

SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION

S.F. No. 753

(SENATE AUTHORS: JOHNSON, Limmer, Latz, Koran and Clausen)

DATE	D-PG	OFFICIAL STATUS
01/31/2019	227	Introduction and first reading Referred to Judiciary and Public Safety Finance and Policy
02/11/2019	341	Author added Latz
03/13/2019	868	Author added Koran
03/18/2019	983a	Comm report: To pass as amended
	999	Second reading
04/04/2019	2159	Author added Clausen
05/09/2019		Special Order: Amended Third reading Passed

1.1 A bill for an act

1.2 relating to driving while impaired; further conforming recreational vehicle DWI

1.3 laws to general DWI laws; expanding the authority of conservation officers under

1.4 DWI law; providing that DWI offenders are not required to take a specified

1.5 examination as a condition of driver's license reinstatement; allowing certain prior

1.6 out-of-state criminal vehicular operation convictions to enhance a DWI to a felony

1.7 DWI; modifying ignition interlock device contract with manufacturer; interpreting

1.8 a term in the Department of Public Safety's administrative rule on ignition

1.9 interlocks; eliminating a requirement in the ignition interlock law relating to

1.10 chemical monitoring devices; modifying how license plates are impounded and

1.11 reissued under the DWI law; providing criminal penalties; amending Minnesota

1.12 Statutes 2018, sections 84.91, subdivision 1; 86B.331, subdivision 1; 169A.03,

1.13 subdivision 18; 169A.24, subdivision 1; 169A.37, subdivision 1; 169A.55,

1.14 subdivisions 2, 4; 169A.60, subdivisions 4, 5; 171.29, subdivision 1; 171.306,

1.15 subdivision 2, by adding a subdivision.

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

1.17 Section 1. Minnesota Statutes 2018, section 84.91, subdivision 1, is amended to read:

1.18 Subdivision 1. **Acts prohibited.** (a) No owner or other person having charge or control

1.19 of any snowmobile or all-terrain vehicle shall authorize or permit any individual the person

1.20 knows or has reason to believe is under the influence of alcohol or a controlled substance

1.21 or other substance to operate the snowmobile or all-terrain vehicle anywhere in this state

1.22 or on the ice of any boundary water of this state.

1.23 (b) No owner or other person having charge or control of any snowmobile or all-terrain

1.24 vehicle shall knowingly authorize or permit any person, who by reason of any physical or

1.25 mental disability is incapable of operating the vehicle, to operate the snowmobile or all-terrain

1.26 vehicle anywhere in this state or on the ice of any boundary water of this state.

2.1 (c) A person who operates or is in physical control of a snowmobile or all-terrain vehicle
 2.2 anywhere in this state or on the ice of any boundary water of this state is subject to chapter
 2.3 169A. In addition to the applicable sanctions under chapter 169A, a person who is convicted
 2.4 of violating section 169A.20 or an ordinance in conformity with it, or who refuses to comply
 2.5 with a lawful request to submit to testing or fails a test lawfully administered under sections
 2.6 169A.50 to 169A.53 or 171.177, or an ordinance in conformity with ~~it~~ any of these sections,
 2.7 ~~shall be~~ is prohibited from operating a snowmobile or all-terrain vehicle for a ~~period of~~ one
 2.8 year. The commissioner shall notify the person of the ~~time~~ period during which the person
 2.9 is prohibited from operating a snowmobile or all-terrain vehicle.

2.10 (d) Administrative and judicial review of the operating privileges prohibition is governed
 2.11 by section 169A.53 or 171.177.

2.12 (e) The court shall promptly forward to the commissioner and the Department of Public
 2.13 Safety copies of all convictions and criminal and civil sanctions imposed under:

2.14 (1) this section;

2.15 (2) chapter 169 relating to snowmobiles and all-terrain vehicles;

2.16 (3) chapter 169A; and

2.17 (4) section 171.177.

2.18 (f) A person who violates paragraph (a) or (b), or an ordinance in conformity with either
 2.19 of them, is guilty of a misdemeanor. A person who operates a snowmobile or all-terrain
 2.20 vehicle during the time period the person is prohibited from operating a vehicle under
 2.21 paragraph (c) is guilty of a misdemeanor.

2.22 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to violations
 2.23 committed on or after that date.

2.24 Sec. 2. Minnesota Statutes 2018, section 86B.331, subdivision 1, is amended to read:

2.25 Subdivision 1. **Acts prohibited.** (a) An owner or other person having charge or control
 2.26 of a motorboat may not authorize or allow an individual the person knows or has reason to
 2.27 believe is under the influence of alcohol or a controlled or other substance to operate the
 2.28 motorboat in operation on the waters of this state.

2.29 (b) An owner or other person having charge or control of a motorboat may not knowingly
 2.30 authorize or allow a person, who by reason of a physical or mental disability is incapable
 2.31 of operating the motorboat, to operate the motorboat in operation on the waters of this state.

3.1 (c) A person who operates or is in physical control of a motorboat on the waters of this
 3.2 state is subject to chapter 169A. In addition to the applicable sanctions under chapter 169A,
 3.3 a person who is convicted of violating section 169A.20 or an ordinance in conformity with
 3.4 it, or who refuses to comply with a lawful request to submit to testing or fails a test lawfully
 3.5 administered under sections 169A.50 to 169A.53 or 171.177, or an ordinance in conformity
 3.6 with ~~it~~ any of these sections, shall be is prohibited from operating a motorboat on the waters
 3.7 of this state for ~~a period of~~ 90 days between May 1 and October 31, extending over two
 3.8 consecutive years if necessary. If the person refuses to comply with a lawful demand to
 3.9 submit to testing under sections 169A.50 to 169A.53 or 171.177, or an ordinance in
 3.10 conformity with ~~it~~ any of these sections, the person shall be is prohibited from operating a
 3.11 motorboat for ~~a period of~~ one year. The commissioner shall notify the person of the period
 3.12 during which the person is prohibited from operating a motorboat.

3.13 (d) Administrative and judicial review of the operating privileges prohibition is governed
 3.14 by section 169A.53 or 171.177.

3.15 (e) The court shall promptly forward to the commissioner and the Department of Public
 3.16 Safety copies of all convictions and criminal and civil sanctions imposed under: (1) this
 3.17 section; (2) chapter 169 relating to motorboats; (3) chapter 169A; and (4) section 171.177.

3.18 (f) A person who violates paragraph (a) or (b), or an ordinance in conformity with either
 3.19 of them, is guilty of a misdemeanor.

3.20 (g) For purposes of this subdivision, a motorboat "in operation" does not include a
 3.21 motorboat that is anchored, beached, or securely fastened to a dock or other permanent
 3.22 mooring, or a motorboat that is being rowed or propelled by other than mechanical means.

3.23 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to violations
 3.24 committed on or after that date.

3.25 Sec. 3. Minnesota Statutes 2018, section 169A.03, subdivision 18, is amended to read:

3.26 Subd. 18. **Peace officer.** "Peace officer" means:

3.27 (1) a State Patrol officer;

3.28 (2) a University of Minnesota peace officer;

3.29 (3) a police officer of any municipality, including towns having powers under section
 3.30 368.01, or county; and

3.31 (4) ~~for purposes of violations of this chapter in or on an off-road recreational vehicle or~~
 3.32 ~~motorboat, or for violations of section 97B.065 or 97B.066,~~ a state conservation officer.

4.1 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
 4.2 committed on or after that date.

4.3 Sec. 4. Minnesota Statutes 2018, section 169A.24, subdivision 1, is amended to read:

4.4 Subdivision 1. **Degree described.** A person who violates section 169A.20 (driving while
 4.5 impaired) is guilty of first-degree driving while impaired if the person:

4.6 (1) commits the violation within ten years of the first of three or more qualified prior
 4.7 impaired driving incidents;

4.8 (2) has previously been convicted of a felony under this section; or

4.9 (3) has previously been convicted of a felony under:

4.10 (i) Minnesota Statutes 2012, section 609.21 (criminal vehicular homicide and injury,
 4.11 substance-related offenses), subdivision 1, clauses (2) to (6);

4.12 (ii) Minnesota Statutes 2006, section 609.21 (criminal vehicular homicide and injury,
 4.13 substance-related offenses), subdivision 1, clauses (2) to (6); subdivision 2, clauses (2) to
 4.14 (6); subdivision 2a, clauses (2) to (6); subdivision 3, clauses (2) to (6); or subdivision 4,
 4.15 clauses (2) to (6); ~~or~~

4.16 (iii) section 609.2112, subdivision 1, clauses (2) to (6); 609.2113, subdivision 1, clauses
 4.17 (2) to (6), subdivision 2, clauses (2) to (6), or subdivision 3, clauses (2) to (6); or 609.2114,
 4.18 subdivision 1, clauses (2) to (6), or subdivision 2, clauses (2) to (6); or

4.19 (iv) a statute from this state or another state in conformity with any provision listed in
 4.20 item (i), (ii), or (iii).

4.21 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
 4.22 committed on or after that date.

4.23 Sec. 5. Minnesota Statutes 2018, section 169A.37, subdivision 1, is amended to read:

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

4.25 (1) to fail to comply with an impoundment order under section 169A.60 (administrative
 4.26 plate impoundment);

4.27 (2) to file a false statement under section 169A.60, subdivision 7, 8, or 14;

4.28 (3) to operate a self-propelled motor vehicle on a street or highway when the vehicle is
 4.29 subject to an impoundment order issued under section 169A.60, unless specially coded
 4.30 plates have been issued for the vehicle pursuant to section 169A.60, subdivision 13;

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

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

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

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

5.15 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
5.16 committed on or after that date.

5.17 Sec. 6. Minnesota Statutes 2018, section 169A.55, subdivision 2, is amended to read:

5.18 Subd. 2. **Reinstatement of driving privileges; notice.** Upon expiration of a period of
5.19 revocation under section 169A.52 (license revocation for test failure or refusal), 169A.54
5.20 (impaired driving convictions and adjudications; administrative penalties), or 171.177
5.21 (revocation; search warrant), the commissioner shall notify the person of the terms upon
5.22 which driving privileges can be reinstated, and new registration plates issued, which terms
5.23 are: (1) ~~successful completion of an examination and~~ proof of compliance with any terms
5.24 of alcohol treatment or counseling previously prescribed, if any; and (2) any other
5.25 requirements imposed by the commissioner and applicable to that particular case. The
5.26 commissioner shall notify the owner of a motor vehicle subject to an impoundment order
5.27 under section 169A.60 (administrative impoundment of plates) as a result of the violation
5.28 of the procedures for obtaining new registration plates, if the owner is not the violator. The
5.29 commissioner shall also notify the person that if driving is resumed without reinstatement
5.30 of driving privileges or without valid registration plates and registration certificate, the
5.31 person will be subject to criminal penalties.

6.1 Sec. 7. Minnesota Statutes 2018, section 169A.55, subdivision 4, is amended to read:

6.2 Subd. 4. **Reinstatement of driving privileges; multiple incidents.** (a) A person whose
6.3 driver's license has been canceled or denied as a result of three or more qualified impaired
6.4 driving incidents shall not be eligible for reinstatement of driving privileges without an
6.5 ignition interlock restriction until the person:

6.6 (1) has completed rehabilitation according to rules adopted by the commissioner or been
6.7 granted a variance from the rules by the commissioner; and

6.8 (2) has submitted verification of abstinence from alcohol and controlled substances, as
6.9 evidenced by the person's use of an ignition interlock device or other chemical monitoring
6.10 device approved by the commissioner.

6.11 (b) The verification of abstinence must show that the person has abstained from the use
6.12 of alcohol and controlled substances for a period of not less than:

6.13 (1) three years, for a person whose driver's license was canceled or denied for an offense
6.14 occurring within ten years of the first of two qualified prior impaired driving incidents, or
6.15 occurring after three qualified prior impaired driving incidents;

6.16 (2) four years, for a person whose driver's license was canceled or denied for an offense
6.17 occurring within ten years of the first of three qualified prior impaired driving incidents; or

6.18 (3) six years, for a person whose driver's license was canceled or denied for an offense
6.19 occurring after four or more qualified prior impaired driving incidents.

6.20 ~~(e) The commissioner shall establish performance standards and a process for certifying~~
6.21 ~~chemical monitoring devices. The standards and procedures are not rules and are exempt~~
6.22 ~~from chapter 14, including section 14.386.~~

6.23 Sec. 8. Minnesota Statutes 2018, section 169A.60, subdivision 4, is amended to read:

6.24 Subd. 4. **Peace officer as agent for notice of impoundment.** On behalf of the
6.25 commissioner, a peace officer issuing a notice of intent to revoke and of revocation for a
6.26 plate impoundment violation shall also serve a notice of intent to impound and an order of
6.27 impoundment. On behalf of the commissioner, a peace officer who is arresting a person for
6.28 or charging a person with a plate impoundment violation described in subdivision 1,
6.29 paragraph (d), clause (5), shall also serve a notice of intent to impound and an order of
6.30 impoundment. If the vehicle involved in the plate impoundment violation is accessible to
6.31 the officer at the time the impoundment order is issued, the officer shall seize the registration
6.32 plates subject to the impoundment order. The officer shall destroy all plates seized or

7.1 impounded under this section. Alternatively, the officer may invalidate the plates by affixing
 7.2 a permanent sticker on them. The officer shall send to the commissioner copies of the notice
 7.3 of intent to impound and the order of impoundment and a notice that registration plates
 7.4 impounded and seized under this section have been destroyed or have been affixed with the
 7.5 permanent sticker.

7.6 Sec. 9. Minnesota Statutes 2018, section 169A.60, subdivision 5, is amended to read:

7.7 Subd. 5. **Temporary permit.** If the motor vehicle is registered to the violator and the
 7.8 plate impoundment violation is predicated on the results of a chemical test of the violator's
 7.9 breath or on a refusal to submit to a chemical test, the officer shall issue a temporary vehicle
 7.10 permit that is valid for ~~seven~~ 14 days when the officer issues the notices under subdivision
 7.11 4. The temporary permit is valid for 45 days if the violator submits to a chemical test of
 7.12 the violator's blood or urine. If the motor vehicle is registered in the name of another, the
 7.13 officer shall issue a temporary vehicle permit that is valid for 45 days when the notices are
 7.14 issued under subdivision 3. The permit must be in a form determined by the registrar and
 7.15 whenever practicable must be posted on the left side of the inside rear window of the vehicle.
 7.16 A permit is valid only for the vehicle for which it is issued.

7.17 Sec. 10. Minnesota Statutes 2018, section 171.29, subdivision 1, is amended to read:

7.18 Subdivision 1. **Examination required.** (a) No person whose driver's license has been
 7.19 revoked by reason of conviction, plea of guilty, or forfeiture of bail not vacated, under
 7.20 section 169.791, 169.797, 171.17, or 171.172, or revoked under section 169.792, ~~169A.52,~~
 7.21 ~~or 171.177~~ shall be issued another license unless and until that person shall have successfully
 7.22 passed an examination as required by the commissioner of public safety. This subdivision
 7.23 does not apply to an applicant for early reinstatement under section 169.792, subdivision
 7.24 7a.

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

7.28 Sec. 11. Minnesota Statutes 2018, section 171.306, subdivision 2, is amended to read:

7.29 Subd. 2. **Performance standards; certification; manufacturer and provider**
 7.30 **requirements.** (a) The commissioner shall establish performance standards and a process
 7.31 for certifying devices used in the ignition interlock program, except that the commissioner

8.1 may not establish standards that, directly or indirectly, require devices to use or enable
8.2 location tracking capabilities without a court order.

8.3 (b) The manufacturer of a device must apply annually for certification of the device by
8.4 submitting the form prescribed by the commissioner. The commissioner shall require
8.5 manufacturers of certified devices to:

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

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

8.12 (3) include in an ignition interlock device contract a provision that requires manufacturers
8.13 of certified devices to pay any towing or repair costs caused by device failure or malfunction,
8.14 or by damage caused during device installation, servicing, or monitoring.

8.15 (c) The manufacturer of a certified device must include with an ignition interlock device
8.16 contract a separate notice to the program participant regarding any location tracking
8.17 capabilities of the device.

8.18 Sec. 12. Minnesota Statutes 2018, section 171.306, is amended by adding a subdivision
8.19 to read:

8.20 Subd. 9. **Measurement of month; program rules.** The requirement in Minnesota Rules,
8.21 part 7503.1725, subpart 5, item B, that a person demonstrate regular and consistent use of
8.22 an ignition interlock device applies to tests administered over the course of an entire calendar
8.23 month. For the first month that the requirement becomes applicable to a person, the
8.24 department shall prorate the number of required tests over the remainder of the calendar
8.25 month. If necessary, the department shall also prorate the number of tests required for the
8.26 final calendar month that the person is required to use the device.