

HOUSE RESEARCH

Bill Summary

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Subject: DWI Test Refusal Penalty Enhancement

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Overview

Under current DWI law, it is a crime for a person to refuse to submit to a chemical test if a peace officer has probable cause to believe the person is driving while impaired. The criminal penalties for that crime generally mimic the penalty that would have been applicable had the person submitted to the test and been found to be impaired. However, Minnesota law also provides a penalty enhancement for a person whose blood alcohol content is twice the legal limit (0.20 BAC). It is not uncommon for a person who suspects he or she may be near or over 0.20 BAC to refuse a chemical test and thus avoid the higher penalties associated with the enhancement. This bill enhances the penalty for test refusal to be equal with the penalty for a DWI violation at 0.20 BAC. Under this policy, test refusal will always be at least a gross misdemeanor offense.

Section

- 1** **Second-degree DWI.** Provides that a person who commits a DWI test refusal crime with one "aggravating factor" present is guilty of second-degree DWI. Applicable aggravating factors are (1) having a child under age 16 in the car, and (2) having a prior DWI offense in the last 10 years.
- 2** **Third-degree DWI.** Provides that a person who refuses to submit to a chemical test when a peace officer has probable cause to believe the person is impaired is guilty of third-degree DWI.
- 3** **Fourth-degree DWI.** Removes the test refusal crime from fourth-degree DWI (the lowest level of DWI crime in Minnesota), since test refusal would always be third-degree or higher.