

Sec. 4. Minnesota Statutes 1986, section 611A.06, is amended to read:

611A.06 RIGHT TO NOTICE OF RELEASE.

The commissioner of corrections or other custodial authority shall make a good faith effort to notify the victim that the offender is to be released from imprisonment or incarceration, including release on extended furlough and for work release, or released from a facility in which the offender was confined due to incompetency, mental illness, or mental deficiency, or commitment under section 253B.18, prior to the release if the victim has mailed to the commissioner of corrections or to the head of the facility in which the offender is confined a written request for this notice. A written request for notice submitted under this section is private data on individuals as defined in section 13.02, subdivision 12. The commissioner or other custodial authority complies with this section upon mailing the notice of impending release to the victim at the address which the victim has most recently provided to the commissioner or authority in writing.

Sec. 5. REPEALER.

Minnesota Statutes 1986, section 611A.03, subdivision 3, is repealed.

Approved April 26, 1988

CHAPTER 650—S.F.No. 321

An act relating to public safety; expanding the crimes of driving a motor vehicle or a motorboat while under the influence of alcohol or certain substances; amending Minnesota Statutes 1986, sections 169.121, subdivisions 1 and 2; and 361.12, subdivisions 1 and 4.

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

Section 1. Minnesota Statutes 1986, section 169.121, subdivision 1, is amended to read:

Subdivision 1. **CRIME.** It is a misdemeanor for any person to drive, operate or be in physical control of any motor vehicle within this state or upon the ice of any boundary water of this state:

(a) when the person is under the influence of alcohol;

(b) when the person is under the influence of a controlled substance, as defined in section 152.01, subdivision 4;

(c) when the person is under the influence of a combination of any two or more of the elements named in clauses (a) ~~and~~, (b), and (f);

New language is indicated by underline, deletions by ~~strikeout~~.

(d) when the person's alcohol concentration is 0.10 or more; ~~or~~

(e) when the person's alcohol concentration as measured within two hours of the time of driving is 0.10 or more; or

(f) when the person is knowingly under the influence of any chemical compound or combination of chemical compounds that is listed as a hazardous substance in rules adopted under section 182.655 and that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motor vehicle.

Sec. 2. Minnesota Statutes 1986, section 169.121, subdivision 2, is amended to read:

Subd. 2. **EVIDENCE.** Upon the trial of any prosecution arising out of acts alleged to have been committed by any person arrested for driving, operating, or being in physical control of a motor vehicle in violation of subdivision 1, the court may admit evidence of the amount of alcohol or a controlled substance in the person's blood, breath, or urine as shown by an analysis of those items.

For the purposes of this subdivision:

(a) evidence that there was at the time an alcohol concentration of 0.05 or less is prima facie evidence that the person was not under the influence of alcohol;

(b) evidence that there was at the time an alcohol concentration of more than 0.05 and less than 0.10 is relevant evidence in indicating whether or not the person was under the influence of alcohol.

Evidence of the refusal to take a test is admissible into evidence in a prosecution under this section or an ordinance in conformity with it.

If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of subdivision 1, clause (e), that the defendant consumed a sufficient quantity of alcohol after the time of actual driving, operating, or physical control of a motor vehicle and before the administration of the evidentiary test to cause the defendant's alcohol concentration to exceed 0.10. Provided, that this evidence may not be admitted unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

The foregoing provisions do not limit the introduction of any other competent evidence bearing upon the question whether or not the person ~~was under the influence of alcohol or a controlled substance~~ violated this section, including tests obtained more than two hours after the alleged violation and results obtained from partial tests on an infrared breath-testing instrument. A result from a partial test is the measurement obtained by analyzing one adequate breath sample, as defined in section 169.123, subdivision 2b, paragraph (b).

Sec. 3. Minnesota Statutes 1986, section 361.12, subdivision 1, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. **ACTS PROHIBITED.** (a) No person shall operate or be in physical control of any motorboat while underway or in use on the waters of this state while under the influence of:

(1) alcohol, as provided in section 169.121, subdivision 1, clauses (a) and (d);

(2) a controlled or other substance, as ~~defined~~ provided in section ~~152.01, subdivision 4~~ 169.121, subdivision 1; or

(3) a combination of any two or more of the elements named in clauses (1) and (2).

(b) No owner or other person having charge or control of any motorboat shall authorize or permit any individual the person knows or has reason to believe is under the influence of alcohol or a controlled or other substance, as provided under paragraph (a), to operate the motorboat while underway or in use on the waters of this state.

(c) No owner or other person having charge or control of any motorboat shall knowingly authorize or permit any person, who by reason of any physical or mental disability is incapable of operating the motorboat, to operate the motorboat while underway or in use on the waters of this state.

Sec. 4. Minnesota Statutes 1986, section 361.12, subdivision 4, is amended to read:

Subd. 4. **EVIDENCE.** (a) Upon the trial of any prosecution arising out of acts alleged to have been committed by any person arrested for operating or being in physical control of any motorboat in violation of subdivision 1, paragraph (a), the court may admit evidence of the amount of alcohol or a controlled substance in the person's blood, breath, or urine as shown by an analysis of those items.

(b) For the purposes of this subdivision:

(1) evidence that there was at the time an alcohol concentration of 0.05 or less is prima facie evidence that the person was not under the influence of alcohol;

(2) evidence that there was at the time an alcohol concentration of more than 0.05 and less than 0.10 is relevant evidence in indicating whether or not the person was under the influence of alcohol.

(c) Evidence of the refusal to take a preliminary screening test required under subdivision 3 or a chemical test required under section 361.121 is admissible into evidence in a prosecution under this section.

(d) This subdivision does not limit the introduction of any other competent evidence bearing upon the question whether or not the person ~~was under the~~

New language is indicated by underline, deletions by ~~strikeout~~.

influence of alcohol or a controlled substance violated this section, including results obtained from partial tests on an infrared breath-testing instrument. A result from a partial test is the measurement obtained by analyzing one adequate breath sample. A sample is adequate if the instrument analyzes the sample and does not indicate the sample is deficient.

Sec. 5. **EFFECTIVE DATE.**

Sections 1 to 4 are effective August 1, 1988, and apply to crimes committed on or after that date.

Approved April 26, 1988

CHAPTER 651—S.F.No. 412

An act relating to real property; creating a lien against real property where the state has incurred cleanup expenses and the owner is liable for the expenses under Minnesota Statutes, chapter 115B or 115C; providing procedures for implementation and enforcement of the lien; proposing coding for new law in Minnesota Statutes, chapter 514.

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

ENVIRONMENTAL LIEN FOR STATE CLEANUP ACTION EXPENSES

Section 1. [514.671] DEFINITIONS.

Subdivision 1. APPLICABILITY. The definitions in this section apply to sections 1 to 6.

Subd. 2. AGENCY. "Agency" means the pollution control agency.

Subd. 3. CLEANUP ACTION. "Cleanup action" means corrective action or response action.

Subd. 4. CLEANUP ACTION EXPENSES. "Cleanup action expenses" means expenses incurred for cleanup action under section 115B.17 or 115C.03, that are recoverable by the state under section 115B.04 or 115C.04.

Subd. 5. COMMISSIONER. "Commissioner" means the commissioner of the pollution control agency.

Subd. 6. CORRECTIVE ACTION. "Corrective action" has the meaning given in section 115C.02, subdivision 4.

Subd. 7. ENVIRONMENTAL LIEN. "Environmental lien" means a lien for cleanup action expenses under sections 1 to 6.

New language is indicated by underline, deletions by ~~strikeout~~.