

Within 24 hours after such a redemption is made, the person redeeming shall cause the documents so required to be produced to be filed with the county recorder, or registrar of titles, who shall be entitled to may receive fees as prescribed in section 357.18 or 508.82. If such the redemption shall be is made at any place other than the county seat, it shall be is sufficient forthwith to deposit such the documents in the nearest post office, addressed to such the recorder or registrar of titles, with the postage prepaid. A person recording documents produced for redemption shall, on the same day, deliver copies of the documents to the sheriff for public inspection. The sheriff may receive a fee of \$20 for the documents delivered following a redemption. The sheriff shall note the date of delivery on the documents and shall maintain for public inspection all documents delivered to the sheriff for a period of six months after the end of the mortgagor's redemption period.

Sec. 6. EFFECTIVE DATE; APPLICATION.

Sections 3 to 5 are effective January 1, 2005, and apply to foreclosures where the mortgagor's period of redemption expires on or after the effective date.

Presented to the governor May 15, 2004

Signed by the governor May 19, 2004, 1:50 p.m.

CHAPTER 235—S.F.No. 388

An act relating to vehicle forfeiture; clarifying and modifying certain definitions, standards, and procedures for vehicle forfeitures associated with driving while impaired; amending Minnesota Statutes 2002, sections 169A.60, subdivisions 1, 14; 169A.63, subdivisions 1, 2, 7, 8, 9, 10.

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

Section 1, Minnesota Statutes 2002, section 169A.60, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** (a) As used in this section, the following terms have the meanings given in this subdivision.

(b) "Family or household member" has the meaning given in section 169A.63, subdivision 1.

(c) "Motor vehicle" means a self-propelled motor vehicle other than a motorboat in operation or an off-road recreational vehicle.

(e) (d) "Plate impoundment violation" includes:

(1) a violation of section 169A.20 (driving while impaired) or 169A.52 (license revocation for test failure or refusal), or a conforming ordinance from this state or a conforming statute or ordinance from another state, that results in the revocation of a

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person's driver's license or driving privileges, within ten years of a qualified prior impaired driving incident;

(2) a license disqualification under section 171.165 (commercial driver's license disqualification) resulting from a violation of section 169A.52 within ten years of a qualified prior impaired driving incident;

(3) a violation of section 169A.20 or 169A.52 while having an alcohol concentration of 0.20 or more as measured at the time, or within two hours of the time, of the offense;

(4) a violation of section 169A.20 or 169A.52 while having a child under the age of 16 in the vehicle if the child is more than 36 months younger than the offender; and

(5) a violation of section 171.24 (driving without valid license) by a person whose driver's license or driving privileges have been canceled under section 171.04, subdivision 1, clause (10) (persons not eligible for driver's license, inimical to public safety).

(d) ~~"Significant relationship" has the same meaning as given in section 609.341, subdivision 15, and includes any person with whom the actor regularly associates and communicates outside of a workplace setting.~~

(e) "Violator" means a person who was driving, operating, or in physical control of the motor vehicle when the plate impoundment violation occurred.

Sec. 2. Minnesota Statutes 2002, section 169A.60, subdivision 14, is amended to read:

Subd. 14. SALE OF VEHICLE SUBJECT TO IMPOUNDMENT ORDER.

(a) A registered owner may not sell or transfer a motor vehicle during the time its registration plates have been ordered impounded or during the time its registration plates bear a special series number, unless:

(1) the sale is for a valid consideration;

(2) the transferee and the registered owner:

~~(i) are not, and have not been, related by blood, adoption, or marriage;~~

~~(ii) do not reside in the same household; and~~

~~(iii) do not have, and have not had at any time, a significant relationship with one another; are not family or household members;~~

(3) the transferee signs an acceptable sworn statement with the commissioner attesting that:

~~(i) the transferee and the violator do not have, and have not had at any time, a significant relationship with one another; are not family or household members;~~

(ii) the transferee understands that the vehicle is subject to an impoundment order; and

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(iii) it is a crime under section 169A.37 to file a false statement under this section or to allow the previously registered owner to drive, operate, or be in control of the vehicle during the impoundment period; and

(4) all elements of section 168A.10 (transfer of interest by owner) are satisfied.

(b) If the conditions of paragraph (a) are satisfied, the registrar may transfer the title to the new owner upon proper application and issue new registration plates for the vehicle.

Sec. 3. Minnesota Statutes 2002, section 169A.63, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** (a) As used in this section, the following terms have the meanings given them.

(b) "Appropriate agency" means a law enforcement agency that has the authority to make an arrest for a violation of a designated offense or to require a test under section 169A.51 (chemical tests for intoxication).

(c) "Claimant" means an owner of a motor vehicle or a person claiming a leasehold or security interest in a motor vehicle.

(d) "Designated license revocation" includes a license revocation under section 169A.52 (license revocation for test failure or refusal) or a license disqualification under section 171.165 (commercial driver's license disqualification) resulting from a violation of section 169A.52; within ten years of the first of two or more qualified prior impaired driving incidents.

(~~d~~) (e) "Designated offense" includes:

(1) a violation of section 169A.20 (driving while impaired) under the circumstances described in section 169A.24 (first-degree driving while impaired), or 169A.25 (second-degree driving while impaired); or

(2) a violation of section 169A.20 or an ordinance in conformity with it:

(i) by a person whose driver's license or driving privileges have been canceled as inimical to public safety under section 171.04, subdivision 1, clause (10), and not reinstated; or

(ii) by a person who is subject to a restriction on the person's driver's license under section 171.09 (commissioner's license restrictions), which provides that the person may not use or consume any amount of alcohol or a controlled substance.

(f) "Family or household member" means:

(1) a parent, stepparent, or guardian;

(2) any of the following persons related by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, great-aunt; or

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(3) persons residing together or persons who regularly associate and communicate with one another outside of a workplace setting.

(e) (g) "Motor vehicle" and "vehicle" do not include a vehicle which is stolen or taken in violation of the law.

(f) (h) "Owner" means the registered owner of the motor vehicle according to records of the Department of Public Safety and includes a person legally entitled to possession, use, and control of a motor vehicle, including a lessee of a motor vehicle if the lease agreement has a term of 180 days or more. There is a rebuttable presumption that a person registered as the owner of a motor vehicle according to the records of the Department of Public Safety is the legal owner. For purposes of this section, if a motor vehicle is owned jointly by two or more people, each owner's interest extends to the whole of the vehicle and is not subject to apportionment.

(g) (i) "Prosecuting authority" means the attorney in the jurisdiction in which the designated offense occurred who is responsible for prosecuting violations of a designated offense or a designee. If a state agency initiated the forfeiture, and the attorney responsible for prosecuting the designated offense declines to pursue forfeiture, the Attorney General's Office or its designee may initiate forfeiture under this section.

(j) "Security interest" means a bona fide security interest perfected according to section 168A.17, subdivision 2, based on a loan or other financing that, if a vehicle is required to be registered under chapter 168, is listed on the vehicle's title.

Sec. 4. Minnesota Statutes 2002, section 169A.63, subdivision 2, is amended to read:

Subd. 2. **SEIZURE.** (a) A motor vehicle subject to forfeiture under this section may be seized by the appropriate agency upon process issued by any court having jurisdiction over the vehicle.

(b) Property may be seized without process if:

- (1) the seizure is incident to a lawful arrest or a lawful search;
- (2) the vehicle subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this section; or

(3) the appropriate agency has probable cause to believe that the delay occasioned by the necessity to obtain process would result in the removal or destruction of the vehicle. If property is seized without process under this clause, the prosecuting authority must institute a forfeiture action under this section as soon as is reasonably possible by servicing a notice of seizure and intent to forfeit at the address of the owner as listed in the records of the department of public safety.

Sec. 5. Minnesota Statutes 2002, section 169A.63, subdivision 7, is amended to read:

Subd. 7. **LIMITATIONS ON VEHICLE FORFEITURE.** (a) A vehicle is presumed subject to forfeiture under this section only if:

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

(2) the driver fails to appear for a scheduled court appearance with respect to the designated offense ~~charge~~ in violation of section 609.49 (release; failure to appear) charged and fails to voluntarily surrender within 48 hours after the time required for appearance; or

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

(b) A vehicle encumbered by a bona fide security interest perfected according to section 168A.17, subdivision 2, or subject to a lease that has a term of 180 days or more, is subject to the interest of the secured party or lessor unless the party or lessor had knowledge of or consented to the act upon which the forfeiture is based. However, when the proceeds of the sale of a seized vehicle do not equal or exceed the outstanding loan balance, the appropriate agency shall remit all proceeds of the sale to the secured party after deducting the agency's costs for the seizure, tow, storage, forfeiture, and sale of the vehicle. If the sale of the vehicle is conducted in a commercially reasonable manner consistent with the provisions of section 336.9-610, the agency is not liable to the secured party for any amount owed on the loan in excess of the sale proceeds if the secured party received notification of the time and place of the sale at least three days prior to the sale. The validity and amount of a nonperfected security interest must be established by its holder by clear and convincing evidence.

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

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

- (1) section 171.24 (violations; driving without valid license);
- (2) section 169.791 (criminal penalty for failure to produce proof of insurance);
- (3) section 171.09 (driving restrictions; authority, violations);

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(4) section 169A.20 (driving while impaired);

(5) section 169A.33 (underage drinking and driving); and

(6) section 169A.35 (open bottle law).

(e) ~~A vehicle subject to a security interest, based upon a loan or other financing arranged by a financial institution, is subject to the interest of the financial institution.~~

Sec. 6. Minnesota Statutes 2002, section 169A.63, subdivision 8, is amended to read:

Subd. 8. **ADMINISTRATIVE FORFEITURE PROCEDURE.** (a) A motor vehicle used to commit a designated offense or used in conduct resulting in a designated license revocation is subject to administrative forfeiture under this subdivision.

(b) When a motor vehicle is seized under subdivision 2, or within a reasonable time after seizure, the appropriate agency shall serve the driver or operator of the vehicle with a notice of the seizure and intent to forfeit the vehicle. Additionally, when a motor vehicle is seized under subdivision 2, or within a reasonable time after that, all persons known to have an ownership, possessory, or security interest in the vehicle must be notified of the seizure and the intent to forfeit the vehicle. For those vehicles required to be registered under chapter 168, the notification to a person known to have a security interest in the vehicle is required only if the vehicle is registered under chapter 168, and the interest is listed on the vehicle's title. Notice mailed by certified mail to the address shown in Department of Public Safety records is sufficient notice to the registered owner of the vehicle. For motor vehicles not required to be registered under chapter 168, notice mailed by certified mail to the address shown in the applicable filing or registration for the vehicle is sufficient notice to a person known to have an ownership, possessory, or security interest in the vehicle. Otherwise, notice may be given in the manner provided by law for service of a summons in a civil action.

(c) The notice must be in writing and contain:

(1) a description of the vehicle seized;

(2) the date of seizure; and

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English, Hmong, and Spanish. Substantially the following language must appear conspicuously: "IF YOU DO NOT DEMAND JUDICIAL REVIEW EXACTLY AS PRESCRIBED IN MINNESOTA STATUTES, SECTION 169A.63, SUBDIVISION 8, YOU LOSE THE RIGHT TO A JUDICIAL DETERMINATION OF THIS FORFEITURE AND YOU LOSE ANY RIGHT YOU MAY HAVE TO THE ABOVE DESCRIBED PROPERTY. YOU MAY NOT HAVE TO PAY THE FILING FEE FOR THE DEMAND IF DETERMINED YOU ARE UNABLE TO AFFORD THE FEE. IF THE PROPERTY IS WORTH \$7,500 OR LESS, YOU MAY FILE YOUR CLAIM IN CONCILIATION COURT. YOU DO NOT HAVE TO PAY THE CONCILIATION COURT FILING FEE IF THE PROPERTY IS WORTH LESS THAN \$500."

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(d) Within 30 days following service of a notice of seizure and forfeiture under this subdivision, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture, and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property is \$7,500 or less, the claimant may file an action in conciliation court for recovery of the seized vehicle. A copy of the conciliation court statement of claim must be served personally or by mail on the prosecuting authority having jurisdiction over the forfeiture within 30 days following service of the notice of seizure and forfeiture under this subdivision. If the value of the seized property is less than \$500, the claimant does not have to pay the conciliation court filing fee. No responsive pleading is required of the prosecuting authority and no court fees may be charged for the prosecuting authority's appearance in the matter. ~~Except as provided in this section, judicial reviews and hearings are governed by section 169A.53, subdivisions 2 and 3, and, at the option of the prosecuting authority, may take place at the same time as any judicial review of the person's license revocation under section 169A.53.~~ If the judicial review and hearing under this section do not take place at the same time as the judicial review of the person's license revocation under section 169A.53, the review and hearing must take place at the earliest practicable date. The proceedings may be combined with any hearing on a petition filed under section 169A.53, subdivision 2, and Pleadings, filings, and methods of service are governed by the Rules of Civil Procedure.

(e) The complaint must be captioned in the name of the claimant as plaintiff and the seized vehicle as defendant, and must state with specificity the grounds on which the claimant alleges the vehicle was improperly seized and, the plaintiff's claimant's interest in the vehicle seized, and any affirmative defenses the claimant may have. Notwithstanding any law to the contrary, an action for the return of a vehicle seized under this section may not be maintained by or on behalf of any person who has been served with a notice of seizure and forfeiture unless the person has complied with this subdivision.

(f) If the claimant makes a timely demand for a judicial determination under this subdivision, the appropriate agency must conduct the forfeiture proceedings must be conducted as provided under subdivision 9.

(g) ~~If a demand for judicial determination of an administrative forfeiture is filed under this subdivision and the court orders the return of the seized vehicle, the court shall order that filing fees be reimbursed to the person who filed the demand. In addition, the court may order sanctions under section 549.211 (sanctions in civil actions).~~

Sec. 7. Minnesota Statutes 2002, section 169A.63, subdivision 9, is amended to read:

Subd. 9. **JUDICIAL FORFEITURE PROCEDURE.** (a) This subdivision governs judicial determinations of the forfeiture of a motor vehicle used to commit a

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designated offense or used in conduct resulting in a designated license revocation. An action for forfeiture is a civil in rem action and is independent of any criminal prosecution. All proceedings are governed by the Rules of Civil Procedure.

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

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

(d) A judicial determination under this subdivision must not precede adjudication in the criminal prosecution of the designated offense without the consent of the prosecuting authority. The district court administrator shall schedule the hearing as soon as practicable after adjudication in the criminal prosecution. The district court administrator shall establish procedures to ensure efficient compliance with this subdivision. The hearing is to the court without a jury.

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

(f) If the forfeiture is based on the commission of a designated offense and the person charged with the designated offense appears in court as required and is not convicted of the offense, the court shall dismiss the complaint against the vehicle and order the property returned to the person legally entitled to it upon that person's compliance with the redemption requirements of section 169A.42. If the forfeiture is based on a designated license revocation, and the license revocation is rescinded under section 169A.53 (administrative and judicial review of license revocation), subdivision 3 (judicial review hearing, issues, order, appeal), the court shall dismiss the complaint against the vehicle and order the property returned to the person legally entitled to it upon that person's compliance with the redemption requirements of section 169A.42.

(g) If the lawful ownership of the vehicle used in the commission of a designated offense or used in conduct resulting in a designated license revocation can be determined and it is found the owner was not privy to commission of a designated offense or was not privy to the conduct resulting in the designated license revocation, the owner makes the demonstration required under subdivision 7, paragraph (d), the vehicle must be returned immediately upon the owner's compliance with the redemption requirements of section 169A.42.

(h) If the court orders the return of a seized vehicle under this subdivision it must order that filing fees be reimbursed to the person who filed the demand for judicial determination. In addition, the court may order sanctions under section 549.211

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(sanctions in civil actions). Any reimbursement fees or sanctions must be paid from other forfeiture proceeds of the law enforcement agency and prosecuting authority involved and in the same proportion as distributed under subdivision 10, paragraph (b).

Sec. 8. Minnesota Statutes 2002, section 169A.63, subdivision 10, is amended to read:

Subd. 10. **DISPOSITION OF FORFEITED VEHICLE.** (a) If the vehicle is administratively forfeited under subdivision 8, or if the court finds under subdivision 9 that the vehicle is subject to forfeiture under subdivisions 6 and 7, the appropriate agency shall:

(1) sell the vehicle and distribute the proceeds under paragraph (b); or

(2) keep the vehicle for official use. If the agency keeps a forfeited motor vehicle for official use, it shall make reasonable efforts to ensure that the motor vehicle is available for use by the agency's officers who participate in the drug abuse resistance education program.

(b) The proceeds from the sale of forfeited vehicles, after payment of seizure, towing, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be distributed as follows:

(1) 70 percent of the proceeds must be forwarded to the appropriate agency for deposit as a supplement to the state or local agency's operating fund or similar fund for use in DWI-related enforcement, training, and education; and

(2) 30 percent of the money or proceeds must be forwarded to the prosecuting authority that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes.

Presented to the governor May 18, 2004

Signed by the governor May 26, 2004, 9:45 p.m.

CHAPTER 236—S.F.No. 2869

An act relating to health; modifying fees for radioactive and nuclear material; approving state agreement with the Nuclear Regulatory Commission; providing a certain effective date; amending Minnesota Statutes 2002, section 144.1205, subdivisions 2, 4, 8, 9; repealing Minnesota Statutes:2003 Supplement, section 144.1202, subdivision 4.

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

Section 1. Minnesota Statutes 2002, section 144.1205, subdivision 2, is amended to read:

Subd. 2. **ANNUAL FEE.** A licensee must pay an annual fee at least 60 days before the anniversary date of the issuance of the license. The annual fee is an amount

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