

## CHAPTER 604

## ACTIONS INVOLVING FAULT

604.06 Fireman's rule.  
604.09 Breath alcohol testing device in liquor establishments.

604.10 Economic loss arising from the sale of goods.

**604.06 FIREMAN'S RULE.**

The common law doctrine known as the fireman's rule shall not operate to deny any peace officer, as defined in section 626.84, subdivision 1, clause (c), or public safety officer, as defined in section 299A.41, subdivision 4, a recovery in any action at law or authorized by statute.

*History: 1991 c 199 art 2 s 28*

**604.09 BREATH ALCOHOL TESTING DEVICE IN LIQUOR ESTABLISHMENTS.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them.

(b) "Breath alcohol testing device" means a device that tests for alcohol concentration by using a breath sample.

(c) "Licensed premises" has the meaning given in section 340A.101, subdivision 15.

(d) "Liquor licensee" means a person licensed under sections 340A.403 to 340A.407 or section 340A.414, and includes an agent or employee of a licensee.

Subd. 2. **Immunity from liability.** (a) Subject to subdivision 3, a liquor licensee who administers or makes available a breath alcohol testing device in the licensed premises is immune from any liability arising out of the result of the test.

(b) Subject to subdivision 3, a designer, manufacturer, distributor, or seller of a breath alcohol testing device is immune from any products liability or other cause of action arising out of the result of a test by the breath alcohol testing device in a licensed premises.

Subd. 3. **Immunity requirements.** Subdivision 2 applies only if:

(1) a conspicuous notice is posted in the licensed premises:

(i) informing patrons of the immunity provisions of subdivision 2 and notifying them that the test is made available solely for their own informal use and information; and

(ii) informing patrons of the alcohol-related driving penalties under sections 169.121 to 169.123, 169.129, and 609.21;

(2) the type of breath alcohol testing device is certified by the commissioner of public safety under subdivision 7; and

(3) the breath alcohol testing device test results are indicated as follows:

(i) the breath alcohol testing device shows a white light and gives a reading of alcohol concentration if alcohol concentration is less than .05;

(ii) the breath alcohol testing device shows a yellow light and gives a reading of alcohol concentration if alcohol concentration is .05 or more but less than .08;

(iii) the breath alcohol testing device shows an orange light and gives a reading of alcohol concentration if alcohol concentration is .08 or more but less than .10, and displays a message that states "You are close to the legal limit and your driving may be impaired;" or

(iv) the breath alcohol testing device shows a red light if alcohol concentration is .10 or greater but does not give a reading of alcohol concentration, and displays a message that states that the person fails the test.

**Subd. 4. Evidence.** Evidence regarding the result of a test by a breath alcohol testing device in a licensed premises is not admissible in any civil or criminal proceeding.

**Subd. 5. Dramshop.** This section does not affect liability under section 340A.801.

**Subd. 6. Preparation of notice.** The commissioner of public safety shall prepare and make available to liquor licensees the notices described in subdivision 3.

**Subd. 7. Rules; certification.** The commissioner of public safety shall adopt any rules reasonably required to implement this section, including performance and maintenance standards for breath alcohol testing devices. The commissioner shall certify breath alcohol testing devices that meet the performance standards. The costs of rule-making and certification must be borne by the manufacturers of the breath alcohol testing devices.

**History:** 1991 c 270 s 7

#### **604.10 ECONOMIC LOSS ARISING FROM THE SALE OF GOODS.**

(a) Economic loss that arises from a sale of goods that is due to damage to tangible property other than the goods sold may be recovered in tort as well as in contract, but economic loss that arises from a sale of goods between parties who are each merchants in goods of the kind is not recoverable in tort.

(b) Economic loss that arises from a sale of goods, between merchants, that is not due to damage to tangible property other than the goods sold may not be recovered in tort.

(c) The economic loss recoverable in tort under this section does not include economic loss due to damage to the goods themselves.

**History:** 1991 c 352 s 2