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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3697

02/13/2024 Authored by Koegel and Brand
03/18/2024 The bill was read for the first time and referred to the Committee on Transportation Finance and Policy
Adoption of Report: Re-referred to the Committee on Public Safety Finance and Policy

1.1 A bill for an act
1.2 relating to public safety; limiting the requirement to participate in the ignition
1.3 interlock program to individuals whose driver's license is revoked, canceled, or
1.4 denied for an incident involving alcohol; establishing an intensive testing program
1.5 for individuals whose driver's license is revoked, canceled, or denied for an incident
1.6 involving a controlled substance or an intoxicating substance; amending Minnesota
1.7 Statutes 2022, sections 169A.55, subdivision 4; 171.306, subdivision 1; Minnesota
1.8 Statutes 2023 Supplement, section 169A.44, subdivision 1; proposing coding for
1.9 new law in Minnesota Statutes, chapter 171.

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

1.11 Section 1. Minnesota Statutes 2023 Supplement, section 169A.44, subdivision 1, is
1.12 amended to read:

1.13 Subdivision 1. **Nonfelony violations.** (a) This subdivision applies to a person charged
1.14 with a nonfelony violation of section 169A.20 (driving while impaired) under circumstances
1.15 described in section 169A.40, subdivision 3 (certain DWI offenders; custodial arrest).

1.16 (b) Except as provided in subdivision 3, unless maximum bail is imposed under section
1.17 629.471, a person described in paragraph (a) may be released from detention only if the
1.18 person agrees to the following conditions pending resolution of the charge:

1.19 (1) abstain from alcohol and nonprescribed controlled or intoxicating substances; and

1.20 (2) submit to a program of ~~electronic alcohol monitoring, involving at least daily~~
1.21 ~~measurements of the person's alcohol concentration, pending resolution of the charge to~~
1.22 monitor that abstinence.

1.23 (c) A defendant charged with a violation of section 169A.20, subdivision 1, clause (1),
1.24 (5), or (6); subdivision 1, clause (4), where one of the elements involves a violation of clause

2.1 (1); subdivision 2, clause (1); or subdivision 2, clause (2), if the court issued the warrant
 2.2 based on probable cause to believe that the person was under the influence of alcohol must
 2.3 be monitored through the use of:

2.4 (1) electronic alcohol monitoring, involving at least daily measurements of the person's
 2.5 alcohol concentration if electronic alcohol-monitoring equipment is available to the court;
 2.6 or

2.7 (2) random alcohol tests conducted at least weekly if electronic alcohol-monitoring
 2.8 equipment is not available to the court.

2.9 (d) A defendant charged with a violation of section 169A.20, subdivision 1, clause (2),
 2.10 (3), (4), or (7); or subdivision 2, clause (2), if the court issued the warrant based on probable
 2.11 cause to believe that the person was under the influence of a controlled substance or an
 2.12 intoxicating substance must be monitored through the use of random urine analyses conducted
 2.13 at least weekly.

2.14 ~~Clause (2) applies only when electronic alcohol-monitoring equipment is available to~~
 2.15 ~~the court.~~ (e) The court shall require partial or total reimbursement from the person for the
 2.16 cost of the electronic alcohol monitoring, random alcohol tests, and random urine analyses,
 2.17 to the extent the person is able to pay.

2.18 **EFFECTIVE DATE.** This section is effective August 1, 2024, and applies to defendants
 2.19 charged on or after that date.

2.20 Sec. 2. Minnesota Statutes 2022, section 169A.55, subdivision 4, is amended to read:

2.21 Subd. 4. **Reinstatement of driving privileges; multiple incidents.** (a) A person whose
 2.22 driver's license has been revoked as a result of an alcohol-related offense listed under clause
 2.23 (2) shall not be eligible for reinstatement of driving privileges without an ignition interlock
 2.24 restriction until the commissioner certifies that either:

2.25 (1) the person did not own or lease a vehicle at the time of the offense or at any time
 2.26 between the time of the offense and the driver's request for reinstatement, or commit a
 2.27 violation of chapter 169, 169A, or 171 between the time of the offense and the driver's
 2.28 request for reinstatement or at the time of the arrest for the offense listed under clause (2),
 2.29 item (i), subitem (A) or (B), or (ii), subitem (A) or (B), as based on:

2.30 (i) a request by the person for reinstatement, on a form to be provided by the Department
 2.31 of Public Safety;

2.32 (ii) the person's attestation under penalty of perjury; and

3.1 (iii) the submission by the driver of certified copies of vehicle registration records and
3.2 driving records for the period from the arrest until the driver seeks reinstatement of driving
3.3 privileges; or

3.4 (2) the person used the ignition interlock device and complied with section 171.306 for
3.5 a period of not less than:

3.6 (i) one year, for a person whose driver's license was revoked for:

3.7 (A) an offense occurring within ten years of a qualified prior impaired driving incident;
3.8 or

3.9 (B) an offense occurring after two qualified prior impaired driving incidents; or

3.10 (ii) two years, for a person whose driver's license was revoked for:

3.11 (A) an offense occurring under item (i), subitem (A) or (B), and the test results indicated
3.12 an alcohol concentration of twice the legal limit or more; or

3.13 (B) an offense occurring under item (i), subitem (A) or (B), and the current offense is
3.14 for a violation of section 169A.20, subdivision 2.

3.15 (b) A person whose driver's license has been canceled or denied as a result of three or
3.16 more qualified impaired driving incidents involving at least one alcohol-related offense
3.17 shall not be eligible for reinstatement of driving privileges without an ignition interlock
3.18 restriction until the person:

3.19 (1) has completed rehabilitation according to rules adopted by the commissioner or been
3.20 granted a variance from the rules by the commissioner; and

3.21 (2) has submitted verification of abstinence from alcohol and controlled substances
3.22 under paragraph (c), as evidenced by the person's use of an ignition interlock device or other
3.23 chemical monitoring device approved by the commissioner.

3.24 (c) The verification of abstinence must show that the person has abstained from the use
3.25 of alcohol and controlled substances for a period of not less than:

3.26 (1) three years, for a person whose driver's license was canceled or denied for an offense
3.27 occurring within ten years of the first of two qualified prior impaired driving incidents, or
3.28 occurring after three qualified prior impaired driving incidents;

3.29 (2) four years, for a person whose driver's license was canceled or denied for an offense
3.30 occurring within ten years of the first of three qualified prior impaired driving incidents; or

4.1 (3) six years, for a person whose driver's license was canceled or denied for an offense
4.2 occurring after four or more qualified prior impaired driving incidents.

4.3 (d) A person whose driver's license has been revoked as a result of a controlled or
4.4 intoxicating substance offense listed under clause (2) shall not be eligible for reinstatement
4.5 of driving privileges without participating in the intensive testing program established under
4.6 section 171.307 until the commissioner certifies that either:

4.7 (1) the person did not own or lease a vehicle at the time of the offense or at any time
4.8 between the time of the offense and the driver's request for reinstatement, or commit a
4.9 violation of chapter 169, 169A, or 171 between the time of the offense and the driver's
4.10 request for reinstatement or at the time of the arrest for the offense listed under clause (2),
4.11 item (i), subitem (A) or (B), or (ii), subitem (A) or (B), as based on:

4.12 (i) a request by the person for reinstatement, on a form to be provided by the Department
4.13 of Public Safety;

4.14 (ii) the person's attestation under penalty of perjury; and

4.15 (iii) the submission by the driver of certified copies of vehicle registration records and
4.16 driving records for the period from the arrest until the driver seeks reinstatement of driving
4.17 privileges; or

4.18 (2) the person participated in the intensive testing program and complied with section
4.19 171.307 for a period of not less than:

4.20 (i) one year, for a person whose driver's license was revoked for:

4.21 (A) an offense occurring within ten years of a qualified prior impaired driving incident;

4.22 or

4.23 (B) an offense occurring after two qualified prior impaired driving incidents; or

4.24 (ii) two years, for a person whose driver's license was revoked for:

4.25 (A) an offense occurring under item (i), subitem (A) or (B), and the test results indicated
4.26 an alcohol concentration of twice the legal limit or more; or

4.27 (B) an offense occurring under item (i), subitem (A) or (B), and the current offense is
4.28 for a violation of section 169A.20, subdivision 2.

4.29 (e) A person whose driver's license has been canceled or denied as a result of three or
4.30 more qualified impaired driving incidents involving at least one controlled or intoxicating
4.31 substance offense shall not be eligible for reinstatement of driving privileges without
4.32 participating in the intensive testing program until the person:

5.1 (1) has completed rehabilitation according to rules adopted by the commissioner or been
5.2 granted a variance from the rules by the commissioner; and

5.3 (2) has submitted verification of abstinence from alcohol and controlled substances
5.4 under paragraph (f), as evidenced by the person's participation in the intensive testing
5.5 program or other monitoring approved by the commissioner.

5.6 (f) The verification of abstinence must show that the person has abstained from the use
5.7 of alcohol and controlled substances for a period of not less than:

5.8 (1) three years, for a person whose driver's license was canceled or denied for an offense
5.9 occurring within ten years of the first of two qualified prior impaired driving incidents, or
5.10 occurring after three qualified prior impaired driving incidents;

5.11 (2) four years, for a person whose driver's license was canceled or denied for an offense
5.12 occurring within ten years of the first of three qualified prior impaired driving incidents; or

5.13 (3) six years, for a person whose driver's license was canceled or denied for an offense
5.14 occurring after four or more qualified prior impaired driving incidents.

5.15 (g) As used in this subdivision:

5.16 (1) "alcohol-related offense" means a violation of section 169A.20, subdivision 1, clause
5.17 (1), (5), or (6); subdivision 1, clause (4), where one of the elements involves a violation of
5.18 clause (1); subdivision 2, clause (1); or subdivision 2, clause (2), if the court issued the
5.19 warrant based on probable cause to believe that the person was under the influence of
5.20 alcohol; and

5.21 (2) "controlled or intoxicating substance offense" means a violation of section 169A.20,
5.22 subdivision 1, clause (2), (3), (4), or (7); or subdivision 2, clause (2), if the court issued the
5.23 warrant based on probable cause to believe that the person was under the influence of a
5.24 controlled substance or an intoxicating substance.

5.25 **EFFECTIVE DATE.** This section is effective August 1, 2024, and applies to revocations
5.26 and cancellations or denials that occur on or after that date.

5.27 Sec. 3. Minnesota Statutes 2022, section 171.306, subdivision 1, is amended to read:

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

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

6.1 (c) "Incident involving alcohol" means:

6.2 (1) a test failure as described in section 169A.52, subdivision 2, paragraph (a), clause
6.3 (1) or (2); or section 171.177, subdivision 3, clause (2), item (i) or (ii);

6.4 (2) a test refusal as described in section 169A.52, subdivision 3, or section 171.177,
6.5 subdivision 3, clause (1), when there was probable cause to believe the person had been
6.6 driving, operating, or in physical control of a motor vehicle in violation of section 169A.20,
6.7 subdivision 1, clause (1), (5), or (6); or subdivision 1, clause (4), where one of the elements
6.8 involves a violation of clause (1);

6.9 (3) a conviction for a violation of section 169A.20, subdivision 1, clause (1), (5), or (6);
6.10 or subdivision 1, clause (4), where one of the elements involves a violation of clause (1);

6.11 or

6.12 (4) a determination by the commissioner pursuant to section 171.04, subdivision 1,
6.13 clause (10), that the person is inimical to public safety based on one or more violations of
6.14 section 169A.20, subdivision 1, clause (1), (5), or (6); or subdivision 1, clause (4), where
6.15 one of the elements involves a violation of clause (1).

6.16 ~~(e)~~ (d) "Location tracking capabilities" means the ability of an electronic or wireless
6.17 device to identify and transmit its geographic location through the operation of the device.

6.18 ~~(d)~~ (e) "Program participant" means a person who has qualified to take part in the ignition
6.19 interlock program under this section, and whose driver's license, as a result of an incident
6.20 involving alcohol, has been:

6.21 (1) revoked, canceled, or denied under section 169A.52; 169A.54; 171.04, subdivision
6.22 1, clause (10); or 171.177; or

6.23 (2) revoked under section 171.17, subdivision 1, paragraph (a), clause (1), or suspended
6.24 under section 171.187, for a violation of section 609.2113, subdivision 1, clause (2), item
6.25 (i) or (iii), (3), or (4); subdivision 2, clause (2), item (i) or (iii), (3), or (4); or subdivision
6.26 3, clause (2), item (i) or (iii), (3), or (4); or 609.2114, subdivision 2, clause (2), item (i) or
6.27 (iii), (3), or (4), resulting in bodily harm, substantial bodily harm, or great bodily harm.

6.28 ~~(e)~~ (f) "Qualified prior impaired driving incident" has the meaning given in section
6.29 169A.03, subdivision 22.

6.30 **EFFECTIVE DATE.** This section is effective August 1, 2024, and applies to revocations
6.31 and cancellations or denials that occur on or after that date.

7.1 Sec. 4. [171.307] INTENSIVE TESTING PROGRAM.

7.2 Subdivision 1. Definitions. (a) As used in this section, the following terms have the
7.3 meanings given.

7.4 (b) "Incident involving a controlled substance or intoxicating substance" means:

7.5 (1) a test failure as described in section 169A.52, subdivision 2, paragraph (a), clause
7.6 (3); or 171.177, subdivision 3, clause (2), item (iii);

7.7 (2) a test refusal as described in section 169A.52, subdivision 3, or 171.177, subdivision
7.8 3, clause (1), when there was probable cause to believe the person had been driving,
7.9 operating, or in physical control of a motor vehicle in violation of section 169A.20,
7.10 subdivision 1, clause (2), (3), (4), or (7); or subdivision 2, clause (2), if the court issued the
7.11 warrant based on probable cause to believe that the person was under the influence of a
7.12 controlled substance or an intoxicating substance;

7.13 (3) a conviction for a violation of section 169A.20, subdivision 1, clause (2), (3), (4),
7.14 or (7); or

7.15 (4) a determination by the commissioner pursuant to section 171.04, subdivision 1,
7.16 clause (10), that the person is inimical to public safety based on one or more violations of
7.17 section 169A.20, subdivision 1, clause (2), (3), (4), or (7).

7.18 (c) "Program participant" means a person who has qualified to take part in the intensive
7.19 testing program under this section, and whose driver's license, as the result of an incident
7.20 involving a controlled substance or intoxicating substance, has been:

7.21 (1) revoked, canceled, or denied under section 169A.52; 169A.54; 171.04, subdivision
7.22 1, clause (10); or 171.177; or

7.23 (2) revoked under section 171.17, subdivision 1, paragraph (a), clause (1), or suspended
7.24 under section 171.187, for a violation of section 609.2113, subdivision 1, clause (2), item
7.25 (i) or (iii), (3), or (4); subdivision 2, clause (2), item (i) or (iii), (3), or (4); or subdivision
7.26 3, clause (2), item (i) or (iii), (3), or (4); or 609.2114, subdivision 2, clause (2), item (i) or
7.27 (iii), (3), or (4), resulting in bodily harm, substantial bodily harm, or great bodily harm.

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

7.30 Subd. 2. Program requirements. (a) The commissioner must establish guidelines for
7.31 participation in the intensive testing program. A person who seeks to participate in the

8.1 program must sign a written acknowledgment that the person has received, reviewed, and
8.2 agreed to abide by the program guidelines.

8.3 (b) The program guidelines must include provisions clearly identifying and prohibiting
8.4 the use of masking agents.

8.5 (c) The program guidelines must include provisions requiring disclosure of any
8.6 prescription medications and protocols to assure that testing accounts for prescribed
8.7 medications that are taken within the therapeutic range.

8.8 (d) The commissioner must enter a notation on a person's driving record to indicate that
8.9 the person is a program participant.

8.10 (e) A person under the age of 18 years is not eligible to be a program participant.

8.11 (f) A program participant must pay costs associated with any required urine analyses.

8.12 (g) A program participant must participate in any treatment recommended in a chemical
8.13 use assessment report.

8.14 (h) A program participant must submit to regular and random urine analyses and other
8.15 testing that take place at least weekly. The results of a random urine analysis or other test
8.16 that is ordered by a court or required by probation satisfy the requirement in this paragraph
8.17 for the week in which the urine analysis or other test was administered if the results clearly
8.18 indicate that the program participant submitted to the urine analysis or test, identify the date
8.19 of the test, and are submitted to the commissioner in a form and manner approved by the
8.20 commissioner.

8.21 Subd. 3. **Issuance of restricted license.** (a) The commissioner must issue a class D
8.22 driver's license, subject to the applicable limitations and restrictions of this section, to a
8.23 program participant who meets the requirements of this section and the program guidelines.
8.24 The commissioner must not issue a license unless the program participant has provided
8.25 satisfactory proof that:

8.26 (1) the participant has submitted to a minimum number of preliminary urine analyses
8.27 as required by the commissioner that tested negative for the presence of a controlled substance
8.28 or its metabolite and for the presence of specified intoxicating substances; and

8.29 (2) the participant has insurance coverage on any vehicle the participant owns or operates
8.30 regularly. If the participant has previously been convicted of violating section 169.791,
8.31 169.793, or 169.797 or the participant's license has previously been suspended or canceled
8.32 under section 169.792 or 169.797, the commissioner must require the participant to present

9.1 an insurance identification card that is certified by the insurance company to be noncancelable
9.2 for a period not to exceed 12 months.

9.3 (b) A program participant whose driver's license has been: (1) revoked under section
9.4 169A.52, subdivision 3, paragraph (a), clause (1), (2), or (3), or subdivision 4, paragraph
9.5 (a), clause (1), (2), or (3); 169A.54, subdivision 1, clause (1), (2), (3), or (4); or 171.177,
9.6 subdivision 4, paragraph (a), clause (1), (2), or (3), or subdivision 5, paragraph (a), clause
9.7 (1), (2), or (3); or (2) revoked under section 171.17, subdivision 1, paragraph (a), clause
9.8 (1), or suspended under section 171.187, for a violation of section 609.2113, subdivision
9.9 1, clause (2), item (ii) or (iii), (5), or (6); subdivision 2, clause (2), item (ii) or (iii), (5), or
9.10 (6); or subdivision 3, clause (2), item (ii) or (iii), (5), or (6); or 609.2114, subdivision 2,
9.11 clause (2), item (i) or (iii), (3), or (4), resulting in bodily harm, substantial bodily harm, or
9.12 great bodily harm, where the participant has fewer than two qualified prior impaired driving
9.13 incidents within the past ten years or fewer than three qualified prior impaired driving
9.14 incidents ever; may apply for conditional reinstatement of the driver's license, subject to
9.15 the intensive testing program.

9.16 (c) A program participant whose driver's license has been: (1) revoked, canceled, or
9.17 denied under section 169A.52, subdivision 3, paragraph (a), clause (4), (5), or (6), or
9.18 subdivision 4, paragraph (a), clause (4), (5), or (6); 169A.54, subdivision 1, clause (5), (6),
9.19 or (7); or 171.177, subdivision 4, paragraph (a), clause (4), (5), or (6), or subdivision 5,
9.20 paragraph (a), clause (4), (5), or (6); or (2) revoked under section 171.17, subdivision 1,
9.21 paragraph (a), clause (1), or suspended under section 171.187, for a violation of section
9.22 609.2113, subdivision 1, clause (2), item (ii) or (iii), (5), or (6); subdivision 2, clause (2),
9.23 item (ii) or (iii), (5), or (6); or subdivision 3, clause (2), item (ii) or (iii), (5), or (6); or
9.24 609.2114, subdivision 2, clause (2), item (i) or (iii), (3), or (4), resulting in bodily harm,
9.25 substantial bodily harm, or great bodily harm, where the participant has two or more qualified
9.26 prior impaired driving incidents within the past ten years or three or more qualified prior
9.27 impaired driving incidents ever; may apply for conditional reinstatement of the driver's
9.28 license, subject to the intensive testing program, if the program participant is enrolled in a
9.29 licensed substance use disorder treatment or rehabilitation program as recommended in a
9.30 chemical use assessment. As a prerequisite to eligibility for eventual reinstatement of full
9.31 driving privileges, a participant whose chemical use assessment recommended treatment
9.32 or rehabilitation must complete a licensed substance use disorder treatment or rehabilitation
9.33 program. If the program participant submits a urine analysis that tests positive for the
9.34 presence of a controlled substance or its metabolite or for the presence of any specified
9.35 intoxicating substances, the commissioner must extend the time period that the participant

10.1 must participate in the program until the participant has reached the required abstinence
10.2 period described in section 169A.55, subdivision 4.

10.3 (d) Notwithstanding any statute or rule to the contrary, the commissioner has authority
10.4 to determine when a program participant is eligible for restoration of full driving privileges,
10.5 except that the commissioner must not reinstate full driving privileges until the program
10.6 participant has met all applicable prerequisites for reinstatement under section 169A.55 and
10.7 until the program participant has not tested positive for the presence of a controlled substance
10.8 or its metabolite or for the presence of any specified intoxicating substances during the
10.9 preceding 90 days.

10.10 Subd. 4. **Penalties; program violations.** (a) If a program participant violates a condition
10.11 of a license conditionally reinstated under subdivision 3 and section 171.30, or violates the
10.12 program guidelines under subdivision 2, the commissioner must extend the person's
10.13 revocation period under section 169A.52, 169A.54, or 171.177 by:

10.14 (1) 180 days for a first violation;

10.15 (2) one year for a second violation; or

10.16 (3) 545 days for a third and each subsequent violation.

10.17 (b) Notwithstanding paragraph (a), the commissioner may terminate participation in the
10.18 program by any person when, in the commissioner's judgment, termination is necessary to
10.19 the interests of public safety and welfare. In the event of termination, the commissioner
10.20 must not reduce the applicable revocation period under section 169A.52, 169A.54, or 171.177
10.21 by the amount of time during which the person possessed a limited or restricted driver's
10.22 license issued under the authority of subdivision 3.

10.23 Subd. 5. **Tampering; penalties.** A program participant who tampers with a test required
10.24 under this section, including but not limited to submitting a false or adulterated sample or
10.25 a person who advises or otherwise assists a program participant in tampering with a test
10.26 required under this section is guilty of a misdemeanor.

10.27 Subd. 6. **Venue.** In addition to the provisions of Rule 24 of the Rules of Criminal
10.28 Procedure and section 627.01, a violation of subdivision 5 may be prosecuted in:

10.29 (1) the county in which the tampering is alleged to have taken place;

10.30 (2) the county in which the accused resides; or

10.31 (3) the county in which the impaired driving incident occurred, which resulted in the
10.32 accused being issued a driver's license with an intensive testing program restriction.

11.1 Subd. 7. **Rulemaking.** In establishing the program guidelines under subdivision 2 and
11.2 any other rules necessary to implement this section, the commissioner is subject to chapter
11.3 14.

11.4 **EFFECTIVE DATE.** This section is effective August 1, 2024, and applies to revocations
11.5 and cancellations or denials that occur on or after that date.