

Legislative & Case Law Update

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Presentation Outline

- Legislative Update
- Case Law Update
- Uncertainty of Measurement

Legislative Update 2016



What Passed?

- Autocycles
- Obedience of School Bus Flaggers
- Seat Belt
- Criminal Vehicular Homicide

Autocycle



2016 Session Law: Chapter 114

Autocycle

- Minn. Stat. 169.011, subd. 3a – definition
- Minn. Stat. 169.686 – seat belt requirement
- Minn. Stat. 169.975 – “A person may operate an autocycle without a two-wheeled vehicle endorsement, provided the person has a valid driver’s license issued under section 171.02.”
- Minn. Stat. 171.01, subd. 2(c)(9) – Class D license to operate an autocycle

Obedience of School Bus Flagger

- Minn. Stat. 169.06, subd. 4b:

“A person may stop and hold vehicles in place at a location on a street or highway having a speed limit of 35 miles per hour or less until it is safe for the vehicles to proceed, if the person: .
...”

Obedience of School Bus Flagger

1. Designated by the school district to act as a school bus flagger
2. Controls traffic – enable buses to leave school property
3. Meets standards in Subd. 1

Seat Belt

Minn. Stat. 169.686, subd. 1(c):

“The driver of a bus is not subject to the fine under paragraph (b) for a violation of paragraph (a) by a passenger under the age of 15. This paragraph does not apply to (1) a school bus, including a type III vehicle; and (2) a Head Start bus, including a type II Head Start vehicle.”

Criminal Vehicular Homicide

- Effective Date: August 1, 2016
- Increases the maximum sentence to 15 years when there is a prior DWI or CVO/CVH
 - Minn. Stat. 609.2111
 - Minn. Stat. 609.2112
 - Minn. Stat. 609.2114

The image shows the Supreme Court building in Washington, D.C., during the "blue hour" of dusk. The building's neoclassical facade, featuring a portico with eight Corinthian columns and a pediment with a relief sculpture, is illuminated by the low sun. In the foreground, a large, ornate stone lamp with three glowing globes stands on a tiered base. A wide set of marble steps leads up to the entrance, where a lone figure is visible. The sky is a pale, clear blue, and the overall atmosphere is serene and majestic.

Case Law Update



***Birchfield v. North Dakota,
Bernard v. Minnesota,
Beylund v. Levi,
136 S. Ct. 2160 (June 23, 2016).***

Birchfield, Bernard and Beylund

- **Bernard (MN):** Breath test is a valid search incident to arrest
- **Birchfield (ND):** Blood test is not a search incident to arrest; need a warrant or another exception
- **Beylund (ND):** Can revoke driver's license for failure to take a blood test, but cannot criminalize refusal; remanded to determine consent based on totality of the circumstances



State v. Trahan,

-- N.W.2d --, 2016 WL 5930153 (Minn. Ct. App. Oct. 12, 2016)

State v. Thompson,

-- N.W.2d --, 2016 WL 5930162 (Minn. Ct. App. Oct. 12, 2016)

Trahan and Thompson

- **Trahan:** Followed the U.S. Supreme Court's precedent in *Birchfield*: a blood test is not a search incident to arrest
- **Thompson:** Likened urine tests to blood tests, holding that urine tests are more invasive than breath tests and therefore do not constitute a search incident to arrest

Birchfield, Bernard and Beylund

- ***State v. Fawcett*, 877 N.W.2d 555 (Minn. Ct. App. Jan. 11, 2016)**: a sample obtained to test for alcohol can also be used to test for controlled substances; an additional warrant is not needed
- ***State v. Carson*, 884 N.W.2d 917 (Minn. Ct. App. Sept. 6, 2016)**: dust-off (DFE) meets the definition of a hazardous substance
- ***Janssen v. Commissioner of Public Safety*, 884 N.W.2d 424 (Minn. Ct. App. Aug. 22, 2016)**: a motorist can challenge the accuracy of a breath test in an implied consent hearing

Questions

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