

**SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION**

S.F. No. 5352

(SENATE AUTHORS: LATZ)

DATE
04/08/2024

D-PG

Introduction and first reading
Referred to Judiciary and Public Safety

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to public safety; expanding the DWI implied consent test advisory;
1.3 amending Minnesota Statutes 2022, sections 97B.066, subdivision 3; 171.177,
1.4 subdivision 1; 360.0753, subdivision 2; 624.7143, subdivision 3; Minnesota Statutes
1.5 2023 Supplement, section 169A.51, subdivision 4.

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

1.7 Section 1. Minnesota Statutes 2022, section 97B.066, subdivision 3, is amended to read:

1.8 Subd. 3. **Rights and obligations.** At the time a test is requested, the person must be
1.9 informed that:

1.10 (1) Minnesota law requires a person to take a test to determine if the person is under the
1.11 influence of alcohol or a controlled substance;

1.12 (2) if the person refuses to take the test, the person is subject to a civil penalty of \$500
1.13 and is prohibited for a one-year period from hunting, as provided under subdivision 2; and

1.14 (3) ~~that, in the case of a breath test,~~ the person has the right to consult with an attorney,
1.15 but that this right is limited to the extent it cannot unreasonably delay administration of the
1.16 test or the person will be deemed to have refused the test.

1.17 **EFFECTIVE DATE.** This section is effective August 1, 2024, and applies to tests
1.18 administered on or after that date.

2.1 Sec. 2. Minnesota Statutes 2023 Supplement, section 169A.51, subdivision 4, is amended
2.2 to read:

2.3 Subd. 4. **Requirement of urine or blood test.** A blood or urine test may be required
2.4 pursuant to a search warrant under sections 626.04 to 626.18 even after a breath test has
2.5 been administered if there is probable cause to believe that:

2.6 (1) there is impairment by a controlled substance; an intoxicating substance; or cannabis
2.7 flower, a cannabis product, a lower-potency hemp edible, a hemp-derived consumer product,
2.8 artificially derived cannabinoids, or tetrahydrocannabinols that is not subject to testing by
2.9 a breath test;

2.10 (2) a controlled substance listed in Schedule I or II or its metabolite, other than cannabis
2.11 flower, a cannabis product, a lower-potency hemp edible, a hemp-derived consumer product,
2.12 artificially derived cannabinoids, or tetrahydrocannabinols, is present in the person's body;
2.13 or

2.14 (3) the person is unconscious or incapacitated to the point that the peace officer providing
2.15 a ~~breath~~ test advisory, administering a breath test, or serving the search warrant has a
2.16 good-faith belief that the person is mentally or physically unable to comprehend the ~~breath~~
2.17 test advisory or otherwise voluntarily submit to chemical tests.

2.18 Action may be taken against a person who refuses to take a blood test under this
2.19 subdivision only if a urine test was offered and action may be taken against a person who
2.20 refuses to take a urine test only if a blood test was offered. This limitation does not apply
2.21 to an unconscious person under the circumstances described in clause (3).

2.22 **EFFECTIVE DATE.** This section is effective August 1, 2024, and applies to tests
2.23 administered on or after that date.

2.24 Sec. 3. Minnesota Statutes 2022, section 171.177, subdivision 1, is amended to read:

2.25 Subdivision 1. **Search warrant-required testing advisory.** At the time a blood or urine
2.26 test is directed pursuant to a search warrant under sections 626.04 to 626.18, or a judicially
2.27 recognized exception to the search warrant requirement, the person must be informed that:

2.28 (1) Minnesota law requires the person to take a test:

2.29 (i) to determine if the person is under the influence of alcohol; a controlled substance
2.30 or its metabolite; cannabis flower, a cannabis product, a lower-potency hemp edible, a
2.31 hemp-derived consumer product, artificially derived cannabinoids, or tetrahydrocannabinols;
2.32 or an intoxicating substance;

3.1 (ii) to determine the presence of a controlled substance listed in Schedule I or II or its
3.2 metabolite, other than cannabis flower, a cannabis product, a lower-potency hemp edible,
3.3 a hemp-derived consumer product, an artificially derived cannabinoid, or
3.4 tetrahydrocannabinols; and

3.5 (iii) if the motor vehicle was a commercial motor vehicle, to determine the presence of
3.6 alcohol;

3.7 (2) refusal to submit to a blood or urine test is a crime; and

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

3.10 **EFFECTIVE DATE.** This section is effective August 1, 2024, and applies to tests
3.11 administered on or after that date.

3.12 Sec. 4. Minnesota Statutes 2022, section 360.0753, subdivision 2, is amended to read:

3.13 Subd. 2. **Implied consent; conditions; election of test.** (a) Any person who operates
3.14 or attempts to operate an aircraft in or over this state or over any boundary water of this
3.15 state consents, subject to the provisions of this section and section 360.0752, to a chemical
3.16 test of that person's blood, breath, or urine for the purpose of determining the presence or
3.17 amount of alcohol, controlled substances, or intoxicating substances. The test shall be
3.18 administered at the direction of a peace officer.

3.19 (b) A test of the person's breath may be required when an officer has probable cause to
3.20 believe the person was operating or attempting to operate an aircraft in violation of section
3.21 360.0752 and one of the following conditions exists:

3.22 (1) the person has been lawfully placed under arrest for violation of section 360.0752;

3.23 (2) the person has been involved in an aircraft accident or collision resulting in property
3.24 damage, personal injury, or death;

3.25 (3) the person has refused to take the screening test provided for by section 360.0752;

3.26 (4) the screening test was administered and recorded an alcohol concentration of 0.04
3.27 or more or the presence of a controlled substance listed in Schedule I or II other than
3.28 marijuana or tetrahydrocannabinols; or

3.29 (5) the officer had probable cause to believe that the person was operating or attempting
3.30 to operate an aircraft with any amount of alcohol present in the person's body.

4.1 (c) A test of the person's blood or urine may be required by an officer under the conditions
4.2 described in paragraph (b) if the officer is acting pursuant to a search warrant under sections
4.3 626.04 to 626.18.

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

4.5 (1) that Minnesota law requires the person to take a test to determine the presence or
4.6 amount of alcohol or a controlled substance listed in Schedule I or II other than marijuana
4.7 or tetrahydrocannabinols, or to determine if the person is under the influence of alcohol,
4.8 controlled substances, or intoxicating substances;

4.9 (2) that whether a test is taken or refused, the person may be subject to criminal
4.10 prosecution for an alcohol, controlled substance, or intoxicating substance-related offense
4.11 relating to the operation of an aircraft;

4.12 (3) that if testing is refused, the person may be subject to criminal prosecution because
4.13 the person refused testing and the person will be disqualified from operating an aircraft for
4.14 a minimum period of one year;

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

4.18 (5) that, ~~in the case of a breath test,~~ the person has the right to consult with an attorney,
4.19 but that this right is limited to the extent that it cannot unreasonably delay administration
4.20 of the test.

4.21 **EFFECTIVE DATE.** This section is effective August 1, 2024, and applies to tests
4.22 administered on or after that date.

4.23 Sec. 5. Minnesota Statutes 2022, section 624.7143, subdivision 3, is amended to read:

4.24 Subd. 3. **Rights and obligations.** At the time a test is requested, the person must be
4.25 informed that:

4.26 (1) Minnesota law requires a person to take a test to determine if the person is under the
4.27 influence of alcohol or a controlled substance;

4.28 (2) if the person refuses to take the test, the person is subject to a civil penalty of \$500
4.29 and is prohibited for a period of one year from carrying a pistol in a public place on or about
4.30 the person's clothes or person, as provided under subdivision 2; and

5.1 (3) that, ~~in the case of a breath test,~~ the person has the right to consult with an attorney,
5.2 but that this right is limited to the extent it cannot unreasonably delay administration of the
5.3 test or the person will be deemed to have refused the test.

5.4 **EFFECTIVE DATE.** This section is effective August 1, 2024, and applies to tests
5.5 administered on or after that date.