

Subd. 3. MEMBER PAYMENT. To receive credit for the eligible service between January 1985 and September 1986, the member must pay an amount equal to the employee contribution rate or rates in effect during the period or periods of prior eligible non-credited service, applied to the actual salary rate in effect during the period or periods of prior service, plus six percent interest compounded annually from the date on which the contributions would otherwise have been made to the date on which the payment is made. Payment must be made in one lump sum before July 1, 1992.

Subd. 4. EMPLOYER PAYMENT; SERVICE CREDIT. Within 60 days of receipt by the association of the member contribution specified in subdivision 3, the city of Minneapolis shall pay an amount equal to the difference between the amount specified in subdivision 2 and the member payment specified in subdivision 3. This amount must be paid in one lump sum. The period of allowable service may be credited to the account of the person only after the receipt of full payment by the executive director.

Sec. 8. REPEALER.

Minnesota Statutes 1990, sections 136.80; 136.81; 136.82; 136.83; 136.84; 136.85; and 136.87, are repealed.

Sec. 9. EFFECTIVE DATE.

Sections 1 to 6 and 8 are effective July 1, 1991. Section 7 is effective the day following final enactment.

Presented to the governor May 29, 1991

Signed by the governor June 1, 1991, 3:34 p.m.

CHAPTER 270—H.F.No. 551

An act relating to public safety; increasing the chemical dependency assessment charge for repeat violators of the driving while intoxicated laws; extending waiting period for person to receive limited driver's license who has been convicted of certain crimes; establishing a pilot program for the use of ignition interlock devices; providing immunity from liability arising out of the use of breath alcohol testing devices in liquor establishments; prohibiting the use of the breath alcohol test as evidence; authorizing counties to create pilot programs to provide intensive probation for repeat violators of the driving while intoxicated laws; imposing penalties; appropriating money; amending Minnesota Statutes 1990, sections 169.121, subdivision 5a; 171.17; and 171.30, subdivisions 2, 4, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 171 and 604.

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

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Section 1. Minnesota Statutes 1990, section 169.121, subdivision 5a, is amended to read:

Subd. 5a. **CHEMICAL DEPENDENCY ASSESSMENT CHARGE.** When a court sentences a person convicted of an offense enumerated in section 169.126, subdivision 1, it shall impose a chemical dependency assessment charge of ~~\$75~~ \$76. A person shall pay an additional surcharge of \$5 if the person is convicted of (i) a violation of section 169.129, or (ii) a violation of this section within five years of a prior impaired driving conviction, as defined in subdivision 3, or a prior conviction for an offense arising out of an arrest for a violation of section 169.121 or 169.129. This section applies when the sentence is executed, stayed, or suspended. The court may not waive payment or authorize payment of the assessment charge and surcharge in installments unless it makes written findings on the record that the convicted person is indigent or that the assessment charge and surcharge would create undue hardship for the convicted person or that person's immediate family.

The court shall collect and forward to the commissioner of finance the total amount of the chemical dependency assessment charge and surcharge within 60 days after sentencing or explain to the commissioner in writing why the money was not forwarded within this time period. The commissioner shall credit the money to the general fund.

The chemical dependency assessment charge and surcharge required under this section ~~is~~ are in addition to the surcharge required by section 609.101.

Sec. 2. Minnesota Statutes 1990, section 171.17, is amended to read:

171.17 REVOCATION.

The department shall forthwith revoke the license of any driver upon receiving a record of such driver's conviction of any of the following offenses:

(1) ~~manslaughter or criminal vehicular operation~~ resulting from the operation of a motor vehicle or criminal vehicular homicide or injury under section 609.21;

(2) any violation of section 169.121 or 609.487;

(3) any felony in the commission of which a motor vehicle was used;

(4) failure to stop and disclose identity and render aid, as required under ~~the laws of this state~~ section 169.09, in the event of a motor vehicle accident resulting in the death or personal injury of another;

(5) perjury or the making of a false affidavit or statement to the department under any law relating to the ownership or operation of a motor vehicle;

(6) except as this section otherwise provides, conviction, plea of guilty, or forfeiture of bail not vacated, upon three charges of violating, within a period of

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12 months any of the provisions of chapter 169, or of the rules or municipal ordinances enacted in conformance therewith for which the accused may be punished upon conviction by imprisonment;

(7) conviction of an offense in another state which, if committed in this state, would be grounds for the revocation of the driver's license.

When any judge of a juvenile court, or any of its duly authorized agents, determines under a proceeding under chapter 260 that any person under the age of 18 years has committed any offense defined in this section, such judge, or duly authorized agent, shall immediately report this determination to the department, and the commissioner shall immediately revoke the license of that person.

Upon revoking the license of any person, as hereinbefore in this chapter authorized, the department shall immediately notify the licensee, in writing, by depositing in the United States post office a notice addressed to the licensee at the licensee's last known address, with postage prepaid thereon.

Sec. 3. Minnesota Statutes 1990, section 171.30, subdivision 2, is amended to read:

Subd. 2. **60-DAY WAITING PERIOD.** A limited license shall not be issued for a period of 60 days to an individual whose license or privilege has been revoked or suspended for commission of the following offenses:

(a) ~~Manslaughter or criminal negligence resulting from the operation of a motor vehicle.~~

(b) (1) any felony in the commission of which a motor vehicle was used; or

(c) (2) failure to stop and disclose identity as required under the laws of this state section 169.09, in the event of a motor vehicle accident resulting in the death or personal injury of another.

Sec. 4. Minnesota Statutes 1990, section 171.30, is amended by adding a subdivision to read:

Subd. 2a. 180-DAY WAITING PERIOD. Notwithstanding subdivision 2, a limited license shall not be issued for a period of 180 days to an individual whose license or privilege has been revoked or suspended for commission of the offense of manslaughter resulting from the operation of a motor vehicle or criminal vehicular homicide or injury under section 609.21.

Sec. 5. Minnesota Statutes 1990, section 171.30, subdivision 4, is amended to read:

Subd. 4. **PENALTY.** A person who violates a condition or limitation of a limited license issued under subdivision 1 or fails to have the license in immediate possession at all times when operating a motor vehicle is guilty of a misdemeanor. In addition, a person who violates a condition or limitation of a limited

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license may not operate a motor vehicle for the remainder of the period of suspension or revocation, or 30 days, whichever is longer.

Sec. 6. [171.305] IGNITION INTERLOCK DEVICE; PILOT PROGRAM; LICENSE CONDITION.

Subdivision 1. DEFINITION. "Ignition interlock device" or "device" means breath alcohol ignition equipment designed to prevent a motor vehicle's ignition from being started by a person whose alcohol concentration exceeds the calibrated setting on the device.

Subd. 2. PILOT PROGRAM. The commissioner shall establish a one-year statewide pilot program for the use of an ignition interlock device by a person whose driver's license or driving privilege has been canceled and denied by the commissioner for an alcohol or controlled substance related incident. After one year the commissioner shall evaluate the program and shall report to the legislature by February 1, 1993, on whether changes in the program are necessary and whether the program should be permanent. No limited license shall be issued under this program after August 1, 1992.

Subd. 3. PERFORMANCE STANDARDS. The commissioner shall specify performance standards for ignition interlock devices, including standards relating to accuracy, safe operation of the vehicle, and degree of difficulty rendering the device inoperative.

Subd. 4. CERTIFICATION. The commissioner shall certify ignition interlock devices that meet the performance standards and may charge the manufacturer of the ignition interlock device a certification fee.

Subd. 5. ISSUANCE OF LIMITED LICENSE. The commissioner may issue a limited license to a person whose driver's license has been canceled and denied due to an alcohol or controlled substance related incident under section 171.04, subdivision 1, clause (8), under the following conditions:

- (1) at least one-half of the person's required abstinence period has expired;
- (2) the person has completed all rehabilitation requirements; and
- (3) the person agrees to drive only a motor vehicle equipped with a functioning and certified ignition interlock device.

Subd. 6. MONITORING. The ignition interlock device must be monitored for proper use and accuracy by an entity approved by the commissioner.

Subd. 7. PAYMENT. The commissioner shall require that the person issued a limited license under subdivision 5 pay all costs associated with use of the device.

Subd. 8. PROOF OF INSTALLATION. A person approved for a limited license must provide proof of installation prior to issuance of the limited license.

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Subd. 9. PENALTIES. (a) A person who knowingly lends, rents, or leases a motor vehicle that is not equipped with a functioning ignition interlock device to a person with a limited license issued under subdivision 5 is guilty of a misdemeanor.

(b) A person who tampers with, circumvents, or bypasses the ignition interlock device, or assists another to tamper with, circumvent, or bypass the device, is guilty of a misdemeanor.

(c) The penalties of this subdivision do not apply if the action was taken for emergency purposes or for mechanical repair, and the person limited to the use of an ignition interlock device does not operate the motor vehicle while the device is disengaged.

Subd. 10. CANCELLATION OF LIMITED LICENSE. The commissioner shall cancel a limited license issued under this section if the device registers a positive reading for use of alcohol or the person violates any conditions of the limited license.

Sec. 7. [604.09] BREATH ALCOHOL TESTING DEVICE IN LIQUOR ESTABLISHMENTS.

Subdivision 1. DEFINITIONS. (a) For purposes of this section, the following terms have the meanings given them.

(b) "Breath alcohol testing device" means a device that tests for alcohol concentration by using a breath sample.

(c) "Licensed premises" has the meaning given in section 340A.101, subdivision 15.

(d) "Liquor licensee" means a person licensed under sections 340A.403 to 340A.407 or section 340A.414, and includes an agent or employee of a licensee.

Subd. 2. IMMUNITY FROM LIABILITY. (a) Subject to subdivision 3, a liquor licensee who administers or makes available a breath alcohol testing device in the licensed premises is immune from any liability arising out of the result of the test.

(b) Subject to subdivision 3, a designer, manufacturer, distributor, or seller of a breath alcohol testing device is immune from any products liability or other cause of action arising out of the result of a test by the breath alcohol testing device in a licensed premises.

Subd. 3. IMMUNITY REQUIREMENTS. Subdivision 2 applies only if:

(1) a conspicuous notice is posted in the licensed premises:

(i) informing patrons of the immunity provisions of subdivision 2 and notifying them that the test is made available solely for their own informal use and information; and

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(ii) informing patrons of the alcohol-related driving penalties under sections 169.121 to 169.123, 169.129, and 609.21;

(2) the type of breath alcohol testing device is certified by the commissioner of public safety under subdivision 7; and

(3) the breath alcohol testing device test results are indicated as follows:

(i) the breath alcohol testing device shows a white light and gives a reading of alcohol concentration if alcohol concentration is less than .05;

(ii) the breath alcohol testing device shows a yellow light and gives a reading of alcohol concentration if alcohol concentration is .05 or more but less than .08;

(iii) the breath alcohol testing device shows an orange light and gives a reading of alcohol concentration if alcohol concentration is .08 or more but less than .10, and displays a message that states "You are close to the legal limit and your driving may be impaired;" or

(iv) the breath alcohol testing device shows a red light if alcohol concentration is .10 or greater but does not give a reading of alcohol concentration, and displays a message that states that the person fails the test.

Subd. 4. EVIDENCE. Evidence regarding the result of a test by a breath alcohol testing device in a licensed premises is not admissible in any civil or criminal proceeding.

Subd. 5. DRAMSHOP. This section does not affect liability under section 340A.801.

Subd. 6. PREPARATION OF NOTICE. The commissioner of public safety shall prepare and make available to liquor licensees the notices described in subdivision 3.

Subd. 7. RULES; CERTIFICATION. The commissioner of public safety shall adopt any rules reasonably required to implement this section, including performance and maintenance standards for breath alcohol testing devices. The commissioner shall certify breath alcohol testing devices that meet the performance standards. The costs of rulemaking and certification must be borne by the manufacturers of the breath alcohol testing devices.

Sec. 8. [169.1265] PILOT PROGRAMS OF INTENSIVE PROBATION FOR REPEAT DWI OFFENDERS.

Subdivision 1. APPLICATION. The commissioner of public safety shall administer a program to provide grants to counties to establish programs of intensive probation for repeat violators of the driving while intoxicated laws. The commissioner shall adopt an application form on which a county or a group of counties may apply for a grant to establish a DWI repeat offender program.

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Subd. 2. GOALS. The goals of the DWI repeat offender program are to protect public safety and provide an appropriate sentencing alternative for persons convicted of a violation of Minnesota Statutes, section 169.129, or of repeat violations of Minnesota Statutes, section 169.121, who are considered to be of high risk to the community.

Subd. 3. PROGRAM ELEMENTS. To be considered for a grant under this section, a county program must contain the following elements:

(1) an initial assessment of the offender's chemical dependency, with recommended treatment and aftercare;

(2) several stages of probation supervision, including:

(i) a period of at least 30 days' incarceration in a local or regional detention facility;

(ii) a period during which an offender is, at all times, either working, on home detention, being supervised at a program facility, or traveling between two of these locations;

(iii) a period of home detention; and

(iv) a period of gradually decreasing involvement with the program;

(3) decreasing levels of intensity and contact with probation officials based on the offender's successful participation in the program and compliance with its rules;

(4) a provision for increasing the severity of the program's requirements when an offender offends again or violates the program's rules;

(5) a provision for offenders to continue or seek employment during their period of intensive probation;

(6) a requirement that offenders abstain from alcohol and controlled substances during the probation period; and

(7) a requirement that all or a substantial part of the costs of the program be paid by the offenders.

Subd. 4. TRAINING. Counties participating in the program shall provide to affected officials relevant training in intensive probation programs.

Sec. 9. APPROPRIATION.

(a) \$164,000 is appropriated to the commissioner of public safety to fund start-up grants to counties or groups of counties for DWI repeat offender programs, to be available until June 30, 1993.

(b) \$50,000 is appropriated to the University of Minnesota law school to

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fund an interdisciplinary criminal justice system DWI task force, to be available until June 30, 1993. The task force shall evaluate DWI laws, enforcement procedures, and court practices and shall advise the legislature, the courts, law enforcement agencies, and prosecutors regarding improvement of DWI laws and their implementation and enforcement. * (Section 9 was vetoed by the governor.)

Sec. 10. EFFECTIVE DATE.

Sections 2 to 5 and section 6, subdivision 9, are effective for violations that occur on or after August 1, 1991. Section 1 is effective July 1, 1991, and applies to crimes committed on or after that date.

Presented to the governor May 29, 1991

Signed by the governor June 1, 1991, 5:01 p.m.

CHAPTER 271—H.F.No. 321

An act relating to marriage dissolution; requiring a summons to contain certain information; providing for court approval of certain items without a hearing; changing requirements for court orders in contested custody cases and providing for payment of investigation costs; limiting joint custody; creating a summary dissolution pilot project; appropriating money for marriage dissolution education and orientation; amending Minnesota Statutes 1990, sections 518.13, by adding a subdivision; 518.167, by adding a subdivision; 518.17, subdivision 2; 518B.01, subdivision 2; and Laws 1990, chapter 574, section 26; proposing coding for new law in Minnesota Statutes, chapter 518.

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

Section 1. **[518.091] SUMMONS; TEMPORARY RESTRAINING PROVISIONS.**

(a) Every summons must include the notice in this paragraph.

NOTICE OF TEMPORARY RESTRAINING PROVISIONS

UNDER MINNESOTA LAW, SERVICE OF THIS SUMMONS MAKES THE FOLLOWING REQUIREMENTS APPLY TO BOTH PARTIES TO THIS ACTION, UNLESS THEY ARE MODIFIED BY THE COURT OR THE PROCEEDING IS DISMISSED:

(1) NEITHER PARTY MAY DISPOSE OF ANY ASSETS EXCEPT (i) FOR THE NECESSITIES OF LIFE OR FOR THE NECESSARY GENERATION OF INCOME OR PRESERVATION OF ASSETS, (ii) BY AN AGREEMENT IN WRITING, OR (iii) FOR RETAINING COUNSEL TO CARRY ON OR TO CONTEST THIS PROCEEDING;

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