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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 1881

03/01/2017 Authored by Johnson, B., The bill was read for the first time and referred to the Committee on Public Safety and Security Policy and Finance

1.1 A bill for an act
1.2 relating to driving while impaired; extending certain time periods to request reviews
1.3 in DWI-related proceedings; amending Minnesota Statutes 2016, sections 97B.066,
1.4 subdivision 8; 169A.53, subdivision 2; 169A.60, subdivision 10.

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

1.6 Section 1. Minnesota Statutes 2016, section 97B.066, subdivision 8, is amended to read:

1.7 Subd. 8. Judicial review. (a) Within 30 60 days following receipt of a notice and order
1.8 imposing sanctions under this section, a person may petition the court for review. The
1.9 petition must be filed with the district court administrator in the county where the incident
1.10 occurred giving rise to the test demand and refusal, together with proof of service of a copy
1.11 on the commissioner and the prosecuting authority for misdemeanor offenses for the
1.12 jurisdiction in which the incident occurred. A responsive pleading is not required of the
1.13 commissioner of natural resources, and court fees may not be charged for the appearance
1.14 of the representative of the commissioner in the matter.

1.15 (b) The petition must be captioned in the name of the person making the petition as
1.16 petitioner and the commissioner as respondent. The petition must state specifically the
1.17 grounds upon which the petitioner seeks rescission of the order imposing sanctions.

1.18 (c) The filing of the petition does not stay the revocation or prohibition against hunting.
1.19 However, the filing of a petition stays imposition of the civil penalty. The judicial review
1.20 shall be conducted according to the Rules of Civil Procedure.

1.21 EFFECTIVE DATE. This section is effective the day following final enactment.

2.1 Sec. 2. Minnesota Statutes 2016, section 169A.53, subdivision 2, is amended to read:

2.2 Subd. 2. **Petition for judicial review.** (a) Within ~~30~~ 60 days following receipt of a notice
2.3 and order of revocation or disqualification pursuant to section 169A.52 (revocation of license
2.4 for test failure or refusal), a person may petition the court for review. The petition must be
2.5 filed with the district court administrator in the county where the alleged offense occurred,
2.6 together with proof of service of a copy on the commissioner, and accompanied by the
2.7 standard filing fee for civil actions. Responsive pleading is not required of the commissioner,
2.8 and court fees must not be charged for the appearance of the commissioner in the matter.

2.9 (b) The petition must:

2.10 (1) be captioned in the full name of the person making the petition as petitioner and the
2.11 commissioner as respondent;

2.12 (2) include the petitioner's date of birth, driver's license number, and date of the offense;
2.13 and

2.14 (3) state with specificity the grounds upon which the petitioner seeks rescission of the
2.15 order of revocation, disqualification, or denial.

2.16 (c) The filing of the petition does not stay the revocation, disqualification, or denial. The
2.17 reviewing court may order a stay of the balance of the revocation or disqualification if the
2.18 hearing has not been conducted within 60 days after filing of the petition upon terms the
2.19 court deems proper.

2.20 (d) Judicial reviews must be conducted according to the Rules of Civil Procedure, except
2.21 that prehearing discovery is mandatory and is limited to:

2.22 (1) the notice of revocation;

2.23 (2) the test record or, in the case of blood or urine tests, the certificate of analysis;

2.24 (3) the peace officer's certificate and any accompanying documentation submitted by
2.25 the arresting officer to the commissioner; and

2.26 (4) disclosure of potential witnesses, including experts, and the basis of their testimony.

2.27 Other types of discovery are available only upon order of the court.

2.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.29 Sec. 3. Minnesota Statutes 2016, section 169A.60, subdivision 10, is amended to read:

2.30 Subd. 10. **Petition for judicial review.** (a) Within ~~30~~ 60 days following receipt of a
2.31 notice and order of impoundment under this section, a person may petition the court for

3.1 review. The petition must include proof of service of a copy of the petition on the
3.2 commissioner. The petition must include the petitioner's date of birth, driver's license number,
3.3 and date of the plate impoundment violation, as well as the name of the violator and the
3.4 law enforcement agency that issued the plate impoundment order. The petition must state
3.5 with specificity the grounds upon which the petitioner seeks rescission of the order for
3.6 impoundment. The petition may be combined with any petition filed under section 169A.53
3.7 (administrative and judicial review of license revocation).

3.8 (b) Except as otherwise provided in this section, the judicial review and hearing are
3.9 governed by section 169A.53 and must take place at the same time as any judicial review
3.10 of the person's license revocation under section 169A.53. The filing of the petition does not
3.11 stay the impoundment order. The reviewing court may order a stay of the balance of the
3.12 impoundment period if the hearing has not been conducted within 60 days after filing of
3.13 the petition upon terms the court deems proper. The court shall order either that the
3.14 impoundment be rescinded or sustained, and forward the order to the commissioner. The
3.15 court shall file its order within 14 days following the hearing.

3.16 (c) In addition to the issues described in section 169A.53, subdivision 3 (judicial review
3.17 of license revocation), the scope of a hearing under this subdivision is limited to:

3.18 (1) if the impoundment is based on a plate impoundment violation described in
3.19 subdivision 1, paragraph (d), clause (3) or (4), whether the peace officer had probable cause
3.20 to believe the violator committed the plate impoundment violation and whether the evidence
3.21 demonstrates that the plate impoundment violation occurred; and

3.22 (2) for all other cases, whether the peace officer had probable cause to believe the violator
3.23 committed the plate impoundment violation.

3.24 (d) In a hearing under this subdivision, the following records are admissible in evidence:

3.25 (1) certified copies of the violator's driving record; and

3.26 (2) certified copies of vehicle registration records bearing the violator's name.

3.27 **EFFECTIVE DATE.** This section is effective the day following final enactment.