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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 1081

03/04/2013 Authored by Allen, Holberg, Hortman, Rosenthal, Beard and others  
The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy  
By motion, recalled and re-referred to the Committee on Civil Law

A bill for an act

relating to forfeiture; shifting the burden of proof to the prosecutor in an innocent owner case involving off-highway vehicles, DWI, designated offenses, controlled substance offenses, fleeing offenses, and prostitution offenses; codifying and expanding the homestead exemption; allowing innocent owners to reclaim vehicle if equipped with ignition interlock device; creating criminal penalties; amending Minnesota Statutes 2012, sections 84.7741, subdivision 7; 169A.63, subdivisions 4, 7, 9; 609.531, subdivision 1, by adding subdivisions; 609.5311, subdivision 3; 609.5312, subdivisions 2, 3, 4; 609.5318, subdivision 5.

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

Section 1. Minnesota Statutes 2012, section 84.7741, subdivision 7, is amended to read:

Subd. 7. **Presumptions; limitations on vehicle forfeiture.** (a) An off-highway vehicle is presumed subject to forfeiture under this section if the driver:

(1) is convicted of the designated offense upon which the forfeiture is based; or

(2) fails to appear for a scheduled court appearance with respect to the designated offense charged and fails to voluntarily surrender within 48 hours after the time required for appearance.

~~(b) An off-highway vehicle encumbered by a security interest perfected according to section 168A.17, subdivision 2, or subject to a lease that has a term of 180 days or more, is subject to the interest of the secured party or lessor unless the party or lessor had knowledge of or consented to the act upon which the forfeiture is based. However, when the proceeds of the sale of a seized vehicle do not equal or exceed the outstanding loan balance, the appropriate agency shall remit all proceeds of the sale to the secured party after deducting the agency's costs for the seizure, tow, storage, forfeiture, and sale of the vehicle. If the sale of the vehicle is conducted in a commercially reasonable manner consistent with section 336.9-610, the agency is not liable to the secured party for any amount owed on the loan~~

2.1 ~~in excess of the sale proceeds. The validity and amount of a nonperfected security interest~~  
2.2 ~~must be established by its holder by clear and convincing evidence. The limitations and~~  
2.3 ~~defenses in section 609.531, subdivisions 9 and 10, apply to forfeitures under this section.~~

2.4 ~~(c) Notwithstanding paragraph (b), the secured party's or lessor's interest in an~~  
2.5 ~~off-highway vehicle is not subject to forfeiture based solely on the secured party's or~~  
2.6 ~~lessor's knowledge of the act or omission upon which the forfeiture is based if the secured~~  
2.7 ~~party or lessor demonstrates by clear and convincing evidence that the party or lessor took~~  
2.8 ~~reasonable steps to terminate use of the vehicle by the offender.~~

2.9 ~~(d) An off-highway vehicle is not subject to forfeiture under this section if its owner~~  
2.10 ~~can demonstrate by clear and convincing evidence that the owner did not have actual~~  
2.11 ~~or constructive knowledge that the vehicle would be used or operated in any manner~~  
2.12 ~~contrary to law or that the owner took reasonable steps to prevent use of the vehicle by~~  
2.13 ~~the offender. If the offender is a family or household member of the owner and has three~~  
2.14 ~~or more prior off-highway vehicle convictions, the owner is presumed to know of any~~  
2.15 ~~vehicle use by the offender that is contrary to law.~~

2.16 ~~**EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to~~  
2.17 ~~offenses committed on or after that date.~~

2.18 Sec. 2. Minnesota Statutes 2012, section 169A.63, subdivision 4, is amended to read:

2.19 Subd. 4. **Bond by owner for possession.** (a) If the owner of a vehicle that has been  
2.20 seized under this section seeks possession of the vehicle before the forfeiture action is  
2.21 determined, the owner may give security or post bond payable to the appropriate agency  
2.22 in an amount equal to the retail value of the seized vehicle. On posting the security or  
2.23 bond, the seized vehicle ~~may~~ shall be returned to the owner only if a disabling device is  
2.24 attached to the vehicle upon return or pursuant to paragraph (b). The forfeiture action must  
2.25 proceed against the security as if it were the seized vehicle. This subdivision does not  
2.26 apply to a vehicle being held for investigatory purposes.

2.27 (b) For purposes of paragraph (a), a disabling device includes a certified ignition  
2.28 interlock device installed for use only by an owner of the vehicle with valid Minnesota  
2.29 driving privileges. Installation must be completed and confirmed by an approved service  
2.30 provider on the date the vehicle is returned. If confirmation is not timely received, the  
2.31 appropriate agency may seize the vehicle and seek costs from the owner. The owner shall  
2.32 bring the vehicle to an approved service provider for installation, device calibration, and  
2.33 servicing according to the schedule established by the commissioner of public safety and  
2.34 as indicated by the ignition interlock device. For purposes of this paragraph, section  
2.35 171.306 applies as related to certification and approved service providers of ignition

3.1 interlock devices. It is a misdemeanor to tamper with, circumvent, or bypass an ignition  
3.2 interlock device or assist another to tamper with, circumvent, or bypass a device installed  
3.3 pursuant to this paragraph.

3.4 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to  
3.5 offenses committed on or after that date.

3.6 Sec. 3. Minnesota Statutes 2012, section 169A.63, subdivision 7, is amended to read:

3.7 Subd. 7. **Limitations on vehicle forfeiture.** (a) A vehicle is presumed subject to  
3.8 forfeiture under this section if:

3.9 (1) the driver is convicted of the designated offense upon which the forfeiture is based;

3.10 (2) the driver fails to appear for a scheduled court appearance with respect to the  
3.11 designated offense charged and fails to voluntarily surrender within 48 hours after the  
3.12 time required for appearance; or

3.13 (3) the driver's conduct results in a designated license revocation and the driver  
3.14 fails to seek judicial review of the revocation in a timely manner as required by section  
3.15 169A.53, subdivision 2, (petition for judicial review), or the license revocation is judicially  
3.16 reviewed and sustained under section 169A.53, subdivision 2.

3.17 ~~(b) A vehicle encumbered by a security interest perfected according to section~~  
3.18 ~~168A.17, subdivision 2, or subject to a lease that has a term of 180 days or more, is subject~~  
3.19 ~~to the interest of the secured party or lessor unless the party or lessor had knowledge of~~  
3.20 ~~or consented to the act upon which the forfeiture is based. However, when the proceeds~~  
3.21 ~~of the sale of a seized vehicle do not equal or exceed the outstanding loan balance, the~~  
3.22 ~~appropriate agency shall remit all proceeds of the sale to the secured party after deducting~~  
3.23 ~~the agency's costs for the seizure, tow, storage, forfeiture, and sale of the vehicle. If the~~  
3.24 ~~sale of the vehicle is conducted in a commercially reasonable manner consistent with the~~  
3.25 ~~provisions of section 336.9-610, the agency is not liable to the secured party for any~~  
3.26 ~~amount owed on the loan in excess of the sale proceeds. The validity and amount of a~~  
3.27 ~~nonperfected security interest must be established by its holder by clear and convincing~~  
3.28 ~~evidence. The limitations and defenses in section 609.531, subdivisions 9 and 10, apply~~  
3.29 ~~to forfeitures under this section.~~

3.30 (c) Notwithstanding paragraph (b), the secured party's or lessor's interest in a vehicle  
3.31 is not subject to forfeiture based solely on the secured party's or lessor's knowledge of  
3.32 the act or omission upon which the forfeiture is based if the secured party or lessor  
3.33 demonstrates by clear and convincing evidence that the party or lessor took reasonable  
3.34 steps to terminate use of the vehicle by the offender.

4.1 ~~(d) A motor vehicle is not subject to forfeiture under this section if its owner can~~  
 4.2 ~~demonstrate by clear and convincing evidence that the owner did not have actual or~~  
 4.3 ~~constructive knowledge that the vehicle would be used or operated in any manner contrary~~  
 4.4 ~~to law or that the owner took reasonable steps to prevent use of the vehicle by the offender.~~  
 4.5 ~~If the offender is a family or household member of the owner and has three or more prior~~  
 4.6 ~~impaired driving convictions, the owner is presumed to know of any vehicle use by the~~  
 4.7 ~~offender that is contrary to law. "Vehicle use contrary to law" includes, but is not limited~~  
 4.8 ~~to, violations of the following statutes:~~

- 4.9 ~~(1) section 171.24 (violations; driving without valid license);~~  
 4.10 ~~(2) section 169.791 (criminal penalty for failure to produce proof of insurance);~~  
 4.11 ~~(3) section 171.09 (driving restrictions; authority, violations);~~  
 4.12 ~~(4) section 169A.20 (driving while impaired);~~  
 4.13 ~~(5) section 169A.33 (underage drinking and driving); and~~  
 4.14 ~~(6) section 169A.35 (open bottle law).~~

4.15 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to  
 4.16 offenses committed on or after that date.

4.17 Sec. 4. Minnesota Statutes 2012, section 169A.63, subdivision 9, is amended to read:

4.18 Subd. 9. **Judicial forfeiture procedure.** (a) This subdivision governs judicial  
 4.19 determinations of the forfeiture of a motor vehicle used to commit a designated offense or  
 4.20 used in conduct resulting in a designated license revocation. An action for forfeiture is a  
 4.21 civil in rem action and is independent of any criminal prosecution. All proceedings are  
 4.22 governed by the Rules of Civil Procedure.

4.23 (b) If no demand for judicial determination of the forfeiture is pending, the  
 4.24 prosecuting authority may, in the name of the jurisdiction pursuing the forfeiture, file a  
 4.25 separate complaint against the vehicle, describing it, specifying that it was used in the  
 4.26 commission of a designated offense or was used in conduct resulting in a designated  
 4.27 license revocation, and specifying the time and place of its unlawful use.

4.28 (c) The prosecuting authority may file an answer to a properly served demand  
 4.29 for judicial determination, including an affirmative counterclaim for forfeiture. The  
 4.30 prosecuting authority is not required to file an answer.

4.31 (d) A judicial determination under this subdivision must be held at the earliest  
 4.32 practicable date, and in any event no later than 180 days following the filing of the  
 4.33 demand by the claimant. If a related criminal proceeding is pending, the hearing shall not  
 4.34 be held until the conclusion of the criminal proceedings. The district court administrator  
 4.35 shall schedule the hearing as soon as practicable after the conclusion of the criminal

5.1 prosecution. The district court administrator shall establish procedures to ensure efficient  
5.2 compliance with this subdivision. The hearing is to the court without a jury.

5.3 (e) There is a presumption that a vehicle seized under this section is subject  
5.4 to forfeiture if the prosecuting authority establishes that the vehicle was used in the  
5.5 commission of a designated offense or designated license revocation. ~~A claimant bears the~~  
5.6 ~~burden of proving any affirmative defense raised.~~

5.7 (f) The limitations and defenses in section 609.531, subdivisions 9 and 10, apply  
5.8 to forfeitures under this section.

5.9 (g) If the forfeiture is based on the commission of a designated offense and the person  
5.10 charged with the designated offense appears in court as required and is not convicted of  
5.11 the offense, the court shall order the property returned to the person legally entitled to it  
5.12 upon that person's compliance with the redemption requirements of section 169A.42. If  
5.13 the forfeiture is based on a designated license revocation, and the license revocation is  
5.14 rescinded under section 169A.53, subdivision 3 (judicial review hearing, issues, order,  
5.15 appeal), the court shall order the property returned to the person legally entitled to it upon  
5.16 that person's compliance with the redemption requirements of section 169A.42.

5.17 ~~(g)~~ (h) If the lawful ownership of the vehicle used in the commission of a designated  
5.18 offense or used in conduct resulting in a designated license revocation can be determined  
5.19 and the owner makes the demonstration required under subdivision 7, paragraph (d)  
5.20 vehicle is not subject to forfeiture under section 609.531, subdivision 9 or 10, the  
5.21 vehicle must be returned immediately upon the owner's compliance with the redemption  
5.22 requirements of section 169A.42.

5.23 ~~(h)~~ (i) If the court orders the return of a seized vehicle under this subdivision it  
5.24 must order that filing fees be reimbursed to the person who filed the demand for judicial  
5.25 determination. In addition, the court may order sanctions under section 549.211 (sanctions  
5.26 in civil actions). Any reimbursement fees or sanctions must be paid from other forfeiture  
5.27 proceeds of the law enforcement agency and prosecuting authority involved and in the  
5.28 same proportion as distributed under subdivision 10, paragraph (b).

5.29 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to  
5.30 offenses committed on or after that date.

5.31 Sec. 5. Minnesota Statutes 2012, section 609.531, subdivision 1, is amended to read:

5.32 Subdivision 1. **Definitions.** For the purpose of sections 609.531 to 609.5318, the  
5.33 following terms have the meanings given them.

5.34 (a) "Conveyance device" means a device used for transportation and includes, but  
5.35 is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any

6.1 equipment attached to it. The term "conveyance device" does not include property which  
6.2 is, in fact, itself stolen or taken in violation of the law.

6.3 (b) "Weapon used" means a dangerous weapon as defined under section 609.02,  
6.4 subdivision 6, that the actor used or had in possession in furtherance of a crime.

6.5 (c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

6.6 (d) "Contraband" means property which is illegal to possess under Minnesota law.

6.7 (e) "Appropriate agency" means the Bureau of Criminal Apprehension, the  
6.8 Department of Commerce Division of Insurance Fraud Prevention, the Minnesota Division  
6.9 of Driver and Vehicle Services, the Minnesota State Patrol, a county sheriff's department,  
6.10 the Three Rivers Park District park rangers, the Department of Natural Resources Division  
6.11 of Enforcement, the University of Minnesota Police Department, the Department of  
6.12 Corrections Fugitive Apprehension Unit, a city, metropolitan transit, or airport police  
6.13 department; or a multijurisdictional entity established under section 299A.642 or 299A.681.

6.14 (f) "Designated offense" includes:

6.15 (1) for weapons used: any violation of this chapter, chapter 152, or chapter 624;

6.16 (2) for driver's license or identification card transactions: any violation of section  
6.17 171.22; and

6.18 (3) for all other purposes: a felony violation of, or a felony-level attempt or  
6.19 conspiracy to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.21;  
6.20 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.282;  
6.21 609.283; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1,  
6.22 clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345,  
6.23 subdivision 1, clauses (a) to (e), and (h) to (j); 609.352; 609.42; 609.425; 609.466;  
6.24 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551; 609.561;  
6.25 609.562; 609.563; 609.582; 609.59; 609.595; 609.611; 609.631; 609.66, subdivision 1e;  
6.26 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88;  
6.27 609.89; 609.893; 609.895; 617.246; 617.247; or a gross misdemeanor or felony violation  
6.28 of section 609.891 or 624.7181; or any violation of section 609.324.

6.29 (g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

6.30 (h) "Prosecuting authority" means the attorney who is responsible for prosecuting an  
6.31 offense that is the basis for a forfeiture under sections 609.531 to 609.5318.

6.32 (i) "Willfully blind" means that a person intentionally avoided knowledge of a  
6.33 crime by failing to make a reasonable inquiry about suspected wrongdoing despite being  
6.34 aware of its high probability. Negligence or mistake is insufficient to establish that the  
6.35 person was willfully blind.

7.1 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to  
7.2 offenses committed on or after that date.

7.3 Sec. 6. Minnesota Statutes 2012, section 609.531, is amended by adding a subdivision  
7.4 to read:

7.5 Subd. 9. **Limitations and defenses to forfeiture; ownership or interest at time of**  
7.6 **the crime.** (a) Notwithstanding any law to the contrary, for purposes of sections 84.7741,  
7.7 169A.63, 609.5311, 609.5312, 609.5314, and 609.5318, unless the prosecuting authority  
7.8 meets its burden under paragraph (c), property is not presumed or otherwise subject to  
7.9 forfeiture if a claimant presents prima facie evidence that the claimant:

7.10 (1) had a full or joint ownership or security interest in the property at the time the  
7.11 conduct giving rise to the forfeiture occurred; and

7.12 (2) is not the person accused or convicted of the crime for which the property is  
7.13 subject to forfeiture.

7.14 (b) An off-highway or motor vehicle encumbered by a security interest perfected  
7.15 according to section 168A.17, subdivision 2, or subject to a lease that has a term of 180 days  
7.16 or more, is subject to the interest of the secured party or lessor unless the prosecutor meets  
7.17 its burden under paragraph (c). However, when the proceeds of the sale of a seized vehicle  
7.18 do not equal or exceed the outstanding loan balance, the appropriate agency shall remit all  
7.19 proceeds of the sale to the secured party after deducting the agency's costs for the seizure,  
7.20 tow, storage, forfeiture, and sale of the vehicle. If the sale of the vehicle is conducted in  
7.21 a commercially reasonable manner consistent with section 336.9-610, the agency is not  
7.22 liable to the secured party for any amount owed on the loan in excess of the sale proceeds.

7.23 (c) Property is subject to forfeiture if the prosecuting authority proves by a  
7.24 preponderance of the evidence that the claimant:

7.25 (1) had actual knowledge of the crime giving rise to the forfeiture or was willfully  
7.26 blind to its commission; or

7.27 (2) consented or was privy to the act or omission upon which the forfeiture is based.

7.28 (d) Notwithstanding paragraph (c), property is not subject to forfeiture if the claimant  
7.29 demonstrates by a preponderance of the evidence that the claimant took reasonable steps  
7.30 under the circumstances to prohibit, abate, or terminate the illegal use of the property  
7.31 including, but not limited to:

7.32 (1) providing immediate notice to an appropriate law enforcement agency that a  
7.33 crime was occurring;

7.34 (2) revoking or making a good faith attempt to revoke permission to use the property  
7.35 by a person engaging in illegal conduct; or

8.1 (3) taking reasonable actions in consultation with a law enforcement agency to  
8.2 discourage or prevent the illegal use of the property.

8.3 A claimant is not required to take steps that the claimant reasonably believes would likely  
8.4 subject the claimant to physical danger.

8.5 (e) If the court finds that the property is not subject to forfeiture, all claims of right,  
8.6 title, and interest to the property that vested in the state shall be relinquished.

8.7 (f) For purposes of this subdivision and subdivisions 10 and 11, and any provision  
8.8 governed by these subdivisions, "claimant" means any of the following persons claiming  
8.9 an ownership or security interest in forfeited property: an owner, lessor, secured party,  
8.10 common carrier in the business as a common carrier, or good faith purchaser for value.

8.11 A person claiming a security interest bears the burden of establishing the validity and  
8.12 amount of that interest by clear and convincing evidence.

8.13 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to  
8.14 offenses committed on or after that date.

8.15 Sec. 7. Minnesota Statutes 2012, section 609.531, is amended by adding a subdivision  
8.16 to read:

8.17 Subd. 10. **Limitations and defenses to forfeiture; ownership or interest acquired**  
8.18 **after crime.** (a) Notwithstanding any law to the contrary, for purposes of sections  
8.19 84.7741, 169A.63, 609.5311, 609.5312, 609.5314, and 609.5318, unless the prosecuting  
8.20 authority meets its burden under paragraph (b), property is not presumed or otherwise  
8.21 subject to forfeiture if a claimant presents prima facie evidence that the claimant:

8.22 (1) acquired a full or joint ownership or security interest in the property after the  
8.23 commission of the crime giving rise to the forfeiture; and

8.24 (2) is not the person accused or convicted of the crime for which the property is  
8.25 subject to forfeiture.

8.26 (b) Property is subject to forfeiture if the prosecuting authority proves by a  
8.27 preponderance of the evidence that, at the time of acquisition of the property, the claimant:

8.28 (1) had actual knowledge of the crime giving rise to the forfeiture or was willfully  
8.29 blind to its commission; or

8.30 (2) had consented or been privy to the act or omission upon which the forfeiture  
8.31 is based.

8.32 (c) If the court finds that the property is not subject to forfeiture, all claims of right,  
8.33 title, and interest to the property that vested in the state shall be relinquished.

9.1 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to  
9.2 offenses committed on or after that date.

9.3 Sec. 8. Minnesota Statutes 2012, section 609.531, is amended by adding a subdivision  
9.4 to read:

9.5 Subd. 11. **Return of property; fees and sanctions.** (a) Except as provided in  
9.6 paragraph (b), if the court finds that property is not subject to forfeiture under subdivision  
9.7 9 or 10, the property shall be returned to the claimant legally entitled to it within a  
9.8 reasonable amount of time.

9.9 (b) If the court finds that the offender has access to a vehicle used in the commission  
9.10 of a designated offense under section 169A.63, the court may order the owner to equip the  
9.11 vehicle with an ignition interlock device certified by the commissioner of public safety for  
9.12 a period not to exceed one year. The owner must have valid Minnesota driving privileges  
9.13 and bring the vehicle to an approved service provider for installation, device calibration,  
9.14 and servicing according to the schedule established by the commissioner of public safety  
9.15 and as indicated by the ignition interlock device. For purposes of this paragraph, the  
9.16 provisions of section 171.306 apply as related to certification and approved service  
9.17 providers of ignition interlock devices. It is a misdemeanor to tamper with, circumvent, or  
9.18 bypass an ignition interlock device or assist another to tamper with, circumvent, or bypass  
9.19 a device installed pursuant to this paragraph.

9.20 (c) If the court orders the return of a seized property under this subdivision, it must  
9.21 order that filing fees be reimbursed to the person who filed the demand for judicial  
9.22 determination or contested the forfeiture. In addition, the court may order sanctions  
9.23 under section 549.211 (sanctions in civil actions). Any reimbursement fees or sanctions  
9.24 must be paid from other forfeiture proceeds of the appropriate agency and prosecuting  
9.25 authority involved, in the same proportion as proceeds would be distributed for the sale  
9.26 of the property had it been forfeited, and any remaining proportion shall be divided and  
9.27 paid evenly from the agencies.

9.28 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to  
9.29 offenses committed on or after that date.

9.30 Sec. 9. Minnesota Statutes 2012, section 609.531, is amended by adding a subdivision  
9.31 to read:

9.32 Subd. 12. **Exemption; homestead property.** Notwithstanding any law to the  
9.33 contrary, for purposes of sections 609.5311 and 609.5312, real property that falls within  
9.34 the homestead exemption under section 510.01 is not subject to forfeiture.

10.1 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes  
10.2 committed on or after that date.

10.3 Sec. 10. Minnesota Statutes 2012, section 609.5311, subdivision 3, is amended to read:

10.4 Subd. 3. **Limitations on forfeiture of certain property associated with controlled**  
10.5 **substances.** (a) A conveyance device is subject to forfeiture under this section only if  
10.6 the retail value of the controlled substance is \$75 or more and the conveyance device is  
10.7 associated with a felony-level controlled substance crime.

10.8 (b) Real property is subject to forfeiture under this section only if the retail value of  
10.9 the controlled substance or contraband is \$2,000 or more.

10.10 (c) ~~Property used by any person as a common carrier in the transaction of business~~  
10.11 ~~as a common carrier is subject to forfeiture under this section only if the owner of the~~  
10.12 ~~property is a consenting party to, or is privy to, the use or intended use of the property as~~  
10.13 ~~described in subdivision 2.~~ The limitations and defenses in section 609.531, subdivisions  
10.14 9 and 10, apply to forfeitures under this section.

10.15 (d) ~~Property is subject to forfeiture under this section only if its owner was privy to~~  
10.16 ~~the use or intended use described in subdivision 2, or the unlawful use or intended use of~~  
10.17 ~~the property otherwise occurred with the owner's knowledge or consent.~~

10.18 (e) ~~Forfeiture under this section of a conveyance device or real property encumbered~~  
10.19 ~~by a bona fide security interest is subject to the interest of the secured party unless the~~  
10.20 ~~secured party had knowledge of or consented to the act or omission upon which the~~  
10.21 ~~forfeiture is based. A person claiming a security interest bears the burden of establishing~~  
10.22 ~~that interest by clear and convincing evidence.~~

10.23 (f) ~~Forfeiture under this section of real property is subject to the interests of a good~~  
10.24 ~~faith purchaser for value unless the purchaser had knowledge of or consented to the act or~~  
10.25 ~~omission upon which the forfeiture is based.~~

10.26 (g) ~~Notwithstanding paragraphs (d), (e), and (f), section 609.531, subdivision 9 or~~  
10.27 12, property is not subject to forfeiture based solely on the owner's or secured party's  
10.28 knowledge of the unlawful use or intended use of the property if: (1) the owner or secured  
10.29 party took reasonable steps to terminate use of the property by the offender; or (2) if the  
10.30 property is real property owned by the parent of the offender, unless the parent actively  
10.31 participated in, or knowingly acquiesced to, a violation of chapter 152, or the real property  
10.32 constitutes proceeds derived from or traceable to a use described in subdivision 2.

10.33 (h) (d) The Department of Corrections Fugitive Apprehension Unit shall not seize  
10.34 a conveyance device or real property, for the purposes of forfeiture under paragraphs  
10.35 (a) to (g) (c).

11.1 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes  
 11.2 committed on or after that date.

11.3 Sec. 11. Minnesota Statutes 2012, section 609.5312, subdivision 2, is amended to read:

11.4 Subd. 2. **Limitations on forfeiture of property associated with designated**  
 11.5 **offenses.** ~~(a) Property used by a person as a common carrier in the transaction of business~~  
 11.6 ~~as a common carrier is subject to forfeiture under this section only if the owner of the~~  
 11.7 ~~property is a consenting party to, or is privy to, the commission of a designated offense.~~  
 11.8 The limitations and defenses in section 609.531, subdivision 9, apply to forfeitures under  
 11.9 subdivisions 1 and 1a.

11.10 ~~(b) Property is subject to forfeiture under this section only if the owner was privy to~~  
 11.11 ~~the act or omission upon which the forfeiture is based, or the act or omission occurred~~  
 11.12 ~~with the owner's knowledge or consent.~~

11.13 ~~(c) Property encumbered by a bona fide security interest is subject to the interest of~~  
 11.14 ~~the secured party unless the party had knowledge of or consented to the act or omission~~  
 11.15 ~~upon which the forfeiture is based. A person claiming a security interest bears the burden~~  
 11.16 ~~of establishing that interest by clear and convincing evidence.~~

11.17 ~~(d) Notwithstanding paragraphs (b) and (c), property is not subject to forfeiture~~  
 11.18 ~~based solely on the owner's or secured party's knowledge of the act or omission upon~~  
 11.19 ~~which the forfeiture is based if the owner or secured party took reasonable steps to~~  
 11.20 ~~terminate use of the property by the offender.~~

11.21 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes  
 11.22 committed on or after that date.

11.23 Sec. 12. Minnesota Statutes 2012, section 609.5312, subdivision 3, is amended to read:

11.24 Subd. 3. **Vehicle forfeiture for prostitution offenses.** (a) A motor vehicle is subject  
 11.25 to forfeiture under this subdivision if it was used to commit or facilitate, or used during  
 11.26 the commission of, a violation of section 609.324 or a violation of a local ordinance  
 11.27 substantially similar to section 609.324. A motor vehicle is subject to forfeiture under  
 11.28 this subdivision only if the offense is established by proof of a criminal conviction for  
 11.29 the offense. Except as otherwise provided in this subdivision, a forfeiture under this  
 11.30 subdivision is governed by sections 609.531, 609.5312, and 609.5313.

11.31 (b) When a motor vehicle subject to forfeiture under this subdivision is seized in  
 11.32 advance of a judicial forfeiture order, a hearing before a judge or referee must be held  
 11.33 within 96 hours of the seizure. Notice of the hearing must be given to the registered owner  
 11.34 within 48 hours of the seizure. The prosecuting authority shall certify to the court, at or

12.1 in advance of the hearing, that it has filed or intends to file charges against the alleged  
 12.2 violator for violating section 609.324 or a local ordinance substantially similar to section  
 12.3 609.324. After conducting the hearing, the court shall order that the motor vehicle be  
 12.4 returned to the owner if:

12.5 (1) the prosecuting authority has failed to make the certification required by  
 12.6 paragraph (b);

12.7 ~~(2) the owner of the motor vehicle has demonstrated to the court's satisfaction~~  
 12.8 ~~that the owner has a defense to the forfeiture, including but not limited to the defenses~~  
 12.9 ~~contained in subdivision 2~~ the court finds that the motor vehicle is not subject to forfeiture  
 12.10 under section 609.531, subdivision 9; or

12.11 (3) the court determines that seizure of the vehicle creates or would create an undue  
 12.12 hardship for members of the owner's family.

12.13 (c) If the defendant is acquitted or prostitution charges against the defendant are  
 12.14 dismissed, neither the owner nor the defendant is responsible for paying any costs  
 12.15 associated with the seizure or storage of the vehicle.

12.16 (d) A vehicle leased or rented under section 168.27, subdivision 4, for a period of  
 12.17 180 days or less is not subject to forfeiture under this subdivision.

12.18 (e) For purposes of this subdivision, seizure occurs either:

12.19 (1) at the date at which personal service of process upon the registered owner is  
 12.20 made; or

12.21 (2) at the date when the registered owner has been notified by certified mail at the  
 12.22 address listed in the Minnesota Department of Public Safety computerized motor vehicle  
 12.23 registration records.

12.24 (f) The Department of Corrections Fugitive Apprehension Unit shall not participate  
 12.25 in paragraphs (a) to (e).

12.26 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes  
 12.27 committed on or after that date.

12.28 Sec. 13. Minnesota Statutes 2012, section 609.5312, subdivision 4, is amended to read:

12.29 Subd. 4. **Vehicle forfeiture for fleeing peace officer.** (a) A motor vehicle is subject  
 12.30 to forfeiture under this subdivision if it was used to commit a violation of section 609.487  
 12.31 and endanger life or property. A motor vehicle is subject to forfeiture under this subdivision  
 12.32 only if the offense is established by proof of a criminal conviction for the offense. Except  
 12.33 as otherwise provided in this subdivision, a forfeiture under this subdivision is governed  
 12.34 by sections 609.531, 609.5312, 609.5313, and 609.5315, subdivision 6.

13.1 (b) When a motor vehicle subject to forfeiture under this subdivision is seized in  
13.2 advance of a judicial forfeiture order, a hearing before a judge or referee must be held  
13.3 within 96 hours of the seizure. Notice of the hearing must be given to the registered owner  
13.4 within 48 hours of the seizure. The prosecuting authority shall certify to the court, at or  
13.5 in advance of the hearing, that it has filed or intends to file charges against the alleged  
13.6 violator for violating section 609.487. After conducting the hearing, the court shall order  
13.7 that the motor vehicle be returned to the owner if:

13.8 (1) the prosecuting authority has failed to make the certification required by this  
13.9 paragraph;

13.10 (2) ~~the owner of the motor vehicle has demonstrated to the court's satisfaction~~  
13.11 ~~that the owner has a defense to the forfeiture, including but not limited to the defenses~~  
13.12 ~~contained in subdivision 2~~ the court finds that the motor vehicle is not subject to forfeiture  
13.13 under section 609.531, subdivision 9; or

13.14 (3) the court determines that seizure of the vehicle creates or would create an undue  
13.15 hardship for members of the owner's family.

13.16 (c) If the defendant is acquitted or the charges against the defendant are dismissed,  
13.17 neither the owner nor the defendant is responsible for paying any costs associated with the  
13.18 seizure or storage of the vehicle.

13.19 (d) A vehicle leased or rented under section 168.27, subdivision 4, for a period of  
13.20 180 days or less is not subject to forfeiture under this subdivision.

13.21 (e) A motor vehicle that is an off-road recreational vehicle as defined in section  
13.22 169A.03, subdivision 16, or a motorboat as defined in section 169A.03, subdivision 13,  
13.23 is not subject to paragraph (b).

13.24 (f) For purposes of this subdivision, seizure occurs either:

13.25 (1) at the date at which personal service of process upon the registered owner is  
13.26 made; or

13.27 (2) at the date when the registered owner has been notified by certified mail at the  
13.28 address listed in the Minnesota Department of Public Safety computerized motor vehicle  
13.29 registration records.

13.30 (g) The Department of Corrections Fugitive Apprehension Unit shall not seize a  
13.31 motor vehicle for the purposes of forfeiture under paragraphs (a) to (f).

13.32 **EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes  
13.33 committed on or after that date.

13.34 Sec. 14. Minnesota Statutes 2012, section 609.5318, subdivision 5, is amended to read:

14.1 Subd. 5. **Limitations.** ~~(a) A vehicle used by a person as a common carrier in the~~  
14.2 ~~transaction of business as a common carrier is subject to forfeiture under this section only~~  
14.3 ~~if the owner is a consenting party to, or is privy to, the commission of the act giving rise~~  
14.4 ~~to the forfeiture. The limitations and defenses in section 609.531, subdivision 9, apply~~  
14.5 ~~to forfeitures under this section.~~

14.6 ~~(b) A vehicle is subject to forfeiture under this section only if the registered owner~~  
14.7 ~~was privy to the act upon which the forfeiture is based, the act occurred with the owner's~~  
14.8 ~~knowledge or consent, or the act occurred due to the owner's gross negligence in allowing~~  
14.9 ~~another to use the vehicle.~~

14.10 ~~(c) A vehicle encumbered by a bona fide security interest is subject to the interest of~~  
14.11 ~~the secured party unless the party had knowledge of or consented to the act upon which the~~  
14.12 ~~forfeiture is based. A person claiming a security interest bears the burden of establishing~~  
14.13 ~~that interest by clear and convincing evidence.~~

14.14 ~~**EFFECTIVE DATE.** This section is effective August 1, 2013, and applies to crimes~~  
14.15 ~~committed on or after that date.~~