

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 1305

March 5, 2009

Authored by Emmer and Shimanski

The bill was read for the first time and referred to the Committee on Public Safety Policy and Oversight

April 1, 2009

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Finance

1.1 A bill for an act
1.2 relating to impaired driving; eliminating the pretrial application of certain civil
1.3 sanctions for impaired driving, including administrative license revocation,
1.4 vehicle license plate impoundment, and vehicle forfeiture; restructuring
1.5 postconviction driver's license revocation periods, including work permits,
1.6 restricted driver's licenses, and B-cards; authorizing a payable fine for
1.7 misdemeanor impaired driving offenses; establishing requirements for abstinence
1.8 and rehabilitation for multiple repeat impaired driving offenders; providing for
1.9 proposals to replace breath testing devices for alcohol concentration breath
1.10 tests; amending Minnesota Statutes 2008, sections 84.91; 86B.331; 169.13,
1.11 subdivision 1, by adding a subdivision; 169.89, subdivision 2; 169A.20,
1.12 subdivision 2; 169A.44, subdivision 2; 169A.47; 169A.50; 169A.52; 169A.54,
1.13 subdivisions 1, 10, by adding a subdivision; 169A.55; 169A.60; 169A.63;
1.14 169A.75; 171.29, subdivision 1; 171.30; 609.02, subdivision 4a; 609.0331;
1.15 609.0332, subdivision 1; 609.101, subdivision 4; proposing coding for new
1.16 law in Minnesota Statutes, chapter 169A; repealing Minnesota Statutes 2008,
1.17 sections 169A.276, subdivision 3; 169A.53; 171.165, subdivision 2.

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

1.19 ARTICLE 1
1.20 REPEALING PRETRIAL SANCTIONS FOR IMPAIRED DRIVING

1.21 Section 1. Minnesota Statutes 2008, section 84.91, is amended to read:

1.22 84.91 OPERATION OF SNOWMOBILES AND ALL-TERRAIN VEHICLES
1.23 BY PERSONS UNDER THE INFLUENCE OF ALCOHOL OR CONTROLLED
1.24 SUBSTANCES.

1.25 Subdivision 1. **Acts prohibited.** (a) No owner or other person having charge or
1.26 control of any snowmobile or all-terrain vehicle shall authorize or permit any individual
1.27 the person knows or has reason to believe is under the influence of alcohol or a controlled
1.28 substance or other substance to operate the snowmobile or all-terrain vehicle anywhere in
1.29 this state or on the ice of any boundary water of this state.

(b) No owner or other person having charge or control of any snowmobile or all-terrain vehicle shall knowingly authorize or permit any person, who by reason of any physical or mental disability is incapable of operating the vehicle, to operate the snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state.

(c) A person who operates or is in physical control of a snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state is subject to chapter 169A. In addition to the applicable sanctions and penalties under chapter 169A, a person who is convicted of violating section 169A.20, driving while impaired, or an ordinance in conformity with it while operating a snowmobile or all-terrain vehicle, or who refuses to comply with a lawful request to submit to testing under sections 169A.50 to ~~169A.53~~ 169A.52, implied consent law, or an ordinance in conformity with it, shall be prohibited from operating the snowmobile or all-terrain vehicle for a period of one year. The commissioner shall notify the person of the time period during which the person is prohibited from operating a snowmobile or all-terrain vehicle.

(d) Administrative and judicial review of the operating privileges prohibition is governed by section 97B.066, subdivisions 7 to 9, ~~if the person does not have a prior impaired driving conviction or prior license revocation, as defined in section 169A.03. Otherwise, administrative and judicial review of the prohibition is governed by section 169A.53.~~

(e) The court shall promptly forward to the commissioner and the Department of Public Safety copies of all convictions and criminal and civil sanctions imposed under this section and chapters 169 and 169A relating to snowmobiles and all-terrain vehicles.

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

Sec. 2. Minnesota Statutes 2008, section 86B.331, is amended to read:

86B.331 OPERATION WHILE USING ALCOHOL OR DRUGS OR WITH A PHYSICAL OR MENTAL DISABILITY.

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

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

(c) A person who operates or is in physical control of a motorboat on the waters of this state is subject to chapter 169A. In addition to the applicable sanctions under chapter 169A, a person who is convicted of violating section 169A.20, driving while impaired, or an ordinance in conformity with it while operating a motorboat, shall be prohibited from operating the motorboat on the waters of this state for a period of 90 days between May 1 and October 31, extending over two consecutive years if necessary. If the person operating the motorboat refuses to comply with a lawful demand to submit to testing under sections 169A.50 to ~~169A.53~~ 169A.52, implied consent law, or an ordinance in conformity with it, the person shall be prohibited from operating the motorboat for a period of one year. The commissioner shall notify the person of the period during which the person is prohibited from operating a motorboat.

(d) Administrative and judicial review of the operating privileges prohibition is governed by section 97B.066, subdivisions 7 to 9, ~~if the person does not have a prior impaired driving conviction or prior license revocation, as defined in section 169A.03. Otherwise, administrative and judicial review of the prohibition is governed by section 169A.53.~~

(e) The court shall promptly forward to the commissioner and the Department of Public Safety copies of all convictions and criminal and civil sanctions imposed under this section and chapters 169 and 169A relating to motorboats.

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

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

Sec. 3. Minnesota Statutes 2008, section 169.13, is amended by adding a subdivision to read:

Subd. 4. **Revocation; alcohol related incidents.** A person who was arrested for an offense listed in section 169A.20 and is convicted of a violation of this section based on the same set of circumstances is subject to driver's license revocation as described in section 169A.54, subdivision 1a.

Sec. 4. Minnesota Statutes 2008, section 169A.20, subdivision 2, is amended to read:

Subd. 2. **Refusal to submit to chemical test crime.** It is a crime for any person to refuse to submit to a chemical test of the person's blood, breath, or urine under section 169A.51 ~~(chemical tests for intoxication)~~, or 169A.52 ~~(test refusal or failure; revocation of license)~~.

Sec. 5. Minnesota Statutes 2008, section 169A.44, subdivision 2, is amended to read:

Subd. 2. **Felony violations.** (a) A person charged with violating section 169A.20 within ten years of the first of three or more qualified prior impaired driving incidents may be released from detention only if the following conditions are imposed:

(1) the conditions described in subdivision 1, paragraph (b), if applicable;

~~(2) the impoundment of the registration plates of the vehicle used to commit the violation, unless already impounded;~~

~~(3) if the vehicle used to commit the violation was an off-road recreational vehicle or a motorboat, the impoundment of the off-road recreational vehicle or motorboat;~~

~~(4)~~ (2) a requirement that the person report weekly to a probation agent;

~~(5)~~ (3) a requirement that the person abstain from consumption of alcohol and controlled substances and submit to random alcohol tests or urine analyses at least weekly;

~~(6)~~ (4) a requirement that, if convicted, the person reimburse the court or county for the total cost of these services; and

~~(7)~~ (5) any other conditions of release ordered by the court.

(b) In addition to setting forth conditions of release under paragraph (a), if required by court rule, the court shall also fix the amount of money bail without other conditions upon which the defendant may obtain release.

Sec. 6. Minnesota Statutes 2008, section 169A.47, is amended to read:

169A.47 NOTICE OF ENHANCED PENALTY.

When a court sentences a person for a violation of sections 169A.20 to 169A.31 ~~(impaired driving offenses)~~, it shall inform the defendant of the statutory provisions that provide for enhancement of criminal penalties for repeat violators, and the provisions that provide for administrative license plate impoundment and forfeiture of motor vehicles used to commit an impaired driving offense. The notice must describe the conduct and the time periods within which the conduct must occur in order to result in increased penalties, license plate impoundment, or forfeiture. The failure of a court to provide this information to a defendant does not affect the future applicability of these enhanced penalties to that defendant.

5.1 Sec. 7. Minnesota Statutes 2008, section 169A.50, is amended to read:

5.2 **169A.50 CITATION.**

5.3 Sections 169A.50 to ~~169A.53~~ 169A.52 may be cited as the Implied Consent Law.

5.4 Sec. 8. Minnesota Statutes 2008, section 169A.52, is amended to read:

5.5 **169A.52 TEST REFUSAL OR FAILURE; ~~LICENSE REVOCATION.~~**

5.6 Subdivision 1. **Test refusal.** If a person refuses to permit a test, then a test must
5.7 not be given, but the peace officer shall report the refusal to ~~the commissioner and the~~
5.8 authority having responsibility for prosecution of impaired driving offenses for the
5.9 jurisdiction in which the acts occurred. However, if a peace officer has probable cause
5.10 to believe that the person has violated section 609.21 ~~(, criminal vehicular homicide and~~
5.11 ~~injury)~~, a test may be required and obtained despite the person's refusal. A refusal to
5.12 submit to an alcohol concentration test does not constitute a violation of section 609.50
5.13 ~~(, obstructing legal process)~~, unless the refusal was accompanied by force or violence
5.14 or the threat of force or violence.

5.15 Subd. 2. **Reporting test failure.** ~~(a)~~ If a person submits to a test, the results of that
5.16 test must be reported to ~~the commissioner and to the~~ authority having responsibility for
5.17 prosecution of impaired driving offenses for the jurisdiction in which the acts occurred, if
5.18 the test results indicate:

5.19 (1) an alcohol concentration of 0.08 or more;

5.20 (2) an alcohol concentration of 0.04 or more, if the person was driving, operating, or
5.21 in physical control of a commercial motor vehicle at the time of the violation; ~~or~~

5.22 (3) the presence of a controlled substance listed in schedule I or II or its metabolite,
5.23 other than marijuana or tetrahydrocannabinols; or

5.24 ~~(b) If a person submits to a test and the test results indicate (4) the presence of a~~
5.25 ~~hazardous substance, the results of that test must be reported to the authority having~~
5.26 ~~responsibility for prosecution of impaired driving offenses for the jurisdiction in which the~~
5.27 ~~acts occurred.~~

5.28 **Subd. 3. ~~Test refusal; license revocation.~~** ~~(a) Upon certification by the peace~~
5.29 ~~officer that there existed probable cause to believe the person had been driving, operating,~~
5.30 ~~or in physical control of a motor vehicle in violation of section 169A.20 (driving while~~
5.31 ~~impaired), and that the person refused to submit to a test, the commissioner shall revoke~~
5.32 ~~the person's license or permit to drive, or nonresident operating privilege, for a period~~
5.33 ~~of one year even if a test was obtained pursuant to this section after the person refused~~
5.34 ~~to submit to testing.~~

~~(b) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with the presence of any alcohol in violation of section 169A.20 (driving while impaired), and that the person refused to submit to a test, the commissioner shall disqualify the person from operating a commercial motor vehicle and shall revoke the person's license or permit to drive or nonresident operating privilege according to the federal regulations adopted by reference in section 171.165, subdivision 2.~~

Subd. 4. **Test failure; license revocation.** ~~(a) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 (driving while impaired) and that the person submitted to a test and the test results indicate an alcohol concentration of 0.08 or more or the presence of a controlled substance listed in schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols, then the commissioner shall revoke the person's license or permit to drive, or nonresident operating privilege:~~

~~(1) for a period of 90 days;~~

~~(2) if the person is under the age of 21 years, for a period of six months;~~

~~(3) for a person with a qualified prior impaired driving incident within the past ten years, for a period of 180 days; or~~

~~(4) if the test results indicate an alcohol concentration of 0.20 or more, for twice the applicable period in clauses (1) to (3).~~

~~(b) On certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with any presence of alcohol and that the person submitted to a test and the test results indicated an alcohol concentration of 0.04 or more, the commissioner shall disqualify the person from operating a commercial motor vehicle under section 171.165 (commercial driver's license disqualification).~~

~~(c) If the test is of a person's blood or urine by a laboratory operated by the Bureau of Criminal Apprehension, or authorized by the bureau to conduct the analysis of a blood or urine sample, the laboratory may directly certify to the commissioner the test results to the authority having responsibility for prosecution of impaired driving offenses for the jurisdiction in which the acts occurred, and the peace officer shall certify to the commissioner that same authority that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169A.20 and that the person submitted to a test. Upon receipt of both certifications, the commissioner shall undertake the license actions described in paragraphs (a) and (b).~~

~~Subd. 5. **Unlicensed drivers; license issuance denial.** If the person is a resident without a license or permit to operate a motor vehicle in this state, the commissioner shall deny to the person the issuance of a license or permit after the date of the alleged violation for the same period as provided in this section for revocation, subject to review as provided in section 169A.53 (administrative and judicial review of license revocation).~~

~~Subd. 6. **Notice of revocation or disqualification; review.** A revocation under this section or a disqualification under section 171.165 (commercial driver's license disqualification) becomes effective at the time the commissioner or a peace officer acting on behalf of the commissioner notifies the person of the intention to revoke, disqualify, or both, and of revocation or disqualification. The notice must advise the person of the right to obtain administrative and judicial review as provided in section 169A.53 (administrative and judicial review of license revocation). If mailed, the notice and order of revocation or disqualification is deemed received three days after mailing to the last known address of the person.~~

~~Subd. 7. **Test refusal; driving privilege lost.** (a) On behalf of the commissioner, a peace officer requiring a test or directing the administration of a chemical test shall serve immediate notice of intention to revoke and of revocation on a person who refuses to permit a test or on a person who submits to a test the results of which indicate an alcohol concentration of 0.08 or more.~~

~~(b) On behalf of the commissioner, a peace officer requiring a test or directing the administration of a chemical test of a person driving, operating, or in physical control of a commercial motor vehicle shall serve immediate notice of intention to disqualify and of disqualification on a person who refuses to permit a test, or on a person who submits to a test the results of which indicate an alcohol concentration of 0.04 or more.~~

~~(c) The officer shall:~~

~~(1) invalidate the person's driver's license or permit card by clipping the upper corner of the card in such a way that no identifying information including the photo is destroyed, and immediately return the card to the person;~~

~~(2) issue the person a temporary license effective for only seven days; and~~

~~(3) send the notification of this action to the commissioner along with the certificate required by subdivision 3 or 4.~~

Subd. 8. Notice of action to other states. When a nonresident's privilege to operate a motor vehicle in this state has been revoked or denied upon conviction for an offense described in this chapter, the commissioner shall give information in writing of the action taken to the official in charge of traffic control or public safety of the state of the person's residence and of any state in which the person has a license.

8.1 Sec. 9. Minnesota Statutes 2008, section 169A.54, subdivision 1, is amended to read:

8.2 Subdivision 1. **Revocation periods for DWI convictions.** Except as provided in
8.3 subdivision 7, the commissioner shall revoke the driver's license of a person convicted
8.4 of violating section 169A.20 ~~(driving while impaired)~~, or an ordinance in conformity
8.5 with it, as follows:

8.6 (1) for an offense under section 169A.20, subdivision 1 ~~(driving while impaired~~
8.7 ~~crime)~~, ~~test failure: not less than 90 days or 30 days if the conviction occurs within 30~~
8.8 ~~days of the issuance of a criminal charge for the violation;~~

8.9 (2) for an offense under section 169A.20, subdivision 2 ~~(refusal to submit to~~
8.10 ~~chemical test crime)~~: ~~not less than 90~~ 180 days or 60 days if the conviction occurs within
8.11 30 days of issuance of a criminal charge for the violation;

8.12 (3) for an offense occurring within ten years of a qualified prior impaired driving
8.13 incident:

8.14 (i) if the current conviction is for a violation of section 169A.20, subdivision 1,
8.15 ~~not less than~~ driving while impaired crime, 180 days or 90 days if the conviction occurs
8.16 within 30 days of issuance of the criminal charge for the violation and until the court has
8.17 certified that treatment ~~or rehabilitation~~ has been successfully completed where prescribed
8.18 in accordance with section 169A.70 ~~(chemical use assessments)~~; or

8.19 (ii) if the current conviction is for a violation of section 169A.20, subdivision 2, ~~not~~
8.20 ~~less than~~ refusal to submit to chemical test crime, one year or 180 days if the conviction
8.21 occurs within 30 days of issuance of the criminal charge for the violation and until the
8.22 court has certified that treatment ~~or rehabilitation~~ has been successfully completed where
8.23 prescribed in accordance with section 169A.70; or

8.24 (4) for an offense occurring within ten years of the first of two or more qualified
8.25 prior impaired driving incidents: ~~not less than~~ one year, together with denial under section
8.26 171.04, subdivision 1, clause (10), persons not eligible for driver's license, inimical to
8.27 public safety, until rehabilitation is established in accordance with section 169A.56 and
8.28 standards established by the commissioner; ~~or~~

8.29 ~~(5) for an offense occurring within ten years of the first of three or more qualified~~
8.30 ~~prior impaired driving incidents: not less than two years, together with denial under~~
8.31 ~~section 171.04, subdivision 1, clause (10), until rehabilitation is established in accordance~~
8.32 ~~with standards established by the commissioner.~~

8.33 Sec. 10. Minnesota Statutes 2008, section 169A.54, is amended by adding a
8.34 subdivision to read:

9.1 Subd. 1a. **Conviction for another offense.** A person who was arrested for an
9.2 offense listed in section 169A.20 who is convicted of a violation of section 169.13,
9.3 reckless or careless driving, or another offense arising out of the same circumstances is
9.4 subject to the driver's license revocation as described in subdivision 1, clause (1), or for a
9.5 person with one or more qualified prior impaired driving incidents on record, is subject to
9.6 the driver's license revocation described in subdivision 1, clause (3)(i).

9.7 Sec. 11. Minnesota Statutes 2008, section 169A.54, subdivision 10, is amended to read:

9.8 Subd. 10. **License revocation; court invalidation.** (a) Except as provided in
9.9 subdivision 7, on behalf of the commissioner, a court shall serve notice of revocation or
9.10 cancellation on a person convicted of a violation of section 169A.20 ~~€, driving while~~
9.11 ~~impaired) unless the commissioner has already revoked the person's driving privileges or~~
9.12 ~~served the person with a notice of revocation for a violation of section 169A.52 (license~~
9.13 ~~revocation for test failure or refusal) arising out of the same incident.~~

9.14 (b) The court shall invalidate the driver's license or permit in such a way that no
9.15 identifying information is destroyed.

9.16 Sec. 12. Minnesota Statutes 2008, section 169A.55, is amended to read:

9.17 **169A.55 LICENSE REVOCATION TERMINATION; LICENSE**
9.18 **REINSTATEMENT.**

9.19 Subdivision 1. **Termination of revocation period.** If the commissioner receives
9.20 notice of the driver's attendance at a driver improvement clinic, attendance at counseling
9.21 sessions, or participation in treatment for an alcohol problem, the commissioner may,
9.22 30 days prior to the time the revocation period would otherwise expire, terminate the
9.23 revocation period. The commissioner shall not terminate the revocation period under this
9.24 subdivision for a driver who has had a license revoked under section ~~169A.52 (license~~
9.25 ~~revocation for test failure or refusal);~~ 169A.54 ~~€, impaired driving convictions and~~
9.26 ~~adjudications; administrative penalties);~~ or Minnesota Statutes 1998, section 169.121 ~~€,~~
9.27 ~~driving under the influence of alcohol or controlled substances);~~ or 169.123 ~~€, implied~~
9.28 ~~consent);~~ for another incident during the preceding three-year period.

9.29 Subd. 2. **Reinstatement of driving privileges; notice.** Upon expiration of a period
9.30 of revocation under section ~~169A.52 (license revocation for test failure or refusal) or~~
9.31 ~~169A.54 €, impaired driving convictions and adjudications; administrative penalties),~~ the
9.32 commissioner shall notify the person of the terms upon which driving privileges can be
9.33 reinstated, and new registration plates issued, which terms are: (1) successful completion
9.34 of an examination and proof of compliance with any terms of alcohol treatment or

counseling previously prescribed, if any; and (2) any other requirements imposed by the commissioner and applicable to that particular case. The commissioner shall notify the owner of a motor vehicle subject to an impoundment order under section 169A.60 ~~of administrative impoundment of plates~~, as a result of the violation of the procedures for obtaining new registration plates, if the owner is not the violator. The commissioner shall also notify the person that if driving is resumed without reinstatement of driving privileges or without valid registration plates and registration certificate, the person will be subject to criminal penalties.

Subd. 3. **Juveniles; reinstatement or issuance of provisional license.** The commissioner shall not issue a provisional or regular driver's license to a person whose provisional driver's license was revoked for conviction as a juvenile of a violation of section 169A.20, driving while impaired, 169A.33, underage drinking and driving, or 169A.35, open bottle law; ~~a violation of a provision of sections 169A.50 to 169A.53~~; or a crash-related moving violation; until the person, following the violation, reaches the age of 18 and satisfactorily:

(1) completes a formal course in driving instruction approved by the commissioner of public safety;

(2) completes an additional three months' experience operating a motor vehicle, as documented to the satisfaction of the commissioner;

(3) completes the written examination for a driver's license with a passing score; and

(4) complies with all other laws for reinstatement of a provisional or regular driver's license, as applicable.

Sec. 13. **[169A.59] ADMINISTRATIVE SANCTIONS LIMITED.**

Notwithstanding any provision of this chapter or chapter 171 to the contrary, driver's license actions under section 169A.54, license plate impoundment under section 169A.60, and vehicle forfeiture under section 169A.63 are permitted only following conviction for the qualifying violation or designated offense.

Sec. 14. Minnesota Statutes 2008, section 169A.60, is amended to read:

169A.60 ADMINISTRATIVE LICENSE PLATE IMPOUNDMENT OF PLATES.

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.

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

11.3 (d) "Plate impoundment violation" includes:

11.4 (1) conviction or adjudication for a violation of section 169A.20 ~~or driving while~~
 11.5 ~~impaired) or 169A.52 (license revocation for test failure or refusal), or a conforming~~
 11.6 ordinance from this state or a conforming statute or ordinance from another state, ~~that~~
 11.7 ~~results in the revocation of a person's driver's license or driving privileges, within ten years~~
 11.8 of a qualified prior impaired driving incident;

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

11.12 ~~(3)~~ (2) conviction or adjudication for a violation of section 169A.20 ~~or 169A.52~~
 11.13 while having an alcohol concentration of 0.20 or more as measured at the time, or within
 11.14 two hours of the time, of the offense;

11.15 ~~(4)~~ (3) conviction or adjudication for a violation of section 169A.20 ~~or 169A.52~~
 11.16 while having a child under the age of 16 in the vehicle if the child is more than 36 months
 11.17 younger than the offender; and

11.18 ~~(5)~~ (4) conviction or adjudication for a violation of section 171.24 ~~or driving without~~
 11.19 ~~valid license), by a person whose driver's license or driving privileges have been canceled~~
 11.20 under section 171.04, subdivision 1, clause (10) ~~or persons not eligible for driver's license,~~
 11.21 inimical to public safety).

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

11.24 Subd. 2. **Plate impoundment violation; impoundment order.** (a) The
 11.25 commissioner shall issue a registration plate impoundment order ~~when:~~

11.26 ~~(1) a person's driver's license or driving privileges are revoked for a plate~~
 11.27 ~~impoundment violation; or~~

11.28 ~~(2) a person is arrested for or charged with a plate impoundment violation upon~~
 11.29 receiving notification by the court that a person has been convicted of a plate impoundment
 11.30 violation described in subdivision 1, paragraph (d), ~~clause (5).~~

11.31 (b) The order must require the impoundment of the registration plates of the motor
 11.32 vehicle involved in the plate impoundment violation and all motor vehicles owned by,
 11.33 registered, or leased in the name of the violator, including motor vehicles registered jointly
 11.34 or leased in the name of the violator and another. The commissioner shall not issue an
 11.35 impoundment order for the registration plates of a rental vehicle, as defined in section
 11.36 168.041, subdivision 10, or a vehicle registered in another state.

12.1 Subd. 3. **Notice of impoundment.** An impoundment order is effective when
12.2 the commissioner ~~or a peace officer acting on behalf of the commissioner~~ notifies the
12.3 violator or the registered owner of the motor vehicle of the intent to impound and order of
12.4 impoundment. The notice must advise the violator of the duties and obligations ~~set forth~~
12.5 ~~in for the surrender of plates under subdivision 6 (surrender of plates) and of the right to~~
12.6 ~~obtain administrative and judicial review.~~ The notice to the registered owner who is not
12.7 the violator must include the procedure to obtain new registration plates under subdivision
12.8 8. If mailed, the notice and order of impoundment is deemed received three days after
12.9 mailing to the last known address of the violator or the registered owner.

12.10 ~~Subd. 4. **Peace officer as agent for notice of impoundment.** On behalf of the~~
12.11 ~~commissioner, a peace officer issuing a notice of intent to revoke and of revocation for a~~
12.12 ~~plate impoundment violation shall also serve a notice of intent to impound and an order of~~
12.13 ~~impoundment. On behalf of the commissioner, a peace officer who is arresting a person~~
12.14 ~~for or charging a person with a plate impoundment violation described in subdivision 1,~~
12.15 ~~paragraph (d), clause (5), shall also serve a notice of intent to impound and an order of~~
12.16 ~~impoundment. If the vehicle involved in the plate impoundment violation is accessible~~
12.17 ~~to the officer at the time the impoundment order is issued, the officer shall seize the~~
12.18 ~~registration plates subject to the impoundment order. The officer shall destroy all plates~~
12.19 ~~seized or impounded under this section. The officer shall send to the commissioner~~
12.20 ~~copies of the notice of intent to impound and the order of impoundment and a notice that~~
12.21 ~~registration plates impounded and seized under this section have been destroyed.~~

12.22 Subd. 5. **Temporary permit.** If the motor vehicle is registered to the violator, the
12.23 ~~officer~~ commissioner shall issue a temporary vehicle permit that is valid for seven days
12.24 ~~when the officer issues the notices under subdivision 4.~~ If the motor vehicle is registered
12.25 in the name of another, the ~~officer~~ commissioner shall issue a temporary vehicle permit
12.26 that is valid for 45 days ~~when the notices are issued under subdivision 3.~~ The permit
12.27 must be in a form determined by the registrar and whenever practicable must be posted
12.28 on the left side of the inside rear window of the vehicle. A permit is valid only for the
12.29 vehicle for which it is issued.

12.30 Subd. 6. **Surrender of plates.** Within seven days after issuance of the impoundment
12.31 notice, a person who receives a notice of impoundment and impoundment order shall
12.32 surrender all registration plates subject to the impoundment order ~~that were not seized by a~~
12.33 ~~peace officer under subdivision 4.~~ Registration plates required to be surrendered under
12.34 this subdivision must be surrendered to a Minnesota police department, sheriff, or the
12.35 State Patrol, along with a copy of the impoundment order. A law enforcement agency
12.36 receiving registration plates under this subdivision shall destroy the plates and notify the

13.1 commissioner that they have been destroyed. The notification to the commissioner shall
13.2 also include a copy of the impoundment order.

13.3 Subd. 7. **Vehicle not owned by violator.** A violator may file a sworn statement
13.4 with the commissioner within seven days of the issuance of an impoundment order stating
13.5 any material information relating to the impoundment order, including that the vehicle
13.6 has been sold or destroyed, and supplying the date, name, location, and address of the
13.7 person or entity that purchased or destroyed the vehicle. The commissioner shall rescind
13.8 the impoundment order if the violator shows that the impoundment order was not properly
13.9 issued.

13.10 Subd. 8. **Reissuance of registration plates.** (a) The commissioner shall rescind
13.11 the impoundment order of a person subject to an order under this section, other than
13.12 the violator, if:

13.13 (1) the violator had a valid driver's license on the date of the plate impoundment
13.14 violation and the person files with the commissioner an acceptable sworn statement
13.15 containing the following information:

13.16 (i) that the person is the registered owner of the vehicle from which the plates have
13.17 been impounded under this section;

13.18 (ii) that the person is the current owner and possessor of the vehicle used in the
13.19 violation;

13.20 (iii) the date on which the violator obtained the vehicle from the registered owner;

13.21 (iv) the residence addresses of the registered owner and the violator on the date the
13.22 violator obtained the vehicle from the registered owner;

13.23 (v) that the person was not a passenger in the vehicle at the time of the plate
13.24 impoundment violation; and

13.25 (vi) that the person knows that the violator may not drive, operate, or be in physical
13.26 control of a vehicle without a valid driver's license; or

13.27 (2) the violator did not have a valid driver's license on the date of the plate
13.28 impoundment violation and the person made a report to law enforcement before the
13.29 violation stating that the vehicle had been taken from the person's possession or was
13.30 being used without permission.

13.31 (b) A person who has failed to make a report as provided in paragraph (a), clause
13.32 (2), may be issued special registration plates under subdivision 13 for a period of one year
13.33 from the effective date of the impoundment order. Following this period, the person
13.34 may apply for regular registration plates.

13.35 (c) If the order is rescinded, the owner shall receive new registration plates at no
13.36 cost, if the plates were seized and destroyed.

~~Subd. 9. **Administrative review.** (a) At any time during the effective period of an impoundment order, a person may request in writing a review of the impoundment order by the commissioner. On receiving a request, the commissioner or the commissioner's designee shall review the order, the evidence upon which the order was based, and any other material information brought to the attention of the commissioner, and determine whether sufficient cause exists to sustain the order. The commissioner shall report in writing the results of the review within 15 days of receiving the request. The review provided in this subdivision is not subject to the contested case provisions of the Administrative Procedure Act in sections 14.001 to 14.69. As a result of this review, the commissioner may authorize the issuance at no cost of new registration plates to the registered owner of the vehicle if the registered owner's license or driving privileges were not revoked as a result of the plate impoundment violation.~~

~~(b) Review under this subdivision must take place, if possible, at the same time as any administrative review of the person's license revocation under section 169A.53 (administrative and judicial review of license revocation).~~

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

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

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

~~(1) if the impoundment is based on a plate impoundment violation described in subdivision 1, paragraph (d), clause (3) or (4), whether the peace officer had probable~~

15.1 ~~cause to believe the violator committed the plate impoundment violation and whether the~~
15.2 ~~evidence demonstrates that the plate impoundment violation occurred; and~~

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

15.5 ~~(d) In a hearing under this subdivision, the following records are admissible in~~
15.6 ~~evidence:~~

15.7 ~~(1) certified copies of the violator's driving record; and~~

15.8 ~~(2) certified copies of vehicle registration records bearing the violator's name.~~

15.9 **Subd. 11. Rescission of revocation and dismissal or acquittal; new plates. If:**

15.10 ~~(1) the driver's license revocation that is the basis for an impoundment order is~~
15.11 ~~rescinded; and~~

15.12 ~~(2) the charges for the plate impoundment violation have been dismissed with~~
15.13 ~~prejudice or the violator has been acquitted of the plate impoundment violation;~~

15.14 ~~then the registrar of motor vehicles shall issue new registration plates for the vehicle~~
15.15 ~~at no cost, when the registrar receives an application that includes a copy of the order~~
15.16 ~~rescinding the driver's license revocation and either the order dismissing the charges or~~
15.17 ~~the judgment of acquittal.~~

15.18 **Subd. 12. Charge for reinstatement of plates in certain situations.** When the
15.19 registrar of motor vehicles reinstates a person's registration plates after impoundment ~~for~~
15.20 ~~reasons other than those described in subdivision 11,~~ the registrar shall charge the person
15.21 \$50 for each vehicle for which the registration plates are being reinstated.

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

15.27 (1) the violator has a qualified licensed driver whom the violator must identify;

15.28 (2) the violator or registered owner has a limited license issued under section 171.30;

15.29 (3) the registered owner is not the violator and the registered owner has a valid or
15.30 limited driver's license;

15.31 (4) a member of the registered owner's household has a valid driver's license; or

15.32 (5) the violator has been reissued a valid driver's license.

15.33 (b) The commissioner may not issue new registration plates for that vehicle subject
15.34 to plate impoundment for a period of at least one year from the date of the impoundment
15.35 order. In addition, if the owner is the violator, new registration plates may not be issued

16.1 for the vehicle unless the person has been reissued a valid driver's license in accordance
16.2 with chapter 171.

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

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

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

16.10 (1) the impoundment order is rescinded;

16.11 (2) the vehicle is transferred in compliance with subdivision 14; or

16.12 (3) the vehicle is transferred to a Minnesota automobile dealer licensed under
16.13 section 168.27, a financial institution that has submitted a repossession affidavit, or a
16.14 government agency.

16.15 Subd. 14. **Sale of vehicle subject to impoundment order.** (a) A registered owner
16.16 may not sell or transfer a motor vehicle during the time its registration plates have been
16.17 ordered impounded or during the time its registration plates bear a special series number,
16.18 unless:

16.19 (1) the sale is for a valid consideration;

16.20 (2) the transferee and the registered owner are not family or household members;

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

16.23 (i) the transferee and the violator are not family or household members;

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

16.25 and

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

16.29 (4) all elements of section 168A.10 ~~transfer of interest by owner~~₂ are satisfied.

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

16.32 Subd. 15. **Acquiring another vehicle.** If the violator applies to the commissioner
16.33 for registration plates for any vehicle during the effective period of the plate impoundment,
16.34 the commissioner shall not issue registration plates unless the violator qualifies for special
16.35 registration plates under subdivision 13 and unless the plates issued are special plates
16.36 as described in subdivision 13.

17.1 Subd. 16. **Fees credited.** Fees collected from the sale or reinstatement of license
17.2 plates under this section must be paid into the state treasury and credited one-half to
17.3 the vehicle services operating account in the special revenue fund specified in section
17.4 299A.705 and one-half to the general fund.

17.5 Subd. 17. **Plate impoundment; penalty.** Criminal penalties for violating this
17.6 section are governed by section 169A.37.

17.7 ~~Subd. 18. **Stop of vehicles bearing special plates.** The authority of a peace officer~~
17.8 ~~to stop a vehicle bearing special plates is governed by section 168.0422.~~

17.9 Sec. 15. Minnesota Statutes 2008, section 169A.63, is amended to read:

17.10 **169A.63 VEHICLE FORFEITURE.**

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

17.13 (b) "Appropriate agency" means a law enforcement agency that has the authority to
17.14 make an arrest for a violation of a designated offense or to require a test under section
17.15 169A.51 (chemical tests for intoxication).

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

17.18 ~~(d) "Designated license revocation" includes a license revocation under section~~
17.19 ~~169A.52 (license revocation for test failure or refusal) or a license disqualification under~~
17.20 ~~section 171.165 (commercial driver's license disqualification) resulting from a violation~~
17.21 ~~of section 169A.52, within ten years of the first of two or more qualified prior impaired~~
17.22 ~~driving incidents.~~

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

17.24 (1) a violation of section 169A.20 ~~(driving while impaired)~~₂ under the circumstances
17.25 described in section 169A.24 ~~(first-degree driving while impaired)~~₂, or 169A.25 ~~()~~₂
17.26 second-degree driving while impaired); or

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

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

17.31 (ii) by a person who is subject to a restriction on the person's driver's license under
17.32 section 171.09 ~~(commissioner's license restrictions)~~₂, which provides that the person may
17.33 not use or consume any amount of alcohol or a controlled substance.

17.34 ~~(f)~~ (e) "Family or household member" means:

17.35 (1) a parent, stepparent, or guardian;

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

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

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

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

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

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

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

18.26 (b) Property may be seized without process if:

18.27 ~~(1) the seizure is incident to a lawful arrest or a lawful search;~~

18.28 ~~(2) the vehicle subject to seizure has been the subject of a prior judgment in favor of~~
18.29 ~~the state in a criminal injunction or forfeiture proceeding under this section; or,~~

18.30 ~~(3) the appropriate agency has probable cause to believe that the delay occasioned by~~
18.31 ~~the necessity to obtain process would result in the removal or destruction of the vehicle. If~~
18.32 ~~property is seized without process under this clause paragraph,~~ the prosecuting authority
18.33 must institute a forfeiture action under this section as soon as is reasonably possible by
18.34 serving a notice of seizure and intent to forfeit at the address of the owner as listed in the
18.35 records of the Department of Public Safety.

19.1 Subd. 3. **Right to possession vests immediately; custody.** All right, title, and
19.2 interest in a vehicle subject to forfeiture under this section vests in the appropriate agency
19.3 upon commission of the conduct resulting in the designated offense ~~or designated license~~
19.4 ~~revocation~~ giving rise to the forfeiture. Any vehicle seized under this section is not subject
19.5 to replevin, but is deemed to be in the custody of the appropriate agency subject to the
19.6 orders and decrees of the court having jurisdiction over the forfeiture proceedings. When
19.7 a vehicle is seized under this section, the appropriate agency may:

19.8 (1) place the vehicle under seal;

19.9 (2) remove the vehicle to a place designated by it;

19.10 (3) place a disabling device on the vehicle; and

19.11 (4) take other steps reasonable and necessary to secure the vehicle and prevent waste.

19.12 Subd. 4. **Bond by owner for possession.** (a) If the owner of a vehicle that has
19.13 been seized under this section seeks possession of the vehicle before the forfeiture action
19.14 is determined, the owner may, subject to the approval of the appropriate agency, give
19.15 security or post bond payable to the appropriate agency in an amount equal to the retail
19.16 value of the seized vehicle. On posting the security or bond, the seized vehicle may be
19.17 returned to the owner only if a disabling device is attached to the vehicle. The forfeiture
19.18 action must proceed against the security as if it were the seized vehicle.

19.19 (b) If the owner of a motor vehicle that has been seized under this section seeks
19.20 possession of the vehicle before the forfeiture action is determined, the owner may
19.21 surrender the vehicle's certificate of title in exchange for the vehicle. The motor vehicle
19.22 must be returned to the owner within 24 hours if the owner surrenders the motor vehicle's
19.23 certificate of title to the appropriate agency, pending resolution of the forfeiture action. If
19.24 the certificate is surrendered, the owner may not be ordered to post security or bond as a
19.25 condition of release of the vehicle. When a certificate of title is surrendered under this
19.26 provision, the agency shall notify the Department of Public Safety and any secured party
19.27 noted on the certificate. The agency shall also notify the department and the secured party
19.28 when it returns a surrendered title to the motor vehicle owner.

19.29 Subd. 5. **Evidence.** Certified copies of court records and motor vehicle and driver's
19.30 license records concerning qualified prior impaired driving incidents are admissible as
19.31 substantive evidence where necessary to prove the commission of a designated offense
19.32 ~~or the occurrence of a designated license revocation.~~

19.33 Subd. 6. **Vehicle subject to forfeiture.** (a) A motor vehicle is subject to forfeiture
19.34 under this section if it was used in the commission of a designated offense ~~or was used in~~
19.35 ~~conduct resulting in a designated license revocation.~~

20.1 (b) Motorboats subject to seizure and forfeiture under this section also include
20.2 their trailers.

20.3 Subd. 7. **Limitations on vehicle forfeiture.** (a) A vehicle is presumed subject to
20.4 forfeiture under this section if:

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

20.7 ~~(2) the driver fails to appear for a scheduled court appearance with respect to the~~
20.8 ~~designated offense charged and fails to voluntarily surrender within 48 hours after the~~
20.9 ~~time required for appearance; or~~

20.10 ~~(3) the driver's conduct results in a designated license revocation and the driver~~
20.11 ~~fails to seek judicial review of the revocation in a timely manner as required by section~~
20.12 ~~169A.53, subdivision 2, (petition for judicial review), or the license revocation is judicially~~
20.13 ~~reviewed and sustained under section 169A.53, subdivision 2.~~

20.14 (b) A vehicle encumbered by a security interest perfected according to section
20.15 168A.17, subdivision 2, or subject to a lease that has a term of 180 days or more, is subject
20.16 to the interest of the secured party or lessor unless the party or lessor had knowledge of or
20.17 consented to the act upon which the forfeiture is based. However, when the proceeds of the
20.18 sale of a seized vehicle do not equal or exceed the outstanding loan balance, the appropriate
20.19 agency shall remit all proceeds of the sale to the secured party after deducting the agency's
20.20 costs for the seizure, tow, storage, forfeiture, and sale of the vehicle. If the sale of the
20.21 vehicle is conducted in a commercially reasonable manner consistent with the provisions
20.22 of section 336.9-610, the agency is not liable to the secured party for any amount owed on
20.23 the loan in excess of the sale proceeds. The validity and amount of a nonperfected security
20.24 interest must be established by its holder by clear and convincing evidence.

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

20.30 (d) A motor vehicle is not subject to forfeiture under this section if its owner can
20.31 demonstrate by clear and convincing evidence that the owner did not have actual or
20.32 constructive knowledge that the vehicle would be used or operated in any manner contrary
20.33 to law or that the owner took reasonable steps to prevent use of the vehicle by the offender.
20.34 If the offender is a family or household member of the owner and has three or more prior
20.35 impaired driving convictions, the owner is presumed to know of any vehicle use by the

21.1 offender that is contrary to law. "Vehicle use contrary to law" includes, but is not limited
 21.2 to, violations of the following statutes:

- 21.3 (1) section 171.24 ~~☒~~ violations; driving without valid license);
- 21.4 (2) section 169.791 ~~☒~~ criminal penalty for failure to produce proof of insurance);
- 21.5 (3) section 171.09 ~~☒~~ driving restrictions; authority, violations);
- 21.6 (4) section 169A.20 ~~☒~~ driving while impaired);
- 21.7 (5) section 169A.33 ~~☒~~ underage drinking and driving); and
- 21.8 (6) section 169A.35 ~~☒~~ open bottle law).

21.9 Subd. 8. **Administrative forfeiture procedure.** (a) A motor vehicle used to commit
 21.10 a designated offense ~~or used in conduct resulting in a designated license revocation~~ is
 21.11 subject to administrative forfeiture under this subdivision.

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

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

- 21.28 (1) a description of the vehicle seized; and
- 21.29 (2) the date of seizure; ~~and~~

21.30 ~~(3) notice of the right to obtain judicial review of the forfeiture and of the procedure~~
 21.31 ~~for obtaining that judicial review, printed in English, Hmong, and Spanish. Substantially~~
 21.32 ~~the following language must appear conspicuously: "IF YOU DO NOT DEMAND~~
 21.33 ~~JUDICIAL REVIEW EXACTLY AS PRESCRIBED IN MINNESOTA STATUTES,~~
 21.34 ~~SECTION 169A.63, SUBDIVISION 8, YOU LOSE THE RIGHT TO A JUDICIAL~~
 21.35 ~~DETERMINATION OF THIS FORFEITURE AND YOU LOSE ANY RIGHT YOU~~
 21.36 ~~MAY HAVE TO THE ABOVE-DESCRIBED PROPERTY. YOU MAY NOT HAVE TO~~

22.1 ~~PAY THE FILING FEE FOR THE DEMAND IF DETERMINED YOU ARE UNABLE~~
22.2 ~~TO AFFORD THE FEE. IF THE PROPERTY IS WORTH \$7,500 OR LESS, YOU MAY~~
22.3 ~~FILE YOUR CLAIM IN CONCILIATION COURT. YOU DO NOT HAVE TO PAY~~
22.4 ~~THE CONCILIATION COURT FILING FEE IF THE PROPERTY IS WORTH LESS~~
22.5 ~~THAN \$500."~~

22.6 ~~(d) Within 30 days following service of a notice of seizure and forfeiture under this~~
22.7 ~~subdivision, a claimant may file a demand for a judicial determination of the forfeiture.~~
22.8 ~~The demand must be in the form of a civil complaint and must be filed with the court~~
22.9 ~~administrator in the county in which the seizure occurred, together with proof of service of~~
22.10 ~~a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture~~
22.11 ~~and the appropriate agency that initiated the forfeiture, including the standard filing fee~~
22.12 ~~for civil actions unless the petitioner has the right to sue in forma pauperis under section~~
22.13 ~~563.01. If the value of the seized property is \$7,500 or less, the claimant may file an~~
22.14 ~~action in conciliation court for recovery of the seized vehicle. A copy of the conciliation~~
22.15 ~~court statement of claim must be served personally or by mail on the prosecuting authority~~
22.16 ~~having jurisdiction over the forfeiture, as well as on the appropriate agency that initiated~~
22.17 ~~the forfeiture, within 30 days following service of the notice of seizure and forfeiture~~
22.18 ~~under this subdivision. If the value of the seized property is less than \$500, the claimant~~
22.19 ~~does not have to pay the conciliation court filing fee.~~

22.20 ~~No responsive pleading is required of the prosecuting authority and no court fees~~
22.21 ~~may be charged for the prosecuting authority's appearance in the matter. The prosecuting~~
22.22 ~~authority may appear for the appropriate agency. Pleadings, filings, and methods of~~
22.23 ~~service are governed by the Rules of Civil Procedure.~~

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

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

22.33 **Subd. 9. Judicial forfeiture procedure.** ~~(a) This subdivision governs judicial~~
22.34 ~~determinations of the forfeiture of a motor vehicle used to commit a designated offense or~~
22.35 ~~used in conduct resulting in a designated license revocation. An action for forfeiture is a~~

23.1 ~~civil in rem action and is independent of any criminal prosecution. All proceedings are~~
23.2 ~~governed by the Rules of Civil Procedure.~~

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

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

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

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

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

23.29 ~~(g) If the lawful ownership of the vehicle used in the commission of a designated~~
23.30 ~~offense or used in conduct resulting in a designated license revocation can be determined~~
23.31 ~~and the owner makes the demonstration required under subdivision 7, paragraph (d), the~~
23.32 ~~vehicle must be returned immediately upon the owner's compliance with the redemption~~
23.33 ~~requirements of section 169A.42.~~

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

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

24.4 Subd. 10. **Disposition of forfeited vehicle.** (a) If the vehicle is administratively
24.5 forfeited under subdivision 8, or if the court finds ~~under subdivision 9~~ that the vehicle is
24.6 subject to forfeiture under subdivisions 6 and 7, the appropriate agency shall:

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

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

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

24.15 (1) 70 percent of the proceeds must be forwarded to the appropriate agency for
24.16 deposit as a supplement to the state or local agency's operating fund or similar fund for use
24.17 in DWI-related enforcement, training, and education; and

24.18 (2) 30 percent of the money or proceeds must be forwarded to the prosecuting
24.19 authority that handled the forfeiture for deposit as a supplement to its operating fund or
24.20 similar fund for prosecutorial purposes.

24.21 Subd. 11. **Sale of forfeited vehicle by secured party.** (a) A financial institution
24.22 with a valid security interest in or a valid lease covering a forfeited vehicle may choose to
24.23 dispose of the vehicle under this subdivision, in lieu of the appropriate agency disposing
24.24 of the vehicle under subdivision ~~9~~ 10. A financial institution wishing to dispose of a
24.25 vehicle under this subdivision shall notify the appropriate agency of its intent, in writing,
24.26 within 30 days after receiving notice of the seizure and forfeiture. The appropriate agency
24.27 shall release the vehicle to the financial institution or its agent after the financial institution
24.28 presents proof of its valid security agreement or of its lease agreement and the financial
24.29 institution agrees not to sell the vehicle to a member of the violator's household, ~~unless~~
24.30 ~~the violator is not convicted of the offense on which the forfeiture is based.~~ The financial
24.31 institution shall dispose of the vehicle in a commercially reasonable manner as defined in
24.32 section 336.9-610.

24.33 (b) After disposing of the forfeited vehicle, the financial institution shall reimburse
24.34 the appropriate agency for its seizure, storage, and forfeiture costs. The financial
24.35 institution may then apply the proceeds of the sale to its storage costs, to its sale
24.36 expenses, and to satisfy the lien or the lease on the vehicle. If any proceeds remain, the

25.1 financial institution shall forward the proceeds to the state treasury, which shall credit the
25.2 appropriate fund as specified in subdivision ~~9~~ 10.

25.3 Sec. 16. Minnesota Statutes 2008, section 169A.75, is amended to read:

25.4 **169A.75 IMPAIRED DRIVING-RELATED RULES.**

25.5 (a) The commissioner may adopt rules to carry out the provisions of this chapter.

25.6 The rules may include the format for notice of intention to revoke ~~that describe clearly the~~
25.7 ~~right to a hearing, the procedure for requesting a hearing, and the consequences of failure~~
25.8 ~~to request a hearing;~~ the format for revocation and notice of reinstatement of driving
25.9 privileges as provided in section 169A.55~~;~~ and the format for temporary licenses.

25.10 (b) Rules adopted pursuant to this section are subject to the procedures in chapter 14
25.11 ~~(, Administrative Procedure Act).~~

25.12 (c) Additionally, the commissioner may adopt rules indicating the commissioner's
25.13 approval of instruments for preliminary screening or chemical tests for intoxication
25.14 under sections 169A.41 and 169A.51 using the procedures specified in section 14.389 ~~(,~~
25.15 expedited process).

25.16 Sec. 17. Minnesota Statutes 2008, section 171.29, subdivision 1, is amended to read:

25.17 Subdivision 1. **Examination required.** No person whose driver's license has been
25.18 revoked by reason of conviction, plea of guilty, or forfeiture of bail not vacated, under
25.19 section 169.791, 169.797, 171.17, or 171.172, or revoked under section 169.792 ~~or,~~
25.20 169A.52, or 169A.54 shall be issued another license unless and until that person shall
25.21 have successfully passed an examination as required by the commissioner of public safety.
25.22 This subdivision does not apply to an applicant for early reinstatement under section
25.23 169.792, subdivision 7a.

25.24 Sec. 18. Minnesota Statutes 2008, section 171.30, is amended to read:

25.25 **171.30 LIMITED LICENSE.**

25.26 Subdivision 1. **Conditions of issuance.** (a) In any case where a person's license
25.27 has been suspended under section 171.18, 171.173, or 171.186, or revoked under section
25.28 169.792, 169.797, ~~169A.52,~~ 169A.54, 171.17, or 171.172, the commissioner may issue a
25.29 limited license to the driver including under the following conditions:

25.30 (1) if the driver's livelihood or attendance at a chemical dependency treatment or
25.31 counseling program depends upon the use of the driver's license;

26.1 (2) if the use of a driver's license by a homemaker is necessary to prevent the
26.2 substantial disruption of the education, medical, or nutritional needs of the family of
26.3 the homemaker; or

26.4 (3) if attendance at a postsecondary institution of education by an enrolled student of
26.5 that institution depends upon the use of the driver's license.

26.6 (b) The commissioner in issuing a limited license may impose such conditions and
26.7 limitations as in the commissioner's judgment are necessary to the interests of the public
26.8 safety and welfare including reexamination as to the driver's qualifications. The license
26.9 may be limited to the operation of particular vehicles, to particular classes and times of
26.10 operation, and to particular conditions of traffic. The commissioner may require that an
26.11 applicant for a limited license affirmatively demonstrate that use of public transportation
26.12 or carpooling as an alternative to a limited license would be a significant hardship.

26.13 (c) For purposes of this subdivision, "homemaker" refers to the person primarily
26.14 performing the domestic tasks in a household of residents consisting of at least the person
26.15 and the person's dependent child or other dependents.

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

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

26.22 (f) If the person's driver's license or permit to drive has been revoked under section
26.23 169.792 or 169.797, the commissioner may ~~only~~ issue a limited license to the person
26.24 only after the person has presented an insurance identification card, policy, or written
26.25 statement indicating that the driver or owner has insurance coverage satisfactory to
26.26 the commissioner of public safety. The commissioner of public safety may require
26.27 the insurance identification card provided to satisfy this subdivision be certified by the
26.28 insurance company to be noncancelable for a period not to exceed 12 months.

26.29 (g) The limited license issued by the commissioner to a person under section
26.30 171.186, subdivision 4, must expire 90 days after the date it is issued. The commissioner
26.31 must not issue a limited license to a person who previously has been issued a limited
26.32 license under section 171.186, subdivision 4.

26.33 (h) The commissioner shall not issue a limited driver's license to any person
26.34 described in section 171.04, subdivision 1, clause (6), (7), (8), (10), (11), or (14).

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

Subd. 2. **60-day waiting period.** A limited license shall not be issued for a period of 60 days to an individual whose license or privilege has been revoked or suspended for commission of the following offenses:

(1) any felony in the commission of which a motor vehicle was used; or

(2) failure to stop and disclose identity as required under section 169.09, in the event of a motor vehicle accident resulting in the death or personal injury of another.

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

(1) ~~15 days~~ one-half the period of the license revocation or suspension, to a person whose license or privilege has been revoked or suspended for a violation of section 169A.20, ~~sections 169A.50 to 169A.53~~, driving while impaired, or for a person subject to the requirements of the rehabilitation refresher course required under section 169A.56, or a statute or ordinance from another state in conformity with ~~either of those sections~~ that section;

(2) ~~90 days, to a person who submitted to testing under sections 169A.50 to 169A.53 if the person's license or privilege has been revoked or suspended for a second violation within ten years or a third or subsequent violation of section 169A.20, sections 169A.50 to 169A.53, or a statute or ordinance from another state in conformity with either of those sections; notwithstanding subdivision 1, paragraph (h), one-half the period of rehabilitation required under section 169A.56, subdivision 1, but only if the commissioner has determined that the person has been in full compliance with the rehabilitation requirements for that duration of time; or~~

~~(3) 180 days, to a person who refused testing under sections 169A.50 to 169A.53 if the person's license or privilege has been revoked or suspended for a second violation within ten years or a third or subsequent violation of sections 169A.20, 169A.50 to 169A.53, or a statute or ordinance from another state in conformity with either of those sections; or~~

~~(4)~~ (3) one year, to a person whose license or privilege has been revoked or suspended for committing manslaughter resulting from the operation of a motor vehicle, committing criminal vehicular homicide or injury under section 609.21, or violating a statute or ordinance from another state in conformity with either of those offenses.

Subd. 2b. **Waiting period for youth under 18.** If a person whose driver's license was suspended or revoked for a violation listed under subdivision 2 or 2a is under the age of 18 years at the time of that violation, the commissioner shall not issue a limited license to the person for a period of time that is the longest of: (1) 90 days; or (2) twice the length of the period specified for that violation in subdivision 2 or 2a.

28.1 Subd. 2c. **Extended waiting period.** If a person's license or privilege has been
28.2 revoked or suspended for a violation of section 169A.20 ~~or sections 169A.50 to 169A.53,~~
28.3 or a statute or ordinance from another state in conformity with ~~either of those sections~~
28.4 that section, and the person's alcohol concentration was 0.20 or greater at the time of the
28.5 violation, a limited license may not be issued for a period of time equal to twice the time
28.6 period specified in subdivision 2a or 2b.

28.7 Subd. 4. **Penalty.** A person who violates a condition or limitation of a limited license
28.8 issued under subdivision 1 or fails to have the license in immediate possession at all times
28.9 when operating a motor vehicle is guilty of a misdemeanor. In addition, a person who
28.10 violates a condition or limitation of a limited license may not operate a motor vehicle for
28.11 the remainder of the period of suspension or revocation, or 30 days, whichever is longer.

28.12 Sec. 19. Minnesota Statutes 2008, section 609.101, subdivision 4, is amended to read:

28.13 Subd. 4. **Minimum fines; other crimes.** Notwithstanding any other law:

28.14 (1) when a court sentences a person convicted of a felony that is not listed in
28.15 subdivision 2 or 3, it must impose a fine of not less than 30 percent of the maximum fine
28.16 authorized by law nor more than the maximum fine authorized by law; and

28.17 (2) when a court sentences a person convicted of a gross misdemeanor or
28.18 misdemeanor that is not listed in subdivision 2, it must impose a fine of not less than
28.19 30 percent of the maximum fine authorized by law nor more than the maximum fine
28.20 authorized by law, unless the fine is set at a lower amount on a uniform fine schedule
28.21 established by the Judicial Council in consultation with affected state and local agencies.
28.22 The court shall include misdemeanor offenses listed under chapter 169A on the uniform
28.23 fine schedule. This schedule shall be promulgated not later than September 1 of each
28.24 year and shall become effective on January 1 of the next year unless the legislature, by
28.25 law, provides otherwise.

28.26 The minimum fine required by this subdivision is in addition to the surcharge or
28.27 assessment required by section 357.021, subdivision 6, and is in addition to any sentence
28.28 of imprisonment or restitution imposed or ordered by the court.

28.29 The court shall collect the fines mandated in this subdivision and, except for fines for
28.30 traffic and motor vehicle violations governed by section 169.871 and section 299D.03 and
28.31 fish and game violations governed by section 97A.065, forward 20 percent of the revenues
28.32 to the commissioner of finance for deposit in the general fund.

28.33 Sec. 20. **REPEALER.**

29.1 Minnesota Statutes 2008, sections 169A.276, subdivision 3; 169A.53; and 171.165,
29.2 subdivision 2, are repealed.

29.3 **ARTICLE 2**

29.4 **REHABILITATION AND DRIVER'S LICENSE REINSTATEMENT; B-CARDS**

29.5 Section 1. **[169A.56] REHABILITATION AND REFRESHER COURSE.**

29.6 Subdivision 1. **Application.** (a) Following cancellation and denial of a person's
29.7 driver's license or driving privileges upon conviction for a violation of section 169A.20,
29.8 impaired driving, or 609.21, subdivision 1, clauses (2) to (6), criminal vehicular operation,
29.9 within:

29.10 (1) ten years of two or more qualified prior impaired driving incidents; or
29.11 (2) after having been subject at any time previously to the requirements of
29.12 rehabilitation under this section or under rules established by the commissioner,
29.13 the person is not eligible for a driver's license or conditional driver's license until the
29.14 person has completed a prescribed portion of rehabilitation and has agreed to continuing
29.15 abstinence from and monitoring for alcohol and controlled substances as described in
29.16 this section.

29.17 (b) Following cancellation and denial of a person's driver's license or driving
29.18 privileges upon conviction for a violation of this section, section 171.09, subdivision 1,
29.19 paragraph (d), clause (1), restricted driver's license, or 171.30, subdivision 4, limited
29.20 driver's license, work permit, the person is not eligible for a driver's license or conditional
29.21 driver's license until the person has completed a prescribed portion of an approved
29.22 rehabilitation refresher course and has agreed to continuing abstinence from and
29.23 monitoring for alcohol and controlled substances as described in this section.

29.24 (c) Under the authority provided by chapter 171, the commissioner shall not
29.25 reinstate the driver's license or driving privileges of a person subject to the rehabilitation
29.26 or rehabilitation refresher course requirements of this section until the commissioner
29.27 determines that the person has completed a portion of the required rehabilitation or
29.28 rehabilitation refresher course, as prescribing in section 169A.58.

29.29 Subd. 2. **Rehabilitation requirements.** To complete rehabilitation or a
29.30 rehabilitation refresher course, a person must meet the following requirements, as
29.31 prescribed by the commissioner and this section:

29.32 (1) successfully complete chemical dependency treatment;
29.33 (2) participate regularly in a generally recognized support group based on ongoing
29.34 abstinence;

30.1 (3) continuously abstain from the use of alcohol and controlled substances for a
30.2 documented period of time;

30.3 (4) refrain from any violation of section 171.24, driving without valid license; and

30.4 (5)(i) for rehabilitation, submit to a rehabilitation review interview; or

30.5 (ii) for the rehabilitation refresher course, present a certificate of successful
30.6 completion from the course instructor or course supervisor.

30.7 Subd. 3. **Abstinence period.** (a) The required period of documented abstinence
30.8 from alcohol and controlled substances is:

30.9 (1) one year, for rehabilitation; and

30.10 (2) 30 days, for a rehabilitation refresher course.

30.11 (b) Rehabilitation and the rehabilitation refresher course is not complete if the
30.12 commissioner has sufficient cause to believe that the person has not abstained from the use
30.13 of alcohol or a controlled substance for the period claimed.

30.14 (c) Any time spent by the person living in a correctional institution, halfway
30.15 house, or other correctional environment during rehabilitation counts at half rate toward
30.16 the person's completion of the required abstinence period. A minimum of six months
30.17 must be spent by the person living outside a controlled correctional environment
30.18 immediately before submitting evidence to the commissioner showing compliance with all
30.19 rehabilitation or rehabilitation refresher course requirements.

30.20 (d) This subdivision does not apply to the consumption of a controlled substance in
30.21 accordance with a medical prescription.

30.22 Subd. 4. **Continued chemical monitoring; violation.** (a) As a condition of
30.23 reinstatement by the commissioner of a person's driver's license or driving privileges
30.24 following the person's completion of rehabilitation or the rehabilitation refresher course,
30.25 the person must agree in writing to completely abstain from alcohol and controlled
30.26 substances for an additional period of five years following reinstatement, and to submit to
30.27 continued chemical monitoring during that time period using periodic random urinalysis
30.28 up to twice annually, or remote electronic alcohol monitoring for up to one month
30.29 annually, as prescribed by the commissioner and paid for by the person. As deemed
30.30 helpful to the person's continuing sobriety and recovery, the commissioner may adjust
30.31 these chemical monitoring requirements, but may not increase them beyond the levels
30.32 specified in this subdivision.

30.33 (b) The commissioner shall suspend the driver's license and driving privileges of a
30.34 person on sufficient cause to believe that the person has consumed alcohol or a controlled
30.35 substance during the continuing period of abstinence described in this subdivision.

31.1 (c) A person whose driver's license or driving privileges have been suspended under
31.2 paragraph (b) is not eligible for reinstatement of a driver's license or driving privileges
31.3 until successfully completing the rehabilitation refresher course required by subdivision 1,
31.4 paragraph (b).

31.5 Subd. 5. **Fraudulent documentation.** If the commissioner determines by a
31.6 preponderance of the evidence that a person has submitted fraudulent documentation
31.7 of successful completion of rehabilitation or a rehabilitation refresher course, the
31.8 commissioner shall impose an additional 90 days to the required time period for the
31.9 person's rehabilitation or rehabilitation refresher course.

31.10 Subd. 6. **Payment.** Any costs, fees, and surcharges for treatment, rehabilitation, the
31.11 rehabilitation refresher course, and continuing chemical monitoring are the responsibility
31.12 of the offender using those services.

31.13 Subd. 7. **Program certification.** The commissioner is authorized to certify service
31.14 providers to provide treatment, rehabilitation, the rehabilitation refresher course, and
31.15 continuing chemical monitoring required by this section.

31.16 Subd. 8. **Rules; additional requirements prohibited.** The commissioner may
31.17 adopt rules to carry out the provisions of this section, but is prohibited from imposing any
31.18 additional requirements, penalties, or sanctions regarding rehabilitation, the rehabilitation
31.19 refresher course, or continuing chemical monitoring that are inconsistent with this section.

31.20 Sec. 2. **[169A.57] CONDITIONAL DRIVER'S LICENSE; B-CARD; LICENSE**
31.21 **REINSTATEMENT.**

31.22 (a) Notwithstanding any provision of section 171.09, subdivision 1, paragraph (d),
31.23 to the contrary, a person who, to the satisfaction of the commissioner, has completed a
31.24 prescribed portion of rehabilitation or a rehabilitation refresher course as required by
31.25 section 169A.56, and who has completed any other examination, fee, and insurance
31.26 requirements for a restricted driver's license under chapter 171, is eligible for reinstatement
31.27 of the person's driver's license and driving privileges, subject to the restriction of no use of
31.28 alcohol or controlled substances, in accordance with section 171.09. The restricted driver's
31.29 license may be commonly referred to as a "B-card" or "B-card license."

31.30 (b) Notwithstanding any provision of chapter 171 to the contrary, a person who,
31.31 to the satisfaction of the commissioner, has completed the required five-year period of
31.32 continuing abstinence following rehabilitation or a rehabilitation refresher course as
31.33 required by section 169A.56, and who has completed all other requirements of chapter
31.34 171 for a driver's license, is eligible for reinstatement of the person's driver's license

32.1 and driving privileges without further restriction to the condition of no use of alcohol
32.2 or controlled substances.

32.3 **Sec. 3. [169A.58] ISSUANCE OF LIMITED LICENSE; WORK PERMIT.**

32.4 Notwithstanding any provision of section 171.30 or any other section to the contrary,
32.5 the waiting period for issuance of a limited license is 90 days for a person subject to and
32.6 in full compliance with the rehabilitation requirements of section 169A.56, subdivision
32.7 1, paragraph (a), and 15 days for a person subject to and in full compliance with the
32.8 requirements of a rehabilitation refresher course under section 169A.56, subdivision 1,
32.9 paragraph (b).

32.10 **Sec. 4. [169A.59] DRIVING RECORD PRIVATE AFTER TEN YEARS.**

32.11 (a) Notwithstanding any provision of chapter 171 to the contrary, upon the date ten
32.12 years following a person's most recent driver's license revocation or cancellation for
32.13 violation of this chapter, the driver's license record or records pertaining to prior violations
32.14 by the person are classified as private data on individuals according to section 13.02,
32.15 subdivision 12.

32.16 (b) Notwithstanding paragraph (a), upon revocation or cancellation of a person's
32.17 driver's license record under section 169A.54, any driving record or records classified as
32.18 private data on individuals according to paragraph (a) and section 13.02, subdivision 12,
32.19 must be reclassified as public data on individuals according to section 13.02, subdivision
32.20 15.

32.21 **Sec. 5. EFFECTIVE DATE.**

32.22 Sections 1 to 4 are effective August 1, 2009, and apply to licensing actions and
32.23 administrative procedures resulting from driving incidents occurring on or after that date.

32.24 **ARTICLE 3**

32.25 **MISCELLANEOUS PROVISIONS**

32.26 **Section 1. Minnesota Statutes 2008, section 169.13, subdivision 1, is amended to read:**

32.27 **Subdivision 1. Reckless driving; enhancement for alcohol involvement.** (a) Any
32.28 person who drives any vehicle in such a manner as to indicate either a willful or a wanton
32.29 disregard for the safety of persons or property is guilty of reckless driving and such
32.30 reckless driving is a misdemeanor. Such driving is a gross misdemeanor if the person's
32.31 alcohol concentration is .05 or more, as measured in accordance with section 169A.51 at

33.1 the time of driving, or within two hours of the time of driving. For purposes of this section,
33.2 the term "alcohol concentration" has the meaning given in section 169A.03, subdivision 2.

33.3 (b) A person shall not race any vehicle upon any street or highway of this state.

33.4 Any person who willfully compares or contests relative speeds by operating one or more
33.5 vehicles is guilty of racing, which constitutes reckless driving, whether or not the speed
33.6 contested or compared is in excess of the maximum speed prescribed by law.

33.7 **EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to
33.8 prosecutions for violations stemming from driving incidents occurring on or after that date.

33.9 Sec. 2. Minnesota Statutes 2008, section 169.89, subdivision 2, is amended to read:

33.10 Subd. 2. **Petty misdemeanor penalty; no jury trial.** A person charged with a petty
33.11 misdemeanor is not entitled to a jury trial but shall be tried by a judge without a jury. If
33.12 convicted, the person is not subject to imprisonment but shall be punished by a fine of not
33.13 more than \$300, or a fine of not more than \$1,000 if the conviction is for a violation of
33.14 section 169A.20 under conditions described in section 169A.27.

33.15 **EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to acts
33.16 committed on or after that date.

33.17 Sec. 3. Minnesota Statutes 2008, section 609.02, subdivision 4a, is amended to read:

33.18 Subd. 4a. **Petty misdemeanor.** "Petty misdemeanor" means a petty offense which is
33.19 prohibited by statute, which does not constitute a crime and for which a sentence of a fine
33.20 of not more than \$300 may be imposed, or a fine of not more than \$1,000 for a violation of
33.21 section 169A.20 under conditions described in section 169A.27.

33.22 **EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to acts
33.23 committed on or after that date.

33.24 Sec. 4. Minnesota Statutes 2008, section 609.0331, is amended to read:

33.25 **609.0331 MAXIMUM PENALTIES; PETTY MISDEMEANORS.**

33.26 A law of this state that provides, on or after August 1, 2000, for a maximum penalty
33.27 of \$200 for a petty misdemeanor is considered to provide for a maximum fine of \$300, or
33.28 a maximum fine of \$1,000 for a violation of section 169A.20 under conditions described
33.29 in section 169A.27.

33.30 **EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to acts
33.31 committed on or after that date.

34.1 Sec. 5. Minnesota Statutes 2008, section 609.0332, subdivision 1, is amended to read:

34.2 Subdivision 1. **Increased fine.** From August 1, 2000, if a state law or municipal
34.3 charter sets a limit of \$200 or less on the fines that a statutory or home rule charter city,
34.4 town, county, or other political subdivision may prescribe for an ordinance violation
34.5 that is defined as a petty misdemeanor, that law or charter is considered to provide that
34.6 the political subdivision has the power to prescribe a maximum fine of \$300 for the
34.7 petty misdemeanor violation, or a fine of not more than \$1,000 for a violation of section
34.8 169A.20 under conditions described in section 169A.27.

34.9 **EFFECTIVE DATE.** This section is effective July 1, 2009, and applies to acts
34.10 committed on or after that date.

34.11 Sec. 6. **CHEMICAL TESTING DEVICE; REPLACEMENT.**

34.12 By September 15, 2009, the commissioner of public safety shall issue a request for
34.13 proposals for the replacement of the state inventory of Intoxylizer 5000 breath testing
34.14 devices used for making alcohol concentration breath tests in accordance with Minnesota
34.15 Statutes 2008, section 169A.51, and by January 15, 2010, the commissioner shall report
34.16 to the legislative chairs and ranking minority members of the house of representatives
34.17 and senate committees with jurisdiction over public safety and transportation regarding
34.18 the results of that request for proposals, including recommendations for legislative action
34.19 on the matter.

34.20 The request for proposal must, indicate that any proposal must, among other features,
34.21 describe the ways in which the proposed replacement device is superior to the Intoxylizer
34.22 5000 testing device currently in use, and must require that the vendor be willing to
34.23 conveniently share the computer source code employed by the proposed device with
34.24 litigants in impaired driving cases involving evidence obtained by utilizing the device.

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

APPENDIX
Article locations in h1305-1

ARTICLE 1	REPEALING PRETRIAL SANCTIONS FOR IMPAIRED DRIVING	Page.Ln 1.19
	REHABILITATION AND DRIVER'S LICENSE REINSTATEMENT;	
ARTICLE 2	B-CARDS	Page.Ln 29.3
ARTICLE 3	MISCELLANEOUS PROVISIONS	Page.Ln 32.24

169A.276 MANDATORY PENALTIES; FELONY VIOLATIONS.

Subd. 3. **Driver's license revocation; no stay permitted.** The court may not stay the execution of the driver's license revocation provisions of section 169A.54 (impaired driving convictions and adjudications; administrative penalties).

169A.53 ADMINISTRATIVE AND JUDICIAL REVIEW OF LICENSE REVOCATION.

Subdivision 1. **Administrative review.** (a) At any time during a period of revocation imposed under section 169A.52 (revocation of license for test failure or refusal) or a period of disqualification imposed under section 171.165 (commercial driver's license disqualification), a person may request in writing a review of the order of revocation or disqualification by the commissioner, unless the person is entitled to review under section 171.166 (review of disqualification). Upon receiving a request the commissioner or the commissioner's designee shall review the order, the evidence upon which the order was based, and any other material information brought to the attention of the commissioner, and determine whether sufficient cause exists to sustain the order. Within 15 days of receiving the request the commissioner shall report in writing the results of the review. The review provided in this subdivision is not subject to the contested case provisions of the Administrative Procedure Act in sections 14.001 to 14.69.

(b) The availability of administrative review for an order of revocation or disqualification has no effect upon the availability of judicial review under this section.

(c) Review under this subdivision must take place, if possible, at the same time as any administrative review of the person's impoundment order under section 169A.60, subdivision 9.

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

(b) The petition must:

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

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

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

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

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

(1) the notice of revocation;

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

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

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

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

Subd. 3. **Judicial hearing; issues, order, appeal.** (a) A judicial review hearing under this section must be before a district judge in any county in the judicial district where the alleged offense occurred. The hearing is to the court and may be conducted at the same time and in the same manner as hearings upon pretrial motions in the criminal prosecution under section 169A.20 (driving while impaired), if any. The hearing must be recorded. The commissioner shall appear and be represented by the attorney general or through the prosecuting authority for the jurisdiction involved. The hearing must be held at the earliest practicable date, and in any event no later than 60 days following the filing of the petition for review. The judicial district administrator shall establish procedures to ensure efficient compliance with this subdivision. To accomplish this, the administrator may, whenever possible, consolidate and transfer review hearings among the locations within the judicial district where terms of district court are held.

APPENDIX

Repealed Minnesota Statutes: H1305-1

(b) The scope of the hearing is limited to the issues in clauses (1) to (10):

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

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

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

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

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

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

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

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

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

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

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

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

(c) It is an affirmative defense for the petitioner to prove that, at the time of the refusal, the petitioner's refusal to permit the test was based upon reasonable grounds.

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

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

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

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

171.165 COMMERCIAL DRIVER'S LICENSE, DISQUALIFICATION.

Subd. 2. **Implied consent revocation.** The commissioner shall disqualify a person from operating commercial motor vehicles for a revocation under section 169A.52 or a statute or ordinance from another state or jurisdiction in conformity with it, for a period that is equivalent in duration under the driver disqualifications and penalties in Code of Federal Regulations, title 49, part 383, subpart D, that pertain to a conviction of being under the influence of alcohol or refusal to be tested.