

HOUSE RESEARCH

Bill Summary

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Overview

This bill eliminates the pretrial imposition of all administrative sanctions for impaired driving violations, including driver's license revocation, vehicle license plate impoundment, and vehicle forfeiture. Henceforth, these sanctions would be applied only upon conviction for the qualifying offense. (Article 1)
The bill also markedly restructures the rehabilitation requirements for multiple-repeat DWI offenders. (Article 2) Under current law, the rehabilitation requirements for multiple-repeat impaired driving offenders are spelled out in the rules of the Department of Public Safety (DPS). In contrast, Article 2 codifies the newly restructured rehabilitation requirements in statutes.

Section

Article 1

REPEALING PRETRIAL SANCTIONS FOR IMPAIRED DRIVING

- 1 Snowmobile and ATV law.** Conforming. Administrative and judicial appeals of any revocation of operating privileges is to be governed by Minnesota Statutes, section 97B (natural resources law), even for a violator who has had a prior impaired driving violation. Under current law, the appeal of operating privileges is governed by regular DWI law (chapter 169A) when the violation is by a person with a prior impaired driving violation.
- 2 Motorboat law.** Conforming. Similar to section 1.
- 3 Careless or Reckless Driving.** New law directing that a person who is arrested for impaired driving who is convicted of careless or reckless driving (through a charge-reduction plea bargain) is nevertheless subject to driver's license revocation under implied consent law.

- 4 **Technical.**
- 5 **Release from Custody.** Conforming. Striking plate impoundment as a prerequisite for pretrial release from custody following arrest of a person for a fourth or more impaired driving violation within ten years.
- 6 **Notice of Enhanced Penalties.** Technical; conforming.
- 7 **Implied Consent Law – Citation.** Technical; conforming.
- 8 **Test Refusal or Failure – Implied Consent Law.**
- Subd. 1.** Technical; conforming.
- Subd. 2.** Technical; conforming; and strikes duplicative text.
- Subd. 3 to 7.** Significantly amends Implied Consent Law. Strikes provisions in current law that provide for the immediate pretrial revocation of the driver’s license, and if applicable the commercial vehicle operating privileges, of a person charged with an impaired driving violation.
- Subd. 8. Revocation follows conviction.** Clarifies that revocation of a person’s driver’s license for an impaired driving violation can be conviction-based only.
- 9 **Driver’s Revocation Following Conviction - Restructured.** Restructures the post-conviction driver’s license revocation periods, and provides certain incentives for pleading to an early conviction, as follows:
- 1) for a first-time DWI conviction by a person who has taken and failed the test – **90 days, or 30 days** if the conviction occurs prior to the person’s first court appearance;
 - 2) for a person convicted of test-refusal or DWI with a high alcohol-concentration (AC > .20 or more) – **180 days, or 60 days** if the conviction occurs prior to the person’s first court appearance;
 - 3) for a person with one qualified prior impaired driving violation within the past ten years – **180 days, or 90 days** if the conviction occurs prior to the person’s first court appearance; and
 - 4) for a person with two or more qualified prior impaired driving violations within the past ten years – **cancelation and denial** of the person’s driver’s license (as inimical to public safety), **pending the person’s rehabilitation.**
- 10 **Conviction for Careless or Reckless Driving.** Directs that a person who is arrested for an impaired driving violation of chapter 169S and who is convicted for careless or reckless driving (under section 169.13) arising out of the same circumstances, or who has a qualified prior impaired driving violation on record, is subject to the driver’s license revocation in clause 3 above, which is:
- 180 days, or 90 days** if the conviction occurs prior to the person’s first court appearance.

11 Court Notification of Revocation. Conforming. Strikes a provision of current law requiring the court to service notification of a license revocation or cancellation, thereby clarifying that such notification is the sole responsibility of the commissioner of public safety.

12 Driver's License Reinstatement. Technical; conforming.

13 Administrative Sanctions Limited. New law stipulating that, notwithstanding any other provision of chapters 169A (driving while impaired) or 171 (driver's license law), any sanction for impaired driving – whether a license withdrawal action, license plate impoundment, or vehicle forfeiture – *must await conviction* for the qualifying impaired driving violation (and cannot be done *pretrial*).

14 DWI Vehicle License Plate Impoundment Law. Proposes several amendments to make plate impoundment entirely contingent upon *conviction* for a qualifying violation. *Administrative, pre-trial plate impoundment* would no longer be authorized. Strikes all verbiage involving *qualified license revocation* as a prerequisite for vehicle forfeiture.

New language provides for a seven-day waiting period before the commissioner's notification of a plate impoundment becomes effective, or a 45-day waiting period when the violator is not the owner of the vehicle.

Strikes provisions for *administrative review* (subd. 9), *judicial review* (subd. 10), and *rescission of* (subd. 11) a plate impoundment order. Plate impoundment would occur, without review, only following a qualified conviction.

Strikes a provision of plate impoundment law that has been ruled unconstitutional (i.e., the *suspicionless stop provision*, subd. 18).

Other language changes are conforming.

Note that all provisions relating to eligibility for and issuance of *specially-coded license plates* during plate impoundment remain unchanged by the bill.

15 DWI Vehicle Forfeiture Law. Proposes several amendments to make vehicle forfeiture entirely contingent upon *conviction* for a qualifying violation. *Administrative, pre-trial forfeiture* would no longer be authorized.

Nevertheless, it would continue to be the case that a motor vehicle subject to forfeiture may be *seized without process (i.e., without court order) incident to lawful arrest for a forfeiture-qualifying impaired driving incident* and be held prior to trial.

Strikes the provision authorizing the appropriate agency the option to temporarily release a seized vehicle upon the violator's posting of a bond or security, pending resolution of the forfeiture action. In place of that provision, authorizes the owner to surrender the vehicle's title in exchange for the vehicle, pending resolution of the forfeiture action.

Increases to 45 days (up from 30 days following notice of the seizure and intent to forfeit) the time limit by which *a claimant may file a demand for judicial determination of the forfeiture*.

The bill makes no change in the *judicial appeal process* that may be invoked by the vehicle

owner. As under current law, any judicial determination of the forfeiture *must await* adjudication in the criminal prosecution of the designated offense.

16 Rules. Conforming.

17 Examination. Conforming.

18 Limited License to Drive.

Subd. 2a. Other Waiting Periods. Restructures the waiting periods for obtaining a limited license to drive following the revocation or cancelation of a person's driver's license for a qualifying impaired driving conviction, as follows:

- 1) **15 days**, for a first-time DWI offender, as well as for a person subject to rehabilitation who has violated rehab requirements but has subsequently satisfactorily restarted rehabilitation;
- 2) **one-half the period of the license revocation or cancelation**, for a person convicted of a second DWI violation within ten years, or for a third or more lifetime;
- 3) **one-half the period of the license revocation or cancelation**, for a person subject to the period of rehabilitation required (under section 169A.56, subdivision 1), provided that the commissioner has determined that the person has been in full compliance with the rehabilitation requirements for that length of time;
- 4) **one-year, following conviction for manslaughter (criminal vehicular homicide)** – unchanged by the bill.

19 Repealer. Repeals the following provisions:

169A.276 – prohibiting the stay of a driver's license revocation upon appeal;

169A.53 – administrative and judicial review of the driver's license revocation;

171.165, subd. 2 – commercial disqualification based upon administrative license revocation.

Article 2

REHABILITATION REQUIREMENTS FOR MULTIPLE-REPEAT IMPAIRED DRIVERS

Current Law

Following a person's third qualified impaired driving violation within ten years, the person's driver's license is canceled and denied for a period of at least one year and until the person has completed treatment and rehabilitation, to the satisfaction of the Department of Public Safety. Rehabilitation requirements include, among other demands, the person's complete and documented abstinence from alcohol and controlled substances. Upon completion of rehabilitation, the person is allowed to apply for a *conditional driver's license (i.e., a B-Card or B-Card License)*, conditioned upon the person's legal oath to never, ever again consume any alcohol or illicit drugs, during the person's *lifetime*.

If the person subsequently violates the "*no alcohol*" provision of the B-Card, the person's driver's license is again canceled and denied, this time for a period of at least three years. Following that three-year period of rehabilitation, the person again becomes eligible for a B-Card license with a renewed "*no alcohol*" condition. Any subsequent violation by the person of the "*no alcohol*" condition of the B-Card results in a six-year period of rehabilitation.

Until quite recently, a person whose license was canceled and denied was *not eligible* for any *limited license* (to drive to work, for example) for the entire one-year, three-year or six-year period of rehabilitation. However, under amendments by the 2007 and 2009 Legislatures, Minnesota law has been amended to permit many (but not all) canceled licensees to obtain a restricted driver's license that allows the offender to drive any vehicle equipped, at his or her own expense, with an *ignition interlock device*.

Apart from this *ignition interlock program* (which is codified in Minnesota Statutes, sections 171.305 and 171.306), virtually none of the rehabilitation requirements described above have been determined by the legislature and codified into statutes. Instead, they have been developed by the Department of Public Safety through its rulemaking authority.

The present bill extensively revises those rehabilitation requirements, and codifies them into statute. If enacted, they will reflect legislative intent on the subject matter.

The following text briefly summarizes the rehabilitation-related provisions of the bill.

1 to 4 **Rehabilitation and Rehab Relapse Program.**

Under the bill, rehabilitation, including a one-year period of total alcohol-abstinence, including submission to approved alcohol monitoring at the person's own expense, would be required of a person following the person's third-DWI conviction within a ten-year period, or following any conviction for criminal vehicular homicide (CVH). The clock would be restarted with any program failure (including upon detection of the person's consumption of any alcohol whatsoever).

Following 30-days of compliance with all rehabilitation requirements, the commissioner would be authorized to issue the person a *limited driver's license* (enabling the person to drive to work, for example), valid for the duration of the person's one-year required rehabilitation period.

Following such rehabilitation, the person would become eligible for a *restricted driver's license*, subject to a "no alcohol" restriction, which would provide the person with full driving privileges, provided that the person agrees to a five-year period of continuing alcohol-abstinence including monitoring at the person's own expense.

If at any time during a person's one-year required rehabilitation, or the five-year follow-up monitoring period, the person violates the rehabilitation or follow-up requirements, the person's driver's license (whether *limited license* or *restricted license*), the person's license would be suspended and the person would be required to participate in a 30-day program as prescribed by the commissioner.

Upon compliance for 15-days with the *rehabilitation relapse program* requirements, a person again becomes eligible for a *limited license* (i.e., *work permit*). Following completion of the 30-day *rehabilitation relapse program*, the clock restarts on the person's five-year required follow-up monitoring period during which the person is again eligible for a *restricted driver's license* with the "no alcohol" restriction.

Following successful completion of the five-year follow-up period of alcohol-abstinence with monitoring, the person would become eligible for a *regular, unrestricted driver's license* with full driving privileges, without any no-alcohol restriction.

Upon a date ten years past the person's most-recent driver's license suspension, revocation or cancelation for a violation of DWI law (i.e., chapter 169A), *the person's driving records pertaining to previous impaired driving violations would be reclassified as "private data on individuals."*

Effective Date. Sections 1 to 4 of Article 2 are effective August 1, 2010, for rehabilitation required for license reinstatements on or after that date following impaired driving related violations at any time.