

State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. **2928**

03/10/2014 Authored by Slocum, Cornish, Rosenthal and Ugem
The bill was read for the first time and referred to the Committee on Public Safety Finance and Policy
03/26/2014 Adoption of Report: Amended and re-referred to the Committee on Judiciary Finance and Policy
03/28/2014 Adoption of Report: Placed on the General Register
Read Second Time

1.1 A bill for an act
1.2 relating to public safety; providing technical amendments to criminal vehicular
1.3 homicide or operation statute; clarifying driving while impaired law to work with
1.4 amendments to criminal vehicular homicide and operation statute; amending
1.5 Minnesota Statutes 2012, sections 169A.03, subdivisions 20, 21; 169A.24,
1.6 subdivision 1; 609.21, subdivisions 1, 1a, 5; proposing coding for new law in
1.7 Minnesota Statutes, chapter 609.

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

1.9 Section 1. Minnesota Statutes 2012, section 169A.03, subdivision 20, is amended to
1.10 read:

1.11 Subd. 20. **Prior impaired driving conviction.** "Prior impaired driving conviction"
1.12 includes a prior conviction under:

1.13 (1) section 169A.20 (driving while impaired); 169A.31 (alcohol-related school bus
1.14 or Head Start bus driving); or 360.0752 (impaired aircraft operation);

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

1.17 (3) Minnesota Statutes 1998, section 169.121 (driver under influence of alcohol or
1.18 controlled substance); 169.1211 (alcohol-related driving by commercial vehicle drivers);
1.19 or 169.129 (aggravated DWI-related violations; penalty);

1.20 (4) Minnesota Statutes 1996, section 84.91, subdivision 1, paragraph (a) (operating
1.21 snowmobile or all-terrain vehicle while impaired); or 86B.331, subdivision 1, paragraph
1.22 (a) (operating motorboat while impaired);

1.23 (5) Minnesota Statutes 2006, section 609.21 (criminal vehicular homicide and injury,
1.24 substance-related offenses), subdivision 1, clauses (2) to (6); subdivision 2, clauses (2)

2.1 to (6); subdivision 2a, clauses (2) to (6); subdivision 2b, clauses (2) to (6); subdivision
 2.2 3, clauses (2) to (6); or subdivision 4, clauses (2) to (6);

2.3 (6) section 609.21, subdivision 1, clauses (2) to (6), or subdivision 1a, clauses (2) to
 2.4 (6); or section 609.2114, subdivision 1, clauses (2) to (6), or subdivision 2, clauses (2)
 2.5 to (6); or

2.6 ~~(6)~~ (7) an ordinance from this state, or a statute or ordinance from another state, in
 2.7 conformity with any provision listed in clause (1), (2), (3), (4), or (5).

2.8 A "prior impaired driving conviction" also includes a prior juvenile adjudication that
 2.9 would have been a prior impaired driving conviction if committed by an adult.

2.10 Sec. 2. Minnesota Statutes 2012, section 169A.03, subdivision 21, is amended to read:

2.11 Subd. 21. **Prior impaired driving-related loss of license.** (a) "Prior impaired
 2.12 driving-related loss of license" includes a driver's license suspension, revocation,
 2.13 cancellation, denial, or disqualification under:

2.14 (1) section 169A.31 (alcohol-related school bus or Head Start bus driving);
 2.15 169A.50 to 169A.53 (implied consent law); 169A.54 (impaired driving convictions and
 2.16 adjudications; administrative penalties); 171.04 (persons not eligible for drivers' licenses);
 2.17 171.14 (cancellation); 171.16 (court may recommend suspension); 171.165 (commercial
 2.18 driver's license, disqualification); 171.17 (revocation); or 171.18 (suspension); because of
 2.19 an alcohol-related incident;

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

2.22 (3) Minnesota Statutes 1998, section 169.121 (driver under influence of alcohol or
 2.23 controlled substance); 169.1211 (alcohol-related driving by commercial vehicle drivers);
 2.24 or 169.123 (chemical tests for intoxication);

2.25 (4) Minnesota Statutes 2006, section 609.21 (criminal vehicular homicide and injury,
 2.26 substance-related offenses), subdivision 1, clauses (2) to (6); subdivision 2, clauses (2)
 2.27 to (6); subdivision 2a, clauses (2) to (6); subdivision 2b, clauses (2) to (6); subdivision
 2.28 3, clauses (2) to (6); or subdivision 4, clauses (2) to (6);

2.29 (5) section 609.21, subdivision 1, clauses (2) to (6), or subdivision 1a, clauses (2) to
 2.30 (6); or section 609.2114, subdivision 1, clauses (2) to (6), or subdivision 2, clauses (2)
 2.31 to (6); or

2.32 ~~(5)~~ (6) an ordinance from this state, or a statute or ordinance from another state, in
 2.33 conformity with any provision listed in clause (1), (2), (3), or (4).

2.34 (b) "Prior impaired driving-related loss of license" also includes the revocation of
 2.35 snowmobile or all-terrain vehicle operating privileges under section 84.911 (chemical

3.1 testing), or motorboat operating privileges under section 86B.335 (testing for alcohol
 3.2 and controlled substances), for violations that occurred on or after August 1, 1994; the
 3.3 revocation of snowmobile or all-terrain vehicle operating privileges under section 84.91
 3.4 (operation of snowmobiles and all-terrain vehicles by persons under the influence of alcohol
 3.5 or controlled substances); or the revocation of motorboat operating privileges under section
 3.6 86B.331 (operation while using alcohol or drugs or with a physical or mental disability).

3.7 (c) "Prior impaired driving-related loss of license" does not include any license
 3.8 action stemming solely from a violation of section 169A.33 (underage drinking and
 3.9 driving), 171.09 (conditions of a restricted license), or 340A.503 (persons under the age
 3.10 of 21, illegal acts).

3.11 Sec. 3. Minnesota Statutes 2012, section 169A.24, subdivision 1, is amended to read:

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

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

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

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

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

3.20 (ii) Minnesota Statutes 2006, section 609.21 (criminal vehicular homicide and injury,
 3.21 substance-related offenses), subdivision 1, clauses (2) to (6); subdivision 2, clauses (2)
 3.22 to (6); subdivision 2a, clauses (2) to (6); subdivision 3, clauses (2) to (6); or subdivision
 3.23 4, clauses (2) to (6); or

3.24 (iii) section 609.21, subdivision 1, clauses (2) to (6), or subdivision 1a, clauses (2) to
 3.25 (6); or section 609.2114, subdivision 1, clauses (2) to (6), or subdivision 2, clauses (2) to (6).

3.26 Sec. 4. Minnesota Statutes 2012, section 609.21, subdivision 1, is amended to read:

3.27 Subdivision 1. **Criminal vehicular homicide or operation; crime described.** A
 3.28 person is guilty of criminal vehicular homicide ~~or operation~~ and may be sentenced as
 3.29 provided in subdivision 1a, if the person causes injury to or to imprisonment for not
 3.30 more than ten years or to payment of a fine of not more than \$20,000, or both, if the
 3.31 person causes the death of another a human being not constituting murder or manslaughter
 3.32 as a result of operating a motor vehicle:

3.33 (1) in a grossly negligent manner;

3.34 (2) in a negligent manner while under the influence of:

- 4.1 (i) alcohol;
- 4.2 (ii) a controlled substance; or
- 4.3 (iii) any combination of those elements;
- 4.4 (3) while having an alcohol concentration of 0.08 or more;
- 4.5 (4) while having an alcohol concentration of 0.08 or more, as measured within
- 4.6 two hours of the time of driving;
- 4.7 (5) in a negligent manner while knowingly under the influence of a hazardous
- 4.8 substance;
- 4.9 (6) in a negligent manner while any amount of a controlled substance listed in
- 4.10 Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is
- 4.11 present in the person's body;
- 4.12 (7) where the driver who causes the accident leaves the scene of the accident in
- 4.13 violation of section 169.09, subdivision 1 or 6; or
- 4.14 (8) where the driver had actual knowledge that a peace officer had previously issued
- 4.15 a citation or warning that the motor vehicle was defectively maintained, the driver had
- 4.16 actual knowledge that remedial action was not taken, the driver had reason to know that
- 4.17 the defect created a present danger to others, and the ~~injury or~~ death was caused by the
- 4.18 defective maintenance.

4.19 Sec. 5. Minnesota Statutes 2012, section 609.21, subdivision 1a, is amended to read:

4.20 Subd. 1a. **Criminal penalties Great bodily harm.** ~~(a) A person who violates~~

4.21 ~~subdivision 1 and causes the death of a human being not constituting murder or~~

4.22 ~~manslaughter or the death of an unborn child may be sentenced to imprisonment for not~~

4.23 ~~more than ten years or to payment of a fine of not more than \$20,000, or both.~~

4.24 ~~(b) A person who violates subdivision 1 and causes great bodily harm to another not~~

4.25 ~~constituting attempted murder or assault or great bodily harm to an unborn child who is~~

4.26 ~~subsequently born alive may be sentenced to imprisonment for not more than five years or~~

4.27 ~~to payment of a fine of not more than \$10,000, or both.~~

4.28 ~~(c) A person who violates subdivision 1 and causes substantial bodily harm to~~

4.29 ~~another may be sentenced to imprisonment for not more than three years or to payment of~~

4.30 ~~a fine of not more than \$10,000, or both.~~

4.31 ~~(d) A person who violates subdivision 1 and causes bodily harm to another may be~~

4.32 ~~sentenced to imprisonment for not more than one year or to payment of a fine of not~~

4.33 ~~more than \$3,000, or both.~~

4.34 A person is guilty of criminal vehicular operation resulting in great bodily harm and

4.35 may be sentenced to imprisonment for not more than five years or to payment of a fine

5.1 of not more than \$10,000, or both, if the person causes great bodily harm to another not
 5.2 constituting attempted murder or assault as a result of operating a motor vehicle:

5.3 (1) in a grossly negligent manner;

5.4 (2) in a negligent manner while under the influence of:

5.5 (i) alcohol;

5.6 (ii) a controlled substance; or

5.7 (iii) any combination of those elements;

5.8 (3) while having an alcohol concentration of 0.08 or more;

5.9 (4) while having an alcohol concentration of 0.08 or more, as measured within
 5.10 two hours of the time of driving;

5.11 (5) in a negligent manner while knowingly under the influence of a hazardous
 5.12 substance;

5.13 (6) in a negligent manner while any amount of a controlled substance listed in
 5.14 Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is
 5.15 present in the person's body;

5.16 (7) where the driver who causes the accident leaves the scene of the accident in
 5.17 violation of section 169.09, subdivision 1 or 6; or

5.18 (8) where the driver had actual knowledge that a peace officer had previously issued a
 5.19 citation or warning that the motor vehicle was defectively maintained, the driver had actual
 5.20 knowledge that remedial action was not taken, the driver had reason to know that the defect
 5.21 created a present danger to others, and the injury was caused by the defective maintenance.

5.22 Sec. 6. Minnesota Statutes 2012, section 609.21, subdivision 5, is amended to read:

5.23 Subd. 5. **Definitions.** (a) For purposes of ~~this section~~ sections 609.2111 to 609.2114,
 5.24 the terms defined in this subdivision have the meanings given them.

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

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

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

5.30 Sec. 7. **[609.2113] CRIMINAL VEHICULAR OPERATION; BODILY HARM.**

5.31 Subdivision 1. Substantial bodily harm. A person is guilty of criminal vehicular
 5.32 operation resulting in substantial bodily harm and may be sentenced to imprisonment for
 5.33 not more than three years or to payment of a fine of not more than \$10,000, or both, if the
 5.34 person causes substantial bodily harm to another as a result of operating a motor vehicle:

- 6.1 (1) in a grossly negligent manner;
6.2 (2) in a negligent manner while under the influence of:
6.3 (i) alcohol;
6.4 (ii) a controlled substance; or
6.5 (iii) any combination of those elements;
6.6 (3) while having an alcohol concentration of 0.08 or more;
6.7 (4) while having an alcohol concentration of 0.08 or more, as measured within
6.8 two hours of the time of driving;
6.9 (5) in a negligent manner while knowingly under the influence of a hazardous
6.10 substance;
6.11 (6) in a negligent manner while any amount of a controlled substance listed in
6.12 Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is
6.13 present in the person's body;
6.14 (7) where the driver who causes the accident leaves the scene of the accident in
6.15 violation of section 169.09, subdivision 1 or 6; or
6.16 (8) where the driver had actual knowledge that a peace officer had previously issued a
6.17 citation or warning that the motor vehicle was defectively maintained, the driver had actual
6.18 knowledge that remedial action was not taken, the driver had reason to know that the defect
6.19 created a present danger to others, and the injury was caused by the defective maintenance.
6.20 Subd. 2. **Bodily harm.** A person is guilty of criminal vehicular operation resulting
6.21 in bodily harm and may be sentenced to imprisonment for not more than one year or to
6.22 payment of a fine of not more than \$3,000, or both, if the person causes bodily harm to
6.23 another as a result of operating a motor vehicle:
6.24 (1) in a grossly negligent manner;
6.25 (2) in a negligent manner while under the influence of:
6.26 (i) alcohol;
6.27 (ii) a controlled substance; or
6.28 (iii) any combination of those elements;
6.29 (3) while having an alcohol concentration of 0.08 or more;
6.30 (4) while having an alcohol concentration of 0.08 or more, as measured within
6.31 two hours of the time of driving;
6.32 (5) in a negligent manner while knowingly under the influence of a hazardous
6.33 substance;
6.34 (6) in a negligent manner while any amount of a controlled substance listed in
6.35 Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is
6.36 present in the person's body;

7.1 (7) where the driver who causes the accident leaves the scene of the accident in
 7.2 violation of section 169.09, subdivision 1 or 6; or

7.3 (8) where the driver had actual knowledge that a peace officer had previously issued a
 7.4 citation or warning that the motor vehicle was defectively maintained, the driver had actual
 7.5 knowledge that remedial action was not taken, the driver had reason to know that the defect
 7.6 created a present danger to others, and the injury was caused by the defective maintenance.

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

7.11 Sec. 8. **[609.2114] CRIMINAL VEHICULAR OPERATION; UNBORN CHILD.**

7.12 Subdivision 1. **Death to an unborn child.** A person is guilty of criminal vehicular
 7.13 operation resulting in death to an unborn child and may be sentenced to imprisonment for
 7.14 not more than ten years or to payment of a fine of not more than \$20,000, or both, if the
 7.15 person causes the death of an unborn child as a result of operating a motor vehicle:

7.16 (1) in a grossly negligent manner;

7.17 (2) in a negligent manner while under the influence of:

7.18 (i) alcohol;

7.19 (ii) a controlled substance; or

7.20 (iii) any combination of those elements;

7.21 (3) while having an alcohol concentration of 0.08 or more;

7.22 (4) while having an alcohol concentration of 0.08 or more, as measured within
 7.23 two hours of the time of driving;

7.24 (5) in a negligent manner while knowingly under the influence of a hazardous
 7.25 substance;

7.26 (6) in a negligent manner while any amount of a controlled substance listed in
 7.27 Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is
 7.28 present in the person's body;

7.29 (7) where the driver who causes the accident leaves the scene of the accident in
 7.30 violation of section 169.09, subdivision 1 or 6; or

7.31 (8) where the driver had actual knowledge that a peace officer had previously issued a
 7.32 citation or warning that the motor vehicle was defectively maintained, the driver had actual
 7.33 knowledge that remedial action was not taken, the driver had reason to know that the defect
 7.34 created a present danger to others, and the injury was caused by the defective maintenance.

8.1 Subd. 2. **Injury to an unborn child.** A person is guilty of criminal vehicular
 8.2 operation resulting in injury to an unborn child and may be sentenced to imprisonment
 8.3 for not more than five years or to payment of a fine of not more than \$10,000, or both,
 8.4 if the person causes the great bodily harm to an unborn child subsequently born alive
 8.5 as a result of operating a motor vehicle:

- 8.6 (1) in a grossly negligent manner;
- 8.7 (2) in a negligent manner while under the influence of:
 - 8.8 (i) alcohol;
 - 8.9 (ii) a controlled substance; or
 - 8.10 (iii) any combination of those elements;
- 8.11 (3) while having an alcohol concentration of 0.08 or more;
- 8.12 (4) while having an alcohol concentration of 0.08 or more, as measured within
 8.13 two hours of the time of driving;

8.14 (5) in a negligent manner while knowingly under the influence of a hazardous
 8.15 substance;

8.16 (6) in a negligent manner while any amount of a controlled substance listed in
 8.17 Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is
 8.18 present in the person's body;

8.19 (7) where the driver who causes the accident leaves the scene of the accident in
 8.20 violation of section 169.09, subdivision 1 or 6; or

8.21 (8) where the driver had actual knowledge that a peace officer had previously issued a
 8.22 citation or warning that the motor vehicle was defectively maintained, the driver had actual
 8.23 knowledge that remedial action was not taken, the driver had reason to know that the defect
 8.24 created a present danger to others, and the injury was caused by the defective maintenance.

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

8.29 **Sec. 9. REVISOR'S INSTRUCTION.**

8.30 The revisor of statutes shall renumber the provisions of Minnesota Statutes listed in
 8.31 Column A to the references listed in column B. The revisor shall also make necessary
 8.32 cross-reference changes in Minnesota Statutes and Minnesota Rules consistent with the
 8.33 renumbering in this instruction.

8.34	<u>Column A</u>	<u>Column B</u>
8.35	<u>609.21, subdivision 5</u>	<u>609.2111</u>

9.1	<u>609.21, subdivision 1</u>	<u>609.2112, subdivision 1</u>
9.2	<u>609.21, subdivision 4a</u>	<u>609.2112, subdivision 2</u>
9.3	<u>609.21, subdivision 1a</u>	<u>609.2113, subdivision 1</u>
9.4	<u>609.2113, subdivision 1</u>	<u>609.2113, subdivision 2</u>
9.5	<u>609.2113, subdivision 2</u>	<u>609.2113, subdivision 3</u>
9.6	<u>609.2113, subdivision 3</u>	<u>609.2113, subdivision 4</u>
9.7	<u>609.21, subdivision 1b</u>	<u>609.2114, subdivision 3</u>
9.8	<u>609.2114, subdivision 3</u>	<u>609.2114, subdivision 4</u>