

shall appoint the executive secretary. All members shall be appointed by the governor with the advice and consent of the senate except that senate confirmation shall not be required for the judicial members. No member shall serve more than two full four-year terms or their equivalent. Membership terminates if a member ceases to hold the position that qualified him for appointment.

Sec. 28. **REPEALER.**

Minnesota Statutes 1982, section 11A.07, subdivision 3, is repealed.

Sec. 29. **EFFECTIVE DATE.**

This act is effective the day following final enactment.

Approved June 9, 1983

CHAPTER 306 — S.F.No. 473

An act relating to highway traffic regulations; permitting interjurisdictional fresh pursuit of drivers suspected of driving under the influence of alcohol or a controlled substance; removing restrictions on use at trial of accused's refusal to take a chemical test; providing that a suspect be informed that refusal to take a chemical test will be used against him at trial; eliminating mandatory detoxification of intoxicated drivers; amending Minnesota Statutes 1982, sections 169.121, subdivisions 1, 2, 3, and by adding a subdivision; 169.123, subdivisions 2 and 3; repealing Minnesota Statutes 1982, section 169.1231.

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

Section 1. Minnesota Statutes 1982, section 169.121, subdivision 1, is amended to read:

Subdivision 1. **CRIME.** It is a misdemeanor for any person to drive, operate or be in physical control of any motor vehicle within this state:

- (a) When the person is under the influence of alcohol;
- (b) When the person is under the influence of a controlled substance;
- (c) When the person is under the influence of a combination of any two or more of the elements named in clauses (a) and (b); or
- (d) When the person's alcohol concentration is 0.10 or more.

The provisions of this subdivision apply, but are not limited in application, to any person who drives, operates, or is in physical control of any motor vehicle in the manner prohibited by this subdivision upon the ice of any lake, stream, or river, including but not limited to the ice of any boundary water.

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When an accident has occurred, a peace officer may lawfully arrest a person for violation of this section without a warrant upon probable cause, without regard to whether the violation was committed in the officer's presence.

Sec. 2. Minnesota Statutes 1982, section 169.121, is amended by adding a subdivision to read:

Subd. 1a. ARREST. When an accident has occurred, a peace officer may lawfully arrest a person for violation of subdivision 1 without a warrant upon probable cause, without regard to whether the violation was committed in the officer's presence.

When a peace officer has probable cause to believe that a person is driving or operating a motor vehicle in violation of subdivision 1, and before a stop or arrest can be made the person escapes from the geographical limits of the officer's jurisdiction, the officer in fresh pursuit of the person may stop or arrest the person in another jurisdiction within this state and may exercise the powers and perform the duties of a peace officer under sections 169.121 and 169.123. An officer acting in fresh pursuit pursuant to this subdivision is serving in his regular line of duty as fully as though he was within his jurisdiction.

The express grant of arrest powers in this subdivision does not limit the arrest powers of peace officers pursuant to sections 626.65 to 626.70 or section 629.40 in cases of arrests for violation of subdivision 1 or any other provision of law.

Sec. 3. Minnesota Statutes 1982, section 169.121, subdivision 2, is amended to read:

Subd. 2. **EVIDENCE.** Upon the trial of any prosecution arising out of acts alleged to have been committed by any person arrested for driving, operating, or being in physical control of a motor vehicle in violation of subdivision 1, the court may admit evidence of the amount of alcohol or a controlled substance in the person's blood, breath, or urine as shown by a medical or chemical analysis thereof of it, if the test is taken voluntarily or pursuant to section 169.123.

For the purposes of this subdivision:

(a) evidence that there was at the time an alcohol concentration of 0.05 or less is prima facie evidence that the person was not under the influence of alcohol;

(b) evidence that there was at the time an alcohol concentration of more than 0.05 and less than 0.10 is relevant evidence in indicating whether or not the person was under the influence of alcohol.

Evidence of the ~~absence of tests refusal to take a test~~ is admissible into evidence in a prosecution under this section ~~without any comment and with a jury instruction, where applicable, that there shall be no speculation as to the~~

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~~reason for the absence and that no inference is to be drawn from the absence or~~
an ordinance in conformity with it.

For purposes of this section and section 169.123, the result of an evidentiary test administered within two hours of the alleged violation is deemed to be the alcohol concentration at the time of the violation.

The foregoing provisions do not limit the introduction of any other competent evidence bearing upon the question whether or not the person was under the influence of alcohol or a controlled substance, including tests obtained more than two hours after the alleged violation.

Sec. 4. Minnesota Statutes 1982, section 169.121, subdivision 3, is amended to read:

Subd. 3. **CRIMINAL PENALTIES.** A person who violates this section or an ordinance in conformity ~~therewith~~ with it is guilty of a misdemeanor.

The following persons are guilty of a gross misdemeanor:

(a) A person who violates this section or an ordinance in conformity ~~therewith~~ with it within five years of a prior conviction under this section, section 169.129, or an ordinance or statute from another state in conformity ~~therewith~~ with it; and

(b) A person who violates this section or an ordinance in conformity ~~therewith~~ with it within ten years of two or more prior convictions under this section, section 169.129, or an ordinance or statute from another state in conformity ~~therewith~~ with it.

The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section shall also be responsible for prosecution of gross misdemeanor violations of this section.

Sec. 5. Minnesota Statutes 1982, section 169.123, subdivision 2, is amended to read:

Subd. 2. **IMPLIED CONSENT; CONDITIONS; ELECTION AS TO TYPE OF TEST.** (a) Any person who drives, operates, or is in physical control of a motor vehicle within this state consents, subject to the provisions of this section and section 169.121, to a chemical test of his blood, breath, or urine for the purpose of determining the presence of alcohol or a controlled substance. The test shall be administered at the direction of a peace officer. The test may be required of a person when an officer has reasonable and probable grounds to believe the person was driving, operating, or in physical control of a motor vehicle in violation of section 169.121 and one of the following conditions exist: (1) the person has been lawfully placed under arrest for violation of section 169.121, or an ordinance in conformity ~~therewith~~ with it; or (2) the person has been involved in a motor vehicle accident or collision resulting in property

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damage, personal injury, or death; or (3) the person has refused to take the screening test provided for by section 169.121, subdivision 6; or (4) the screening test was administered and recorded an alcohol concentration of 0.10 or more. No action may be taken against the person for declining to take a direct blood test, if offered, unless an alternative test was offered.

(b) At the time a chemical test specimen is requested, the person shall be informed:

(1) that if testing is refused, the person's right to drive will be revoked for a minimum period of six months; ~~and~~

(2) that if a test is taken and the results indicate that the person is under the influence of alcohol or a controlled substance, the person will be subject to criminal penalties and the person's right to drive may be revoked for a minimum period of 90 days; ~~and~~

(3) that the person has a right to consult with an attorney but that this right is limited to the extent that it cannot unreasonably delay administration of the test or the person will be deemed to have refused the test; ~~and~~

(4) that after submitting to testing, the person has the right to have additional tests made by a person of his own choosing; ~~and~~

(5) that if he refuses to take a test, the refusal will be offered into evidence against him at trial.

Sec. 6. Minnesota Statutes 1982, section 169.123, subdivision 3, is amended to read:

Subd. 3. MANNER OF MAKING TEST; ADDITIONAL TESTS.
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 of alcohol or controlled substance. This limitation does not apply to the taking of a breath or urine specimen. The person tested has the right to have a person of his 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 specimen 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 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. 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 alcohol concentration shall in no manner be liable in any civil or criminal action except for negligence in drawing the blood. The person adminis-

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tering a breath test at the request and direction of a peace officer shall be fully trained in the administration of the breath tests pursuant to training standards promulgated by rule given by the commissioner of public safety.

Sec. 7. REPEALER.

Minnesota Statutes 1982, section 169.1231, is repealed.

Sec. 8. EFFECTIVE DATE.

Sections 1 to 5 are effective August 1, 1983. Sections 6 and 7 are effective the day following final enactment.

Approved June 9, 1983

CHAPTER 307 — S.F.No. 541

An act relating to counties; authorizing a jobs program; providing that members of the Hennepin county personnel board may serve as political party delegates; amending Laws 1965, chapter 855, section 3, subdivision 2, as amended by Laws 1980, chapter 573, section 3, subdivision 2.

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

Section 1. [375.551] COUNTY EMERGENCY JOBS PROGRAM.

Notwithstanding any other law to the contrary, the board of commissioners of a county experiencing chronic high unemployment may establish an emergency employment program to meet the needs of its economically disadvantaged, unemployed residents.

Sec. 2. [375.552] DEFINITIONS.

Subdivision 1. APPLICATION. For the purposes of sections 1 to 5, the following terms have the meanings given them.

Subd. 2. EMPLOYMENT PROGRAM. "Employment program" means a program offering job training programs or jobs through public works projects to economically disadvantaged, unemployed residents of a county.

Subd. 3. ECONOMICALLY DISADVANTAGED, UNEMPLOYED RESIDENT. "Economically disadvantaged, unemployed resident" means a person (a) who is not eligible for or who refuses to accept financial assistance pursuant to chapter 256, 256B, 256D, or 268; (b) whose income or household income is at or below 25 percent of the statewide median household income as determined by the 1980 federal census; (c) who is a bona fide resident of the county; and (d) who is unemployed.

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