

CHAPTER 195--S.F.No. 2578

An act relating to public safety; modifying the schedules of controlled substances; providing penalties for sale or possession of kratom; modifying DWI law by including other types of intoxicating substances and striking references to hazardous substances; amending Minnesota Statutes 2016, sections 97B.065, subdivision 1; 152.02, subdivision 5; 152.027, by adding a subdivision; 169A.03, by adding a subdivision; 169A.20, subdivisions 1, 1a, 1b, 1c; 169A.45, subdivision 1; 169A.51, subdivisions 1, 7; 169A.52, subdivision 2; 169A.76; 360.0752, subdivisions 1, 2, 5, 7; 360.0753, subdivision 6; 609.2111; 609.2112, subdivision 1; 609.2113, subdivisions 1, 2, 3; 609.2114, subdivisions 1, 2; 624.7142, subdivision 1; Minnesota Statutes 2017 Supplement, sections 152.02, subdivision 2; 169A.51, subdivision 4; 360.0753, subdivisions 2, 3; repealing Minnesota Statutes 2016, section 169A.03, subdivision 9.

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

ARTICLE 1**CONTROLLED SUBSTANCE-RELATED CHANGES**

Section 1. Minnesota Statutes 2017 Supplement, section 152.02, subdivision 2, is amended to read:

Subd. 2. **Schedule I.** (a) Schedule I consists of the substances listed in this subdivision.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following substances, including their analogs, isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the analogs, isomers, esters, ethers, and salts is possible:

- (1) acetylmethadol;
- (2) allylprodine;
- (3) alphacetylmethadol (except levo-alphacetylmethadol, also known as levomethadyl acetate);
- (4) alphameprodine;
- (5) alphamethadol;
- (6) alpha-methylfentanyl benzethidine;
- (7) betacetylmethadol;
- (8) betameprodine;
- (9) betamethadol;
- (10) betaprodine;
- (11) clonitazene;
- (12) dextromoramide;
- (13) diampromide;
- (14) diethyliambutene;
- (15) difenoxin;
- (16) dimenoxadol;

- (17) dimepheptanol;
- (18) dimethylambutene;
- (19) dioxaphetyl butyrate;
- (20) dipipanone;
- (21) ethylmethylthiambutene;
- (22) etonitazene;
- (23) etoxeridine;
- (24) furethidine;
- (25) hydroxypethidine;
- (26) ketobemidone;
- (27) levomoramide;
- (28) levophenacylmorphan;
- (29) 3-methylfentanyl;
- (30) acetyl-alpha-methylfentanyl;
- (31) alpha-methylthiofentanyl;
- (32) benzylfentanyl beta-hydroxyfentanyl;
- (33) beta-hydroxy-3-methylfentanyl;
- (34) 3-methylthiofentanyl;
- (35) thenylfentanyl;
- (36) thiofentanyl;
- (37) para-fluorofentanyl;
- (38) morpheridine;
- (39) 1-methyl-4-phenyl-4-propionoxtipiperidine;
- (40) noracymethadol;
- (41) norlevorphanol;
- (42) normethadone;
- (43) norpipanone;
- (44) 1-(2-phenylethyl)-4-phenyl-4-acetoxypiperidine (PEPAP);
- (45) phenadoxone;
- (46) phenampromide;
- (47) phenomorphan;
- (48) phenoperidine;

- (49) piritramide;
- (50) proheptazine;
- (51) properidine;
- (52) propiram;
- (53) racemoramide;
- (54) tilidine;
- (55) trimeperidine;
- (56) N-(1-Phenethylpiperidin-4-yl)-N-phenylacetamide (acetyl fentanyl);
- (57) 3,4-dichloro-N-[(1R,2R)-2-(dimethylamino)cyclohexyl]-N-methylbenzamide(U47700); ~~and~~
- (58) N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]furan-2-carboxamide(furanyl fentanyl); ~~and~~
- (59) 4-(4-bromophenyl)-4-dimethylamino-1-phenethylcyclohexanol (bromadol).

(c) Opium derivatives. Any of the following substances, their analogs, salts, isomers, and salts of isomers, unless specifically excepted or unless listed in another schedule, whenever the existence of the analogs, salts, isomers, and salts of isomers is possible:

- (1) acetorphine;
- (2) acetyldihydrocodeine;
- (3) benzylmorphine;
- (4) codeine methylbromide;
- (5) codeine-n-oxide;
- (6) cyprenorphine;
- (7) desomorphine;
- (8) dihydromorphine;
- (9) drotebanol;
- (10) etorphine;
- (11) heroin;
- (12) hydromorphanol;
- (13) methyldesorphine;
- (14) methyldihydromorphine;
- (15) morphine methylbromide;
- (16) morphine methylsulfonate;
- (17) morphine-n-oxide;
- (18) myrophine;
- (19) nicocodeine;

- (20) nicomorphine;
- (21) normorphine;
- (22) pholcodine; and
- (23) thebacon.

(d) Hallucinogens. Any material, compound, mixture or preparation which contains any quantity of the following substances, their analogs, salts, isomers (whether optical, positional, or geometric), and salts of isomers, unless specifically excepted or unless listed in another schedule, whenever the existence of the analogs, salts, isomers, and salts of isomers is possible:

- (1) methylenedioxy amphetamine;
- (2) methylenedioxymethamphetamine;
- (3) methylenedioxy-N-ethylamphetamine (MDEA);
- (4) n-hydroxy-methylenedioxyamphetamine;
- (5) 4-bromo-2,5-dimethoxyamphetamine (DOB);
- (6) 2,5-dimethoxyamphetamine (2,5-DMA);
- (7) 4-methoxyamphetamine;
- (8) 5-methoxy-3, 4-methylenedioxyamphetamine;
- (9) alpha-ethyltryptamine;
- (10) bufotenine;
- (11) diethyltryptamine;
- (12) dimethyltryptamine;
- (13) 3,4,5-trimethoxyamphetamine;
- (14) 4-methyl-2, 5-dimethoxyamphetamine (DOM);
- (15) ibogaine;
- (16) lysergic acid diethylamide (LSD);
- (17) mescaline;
- (18) parahexyl;
- (19) N-ethyl-3-piperidyl benzilate;
- (20) N-methyl-3-piperidyl benzilate;
- (21) psilocybin;
- (22) psilocyn;
- (23) tenocyclidine (TPCP or TCP);
- (24) N-ethyl-1-phenyl-cyclohexylamine (PCE);
- (25) 1-(1-phenylcyclohexyl) pyrrolidine (PCPy);

- (26) 1-[1-(2-thienyl)cyclohexyl]-pyrrolidine (TCPy);
- (27) 4-chloro-2,5-dimethoxyamphetamine (DOC);
- (28) 4-ethyl-2,5-dimethoxyamphetamine (DOET);
- (29) 4-iodo-2,5-dimethoxyamphetamine (DOI);
- (30) 4-bromo-2,5-dimethoxyphenethylamine (2C-B);
- (31) 4-chloro-2,5-dimethoxyphenethylamine (2C-C);
- (32) 4-methyl-2,5-dimethoxyphenethylamine (2C-D);
- (33) 4-ethyl-2,5-dimethoxyphenethylamine (2C-E);
- (34) 4-iodo-2,5-dimethoxyphenethylamine (2C-I);
- (35) 4-propyl-2,5-dimethoxyphenethylamine (2C-P);
- (36) 4-isopropylthio-2,5-dimethoxyphenethylamine (2C-T-4);
- (37) 4-propylthio-2,5-dimethoxyphenethylamine (2C-T-7);
- (38) 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-yl)ethanamine (2-CB-FLY);
- (39) bromo-benzodifuranyl-isopropylamine (Bromo-DragonFLY);
- (40) alpha-methyltryptamine (AMT);
- (41) N,N-diisopropyltryptamine (DiPT);
- (42) 4-acetoxy-N,N-dimethyltryptamine (4-AcO-DMT);
- (43) 4-acetoxy-N,N-diethyltryptamine (4-AcO-DET);
- (44) 4-hydroxy-N-methyl-N-propyltryptamine (4-HO-MPT);
- (45) 4-hydroxy-N,N-dipropyltryptamine (4-HO-DPT);
- (46) 4-hydroxy-N,N-diallyltryptamine (4-HO-DALT);
- (47) 4-hydroxy-N,N-diisopropyltryptamine (4-HO-DiPT);
- (48) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DiPT);
- (49) 5-methoxy-alpha-methyltryptamine (5-MeO-AMT);
- (50) 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT);
- (51) 5-methylthio-N,N-dimethyltryptamine (5-MeS-DMT);
- (52) 5-methoxy-N-methyl-N-isopropyltryptamine (5-MeO-MiPT);
- (53) 5-methoxy-alpha-ethyltryptamine (5-MeO-AET);
- (54) 5-methoxy-N,N-dipropyltryptamine (5-MeO-DPT);
- (55) 5-methoxy-N,N-diethyltryptamine (5-MeO-DET);
- (56) 5-methoxy-N,N-diallyltryptamine (5-MeO-DALT);
- (57) methoxetamine (MXE);

- (58) 5-iodo-2-aminoindane (5-IAI);
 - (59) 5,6-methylenedioxy-2-aminoindane (MDAI);
 - (60) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B-NBOMe);
 - (61) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C-NBOMe);
 - (62) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I-NBOMe);
 - (63) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);
 - (64) 2-(4-Ethylthio-2,5-dimethoxyphenyl)ethanamine (2C-T-2);
 - (65) N,N-Dipropyltryptamine (DPT);
 - (66) 3-[1-(Piperidin-1-yl)cyclohexyl]phenol (3-HO-PCP);
 - (67) N-ethyl-1-(3-methoxyphenyl)cyclohexanamine (3-MeO-PCE);
 - (68) 4-[1-(3-methoxyphenyl)cyclohexyl]morpholine (3-MeO-PCM₀);
 - (69) 1-[1-(4-methoxyphenyl)cyclohexyl]-piperidine (methoxydine, 4-MeO-PCP);
 - (70) 2-(2-Chlorophenyl)-2-(ethylamino)cyclohexan-1-one (N-Ethylnorketamine, ethketamine, NENK);
 - (71) methylenedioxy-N,N-dimethylamphetamine (MDDMA);
 - (72) 3-(2-Ethyl(methyl)aminoethyl)-1H-indol-4-yl (4-AcO-MET); and
 - (73) 2-Phenyl-2-(methylamino)cyclohexanone (deschloroketamine).

(e) Peyote. All parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of the plant, and every compound, manufacture, salts, derivative, mixture, or preparation of the plant, its seeds or extracts. The listing of peyote as a controlled substance in Schedule I does not apply to the nondrug use of peyote in bona fide religious ceremonies of the American Indian Church, and members of the American Indian Church are exempt from registration. Any person who manufactures peyote for or distributes peyote to the American Indian Church, however, is required to obtain federal registration annually and to comply with all other requirements of law.

(f) Central nervous system depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances, their analogs, salts, isomers, and salts of isomers whenever the existence of the analogs, salts, isomers, and salts of isomers is possible:

- (1) mecloqualone;
 - (2) methaqualone;
 - (3) gamma-hydroxybutyric acid (GHB), including its esters and ethers;
 - (4) flunitrazepam; and
 - (5) 2-(2-Methoxyphenyl)-2-(methylamino)cyclohexanone (2-MeO-2-deschloroketamine, methoxyketamine).

(g) Stimulants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances, their analogs, salts, isomers, and salts of isomers whenever the existence of the analogs, salts, isomers, and salts of isomers is possible:

- (1) aminorex;
- (2) cathinone;
- (3) fenethylline;
- (4) methcathinone;
- (5) methylaminorex;
- (6) N,N-dimethylamphetamine;
- (7) N-benzylpiperazine (BZP);
- (8) methylmethcathinone (mephedrone);
- (9) 3,4-methylenedioxy-N-methylcathinone (methylone);
- (10) methoxymethcathinone (methedrone);
- (11) methylenedioxypyrovalerone (MDPV);
- (12) 3-fluoro-N-methylcathinone (3-FMC);
- (13) methylethcathinone (MEC);
- (14) 1-benzofuran-6-ylpropan-2-amine (6-APB);
- (15) dimethylmethcathinone (DMMC);
- (16) fluoroamphetamine;
- (17) fluoromethamphetamine;
- (18) α -methylaminobutyrophenone (MABP or buphedrone);
- (19) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone);
- (20) 2-(methylamino)-1-(4-methylphenyl)butan-1-one (4-MEMABP or BZ-6378);
- (21) 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl) pentan-1-one (naphthylpyrovalerone or naphyrone);
- (22) (alpha-pyrrolidinopentiophenone (alpha-PVP);
- (23) (RS)-1-(4-methylphenyl)-2-(1-pyrrolidinyl)-1-hexanone (4-Me-PHP or MPHP);
- (24) 2-(1-pyrrolidinyl)-hexanophenone (Alpha-PHP);
- (25) 4-methyl-N-ethylcathinone (4-MEC);
- (26) 4-methyl-alpha-pyrrolidinopropiophenone (4-MePPP);
- (27) 2-(methylamino)-1-phenylpentan-1-one (pentedrone);
- (28) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylnone);
- (29) 4-fluoro-N-methylcathinone (4-FMC);
- (30) 3,4-methylenedioxy-N-ethylcathinone (ethylone);
- (31) alpha-pyrrolidinobutiophenone (α -PBP);
- (32) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran (5-APDB);

- (33) 1-phenyl-2-(1-pyrrolidinyl)-1-heptanone (PV8);
- (34) 6-(2-Aminopropyl)-2,3-dihydrobenzofuran (6-APDB);
- (35) 4-methyl-alpha-ethylaminopentiophenone (4-MEAPP);
- (36) 4'-chloro-alpha-pyrrolidinopropiophenone (4'-chloro-PPP);
- (37) 1-(1,3-Benzodioxol-5-yl)-2-(dimethylamino)butan-1-one (dibutylone, bk-DMBDB); **and**
- (38) 1-(3-chlorophenyl) piperazine (meta-chlorophenylpiperazine or mCPP); and

~~(38)~~ (39) any other substance, except bupropion or compounds listed under a different schedule, that is structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:

- (i) by substitution in the ring system to any extent with alkyl, alkylenedioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;
- (ii) by substitution at the 3-position with an acyclic alkyl substituent;
- (iii) by substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups; or
- (iv) by inclusion of the 2-amino nitrogen atom in a cyclic structure.

(h) Marijuana, tetrahydrocannabinols, and synthetic cannabinoids. Unless specifically excepted or unless listed in another schedule, any natural or synthetic material, compound, mixture, or preparation that contains any quantity of the following substances, their analogs, isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, or salts is possible:

- (1) marijuana;

(2) tetrahydrocannabinols naturally contained in a plant of the genus Cannabis, synthetic equivalents of the substances contained in the cannabis plant or in the resinous extractives of the plant, or synthetic substances with similar chemical structure and pharmacological activity to those substances contained in the plant or resinous extract, including, but not limited to, 1 cis or trans tetrahydrocannabinol, 6 cis or trans tetrahydrocannabinol, and 3,4 cis or trans tetrahydrocannabinol;

- (3) synthetic cannabinoids, including the following substances:

(i) Naphthoylindoles, which are any compounds containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of naphthoylindoles include, but are not limited to:

- (A) 1-Pentyl-3-(1-naphthoyl)indole (JWH-018 and AM-678);
- (B) 1-Butyl-3-(1-naphthoyl)indole (JWH-073);
- (C) 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole (JWH-081);
- (D) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200);
- (E) 1-Propyl-2-methyl-3-(1-naphthoyl)indole (JWH-015);
- (F) 1-Hexyl-3-(1-naphthoyl)indole (JWH-019);
- (G) 1-Pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122);

- (H) 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole (JWH-210);
- (I) 1-Pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398);
- (J) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM-2201).

(ii) Naphthylmethyldoles, which are any compounds containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of naphthylmethyldoles include, but are not limited to:

- (A) 1-Pentyl-1H-indol-3-yl-(1-naphthyl)methane (JWH-175);
- (B) 1-Pentyl-1H-indol-3-yl-(4-methyl-1-naphthyl)methane (JWH-184).

(iii) Naphthoylpyrroles, which are any compounds containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples of naphthoylpyrroles include, but are not limited to, (5-(2-fluorophenyl)-1-pentylpyrrol-3-yl)-naphthalen-1-ylmethanone (JWH-307).

(iv) Naphthylmethyldenes, which are any compounds containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples of naphthylmethyldenes include, but are not limited to, E-1-[1-(1-naphthalenylmethylene)-1H-inden-3-yl]pentane (JWH-176).

(v) Phenylacetylindoles, which are any compounds containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent. Examples of phenylacetylindoles include, but are not limited to:

- (A) 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (RCS-8);
- (B) 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250);
- (C) 1-pentyl-3-(2-methylphenylacetyl)indole (JWH-251);
- (D) 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203).

(vi) Cyclohexylphenols, which are compounds containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples of cyclohexylphenols include, but are not limited to:

- (A) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP 47,497);
- (B) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (Cannabicyclohexanol or CP 47,497 C8 homologue);
- (C) 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol (CP 55,940).

(vii) Benzoylindoles, which are any compounds containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the

indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of benzoylindoles include, but are not limited to:

(A) 1-Pentyl-3-(4-methoxybenzoyl)indole (RCS-4);

(B) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM-694);

(C) (4-methoxyphenyl-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (WIN 48,098 or Pravadoline).

(viii) Others specifically named:

(A) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (HU-210);

(B) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (Dexanabinol or HU-211);

(C) 2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl-1-naphthalenylmethanone (WIN 55,212-2);

(D) (1-pentylindol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone (UR-144);

(E) (1-(5-fluoropentyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (XLR-11);

(F) 1-pentyl-N-tricyclo[3.3.1.13,7]dec-1-yl-1H-indazole-3-carboxamide (AKB-48(APINACA));

(G) N-((3s,5s,7s)-adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (5-Fluoro-AKB-48);

(H) 1-pentyl-8-quinolinyler ester-1H-indole-3-carboxylic acid (PB-22);

(I) 8-quinolinyler ester-1-(5-fluoropentyl)-1H-indole-3-carboxylic acid (5-Fluoro PB-22);

(J) N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-pentyl-1H-indazole-3-carboxamide (AB-PINACA);

(K) N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide (AB-FUBINACA);

(L) N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide(AB-CHMINACA);

(M) (S)-methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (5-fluoro-AMB);

(N) [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl) methanone (THJ-2201);

(O) (1-(5-fluoropentyl)-1H-benzo[d]imidazol-2-yl)(naphthalen-1-yl)methanone) (FUBIMINA);

(P) (7-methoxy-1-(2-morpholinoethyl)-N-((1S,2S,4R)-1,3,3-trimethylbicyclo[2.2.1]heptan-2-yl)-1H-indole-3-carboxamide (MN-25 or UR-12);

(Q) (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl) -1H-indole-3-carboxamide (5-fluoro-ABICA);

(R) N-(1-amino-3-phenyl-1-oxopropan-2-yl)-1-(5-fluoropentyl) -1H-indole-3-carboxamide;

(S) N-(1-amino-3-phenyl-1-oxopropan-2-yl)-1-(5-fluoropentyl) -1H-indazole-3-carboxamide;

(T) methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido) -3,3-dimethylbutanoate;

(U) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1(cyclohexylmethyl)-1 H-indazole-3-carboxamide (MAB-CHMINACA);

(V) N-(1-Amino-3,3-dimethyl-1-oxo-2-butanyl)-1-pentyl-1H-indazole-3-carboxamide (ADB-PINACA);
(W) methyl (1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)-L-valinate (FUB-AMB);
(X) N-[(1S)-2-amino-2-oxo-1-(phenylmethyl)ethyl]-1-(cyclohexylmethyl)-1H-Indazole-3-carboxamide.
(APP-CHMINACA);

(Y) quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (FUB-PB-22); and

(Z) methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]valinate (MMB-CHMICA).

(i) A controlled substance analog, to the extent that it is implicitly or explicitly intended for human consumption.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2016, section 152.02, subdivision 5, is amended to read:

Subd. 5. **Schedule IV.** (a) Schedule IV consists of the substances listed in this subdivision.

(b) Narcotic drugs. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as follows:

(1) not more than one milligram of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit;

(2) dextropropoxyphene (Darvon and Darvocet);

(3) 2-[(dimethylamino)methyl]-1-(3-methoxyphenyl)cyclohexanol, its salts, optical and geometric isomers, and salts of these isomers (including tramadol); and

(4) eluxadoline-₂;

(5) pentazocine; and

(6) butorphanol (including its optical isomers).

(c) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of the salts, isomers, and salts of isomers is possible:

(1) alfaxalone (5 α -pregnan-3 α -ol-11,20-dione);

(2) alprazolam;

(3) barbital;

(4) bromazepam;

(5) camazepam;

(6) carisoprodol;

(7) chloral betaine;

(8) chloral hydrate;

(9) chlordiazepoxide;

- (10) clobazam;
- (11) clonazepam;
- (12) clorazepate;
- (13) clotiazepam;
- (14) cloxazolam;
- (15) delorazepam;
- (16) diazepam;
- (17) dichloralphenazone;
- (18) estazolam;
- (19) ethchlorvynol;
- (20) ethinamate;
- (21) ethyl loflazepate;
- (22) fludiazepam;
- (23) flurazepam;
- (24) fospropofol;
- (25) halazepam;
- (26) haloazolam;
- (27) ketazolam;
- (28) loprazolam;
- (29) lorazepam;
- (30) lormetazepam mebutamate;
- (31) medazepam;
- (32) meprobamate;
- (33) methohexital;
- (34) methylphenobarbital;
- (35) midazolam;
- (36) nimetazepam;
- (37) nitrazepam;
- (38) nordiazepam;
- (39) oxazepam;
- (40) oxazolam;
- (41) paraldehyde;

- (42) petrichloral;
- (43) phenobarbital;
- (44) pinazepam;
- (45) prazepam;
- (46) quazepam;
- (47) suvorexant;
- (48) temazepam;
- (49) tetrazepam;
- (50) triazolam;
- (51) zaleplon;
- (52) zolpidem;
- (53) zopiclone.

(d) Any material, compound, mixture, or preparation which contains any quantity of the following substance including its salts, isomers, and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible: fenfluramine.

(e) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

- (1) cathine (norpseudoephedrine);
- (2) diethylpropion;
- (3) fencamfamine;
- (4) fenproporex;
- (5) mazindol;
- (6) mefenorex;
- (7) modafinil;
- (8) pemoline (including organometallic complexes and chelates thereof);
- (9) phentermine;
- (10) pipradol;
- (11) sibutramine;
- (12) SPA (1-dimethylamino-1,2-diphenylethane).

(f) lorcaserin.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2016, section 152.027, is amended by adding a subdivision to read:

Subd. 7. Sale or possession of kratom. (a) A person who unlawfully sells any amount of kratom or a substance that contains mitragynine or 7-hydroxymitragynine to a person under the age of 18 is guilty of a gross misdemeanor.

(b) A person under the age of 18 who unlawfully possesses any amount of kratom or a substance that contains mitragynine or 7-hydroxymitragynine is guilty of a misdemeanor.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

ARTICLE 2

SUBSTANTIVE CHANGE TO DWI LAW; INTOXICATING SUBSTANCES

Section 1. Minnesota Statutes 2016, section 169A.03, is amended by adding a subdivision to read:

Subd. 11a. Intoxicating substance. "Intoxicating substance" means a drug or chemical, as those terms are defined in section 151.01, that when introduced into the human body impairs the central nervous system or impairs the human audio, visual, or mental processes. The term does not include alcohol or controlled substances.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2016, section 169A.20, subdivision 1, is amended to read:

Subdivision 1. **Driving while impaired crime; motor vehicle.** It is a crime for any person to drive, operate, or be in physical control of any motor vehicle, as defined in section 169A.03, subdivision 15, except for motorboats in operation and off-road recreational vehicles, within this state or on any boundary water of this state when:

(1) the person is under the influence of alcohol;

(2) the person is under the influence of a controlled substance;

(3) the person is ~~knowingly under the influence of a hazardous an intoxicating substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motor vehicle and the person knows or has reason to know that the substance has the capacity to cause impairment;~~

(4) the person is under the influence of a combination of any two or more of the elements named in clauses (1) to (3);

(5) the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the motor vehicle is 0.08 or more;

(6) the vehicle is a commercial motor vehicle and the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the commercial motor vehicle is 0.04 or more; or

(7) the person's body contains any amount of a controlled substance listed in Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 3. REPEALER.

Minnesota Statutes 2016, section 169A.03, subdivision 9, is repealed.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

ARTICLE 3**CONFORMING CHANGES TO DWI-RELATED LAWS**

Section 1. Minnesota Statutes 2016, section 97B.065, subdivision 1, is amended to read:

Subdivision 1. **Acts prohibited.** (a) A person may not take wild animals with a firearm or by archery:

- (1) when the person is under the influence of alcohol;
- (2) when the person is under the influence of a controlled substance, as defined in section 152.01, subdivision 4;

(3) when the person is under the influence of a combination of any two or more of the elements in clauses (1) and (2);

(4) when the person's alcohol concentration is 0.08 or more;

(5) when the person's alcohol concentration as measured within two hours of the time of taking is 0.08 or more; or

(6) when the person is ~~knowingly under the influence of any chemical compound or combination of chemical compounds that is listed as a hazardous an intoxicating substance in rules adopted under section 182.655 and that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to operate a firearm or bow and arrow as defined in section 169A.03, subdivision 11a,~~ and the person knows or has reason to know that the substance has the capacity to cause impairment.

(b) An owner or other person having charge or control of a firearm or bow may not authorize or permit an individual the person knows or has reason to believe is under the influence of alcohol or a controlled substance, as provided under paragraph (a), to possess the firearm or bow in this state or on a boundary water of this state.

(c) A person may not possess a loaded or uncased firearm or an uncased bow afield under any of the conditions in paragraph (a).

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2016, section 169A.20, subdivision 1a, is amended to read:

Subd. 1a. **Driving while impaired crime; motorboat in operation.** It is a crime for any person to operate or be in physical control of a motorboat in operation on any waters or boundary water of this state when:

- (1) the person is under the influence of alcohol;
- (2) the person is under the influence of a controlled substance;
- (3) the person is ~~knowingly under the influence of a hazardous an intoxicating substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or~~

~~operate the motorboat and the person knows or has reason to know that the substance has the capacity to cause impairment;~~

(4) the person is under the influence of a combination of any two or more of the elements named in clauses (1) to (3);

(5) the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the motorboat is 0.08 or more; or

(6) the person's body contains any amount of a controlled substance listed in Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2016, section 169A.20, subdivision 1b, is amended to read:

Subd. 1b. Driving while impaired crime; snowmobile and all-terrain vehicle. It is a crime for any person to operate or be in physical control of a snowmobile as defined in section 84.81, subdivision 3, or all-terrain vehicle as defined in section 84.92, subdivision 8, anywhere in this state or on the ice of any boundary water of this state when:

(1) the person is under the influence of alcohol;

(2) the person is under the influence of a controlled substance;

(3) the person is ~~knowingly under the influence of a hazardous an intoxicating substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the snowmobile or all terrain vehicle and the person knows or has reason to know that the substance has the capacity to cause impairment;~~

(4) the person is under the influence of a combination of any two or more of the elements named in clauses (1) to (3);

(5) the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the snowmobile or all-terrain vehicle is 0.08 or more; or

(6) the person's body contains any amount of a controlled substance listed in Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2016, section 169A.20, subdivision 1c, is amended to read:

Subd. 1c. Driving while impaired crime; off-highway motorcycle and off-road vehicle. It is a crime for any person to operate or be in physical control of any off-highway motorcycle as defined in section 84.787, subdivision 7, or any off-road vehicle as defined in section 84.797, subdivision 7, anywhere in this state or on the ice of any boundary water of this state when:

(1) the person is under the influence of alcohol;

(2) the person is under the influence of a controlled substance;

(3) the person is ~~knowingly under the influence of a hazardous an intoxicating substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or~~

~~operate the off highway motorcycle or off-road vehicle and the person knows or has reason to know that the substance has the capacity to cause impairment;~~

(4) the person is under the influence of a combination of any two or more of the elements named in clauses (1) to (3);

(5) the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the off-highway motorcycle or off-road vehicle is 0.08 or more; or

(6) the person's body contains any amount of a controlled substance listed in Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2016, section 169A.45, subdivision 1, is amended to read:

Subdivision 1. **Alcohol concentration evidence.** Upon the trial of any prosecution arising out of acts alleged to have been committed by any person arrested for violating section 169A.20 (driving while impaired) or 169A.31 (alcohol-related school bus or Head Start bus driving), the court may admit evidence of the presence or amount of alcohol in the person's blood, breath, or urine as shown by an analysis of those items. In addition, in a prosecution for a violation of section 169A.20, the court may admit evidence of the presence or amount in the person's blood, breath, or urine, as shown by an analysis of those items, of:

(1) a controlled substance or its metabolite; or

(2) ~~a hazardous an intoxicating~~ substance.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2016, section 169A.51, subdivision 1, is amended to read:

Subdivision 1. **Implied consent; conditions; election of test.** (a) Any person who drives, operates, or is in physical control of a motor vehicle within this state or on any boundary water of this state consents, subject to the provisions of sections 169A.50 to 169A.53 (implied consent law), and section 169A.20 (driving while impaired), to a chemical test of that person's blood, breath, or urine for the purpose of determining the presence of alcohol, a controlled substance or its metabolite, or ~~a hazardous an intoxicating~~ substance. The test must be administered at the direction of a peace officer.

(b) The test may be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 (driving while impaired), and one of the following conditions exist:

(1) the person has been lawfully placed under arrest for violation of section 169A.20 or an ordinance in conformity with it;

(2) the person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death;

(3) the person has refused to take the screening test provided for by section 169A.41 (preliminary screening test); or

(4) the screening test was administered and indicated an alcohol concentration of 0.08 or more.

(c) The test may also be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a commercial motor vehicle with the presence of any alcohol.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2017 Supplement, section 169A.51, subdivision 4, is amended to read:

Subd. 4. Requirement of urine or blood test. A blood or urine test may be required pursuant to a search warrant under sections 626.04 to 626.18 even after a breath test has been administered if there is probable cause to believe that:

(1) there is impairment by a controlled substance or ~~a hazardous~~ an intoxicating substance that is not subject to testing by a breath test;

(2) a controlled substance listed in Schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the person's body; or

(3) the person is unconscious or incapacitated to the point that the peace officer providing a breath test advisory, administering a breath test, or serving the search warrant has a good-faith belief that the person is mentally or physically unable to comprehend the breath test advisory or otherwise voluntarily submit to chemical tests.

Action may be taken against a person who refuses to take a blood test under this subdivision only if a urine test was offered and action may be taken against a person who refuses to take a urine test only if a blood test was offered. This limitation does not apply to an unconscious person under the circumstances described in clause (3).

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2016, section 169A.51, subdivision 7, is amended to read:

Subd. 7. Requirements for conducting tests; liability. (a) Only a physician, medical technician, emergency medical technician-paramedic, registered nurse, medical technologist, medical laboratory technician, phlebotomist, laboratory assistant, or other qualified person acting at the request of a peace officer may withdraw blood for the purpose of determining the presence of alcohol, a controlled substance or its metabolite, or ~~a hazardous~~ an intoxicating substance. This limitation does not apply to the taking of a breath or urine sample.

(b) The person tested has the right to have someone of the person's 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 sample 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 does 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.

(c) The physician, medical technician, emergency medical technician-paramedic, medical technologist, medical laboratory technician, laboratory assistant, phlebotomist, registered nurse, or other qualified person drawing blood at the request of a peace officer for the purpose of determining the concentration of alcohol, a controlled substance or its metabolite, or ~~a hazardous~~ an intoxicating substance is in no manner liable in any civil or criminal action except for negligence in drawing the blood. The person administering a breath test must be fully trained in the administration of breath tests pursuant to training given by the commissioner of public safety.

(d) For purposes of this subdivision, "qualified person" means medical personnel trained in a licensed hospital or educational institution to withdraw blood.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 9. Minnesota Statutes 2016, section 169A.52, subdivision 2, is amended to read:

Subd. 2. Reporting test failure. (a) If a person submits to a test, the results of that test must be reported to the commissioner and to the authority having responsibility for prosecution of impaired driving offenses for the jurisdiction in which the acts occurred, if the test results indicate:

(1) an alcohol concentration of 0.08 or more;

(2) an alcohol concentration of 0.04 or more, if the person was driving, operating, or in physical control of a commercial motor vehicle at the time of the violation; or

(3) the presence of a controlled substance listed in Schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols.

(b) If a person submits to a test and the test results indicate the presence of ~~a hazardous~~ an intoxicating substance, the results of that test must be reported to the authority having responsibility for prosecution of impaired driving offenses for the jurisdiction in which the acts occurred.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2016, section 169A.76, is amended to read:

169A.76 CIVIL ACTION; PUNITIVE DAMAGES.

(a) In a civil action involving a motor vehicle accident, it is sufficient for the trier of fact to consider an award of punitive damages if there is evidence that the accident was caused by a driver:

(1) with an alcohol concentration of 0.08 or more;

(2) who was under the influence of a controlled substance;

(3) who was under the influence of alcohol and refused to take a test required under section 169A.51 (chemical tests for intoxication); or

(4) who was ~~knowingly~~ under the influence of ~~a hazardous~~ an intoxicating substance that substantially affects the person's nervous system, brain, or muscles so as to impair the person's ability to drive or operate a motor vehicle ~~and the person knows or has reason to know that the substance has the capacity to cause impairment.~~

(b) A criminal charge or conviction is not a prerequisite to consideration of punitive damages under this section. At the trial in an action where the trier of fact will consider an award of punitive damages, evidence that the driver has been convicted of violating section 169A.20 (driving while impaired), 609.2112, 609.2113, or 609.2114 (criminal vehicular homicide or injury) is admissible into evidence.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to acts committed on or after that date.

Sec. 11. Minnesota Statutes 2016, section 360.0752, subdivision 1, is amended to read:

Subdivision 1. Definitions. As used in this section and section 360.0753:

- (1) "operate" includes the acts of all crew members with responsibility to operate the aircraft;
- (2) "controlled substance" has the meaning given in section 152.01, subdivision 4; and
- (3) ~~"hazardous substance" means any chemical or chemical compound that is listed as a hazardous substance in rules adopted under chapter 182~~ "intoxicating substance" has the meaning given in section 169A.03, subdivision 11a.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 12. Minnesota Statutes 2016, section 360.0752, subdivision 2, is amended to read:

Subd. 2. **Crime; acts prohibited.** (a) It is a crime for any person to operate or attempt to operate an aircraft on or over land or water within this state or over any boundary water of this state under any of the following conditions:

- (1) when the person is under the influence of alcohol;
- (2) when the person is under the influence of a controlled substance;
- (3) when the person is under the influence of a combination of any two or more of the elements named in clauses (1), (2), and (6);
- (4) when the person's alcohol concentration is 0.04 or more;
- (5) when the person's alcohol concentration as measured within two hours of the time of operation or attempted operation is 0.04 or more;
- (6) when the person is ~~knowingly~~ under the influence of ~~a hazardous~~ ~~an intoxicating~~ substance ~~that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to operate the aircraft and the person knows or has reason to know that the substance has the capacity to cause impairment;~~
- (7) when the person's body contains any amount of a controlled substance listed in Schedule I or II, other than marijuana or tetrahydrocannabinols; or
- (8) within eight hours of having consumed any alcoholic beverage or used any controlled substance.

(b) If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of paragraph (a), clause (7), that the defendant used the controlled substance according to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 13. Minnesota Statutes 2016, section 360.0752, subdivision 5, is amended to read:

Subd. 5. **Evidence.** Upon the trial of any prosecution arising out of acts alleged to have been committed by any person arrested for operating or attempting to operate an aircraft in violation of subdivision 2, the court may admit evidence of the presence or amount of alcohol, controlled substances, or ~~hazardous~~ ~~intoxicating~~ substances in the person's blood, breath, or urine as shown by an analysis of those items.

Evidence of the refusal to take a test is admissible into evidence in a prosecution under this section.

If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of subdivision 2, clause (5), that the defendant consumed a sufficient quantity of alcohol after the time of the

violation and before the administration of the evidentiary test to cause the defendant's alcohol concentration to exceed 0.04; provided, that this evidence may not be admitted unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

The foregoing provisions do not limit the introduction of any other competent evidence bearing upon the question whether or not the person violated this section, including tests obtained more than two hours after the alleged violation and results obtained from partial tests on an infrared breath-testing instrument. A result from a partial test is the measurement obtained by analyzing one adequate breath sample, as defined in section 360.0753, subdivision 4, paragraph (b).

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 14. Minnesota Statutes 2016, section 360.0752, subdivision 7, is amended to read:

Subd. 7. Preliminary screening test. When a peace officer has reason to believe that a person may be violating or has violated subdivision 2, the officer may require the person to provide a sample of the person's breath for a preliminary screening test using a device approved by the commissioner of public safety or the commissioner of transportation for this purpose. The results of this preliminary screening test shall be used for the purpose of deciding whether to require the tests authorized in section 360.0753, but shall not be used in any court action except to prove that a test was properly required of a person pursuant to section 360.0753. Following the screening test, additional tests may be required of the person pursuant to the provisions of section 360.0753.

A person who refuses to furnish a sample of the person's breath is subject to the provisions of section 360.0753 unless, in compliance with section 360.0753, the person submits to a blood, breath, or urine test to determine the presence or amount of alcohol, controlled substances, or ~~hazardous~~ intoxicating substances.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 15. Minnesota Statutes 2017 Supplement, section 360.0753, subdivision 2, is amended to read:

Subd. 2. Implied consent; conditions; election of test. (a) Any person who operates or attempts to operate an aircraft in or over this state or over any boundary water of this state consents, subject to the provisions of this section and section 360.0752, to a chemical test of that person's blood, breath, or urine for the purpose of determining the presence or amount of alcohol, controlled substances, or ~~hazardous~~ intoxicating substances. The test shall be administered at the direction of a peace officer.

(b) A test of the person's breath may be required when an officer has probable cause to believe the person was operating or attempting to operate an aircraft in violation of section 360.0752 and one of the following conditions exists:

- (1) the person has been lawfully placed under arrest for violation of section 360.0752;
- (2) the person has been involved in an aircraft accident or collision resulting in property damage, personal injury, or death;
- (3) the person has refused to take the screening test provided for by section 360.0752;
- (4) the screening test was administered and recorded an alcohol concentration of 0.04 or more or the presence of a controlled substance listed in Schedule I or II other than marijuana or tetrahydrocannabinols; or
- (5) the officer had probable cause to believe that the person was operating or attempting to operate an aircraft with any amount of alcohol present in the person's body.

(c) A test of the person's blood or urine may be required by an officer under the conditions described in paragraph (b) if the officer is acting pursuant to a search warrant under sections 626.04 to 626.18.

(d) At the time a test is requested, the person shall be informed:

(1) that Minnesota law requires the person to take a test to determine the presence or amount of alcohol or a controlled substance listed in Schedule I or II other than marijuana or tetrahydrocannabinols, or to determine if the person is under the influence of alcohol, controlled substances, or ~~hazardous~~ intoxicating substances;

(2) that whether a test is taken or refused, the person may be subject to criminal prosecution for an alcohol, controlled substance, or ~~hazardous~~ intoxicating substance-related offense relating to the operation of an aircraft;

(3) that if testing is refused, the person may be subject to criminal prosecution because the person refused testing and the person will be disqualified from operating an aircraft for a minimum period of one year;

(4) if the peace officer has probable cause to believe the person has violated the criminal vehicular homicide and injury laws, that pursuant to a search warrant a test will be taken with or without the person's consent; and

(5) that, in the case of a breath test, the person has the right to consult with an attorney, but that this right is limited to the extent that it cannot unreasonably delay administration of the test.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 16. Minnesota Statutes 2017 Supplement, section 360.0753, subdivision 3, is amended to read:

Subd. 3. **Type of test.** (a) A peace officer who directs a test pursuant to this section may direct a breath test.

(b) A peace officer, acting pursuant to a search warrant, may direct a blood or urine test as provided in the warrant. If the warrant authorizes either a blood or urine test, the officer may direct whether the test is of blood or urine. If the person to whom the test is directed objects to the test, the officer shall offer the person an alternative test of either blood or urine.

(c) A blood or urine test may be required pursuant to a search warrant even after a breath test has been administered if there is probable cause to believe that: (1) there is impairment by a controlled substance or ~~hazardous~~ an intoxicating substance that is not subject to testing by a breath test; or (2) a controlled substance listed in Schedule I or II, other than marijuana or tetrahydrocannabinols, is present in the person's body.

(d) Action under this section may be taken against a person who refuses to take a blood test only if an alternative test was offered and action may be taken against a person who refuses to take a urine test only if an alternative test was offered.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 17. Minnesota Statutes 2016, section 360.0753, subdivision 6, is amended to read:

Subd. 6. **Manner of making test; additional test.** (a) 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 or amount of alcohol, controlled substances, or ~~hazardous~~ intoxicating substances. This limitation does not apply to the taking of a breath or urine sample. The person tested has the right to have someone of the person's 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 sample 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.

(b) 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.

(c) 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 the presence or concentration of alcohol, controlled substances, or ~~hazardous intoxicating~~ substances shall in no manner be liable in any civil or criminal action except for negligence in drawing the blood. The person administering a breath test shall be fully trained in the administration of breath tests pursuant to training given by the commissioner of public safety or the commissioner of transportation.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to acts committed on or after that date.

Sec. 18. Minnesota Statutes 2016, section 609.2111, is amended to read:

609.2111 DEFINITIONS.

(a) For purposes of sections 609.2111 to 609.2114, the terms defined in this subdivision have the meanings given them.

(b) "Motor vehicle" has the meaning given in section 609.52, subdivision 1, and includes attached trailers.

(c) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

(d) "~~Hazardous substance~~" means any chemical or chemical compound that is listed as a ~~hazardous substance in rules adopted under chapter 182~~ "Intoxicating substance" has the meaning given in section 169A.03, subdivision 11a.

(e) "Qualified prior driving offense" includes a prior conviction:

(1) for a violation of section 169A.20 under the circumstances described in section 169A.24 or 169A.25;

(2) under section 609.2112, subdivision 1, clauses (2) to (6); 609.2113, subdivision 1, clauses (2) to (6); 2, clauses (2) to (6); or 3, clauses (2) to (6); or 609.2114, subdivision 1, clauses (2) to (6); or 2, clauses (2) to (6);

(3) under Minnesota Statutes 2012, section 609.21, subdivision 1, clauses (2) to (6); or

(4) under Minnesota Statutes 2006, section 609.21, subdivision 1, clauses (2) to (6); 2, clauses (2) to (6); 2a, clauses (2) to (6); 2b, clauses (2) to (6); 3, clauses (2) to (6); or 4, clauses (2) to (6).

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 19. Minnesota Statutes 2016, section 609.2112, subdivision 1, is amended to read:

Subdivision 1. Criminal vehicular homicide. (a) Except as provided in paragraph (b), a person is guilty of criminal vehicular homicide and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the person causes the death of a human being not constituting murder or manslaughter as a result of operating a motor vehicle:

- (1) in a grossly negligent manner;
 - (2) in a negligent manner while under the influence of:
 - (i) alcohol;
 - (ii) a controlled substance; or
 - (iii) any combination of those elements;
 - (3) while having an alcohol concentration of 0.08 or more;
 - (4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;
 - (5) in a negligent manner while ~~knowingly~~ under the influence of a ~~hazardous~~ an intoxicating substance and the person knows or has reason to know that the substance has the capacity to cause impairment;
 - (6) in a negligent manner while any amount of a controlled substance listed in Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the person's body;
 - (7) where the driver who causes the collision leaves the scene of the collision in violation of section 169.09, subdivision 1 or 6; or
 - (8) where the driver had actual knowledge that a peace officer had previously issued a citation or warning that the motor vehicle was defectively maintained, the driver had actual knowledge that remedial action was not taken, the driver had reason to know that the defect created a present danger to others, and the death was caused by the defective maintenance.
- (b) If a person is sentenced under paragraph (a) for a violation under paragraph (a), clauses (2) to (6), occurring within ten years of a qualified prior driving offense, the statutory maximum sentence of imprisonment is 15 years.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 20. Minnesota Statutes 2016, section 609.2113, subdivision 1, is amended to read:

Subdivision 1. **Great bodily harm.** A person is guilty of criminal vehicular operation resulting in great bodily harm and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person causes great bodily harm to another not constituting attempted murder or assault as a result of operating a motor vehicle:

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of:
 - (i) alcohol;
 - (ii) a controlled substance; or
 - (iii) any combination of those elements;
- (3) while having an alcohol concentration of 0.08 or more;
- (4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;
- (5) in a negligent manner while ~~knowingly~~ under the influence of a ~~hazardous~~ an intoxicating substance and the person knows or has reason to know that the substance has the capacity to cause impairment;

(6) in a negligent manner while any amount of a controlled substance listed in Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the person's body;

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6; or

(8) where the driver had actual knowledge that a peace officer had previously issued a citation or warning that the motor vehicle was defectively maintained, the driver had actual knowledge that remedial action was not taken, the driver had reason to know that the defect created a present danger to others, and the injury was caused by the defective maintenance.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 21. Minnesota Statutes 2016, section 609.2113, subdivision 2, is amended to read:

Subd. 2. Substantial bodily harm. A person is guilty of criminal vehicular operation resulting in substantial bodily harm and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$10,000, or both, if the person causes substantial bodily harm to another as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.08 or more;

(4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while knowingly under the influence of a hazardous an intoxicating substance and the person knows or has reason to know that the substance has the capacity to cause impairment;

(6) in a negligent manner while any amount of a controlled substance listed in Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the person's body;

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6; or

(8) where the driver had actual knowledge that a peace officer had previously issued a citation or warning that the motor vehicle was defectively maintained, the driver had actual knowledge that remedial action was not taken, the driver had reason to know that the defect created a present danger to others, and the injury was caused by the defective maintenance.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 22. Minnesota Statutes 2016, section 609.2113, subdivision 3, is amended to read:

Subd. 3. Bodily harm. A person is guilty of criminal vehicular operation resulting in bodily harm 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, if the person causes bodily harm to another as a result of operating a motor vehicle:

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of:
 - (i) alcohol;
 - (ii) a controlled substance; or
 - (iii) any combination of those elements;
- (3) while having an alcohol concentration of 0.08 or more;
- (4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;
- (5) in a negligent manner while knowingly under the influence of ~~a hazardous~~ an intoxicating substance and the person knows or has reason to know that the substance has the capacity to cause impairment;
- (6) in a negligent manner while any amount of a controlled substance listed in Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the person's body;
- (7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6; or
- (8) where the driver had actual knowledge that a peace officer had previously issued a citation or warning that the motor vehicle was defectively maintained, the driver had actual knowledge that remedial action was not taken, the driver had reason to know that the defect created a present danger to others, and the injury was caused by the defective maintenance.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 23. Minnesota Statutes 2016, section 609.2114, subdivision 1, is amended to read:

Subdivision 1. Death to an unborn child. (a) Except as provided in paragraph (b), a person is guilty of criminal vehicular operation resulting in death to an unborn child and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the person causes the death of an unborn child as a result of operating a motor vehicle:

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of:
 - (i) alcohol;
 - (ii) a controlled substance; or
 - (iii) any combination of those elements;
- (3) while having an alcohol concentration of 0.08 or more;
- (4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while ~~knowingly~~ under the influence of ~~a hazardous~~ an intoxicating substance and the person knows or has reason to know that the substance has the capacity to cause impairment;

(6) in a negligent manner while any amount of a controlled substance listed in Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the person's body;

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6; or

(8) where the driver had actual knowledge that a peace officer had previously issued a citation or warning that the motor vehicle was defectively maintained, the driver had actual knowledge that remedial action was not taken, the driver had reason to know that the defect created a present danger to others, and the injury was caused by the defective maintenance.

(b) If a person is sentenced under paragraph (a) for a violation under paragraph (a), clauses (2) to (6), occurring within ten years of a qualified prior driving offense, the statutory maximum sentence of imprisonment is 15 years.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 24. Minnesota Statutes 2016, section 609.2114, subdivision 2, is amended to read:

Subd. 2. Injury to an unborn child. A person is guilty of criminal vehicular operation resulting in injury to an unborn child and may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the person causes the great bodily harm to an unborn child subsequently born alive as a result of operating a motor vehicle:

(1) in a grossly negligent manner;

(2) in a negligent manner while under the influence of:

(i) alcohol;

(ii) a controlled substance; or

(iii) any combination of those elements;

(3) while having an alcohol concentration of 0.08 or more;

(4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;

(5) in a negligent manner while ~~knowingly~~ under the influence of ~~a hazardous~~ an intoxicating substance and the person knows or has reason to know that the substance has the capacity to cause impairment;

(6) in a negligent manner while any amount of a controlled substance listed in Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the person's body;

(7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6; or

(8) where the driver had actual knowledge that a peace officer had previously issued a citation or warning that the motor vehicle was defectively maintained, the driver had actual knowledge that remedial action was not taken, the driver had reason to know that the defect created a present danger to others, and the injury was caused by the defective maintenance.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Sec. 25. Minnesota Statutes 2016, section 624.7142, subdivision 1, is amended to read:

Subdivision 1. **Acts prohibited.** A person may not carry a pistol on or about the person's clothes or person in a public place:

- (1) when the person is under the influence of a controlled substance, as defined in section 152.01, subdivision 4;
- (2) when the person is under the influence of a combination of any two or more of the elements named in clauses (1) and (4);
- (3) when the person is ~~knowingly under the influence of any chemical compound or combination of chemical compounds that is listed as a hazardous substance in rules adopted under section 182.655 and that affects the nervous system, brain, or muscles of the person so as to impair the person's clearness of intellect or physical control~~ an intoxicating substance as defined in section 169A.03, subdivision 11a, and the person knows or has reason to know that the substance has the capacity to cause impairment;
- (4) when the person is under the influence of alcohol;
- (5) when the person's alcohol concentration is 0.10 or more; or
- (6) when the person's alcohol concentration is less than 0.10, but more than 0.04.

EFFECTIVE DATE. This section is effective August 1, 2018, and applies to crimes committed on or after that date.

Presented to the governor May 19, 2018

Signed by the governor May 29, 2018, 1:08 p.m.