



Technical Change to Minnesota Statute 171.177

The Office of Traffic Safety is seeking a technical correction to Statute 171.177. Section 171.177 currently makes reference to specific Minnesota statute numbers when it references the use of a search warrant to obtain a sample of a person's blood/urine in the course of an impaired driving investigation. These sections, 624.04 and 626.18, only apply to warrants executed in Minnesota. The legislature modified the Implied Consent Law in 2017 in response to higher court rulings that govern how fluid samples are obtained in impaired driving cases. If the driver fails that blood or urine test, the test failure is reported to the Department of Public Safety and on behalf of the DPS Commissioner, Driver and Vehicle Services revokes the driver's license. The entry of the test failure on the driving record causes any subsequent DWI offense to be enhanced to a higher level of crime and additional civil sanctions. However, when a suspected impaired driver is taken to a hospital in an adjacent state for medical treatment, a search warrant from the foreign state must be used to leverage the taking of the fluid sample. Because Minnesota statute 171.177 refers to search warrants by Minnesota statute numbers, the test result from a sample taken out of state is not reportable to DPS. The impaired driver remains valid and are not treated as a repeat offender in any subsequent DWI arrest, thwarting the intent of the legislature. Further, they are treated differently than a driver that provided a fluid sample in Minnesota.

Description:

If the impaired driving investigation and search warrant execution takes place in Minnesota and the results confirm alcohol/drug impairment, the results are automatically reported to DPS-Driver and Vehicle Services and triggers a revocation of the subject's driving privileges. Under the current language, a positive test result obtained as a result of a search warrant executed outside of Minnesota, do not meet the current statutory requirement in order to be reported to DPS-DVS. Thus no revocation action can be taken until the conviction for the offense occurs. This potentially could also affect any future offenses as the revocation would not be entered onto the driver's history. A previous revocation for an impaired driving offenses is a potential aggravating factor that would enhance subsequent offense charges.

Proposed Change:

Modify 171.177 to eliminate the specific references to section 624.04 and 626.18 and replace that language with the authorization that allows any test result obtained via a lawfully obtained/executed search warrant from any state to be reported to DPS-DVS.

**Goal:**

Bring consistency and fairness to the process of reporting impaired driving offenses to DPS-DVS in order to hold offenders accountable and to ensure public safety through the revocation of their driving privileges.

Further Explanation:

In many parts of Minnesota, the closest trauma hospital is located in an adjacent state. Frequently drivers injured in crashes are transported to the out-of-state facilities for treatment of their injuries. This includes drivers who may be impaired. When investigating potential impaired driving cases, law enforcement officers must obtain a search warrant in order to gather critical bodily fluid evidence that is analyzed for the presence of alcohol or an impairing substance. An affirmative test from an out-of-state search warrant does not meet the criteria laid out in section 624.04 or 626.18 and therefore cannot be reported to DPS-DVS and will not result in a license revocation. This deficiency poses a significant public safety threat in that an impaired driver who under normal circumstances would have their driving privileges revoked, will continue to be able to drive until the conclusion of the criminal case.