

1.1 Senator ..... moves to amend the delete-everything amendment (SCS2375A-3)  
1.2 to S.F. No. 2375 as follows:

1.3 Page 1, after line 2, insert:

"ARTICLE 1

## DWI CHANGES"

1.6 Page 12, after line 23, insert:

"ARTICLE 2

## **CONFORMING CHANGES**

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

Subdivision 1. **Mandatory chemical testing.** (a) A person who takes wild animals with a bow or firearm in this state or on a boundary water of this state is required, subject to the provisions of this section, to take or submit to a test of the person's blood, breath, or urine for the purpose of determining the presence and amount of alcohol or a controlled substance. The test shall be administered at the direction of an officer authorized to make arrests under section 97B.065, subdivision 2.

1.16       **(b)** Taking or submitting to the a test of the person's breath is mandatory when requested  
1.17 by an officer who has probable cause to believe the person was hunting in violation of  
1.18 section 97B.065, subdivision 1, paragraph (a) or (c), and one of the following conditions  
1.19 exists:

1.20       (1) the person has been lawfully placed under arrest for violating section 97B.065,  
1.21       subdivision 1, paragraph (a) or (c);

1.22 (2) the person has been involved while hunting in an accident resulting in property  
1.23 damage, personal injury, or death;

1.24 (3) the person has refused to take the preliminary screening test provided for in section  
1.25 97B.065, subdivision 3; or

1.26 (4) the screening test was administered and indicated an alcohol concentration of 0.08  
1.27 or more.

1.28       (c) Taking or submitting to a test of the person's blood or urine is mandatory when  
1.29       requested by a peace officer under the conditions described in paragraph (b) if the officer  
1.30       is acting pursuant to a search warrant under sections 626.04 to 626.18.

1.31        **EFFECTIVE DATE.** This section is effective July 1, 2017, and applies to acts committed  
1.32        on or after that date.

2.1 Sec. 2. Minnesota Statutes 2016, section 97B.066, is amended by adding a subdivision to  
2.2 read:

2.3       **Subd. 1a. Blood or urine test; search warrant required.** Notwithstanding any contrary  
2.4 provision in this section, a blood or urine test may be conducted only pursuant to a search  
2.5 warrant under sections 626.04 to 626.18, or a judicially recognized exception to the search  
2.6 warrant requirement. When, under the provisions of this section, a search warrant is required  
2.7 for a blood or urine test, that requirement is met if a judicially recognized exception to the  
2.8 search warrant is applicable.

2.9       **EFFECTIVE DATE.** This section is effective July 1, 2017, and applies to acts committed  
2.10 on or after that date.

2.11 Sec. 3. Minnesota Statutes 2016, section 97B.066, subdivision 2, is amended to read:

2.12       **Subd. 2. Penalties; refusal; revocation of hunting privilege.** (a) If a person refuses to  
2.13 take a test required under subdivision 1, none must be given but the officer authorized to  
2.14 make arrests under section 97B.065, subdivision 2, shall report the refusal to the  
2.15 commissioner of natural resources and to the authority having responsibility for prosecution  
2.16 of misdemeanor offenses for the jurisdiction in which the incident occurred that gave rise  
2.17 to the test demand and refusal.

2.18       On certification by the officer that probable cause existed to believe the person had been  
2.19 hunting while under the influence of alcohol or a controlled substance, that in the case of a  
2.20 blood or urine test the officer was acting pursuant to a search warrant, and that the person  
2.21 refused to submit to testing, the commissioner shall impose a civil penalty of \$500 and shall  
2.22 prohibit the person from hunting for one year.

2.23       On behalf of the commissioner, an officer requiring a test or directing the administration  
2.24 of a test shall serve on a person who refused to permit a test immediate notice of intention  
2.25 to prohibit the person from hunting, and to impose the civil penalty set forth in this  
2.26 subdivision. If the officer fails to serve a notice of intent to suspend hunting privileges, the  
2.27 commissioner may notify the person by certified mail to the address on the license of the  
2.28 person. The notice must advise the person of the right to obtain administrative and judicial  
2.29 review as provided in this section. The prohibition imposed by the commissioner takes  
2.30 effect ten days after receipt of the notice. The civil penalty is imposed 30 days after receipt  
2.31 of the notice or upon return of the certified mail to the commissioner, and must be paid  
2.32 within 30 days of imposition.

3.1       (b) A person who hunts during the period the person is prohibited from hunting as  
3.2       provided under paragraph (a) is guilty of a misdemeanor.

3.3       **EFFECTIVE DATE.** This section is effective July 1, 2017, and applies to acts committed  
3.4       on or after that date.

3.5       Sec. 4. Minnesota Statutes 2016, section 97B.066, subdivision 4, is amended to read:

3.6       Subd. 4. **Requirement of urine Type of test.** Notwithstanding subdivision 1, (a) A  
3.7       peace officer who directs a test pursuant to this section may direct a breath test.

3.8       (b) A peace officer, acting pursuant to a search warrant, may direct a blood or urine test  
3.9       as provided in the warrant. If the warrant authorizes either a blood or urine test, the officer  
3.10      may direct whether the test is of blood or urine. In any event, the officer shall offer the  
3.11      person an alternative test of either blood or urine.

3.12      (c) If there is probable cause to believe there is impairment by a controlled substance  
3.13      that is not subject to testing by a breath test, a blood or urine test may be required pursuant  
3.14      to a search warrant even after a breath test has been administered.

3.15      (d) Action under this section may be taken against a person who refuses to take a blood  
3.16      test only if an alternative test was offered and action may be taken against a person who  
3.17      refuses to take a urine test only if an alternative test was offered.

3.18       **EFFECTIVE DATE.** This section is effective July 1, 2017, and applies to acts committed  
3.19       on or after that date.

3.20       Sec. 5. Minnesota Statutes 2016, section 97B.066, subdivision 9, is amended to read:

3.21       Subd. 9. **Hearing.** (a) A hearing under this section must be before a district court judge  
3.22       in the county where the incident occurred which gave rise to the test demand and refusal.  
3.23       The hearing must be to the court and may be conducted at the same time as hearings upon  
3.24       pretrial motions in the criminal prosecution under section 97B.065. The hearing must be  
3.25       recorded. The commissioner must be represented by the prosecuting authority for  
3.26       misdemeanor offenses for the jurisdiction in which the incident occurred which gave rise  
3.27       to the test demand and refusal.

3.28       (b) The hearing must be held at the earliest practicable date and in any event no later  
3.29       than 60 days following the filing of the petition for review. The reviewing court may order  
3.30       a temporary stay of the balance of the prohibition or revocation if the hearing has not been  
3.31       conducted within 60 days after filing of the petition, upon the application of the petitioner  
3.32       and upon terms the court deems proper.

4.1       (c) The scope of the hearing must be limited to the issues of:

4.2       (1) whether the officer had probable cause to believe that the person violated section  
4.3       97B.065;

4.4       (2) whether one of the conditions in subdivision 1 existed;

4.5       (3) if the test involved blood or urine, whether a licensed peace officer applied for a  
4.6       search warrant in accordance with the requirements set forth in sections 626.04 to 626.18,  
4.7       and, if so, whether a neutral magistrate reviewed the application for the search warrant and  
4.8       determined there was probable cause to believe that the person violated section 97B.065;

4.9       (4) whether the person was informed as prescribed in subdivision 3; and

4.10      (4) (5) whether the person refused to submit to testing.

4.11      (d) It is an affirmative defense for the petitioner to prove that, at the time of the refusal,  
4.12      the petitioner's refusal to permit the test was based upon reasonable grounds.

4.13      (e) The court shall order that the prohibition or revocation be either sustained or rescinded  
4.14      and shall either sustain or rescind the civil penalty. The court shall forward a copy of the  
4.15      order to the commissioner.

4.16      **EFFECTIVE DATE.** This section is effective July 1, 2017, and applies to acts committed  
4.17      on or after that date.

4.18      Sec. 6. Minnesota Statutes 2016, section 360.0753, subdivision 2, is amended to read:

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

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

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

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

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

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

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

5.6       (c) A test of the person's blood or urine may be required by an officer under the conditions  
5.7       described in paragraph (b) if the officer is acting pursuant to a search warrant under sections  
5.8       626.04 to 626.18.

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

5.10      (1) that Minnesota law requires the person to take a test to determine the presence or  
5.11      amount of alcohol or a controlled substance listed in Schedule I or II other than marijuana  
5.12      or tetrahydrocannabinols, or to determine if the person is under the influence of alcohol,  
5.13      controlled substances, or hazardous substances;

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

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

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

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

5.25      ~~(e) The peace officer who requires a test pursuant to this subdivision may direct whether~~  
5.26      ~~the test shall be of blood, breath, or urine. Action may be taken against a person who refuses~~  
5.27      ~~to take a blood test only if an alternative test was offered, and action may be taken against~~  
5.28      ~~a person who refuses to take a urine test only if an alternative test was offered.~~

5.29      **EFFECTIVE DATE.** This section is effective July 1, 2017, and applies to acts committed  
5.30      on or after that date.

6.1        Sec. 7. Minnesota Statutes 2016, section 360.0753, is amended by adding a subdivision  
6.2        to read:

6.3        Subd. 2a. **Blood or urine test; search warrant required.** Notwithstanding any contrary  
6.4        provision in this section, a blood or urine test may be conducted only pursuant to a search  
6.5        warrant under sections 626.04 to 626.18, or a judicially recognized exception to the search  
6.6        warrant requirement. When, under the provisions of this section, a search warrant is required  
6.7        for a blood or urine test, that requirement is met if a judicially recognized exception to the  
6.8        search warrant is applicable.

6.9        **EFFECTIVE DATE.** This section is effective July 1, 2017, and applies to acts committed  
6.10        on or after that date.

6.11        Sec. 8. Minnesota Statutes 2016, section 360.0753, subdivision 3, is amended to read:

6.12        Subd. 3. **Requirement of urine or blood Type of test. Notwithstanding subdivision 2,**

6.13        (a) A peace officer who directs a test pursuant to this section may direct a breath test.

6.14        (b) A peace officer, acting pursuant to a search warrant, may direct a blood or urine test  
6.15        as provided in the warrant. If the warrant authorizes either a blood or urine test, the officer  
6.16        may direct whether the test is of blood or urine. In any event, the officer shall offer the  
6.17        person an alternative test of either blood or urine.

6.18        (c) A blood or urine test may be required pursuant to a search warrant even after a breath  
6.19        test has been administered if there is probable cause to believe that: (1) there is impairment  
6.20        by a controlled substance or hazardous substance that is not subject to testing by a breath  
6.21        test; or (2) a controlled substance listed in Schedule I or II, other than marijuana or  
6.22        tetrahydrocannabinols, is present in the person's body. Action may be taken against a person  
6.23        who refuses to take a blood test under this subdivision only if a urine test was offered, and  
6.24        action may be taken against a person who refuses to take a urine test only if a blood test  
6.25        was offered.

6.26        (d) Action under this section may be taken against a person who refuses to take a blood  
6.27        test only if an alternative test was offered and action may be taken against a person who  
6.28        refuses to take a urine test only if an alternative test was offered.

6.29        **EFFECTIVE DATE.** This section is effective July 1, 2017, and applies to acts committed  
6.30        on or after that date.

7.1 Sec. 9. Minnesota Statutes 2016, section 360.0753, subdivision 7, is amended to read:

7.2       **Subd. 7. Refusal to permit test; cease and desist order.** If a person under arrest refuses  
7.3 to permit chemical testing, none shall be given, but the commissioner of transportation,  
7.4 upon the receipt of a certificate of the peace officer that the officer had reasonable and  
7.5 probable grounds to believe the arrested person had been operating or attempting to operate  
7.6 an aircraft in violation of section 360.0752, that in the case of a blood or urine test the officer  
7.7 was acting pursuant to a search warrant, and that the person had refused to permit the test,  
7.8 shall issue a cease and desist order prohibiting the operation of an aircraft for a period of  
7.9 one year. However, if a peace officer has probable cause to believe that the person has  
7.10 violated section 609.2112, 609.2113, or 609.2114, a test may be required and obtained  
7.11 despite the person's refusal. When a test is obtained pursuant to this section after the person  
7.12 refused to submit to testing, the commissioner of transportation shall issue a cease and desist  
7.13 order under this section based on the person's refusal. However, if the test is of the person's  
7.14 blood or urine, the test must have been taken pursuant to a search warrant in order for a  
7.15 cease and desist order to be issued.

7.16       **EFFECTIVE DATE.** This section is effective July 1, 2017, and applies to acts committed  
7.17 on or after that date.

7.18 Sec. 10. Minnesota Statutes 2016, section 360.0753, subdivision 9, is amended to read:

7.19       **Subd. 9. Hearing.** The hearing shall be before a district court in the county where the  
7.20 arrest occurred, unless there is agreement that the hearing may be held in some other county.  
7.21 The hearing shall be recorded and proceed as in a criminal matter, without the right of trial  
7.22 by jury, and its scope shall cover the issues of whether the peace officer had reasonable and  
7.23 probable grounds to believe the person was operating or attempting to operate an aircraft  
7.24 in violation of section 360.0752; whether the person was lawfully placed under arrest; if  
7.25 the test involved blood or urine, whether a licensed peace officer applied for a search warrant  
7.26 in accordance with the requirements set forth in sections 626.04 to 626.18, and, if so, whether  
7.27 a neutral magistrate reviewed the application for the search warrant and determined there  
7.28 was probable cause to believe that the person violated section 360.0752; whether the person  
7.29 refused to permit the test, and if the person refused whether the person had reasonable  
7.30 grounds for refusing to permit the test; and whether at the time of request for the test the  
7.31 peace officer informed the person that the right to fly will be denied if the person refused  
7.32 to permit the test and of the right to have additional tests made by someone of the person's  
7.33 own choosing. The court shall order either that the denial be rescinded or sustained and  
7.34 refer the order to the commissioner of transportation for further action.

8.1       **EFFECTIVE DATE.** This section is effective July 1, 2017, and applies to acts committed  
8.2       on or after that date.

8.3       Sec. 11. Minnesota Statutes 2016, section 624.7143, subdivision 1, is amended to read:

8.4           Subdivision 1. **Mandatory chemical testing.** (a) A person who carries a pistol in a  
8.5       public place on or about the person's clothes or person is required, subject to the provisions  
8.6       of this section, to take or submit to a test of the person's blood, breath, or urine for the  
8.7       purpose of determining the presence and amount of alcohol or a controlled substance. The  
8.8       test shall be administered at the direction of an officer authorized to make arrests under  
8.9       section 624.7142.

8.10          (b) Taking or submitting to the a test of the person's breath is mandatory when requested  
8.11       by an officer who has probable cause to believe the person was carrying a pistol in violation  
8.12       of section 624.7142, and one of the following conditions exists:

8.13           (1) the person has been lawfully placed under arrest for violating section 624.7142;  
8.14           (2) the person has been involved while carrying a firearm in a firearms-related accident  
8.15       resulting in property damage, personal injury, or death;  
8.16           (3) the person has refused to take the preliminary screening test provided for in section  
8.17       624.7142; or

8.18           (4) the screening test was administered and indicated an alcohol concentration of 0.04  
8.19       or more.

8.20          (c) Taking or submitting to a test of the person's blood or urine is mandatory when  
8.21       requested by a peace officer under the conditions described in paragraph (b) if the officer  
8.22       is acting pursuant to a search warrant under sections 626.04 to 626.18.

8.23          **EFFECTIVE DATE.** This section is effective July 1, 2017, and applies to acts committed  
8.24       on or after that date.

8.25       Sec. 12. Minnesota Statutes 2016, section 624.7143, is amended by adding a subdivision  
8.26       to read:

8.27           Subd. 1a. **Blood or urine test; search warrant required.** Notwithstanding any contrary  
8.28       provision in this section, a blood or urine test may be conducted only pursuant to a search  
8.29       warrant under sections 626.04 to 626.18, or a judicially recognized exception to the search  
8.30       warrant requirement. When, under the provisions of this section, a search warrant is required

9.1 for a blood or urine test, that requirement is met if a judicially recognized exception to the  
9.2 search warrant is applicable.

9.3 **EFFECTIVE DATE.** This section is effective July 1, 2017, and applies to acts committed  
9.4 on or after that date.

9.5 Sec. 13. Minnesota Statutes 2016, section 624.7143, subdivision 2, is amended to read:

9.6       **Subd. 2. Penalties; refusal; revocation.** (a) If a person refuses to take a test required  
9.7 under subdivision 1, none must be given but the officer shall report the refusal to the sheriff  
9.8 and to the authority having responsibility for prosecution of misdemeanor offenses for the  
9.9 jurisdiction in which the incident occurred that gave rise to the test demand and refusal. On  
9.10 certification by the officer that probable cause existed to believe the person had been carrying  
9.11 a pistol on or about the person's clothes or person in a public place while under the influence  
9.12 of alcohol or a controlled substance, that in the case of a blood or urine test the officer was  
9.13 acting pursuant to a search warrant, and that the person refused to submit to testing, a court  
9.14 may impose a civil penalty of \$500 and may revoke the person's authority to carry a pistol  
9.15 in a public place on or about the person's clothes or person under the provisions of a permit  
9.16 or otherwise for a period of one year from the date of the refusal. The person shall be  
9.17 accorded notice and an opportunity to be heard prior to imposition of the civil penalty or  
9.18 the revocation.

9.19       (b) Revocations under this subdivision must be reported in the same manner as in section  
9.20 624.714, subdivision 12a.

9.21       **EFFECTIVE DATE.** This section is effective July 1, 2017, and applies to acts committed  
9.22 on or after that date.

9.23 Sec. 14. Minnesota Statutes 2016, section 624.7143, subdivision 4, is amended to read:

9.24       **Subd. 4. Requirement of blood or urine Type of test. Notwithstanding subdivision**  
9.25 1, (a) A peace officer who directs a test pursuant to this section may direct a breath test.

9.26       (b) A peace officer, acting pursuant to a search warrant, may direct a blood or urine test  
9.27 as provided in the warrant. If the warrant authorizes either a blood or urine test, the officer  
9.28 may direct whether the test is of blood or urine. In any event, the officer shall offer the  
9.29 person an alternative test of either blood or urine.

9.30       (c) If there is probable cause to believe there is impairment by a controlled substance  
9.31 that is not subject to testing by a breath test, a blood or urine test may be required pursuant  
9.32 to a search warrant even after a breath test has been administered.

10.1        (d) Action under this section may be taken against a person who refuses to take a blood  
10.2        test only if an alternative test was offered and action may be taken against a person who  
10.3        refuses to take a urine test only if an alternative test was offered.

10.4        **EFFECTIVE DATE.** This section is effective July 1, 2017, and applies to acts committed  
10.5        on or after that date.

10.6        Sec. 15. **REVISOR'S INSTRUCTION.**

10.7        The revisor of statutes shall add references to new Minnesota Statutes, section 171.177,  
10.8        in statutes that reference driver's license revocations under Minnesota Statutes, section  
10.9        169A.52, as appropriate."

10.10      Amend the title accordingly