

SENATE

STATE OF MINNESOTA

EIGHTY-NINTH SESSION

S.F. No. 1073

(SENATE AUTHORS: LATZ, Hall, Dibble and Osmek)

DATE	D-PG	OFFICIAL STATUS
02/23/2015	398	Introduction and first reading Referred to Judiciary
03/16/2015	852a	Comm report: To pass as amended and re-refer to Transportation and Public Safety
03/18/2015	923a	Comm report: To pass as amended
	962	Second reading
04/21/2015		Special Order: Amended Third reading Passed

A bill for an act

relating to driving while impaired; addressing the applicability of certain affirmative defenses in DWI and CVO-related proceedings; clarifying the scope of the implied consent hearing; extending certain time periods to request reviews in DWI-related proceedings; requiring the disclosure of preliminary screening test results under certain circumstances in DWI proceedings; lowering the alcohol concentration standard for enhanced criminal penalties in the DWI law to match the existing standard for enhanced civil DWI sanctions; modifying the DWI plate impoundment law relating to how plates are impounded and reissued; providing that DWI offenders are not required to take a specified examination as a condition of driver's license reinstatement; prohibiting the application of the DWI Forfeiture Law to motor vehicles operated by persons who enter the ignition interlock program; providing that certain participants in the ignition interlock program do not have to obtain a limited driver's license as a condition of participating; requiring indigent ignition interlock program participants to submit a sworn statement regarding indigency and making submitting a false statement a crime; making ignition interlock crimes nonpayable offenses; requiring criminal vehicular homicide offenders to participate in the ignition interlock program; specifying which ignition interlock program participants must present a noncancelable insurance certificate as a prerequisite to participating in the program; allowing DWI offenders to pay their driver's license reinstatement fees and surcharges in installments; providing criminal penalties; amending Minnesota Statutes 2014, sections 97B.066, subdivisions 8, 9; 169A.03, subdivision 3; 169A.07; 169A.275, subdivision 5; 169A.285, subdivision 1; 169A.37, subdivision 1; 169A.41, by adding a subdivision; 169A.46; 169A.53, subdivisions 2, 3; 169A.55, subdivisions 2, 5; 169A.60, subdivisions 4, 5, 10, 13; 169A.63, by adding a subdivision; 171.09, subdivision 1; 171.29, subdivisions 1, 2; 171.30, subdivisions 1, 2a, 5; 171.306, subdivisions 1, 2, 4, 5, 6; 609.2111; repealing Minnesota Statutes 2014, sections 609.2112, subdivision 2; 609.2113, subdivision 4; 609.2114, subdivision 4.

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

Section 1. Minnesota Statutes 2014, section 97B.066, subdivision 8, is amended to read:

Subd. 8. **Judicial review.** (a) Within ~~30~~ 60 days following receipt of a notice and order imposing sanctions under this section, a person may petition the court for review.

The petition must be filed with the district court administrator in the county where the incident occurred giving rise to the test demand and refusal, together with proof of service of a copy on the commissioner and the prosecuting authority for misdemeanor offenses for the jurisdiction in which the incident occurred. A responsive pleading is not required of the commissioner of natural resources, and court fees may not be charged for the appearance of the representative of the commissioner in the matter.

(b) The petition must be captioned in the name of the person making the petition as petitioner and the commissioner as respondent. The petition must state specifically the grounds upon which the petitioner seeks rescission of the order imposing sanctions.

(c) The filing of the petition does not stay the revocation or prohibition against hunting. However, the filing of a petition stays imposition of the civil penalty. The judicial review shall be conducted according to the Rules of Civil Procedure.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2014, section 97B.066, subdivision 9, is amended to read:

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

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

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

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

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

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

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

(d) It is an affirmative defense for the petitioner to prove ~~that, at the time of the refusal, the petitioner's refusal to permit the test was based upon reasonable grounds~~ any of the defenses described in section 169A.46.

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

(f) An affirmative defense authorized in paragraph (d) may not be raised unless notice is given to the commissioner at least seven days before the hearing on the matter.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2014, section 169A.03, subdivision 3, is amended to read:

Subd. 3. **Aggravating factor.** "Aggravating factor" includes:

(1) a qualified prior impaired driving incident within the ten years immediately preceding the current offense;

(2) having an alcohol concentration of ~~0.20~~ 0.16 or more as measured at the time, or within two hours of the time, of the offense; or

(3) having a child under the age of 16 in the motor vehicle at the time of the offense if the child is more than 36 months younger than the offender.

EFFECTIVE DATE. This section is effective August 1, 2015, and applies to crimes committed on or after that date.

Sec. 4. Minnesota Statutes 2014, section 169A.07, is amended to read:

169A.07 FIRST-TIME DWI VIOLATOR; OFF-ROAD VEHICLE OR BOAT.

A person who violates section 169A.20 (driving while impaired) while using an off-road recreational vehicle or motorboat and who does not have a qualified prior impaired driving incident is subject only to the criminal penalty provided in section 169A.25 (second-degree driving while impaired), 169A.26 (third-degree driving while impaired), or 169A.27 (fourth-degree driving while impaired); and loss of operating privileges as provided in section 84.91, subdivision 1 (operation of snowmobiles or all-terrain vehicles by persons under the influence of alcohol or controlled substances), or 86B.331, subdivision 1 (operation of motorboats while using alcohol or with a physical or mental disability), whichever is applicable. The person is not subject to the provisions of section 169A.275, subdivision 5, (submission to the level of care recommended in chemical use assessment for repeat offenders and offenders with alcohol concentration of ~~0.20~~ 0.16 or more); 169A.277 (long-term monitoring); 169A.285 (penalty assessment); 169A.44 (conditional release); 169A.54 (impaired driving convictions and adjudications; administrative penalties); or 169A.54, subdivision 11 (chemical use assessment); the

license revocation sanctions of sections 169A.50 to 169A.53 (implied consent law); or the plate impoundment provisions of section 169A.60 (administrative impoundment of plates).

EFFECTIVE DATE. This section is effective August 1, 2015, and applies to crimes committed on or after that date.

Sec. 5. Minnesota Statutes 2014, section 169A.275, subdivision 5, is amended to read:

Subd. 5. **Level of care recommended in chemical use assessment.** Unless the court commits the person to the custody of the commissioner of corrections as provided in section 169A.276 (mandatory penalties; felony violations), in addition to other penalties required under this section, the court shall order a person to submit to the level of care recommended in the chemical use assessment conducted under section 169A.70 (alcohol safety program; chemical use assessments) if the person is convicted of violating section 169A.20 (driving while impaired) while having an alcohol concentration of ~~0.20~~ 0.16 or more as measured at the time, or within two hours of the time, of the offense or if the violation occurs within ten years of one or more qualified prior impaired driving incidents.

EFFECTIVE DATE. This section is effective August 1, 2015, and applies to crimes committed on or after that date.

Sec. 6. Minnesota Statutes 2014, section 169A.285, subdivision 1, is amended to read:

Subdivision 1. **Authority; amount.** When a court sentences a person who violates section 169A.20 (driving while impaired) while having an alcohol concentration of ~~0.20~~ 0.16 or more as measured at the time, or within two hours of the time, of the violation, the court may impose a penalty assessment of up to \$1,000. The court may impose this assessment in addition to any other penalties or charges authorized under law.

EFFECTIVE DATE. This section is effective August 1, 2015, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2014, section 169A.37, subdivision 1, is amended to read:

Subdivision 1. **Crime described.** It is a crime for a person:

- (1) to fail to comply with an impoundment order under section 169A.60 (administrative plate impoundment);
- (2) to file a false statement under section 169A.60, subdivision 7, 8, or 14;
- (3) to operate a self-propelled motor vehicle on a street or highway when the vehicle is subject to an impoundment order issued under section 169A.60, unless specially coded plates have been issued for the vehicle pursuant to section 169A.60, subdivision 13;

(4) to fail to notify the commissioner of the impoundment order when requesting new plates;

(5) who is subject to a plate impoundment order under section 169A.60, to drive, operate, or be in control of any motor vehicle during the impoundment period, unless the vehicle is employer-owned and is not required to be equipped with an ignition interlock device pursuant to section 171.306, subdivision 4, paragraph (b), or Laws 2013, chapter 127, section 70, or has specially coded plates issued pursuant to section 169A.60, subdivision 13, and the person is validly licensed to drive; ~~or~~

(6) who is the transferee of a motor vehicle and who has signed a sworn statement under section 169A.60, subdivision 14, to allow the previously registered owner to drive, operate, or be in control of the vehicle during the impoundment period; or

(7) to intentionally remove all or a portion of or to otherwise obliterate or damage a permanent sticker affixed on and invalidating a registration plate under section 169A.60, subdivision 4.

EFFECTIVE DATE. This section is effective August 1, 2015, and applies to crimes committed on or after that date.

Sec. 8. Minnesota Statutes 2014, section 169A.41, is amended by adding a subdivision to read:

Subd. 5. Disclosure of test results. (a) Upon the request of the driver or the driver's counsel, the results of a preliminary screening test must be disclosed to the requestor immediately.

(b) A test result recorded in a digital or numerical manner must be disclosed in the same digital or numerical manner.

(c) If a peace officer does not comply with this subdivision, the test result may not be used in any proceeding under section 169A.53 or listed in subdivision 2.

(d) This subdivision applies only to persons who have been arrested for a violation of section 169A.20 to 169A.27, 169A.31, or 169A.33.

EFFECTIVE DATE. This section is effective August 1, 2015, and applies to preliminary screening tests administered on or after that date.

Sec. 9. Minnesota Statutes 2014, section 169A.46, is amended to read:

169A.46 AFFIRMATIVE DEFENSES.

Subdivision 1. ~~Impairment occurred~~ **Consumption after driving ceased.** (a) If proven by a preponderance of the evidence, it is an affirmative defense to a violation of

section 169A.20, subdivision 1, clause (5) or (6); 1a, clause (5); 1b, clause (5); or 1c, clause (5) (driving while impaired, alcohol concentration within two hours of driving), or 169A.20 by a person having an alcohol concentration of ~~0.20~~ 0.16 or more as measured at the time, or within two hours of the time, of the offense, that the defendant consumed a sufficient quantity of alcohol after the time of the violation and before the administration of the evidentiary test to cause the defendant's alcohol concentration to exceed the level specified in the applicable clause. ~~Evidence that the defendant consumed alcohol after the time of the violation may not be admitted in defense to any alleged violation of section 169A.20, unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.~~

(b) If proven by a preponderance of the evidence, it is an affirmative defense to a violation of section 169A.20, subdivision 1, clauses (1) to (4); 1a, clauses (1) to (4); 1b, clauses (1) to (4); or 1c, clauses (1) to (4), that the defendant was not under the influence at the time of the violation and consumed a sufficient quantity of alcohol, controlled substance, or hazardous substance, or a combination of those elements, after the time of the violation to cause the defendant to be under the influence.

Subd. 2. **Impairment from Prescription drug.** If proven by a preponderance of the evidence, it is an affirmative defense to a violation of section 169A.20 subdivision 1, clause (7) (presence of Schedule I or II controlled substance); 1a, clause (6); 1b, clause (6); or 1c, clause (6), that the defendant used the controlled substance according to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12.

Subd. 3. **Reasonable grounds to refuse test.** If proven by a preponderance of the evidence, it is an affirmative defense to a violation of section 169A.20, subdivision 2 (driving while impaired, test refusal offense), that the defendant's refusal to permit the test was based upon reasonable grounds.

Subd. 4. **Necessity.** If proven by a preponderance of the evidence, it is an affirmative defense to a violation of section 169A.20 (driving while impaired) that the defendant's conduct was a result of necessity.

Subd. 5. **Notice required.** An affirmative defense described in this section may not be raised unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

EFFECTIVE DATE. This section is effective the day following final enactment, except that the alcohol concentration threshold change in subdivision 1, paragraph (a), is effective August 1, 2015, and applies to crimes committed on or after that date.

Sec. 10. Minnesota Statutes 2014, section 169A.53, subdivision 2, is amended to read:

7.1 Subd. 2. **Petition for judicial review.** (a) Within ~~30~~ 60 days following receipt of a
7.2 notice and order of revocation or disqualification pursuant to section 169A.52 (revocation
7.3 of license for test failure or refusal), a person may petition the court for review. The
7.4 petition must be filed with the district court administrator in the county where the alleged
7.5 offense occurred, together with proof of service of a copy on the commissioner, and
7.6 accompanied by the standard filing fee for civil actions. Responsive pleading is not
7.7 required of the commissioner, and court fees must not be charged for the appearance of
7.8 the commissioner in the matter.

7.9 (b) The petition must:

7.10 (1) be captioned in the full name of the person making the petition as petitioner and
7.11 the commissioner as respondent;

7.12 (2) include the petitioner's date of birth, driver's license number, and date of the
7.13 offense; and

7.14 (3) state with specificity the grounds upon which the petitioner seeks rescission of
7.15 the order of revocation, disqualification, or denial.

7.16 (c) The filing of the petition does not stay the revocation, disqualification, or denial.
7.17 The reviewing court may order a stay of the balance of the revocation or disqualification if
7.18 the hearing has not been conducted within 60 days after filing of the petition upon terms
7.19 the court deems proper.

7.20 (d) Judicial reviews must be conducted according to the Rules of Civil Procedure,
7.21 except that prehearing discovery is mandatory and is limited to:

7.22 (1) the notice of revocation;

7.23 (2) the test record or, in the case of blood or urine tests, the certificate of analysis;

7.24 (3) the peace officer's certificate and any accompanying documentation submitted by
7.25 the arresting officer to the commissioner; and

7.26 (4) disclosure of potential witnesses, including experts, and the basis of their
7.27 testimony.

7.28 Other types of discovery are available only upon order of the court.

7.29 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.30 Sec. 11. Minnesota Statutes 2014, section 169A.53, subdivision 3, is amended to read:

7.31 Subd. 3. **Judicial hearing; issues, order, appeal.** (a) A judicial review hearing
7.32 under this section must be before a district judge in any county in the judicial district
7.33 where the alleged offense occurred. The hearing is to the court and may be conducted at
7.34 the same time and in the same manner as hearings upon pretrial motions in the criminal
7.35 prosecution under section 169A.20 (driving while impaired), if any. The hearing must be

recorded. The commissioner shall appear and be represented by the attorney general or through the prosecuting authority for the jurisdiction involved. The hearing must be held at the earliest practicable date, and in any event no later than 60 days following the filing of the petition for review. The judicial district administrator shall establish procedures to ensure efficient compliance with this subdivision. To accomplish this, the administrator may, whenever possible, consolidate and transfer review hearings among the locations within the judicial district where terms of district court are held.

(b) In addition to any constitutional challenges, the scope of the hearing is limited to the issues in clauses (1) to ~~(10)~~ (11):

(1) Did the peace officer have probable cause to believe the person was driving, operating, or in physical control of a motor vehicle or commercial motor vehicle in violation of section 169A.20 (driving while impaired)?

(2) Was the person driving, operating, or in physical control of a motor vehicle?

~~(2)~~ (3) Was the person lawfully placed under arrest for violation of section 169A.20?

~~(3)~~ (4) Was the person involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death?

~~(4)~~ (5) Did the person refuse to take a screening test provided for by section 169A.41 (preliminary screening test)?

~~(5)~~ (6) If the screening test was administered, did the test indicate an alcohol concentration of 0.08 or more?

~~(6)~~ (7) At the time of the request for the test, did the peace officer inform the person of the person's rights and the consequences of taking or refusing the test as required by section 169A.51, subdivision 2?

~~(7)~~ (8) Did the person refuse to permit the test?

~~(8)~~ (9) If a test was taken by a person driving, operating, or in physical control of a motor vehicle, did the test results indicate at the time of testing:

(i) an alcohol concentration of 0.08 or more; or

(ii) the presence of a controlled substance listed in Schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols?

~~(9)~~ (10) If a test was taken by a person driving, operating, or in physical control of a commercial motor vehicle, did the test results indicate an alcohol concentration of 0.04 or more at the time of testing?

~~(10)~~ (11) Was the testing method used valid and reliable and were the test results accurately evaluated?

(c) It is an affirmative defense for the petitioner to prove ~~that, at the time of the refusal, the petitioner's refusal to permit the test was based upon reasonable grounds~~ any of the defenses described in section 169A.46.

(d) Certified or otherwise authenticated copies of laboratory or medical personnel reports, records, documents, licenses, and certificates are admissible as substantive evidence.

(e) The court shall order that the revocation or disqualification be either rescinded or sustained and forward the order to the commissioner. The court shall file its order within 14 days following the hearing. If the revocation or disqualification is sustained, the court shall also forward the person's driver's license or permit to the commissioner for further action by the commissioner if the license or permit is not already in the commissioner's possession.

(f) Any party aggrieved by the decision of the reviewing court may appeal the decision as provided in the Rules of Appellate Procedure.

(g) The civil hearing under this section shall not give rise to an estoppel on any issues arising from the same set of circumstances in any criminal prosecution.

(h) An affirmative defense authorized in paragraph (c) may not be raised unless notice is given to the commissioner at least seven days before the hearing on the matter.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 12. Minnesota Statutes 2014, section 169A.55, subdivision 2, is amended to read:

Subd. 2. **Reinstatement of driving privileges; notice.** Upon expiration of a period of revocation under section 169A.52 (license revocation for test failure or refusal) or 169A.54 (impaired driving convictions and adjudications; administrative penalties), the commissioner shall notify the person of the terms upon which driving privileges can be reinstated, and new registration plates issued, which terms are: (1) ~~successful completion of an examination and~~ proof of compliance with any terms of alcohol treatment or counseling previously prescribed, if any; and (2) any other requirements imposed by the commissioner and applicable to that particular case. The commissioner shall notify the owner of a motor vehicle subject to an impoundment order under section 169A.60 (administrative impoundment of plates) as a result of the violation of the procedures for obtaining new registration plates, if the owner is not the violator. The commissioner shall also notify the person that if driving is resumed without reinstatement of driving privileges or without valid registration plates and registration certificate, the person will be subject to criminal penalties.

Sec. 13. Minnesota Statutes 2014, section 169A.55, subdivision 5, is amended to read:

10.1 Subd. 5. **Reinstatement of driving privileges; certain criminal vehicular**
10.2 **operation offenses.** A person whose driver's license has been revoked under section
10.3 171.17, subdivision 1, paragraph (a), clause (1) (revocation, criminal vehicular operation),
10.4 or suspended under section 171.187 (suspension, criminal vehicular operation), for a
10.5 violation of section 609.2112, subdivision 1, clause (2), item (i) or (iii), (3), or (4);
10.6 609.2113, subdivision 1, clause (2), item (i) or (iii), (3), or (4), subdivision 2, clause
10.7 (2), item (i) or (iii), (3), or (4), or subdivision 3, clause (2), item (i) or (iii), (3), or (4);
10.8 or section 609.2114, subdivision 1, clause (2), item (i) or (iii), (3), or (4), or subdivision
10.9 2, clause (2), item (i) or (iii) (criminal vehicular operation, alcohol-related provisions),
10.10 ~~resulting in bodily harm, substantial bodily harm, or great bodily harm,~~ shall not be
10.11 eligible for reinstatement of driving privileges until the person has submitted to the
10.12 commissioner verification of the use of ignition interlock for the applicable time period
10.13 specified in those sections. To be eligible for reinstatement under this subdivision, a
10.14 person shall utilize an ignition interlock device that meets the performance standards and
10.15 certification requirements under subdivision 4, paragraph (c).

10.16 Sec. 14. Minnesota Statutes 2014, section 169A.60, subdivision 4, is amended to read:

10.17 Subd. 4. **Peace officer as agent for notice of impoundment.** On behalf of the
10.18 commissioner, a peace officer issuing a notice of intent to revoke and of revocation for a
10.19 plate impoundment violation shall also serve a notice of intent to impound and an order of
10.20 impoundment. On behalf of the commissioner, a peace officer who is arresting a person
10.21 for or charging a person with a plate impoundment violation described in subdivision 1,
10.22 paragraph (d), clause (5), shall also serve a notice of intent to impound and an order of
10.23 impoundment. If the vehicle involved in the plate impoundment violation is accessible
10.24 to the officer at the time the impoundment order is issued, the officer shall seize the
10.25 registration plates subject to the impoundment order. The officer shall destroy all plates
10.26 seized or impounded under this section. Alternatively, the officer may invalidate the plates
10.27 by affixing a permanent sticker on them. The officer shall send to the commissioner
10.28 copies of the notice of intent to impound and the order of impoundment and a notice that
10.29 registration plates impounded and seized under this section have been destroyed or have
10.30 been affixed with the permanent sticker.

10.31 Sec. 15. Minnesota Statutes 2014, section 169A.60, subdivision 5, is amended to read:

10.32 Subd. 5. **Temporary permit.** If the motor vehicle is registered to the violator
10.33 and the plate impoundment violation is predicated on the results of a chemical test of
10.34 the violator's breath or on a refusal to submit to a chemical test, the officer shall issue a

11.1 temporary vehicle permit that is valid for ~~seven~~ 14 days when the officer issues the notices
11.2 under subdivision 4. The temporary permit is valid for 45 days if the violator submits to a
11.3 chemical test of the violator's blood or urine. If the motor vehicle is registered in the name
11.4 of another, the officer shall issue a temporary vehicle permit that is valid for 45 days when
11.5 the notices are issued under subdivision 3. The permit must be in a form determined by
11.6 the registrar and whenever practicable must be posted on the left side of the inside rear
11.7 window of the vehicle. A permit is valid only for the vehicle for which it is issued.

11.8 Sec. 16. Minnesota Statutes 2014, section 169A.60, subdivision 10, is amended to read:

11.9 Subd. 10. **Petition for judicial review.** (a) Within ~~30~~ 60 days following receipt of
11.10 a notice and order of impoundment under this section, a person may petition the court
11.11 for review. The petition must include proof of service of a copy of the petition on the
11.12 commissioner. The petition must include the petitioner's date of birth, driver's license
11.13 number, and date of the plate impoundment violation, as well as the name of the violator
11.14 and the law enforcement agency that issued the plate impoundment order. The petition
11.15 must state with specificity the grounds upon which the petitioner seeks rescission of the
11.16 order for impoundment. The petition may be combined with any petition filed under
11.17 section 169A.53 (administrative and judicial review of license revocation).

11.18 (b) Except as otherwise provided in this section, the judicial review and hearing are
11.19 governed by section 169A.53 and must take place at the same time as any judicial review
11.20 of the person's license revocation under section 169A.53. The filing of the petition does
11.21 not stay the impoundment order. The reviewing court may order a stay of the balance of
11.22 the impoundment period if the hearing has not been conducted within 60 days after filing
11.23 of the petition upon terms the court deems proper. The court shall order either that the
11.24 impoundment be rescinded or sustained, and forward the order to the commissioner. The
11.25 court shall file its order within 14 days following the hearing.

11.26 (c) In addition to the issues described in section 169A.53, subdivision 3 (judicial
11.27 review of license revocation), the scope of a hearing under this subdivision is limited to:

11.28 (1) if the impoundment is based on a plate impoundment violation described in
11.29 subdivision 1, paragraph (d), clause (3) or (4), whether the peace officer had probable
11.30 cause to believe the violator committed the plate impoundment violation and whether the
11.31 evidence demonstrates that the plate impoundment violation occurred; and

11.32 (2) for all other cases, whether the peace officer had probable cause to believe the
11.33 violator committed the plate impoundment violation.

11.34 (d) In a hearing under this subdivision, the following records are admissible in
11.35 evidence:

- 12.1 (1) certified copies of the violator's driving record; and
12.2 (2) certified copies of vehicle registration records bearing the violator's name.

12.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

12.4 Sec. 17. Minnesota Statutes 2014, section 169A.60, subdivision 13, is amended to read:

12.5 Subd. 13. **Special registration plates.** (a) At any time during the effective period of
12.6 an impoundment order, a violator or registered owner may apply to the commissioner for
12.7 new registration plates, which must bear a special series of numbers or letters so as to be
12.8 readily identified by traffic law enforcement officers. The commissioner may authorize
12.9 the issuance of special plates if:

- 12.10 (1) the violator has a qualified licensed driver whom the violator must identify;
12.11 (2) the violator or registered owner has a limited license issued under section 171.30;
12.12 (3) the registered owner is not the violator and the registered owner has a valid or
12.13 limited driver's license;
12.14 (4) a member of the registered owner's household has a valid driver's license; or
12.15 (5) the violator has been reissued a valid driver's license.

12.16 (b) The commissioner may not issue new registration plates for that vehicle subject
12.17 to plate impoundment for a period of at least one year from the date of the impoundment
12.18 order. In addition, if the owner is the violator, new registration plates may not be issued
12.19 for the vehicle unless the person has been reissued a valid driver's license in accordance
12.20 with chapter 171.

12.21 (c) A violator may not apply for new registration plates for a vehicle at any time
12.22 before the person's driver's license is reinstated.

12.23 (d) The commissioner may issue the special plates on payment of a \$50 fee for each
12.24 vehicle for which special plates are requested.

12.25 (e) Paragraphs (a) to (d) notwithstanding, the commissioner must issue upon
12.26 request new registration plates for a vehicle for which the registration plates have been
12.27 impounded if:

- 12.28 (1) the impoundment order is rescinded;
12.29 (2) the vehicle is transferred in compliance with subdivision 14; ~~or~~
12.30 (3) the vehicle is transferred to a Minnesota automobile dealer licensed under
12.31 section 168.27, a financial institution that has submitted a repossession affidavit, or a
12.32 government agency; or

12.33 (4) the violator becomes a program participant in the ignition interlock program
12.34 under section 171.306.

13.1 Sec. 18. Minnesota Statutes 2014, section 169A.63, is amended by adding a
13.2 subdivision to read:

13.3 Subd. 13. **Exception.** (a) This section does not apply if the driver who committed the
13.4 designated offense or whose conduct resulted in the designated license revocation becomes
13.5 a program participant in the ignition interlock program under section 171.306 within 60
13.6 days following service of the Notice of Seizure and Intent to Forfeit under this section.

13.7 (b) Notwithstanding paragraph (a), if the program participant described in paragraph
13.8 (a) subsequently operates the motor vehicle to commit a designated offense or in a manner
13.9 that results in a designated license revocation, the vehicle must be seized and summarily
13.10 forfeited.

13.11 (c) Paragraph (b) applies only if the described subsequent vehicle operation occurs
13.12 before the participant has been restored to full driving privileges or within three years of
13.13 the original designated offense or designated license revocation, whichever occurs latest.

13.14 Sec. 19. Minnesota Statutes 2014, section 171.09, subdivision 1, is amended to read:

13.15 Subdivision 1. **Authority; violations.** (a) The commissioner, when good cause
13.16 appears, may impose restrictions suitable to the licensee's driving ability or other
13.17 restrictions applicable to the licensee as the commissioner may determine to be appropriate
13.18 to assure the safe operation of a motor vehicle by the licensee.

13.19 (b) Pursuant to Code of Federal Regulations, title 49, section 383.95, if an applicant
13.20 for a commercial driver's license either does not successfully complete the air brake
13.21 component of the knowledge test, or does not successfully complete the skills test
13.22 in a vehicle equipped with air brakes as such tests are prescribed in Code of Federal
13.23 Regulations, title 49, part 384, the department shall indicate on the class C, class B,
13.24 or class A commercial driver's license, if issued, that the individual is restricted from
13.25 operating a commercial motor vehicle equipped with air brakes.

13.26 (c) The commissioner shall restrict the operating privileges of a holder of a class
13.27 A, class B, or class C commercial driver's license in accordance with Code of Federal
13.28 Regulations, title 49, sections 383.73 and 383.95.

13.29 (d) The commissioner may restrict the operating privileges of a holder of a class
13.30 A, class B, or class C commercial driver's license to the extent that the restrictions
13.31 are authorized by section 221.0314, subdivision 3 or 3a, or rules adopted under those
13.32 subdivisions or section 221.031.

13.33 (e) Upon receiving satisfactory evidence of any violation of the restrictions on the
13.34 license, the commissioner may suspend or revoke the license. A license suspension under
13.35 this section is subject to section 171.18, subdivisions 2 and 3.

14.1 (f) A person who drives, operates, or is in physical control of a motor vehicle while
14.2 in violation of the restrictions imposed in a restricted driver's license issued to that person
14.3 under this section is guilty of a crime as follows:

14.4 (1) if the restriction relates to the possession or consumption of alcohol or controlled
14.5 substances, the person is guilty of a gross misdemeanor; or

14.6 (2) if the restriction relates to another matter, the person is guilty of a misdemeanor.

14.7 (g) It is a misdemeanor for a person who holds a restricted license issued under
14.8 section 171.306 to drive, operate, or be in physical control of any motor vehicle that is
14.9 not equipped with a functioning ignition interlock device certified by the commissioner.
14.10 Notwithstanding section 609.101, subdivision 4, the Judicial Council may not add a
14.11 violation of this paragraph to the Statewide Payables List.

14.12 Sec. 20. Minnesota Statutes 2014, section 171.29, subdivision 1, is amended to read:

14.13 Subdivision 1. **Examination required.** (a) No person whose driver's license has
14.14 been revoked by reason of conviction, plea of guilty, or forfeiture of bail not vacated,
14.15 under section 169.791, 169.797, 171.17, or 171.172, or revoked under section 169.792 or
14.16 ~~169A.52~~ shall be issued another license unless and until that person shall have successfully
14.17 passed an examination as required by the commissioner of public safety. This subdivision
14.18 does not apply to an applicant for early reinstatement under section 169.792, subdivision 7a.

14.19 (b) The requirement to successfully pass the examination described in paragraph
14.20 (a) does not apply to a person whose driver's license has been revoked because of an
14.21 impaired driving offense.

14.22 Sec. 21. Minnesota Statutes 2014, section 171.29, subdivision 2, is amended to read:

14.23 Subd. 2. **Reinstatement fees and surcharges allocated and appropriated.** (a) An
14.24 individual whose driver's license has been revoked as provided in subdivision 1, except
14.25 under section 169A.52, 169A.54, 609.2112, 609.2113, or 609.2114, or Minnesota Statutes
14.26 2012, section 609.21, must pay a \$30 fee before the driver's license is reinstated.

14.27 (b) A person whose driver's license has been revoked as provided in subdivision 1
14.28 under section 169A.52, 169A.54, 609.2112, 609.2113, or 609.2114, or Minnesota Statutes
14.29 2012, section 609.21, must pay a \$250 fee plus a \$430 surcharge before the driver's license
14.30 is reinstated, except as provided in paragraph (f). The \$250 fee is to be credited as follows:

14.31 (1) Twenty percent must be credited to the driver services operating account in the
14.32 special revenue fund as specified in section 299A.705.

14.33 (2) Sixty-seven percent must be credited to the general fund.

(3) Eight percent must be credited to a separate account to be known as the Bureau of Criminal Apprehension account. Money in this account is annually appropriated to the commissioner of public safety and the appropriated amount must be apportioned 80 percent for laboratory costs and 20 percent for carrying out the provisions of section 299C.065.

(4) Five percent must be credited to a separate account to be known as the vehicle forfeiture account, which is created in the special revenue fund. The money in the account is annually appropriated to the commissioner for costs of handling vehicle forfeitures.

(c) The revenue from \$50 of the surcharge must be credited to a separate account to be known as the traumatic brain injury and spinal cord injury account. The revenue from \$50 of the surcharge on a reinstatement under paragraph (f) is credited from the first installment payment to the traumatic brain injury and spinal cord injury account. The money in the account is annually appropriated to the commissioner of health to be used as follows: 83 percent for contracts with a qualified community-based organization to provide information, resources, and support to assist persons with traumatic brain injury and their families to access services, and 17 percent to maintain the traumatic brain injury and spinal cord injury registry created in section 144.662. For the purposes of this paragraph, a "qualified community-based organization" is a private, not-for-profit organization of consumers of traumatic brain injury services and their family members. The organization must be registered with the United States Internal Revenue Service under section 501(c)(3) as a tax-exempt organization and must have as its purposes:

(1) the promotion of public, family, survivor, and professional awareness of the incidence and consequences of traumatic brain injury;

(2) the provision of a network of support for persons with traumatic brain injury, their families, and friends;

(3) the development and support of programs and services to prevent traumatic brain injury;

(4) the establishment of education programs for persons with traumatic brain injury; and

(5) the empowerment of persons with traumatic brain injury through participation in its governance.

A patient's name, identifying information, or identifiable medical data must not be disclosed to the organization without the informed voluntary written consent of the patient or patient's guardian or, if the patient is a minor, of the parent or guardian of the patient.

(d) The remainder of the surcharge must be credited to a separate account to be known as the remote electronic alcohol-monitoring program account. The commissioner

16.1 shall transfer the balance of this account to the commissioner of management and budget
16.2 on a monthly basis for deposit in the general fund.

16.3 (e) When these fees are collected by a licensing agent, appointed under section
16.4 171.061, a handling charge is imposed in the amount specified under section 171.061,
16.5 subdivision 4. The reinstatement fees and surcharge must be deposited in an approved
16.6 depository as directed under section 171.061, subdivision 4.

16.7 (f) A person whose driver's license has been revoked as provided in subdivision
16.8 1 under section 169A.52 or 169A.54 ~~and who the court certifies as being financially~~
16.9 ~~eligible for a public defender under section 611.17~~, may choose to pay 50 percent and an
16.10 additional \$25 of the total amount of the surcharge and 50 percent of the fee required under
16.11 paragraph (b) to reinstate the person's driver's license, provided the person meets all other
16.12 requirements of reinstatement. If a person chooses to pay 50 percent of the total and an
16.13 additional \$25, the driver's license must expire after ~~two years~~ one year. Upon expiration,
16.14 the person must pay an additional 50 percent less \$25 of the total to extend the license for
16.15 an additional ~~two~~ three years, provided the person is otherwise still eligible for the license.
16.16 After this final payment of the surcharge and fee, the license may be renewed on a standard
16.17 schedule, as provided under section 171.27. A handling charge may be imposed for each
16.18 installment payment. Revenue from the handling charge is credited to the driver services
16.19 operating account in the special revenue fund and is appropriated to the commissioner.

16.20 (g) Any person making installment payments under paragraph (f), whose driver's
16.21 license subsequently expires, or is canceled, revoked, or suspended before payment of
16.22 100 percent of the surcharge and fee, must pay the outstanding balance due for the initial
16.23 reinstatement before the driver's license is subsequently reinstated. Upon payment of
16.24 the outstanding balance due for the initial reinstatement, the person may pay any new
16.25 surcharge and fee imposed under paragraph (b) in installment payments as provided
16.26 under paragraph (f).

16.27 **EFFECTIVE DATE.** This section is effective July 1, 2015.

16.28 Sec. 22. Minnesota Statutes 2014, section 171.30, subdivision 1, is amended to read:

16.29 Subdivision 1. **Conditions of issuance.** (a) The commissioner may issue a limited
16.30 license to the driver under the conditions in paragraph (b) in any case where a person's
16.31 license has been:

16.32 (1) suspended under section 171.18, 171.173, 171.186, or 171.187;

16.33 (2) revoked, canceled, or denied under section:

16.34 (i) 169.792;

16.35 (ii) 169.797;

- 17.1 (iii) 169A.52:
- 17.2 (A) subdivision 3, paragraph (a), clause (1) or (2); or
- 17.3 ~~(B) subdivision 3, paragraph (a), clause (4), (5), or (6), if in compliance with section~~
- 17.4 ~~171.306;~~
- 17.5 ~~(C)~~ (B) subdivision 4, paragraph (a), clause (1) or (2), if the test results indicate an
- 17.6 alcohol concentration of less than twice the legal limit;
- 17.7 ~~(D) subdivision 4, paragraph (a), clause (4), (5), or (6), if in compliance with section~~
- 17.8 ~~171.306;~~
- 17.9 (iv) 171.17; or
- 17.10 (v) 171.172; or
- 17.11 (3) revoked, canceled, or denied under section 169A.54:
- 17.12 (i) subdivision 1, clause (1), if the test results indicate an alcohol concentration
- 17.13 of less than twice the legal limit;
- 17.14 (ii) subdivision 1, clause (2); or
- 17.15 ~~(iii) subdivision 1, clause (5), (6), or (7), if in compliance with section 171.306; or~~
- 17.16 ~~(iv)~~ (iii) subdivision 2, if the person does not have a qualified prior impaired driving
- 17.17 incident as defined in section 169A.03, subdivision 22, on the person's record, and the test
- 17.18 results indicate an alcohol concentration of less than twice the legal limit.
- 17.19 (b) The following conditions for a limited license under paragraph (a) include:
- 17.20 (1) if the driver's livelihood or attendance at a chemical dependency treatment or
- 17.21 counseling program depends upon the use of the driver's license;
- 17.22 (2) if the use of a driver's license by a homemaker is necessary to prevent the
- 17.23 substantial disruption of the education, medical, or nutritional needs of the family of
- 17.24 the homemaker; or
- 17.25 (3) if attendance at a postsecondary institution of education by an enrolled student of
- 17.26 that institution depends upon the use of the driver's license.
- 17.27 (c) The commissioner in issuing a limited license may impose such conditions and
- 17.28 limitations as in the commissioner's judgment are necessary to the interests of the public
- 17.29 safety and welfare including reexamination as to the driver's qualifications. The license
- 17.30 may be limited to the operation of particular vehicles, to particular classes and times of
- 17.31 operation, and to particular conditions of traffic. The commissioner may require that an
- 17.32 applicant for a limited license affirmatively demonstrate that use of public transportation
- 17.33 or carpooling as an alternative to a limited license would be a significant hardship.
- 17.34 (d) For purposes of this subdivision:

(1) "homemaker" refers to the person primarily performing the domestic tasks in a household of residents consisting of at least the person and the person's dependent child or other dependents; and

(2) "twice the legal limit" means an alcohol concentration of two times the limit specified in section 169A.20, subdivision 1, clause (5).

(e) The limited license issued by the commissioner shall clearly indicate the limitations imposed and the driver operating under the limited license shall have the license in possession at all times when operating as a driver.

(f) In determining whether to issue a limited license, the commissioner shall consider the number and the seriousness of prior convictions and the entire driving record of the driver and shall consider the number of miles driven by the driver annually.

(g) If the person's driver's license or permit to drive has been revoked under section 169.792 or 169.797, the commissioner may only issue a limited license to the person after the person has presented an insurance identification card, policy, or written statement indicating that the driver or owner has insurance coverage satisfactory to the commissioner of public safety. The commissioner of public safety may require the insurance identification card provided to satisfy this subdivision be certified by the insurance company to be noncancelable for a period not to exceed 12 months.

(h) The limited license issued by the commissioner to a person under section 171.186, subdivision 4, must expire 90 days after the date it is issued. The commissioner must not issue a limited license to a person who previously has been issued a limited license under section 171.186, subdivision 4.

(i) The commissioner shall not issue a limited driver's license to any person described in section 171.04, subdivision 1, clause (6), (7), (8), (11), or (14).

(j) The commissioner shall not issue a class A, class B, or class C limited license.

Sec. 23. Minnesota Statutes 2014, section 171.30, subdivision 2a, is amended to read:

Subd. 2a. **Other waiting periods.** Notwithstanding subdivision 2, a limited license shall not be issued for a period of:

(1) 15 days, to a person whose license or privilege has been revoked or suspended for a first violation of section 169A.20, sections 169A.50 to 169A.53, or a statute or ordinance from another state in conformity with either of those sections; or

(2) one year, to a person whose license or privilege has been revoked or suspended for committing manslaughter resulting from the operation of a motor vehicle, committing criminal vehicular homicide or injury under section ~~609.21, subdivision 1, clause (1), (2), item (ii), (5), (6), (7), or (8), committing criminal vehicular homicide under section 609.21,~~

19.1 ~~subdivision 1, clause (2), item (i) or (iii), (3), or (4), 609.2112, subdivision 1, clause (1), (2),~~
19.2 ~~item (ii), (5), (6), (7), or (8); 609.2113, subdivision 1, clause (1), (2), item (ii), (5), (6), (7),~~
19.3 ~~or (8), subdivision 2, clause (1), (2), item (ii), (5), (6), (7), or (8), or subdivision 3, clause~~
19.4 ~~(1), (2), item (ii), (5), (6), (7), or (8); or 609.2114, subdivision 1, clause (1), (2), item (ii),~~
19.5 ~~(5), (6), (7), or (8), or subdivision 2, clause (1), (2), item (ii), (5), (6), (7), or (8), or violating~~
19.6 ~~a statute or ordinance from another state in conformity with either of those offenses.~~

19.7 Sec. 24. Minnesota Statutes 2014, section 171.30, subdivision 5, is amended to read:

19.8 Subd. 5. **Exception; criminal vehicular operation.** Notwithstanding subdivision
19.9 1, the commissioner may not issue a limited license to a person whose driver's license
19.10 has been suspended or revoked due to a violation of ~~section 609.21, subdivision 1, clause~~
19.11 ~~(2), item (i) or (iii), (3), or (4), resulting in bodily harm, substantial bodily harm, or great~~
19.12 ~~bodily harm~~ section 609.2112, subdivision 1, clause (2), item (i) or (iii), (3), or (4);
19.13 609.2113, subdivision 1, clause (2), item (i) or (iii), (3), or (4), subdivision 2, clause (2),
19.14 item (i) or (iii), (3), or (4), or subdivision 3, clause (2), item (i) or (iii), (3), or (4); or
19.15 609.2114, subdivision 1, clause (2), item (i) or (iii), (3), or (4), or subdivision 2, clause
19.16 (2), item (i) or (iii), (3), or (4).

19.17 Sec. 25. Minnesota Statutes 2014, section 171.306, subdivision 1, is amended to read:

19.18 Subdivision 1. **Definitions.** (a) As used in this section, the terms in this subdivision
19.19 have the meanings given them.

19.20 (b) "Ignition interlock device" or "device" means equipment that is designed to
19.21 measure breath alcohol concentration and to prevent a motor vehicle's ignition from being
19.22 started by a person whose breath alcohol concentration measures 0.02 or higher on the
19.23 equipment.

19.24 (c) "Program participant" means a person who has qualified to take part in the
19.25 ignition interlock program under this section, and whose driver's license has been:

19.26 (1) revoked, canceled, or denied under section 169A.52, 169A.54, or 171.04,
19.27 subdivision 1, clause (10), or for a violation of section 169A.20, while having an alcohol
19.28 concentration of 0.16 or more; or

19.29 (2) revoked under section 171.17, subdivision 1, paragraph (a), clause (1), or
19.30 suspended under section 171.187, for a violation of section 609.2112, subdivision 1,
19.31 clause (2), item (i) or (iii), (3), or (4); 609.2113, subdivision 1, clause (2), item (i) or (iii),
19.32 (3), or (4); subdivision 2, clause (2), item (i) or (iii), (3), or (4); or subdivision 3, clause
19.33 (2), item (i) or (iii), (3), or (4); or 609.2114, subdivision 1, clause (2), item (i) or (iii), (3),

20.1 ~~or (4), or subdivision 2, clause (2), item (i) or (iii), (3), or (4), resulting in bodily harm,~~
20.2 ~~substantial bodily harm, or great bodily harm.~~

20.3 (d) "Qualified prior impaired driving incident" has the meaning given in section
20.4 169A.03, subdivision 22.

20.5 Sec. 26. Minnesota Statutes 2014, section 171.306, subdivision 2, is amended to read:

20.6 Subd. 2. **Performance standards; certification; manufacturer requirements.**

20.7 (a) The commissioner shall establish performance standards and a process for certifying
20.8 devices used in the ignition interlock program. The manufacturer of a device must
20.9 apply annually for certification of the device by submitting the form prescribed by the
20.10 commissioner. The commissioner shall require manufacturers of certified devices to:

20.11 (1) provide device installation, servicing, and monitoring to indigent program
20.12 participants at a discounted rate, according to the standards established by the
20.13 commissioner; and

20.14 (2) include in an ignition interlock device contract a provision that a program
20.15 participant who voluntarily terminates participation in the program is only liable for
20.16 servicing and monitoring costs incurred during the time the device is installed on the
20.17 motor vehicle, regardless of whether the term of the contract has expired.

20.18 (b) The commissioner shall require a program participant seeking a reduced rate
20.19 based on indigency to submit a sworn statement affirming that the proof of the participant's
20.20 indigency is accurate. The commissioner shall notify the participant of the criminal
20.21 penalty in subdivision 6, paragraph (c), for submitting false information for this purpose.
20.22 If the commissioner determines that the statement contains false material information, the
20.23 commissioner shall deny the participant the discounted rate.

20.24 Sec. 27. Minnesota Statutes 2014, section 171.306, subdivision 4, is amended to read:

20.25 Subd. 4. **Issuance of restricted license.** (a) The commissioner shall issue a class
20.26 D driver's license, subject to the applicable limitations and restrictions of this section,
20.27 to a program participant who meets the requirements of this section and the program
20.28 guidelines. The commissioner shall not issue a license unless the program participant has
20.29 provided satisfactory proof that:

20.30 (1) a certified ignition interlock device has been installed on the participant's motor
20.31 vehicle at an installation service center designated by the device's manufacturer; and

20.32 (2) the participant has insurance coverage on the vehicle equipped with the ignition
20.33 interlock device.

21.1 If the participant has previously been convicted of violating section 169.791, 169.793,
21.2 or 169.797, or the participant's license has previously been suspended or canceled under
21.3 section 169.792 or 169.797, the commissioner shall require the participant to present an
21.4 insurance identification card, policy, or written statement as proof of insurance coverage,
21.5 and may require the insurance identification card provided be that is certified by the
21.6 insurance company to be noncancelable for a period not to exceed 12 months.

21.7 (b) A license issued under authority of this section must contain a restriction
21.8 prohibiting the program participant from driving, operating, or being in physical control of
21.9 any motor vehicle not equipped with a functioning ignition interlock device certified by
21.10 the commissioner. A participant may drive an employer-owned vehicle not equipped with
21.11 an interlock device while in the normal course and scope of employment duties pursuant
21.12 to the program guidelines established by the commissioner and with the employer's
21.13 written consent.

21.14 (c) A program participant whose driver's license has been: (1) revoked under section
21.15 169A.52, subdivision 3, paragraph (a), clause (1), (2), or (3), or subdivision 4, paragraph
21.16 (a), clause (1), (2), or (3), or section 169A.54, subdivision 1, clause (1), (2), (3), or (4); or
21.17 (2) revoked under section 171.17, subdivision 1, paragraph (a), clause (1), or suspended
21.18 under section 171.187, for a violation of section 609.2112, subdivision 1, clause (2), item
21.19 (i) or (iii), (3), or (4); 609.2113, subdivision 1, clause (2), item (i) or (iii), (3), or (4);
21.20 subdivision 2, clause (2), item (i) or (iii), (3), or (4); or subdivision 3, clause (2), item (i)
21.21 or (iii), (3), or (4); or 609.2114, subdivision 1, clause (2), item (i) or (iii), (3), or (4), or
21.22 subdivision 2, clause (2), item (i) or (iii), (3), or (4), resulting in bodily harm, substantial
21.23 bodily harm, or great bodily harm, where the participant has fewer than two qualified prior
21.24 impaired driving incidents within the past ten years or fewer than three qualified prior
21.25 impaired driving incidents ever; may apply for conditional reinstatement of the driver's
21.26 license, subject to the ignition interlock restriction.

21.27 (d) A program participant whose driver's license has been: (1) revoked, canceled,
21.28 or denied under section 169A.52, subdivision 3, paragraph (a), clause (4), (5), or (6), or
21.29 subdivision 4, paragraph (a), clause (4), (5), or (6), or section 169A.54, subdivision 1,
21.30 clause (5), (6), or (7); or (2) revoked under section 171.17, subdivision 1, paragraph
21.31 (a), clause (1), or suspended under section 171.187, for a violation of section 609.2112,
21.32 subdivision 1, clause (2), item (i) or (iii), (3), or (4); 609.2113, subdivision 1, clause
21.33 (2), item (i) or (iii), (3), or (4); subdivision 2, clause (2), item (i) or (iii), (3), or (4); or
21.34 subdivision 3, clause (2), item (i) or (iii), (3), or (4); or 609.2114, subdivision 1, clause
21.35 (2), item (i) or (iii), (3), or (4), or subdivision 2, clause (2), item (i) or (iii), (3), or (4),
21.36 resulting in bodily harm, substantial bodily harm, or great bodily harm, where the

participant has two or more qualified prior impaired driving incidents within the past ten years or three or more qualified prior impaired driving incidents ever; may apply for a ~~limited conditional reinstatement of the driver's license~~, subject to the ignition interlock restriction, if the program participant is enrolled in a licensed chemical dependency treatment or rehabilitation program as recommended in a chemical use assessment; ~~and if the participant meets the other applicable requirements of section 171.30. After completing~~ As a prerequisite to eligibility for eventual reinstatement of full driving privileges, a participant whose chemical use assessment recommended treatment or rehabilitation shall complete a licensed chemical dependency treatment or rehabilitation program and one year of limited license use without violating the ignition interlock restriction, the conditions of limited license use, or program guidelines, the participant may apply for conditional reinstatement of the driver's license, subject to the ignition interlock restriction. If the program participant's ignition interlock device subsequently registers a positive breath alcohol concentration of 0.02 or higher, the commissioner shall ~~cancel the driver's license, and the program participant may apply for another limited license according to this paragraph~~ extend the time period that the participant must participate in the program until the participant has reached the required abstinence period described in section 169A.55, subdivision 4.

(e) Notwithstanding any statute or rule to the contrary, the commissioner has authority to determine when a program participant is eligible for restoration of full driving privileges, except that the commissioner shall not reinstate full driving privileges until the program participant has met all applicable prerequisites for reinstatement under section 169A.55 and until the program participant's device has registered no positive breath alcohol concentrations of 0.02 or higher during the preceding 90 days.

Sec. 28. Minnesota Statutes 2014, section 171.306, subdivision 5, is amended to read:

Subd. 5. **Penalties; program violations.** (a) If a program participant tampers with, circumvents, or bypasses a device; drives, operates, or exercises physical control over a motor vehicle not equipped with a device certified by the commissioner; ~~violates a condition of a limited license issued under subdivision 4 and section 171.30; or violates~~ the program guidelines of subdivision 3, the commissioner shall extend the person's revocation period under section 169A.52 or 169A.54 by:

- (1) 180 days for a first violation;
- (2) one year for a second violation; or
- (3) 545 days for a third and each subsequent violation.

(b) Notwithstanding paragraph (a), the commissioner may terminate participation in the program by any person when, in the commissioner's judgment, termination is necessary to the interests of public safety and welfare. In the event of termination, the commissioner shall not reduce the applicable revocation period under section 169A.52 or 169A.54 by the amount of time during which the person possessed a ~~limited or~~ restricted driver's license issued under the authority of subdivision 4.

Sec. 29. Minnesota Statutes 2014, section 171.306, subdivision 6, is amended to read:

Subd. 6. **Penalties; tampering.** (a) A person who lends, rents, or leases a motor vehicle that is not equipped with a functioning ignition interlock device certified by the commissioner to a person with a license issued under this section knowing that the person is subject to the ignition interlock restriction is guilty of a misdemeanor.

(b) A person who tampers with, circumvents, or bypasses the ignition interlock device, or assists another to tamper with, circumvent, or bypass the device, is guilty of a misdemeanor except when the action was taken for emergency purposes or for mechanical repair, and the person limited to the use of an ignition interlock device does not operate the motor vehicle while the device is disengaged.

(c) A program participant who knowingly submits false material information to an ignition interlock device manufacturer or the commissioner of public safety relating to the participant's eligibility for a discounted rate based on indigency is guilty of a misdemeanor.

(d) Notwithstanding section 609.101, subdivision 4, the Judicial Council may not add a violation of this subdivision to the Statewide Payables List.

EFFECTIVE DATE. This section is effective August 1, 2015, and applies to crimes committed on or after that date.

Sec. 30. Minnesota Statutes 2014, section 609.2111, is amended to read:

609.2111 DEFINITIONS; AFFIRMATIVE DEFENSES.

Subdivision 1. Definitions. (a) For purposes of sections 609.2111 to 609.2114, the terms defined in this subdivision have the meanings given them.

(b) "Motor vehicle" has the meaning given in section 609.52, subdivision 1, and includes attached trailers.

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

(d) "Hazardous substance" means any chemical or chemical compound that is listed as a hazardous substance in rules adopted under chapter 182.

24.1 Subd. 2. **Affirmative defenses.** (a) If proven by a preponderance of the evidence, it
24.2 is an affirmative defense to a violation of section 609.2112, subdivision 1, clause (3) or
24.3 (4); section 609.2113, subdivision 1, clause (3) or (4); subdivision 2, clause (3) or (4); or
24.4 subdivision 3, clause (3) or (4); or section 609.2114, subdivision 1, clause (3) or (4); or
24.5 subdivision 2, clause (3) or (4), that the defendant consumed a sufficient quantity of alcohol
24.6 after the time of the violation and before the administration of the evidentiary test to cause
24.7 the defendant's alcohol concentration to exceed the level specified in the applicable clause.

24.8 (b) If proven by a preponderance of the evidence, it is an affirmative defense to
24.9 a violation of section 609.2112, subdivision 1, clause (2) or (5); section 609.2113,
24.10 subdivision 1, clause (2) or (5); subdivision 2, clause (2) or (5); or subdivision 3, clause
24.11 (2) or (5); or section 609.2114, subdivision 1, clause (2) or (5); or subdivision 2, clause (2)
24.12 or (5), that the defendant consumed a sufficient quantity of alcohol, controlled substance,
24.13 or hazardous substance, or a combination of those elements, after the time of the violation
24.14 to cause the defendant to be under the influence.

24.15 (c) If proven by a preponderance of the evidence, it is an affirmative defense to a
24.16 violation of section 609.2112, subdivision 1, clause (6); section 609.2113, subdivision 1,
24.17 clause (6); subdivision 2, clause (6); or subdivision 3, clause (6); or section 609.2114,
24.18 subdivision 1, clause (6); or subdivision 2, clause (6), that the defendant used the
24.19 controlled substance according to the terms of a prescription issued for the defendant in
24.20 accordance with sections 152.11 and 152.12.

24.21 (d) If proven by a preponderance of the evidence, it is an affirmative defense to a
24.22 violation of section 609.2112, 609.2113, or 609.2114 that the defendant's conduct was a
24.23 result of necessity.

24.24 (e) An affirmative defense described in this subdivision may not be raised unless
24.25 notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

24.26 **EFFECTIVE DATE.** This section is effective the day following final enactment.

24.27 Sec. 31. **LIMITATION; CONSTRUCTION.**

24.28 The affirmative defense changes in this bill are limited to driving while impaired
24.29 and criminal vehicular operation-related proceedings. A court may not construe these
24.30 amendments as addressing or limiting the applicability of affirmative defenses in other
24.31 criminal or civil proceedings.

24.32 **EFFECTIVE DATE.** This section is effective the day following final enactment.

24.33 Sec. 32. **REPEALER.**

- 25.1 Minnesota Statutes 2014, sections 609.2112, subdivision 2; 609.2113, subdivision 4;
25.2 and 609.2114, subdivision 4, are repealed.
- 25.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

APPENDIX
Repealed Minnesota Statutes: S1073-2

609.2112 CRIMINAL VEHICULAR HOMICIDE.

Subd. 2. **Affirmative defense.** It shall be an affirmative defense to a charge under subdivision 1, clause (6), that the defendant used the controlled substance according to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12.

609.2113 CRIMINAL VEHICULAR OPERATION; BODILY HARM.

Subd. 4. **Affirmative defense.** It shall be an affirmative defense to a charge under subdivisions 1, clause (6); 2, clause (6); and 3, clause (6), that the defendant used the controlled substance according to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12.

609.2114 CRIMINAL VEHICULAR OPERATION; UNBORN CHILD.

Subd. 4. **Affirmative defense.** It shall be an affirmative defense to a charge under subdivisions 1, clause (6), and 2, clause (6), that the defendant used the controlled substance according to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12.