

Subd. 3. \$200,000 of the appropriation in Laws 1992, chapter 549, article 10, section 1, subdivision 3, is available until June 30, 1994, to award sole community hospital financial assistance grants as authorized by Minnesota Statutes, section 144.1484.

Subd. 4. The entire appropriation in Laws 1992, chapter 549, article 10, section 1, subdivision 3, is available until June 30, 1994.

Subd. 5. Notwithstanding Laws 1992, chapter 549, article 10, section 1, subdivision 1, \$569,000 of the amount appropriated to the commissioner of revenue in Laws 1992, chapter 549, article 10, section 1, subdivision 8, is available until June 30, 1994.

Subd. 6. Up to \$600,000 of the appropriation for systems modification and start-up costs for MinnesotaCare contained in Laws 1992, chapter 549, article 10, section 1, subdivision 4, shall not cancel, but may be transferred to the state systems account established in Minnesota Statutes, section 256.014, to complete the work of integrating MinnesotaCare into the Medicaid management information system.

Presented to the governor May 20, 1993

Signed by the governor May 24, 1993, 12:15 p.m.

CHAPTER 346—H.F.No. 373

VETOED

CHAPTER 347—S.F.No. 694

An act relating to alcohol and chemical use; increasing penalties for driving while intoxicated with a child under 16 in the vehicle and providing for vehicle forfeiture for multiple offenses; requiring driver's license revocation for persons convicted of a controlled substance offense if the court finds that the person committed the offense while driving a motor vehicle; providing pretrial release conditions for habitual DWI violators; increasing the penalty for certain persons who drive while under license cancellation; allowing the use of preliminary screening tests in certain proceedings; providing one-year program for funds from sale of certain forfeited vehicles to be used for DWI-related enforcement, training, and education; making technical changes to apply DWI-related provisions to commercial motor vehicle operators; requiring information related to the risks and effects of alcohol to be printed in driver's manual; clarifying administrative revocation penalties; extending ignition interlock pilot program for one year; defining "consumption" in the underage drinking law; expanding prosecutorial jurisdiction over underage drinking offenses; requiring driver's license suspen-

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tion for persons who commit an underage drinking offense while operating a motor vehicle; expanding filing requirements relating to dram shop actions; amending Minnesota Statutes 1992, sections 168.042, subdivision 2; 169.121, subdivisions 2, 3, 4, 6, and by adding a subdivision; 169.1217, subdivisions 1 and 9; 169.123, subdivisions 2 and 4; 169.129; 171.13, subdivision 1b; 171.24; 171.30, subdivisions 1 and 2a; 171.305, subdivision 2; 260.185, subdivision 1; 340A.503, subdivision 1; and 340A.802, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 152; and 171.

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

Section 1. [152.0271] NOTICE TO COMMISSIONER OF PUBLIC SAFETY OF CERTAIN DRUG CONVICTIONS; DRIVER'S LICENSE REVOCATION.

When a person is convicted of violating a provision of sections 152.021 to 152.027, the sentencing court shall determine whether the person unlawfully sold or possessed the controlled substance while driving a motor vehicle. If so, the court shall notify the commissioner of public safety of its determination and order the commissioner to revoke the person's driver's license for 30 days. If the person does not have a driver's license or if the person's driver's license is suspended or revoked at the time of the conviction, the commissioner shall delay the issuance or reinstatement of the person's driver's license for 30 days after the person applies for the issuance or reinstatement of the license. Upon receipt of the court's order, the commissioner is authorized to take the licensing action without a hearing.

Sec. 2. Minnesota Statutes 1992, section 168.042, subdivision 2, is amended to read:

Subd. 2. **VIOLATION; ISSUANCE OF IMPOUNDMENT ORDER.** The commissioner shall issue a registration plate impoundment order when:

(1) a person's driver's license or driving privileges are revoked for a third violation, as defined in subdivision 1, paragraph (c), clause (1), within five years or a fourth or subsequent violation, as defined in subdivision 1, paragraph (c), clause (1), within 15 years; ~~or~~

(2) a person's driver's license or driving privileges are revoked for a violation of section 169.121, subdivision 3, paragraph (c), clause (4), within five years of one previous violation or within 15 years of two or more previous violations, as defined in subdivision 1, paragraph (c), clause (1); or

(3) a person is arrested for or charged with a violation described in subdivision 1, paragraph (c), clause (2) or (3).

The order shall require the impoundment of the registration plates of the vehicle involved in the violation and all vehicles owned by, registered, or leased in the name of the violator, including vehicles registered jointly or leased in the name of the violator and another. An impoundment order shall not be issued for

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the registration plates of a rental vehicle as defined in section 168.041, subdivision 10, or a vehicle registered in another state.

Sec. 3. Minnesota Statutes 1992, section 169.121, is amended by adding a subdivision to read:

Subd. 1c. CONDITIONAL RELEASE. A person charged with violating subdivision 1 within ten years of the first of three prior impaired driving convictions or within the person's lifetime after four or more prior impaired driving convictions may be released from detention only upon the following conditions unless maximum bail is imposed:

(1) the impoundment of the registration plates of the vehicle used to commit the violation occurred, unless already impounded;

(2) a requirement that the alleged violator report weekly to a probation agent;

(3) a requirement that the alleged violator abstain from consumption of alcohol and controlled substances and submit to random, weekly alcohol tests or urine analyses; and

(4) a requirement that, if convicted, the alleged violator reimburse the court or county for the total cost of these services.

Sec. 4. Minnesota Statutes 1992, 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 an analysis of those items.

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~~ 0.04 or more is relevant evidence in indicating whether or not the person was under the influence of alcohol.

Evidence of the refusal to take a test is admissible into evidence in a prosecution under this section or an ordinance in conformity with it.

If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of subdivision 1, clause (e), that the defendant consumed a sufficient quantity of alcohol after the time of actual driving, operating, or

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physical control of a motor vehicle and before the administration of the evidentiary test to cause the defendant's alcohol concentration to exceed 0.10. Provided, that this evidence may not be admitted unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

The foregoing provisions do not limit the introduction of any other competent evidence bearing upon the question whether or not the person violated this section, including tests obtained more than two hours after the alleged violation and results obtained from partial tests on an infrared breath-testing instrument. A result from a partial test is the measurement obtained by analyzing one adequate breath sample, as defined in section 169.123, subdivision 2b, paragraph (b).

Sec. 5. Minnesota Statutes 1992, section 169.121, subdivision 3, is amended to read:

Subd. 3. **CRIMINAL PENALTIES.** (a) As used in this subdivision:

(1) "prior impaired driving conviction" means a prior conviction under this section; section 84.91, subdivision 1, paragraph (a); 86B.331, subdivision 1, paragraph (a); 169.129; 360.0752; 609.21, subdivision 1, clauses (2) to (4); 609.21, subdivision 2, clauses (2) to (4); 609.21, subdivision 2a, clauses (2) to (4); 609.21, subdivision 3, clauses (2) to (4); 609.21, subdivision 4, clauses (2) to (4); or an ordinance from this state, or a statute or ordinance from another state in conformity with any of them. A prior impaired driving conviction also includes a prior juvenile adjudication that would have been a prior impaired driving conviction if committed by an adult; and

(2) "prior license revocation" means a driver's license suspension, revocation, or cancellation under this section; section 169.123; 171.04; 171.14; 171.16; 171.17; or 171.18 because of an alcohol-related incident; 609.21, subdivision 1, clauses (2) to (4); 609.21, subdivision 2, clauses (2) to (4); 609.21, subdivision 2a, clauses (2) to (4); 609.21, subdivision 3, clauses (2) to (4); or 609.21, subdivision 4, clauses (2) to (4).

(b) A person who violates subdivision 1 or 1a, or an ordinance in conformity with either of them, is guilty of a misdemeanor.

(c) A person is guilty of a gross misdemeanor under any of the following circumstances:

(1) the person violates subdivision 1 within five years of a prior impaired driving conviction, or within ten years of the first of two or more prior impaired driving convictions;

(2) the person violates subdivision 1a within five years of a prior license revocation, or within ten years of the first of two or more prior license revocations; ~~or~~

(3) the person violates section 169.26 while in violation of subdivision 1; or

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(4) the person violates subdivision 1 while a child under the age of 16 is in the vehicle, if the child is more than 36 months younger than the violator.

(d) 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.

When an attorney responsible for prosecuting gross misdemeanors under this section requests criminal history information relating to prior impaired driving convictions from a court, the court must furnish the information without charge.

Sec. 6. Minnesota Statutes 1992, section 169.121, subdivision 4, is amended to read:

Subd. 4. **ADMINISTRATIVE PENALTIES.** (a) The commissioner of public safety shall revoke the driver's license of a person convicted of violating this section or an ordinance in conformity with it as follows:

- (1) first offense under subdivision 1: not less than 30 days;
 - (2) first offense under subdivision 1a: not less than 90 days;
 - (3) second offense in less than five years, or third or subsequent offense on the record: (i) if the current conviction is for a violation of subdivision 1, not less than 180 days and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169.126; or (ii) if the current conviction is for a violation of subdivision 1a, not less than one year and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169.126;
 - (4) third offense in less than five years: not less than one year, together with denial under section 171.04, subdivision 1, clause (8), until rehabilitation is established in accordance with standards established by the commissioner;
 - (5) fourth or subsequent offense on the record: not less than two years, together with denial under section 171.04, subdivision 1, clause (8), until rehabilitation is established in accordance with standards established by the commissioner.
- (b) If the person convicted of violating this section is under the age of ~~18~~ 21 years, the commissioner of public safety shall revoke the offender's driver's license or operating privileges ~~until the offender reaches the age of 18 years or~~ for a period of six months or for the appropriate period of time under paragraph (a), clauses (1) to (5), for the offense committed, whichever is the greatest period.

(c) For purposes of this subdivision, a juvenile adjudication under this section, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them is an offense.

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(d) Whenever department records show that the violation involved personal injury or death to any person, not less than 90 additional days shall be added to the base periods provided above.

(e) Except for a person whose license has been revoked under paragraph (b), any person whose license has been revoked pursuant to section 169.123 as the result of the same incident, and who does not have a prior impaired driving conviction or prior license revocation as defined in subdivision 3 within the previous ten years, is subject to the mandatory revocation provisions of paragraph (a), clause (1) or (2), in lieu of the mandatory revocation provisions of section 169.123.

Sec. 7. Minnesota Statutes 1992, section 169.121, subdivision 6, is amended to read:

Subd. 6. **PRELIMINARY SCREENING TEST.** When a peace officer has reason to believe from the manner in which a person is driving, operating, controlling, or acting upon departure from a motor vehicle, or has driven, operated, or controlled a motor vehicle, that the driver may be violating or has violated subdivision 1 or section 169.1211, the officer may require the driver to provide a sample of the driver's breath for a preliminary screening test using a device approved by the commissioner of public safety for this purpose. The results of this preliminary screening test shall be used for the purpose of deciding whether an arrest should be made and whether to require the tests authorized in section 169.123, but shall not be used in any court action except (1) to prove that a test was properly required of a person pursuant to section 169.123, subdivision 2; ~~or~~ (2) in a civil action arising out of the operation or use of the motor vehicle; (3) in an action for license reinstatement under section 171.19; or (4) in a prosecution or juvenile court proceeding concerning a violation of section 340A.503, subdivision 1, paragraph (a), clause (2). Following the screening test additional tests may be required of the driver pursuant to the provisions of section 169.123.

The driver who refuses to furnish a sample of the driver's breath is subject to the provisions of section 169.123 unless, in compliance with section 169.123, the driver submits to a blood, breath or urine test to determine the presence of alcohol or a controlled substance.

Sec. 8. Minnesota Statutes 1992, section 169.1217, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** As used in this section, the following terms have the meanings given them:

(a) "Appropriate authority" means a law enforcement agency that has the authority to make an arrest for a violation of a designated offense.

(b) "Designated offense" includes a violation of section 169.121, an ordinance in conformity with it, or 169.129:

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(1) within five years of three prior driving under the influence convictions or three prior license revocations based on separate incidents;

(2) within 15 years of the first of four or more prior driving under the influence convictions or the first of four or more prior license revocations based on separate incidents;

(3) by a person whose driver's license or driving privileges have been canceled under section 171.04, subdivision 1, clause (8); or

(4) by a person who is subject to a restriction on the person's driver's license under section 171.09 which provides that the person may not use or consume any amount of alcohol or a controlled substance.

"Designated offense" also includes a violation of section 169.121, subdivision 3, paragraph (c), clause (4):

(1) within five years of two prior driving under the influence convictions or two prior license revocations based on separate incidents; or

(2) within 15 years of the first of three or more prior driving under the influence convictions or the first of three or more prior license revocations based on separate incidents.

(c) "Motor vehicle" and "vehicle" have the meaning given "motor vehicle" in section 169.121, subdivision 11. The terms do not include a vehicle which is stolen or taken in violation of the law.

(d) "Owner" means the registered owner of the motor vehicle according to records of the department of public safety and includes a lessee of a motor vehicle if the lease agreement has a term of 180 days or more.

(e) "Prior driving under the influence conviction" means a prior conviction under section 169.121; 169.129; or 609.21, subdivision 1, clauses (2) to (4); 2, clauses (2) to (4); 2a, clauses (2) to (4); 3, clauses (2) to (4); or 4, clauses (2) to (4); or an ordinance from this state, or a statute or ordinance from another state in conformity with any of them. A prior driving under the influence conviction also includes a prior juvenile adjudication that would have been a prior driving under the influence conviction if committed by an adult.

(f) "Prior license revocation" has the meaning given it in section 169.121, subdivision 3.

(g) "Prosecuting authority" means the attorney in the jurisdiction in which the designated offense occurred who is responsible for prosecuting violations of a designated offense.

Sec. 9. Minnesota Statutes 1992, section 169.1217, subdivision 9, is amended to read:

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Subd. 9. **DISPOSITION OF FORFEITED VEHICLES.** (a) If the court finds under subdivision 8 that the vehicle is subject to forfeiture, it shall order the appropriate agency to:

- (1) sell the vehicle and distribute the proceeds under paragraph (b); or
- (2) keep the vehicle for official use.

(b) The proceeds from the sale of forfeited vehicles, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be forwarded to the treasury of the political subdivision that employs the appropriate agency responsible for the forfeiture for use in DWI-related enforcement, training and education. If the appropriate agency is an agency of state government, the net proceeds must be forwarded to the agency for use in DWI-related enforcement, training, and education until June 30, 1994, and thereafter to the state treasury and credited to the general fund.

Sec. 10. Minnesota Statutes 1992, section 169.123, subdivision 2, is amended to read:

Subd. 2. **IMPLIED CONSENT; CONDITIONS; ELECTION OF TEST.**

(a) Any person who drives, operates, or is in physical control of a motor vehicle within this state or upon the ice of any boundary water of this state consents, subject to the provisions of this section and ~~section~~ sections 169.121 and 169.1211, to a chemical test of that person's 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 probable cause 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 with it;
- (2) the person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death;
- (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 indicated an alcohol concentration of 0.10 or more.

The test may also be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a commercial motor vehicle with the presence of any alcohol.

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

- (1) that Minnesota law requires the person to take a test to determine if the

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person is under the influence of alcohol or a controlled substance or, if the motor vehicle was a commercial motor vehicle, that Minnesota law requires the person to take a test to determine the presence of alcohol;

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

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

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

(c) The peace officer who requires a test pursuant to this subdivision may direct whether the test shall be of blood, breath, or urine. Action may be taken against a person who refuses to take a blood test only if an alternative test was offered and action may be taken against a person who refuses to take a urine test only if an alternative test was offered.

Sec. 11. Minnesota Statutes 1992, section 169.123, subdivision 4, is amended to read:

Subd. 4. **REFUSAL; REVOCATION OF LICENSE.** If a person refuses to permit a test, none shall be given, but the peace officer shall report the refusal to the commissioner of public safety and the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the acts occurred. However, if a peace officer has probable cause to believe that the person has violated section 609.21, a test may be required and obtained despite the person's refusal. A refusal to submit to an alcohol concentration test does not constitute a violation of section 609.50, unless the refusal was accompanied by force or violence or the threat of force or violence. If a person submits to a test and the test results indicate an alcohol concentration of 0.10 or more, or if a person was driving, operating, or in physical control of a commercial motor vehicle and the test results indicate an alcohol concentration of 0.04 or more, the results of the test shall be reported to the commissioner of public safety and to the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the acts occurred.

Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle while under the influence of alcohol or a controlled substance and that the person refused to submit to a test, the commissioner of public safety shall revoke the person's license or permit to drive, or nonresident operating privilege, for a period of one year even if a test was obtained pursuant to this section after the person refused to submit to testing. Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with the presence of any alcohol and that the person refused to submit to a test, the commis-

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sioner shall disqualify the person from operating a commercial motor vehicle for a period of one year under section 171.165 and shall revoke the person's license or permit to drive or nonresident operating privilege for a period of one year. ~~If the person refusing to submit to testing is under the age of 18 years, the commissioner shall revoke the person's license or permit to drive, or nonresident operating privilege, for a period of one year or until the person reaches the age of 18 years, whichever is greater.~~ Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating or in physical control of a motor vehicle while under the influence of alcohol or a controlled substance and that the person submitted to a test and the test results indicate an alcohol concentration of 0.10 or more, the commissioner of public safety shall revoke the person's license or permit to drive, or nonresident operating privilege, for: (1) a period of 90 days; or (2) if the person is under the age of ~~18~~ 21 years, for a period of six months ~~or until the person reaches the age of 18 years, whichever is greater;~~ or (3) if the person's driver's license or driving privileges have been revoked within the past five years under this section or section 169.121, for a period of 180 days. On certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with any presence of alcohol and that the person submitted to a test and the test results indicated an alcohol concentration of 0.04 or more, the commissioner of public safety shall disqualify the person from operating a commercial motor vehicle under section 171.165.

If the person is a resident without a license or permit to operate a motor vehicle in this state, the commissioner of public safety shall deny to the person the issuance of a license or permit for the same period after the date of the alleged violation as provided herein for revocation, subject to review as herein-after provided.

Sec. 12. Minnesota Statutes 1992, section 169.129, is amended to read:

169.129 AGGRAVATED VIOLATIONS; PENALTY.

Any person is guilty of a gross misdemeanor who drives, operates, or is in physical control of a motor vehicle, the operation of which requires a driver's license, within this state or upon the ice of any boundary water of this state in violation of section 169.121 or an ordinance in conformity with it before the person's driver's license or driver's privilege has been reinstated following its cancellation, suspension, revocation, or denial under any of the following: section 169.121, 169.1211, or 169.123; section 171.04, 171.14, 171.16, 171.17, or 171.18 because of an alcohol-related incident; section 609.21, subdivision 1, clauses (2) to (4); 609.21, subdivision 2, clauses (2) to (4); 609.21, subdivision 2a, clauses (2) to (4); 609.21, subdivision 3, clauses (2) to (4); or 609.21, subdivision 4, clauses (2) to (4).

Sec. 13. Minnesota Statutes 1992, section 171.13, subdivision 1b, is amended to read:

Subd. 1b. **DRIVER'S MANUAL; ALCOHOL CONSUMPTION.** The

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commissioner shall include in each edition of the driver's manual published by the department a chapter relating to the effect of alcohol consumption on high-way safety and on the ability of drivers to safely operate motor vehicles and a summary of the laws of Minnesota on operating a motor vehicle while under the influence of alcohol or a controlled substance. This chapter shall also include information on the dangers of driving at alcohol concentration levels below the legal limit for alcohol concentration, and specifically state that:

(1) there is no "safe" level or amount of alcohol that an individual can assume will not impair one's driving performance or increase the risk of a crash;

(2) a driver may be convicted of driving while impaired whether or not the driver's alcohol concentration exceeds the legal limit for alcohol concentration; and

(3) a person under the legal drinking age may be convicted of illegally consuming alcohol if found to have consumed any amount of alcohol.

Sec. 14. [171.172] DRIVER'S LICENSE REVOCATION; PERSONS CONVICTED OF OR ADJUDICATED FOR CERTAIN CONTROLLED SUBSTANCE OFFENSES.

The commissioner of public safety shall revoke the driver's license of any person convicted of or any juvenile adjudicated for a controlled substance offense if the court has notified the commissioner of a determination made under section 152.0271 or 260.185, subdivision 1. The period of revocation shall be for the applicable time period specified in section 152.0271. If the person does not have a driver's license or if the person's driver's license is suspended or revoked at the time of the conviction or adjudication, the commissioner shall, upon the person's application for driver's license issuance or reinstatement, delay the issuance or reinstatement of the person's driver's license for the applicable time period specified in section 152.0271.

Sec. 15. [171.173] DRIVER'S LICENSE SUSPENSION; PERSONS CONVICTED OF OR ADJUDICATED FOR CERTAIN UNDERAGE DRINKING OFFENSES.

The commissioner of public safety shall suspend the driver's license of any person convicted of or any juvenile adjudicated for an offense under section 340A.503, subdivision 1, paragraph (a), clause (2), if the court has notified the commissioner of a determination made under section 340A.503, subdivision 1, paragraph (c). The period of suspension shall be for the applicable period specified in that paragraph. If the person does not have a driver's license or if the person's driver's license is suspended or revoked at the time of the conviction or adjudication, the commissioner shall, upon the person's application for driver's license issuance or reinstatement, delay the issuance or reinstatement of the person's driver's license for the applicable time period specified in section 340A.503, subdivision 1, paragraph (c). Upon receipt of the court's order, the commissioner is authorized to take the licensing action without a hearing.

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Sec. 16. Minnesota Statutes 1992, section 171.24, is amended to read:

171.24 VIOLATIONS; DRIVING WITHOUT VALID LICENSE.

(a) Except as otherwise provided in paragraph (c), any person whose driver's license or driving privilege has been canceled, suspended, or revoked and who has been given notice of, or reasonably should know of the revocation, suspension, or cancellation, and who disobeys such order by operating anywhere in this state any motor vehicle, the operation of which requires a driver's license, while such license or privilege is canceled, suspended, or revoked is guilty of a misdemeanor.

(b) Any person who has been disqualified from holding a commercial driver's license or been denied the privilege to operate a commercial motor vehicle, who has been given notice of or reasonably should know of the disqualification, and who disobeys the order by operating in this state a commercial motor vehicle while the person is disqualified to hold the license or privilege, is guilty of a misdemeanor.

(c) A person is guilty of a gross misdemeanor if:

(1) the person's driver's license or driving privileges has been canceled under section 171.04, subdivision 1, clause (8), and the person has been given notice of or reasonably should know of the cancellation; and

(2) the person disobeys the order by operating in this state any motor vehicle, the operation of which requires a driver's license, while the person's license or privilege is canceled.

Notice of revocation, suspension, cancellation, or disqualification is sufficient if personally served, or if mailed by first class mail to the person's last known address or to the address listed on the person's driver's license. Notice is also sufficient if the person was informed that revocation, suspension, cancellation, or disqualification would be imposed upon a condition occurring or failing to occur, and where the condition has in fact occurred or failed to occur. It is not a defense that a person failed to file a change of address with the post office, or failed to notify the department of public safety of a change of name or address as required under section 171.11.

Sec. 17. Minnesota Statutes 1992, section 171.30, subdivision 1, is amended to read:

Subdivision 1. **CONDITIONS OF ISSUANCE.** In any case where a person's license has been suspended under section 171.18 or 171.173, or revoked under section 169.121, 169.123, 169.792, 169.797, ~~or 171.17~~, or 171.172, the commissioner may issue a limited license to the driver including under the following conditions:

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

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

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

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

For purposes of this subdivision, "homemaker" refers to the person primarily performing the domestic tasks in a household of residents consisting of at least the person and the person's dependent child or other dependents.

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

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

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

Sec. 18. Minnesota Statutes 1992, section 171.30, subdivision 2a, is amended to read:

Subd. 2a. **OTHER WAITING PERIODS.** Notwithstanding subdivision 2, a limited license shall not be issued for a period of:

(1) 15 days, to a person whose license or privilege has been revoked or suspended for a violation of section 169.121 or 169.123;

(2) 90 days, to a person who submitted to testing under section 169.123 if the person's license or privilege has been revoked or suspended for a second or subsequent violation of section 169.121 or 169.123;

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(3) 180 days, to a person who refused testing under section 169.123 if the person's license or privilege has been revoked or suspended for a second or subsequent violation of section 169.121 or 169.123; or

(4) one year, to a person whose license or privilege has been revoked or suspended for commission of the offense of manslaughter resulting from the operation of a motor vehicle or criminal vehicular homicide or injury under section 609.21.

Sec. 19. Minnesota Statutes 1992, section 171.305, subdivision 2, is amended to read:

Subd. 2. **PILOT PROGRAM.** The commissioner shall establish a statewide pilot program for the use of an ignition interlock device by a person whose driver's license or driving privilege has been canceled and denied by the commissioner for an alcohol or controlled substance related incident. The commissioner shall conduct the program until December 31, 1995. The commissioner shall evaluate the program and shall report to the legislature by February 1, ~~1994~~ 1995, on whether changes in the program are necessary and whether the program should be permanent. No limited license shall be issued under this program after August 1, ~~1993~~ 1995.

Sec. 20. Minnesota Statutes 1992, section 260.185, subdivision 1, is amended to read:

Subdivision 1. If the court finds that the child is delinquent, it shall enter an order making any of the following dispositions of the case which are deemed necessary to the rehabilitation of the child:

(a) Counsel the child or the parents, guardian, or custodian;

(b) Place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court including reasonable rules for the child's conduct and the conduct of the child's parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child, or with the consent of the commissioner of corrections, in a group foster care facility which is under the management and supervision of said commissioner;

(c) Subject to the supervision of the court, transfer legal custody of the child to one of the following:

(1) a child placing agency; or

(2) the county welfare board; or

(3) a reputable individual of good moral character. No person may receive custody of two or more unrelated children unless licensed as a residential facility pursuant to sections 245A.01 to 245A.16; or

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(4) a county home school, if the county maintains a home school or enters into an agreement with a county home school; or

(5) a county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(d) Transfer legal custody by commitment to the commissioner of corrections;

(e) If the child is found to have violated a state or local law or ordinance which has resulted in damage to the person or property of another, the court may order the child to make reasonable restitution for such damage;

(f) Require the child to pay a fine of up to \$700; the court shall order payment of the fine in accordance with a time payment schedule which shall not impose an undue financial hardship on the child;

(g) If the child is in need of special treatment and care for reasons of physical or mental health, the court may order the child's parent, guardian, or custodian to provide it. If the parent, guardian, or custodian fails to provide this treatment or care, the court may order it provided;

(h) If the court believes that it is in the best interests of the child and of public safety that the driver's license of the child be canceled until the child's 18th birthday, the court may recommend to the commissioner of public safety the cancellation of the child's license for any period up to the child's 18th birthday, and the commissioner is hereby authorized to cancel such license without a hearing. At any time before the termination of the period of cancellation, the court may, for good cause, recommend to the commissioner of public safety that the child be authorized to apply for a new license, and the commissioner may so authorize.

If the child is petitioned and found by the court to have committed a controlled substance offense under sections 152.021 to 152.027, the court shall determine whether the child unlawfully possessed or sold the controlled substance while driving a motor vehicle. If so, the court shall notify the commissioner of public safety of its determination and order the commissioner to revoke the child's driver's license for the applicable time period specified in section 152.0271. If the child does not have a driver's license or if the child's driver's license is suspended or revoked at the time of the delinquency finding, the commissioner shall, upon the child's application for driver's license issuance or reinstatement, delay the issuance or reinstatement of the child's driver's license for the applicable time period specified in section 152.0271. Upon receipt of the court's order, the commissioner is authorized to take the licensing action without a hearing.

If the child is petitioned and found by the court to have committed or attempted to commit an act in violation of section 609.342; 609.343; 609.344;

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609.345; 609.3451; 609.746, subdivision 1; 609.79; or 617.23, or another offense arising out of a delinquency petition based on one or more of those sections, the court shall order an independent professional assessment of the child's need for sex offender treatment. An assessor providing an assessment for the court may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider. If the assessment indicates that the child is in need of and amenable to sex offender treatment, the court shall include in its disposition order a requirement that the child undergo treatment. Notwithstanding section 13.42, 13.85, 144.335, 260.161, or 626.556, the assessor has access to the following private or confidential data on the child if access is relevant and necessary for the assessment:

- (1) medical data under section 13.42;
- (2) corrections and detention data under section 13.85;
- (3) health records under section 144.335;
- (4) juvenile court records under section 260.161; and
- (5) local welfare agency records under section 626.556.

Data disclosed under this paragraph may be used only for purposes of the assessment and may not be further disclosed to any other person, except as authorized by law.

If the child is found delinquent due to the commission of an offense that would be a felony if committed by an adult, the court shall make a specific finding on the record regarding the juvenile's mental health and chemical dependency treatment needs.

Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition ordered, and shall also set forth in writing the following information:

- (a) why the best interests of the child are served by the disposition ordered; and
- (b) what alternative dispositions were considered by the court and why such dispositions were not appropriate in the instant case.

Sec. 21. Minnesota Statutes 1992, section 340A.503, subdivision 1, is amended to read:

Subdivision 1. **CONSUMPTION.** (a) It is unlawful for any:

- (1) retail intoxicating liquor or nonintoxicating liquor licensee, municipal liquor store, or bottle club permit holder under section 340A.414, to permit any person under the age of 21 years to consume alcoholic beverages on the licensed premises or within the municipal liquor store; or

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(2) person under the age of 21 years to consume any alcoholic beverages. As used in this clause, "consume" includes the ingestion of an alcoholic beverage and the physical condition of having ingested an alcoholic beverage. If proven by a preponderance of the evidence, it is an affirmative defense to a violation of this clause that the defendant consumed the alcoholic beverage in the household of the defendant's parent or guardian and with the consent of the parent or guardian.

(b) An offense under paragraph (a), clause (2), may be prosecuted either at the place where consumption occurs or the place where evidence of consumption is observed.

(c) When a person is convicted of or adjudicated for an offense under paragraph (a), clause (2), the court shall determine whether the person committed the offense while operating a motor vehicle. If so, the court shall notify the commissioner of public safety of its determination. Upon receipt of the court's determination, the commissioner shall suspend the person's driver's license or operating privileges for 30 days, or for 180 days if the person has previously been convicted of or adjudicated for an offense under paragraph (a), clause (2).

Sec. 22. Minnesota Statutes 1992, section 340A.802, subdivision 2, is amended to read:

Subd. 2. **LIMITATIONS; CONTENT.** In the case of a claim for damages, the notice must be served by the claimant's attorney within ~~±20~~ 240 days of the date of entering an attorney-client relationship with the person in regard to the claim. In the case of claims for contribution or indemnity, the notice must be served within 120 days after the injury occurs or within 60 days after receiving written notice of a claim for contribution or indemnity, whichever is applicable. No action for damage or for contribution or indemnity may be maintained unless the notice has been given. If requested to do so, a municipality or licensee receiving a notice shall promptly furnish claimant's attorney the names and addresses of other municipalities or licensees who sold or bartered liquor to the person identified in the notice, if known. Actual notice of sufficient facts reasonably to put the licensee or governing body of the municipality on notice of a possible claim complies with the notice requirement.

No action may be maintained under section 340A.801 unless commenced within two years after the injury.

Sec. 23. **EFFECTIVE DATES.**

Sections 1 to 8, 10 to 14, 16, and 20 are effective August 1, 1993, and apply to crimes committed on or after that date. Sections 15, 17, and 21 are effective June 1, 1993, and apply to crimes committed on or after that date. Section 22 is effective August 1, 1993, and applies to causes of action arising on or after that date. Section 18 is effective January 1, 1994, and applies to violations committed on or after that date. Section 19 is effective the day following final enactment. Section 9 applies to vehicles subject to forfeiture due to crimes committed after June 30, 1993, and before July 1, 1994.

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Presented to the governor May 20, 1993

Signed by the governor May 24, 1993, 5:46 p.m.

CHAPTER 348—H.F.No. 1415

VETOED

CHAPTER 349—S.F.No. 811

VETOED

CHAPTER 350—S.F.No. 429

An act relating to alcoholic beverages; authorizing possession of alcoholic beverages by passengers in certain vehicles; allowing certain shipments of wine into the state and exempting them from taxation; defining terms; prohibiting issuance of retail licenses to certain persons; revising authority for suspensions and civil penalties; providing for proof of age; authorizing license issuance in certain political subdivisions; amending Minnesota Statutes 1992, sections 169.122, by adding a subdivision; 297C.07; 297C.09; 340A.101, subdivisions 15, 25, and 29; 340A.301, subdivision 3; 340A.302, subdivision 3; 340A.402; 340A.410, subdivision 7; 340A.415; 340A.503, subdivision 6; 340A.904, subdivision 1; Laws 1969, chapter 783, section 1, as amended; Laws 1983, chapter 259, section 8; Laws 1991, chapter 249, section 30; Laws 1992, chapter 486, section 11; proposing coding for new law in Minnesota Statutes, chapter 340A; repealing Minnesota Statutes 1992, section 340A.903.

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

Section 1. Minnesota Statutes 1992, section 169.122, is amended by adding a subdivision to read:

Subd. 5. EXCEPTION. This section does not apply to the possession or consumption of alcoholic beverages by passengers in:

(1) a bus operated under a charter as defined in section 221.011, subdivision 20; or

(2) a limousine as defined in section 168.011, subdivision 35.

Sec. 2. Minnesota Statutes 1992, section 297C.07, is amended to read:

297C.07 EXCEPTIONS.

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