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# HOUSE FILE NO. 108

## *FIRST COMMITTEE ENGROSSMENT*

January 15, 2009

Authored by Thissen, Cornish, Hortman, Hornstein, Lieder and others  
The bill was read for the first time and referred to the Committee on Finance

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*Referred by Chair to Transportation Finance and Policy Division.*

March 31, 2009

*Returned to the Committee on Finance as Amended.*

1.1 A bill for an act  
1.2 relating to traffic regulations; making seat belt violation a primary offense in  
1.3 all seating positions regardless of age; making technical changes; providing  
1.4 for surcharge; requiring racial profiling study of traffic stops due to seat belt  
1.5 violations; appropriating money; amending Minnesota Statutes 2008, sections  
1.6 13.871, subdivision 6; 169.686, subdivisions 1, 2, by adding a subdivision;  
1.7 171.05, subdivision 2b; 171.055, subdivision 2; 357.021, subdivisions 6, 7;  
1.8 626.9517, subdivision 1; proposing coding for new law in Minnesota Statutes,  
1.9 chapter 626.

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

1.11 Section 1. Minnesota Statutes 2008, section 13.871, subdivision 6, is amended to read:

1.12 Subd. 6. **Training; investigation; apprehension; reports.** (a) **Reports of gunshot**  
1.13 **wounds.** Disclosure of the name of a person making a report under section 626.52,  
1.14 subdivision 2, is governed by section 626.53.

1.15 (b) **Child abuse report records.** Data contained in child abuse report records are  
1.16 classified under section 626.556.

1.17 (c) **Interstate data exchange.** Disclosure of child abuse reports to agencies of  
1.18 another state is classified under section 626.556, subdivision 10g.

1.19 (d) **Release to family court services.** Release of child abuse data to a court services  
1.20 agency is authorized under section 626.556, subdivision 10h.

1.21 (e) **Release of data to mandated reporters.** Release of child abuse data to mandated  
1.22 reporters who have an ongoing responsibility for the health, education, or welfare of a  
1.23 child affected by the data is authorized under section 626.556, subdivision 10j.

1.24 (f) **Release of child abuse investigative records to other counties.** Release of  
1.25 child abuse investigative records to local welfare agencies is authorized under section  
1.26 626.556, subdivision 10k.

2.1 (g) **Classifying and sharing records and reports of child abuse.** The classification  
2.2 of child abuse data and the sharing of records and reports of child abuse by and between  
2.3 local welfare agencies and law enforcement agencies are governed under section 626.556,  
2.4 subdivision 11.

2.5 (h) **Disclosure of information not required in certain cases.** Disclosure of certain  
2.6 data obtained from interviewing a minor is governed by section 626.556, subdivision 11a.

2.7 (i) **Data received from law enforcement.** Classifying child abuse data received  
2.8 by certain agencies from law enforcement agencies is governed under section 626.556,  
2.9 subdivision 11b.

2.10 (j) **Disclosure in child fatality cases.** Disclosure of information relating to a child  
2.11 fatality is governed under section 626.556, subdivision 11d.

2.12 (k) **Reports of prenatal exposure to controlled substances.** Data on persons  
2.13 making reports under section 626.5561 are classified under section 626.5561, subdivision  
2.14 3.

2.15 (l) **Vulnerable adult report records.** Data contained in vulnerable adult report  
2.16 records are classified under section 626.557, subdivision 12b.

2.17 (m) **Adult protection team information sharing.** Sharing of local welfare agency  
2.18 vulnerable adult data with a protection team is governed by section 626.5571, subdivision  
2.19 3.

2.20 (n) **Child protection team.** Data acquired by a case consultation committee or  
2.21 subcommittee of a child protection team are classified by section 626.558, subdivision 3.

2.22 (o) **Child maltreatment reports peer review panel.** Sharing data of cases reviewed  
2.23 by the panel is governed under section 626.5593, subdivision 2.

2.24 (p) **Peace officer discipline procedures.** Access by an officer under investigation  
2.25 to the investigating agency's investigative report on the officer is governed by section  
2.26 626.89, subdivision 6.

2.27 (q) **Racial profiling study data.** Racial profiling study data is governed by section  
2.28 ~~626.951~~ 626.9522.

2.29 Sec. 2. Minnesota Statutes 2008, section 169.686, subdivision 1, is amended to read:

2.30 Subdivision 1. **Seat belt requirement.** (a) Except as provided in section 169.685, a  
2.31 properly adjusted and fastened seat belt, including both the shoulder and lap belt when the  
2.32 vehicle is so equipped, shall be worn by:

2.33 ~~(1)~~ the driver and passengers of a passenger vehicle ~~or,~~ commercial motor vehicle,  
2.34 type III vehicle, and type III Head Start vehicle;

3.1 ~~(2) a passenger riding in the front seat of a passenger vehicle or commercial motor~~  
3.2 ~~vehicle; and~~

3.3 ~~(3) a passenger riding in any seat of a passenger vehicle who is older than three~~  
3.4 ~~but younger than 11 years of age.~~

3.5 (b) a person who is 15 years of age or older and who violates paragraph (a), ~~clause~~  
3.6 ~~(1) or (2)~~; is subject to a fine of \$25. The driver of the ~~passenger vehicle or commercial~~  
3.7 ~~motor~~ vehicle in which ~~the violation occurred~~ a violation occurs is subject to a \$25 fine  
3.8 for a each violation of paragraph (a), ~~clause (2) or (3)~~; by the driver or by a child of the  
3.9 driver passenger under the age of 15 ~~or any child under the age of 11~~. A peace officer  
3.10 ~~may not issue a citation for a violation of this section unless the officer lawfully stopped~~  
3.11 ~~or detained the driver of the motor vehicle for a moving violation other than a violation~~  
3.12 ~~involving motor vehicle equipment~~, but the court may not impose more than one surcharge  
3.13 under section 357.021, subdivision 6, on the driver. The Department of Public Safety shall  
3.14 not record a violation of this subdivision on a person's driving record.

3.15 **EFFECTIVE DATE.** This section is effective June 9, 2009, and applies to acts  
3.16 committed on or after that date.

3.17 Sec. 3. Minnesota Statutes 2008, section 169.686, is amended by adding a subdivision  
3.18 to read:

3.19 Subd. 1a. **Definitions.** (a) For purposes of this section, the following terms have  
3.20 the meanings given.

3.21 (b) "Passenger vehicle" means:

3.22 (1) a passenger automobile defined in section 168.002, subdivision 24;

3.23 (2) a pickup truck;

3.24 (3) a van;

3.25 (4) a commuter van, as defined in section 168.126; and

3.26 (5) a recreational vehicle, as defined in section 168.002, subdivision 27.

3.27 (c) "Passenger vehicle" does not include a motorcycle, motorized bicycle, bus,  
3.28 school bus, a vehicle designed to operate exclusively on railroad tracks, a farm truck as  
3.29 defined in section 168.002, subdivision 8, or special mobile equipment as defined in  
3.30 section 168.002, subdivision 31.

3.31 (d) "Pickup truck" means a truck, regardless of manufacturer's nominal rated  
3.32 carrying capacity, that is commonly known as a pickup truck.

3.33 (e) "Van" means a vehicle, regardless of the manufacturer's nominal rated carrying  
3.34 capacity, of a box-like design that (1) has no barrier or separation between the operator's

4.1 area and the remainder of the cargo-carrying area, or (2) is designed to carry 15 or fewer  
4.2 passengers, including the driver.

4.3 **EFFECTIVE DATE.** This section is effective June 9, 2009.

4.4 Sec. 4. Minnesota Statutes 2008, section 169.686, subdivision 2, is amended to read:

4.5 Subd. 2. **Seat belt exemptions.** This section shall not apply to:

4.6 (1) a person driving a passenger vehicle in reverse;

4.7 (2) a person riding in a ~~seat vehicle~~ in which all the seating positions equipped with  
4.8 safety belts are occupied by other persons in safety belts;

4.9 (3) a person who is in possession of a written certificate from a licensed physician  
4.10 verifying that because of medical unfitness or physical disability the person is unable  
4.11 to wear a seat belt;

4.12 (4) a person who is actually engaged in work that requires the person to alight from  
4.13 and reenter a motor vehicle at frequent intervals and who, while engaged in that work,  
4.14 does not drive or travel in that vehicle at a speed exceeding 25 miles per hour;

4.15 (5) a rural mail carrier of the United States Postal Service while in the performance  
4.16 of duties;

4.17 (6) a person driving or riding in a passenger vehicle manufactured before January 1,  
4.18 1965; and

4.19 (7) a person driving or riding in a pickup truck, ~~as defined in section 168.002,~~  
4.20 ~~subdivision 26,~~ while engaged in normal farming work or activity.

4.21 Sec. 5. Minnesota Statutes 2008, section 171.05, subdivision 2b, is amended to read:

4.22 Subd. 2b. **Instruction permit use by person under age 18.** (a) This subdivision  
4.23 applies to persons who have applied for and received an instruction permit under  
4.24 subdivision 2.

4.25 (b) The permit holder may, with the permit in possession, operate a motor vehicle,  
4.26 but must be accompanied by and be under the supervision of a certified driver education  
4.27 instructor, the permit holder's parent or guardian, or another licensed driver age 21 or  
4.28 older. The supervisor must occupy the seat beside the permit holder.

4.29 ~~(c) The permit holder may operate a motor vehicle only when every occupant under~~  
4.30 ~~the age of 18 has a seat belt or child passenger restraint system properly fastened. A~~  
4.31 ~~person who violates this paragraph is subject to a fine of \$25. A peace officer may~~  
4.32 ~~not issue a citation for a violation of this paragraph unless the officer lawfully stopped~~  
4.33 ~~or detained the driver of the motor vehicle for a moving violation as defined in section~~

5.1 ~~171.04, subdivision 1. The commissioner shall not record a violation of this paragraph on~~  
5.2 ~~a person's driving record.~~

5.3 ~~(d)~~ The permit holder may not operate a vehicle while communicating over, or  
5.4 otherwise operating, a cellular or wireless telephone, whether handheld or hands free,  
5.5 when the vehicle is in motion. The permit holder may assert as an affirmative defense that  
5.6 the violation was made for the sole purpose of obtaining emergency assistance to prevent  
5.7 a crime about to be committed, or in the reasonable belief that a person's life or safety  
5.8 was in danger. Violation of this paragraph is a petty misdemeanor subject to section  
5.9 169.89, subdivision 2.

5.10 ~~(e)~~ (d) The permit holder must maintain a driving record free of convictions for  
5.11 moving violations, as defined in section 171.04, subdivision 1, and free of convictions  
5.12 for violation of section 169A.20, 169A.33, 169A.35, or sections 169A.50 to 169A.53. If  
5.13 the permit holder drives a motor vehicle in violation of the law, the commissioner shall  
5.14 suspend, cancel, or revoke the permit in accordance with the statutory section violated.

5.15 **EFFECTIVE DATE.** This section is effective June 9, 2009, and applies to acts  
5.16 committed on or after that date.

5.17 Sec. 6. Minnesota Statutes 2008, section 171.055, subdivision 2, is amended to read:

5.18 Subd. 2. **Use of provisional license.** (a) ~~A provisional license holder may operate a~~  
5.19 ~~motor vehicle only when every occupant under the age of 18 has a seat belt or child~~  
5.20 ~~passenger restraint system properly fastened. A person who violates this paragraph is~~  
5.21 ~~subject to a fine of \$25. A peace officer may not issue a citation for a violation of this~~  
5.22 ~~paragraph unless the officer lawfully stopped or detained the driver of the motor vehicle~~  
5.23 ~~for a moving violation as defined in section 171.04. The commissioner shall not record a~~  
5.24 ~~violation of this paragraph on a person's driving record.~~

5.25 ~~(b)~~ A provisional license holder may not operate a vehicle while communicating  
5.26 over, or otherwise operating, a cellular or wireless telephone, whether handheld or  
5.27 hands free, when the vehicle is in motion. The provisional license holder may assert  
5.28 as an affirmative defense that the violation was made for the sole purpose of obtaining  
5.29 emergency assistance to prevent a crime about to be committed, or in the reasonable  
5.30 belief that a person's life or safety was in danger. Violation of this paragraph is a petty  
5.31 misdemeanor subject to section 169.89, subdivision 2.

5.32 ~~(e)~~ (b) If the holder of a provisional license during the period of provisional licensing  
5.33 incurs (1) a conviction for a violation of section 169A.20, 169A.33, 169A.35, or sections  
5.34 169A.50 to 169A.53, (2) a conviction for a crash-related moving violation, or (3) more  
5.35 than one conviction for a moving violation that is not crash related, the person may not be

6.1 issued a driver's license until 12 consecutive months have expired since the date of the  
6.2 conviction or until the person reaches the age of 18 years, whichever occurs first.

6.3 ~~(d)~~ (c) For the first six months of provisional licensure, a provisional license holder  
6.4 may not operate a motor vehicle carrying more than one passenger under the age of 20  
6.5 years who is not a member of the holder's immediate family. For the second six months,  
6.6 the holder of the license may not operate a motor vehicle that is carrying more than three  
6.7 passengers who are under the age of 20 years and who are not members of the holder's  
6.8 immediate family. This paragraph does not apply if the provisional license holder is  
6.9 accompanied by a parent or guardian.

6.10 ~~(e)~~ (d) For the first six months of provisional licensure, a provisional license holder  
6.11 may operate a motor vehicle between the hours of midnight and 5:00 a.m. only when  
6.12 the license holder is:

- 6.13 (1) driving between the license holder's home and place of employment;  
6.14 (2) driving between the license holder's home and a school event for which the  
6.15 school has not provided transportation;  
6.16 (3) driving for employment purposes; or  
6.17 (4) accompanied by a licensed driver at least 25 years of age.

6.18 **EFFECTIVE DATE.** This section is effective June 9, 2009, and applies to acts  
6.19 committed on or after that date.

6.20 Sec. 7. Minnesota Statutes 2008, section 357.021, subdivision 6, is amended to read:

6.21 Subd. 6. **Surcharges on criminal and traffic offenders.** (a) Except as provided  
6.22 in this paragraph, the court shall impose and the court administrator shall collect a \$75  
6.23 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or  
6.24 petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle  
6.25 parking, for which there shall be a \$4 surcharge, and other than a violation of section  
6.26 169.686, for which there shall be a \$25 surcharge. In the Second Judicial District, the  
6.27 court shall impose, and the court administrator shall collect, an additional \$1 surcharge  
6.28 on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty  
6.29 misdemeanor offense, including a violation of a law or ordinance relating to vehicle  
6.30 parking, if the Ramsey County Board of Commissioners authorizes the \$1 surcharge. The  
6.31 surcharge shall be imposed whether or not the person is sentenced to imprisonment or the  
6.32 sentence is stayed. The surcharge shall not be imposed when a person is convicted of a  
6.33 petty misdemeanor for which no fine is imposed.

7.1 (b) If the court fails to impose a surcharge as required by this subdivision, the court  
7.2 administrator shall show the imposition of the surcharge, collect the surcharge, and  
7.3 correct the record.

7.4 (c) The court may not waive payment of the surcharge required under this  
7.5 subdivision. Upon a showing of indigency or undue hardship upon the convicted person  
7.6 or the convicted person's immediate family, the sentencing court may authorize payment  
7.7 of the surcharge in installments.

7.8 (d) The court administrator or other entity collecting a surcharge shall forward it  
7.9 to the commissioner of finance.

7.10 (e) If the convicted person is sentenced to imprisonment and has not paid the  
7.11 surcharge before the term of imprisonment begins, the chief executive officer of the  
7.12 correctional facility in which the convicted person is incarcerated shall collect the  
7.13 surcharge from any earnings the inmate accrues from work performed in the facility  
7.14 or while on conditional release. The chief executive officer shall forward the amount  
7.15 collected to the commissioner of finance.

7.16 **EFFECTIVE DATE.** This section is effective June 9, 2009, and applies to acts  
7.17 committed on or after that date.

7.18 Sec. 8. Minnesota Statutes 2008, section 357.021, subdivision 7, is amended to read:

7.19 Subd. 7. **Disbursement of surcharges by commissioner of finance.** (a) Except  
7.20 as provided in paragraphs (b), (c), and (d), the commissioner of finance shall disburse  
7.21 surcharges received under subdivision 6 and section 97A.065, subdivision 2, as follows:

7.22 (1) one percent shall be credited to the game and fish fund to provide peace officer  
7.23 training for employees of the Department of Natural Resources who are licensed under  
7.24 sections 626.84 to 626.863, and who possess peace officer authority for the purpose of  
7.25 enforcing game and fish laws;

7.26 (2) 39 percent shall be credited to the peace officers training account in the special  
7.27 revenue fund; and

7.28 (3) 60 percent shall be credited to the general fund.

7.29 (b) The commissioner of finance shall credit \$3 of each surcharge received under  
7.30 subdivision 6 and section 97A.065, subdivision 2, to the general fund.

7.31 (c) In addition to any amounts credited under paragraph (a), the commissioner  
7.32 of finance shall credit \$47 of each surcharge received under subdivision 6 and section  
7.33 97A.065, subdivision 2, and the \$4 parking surcharge, to the general fund.

7.34 (d) If the Ramsey County Board of Commissioners authorizes imposition of  
7.35 the additional \$1 surcharge provided for in subdivision 6, paragraph (a), the court

8.1 administrator in the Second Judicial District shall transmit the surcharge to the  
8.2 commissioner of finance. The \$1 special surcharge is deposited in a Ramsey County  
8.3 surcharge account in the special revenue fund and amounts in the account are appropriated  
8.4 to the trial courts for the administration of the petty misdemeanor diversion program  
8.5 operated by the Second Judicial District Ramsey County Violations Bureau.

8.6 (e) Notwithstanding paragraphs (b) and (c), the commissioner of finance shall  
8.7 disburse the entire surcharge received under subdivision 6 for violations of section  
8.8 169.686 as provided in paragraph (a).

8.9 **EFFECTIVE DATE.** This section is effective June 9, 2009, and applies to acts  
8.10 committed on or after that date.

8.11 Sec. 9. Minnesota Statutes 2008, section 626.9517, subdivision 1, is amended to read:

8.12 Subdivision 1. **Grants; cameras described.** The commissioner of public safety  
8.13 shall make grants to each law enforcement ~~agencies~~ agency participating in the primary  
8.14 seat belt racial profiling study described in section ~~626.951~~ 626.9522 for the purchase,  
8.15 installation, and maintenance of video cameras on police vehicles designed to record  
8.16 traffic stops. A video camera installed pursuant to a grant under this section must:

- 8.17 (1) be automatically activated during every traffic stop;  
8.18 (2) contain an audio feature; and  
8.19 (3) be designed and installed so as to record the stop in its entirety.

8.20 Cameras may not be equipped with manual shut-off switches and must be activated  
8.21 for the entirety of a traffic stop.

8.22 Sec. 10. **[626.9522] PRIMARY SEAT BELT RACIAL PROFILING STUDY.**

8.23 Subdivision 1. **Definitions.** For purposes of this section, the following terms have  
8.24 the meanings given them:

- 8.25 (1) "commissioner" means the commissioner of public safety;  
8.26 (2) "law enforcement agency" has the meaning given in section 626.84;  
8.27 (3) "law enforcement officer" means any peace officer as defined in section 626.84;

8.28 and

8.29 (4) "traffic stop" means any time a law enforcement officer:

8.30 (i) causes the operator of a motor vehicle being operated on any street or highway  
8.31 in the state to stop the motor vehicle; or

8.32 (ii) detains an occupied motor vehicle that is already stopped in any public or  
8.33 private place.



9.1 Traffic stop does not include a checkpoint or roadblock stop, or a stop of multiple vehicles  
9.2 due to a traffic accident or emergency situation.

9.3 Subd. 2. **Applicability; scope.** (a) This section applies to three law enforcement  
9.4 agencies, as determined by the commissioner, that request to participate in the primary  
9.5 seat belt racial profiling study under this section. The commissioner must select a law  
9.6 enforcement agency for participation in the study from one rural jurisdiction, one suburban  
9.7 jurisdiction, and one urban jurisdiction.

9.8 (b) The commissioner shall include in the study required by this section any other  
9.9 law enforcement agency that certifies to the commissioner its desire to participate, in  
9.10 whole or in part, in the analysis.

9.11 Subd. 3. **Duty to record data.** (a) A law enforcement officer from a participating  
9.12 jurisdiction who conducts a traffic stop primarily for the failure to wear a seat belt pursuant  
9.13 to section 169.686, subdivision 1, shall record and forward the following data to the chief  
9.14 law enforcement officer of the officer's agency:

9.15 (1) the location of the stop;

9.16 (2) the date and time of the stop;

9.17 (3) the age, race/ethnicity, and gender of the driver;

9.18 (4) the disposition of the stop: arrest, citation, warning, or no action;

9.19 (5) whether a search was conducted of the driver, passengers, or vehicle;

9.20 (6) if a search was conducted, the authority for the search;

9.21 (7) if a search was conducted, whether any contraband was discovered or seized  
9.22 and the nature of the contraband;

9.23 (8) whether the officer knew the race/ethnicity of the driver before the stop; and

9.24 (9) the law enforcement agency's code.

9.25 (b) The data required by paragraph (a) is the minimum that a law enforcement  
9.26 agency must collect. Nothing in this section prohibits an agency from voluntarily  
9.27 collecting additional data. If an agency collects additional data, the data are classified as  
9.28 provided in subdivision 10.

9.29 (c) Data must be collected for a period of 12 months, beginning January 1, 2010.

9.30 Subd. 4. **Submission of data to commissioner.** On a frequency determined by the  
9.31 commissioner, each chief law enforcement officer of an agency collecting data under this  
9.32 section shall submit to the commissioner of public safety the data described in subdivision  
9.33 3 for each traffic stop conducted by the agency's law enforcement officers for which failure  
9.34 to wear a seat belt was the primary reason for conducting the stop.

9.35 Subd. 5. **Method of data collection.** A chief law enforcement officer may collect  
9.36 and submit the data described in this section electronically, if the method of doing so is

10.1 compatible with the Department of Public Safety's computer system, or on paper forms  
10.2 supplied by the commissioner.

10.3 Subd. 6. **Traffic stop data analysis.** The commissioner shall retain a sufficiently  
10.4 experienced and independent organization or individual to:

10.5 (1) design and oversee the data collection process described by this section;

10.6 (2) develop baseline measures to analyze the data collected;

10.7 (3) develop and implement a data compliance auditing process that ensures the  
10.8 accuracy of the data collected through, among other things, periodic spot checks; and

10.9 (4) analyze the data collected.

10.10 Subd. 7. **Other duties of commissioner.** The commissioner shall:

10.11 (1) ensure that the data forwarded to the commissioner under this section is entered  
10.12 into a central database in a timely manner;

10.13 (2) cooperate with the outside expert retained pursuant to subdivision 6 to facilitate  
10.14 the ability of the expert to fulfill the duties under this section, including allowing the  
10.15 expert sufficient access to the compiled data; and

10.16 (3) develop and distribute to law enforcement agencies participating in the study  
10.17 a paper form to record the data.

10.18 Subd. 8. **Study funding.** (a) The commissioner shall seek funding for the study  
10.19 from federal grant-in-aid sources for which the study is eligible, including but not  
10.20 limited to (1) funds under section 1906 of the Safe, Accountable, Flexible, Efficient  
10.21 Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Public Law 109-59;  
10.22 and (2) additional funding made available to the state of Minnesota due to changes in seat  
10.23 belt use requirements under section 169.686, subdivision 1.

10.24 (b) An amount as necessary to implement the study under this section is appropriated  
10.25 to the commissioner for fiscal years 2010, 2011, and 2012 from funds obtained under  
10.26 paragraph (a).

10.27 Subd. 9. **Report required.** The outside expert shall analyze the data collected to  
10.28 determine the degree to which, if at all, racial profiling occurs in traffic stops for failure to  
10.29 wear a seat belt made by law enforcement agencies submitting data. The commissioner  
10.30 shall submit a report on the results of the analysis to the chairs of the senate and house of  
10.31 representatives committees with jurisdiction over criminal justice policy by December 1,  
10.32 2011.

10.33 Subd. 10. **Classification of data.** Data collected for purposes of the traffic stop  
10.34 analysis as required or permitted by this section is classified as private data on individuals  
10.35 or nonpublic data, as defined in section 13.02. This subdivision does not affect the  
10.36 classification of the same data collected for other law enforcement purposes.

- 11.1 **EFFECTIVE DATE.** This section is effective the day following final enactment,
- 11.2 and expires June 30, 2012.