

Subject Controlled substance DWI study

Authors Quam

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Overview

Under Minnesota law, it is illegal for a person to drive, operate, or be in physical control of a motor vehicle while the person is under the influence of a controlled substance, or when the person's body contains any amount of a controlled substance listed in Schedule I or II other than marijuana or tetrahydrocannabinols. Unlike alcohol, which prohibits operation of a vehicle when the person's alcohol concentration is 0.08 or more, there is no threshold for controlled substances scheduled below level II that is illegal without evidence that the person is under the influence.

The phrase "under the influence" has been interpreted on several occasions by the supreme court. In *State v. Graham*, the court found that a person is "under the influence" when the person does not "possess that clearness of intellect and control of himself that he otherwise would have." The person's ability or capacity to drive must be impaired and the focus is on that ability or capacity, not on impaired driving conduct. *Anderson v. Dept. of Public Safety; State v. Stark; State v. Duemke*.

When an officer suspects that a person is operating while under the influence of alcohol, the officer can administer a preliminary breath test (PBT). There is no comparable test in use for controlled substances.

This bill directs the commissioner of public safety to study and report on possible roadside tests, the level of concentration of a controlled substance that rises to the level of impairment, and practices in other states.

Summary

Section	Description
1	DWI study; measurement of controlled substances. Requires the commissioner of public safety to consult with stakeholders and experts to report on screening tests to measure the controlled substance level of a person stopped or arrested for driving while impaired. The study must include a review of oral fluid roadside tests, the measured amount of a controlled substance in a driver's blood or urine that constitutes the legal threshold for driver impairment, practices and laws in

Section	Description
	other states, and any other necessary information. The commissioner must submit a report by March 15, 2020.



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