

**SENATE**  
**STATE OF MINNESOTA**  
**EIGHTY-EIGHTH LEGISLATURE**

**S.F. No. 867**

(SENATE AUTHORS: LATZ)

DATE	D-PG	OFFICIAL STATUS
02/28/2013	447	Introduction and first reading Referred to Judiciary

A bill for an act

1.1 relating to public safety; modifying driver's license suspension and revocation  
 1.2 provisions for certain persons who commit criminal vehicular operation offenses;  
 1.3 expanding the ignition interlock device program to include these offenders;  
 1.4 amending Minnesota Statutes 2012, sections 169A.51, subdivision 2; 169A.55,  
 1.5 by adding a subdivision; 171.17, by adding a subdivision; 171.30, subdivisions  
 1.6 1, 2a, by adding a subdivision; 171.306, subdivisions 1, 4; proposing coding for  
 1.7 new law in Minnesota Statutes, chapters 171; 629; repealing Minnesota Rules,  
 1.8 parts 7503.0300, subpart 1; 7503.0800, subpart 2.  
 1.9

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

1.11 Section 1. Minnesota Statutes 2012, section 169A.51, subdivision 2, is amended to read:

1.12 Subd. 2. **Implied consent advisory.** (a) Subject to paragraph (b), at the time a test is  
 1.13 requested, the person must be informed:

1.14 (1) that Minnesota law requires the person to take a test:

1.15 (i) to determine if the person is under the influence of alcohol, controlled substances,  
 1.16 or hazardous substances;

1.17 (ii) to determine the presence of a controlled substance listed in Schedule I or II or  
 1.18 metabolite, other than marijuana or tetrahydrocannabinols; and

1.19 (iii) if the motor vehicle was a commercial motor vehicle, to determine the presence  
 1.20 of alcohol;

1.21 (2) that refusal to take a test is a crime;

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

1.25 (4) that the person has the right to consult with an attorney, but that this right is  
 1.26 limited to the extent that it cannot unreasonably delay administration of the test.

2.1 (b) A peace officer who is not pursuing an implied consent revocation is not required  
2.2 to give the advisory described in paragraph (a) to a person whom the officer has probable  
2.3 cause to believe has violated section 609.21, subdivision 1, clause (2), (3), (4), (5), or (6)  
2.4 (criminal vehicular operation DWI-related provisions).

2.5 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes  
2.6 committed on or after that date.

2.7 Sec. 2. Minnesota Statutes 2012, section 169A.55, is amended by adding a subdivision  
2.8 to read:

2.9 Subd. 5. **Reinstatement of driving privileges; criminal vehicular operation.** A  
2.10 person whose driver's license has been revoked under section 171.17, subdivision 1,  
2.11 paragraph (a), clause (1) (revocation, criminal vehicular operation), or suspended under  
2.12 section 171.187 (suspension, criminal vehicular operation), for a violation of section  
2.13 609.21, subdivision 1, clause (2), (3), (4), (5), or (6) (criminal vehicular operation  
2.14 DWI-related provisions), shall not be eligible for reinstatement of driving privileges  
2.15 until the person has submitted to the commissioner verification of the use of ignition  
2.16 interlock for the applicable time period specified in those sections. The commissioner  
2.17 shall establish performance standards and a process for certifying chemical monitoring  
2.18 devices. The standards and procedures are not rules and are exempt from chapter 14,  
2.19 including section 14.386.

2.20 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes  
2.21 committed on or after that date.

2.22 Sec. 3. Minnesota Statutes 2012, section 171.17, is amended by adding a subdivision  
2.23 to read:

2.24 Subd. 4. **Criminal vehicular operation; revocation periods.** (a) As used in this  
2.25 subdivision, "qualified prior impaired driving incident" has the meaning given in section  
2.26 169A.03, subdivision 22.

2.27 (b) Upon receiving a record of a conviction for a violation of section 609.21,  
2.28 subdivision 1, clause (2), (3), (4), (5), or (6), the commissioner shall revoke the driver's  
2.29 license or driving privileges of a person as follows:

2.30 (1) not less than ten years if the violation resulted in great bodily harm or death to  
2.31 another and the person has two or more qualified prior impaired driving incidents within  
2.32 the past ten years or three or more qualified prior impaired driving incidents, and with

3.1 denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established  
 3.2 according to standards established by the commissioner;

3.3 (2) not less than eight years if the violation resulted in great bodily harm or death  
 3.4 to another and the person has a qualified prior impaired driving incident within the past  
 3.5 ten years;

3.6 (3) not less than six years if the violation resulted in great bodily harm or death  
 3.7 to another;

3.8 (4) not less than six years if the violation resulted in bodily harm or substantial bodily  
 3.9 harm to another and the person has two or more qualified prior impaired driving incidents  
 3.10 within the past ten years or three or more qualified prior impaired driving incidents,  
 3.11 and with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is  
 3.12 established according to standards established by the commissioner;

3.13 (5) not less than four years if the violation resulted in bodily harm or substantial  
 3.14 bodily harm to another and the person has a qualified prior impaired driving incident  
 3.15 within the past ten years; or

3.16 (6) not less than two years if the violation resulted in bodily harm or substantial  
 3.17 bodily harm to another.

3.18 (c) Section 169A.09 applies when determining the number of qualified prior  
 3.19 impaired driving incidents under this subdivision.

3.20 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes  
 3.21 committed on or after that date.

3.22 Sec. 4. **[171.187] SUSPENSION; CRIMINAL VEHICULAR OPERATION AND**  
 3.23 **MANSLAUGHTER.**

3.24 Subdivision 1. **Suspension required.** The commissioner shall suspend the driver's  
 3.25 license of a person:

3.26 (1) for whom a peace officer has made the certification described in section 629.344  
 3.27 that probable cause exists to believe that the person violated section 609.21, subdivision 1,  
 3.28 clause (2), (3), (4), (5), or (6); or

3.29 (2) who has been formally charged with a violation of section 609.20, 609.205, or  
 3.30 609.21, resulting from the operation of a motor vehicle.

3.31 Subd. 2. **Suspension period.** A suspension under this section continues until:

3.32 (1) the conviction, acquittal, or dismissal of the underlying crime that resulted in  
 3.33 the suspension; or

3.34 (2) the commissioner, acting under subdivision 4, orders the termination of the  
 3.35 suspension.

4.1 Subd. 3. **Credit.** If a person whose driver's license was suspended under subdivision  
 4.2 1 is later convicted of the underlying offense that resulted in the suspension and the  
 4.3 commissioner revokes the person's license, the commissioner shall credit the time accrued  
 4.4 under the suspension period toward the revocation period imposed under section 171.17,  
 4.5 subdivision 4, or for violations of section 609.20, 609.205, or 609.21, subdivision 1,  
 4.6 clause (1), (7), or (8).

4.7 Subd. 4. **Administrative review of license suspension.** (a) At any time during  
 4.8 which a person's driver's license is suspended under this section, the person may request in  
 4.9 writing a review of the suspension by the commissioner. Upon receiving a request, the  
 4.10 commissioner or the commissioner's designee shall review the order of suspension, the  
 4.11 evidence upon which the order was based, and any other material information brought  
 4.12 to the attention of the commissioner, and determine whether sufficient cause exists to  
 4.13 sustain the order. Within 15 days of receiving the request, the commissioner shall report in  
 4.14 writing the results of the review. The review provided in this subdivision is not subject to  
 4.15 the contested case provisions in chapter 14.

4.16 (b) In addition to any other reason provided for in this subdivision, a person may  
 4.17 request a review of the suspension by the commissioner if the suspension has been in place  
 4.18 for at least three months and the person has not been indicted or formally charged with the  
 4.19 underlying crime that resulted in the license suspension.

4.20 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes  
 4.21 committed on or after that date.

4.22 Sec. 5. Minnesota Statutes 2012, section 171.30, subdivision 1, is amended to read:

4.23 Subdivision 1. **Conditions of issuance.** (a) The commissioner may issue a limited  
 4.24 license to the driver under the conditions in paragraph (b) in any case where a person's  
 4.25 license has been:

4.26 (1) suspended under section 171.18, 171.173, ~~or 171.186~~, or 171.187;

4.27 (2) revoked, canceled, or denied under section:

4.28 (i) 169.792;

4.29 (ii) 169.797;

4.30 (iii) 169A.52:

4.31 (A) subdivision 3, paragraph (a), clause (1) or (2);

4.32 (B) subdivision 3, paragraph (a), clause (4), (5), or (6), if in compliance with section  
 4.33 171.306;

4.34 (C) subdivision 4, paragraph (a), clause (1) or (2), if the test results indicate an  
 4.35 alcohol concentration of less than twice the legal limit;

5.1 (D) subdivision 4, paragraph (a), clause (4), (5), or (6), if in compliance with section  
5.2 171.306;

5.3 (iv) 171.17; or

5.4 (v) 171.172; or

5.5 (3) revoked, canceled, or denied under section 169A.54:

5.6 (i) subdivision 1, clause (1), if the test results indicate an alcohol concentration  
5.7 of less than twice the legal limit;

5.8 (ii) subdivision 1, clause (2);

5.9 (iii) subdivision 1, clause (5), (6), or (7), if in compliance with section 171.306; or

5.10 (iv) subdivision 2, if the person does not have a qualified prior impaired driving  
5.11 incident as defined in section 169A.03, subdivision 22, on the person's record, and the test  
5.12 results indicate an alcohol concentration of less than twice the legal limit.

5.13 (b) The following conditions for a limited license under paragraph (a) include:

5.14 (1) if the driver's livelihood or attendance at a chemical dependency treatment or  
5.15 counseling program depends upon the use of the driver's license;

5.16 (2) if the use of a driver's license by a homemaker is necessary to prevent the  
5.17 substantial disruption of the education, medical, or nutritional needs of the family of  
5.18 the homemaker; or

5.19 (3) if attendance at a postsecondary institution of education by an enrolled student of  
5.20 that institution depends upon the use of the driver's license.

5.21 (c) The commissioner in issuing a limited license may impose such conditions and  
5.22 limitations as in the commissioner's judgment are necessary to the interests of the public  
5.23 safety and welfare including reexamination as to the driver's qualifications. The license  
5.24 may be limited to the operation of particular vehicles, to particular classes and times of  
5.25 operation, and to particular conditions of traffic. The commissioner may require that an  
5.26 applicant for a limited license affirmatively demonstrate that use of public transportation  
5.27 or carpooling as an alternative to a limited license would be a significant hardship.

5.28 (d) For purposes of this subdivision:

5.29 (1) "homemaker" refers to the person primarily performing the domestic tasks in a  
5.30 household of residents consisting of at least the person and the person's dependent child  
5.31 or other dependents; and

5.32 (2) "twice the legal limit" means an alcohol concentration of two times the limit  
5.33 specified in section 169A.20, subdivision 1, clause (5).

5.34 (e) The limited license issued by the commissioner shall clearly indicate the  
5.35 limitations imposed and the driver operating under the limited license shall have the  
5.36 license in possession at all times when operating as a driver.

6.1 (f) In determining whether to issue a limited license, the commissioner shall consider  
6.2 the number and the seriousness of prior convictions and the entire driving record of the  
6.3 driver and shall consider the number of miles driven by the driver annually.

6.4 (g) If the person's driver's license or permit to drive has been revoked under  
6.5 section 169.792 or 169.797, the commissioner may only issue a limited license to the  
6.6 person after the person has presented an insurance identification card, policy, or written  
6.7 statement indicating that the driver or owner has insurance coverage satisfactory to  
6.8 the commissioner of public safety. The commissioner of public safety may require  
6.9 the insurance identification card provided to satisfy this subdivision be certified by the  
6.10 insurance company to be noncancelable for a period not to exceed 12 months.

6.11 (h) The limited license issued by the commissioner to a person under section  
6.12 171.186, subdivision 4, must expire 90 days after the date it is issued. The commissioner  
6.13 must not issue a limited license to a person who previously has been issued a limited  
6.14 license under section 171.186, subdivision 4.

6.15 (i) The commissioner shall not issue a limited driver's license to any person  
6.16 described in section 171.04, subdivision 1, clause (6), (7), (8), (11), or (14).

6.17 (j) The commissioner shall not issue a class A, class B, or class C limited license.

6.18 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes  
6.19 committed on or after that date.

6.20 Sec. 6. Minnesota Statutes 2012, section 171.30, subdivision 2a, is amended to read:

6.21 Subd. 2a. **Other waiting periods.** Notwithstanding subdivision 2, a limited license  
6.22 shall not be issued for a period of:

6.23 (1) 15 days, to a person whose license or privilege has been revoked or suspended  
6.24 for a first violation of section 169A.20, sections 169A.50 to 169A.53, or a statute or  
6.25 ordinance from another state in conformity with either of those sections; or

6.26 (2) one year, to a person whose license or privilege has been revoked or suspended  
6.27 for committing manslaughter resulting from the operation of a motor vehicle, committing  
6.28 criminal vehicular homicide or injury under section 609.21, subdivision 1, clause (1), (7),  
6.29 or (8), or violating a statute or ordinance from another state in conformity with either of  
6.30 those offenses.

6.31 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes  
6.32 committed on or after that date.

7.1 Sec. 7. Minnesota Statutes 2012, section 171.30, is amended by adding a subdivision  
7.2 to read:

7.3 Subd. 5. **Exception; criminal vehicular operation.** Notwithstanding subdivision  
7.4 1, the commissioner may not issue a limited license to a person whose driver's license  
7.5 has been suspended or revoked due to a violation of section 609.21, subdivision 1, clause  
7.6 (2), (3), (4), (5), or (6).

7.7 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes  
7.8 committed on or after that date.

7.9 Sec. 8. Minnesota Statutes 2012, section 171.306, subdivision 1, is amended to read:

7.10 Subdivision 1. **Definitions.** (a) As used in this section, the terms in this subdivision  
7.11 have the meanings given them.

7.12 (b) "Ignition interlock device" or "device" means equipment that is designed to  
7.13 measure breath alcohol concentration and to prevent a motor vehicle's ignition from being  
7.14 started by a person whose breath alcohol concentration measures 0.02 or higher on the  
7.15 equipment.

7.16 (c) "Program participant" means a person who has qualified to take part in the  
7.17 ignition interlock program under this section, and whose driver's license has been:

7.18 (1) revoked, canceled, or denied under section 169A.52, 169A.54, or 171.04,  
7.19 subdivision 1, clause (10), and who has qualified to take part in the ignition interlock  
7.20 program under this section; or

7.21 (2) revoked under section 171.17, subdivision 1, paragraph (a), clause (1), or  
7.22 suspended under section 171.187, for a violation of section 609.21, subdivision 1, clause  
7.23 (2), (3), (4), (5), or (6).

7.24 (d) "Qualified prior impaired driving incident" has the meaning given in section  
7.25 169A.03, subdivision 22.

7.26 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes  
7.27 committed on or after that date.

7.28 Sec. 9. Minnesota Statutes 2012, section 171.306, subdivision 4, is amended to read:

7.29 Subd. 4. **Issuance of restricted license.** (a) The commissioner shall issue a class  
7.30 D driver's license, subject to the applicable limitations and restrictions of this section,  
7.31 to a program participant who meets the requirements of this section and the program  
7.32 guidelines. The commissioner shall not issue a license unless the program participant has  
7.33 provided satisfactory proof that:

8.1 (1) a certified ignition interlock device has been installed on the participant's motor  
8.2 vehicle at an installation service center designated by the device's manufacturer; and

8.3 (2) the participant has insurance coverage on the vehicle equipped with the ignition  
8.4 interlock device. The commissioner shall require the participant to present an insurance  
8.5 identification card, policy, or written statement as proof of insurance coverage, and may  
8.6 require the insurance identification card provided be certified by the insurance company to  
8.7 be noncancelable for a period not to exceed 12 months.

8.8 (b) A license issued under authority of this section must contain a restriction  
8.9 prohibiting the program participant from driving, operating, or being in physical control of  
8.10 any motor vehicle not equipped with a functioning ignition interlock device certified by  
8.11 the commissioner. A participant may drive an employer-owned vehicle not equipped with  
8.12 an interlock device while in the normal course and scope of employment duties pursuant  
8.13 to the program guidelines established by the commissioner and with the employer's  
8.14 written consent.

8.15 (c) A program participant whose driver's license has been: (1) revoked under section  
8.16 169A.52, subdivision 3, paragraph (a), clause (1), (2), or (3), or subdivision 4, paragraph  
8.17 (a), clause (1), (2), or (3), or section 169A.54, subdivision 1, clause (1), (2), (3), or (4); or  
8.18 (2) revoked under section 171.17, subdivision 1, paragraph (a), clause (1), or suspended  
8.19 under section 171.187, for a violation of section 609.21, subdivision 1, clause (2), (3),  
8.20 (4), (5), or (6); may apply for conditional reinstatement of the driver's license, subject to  
8.21 the ignition interlock restriction.

8.22 (d) A program participant whose driver's license has been revoked, canceled, or  
8.23 denied under section 169A.52, subdivision 3, paragraph (a), clause (4), (5), or (6), or  
8.24 subdivision 4, paragraph (a), clause (4), (5), or (6), or section 169A.54, subdivision 1,  
8.25 clause (5), (6), or (7), may apply for a limited license, subject to the ignition interlock  
8.26 restriction, if the program participant is enrolled in a licensed chemical dependency  
8.27 treatment or rehabilitation program as recommended in a chemical use assessment, and if  
8.28 the participant meets the other applicable requirements of section 171.30. After completing  
8.29 a licensed chemical dependency treatment or rehabilitation program and one year of limited  
8.30 license use without violating the ignition interlock restriction, the conditions of limited  
8.31 license use, or program guidelines, the participant may apply for conditional reinstatement  
8.32 of the driver's license, subject to the ignition interlock restriction. If the program  
8.33 participant's ignition interlock device subsequently registers a positive breath alcohol  
8.34 concentration of 0.02 or higher, the commissioner shall cancel the driver's license, and the  
8.35 program participant may apply for another limited license according to this paragraph.



9.1 (e) Notwithstanding any statute or rule to the contrary, the commissioner has  
9.2 authority to determine when a program participant is eligible for restoration of full driving  
9.3 privileges, except that the commissioner shall not reinstate full driving privileges until the  
9.4 program participant has met all applicable prerequisites for reinstatement under section  
9.5 169A.55 and until the program participant's device has registered no positive breath  
9.6 alcohol concentrations of 0.02 or higher during the preceding 90 days.

9.7 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes  
9.8 committed on or after that date.

9.9 Sec. 10. **[629.344] CRIMINAL VEHICULAR OPERATION AND**  
9.10 **MANSLAUGHTER; CERTIFICATION OF PROBABLE CAUSE BY PEACE**  
9.11 **OFFICER.**

9.12 If a peace officer determines that probable cause exists to believe that a person has  
9.13 violated section 609.21, subdivision 1, clause (2), (3), (4), (5), or (6), the officer shall  
9.14 certify this determination and notify the commissioner of public safety.

9.15 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes  
9.16 committed on or after that date.

9.17 Sec. 11. **REPEALER.**

9.18 Minnesota Rules, parts 7503.0300, subpart 1; and 7503.0800, subpart 2, are repealed.

**7503.0300 SUSPENSION PERIODS.**

Subpart 1. **For revocable offenses.** The commissioner shall suspend for one year the driver's license of a person upon receiving a record of a criminal charge arising out of the operation of a motor vehicle for:

- A. criminal vehicular homicide or injury; or
- B. manslaughter.

Time accrued under the suspension period must be credited toward the revocation period imposed upon conviction.

However, if the suspension is based on a criminal charge and the commissioner receives notice that the criminal charge was dismissed or that the person was acquitted of the criminal charge, the commissioner shall terminate the suspension period.

**7503.0800 REVOCATION PERIODS.**

Subp. 2. **For criminal vehicular operation.** Upon receiving a record of conviction, the commissioner shall revoke the driver's license or driving privilege of a person convicted under:

A. Minnesota Statutes, section 609.21, subdivision 1, clause (2), (3), (4), (5), or (6), or subdivision 3, clause (2), (3), (4), (5), or (6), for a period of ten years.

B. Minnesota Statutes, section 609.21, subdivision 2, clause (2), (3), (4), (5), or (6), or subdivision 4, clause (2), (3), (4), (5), or (6), for a period of five years.

C. Minnesota Statutes, section 609.21, subdivision 2a, clause (2), (3), (4), (5), or (6), for a period of three years.

D. Minnesota Statutes, section 609.21, subdivision 2b, clause (2), (3), (4), (5), or (6), for a period of one year.