

**Sec. 5. EFFECTIVE DATE.**

Sections 1 to 3 are effective the day following final enactment. Section 4 is effective July 1, 1989.

Presented to the governor May 26, 1989

Signed by the governor May 30, 1989, 11:57 a.m.

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**CHAPTER 333—H.F.No. 702**

*An act relating to crime; providing that failure to appear for a petty misdemeanor is considered a plea of guilty and waiver of the right to trial; expanding the crime of failure to appear for a criminal court appearance; specifying the attorney with jurisdiction to prosecute the crime; prescribing penalties; amending Minnesota Statutes 1988, sections 169.91, subdivision 3; 169.92, as amended; 169.99, subdivisions 1 and 3; and 609.49; proposing coding for new law in Minnesota Statutes, chapter 609.*

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

Section 1. Minnesota Statutes 1988, section 169.91, subdivision 3, is amended to read:

Subd. 3. **NOTICE TO APPEAR.** When a person is arrested for any violation of any law or ordinance relating to motor vehicles, their registration or their operation, or the use of the highways, the arresting officer shall prepare a written notice to appear in court. This place must be before a judge within the county in which the offense charged is alleged to have been committed who has jurisdiction and is nearest or most accessible with reference to the place of arrest. If the offense is a petty misdemeanor, the notice to appear must include a statement that a failure to appear will be considered a plea of guilty and waiver of the right to trial, unless the failure to appear is due to circumstances beyond the person's control.

Sec. 2. Minnesota Statutes 1988, section 169.99, subdivision 1, is amended to read:

Subdivision 1. (a) Except as provided in subdivision 3, there shall be a uniform ticket issued throughout the state by the police and peace officers or by any other person for violations of this chapter and ordinances in conformity thereto. Such uniform traffic ticket shall be in the form and have the effect of a summons and complaint. Except as provided in paragraph (b), the uniform ticket shall state that if the defendant fails to appear in court in response to the ticket, an arrest warrant may be issued. The uniform traffic ticket shall consist of four parts, on paper sensitized so that copies may be made without the use of carbon paper, as follows:

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(1) the complaint, with reverse side for officer's notes for testifying in court, driver's past record, and court's action, printed on white paper;

(2) the abstract of court record for the department of public safety, which shall be a copy of the complaint with the certificate of conviction on the reverse side, printed on yellow paper;

(3) the police record, which shall be a copy of the complaint and of the reverse side of copy (1), printed on pink paper;

(4) the summons, with, on the reverse side, such information as the court may wish to give concerning the traffic violations bureau, and a plea of guilty and waiver, printed on off-white tag stock.

(b) If the offense is a petty misdemeanor, the uniform ticket must state that a failure to appear will be considered a plea of guilty and waiver of the right to trial, unless the failure to appear is due to circumstances beyond the person's control.

Sec. 3. Minnesota Statutes 1988, section 169.99, subdivision 3, is amended to read:

Subd. 3. Any city of the first class, through its governing body, may alter by deletion or addition the uniform traffic ticket in such manner as it deems advisable for use in such city, provided that it includes the notice required by subdivision 1, paragraph (b). In respect to any public corporation organized and existing pursuant to sections 473.601 to 473.679, whose ordinances and regulations for the control of traffic are enforced through prosecution in the municipal court of one or the other of the cities of the first class included within such public corporation, the traffic ticket used in such enforcement shall conform to that used by the city of the first class in whose municipal court its ordinances and regulations are enforced, except as to color and as to information uniquely applying to such public corporation and to its ordinances and regulations.

Sec. 4. Minnesota Statutes 1988, section 609.49, is amended to read:

**609.49 RELEASE, FAILURE TO APPEAR.**

Subdivision 1. FELONY OFFENDERS. Whoever, being A person charged with or convicted of a felony and ~~held in lawful custody therefor, is~~ released from custody, with or without bail or recognizance, on condition that the releasee personally appear when required with respect to ~~such~~ the charge or conviction, ~~and who intentionally fails, without lawful excuse, to so appear when required or surrender within three days thereafter after having been notified that~~ a failure to appear for a court appearance is a criminal offense, is guilty of a crime for failure to appear and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

Subd. 2. GROSS MISDEMEANOR AND MISDEMEANOR OFFENDERS. A person charged with a gross misdemeanor or misdemeanor who inten-

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tionally fails to appear in court for trial on the charge after having been notified that a failure to appear for a court appearance is a criminal offense, is guilty of a misdemeanor.

Subd. 3. AFFIRMATIVE DEFENSE. If proven by a preponderance of the evidence, it is an affirmative defense to a violation of subdivision 1 or 2 that the person's failure to appear in court as required was due to circumstances beyond the person's control.

Subd. 4. PROSECUTION. A violation of this section is prosecuted by the prosecuting authority who was responsible for prosecuting the offense in connection with which the person failed to appear in court.

**Sec. 5. [609.491] FAILURE TO APPEAR; PETTY MISDEMEANOR.**

Subdivision 1. CONSIDERED GUILTY PLEA. If a person fails to appear in court on a charge that is a petty misdemeanor, the failure to appear is considered a plea of guilty and waiver of the right to trial, unless the person appears in court within ten days and shows that the person's failure to appear was due to circumstances beyond the person's control.

Subd. 2. NOTICE. A complaint charging a person with a petty misdemeanor or must include a conspicuous notice of the provisions of subdivision 1.

Sec. 6. If 1989 Senate File No. 126 is enacted in the 1989 legislative session, Minnesota Statutes, section 169.92, subdivision 4, as amended by 1989 Senate File No. 126, is amended to read:

Subd. 4. (a) Upon receiving a report from the court, or from the driver licensing authority of a state, district, territory, or possession of the United States or a province of a foreign country which has an agreement in effect with this state pursuant to section 169.91, that a resident of this state or a person licensed as a driver in this state did not appear in court in compliance with the terms of a citation, the commissioner of public safety shall notify the driver that the driver's license will be suspended unless the commissioner receives notice within 30 days that the driver has appeared in the appropriate court or, if the offense is a petty misdemeanor for which a guilty plea was entered under section 5, that the person has paid any fine imposed by the court. If the commissioner does not receive notice of the appearance in the appropriate court or payment of the fine within 30 days of the date of the commissioner's notice to the driver, the commissioner may suspend the driver's license.

(b) The order of suspension shall indicate the reason for the order and shall notify the driver that the driver's license shall remain suspended until the driver has furnished evidence, satisfactory to the commissioner, of compliance with any order entered by the court.

(c) Suspension shall be ordered under this subdivision only when the report clearly identifies the person arrested; describes the violation, specifying the sec-

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tion of the traffic law, ordinance or rule violated; indicates the location and date of the offense; and describes the vehicle involved and its registration number.

Sec. 7. If 1989 Senate File No. 126 is enacted in the 1989 legislative session, Senate File No. 126, section 4, is amended to read:

**Sec. 4. EFFECTIVE DATE.**

Section 1 is effective January 1, 1990.

Sections ~~4 to~~ 2 and 3 are effective the day following final enactment.

**Sec. 8. EFFECTIVE DATE.**

Sections 1 to 3, 5, and 6 are effective January 1, 1990, and apply to petty misdemeanors committed on or after that date.

Section 4 is effective August 1, 1989, and applies to crimes for failure to appear committed on or after that date.

Section 7 is effective the day following final enactment.

Presented to the governor May 30, 1989

Signed by the governor June 1, 1989, 11:15 p.m.

**CHAPTER 334—H.F.No. 66**

*An act relating to gambling; creating a department of gaming; authorizing a state lottery to be conducted by a division of state lottery; creating a division of gambling enforcement in the department of public safety and providing for its duties; prescribing penalties; appropriating money; amending Minnesota Statutes 1988, sections 10A.01, subdivision 18; 10A.09, subdivision 1; 15A.081, subdivision 1; 16B.54, subdivision 2; 240.01, by adding subdivisions; 240.02, subdivisions 1 and 2; 240.04, subdivisions 1 and 7; 240.06, subdivisions 3 and 8; 240.07, subdivision 2; 240.08, subdivision 3; 240.13, by adding a subdivision; 240.21; 240.28; 340A.410, subdivision 5; 349.11; 349.12, subdivisions 3, 11, 12, 13, 15, 16, 17, 20, and by adding subdivisions; 349.15; 349.151; 349.16, subdivisions 3 and 4; 349.161; 349.162; 349.163; 349.164; 349.17, subdivision 2a; 349.18, subdivision 1, and by adding a subdivision; 349.19, subdivisions 2, 3, 6, and by adding subdivisions; 349.20; 349.21; 349.2121, subdivisions 2, 3, and 10; 349.2122; 349.2125, subdivisions 1, 2, and 3; 349.2127, subdivision 2; 349.213, subdivisions 1 and 2; 349.214, subdivision 2; 349.22, subdivisions 1 and 3; 541.20; 541.21; 609.75, subdivision 3; 609.76, subdivision 1; 609.761; 626.05, subdivision 2; 626.13; and 626.84, subdivision 1; Laws 1989, chapter 184, sections 7, by adding a subdivision and 12, by adding a subdivision; proposing coding for new law as Minnesota Statutes, chapters 299K; 349A; and 349B; proposing coding for new law in Minnesota Statutes, chapters 240; 245; 349; and 609; repealing Minnesota Statutes 1988, sections 349.151, subdivisions 3 and 5; and 349.171.*

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