrative procedure act is recompiled as a separate chapter; amending Minnesota Statutes 1980, Sections 60C.02, Subdivision 1; 62B.04, Subdivision 1; 92.03, Subdivision 4; 106.011, Subdivision 20; 106.021, Subdivision 2; 106.081, Subdivision 1; 106.091, Subdivision 2; 120.17, Subdivisions 4a and 5; 123.21; 123.78, Subdivision 1; 123.932, Subdivision 1a; 125.12, Subdivision 3; 129.121, Subdivision 1; 136.015; 145.61, Subdivision 2;

Changes or additions are indicated by underline, deletions by ~~strikeout~~.