

**CHAPTER 242—S.F.No. 3091**

*An act relating to public safety; conforming medical examination requirements for commercial driver's license to federal law; amending Minnesota Statutes 2008, sections 171.01, by adding subdivisions; 171.04, by adding a subdivision; 171.09, subdivision 1; 171.12, subdivisions 2a, 3; 171.162.*

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

Section 1. Minnesota Statutes 2008, section 171.01, is amended by adding a subdivision to read:

**Subd. 29a. Current medical waiver.** "Current medical waiver" means:

(1) a medical variance, as defined in Code of Federal Regulations, title 49, section 390.5, that has been granted to the applicant or licensee by the Federal Motor Carrier Safety Administration and that is not expired, removed, or rescinded;

(2) a waiver of physical qualifications that has been granted to the applicant or licensee by the commissioner under section 171.321, subdivision 2, and rules adopted under that section, and that is not expired or revoked; or

(3) a waiver of physical qualifications that has been granted to the applicant or licensee by the commissioner of transportation under section 221.0314, subdivision 3 or 3a, or rules adopted under that section, and that is not expired or revoked.

Sec. 2. Minnesota Statutes 2008, section 171.01, is amended by adding a subdivision to read:

**Subd. 36a. Interstate or foreign commerce.** "Interstate or foreign commerce" means (1) any trade, traffic, or transportation within the jurisdiction of the United States between a place in a state and a place outside of that state, including a place outside of the United States, and (2) trade, traffic, and transportation in the United States that affects any trade, traffic, and transportation described in clause (1).

Sec. 3. Minnesota Statutes 2008, section 171.01, is amended by adding a subdivision to read:

**Subd. 36b. Intrastate commerce.** "Intrastate commerce" means any trade, traffic, or transportation that occurs entirely within the state of Minnesota and that is not interstate or foreign commerce.

Sec. 4. Minnesota Statutes 2008, section 171.01, is amended by adding a subdivision to read:

**Subd. 38a. Medical examiner.** "Medical examiner" has the meaning given in Code of Federal Regulations, title 49, section 390.5.

Sec. 5. Minnesota Statutes 2008, section 171.01, is amended by adding a subdivision to read:

Subd. 49b. **Valid medical examiner's certificate.** "Valid medical examiner's certificate" means a record, on a form prescribed by the department:

(1) of a medical examiner's examination of a person who holds or is applying for a class A, class B, or class C commercial driver's license;

(2) upon which the medical examiner attests that the applicant or license holder is physically qualified to drive a commercial motor vehicle; and

(3) that is not expired.

Sec. 6. Minnesota Statutes 2008, section 171.04, is amended by adding a subdivision to read:

Subd. 3. **Medical qualification for commercial driver's license.** The department shall not issue a class A, class B, or class C commercial driver's license to a person who:

(1) has not submitted the self-certification required under section 171.162, subdivision 2; or

(2) has not submitted either a valid medical examiner's certificate or a current medical waiver as required under section 171.162, subdivision 3.

Sec. 7. Minnesota Statutes 2008, section 171.09, subdivision 1, is amended to read:

Subdivision 1. **Authority; violations.** (a) The commissioner, when good cause appears, may impose restrictions suitable to the licensee's driving ability or other restrictions applicable to the licensee as the commissioner may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) Pursuant to Code of Federal Regulations, title 49, section 383.95, if an applicant for a commercial driver's license either does not successfully complete the air brake component of the knowledge test, or does not successfully complete the skills test in a vehicle equipped with air brakes as such tests are prescribed in Code of Federal Regulations, title 49, part 384, the department shall indicate on the class C, class B, or class A commercial driver's license, if issued, that the individual is restricted from operating a commercial motor vehicle equipped with air brakes.

(c) The commissioner shall restrict the operating privileges of a holder of a class A, class B, or class C commercial driver's license in accordance with Code of Federal Regulations, title 49, sections 383.73 and 383.95.

(d) The commissioner may restrict the operating privileges of a holder of a class A, class B, or class C commercial driver's license to the extent that the restrictions are authorized by section 221.0314, subdivision 3 or 3a, or rules adopted under those subdivisions or section 221.031.

~~(e)~~ (e) Upon receiving satisfactory evidence of any violation of the restrictions on the license, the commissioner may suspend or revoke the license. A license suspension under this section is subject to section 171.18, subdivisions 2 and 3.

~~(f)~~ (f) A person who drives, operates, or is in physical control of a motor vehicle while in violation of the restrictions imposed in a restricted driver's license issued to that person under this section is guilty of a crime as follows:

(1) if the restriction relates to the possession or consumption of alcohol or controlled substances, the person is guilty of a gross misdemeanor; or

(2) if the restriction relates to another matter, the person is guilty of a misdemeanor.

Sec. 8. Minnesota Statutes 2008, section 171.12, subdivision 2a, is amended to read:

Subd. 2a. **Alcohol concentration on driving record.** When a person's driver's license or permit to drive is revoked or suspended pursuant to section 169A.52, or when a person is convicted for violating section 169A.20, 169A.31, 169A.33, 360.0752, or 609.21, and a test of the person's breath, urine, or blood has been made to determine the person's alcohol concentration, the commissioner of public safety shall record the test results on the person's driving record pertaining to that violation. The alcohol concentration is classified as public data on individuals, as defined in section 13.02, subdivision 15, and must be kept for the period of time specified in subdivision 3, clause ~~(3)~~ (4).

Sec. 9. Minnesota Statutes 2008, section 171.12, subdivision 3, is amended to read:

Subd. 3. **Application and record, when destroyed.** The department may cause applications for drivers' licenses, provisional licenses, and instruction permits, and related records, to be destroyed immediately after the period for which issued, except that:

(1) the driver's record pertaining to revocations, suspensions, cancellations, disqualifications, convictions, and accidents is cumulative and must be kept for a period of at least five years;

(2) the driver's record pertaining to violations of a driver or vehicle out-of-service order must be kept for a period of at least ten years; ~~and~~

(3) medical certificates and medical waivers submitted in accordance with section 171.162 must be kept for a period of at least three years from the date of issuance; and

~~(3)~~ (4) the driver's record pertaining to felony convictions in the commission of which a motor vehicle was used, to the alcohol-related offenses and licensing actions listed in section 169A.03, subdivisions 20 and 21, to violations of section 169.09, to violations of section 169A.31, and to violations of section 171.24, subdivision 5, must be retained permanently.

Sec. 10. Minnesota Statutes 2008, section 171.162, is amended to read:

**171.162 COMMERCIAL DRIVER'S LICENSE, REQUIRED RECORDS CHECK.**

Subdivision 1. **Driving record.** As required by Code of Federal Regulations, title 49, section 383.73, before issuing a class A, class B, or class C commercial driver's license, the department shall request the applicant's complete driving record from all states where the applicant was previously licensed over the last ten years to operate any type of motor vehicle.

Subd. 2. **Applicant self-certification.** As required by Code of Federal Regulations, title 49, section 383.71, an applicant for a class A, class B, or class C commercial driver's license shall certify, on a form prescribed by the department, whether:

(1) the applicant operates or expects to operate a class A, class B, or class C motor vehicle in interstate or foreign commerce or is otherwise subject to the medical examination requirements of Code of Federal Regulations, title 49, part 391;

(2) the applicant operates or expects to operate a class A, class B, or class C motor vehicle in interstate or foreign commerce but is exempt from the medical examination requirements of Code of Federal Regulations, title 49, part 391;

(3) the applicant operates or expects to operate a class A, class B, or class C motor vehicle entirely in intrastate commerce, is not subject to the medical examination requirements of Code of Federal Regulations, title 49, part 391, but is subject to the medical examination requirements of chapter 221; or

(4) the applicant operates or expects to operate a class A, class B, or class C motor vehicle entirely in intrastate commerce, is not subject to the medical examination requirements of Code of Federal Regulations, title 49, part 391, and is exempt from the medical examination requirements of chapter 221.

Subd. 3. **Medical examiner's certificate; applicants.** An applicant for a class A, class B, or class C commercial driver's license who is subject to the medical examination requirements of chapter 221 or Code of Federal Regulations, title 49, part 391, shall submit a valid medical examiner's certificate or a current medical waiver to the department.

Subd. 4. **Medical examiner's certificate; timely submission.** The holder of a class A, class B, or class C commercial driver's license who is subject to the medical examination requirements of chapter 221 or Code of Federal Regulations, title 49, part 391, shall submit a valid medical examiner's certificate or a current medical waiver to the department prior to the expiration of the certificate or waiver previously submitted by the person.

Subd. 5. **Medical examiner's certificate; existing licensees.** By November 30, 2013, a person who holds a class A, class B, or class C commercial driver's license as of August 1, 2013, shall submit to the department the self-certification described in subdivision 2. If the licensee certifies that the licensee is subject to the medical examination requirements of chapter 221 or Code of Federal Regulations, title 49, part 391, the licensee shall also submit to the department a valid medical examiner's certificate or a current medical waiver. If the licensee fails to submit the self-certification or, if required, a valid medical examiner's certificate or current medical waiver, the department shall follow the notice and license downgrade procedures of subdivision 6.

Subd. 6. **Downgrade of license; notice.** (a) If a licensee has previously certified to the department that the licensee is subject to the medical examination requirements of chapter 221 or Code of Federal Regulations, title 49, part 391, the department shall send written notice if the licensee's medical examiner's certificate or medical waiver has expired or been removed, rescinded, or revoked. The notice must state that the commercial driver's license will be downgraded to a class D driver's license unless, within 30 days of the date of the notice, the licensee submits to the department:

(1) a valid medical examiner's certificate or a current medical waiver; or

(2) a new self-certification, as described in subdivision 2, in which the licensee certifies that the licensee is subject to a different set of medical examination requirements or exemptions than indicated on the licensee's previous self-certification, accompanied by a valid medical examiner's certificate or a current medical waiver, if applicable.

(b) The department shall send the notice described in paragraph (a):

(1) by electronic mail to the electronic mail address provided by the licensee to the department for that purpose;

(2) by facsimile transmission to the telephone number provided by the licensee to the department for that purpose; or

(3) by mail, addressed to the licensee's last known address with postage prepaid.

(c) As applied to licensees who have previously certified they operate or expect to operate motor vehicles in interstate or foreign commerce, the notice described in paragraph (a) must conform to the requirements of Code of Regulations, title 49, section 383.73, paragraph (j).

(d) If the licensee does not submit a new self-certification but submits a valid medical examiner's certificate or a current medical waiver within the 30-day period described in paragraph (a), the commissioner shall take no action. If the licensee submits a new self-certification as described in paragraph (a), along with a valid medical examiner's certificate or a current medical waiver, as applicable, the commissioner shall restrict the licensee's operating privileges to the extent required under section 171.09, subdivision 1, paragraph (c) or (d). If the licensee does not submit a new self-certification, a valid medical examiner's certificate, or a current medical waiver within the 30-day period described in paragraph (a), the commissioner shall remove the licensee's privilege to operate a class A, class B, or class C motor vehicle.

Subd. 7. **Rulemaking authority.** The commissioner shall adopt rules to implement and administer this section and section 171.09, subdivision 1.

**EFFECTIVE DATE.** Subdivision 5 is effective August 1, 2013. Subdivision 7 is effective the day following final enactment.

Sec. 11. **EFFECTIVE DATE.**

Unless specifically provided otherwise, sections 1 to 10 are effective August 1, 2011.

Presented to the governor April 13, 2010

Signed by the governor April 15, 2010, 12:00 p.m.