

1.1 A bill for an act

1.2 relating to public safety; modifying implied consent, driving while impaired,
1.3 and ignition interlock provisions; providing that prior DWI driver's license
1.4 revocations no longer enhance criminal penalties or trigger or accelerate DWI
1.5 vehicle forfeitures; amending Minnesota Statutes 2008, sections 169A.03,
1.6 subdivision 3; 169A.095; 169A.24, subdivision 1; 169A.275, subdivisions 1, 2,
1.7 3, 4, 5; 169A.28, subdivision 1; 169A.31, subdivision 2; 169A.44, subdivision
1.8 2; 169A.52, subdivisions 3, 4; 169A.54, subdivisions 2, 5; 169A.55, by adding
1.9 a subdivision; 169A.60, subdivision 1; 169A.63, subdivisions 1, 3, 5, 6, 7, 8,
1.10 9, by adding a subdivision; 171.09; 171.30, subdivisions 1, 2a, 4; 171.306, as
1.11 amended; 609.131, subdivision 2; Minnesota Statutes 2009 Supplement, sections
1.12 169A.275, subdivision 7; 169A.54, subdivision 1; 609.035, subdivision 2;
1.13 repealing Minnesota Statutes 2008, sections 169A.54, subdivision 11; 169A.55,
1.14 subdivision 1; 171.30, subdivision 2c; 171.305, subdivisions 1, 3, 4, 5, 6, 7,
1.15 8, 9, 10, 11.

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

1.17 **ARTICLE 1**

1.18 **IMPLIED CONSENT MODIFICATIONS; IGNITION INTERLOCK PROVISIONS**

1.19 Section 1. Minnesota Statutes 2009 Supplement, section 169A.275, subdivision 7,
1.20 is amended to read:

1.21 Subd. 7. **Exception.** ~~(a)~~ A judge is not required to sentence a person as provided in
1.22 ~~this section~~ subdivisions 1 to 4 if the judge requires the person as a condition of probation
1.23 to drive only motor vehicles equipped with an ignition interlock device meeting the
1.24 standards described in section 171.306.

1.25 ~~(b) This subdivision expires July 1, 2011.~~

1.26 **EFFECTIVE DATE.** This section is effective July 1, 2011.

S.F. No. 2741, 1st Engrossment - 86th Legislative Session (2009-2010) [s2741-1]

2.1 Sec. 2. Minnesota Statutes 2008, section 169A.52, subdivision 3, is amended to read:

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

2.10 (1) for a person with no qualified prior impaired driving incidents within the past ten
2.11 years, for a period of one year;

2.12 (2) for a person under the age of 21 years and with no qualified prior impaired
2.13 driving incidents within the past ten years, for a period of one year;

2.14 (3) for a person with one qualified prior impaired driving incident within the past
2.15 ten years, or two qualified prior impaired driving incidents, for a period of not less than
2.16 two years;

2.17 (4) for a person with two qualified prior impaired driving incidents within the past
2.18 ten years, or three qualified prior impaired driving incidents, for a period of not less than
2.19 three years;

2.20 (5) for a person with three qualified prior impaired driving incidents within the past
2.21 ten years, for a period of not less than four years; or

2.22 (6) for a person with four or more qualified prior impaired driving incidents, for a
2.23 period of not less than six years.

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

2.31 **EFFECTIVE DATE.** This section is effective July 1, 2011.

2.32 Sec. 3. Minnesota Statutes 2008, section 169A.52, subdivision 4, is amended to read:

2.33 Subd. 4. **Test failure; license revocation.** (a) Upon certification by the peace
2.34 officer that there existed probable cause to believe the person had been driving, operating,
2.35 or in physical control of a motor vehicle in violation of section 169A.20 (driving

3.1 while impaired) and that the person submitted to a test and the test results indicate an
3.2 alcohol concentration of 0.08 or more or the presence of a controlled substance listed in
3.3 schedule I or II or its metabolite, other than marijuana or tetrahydrocannabinols, then
3.4 the commissioner shall revoke the person's license or permit to drive, or nonresident
3.5 operating privilege:

3.6 (1) for a period of 90 days, or, if the test results indicate an alcohol concentration
3.7 of 0.15 or more, not less than one year;

3.8 (2) if the person is under the age of 21 years, for a period of six months or, if the test
3.9 results indicate an alcohol concentration of 0.15 or more, not less than one year;

3.10 (3) for a person with ~~a~~ one qualified prior impaired driving incident within the past
3.11 ten years, or two qualified prior impaired driving incidents, for a period of ~~180 days~~
3.12 not less than two years; or

3.13 (4) ~~if the test results indicate an alcohol concentration of 0.20 or more, for twice~~
3.14 ~~the applicable period in clauses (1) to (3).~~ for a person with two qualified prior impaired
3.15 driving incidents within the past ten years, or three qualified prior impaired driving
3.16 incidents, for a period of not less than three years;

3.17 (5) for a person with three qualified prior impaired driving incidents within the past
3.18 ten years, for a period of not less than four years; or

3.19 (6) for a person with four or more qualified prior impaired driving incidents, for a
3.20 period of not less than six years.

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

3.27 (c) If the test is of a person's blood or urine by a laboratory operated by the Bureau
3.28 of Criminal Apprehension, or authorized by the bureau to conduct the analysis of a blood
3.29 or urine sample, the laboratory may directly certify to the commissioner the test results,
3.30 and the peace officer shall certify to the commissioner that there existed probable cause to
3.31 believe the person had been driving, operating, or in physical control of a motor vehicle
3.32 in violation of section 169A.20 and that the person submitted to a test. Upon receipt
3.33 of both certifications, the commissioner shall undertake the license actions described
3.34 in paragraphs (a) and (b).

3.35 **EFFECTIVE DATE.** This section is effective July 1, 2011.

4.1 Sec. 4. Minnesota Statutes 2009 Supplement, section 169A.54, subdivision 1, is
4.2 amended to read:

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

4.7 (1) for an offense under section 169A.20, subdivision 1 (driving while impaired
4.8 crime);² not less than 30 days;

4.9 (2) for an offense under section 169A.20, subdivision 2 (refusal to submit to
4.10 chemical test crime);² not less than 90 days;

4.11 (3) for an offense occurring within ten years of a qualified prior impaired driving
4.12 incident~~;~~ or occurring after two qualified prior impaired driving incidents,

4.13 ~~(i) if the current conviction is for a violation of section 169A.20, subdivision 1, 1a,~~
4.14 ~~1b, or 1c,~~ not less than ~~180 days~~ two years and until the court has certified that treatment
4.15 or rehabilitation has been successfully completed where prescribed in accordance with
4.16 section 169A.70 (chemical use assessments); ~~or~~

4.17 ~~(ii) if the current conviction is for a violation of section 169A.20, subdivision 2, not~~
4.18 ~~less than one year and until the court has certified that treatment or rehabilitation has been~~
4.19 ~~successfully completed where prescribed in accordance with section 169A.70;~~

4.20 (4) for an offense occurring within ten years of the first of two qualified prior
4.21 impaired driving incidents~~;~~ or occurring after three qualified prior impaired driving
4.22 incidents, not less than ~~one year~~ three years, together with denial under section 171.04,
4.23 subdivision 1, clause (10), until rehabilitation is established ~~in accordance with~~ according
4.24 to standards established by the commissioner; ~~or~~

4.25 (5) for an offense occurring within ten years of the first of three ~~or more~~ qualified
4.26 prior impaired driving incidents²; not less than ~~two~~ four years, together with denial under
4.27 section 171.04, subdivision 1, clause (10), until rehabilitation is established ~~in accordance~~
4.28 ~~with~~ according to standards established by the commissioner; or

4.29 (6) for an offense occurring after four or more qualified prior impaired driving
4.30 incidents, not less than six years, together with denial under section 171.04, subdivision
4.31 1, clause (10), until rehabilitation is established according to standards established by
4.32 the commissioner.

4.33 **EFFECTIVE DATE.** This section is effective July 1, 2011.

4.34 Sec. 5. Minnesota Statutes 2008, section 169A.54, subdivision 2, is amended to read:

5.1 Subd. 2. **Driving while impaired by person under age 21.** If the person convicted
5.2 of violating section 169A.20 (driving while impaired) is under the age of 21 years at
5.3 the time of the violation, the commissioner shall revoke the offender's driver's license
5.4 or operating privileges for a period of six months or for the appropriate period of time
5.5 under subdivision 1, clauses (1) to ~~(5)~~ (6), for the offense committed, whichever is the
5.6 ~~greatest~~ longer period.

5.7 **EFFECTIVE DATE.** This section is effective July 1, 2011.

5.8 Sec. 6. Minnesota Statutes 2008, section 169A.54, subdivision 5, is amended to read:

5.9 Subd. 5. **Violations involving alcohol concentration of ~~0.20~~ 0.15 or more.** If the
5.10 person has no qualified prior impaired driving incidents within the past ten years and is
5.11 convicted of violating section 169A.20 (driving while impaired) while having an alcohol
5.12 concentration of ~~0.20~~ 0.15 or more as measured at the time, or within two hours of the
5.13 time, of the offense, the commissioner shall revoke the person's driver's license for ~~twice~~
5.14 ~~the period of time otherwise provided for in this section~~ not less than one year.

5.15 **EFFECTIVE DATE.** This section is effective July 1, 2011.

5.16 Sec. 7. Minnesota Statutes 2008, section 169A.55, is amended by adding a subdivision
5.17 to read:

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

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

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

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

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

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

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

6.6 (c) The commissioner shall establish performance standards and a process for
6.7 certifying chemical monitoring devices. The standards and procedures are not rules and
6.8 are exempt from chapter 14, including section 14.386.

6.9 **EFFECTIVE DATE.** This section is effective July 1, 2011.

6.10 Sec. 8. Minnesota Statutes 2008, section 169A.60, subdivision 1, is amended to read:

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

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

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

6.17 (d) "Plate impoundment violation" includes:

6.18 (1) a violation of section 169A.20 (driving while impaired) or 169A.52 (license
6.19 revocation for test failure or refusal), ~~or a conforming~~ an ordinance from this state or a
6.20 ~~conforming~~ statute or ordinance from another state in conformity with either of those
6.21 sections, that results in the revocation of a person's driver's license or driving privileges,
6.22 within ten years of a qualified prior impaired driving incident;

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

6.26 (3) a violation of section 169A.20 or 169A.52 while having an alcohol concentration
6.27 of ~~0.20~~ 0.15 or more as measured at the time, or within two hours of the time, of the
6.28 offense;

6.29 (4) a violation of section 169A.20 or 169A.52 while having a child under the age of
6.30 16 in the vehicle if the child is more than 36 months younger than the offender; ~~and~~ or

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

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

7.3 **EFFECTIVE DATE.** This section is effective July 1, 2011.

7.4 Sec. 9. Minnesota Statutes 2008, section 169A.63, is amended by adding a subdivision
7.5 to read:

7.6 Subd. 12. **Exception.** This section does not apply if the driver who committed
7.7 the designated offense or whose conduct resulted in the designated license revocation
7.8 becomes a program participant in the ignition interlock program under section 171.306.

7.9 **EFFECTIVE DATE.** This section is effective July 1, 2011.

7.10 Sec. 10. Minnesota Statutes 2008, section 171.09, is amended to read:

7.11 **171.09 DRIVING RESTRICTIONS; AUTHORITY, VIOLATIONS.**

7.12 Subdivision 1. **Authority; violations.** (a) The commissioner, when good cause
7.13 appears, may impose restrictions suitable to the licensee's driving ability or other
7.14 restrictions applicable to the licensee as the commissioner may determine to be appropriate
7.15 to assure the safe operation of a motor vehicle by the licensee.

7.16 (b) Pursuant to Code of Federal Regulations, title 49, section 383.95, if an applicant
7.17 for a commercial driver's license either does not successfully complete the air brake
7.18 component of the knowledge test, or does not successfully complete the skills test
7.19 in a vehicle equipped with air brakes as such tests are prescribed in Code of Federal
7.20 Regulations, title 49, part 384, the department shall indicate on the class C, class B,
7.21 or class A commercial driver's license, if issued, that the individual is restricted from
7.22 operating a commercial motor vehicle equipped with air brakes.

7.23 (c) Upon receiving satisfactory evidence of any violation of the restrictions on the
7.24 license, the commissioner may suspend or revoke the license. A license suspension under
7.25 this section is subject to section 171.18, subdivisions 2 and 3.

7.26 (d) A person who drives, operates, or is in physical control of a motor vehicle while
7.27 in violation of the restrictions imposed in a restricted driver's license issued to that person
7.28 under this section is guilty of a crime as follows:

7.29 (1) if the restriction relates to the possession or consumption of alcohol or controlled
7.30 substances, the person is guilty of a gross misdemeanor; or

7.31 (2) if the restriction relates to another matter, the person is guilty of a misdemeanor.

8.1 (e) It is a misdemeanor for a person who holds a restricted license issued under
8.2 section 171.306 to drive, operate, or be in physical control of any motor vehicle that is not
8.3 equipped with a functioning ignition interlock device certified by the commissioner.

8.4 **EFFECTIVE DATE.** This section is effective July 1, 2011.

8.5 Sec. 11. Minnesota Statutes 2008, section 171.30, subdivision 1, is amended to read:

8.6 Subdivision 1. **Conditions of issuance.** (a) In any case where a person's license
8.7 has been suspended under section 171.18, 171.173, or 171.186, ~~or~~₂ revoked under section
8.8 ~~169.792~~₂₂; ~~169.797~~₃₂; 169A.52, ~~169A.54~~, subdivision 3, paragraph (a), clause (1), (2), (4),
8.9 (5), or (6), or subdivision 4, paragraph (a), clause (1) or (2), if the test results indicate an
8.10 alcohol concentration of less than 0.15, (4), (5), or (6); 171.17~~3~~₂₂; or 171.172~~3~~₂₂; or revoked,
8.11 canceled, or denied under section 169A.54, subdivision 1, clause (1), (2), (4), (5), or (6),
8.12 or subdivision 2 if the person does not have a qualified prior impaired driving incident as
8.13 defined in section 169A.03, subdivision 22, on the person's record, the commissioner may
8.14 issue a limited license to the driver including under the following conditions:

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

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

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

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

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

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

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

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

9.11 (g) The limited license issued by the commissioner to a person under section
9.12 171.186, subdivision 4, must expire 90 days after the date it is issued. The commissioner
9.13 must not issue a limited license to a person who previously has been issued a limited
9.14 license under section 171.186, subdivision 4.

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

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

9.18 **EFFECTIVE DATE.** This section is effective July 1, 2011.

9.19 Sec. 12. Minnesota Statutes 2008, section 171.30, subdivision 2a, is amended to read:

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

9.22 (1) 15 days, to a person whose license or privilege has been revoked or suspended
9.23 for a violation of section 169A.20, sections 169A.50 to 169A.53, or a statute or ordinance
9.24 from another state in conformity with either of those sections; or

9.25 ~~(2) 90 days, to a person who submitted to testing under sections 169A.50 to 169A.53~~
9.26 ~~if the person's license or privilege has been revoked or suspended for a second violation~~
9.27 ~~within ten years or a third or subsequent violation of section 169A.20, sections 169A.50~~
9.28 ~~to 169A.53, or a statute or ordinance from another state in conformity with either of~~
9.29 ~~those sections;~~

9.30 ~~(3) 180 days, to a person who refused testing under sections 169A.50 to 169A.53~~
9.31 ~~if the person's license or privilege has been revoked or suspended for a second violation~~
9.32 ~~within ten years or a third or subsequent violation of sections 169A.20, 169A.50 to~~
9.33 ~~169A.53, or a statute or ordinance from another state in conformity with either of those~~
9.34 ~~sections; or~~

10.1 ~~(4)~~ (2) one year, to a person whose license or privilege has been revoked or
10.2 suspended for committing manslaughter resulting from the operation of a motor vehicle,
10.3 committing criminal vehicular homicide or injury under section 609.21, or violating a
10.4 statute or ordinance from another state in conformity with either of those offenses.

10.5 **EFFECTIVE DATE.** This section is effective July 1, 2011.

10.6 Sec. 13. Minnesota Statutes 2008, section 171.30, subdivision 4, is amended to read:

10.7 Subd. 4. **Penalty.** A person who violates a condition or limitation of a limited
10.8 license issued under subdivision 1 or fails to have the license in immediate possession at
10.9 all times when operating a motor vehicle is guilty of a misdemeanor. In addition, except as
10.10 otherwise provided in the ignition interlock program under section 171.306, a person who
10.11 violates a condition or limitation of a limited license may not operate a motor vehicle for
10.12 the remainder of the period of suspension or revocation, or 30 days, whichever is longer.

10.13 **EFFECTIVE DATE.** This section is effective July 1, 2011.

10.14 Sec. 14. Minnesota Statutes 2008, section 171.306, as amended by Laws 2009, chapter
10.15 29, sections 2 and 3, is amended to read:

10.16 **171.306 IGNITION INTERLOCK DEVICE ~~PILOT PROJECT~~ PROGRAM.**

10.17 Subdivision 1. ~~**Pilot project established; reports**~~ **Definitions.** ~~The commissioner~~
10.18 ~~shall conduct a statewide two-year ignition interlock device pilot project as provided~~
10.19 ~~in this section. The pilot project must begin on July 1, 2009, and continue until June~~
10.20 ~~30, 2011. The commissioner shall submit a preliminary report by September 30, 2010,~~
10.21 ~~and a final report by September 30, 2011, to the chairs and ranking minority members~~
10.22 ~~of the senate and house of representatives committees having jurisdiction over criminal~~
10.23 ~~justice policy and funding. The reports must evaluate the successes and failures of the~~
10.24 ~~pilot project, provide information on participation rates, and make recommendations on~~
10.25 ~~continuing the project. (a) As used in this section, the terms in this subdivision have~~
10.26 the meanings given them.

10.27 (b) "Ignition interlock device" or "device" means equipment that is designed to
10.28 measure breath alcohol concentration and to prevent a motor vehicle's ignition from being
10.29 started by a person whose breath alcohol concentration measures 0.02 or higher on the
10.30 equipment.

10.31 (c) "Program participant" means a person whose driver's license has been revoked,
10.32 canceled, or denied under section 169A.52 or 169A.54, and who has qualified to take part
10.33 in the ignition interlock program under this section.

11.1 (d) "Qualified prior impaired driving incident" has the meaning given in section
11.2 169A.03, subdivision 22.

11.3 Subd. 2. **Performance standards; certification.** The commissioner shall
11.4 ~~determine appropriate~~ establish performance standards and a ~~certification~~
11.5 ~~ignition interlock certifying devices for used in the pilot project. Only devices certified~~
11.6 ~~by the commissioner as meeting the performance standards may be used in the pilot~~
11.7 ~~project.~~ ignition interlock program. The manufacturer of a device must apply annually
11.8 for certification of the device by submitting the form prescribed by the commissioner.
11.9 The commissioner shall require manufacturers of certified devices to provide device
11.10 installation, servicing, and monitoring to indigent program participants at a discounted
11.11 rate, according to the standards established by the commissioner.

11.12 Subd. 3. ~~Pilot project components~~ **Program requirements.** (a) ~~Under the pilot~~
11.13 ~~project, the commissioner shall issue a driver's license to an individual whose driver's~~
11.14 ~~license has been revoked under chapter 169A for an impaired driving incident if the~~
11.15 ~~person qualifies under this section and agrees to all of the conditions of the project. The~~
11.16 ~~commissioner shall establish guidelines for participation in the ignition interlock program.~~
11.17 A person who seeks to participate in the program shall sign a written acknowledgment that
11.18 the person has received, reviewed, and agreed to abide by the program guidelines.

11.19 (b) The commissioner must ~~denote the person's driver's license~~ enter a notation
11.20 on a person's driving record to indicate that the person's participation in the person is a
11.21 program participant. The license must authorize the person to drive only vehicles having
11.22 functioning ignition interlock devices conforming with the requirements of subdivision 2.

11.23 (c) ~~Notwithstanding any statute or rule to the contrary, the commissioner has~~
11.24 ~~authority to and shall determine the appropriate period for which a person participating~~
11.25 ~~in the ignition interlock pilot program shall be subject to this program, and when the~~
11.26 ~~person is eligible to be issued. A person under the age of 18 years is not eligible to be a~~
11.27 program participant.

11.28 (1) ~~a limited driver's license subject to the ignition interlock restriction;~~
11.29 (2) ~~full driving privileges subject to the ignition interlock restriction; and~~
11.30 (3) ~~a driver's license without an ignition interlock restriction.~~

11.31 (d) A program participant shall pay costs associated with an ignition interlock device
11.32 on every motor vehicle that the participant operates or intends to operate.

11.33 (e) A person participating in this pilot project program participant shall agree to
11.34 participate in any treatment recommended by in a chemical use assessment report.

12.1 ~~(e) The commissioner shall determine guidelines for participation in the project.~~
12.2 ~~A person participating in the project shall sign a written agreement accepting these~~
12.3 ~~guidelines and agreeing to comply with them.~~

12.4 ~~(f) It is a misdemeanor for a person who is licensed under this section for driving~~
12.5 ~~a vehicle equipped with an ignition interlock device to drive, operate, or be in physical~~
12.6 ~~control of a motor vehicle other than a vehicle properly equipped with an A program~~
12.7 ~~participant shall bring the device-equipped motor vehicle or vehicles operated by the~~
12.8 ~~program participant to an approved service provider for device calibration and servicing~~
12.9 ~~according to the schedule established by the commissioner and as indicated by the ignition~~
12.10 ~~interlock device.~~

12.11 Subd. 4. Issuance of restricted license. (a) The commissioner shall issue a class
12.12 D driver's license, subject to the applicable limitations and restrictions of this section,
12.13 to a program participant who meets the requirements of this section and the program
12.14 guidelines. The commissioner shall not issue a license unless the program participant has
12.15 provided satisfactory proof that a certified ignition interlock device has been installed on
12.16 the participant's motor vehicle at an installation service center designated by the device's
12.17 manufacturer. A license issued under authority of this section must contain a restriction
12.18 prohibiting the program participant from driving, operating, or being in physical control of
12.19 any motor vehicle not equipped with a functioning ignition interlock device certified by
12.20 the commissioner. A participant may drive an employer-owned vehicle not equipped with
12.21 an interlock device while in the normal course and scope of employment duties pursuant
12.22 to the program guidelines established by the commissioner and with the employer's
12.23 written consent.

12.24 (b) A program participant whose driver's license has been revoked under section
12.25 169A.52, subdivision 3, paragraph (a), clause (1), (2), or (3), or subdivision 4, paragraph
12.26 (a), clause (1), (2), or (3), or section 169A.54, subdivision 1, clause (1), (2), or (3), may
12.27 apply for conditional reinstatement of the driver's license, subject to the ignition interlock
12.28 restriction.

12.29 (c) A program participant whose driver's license has been revoked, canceled, or
12.30 denied under section 169A.52, subdivision 3, paragraph (a), clause (4), (5), or (6), or
12.31 subdivision 4, paragraph (a), clause (4), (5), or (6), or section 169A.54, subdivision 1,
12.32 clause (4), (5), or (6), may apply for a limited license, subject to the ignition interlock
12.33 restriction, if the program participant is enrolled in a licensed chemical dependency
12.34 treatment or rehabilitation program as recommended in a chemical use assessment,
12.35 and if the participant meets the other applicable requirements of section 171.30. After
12.36 completing a licensed chemical dependency treatment or rehabilitation program and

13.1 one year of limited license use without violating the ignition interlock restriction, the
13.2 conditions of limited license use, or program guidelines, the participant may apply
13.3 for conditional reinstatement of the driver's license, subject to the ignition interlock
13.4 restriction. If the program participant's ignition interlock device subsequently registers
13.5 a positive breath alcohol concentration of 0.02 or higher, the commissioner shall cancel
13.6 the driver's license, and the program participant may apply for another limited license
13.7 according to this paragraph.

13.8 (d) Notwithstanding any statute or rule to the contrary, the commissioner has
13.9 authority to determine when a program participant is eligible for restoration of full driving
13.10 privileges, except that the commissioner shall not reinstate full driving privileges until the
13.11 program participant has met all applicable prerequisites for reinstatement under section
13.12 169A.55 and until the program participant's device has registered no positive breath
13.13 alcohol concentrations of 0.02 or higher during the preceding 90 days.

13.14 Subd. 5. **Penalties; program violations.** (a) If a program participant tampers
13.15 with, circumvents, or bypasses a device; drives, operates, or exercises physical control
13.16 over a motor vehicle not equipped with a device certified by the commissioner; violates a
13.17 condition of a limited license issued under subdivision 4 and section 171.30; or violates
13.18 the program guidelines of subdivision 2, the commissioner shall extend the person's
13.19 revocation period under section 169A.52 or 169A.54 by:

13.20 (1) 180 days for a first violation;

13.21 (2) one year for a second violation; or

13.22 (3) 545 days for a third and each subsequent violation.

13.23 (b) Notwithstanding paragraph (a), the commissioner may terminate participation
13.24 in the program by any person when, in the commissioner's judgment, termination is
13.25 necessary to the interests of public safety and welfare. In the event of termination, the
13.26 commissioner shall not reduce the applicable revocation period under section 169A.52 or
13.27 169A.54 by the amount of time during which the person possessed a limited or restricted
13.28 driver's license issued under the authority of subdivision 4.

13.29 Subd. 6. **Penalties; tampering.** (a) A person who knowingly lends, rents, or
13.30 leases a motor vehicle that is not equipped with a functioning ignition interlock device
13.31 certified by the commissioner to a person with a license issued under this section is guilty
13.32 of a misdemeanor.

13.33 (b) A person who tampers with, circumvents, or bypasses the ignition interlock
13.34 device, or assists another to tamper with, circumvent, or bypass the device, is guilty of a
13.35 misdemeanor.

14.1 (c) The penalties of this subdivision do not apply if the action was taken for
14.2 emergency purposes or for mechanical repair, and the person limited to the use of an
14.3 ignition interlock device does not operate the motor vehicle while the device is disengaged.

14.4 Subd. 7. **Rulemaking.** In establishing the performance standards and certification
14.5 process of subdivision 1 and the program guidelines of subdivision 2, the commissioner
14.6 is exempt from chapter 14, including section 14.386. If rules are otherwise necessary to
14.7 implement this section, the commissioner may adopt, amend, and repeal rules using the
14.8 exempt procedures of section 14.386, except that paragraph (b) shall not apply.

14.9 **EFFECTIVE DATE.** Subdivisions 1 to 6 are effective July 1, 2011. Subdivision 7
14.10 is effective August 1, 2010.

14.11 Sec. 15. Minnesota Statutes 2008, section 609.131, subdivision 2, is amended to read:

14.12 Subd. 2. **Certain violations excepted.** Subdivision 1 does not apply to a
14.13 misdemeanor violation of section 169A.20; 171.09, subdivision 1, paragraph (e); 171.306,
14.14 subdivision 6; 609.224; 609.2242; 609.226; 609.324, subdivision 3; 609.52; or 617.23,
14.15 or an ordinance that conforms in substantial part to any of those sections. A violation
14.16 described in this subdivision must be treated as a misdemeanor unless the defendant
14.17 consents to the certification of the violation as a petty misdemeanor.

14.18 **EFFECTIVE DATE.** This section is effective July 1, 2011.

14.19 Sec. 16. **RULEMAKING.**

14.20 The commissioner may adopt, amend, or repeal rules as needed to administer
14.21 Minnesota Statutes, section 169A.55, subdivision 4, using the exempt procedures of
14.22 Minnesota Statutes, section 14.386, except that paragraph (b) shall not apply.

14.23 **EFFECTIVE DATE.** This section is effective August 1, 2010.

14.24 Sec. 17. **REPEALER.**

14.25 Minnesota Statutes 2008, sections 169A.54, subdivision 11; 169A.55, subdivision
14.26 1; 171.30, subdivision 2c; and 171.305, subdivisions 1, 3, 4, 5, 6, 7, 8, 9, 10, and 11, are
14.27 repealed effective July 1, 2011.

ARTICLE 2

PROHIBITION ON THE USE OF DWI DRIVER'S LICENSE REVOCATIONS
TO ENHANCE DWI PENALTIES

Section 1. Minnesota Statutes 2008, section 169A.03, subdivision 3, is amended to read:

Subd. 3. **Aggravating factor.** "Aggravating factor" includes:

(1) a ~~qualified~~ prior impaired driving ~~incident~~ conviction within the ten years immediately preceding the current offense;

(2) having an alcohol concentration of 0.20 or more as measured at the time, or within two hours of the time, of the offense; or

(3) having a child under the age of 16 in the motor vehicle at the time of the offense if the child is more than 36 months younger than the offender.

EFFECTIVE DATE. This section is effective July 1, 2010, and applies to crimes committed on or after that date.

Sec. 2. Minnesota Statutes 2008, section 169A.095, is amended to read:

169A.095 DETERMINING NUMBER OF AGGRAVATING FACTORS.

When determining the number of aggravating factors present for purposes of this chapter, subject to section 169A.09 (sanctions for prior behavior to be based on separate courses of conduct), each ~~qualified~~ prior impaired driving ~~incident~~ conviction within the ten years immediately preceding the current offense is counted as a separate aggravating factor.

EFFECTIVE DATE. This section is effective July 1, 2010, and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2008, section 169A.24, subdivision 1, is amended to read:

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

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

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

(3) has previously been convicted of a felony under section 609.21, subdivision 1, clause (2), (3), (4), (5), or (6).

16.1 EFFECTIVE DATE. This section is effective July 1, 2010, and applies to crimes
16.2 committed on or after that date.

16.3 Sec. 4. Minnesota Statutes 2008, section 169A.275, subdivision 1, is amended to read:

16.4 Subdivision 1. **Second offense.** (a) The court shall sentence a person who is
16.5 convicted of a violation of section 169A.20 (driving while impaired) within ten years of a
16.6 ~~qualified~~ prior impaired driving ~~incident~~ conviction to either:

16.7 (1) a minimum of 30 days of incarceration, at least 48 hours of which must be
16.8 served in a local correctional facility; or

16.9 (2) eight hours of community work service for each day less than 30 days that the
16.10 person is ordered to serve in a local correctional facility.

16.11 Notwithstanding section 609.135 (stay of imposition or execution of sentence), the
16.12 penalties in this paragraph must be executed, unless the court departs from the mandatory
16.13 minimum sentence under paragraph (b) or (c).

16.14 (b) Prior to sentencing, the prosecutor may file a motion to have a defendant
16.15 described in paragraph (a) sentenced without regard to the mandatory minimum sentence
16.16 established by that paragraph. The motion must be accompanied by a statement on the
16.17 record of the reasons for it. When presented with the prosecutor's motion and if it finds
16.18 that substantial mitigating factors exist, the court shall sentence the defendant without
16.19 regard to the mandatory minimum sentence established by paragraph (a).

16.20 (c) The court may, on its own motion, sentence a defendant described in paragraph
16.21 (a) without regard to the mandatory minimum sentence established by that paragraph
16.22 if it finds that substantial mitigating factors exist and if its sentencing departure is
16.23 accompanied by a statement on the record of the reasons for it. The court also may
16.24 sentence the defendant without regard to the mandatory minimum sentence established
16.25 by paragraph (a) if the defendant is sentenced to probation and ordered to participate in
16.26 a program established under section 169A.74 (pilot programs of intensive probation for
16.27 repeat DWI offenders).

16.28 (d) When any portion of the sentence required by paragraph (a) is not executed, the
16.29 court should impose a sentence that is proportional to the extent of the offender's prior
16.30 criminal and moving traffic violation record. Any sentence required under paragraph (a)
16.31 must include a mandatory sentence that is not subject to suspension or a stay of imposition
16.32 or execution, and that includes incarceration for not less than 48 hours or at least 80
16.33 hours of community work service.

17.1 EFFECTIVE DATE. This section is effective July 1, 2010, and applies to crimes
17.2 committed on or after that date.

17.3 Sec. 5. Minnesota Statutes 2008, section 169A.275, subdivision 2, is amended to read:

17.4 Subd. 2. **Third offense.** (a) The court shall sentence a person who is convicted of a
17.5 violation of section 169A.20 (driving while impaired) within ten years of the first of two
17.6 ~~qualified~~ prior impaired driving ~~incidents~~ convictions to either:

17.7 (1) a minimum of 90 days of incarceration, at least 30 days of which must be served
17.8 consecutively in a local correctional facility; or

17.9 (2) a program of intensive supervision of the type described in section 169A.74
17.10 (pilot programs of intensive probation for repeat DWI offenders) that requires the person
17.11 to consecutively serve at least six days in a local correctional facility.

17.12 (b) The court may order that the person serve not more than 60 days of the minimum
17.13 penalty under paragraph (a), clause (1), on home detention or in an intensive probation
17.14 program described in section 169A.74.

17.15 (c) Notwithstanding section 609.135, the penalties in this subdivision must be
17.16 imposed and executed.

17.17 EFFECTIVE DATE. This section is effective July 1, 2010, and applies to crimes
17.18 committed on or after that date.

17.19 Sec. 6. Minnesota Statutes 2008, section 169A.275, subdivision 3, is amended to read:

17.20 Subd. 3. **Fourth offense.** (a) Unless the court commits the person to the custody of
17.21 the commissioner of corrections as provided in section 169A.276 (mandatory penalties;
17.22 felony violations), the court shall sentence a person who is convicted of a violation of
17.23 section 169A.20 (driving while impaired) within ten years of the first of three ~~qualified~~
17.24 prior impaired driving ~~incidents~~ convictions to either:

17.25 (1) a minimum of 180 days of incarceration, at least 30 days of which must be served
17.26 consecutively in a local correctional facility;

17.27 (2) a program of intensive supervision of the type described in section 169A.74
17.28 (pilot programs of intensive probation for repeat DWI offenders) that requires the person
17.29 to consecutively serve at least six days in a local correctional facility; or

17.30 (3) a program of staggered sentencing involving a minimum of 180 days of
17.31 incarceration, at least 30 days of which must be served consecutively in a local
17.32 correctional facility.

17.33 (b) The court may order that the person serve not more than 150 days of the
17.34 minimum penalty under paragraph (a), clause (1), on home detention or in an intensive

18.1 probation program described in section 169A.74. Notwithstanding section 609.135, the
18.2 penalties in this subdivision must be imposed and executed.

18.3 **EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes
18.4 committed on or after that date.

18.5 Sec. 7. Minnesota Statutes 2008, section 169A.275, subdivision 4, is amended to read:

18.6 Subd. 4. **Fifth offense or more.** (a) Unless the court commits the person to the
18.7 custody of the commissioner of corrections as provided in section 169A.276 (mandatory
18.8 penalties; felony violations), the court shall sentence a person who is convicted of a
18.9 violation of section 169A.20 (driving while impaired) within ten years of the first of four
18.10 or more ~~qualified~~ prior impaired driving ~~incidents~~ convictions to either:

18.11 (1) a minimum of one year of incarceration, at least 60 days of which must be served
18.12 consecutively in a local correctional facility;

18.13 (2) a program of intensive supervision of the type described in section 169A.74
18.14 (pilot programs of intensive probation for repeat DWI offenders) that requires the person
18.15 to consecutively serve at least six days in a local correctional facility; or

18.16 (3) a program of staggered sentencing involving a minimum of one year of
18.17 incarceration, at least 60 days of which must be served consecutively in a local
18.18 correctional facility.

18.19 (b) The court may order that the person serve the remainder of the minimum penalty
18.20 under paragraph (a), clause (1), on intensive probation using an electronic monitoring
18.21 system or, if such a system is unavailable, on home detention. Notwithstanding section
18.22 609.135, the penalties in this subdivision must be imposed and executed.

18.23 **EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes
18.24 committed on or after that date.

18.25 Sec. 8. Minnesota Statutes 2008, section 169A.275, subdivision 5, is amended to read:

18.26 Subd. 5. **Level of care recommended in chemical use assessment.** Unless the
18.27 court commits the person to the custody of the commissioner of corrections as provided in
18.28 section 169A.276 (mandatory penalties; felony violations), in addition to other penalties
18.29 required under this section, the court shall order a person to submit to the level of care
18.30 recommended in the chemical use assessment conducted under section 169A.70 (alcohol
18.31 safety program; chemical use assessments) if the person is convicted of violating section
18.32 169A.20 (driving while impaired) while having an alcohol concentration of 0.20 or
18.33 more as measured at the time, or within two hours of the time, of the offense or if the

19.1 violation occurs within ten years of one or more ~~qualified~~ prior impaired driving ~~incidents~~
19.2 convictions.

19.3 EFFECTIVE DATE. This section is effective July 1, 2010, and applies to crimes
19.4 committed on or after that date.

19.5 Sec. 9. Minnesota Statutes 2008, section 169A.28, subdivision 1, is amended to read:

19.6 Subdivision 1. **Mandatory consecutive sentences.** (a) The court shall impose
19.7 consecutive sentences when it sentences a person for:

19.8 (1) violations of section 169A.20 (driving while impaired) arising out of separate
19.9 courses of conduct;

19.10 (2) a violation of section 169A.20 when the person, at the time of sentencing, is
19.11 on probation for, or serving, an executed sentence for a violation of section 169A.20
19.12 or Minnesota Statutes 1998, section 169.121 (driver under the influence of alcohol or
19.13 controlled substance) or 169.129 (aggravated DWI-related violations; penalty), and the
19.14 prior sentence involved a separate course of conduct; or

19.15 (3) a violation of section 169A.20 and another offense arising out of a single course
19.16 of conduct that is listed in subdivision 2, paragraph (e), when the person has five or more
19.17 ~~qualified~~ prior impaired driving ~~incidents~~ convictions within the past ten years.

19.18 (b) The requirement for consecutive sentencing in paragraph (a) does not apply if the
19.19 person is being sentenced to an executed prison term for a violation of section 169A.20
19.20 (driving while impaired) under circumstances described in section 169A.24 (first-degree
19.21 driving while impaired).

19.22 EFFECTIVE DATE. This section is effective July 1, 2010, and applies to crimes
19.23 committed on or after that date.

19.24 Sec. 10. Minnesota Statutes 2008, section 169A.31, subdivision 2, is amended to read:

19.25 Subd. 2. **Gross misdemeanor alcohol-related school bus or Head Start**
19.26 **bus driving.** A person who violates subdivision 1 is guilty of gross misdemeanor
19.27 alcohol-related school bus or Head Start bus driving if:

19.28 (1) the violation occurs while a child under the age of 16 is in the vehicle, if the child
19.29 is more than 36 months younger than the violator; or

19.30 (2) the violation occurs within ten years of a ~~qualified~~ prior impaired driving
19.31 ~~incident~~ conviction.

19.32 EFFECTIVE DATE. This section is effective July 1, 2010, and applies to crimes
19.33 committed on or after that date.

S.F. No. 2741, 1st Engrossment - 86th Legislative Session (2009-2010) [s2741-1]

20.1 Sec. 11. Minnesota Statutes 2008, section 169A.44, subdivision 2, is amended to read:

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

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

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

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

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

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

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

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

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

20.19 **EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes
20.20 committed on or after that date.

20.21 Sec. 12. Minnesota Statutes 2008, section 169A.63, subdivision 1, is amended to read:

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

20.24 (b) "Appropriate agency" means a law enforcement agency that has the authority to
20.25 make an arrest for a violation of a designated offense or to require a test under section
20.26 169A.51 (chemical tests for intoxication).

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

20.29 ~~(d) "Designated license revocation" includes a license revocation under section~~
20.30 ~~169A.52 (license revocation for test failure or refusal) or a license disqualification under~~
20.31 ~~section 171.165 (commercial driver's license disqualification) resulting from a violation~~
20.32 ~~of section 169A.52, within ten years of the first of two or more qualified prior impaired~~
20.33 ~~driving incidents.~~

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

S.F. No. 2741, 1st Engrossment - 86th Legislative Session (2009-2010) [s2741-1]

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

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

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

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

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

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

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

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

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

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

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

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

21.35 **EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes
21.36 committed on or after that date.

S.F. No. 2741, 1st Engrossment - 86th Legislative Session (2009-2010) [s2741-1]

22.1 Sec. 13. Minnesota Statutes 2008, section 169A.63, subdivision 3, is amended to read:

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

- 22.9 (1) place the vehicle under seal;
- 22.10 (2) remove the vehicle to a place designated by it;
- 22.11 (3) place a disabling device on the vehicle; and
- 22.12 (4) take other steps reasonable and necessary to secure the vehicle and prevent waste.

22.13 **EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes
22.14 committed on or after that date.

22.15 Sec. 14. Minnesota Statutes 2008, section 169A.63, subdivision 5, is amended to read:

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

22.20 **EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes
22.21 committed on or after that date.

22.22 Sec. 15. Minnesota Statutes 2008, section 169A.63, subdivision 6, is amended to read:

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

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

22.28 **EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes
22.29 committed on or after that date.

22.30 Sec. 16. Minnesota Statutes 2008, section 169A.63, subdivision 7, is amended to read:

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

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

23.3 (2) the driver fails to appear for a scheduled court appearance with respect to the
23.4 designated offense charged and fails to voluntarily surrender within 48 hours after the
23.5 time required for appearance; or.

23.6 ~~(3) the driver's conduct results in a designated license revocation and the driver
23.7 fails to seek judicial review of the revocation in a timely manner as required by section
23.8 169A.53, subdivision 2, (petition for judicial review), or the license revocation is judicially
23.9 reviewed and sustained under section 169A.53, subdivision 2.~~

23.10 (b) A vehicle encumbered by a security interest perfected according to section
23.11 168A.17, subdivision 2, or subject to a lease that has a term of 180 days or more, is subject
23.12 to the interest of the secured party or lessor unless the party or lessor had knowledge of or
23.13 consented to the act upon which the forfeiture is based. However, when the proceeds of the
23.14 sale of a seized vehicle do not equal or exceed the outstanding loan balance, the appropriate
23.15 agency shall remit all proceeds of the sale to the secured party after deducting the agency's
23.16 costs for the seizure, tow, storage, forfeiture, and sale of the vehicle. If the sale of the
23.17 vehicle is conducted in a commercially reasonable manner consistent with the provisions
23.18 of section 336.9-610, the agency is not liable to the secured party for any amount owed on
23.19 the loan in excess of the sale proceeds. The validity and amount of a nonperfected security
23.20 interest must be established by its holder by clear and convincing evidence.

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

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

23.34 (1) section 171.24 (violations; driving without valid license);

23.35 (2) section 169.791 (criminal penalty for failure to produce proof of insurance);

23.36 (3) section 171.09 (driving restrictions; authority, violations);

- 24.1 (4) section 169A.20 (driving while impaired);
- 24.2 (5) section 169A.33 (underage drinking and driving); and
- 24.3 (6) section 169A.35 (open bottle law).

24.4 **EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes
24.5 committed on or after that date.

24.6 Sec. 17. Minnesota Statutes 2008, section 169A.63, subdivision 8, is amended to read:

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

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

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

24.26 (1) a description of the vehicle seized;

24.27 (2) the date of seizure; and

24.28 (3) notice of the right to obtain judicial review of the forfeiture and of the procedure
24.29 for obtaining that judicial review, printed in English, Hmong, and Spanish. Substantially
24.30 the following language must appear conspicuously: "IF YOU DO NOT DEMAND
24.31 JUDICIAL REVIEW EXACTLY AS PRESCRIBED IN MINNESOTA STATUTES,
24.32 SECTION 169A.63, SUBDIVISION 8, YOU LOSE THE RIGHT TO A JUDICIAL
24.33 DETERMINATION OF THIS FORFEITURE AND YOU LOSE ANY RIGHT YOU
24.34 MAY HAVE TO THE ABOVE-DESCRIBED PROPERTY. YOU MAY NOT HAVE TO
24.35 PAY THE FILING FEE FOR THE DEMAND IF DETERMINED YOU ARE UNABLE

25.1 TO AFFORD THE FEE. IF THE PROPERTY IS WORTH \$7,500 OR LESS, YOU MAY
25.2 FILE YOUR CLAIM IN CONCILIATION COURT. YOU DO NOT HAVE TO PAY
25.3 THE CONCILIATION COURT FILING FEE IF THE PROPERTY IS WORTH LESS
25.4 THAN \$500."

25.5 (d) Within 30 days following service of a notice of seizure and forfeiture under this
25.6 subdivision, a claimant may file a demand for a judicial determination of the forfeiture.
25.7 The demand must be in the form of a civil complaint and must be filed with the court
25.8 administrator in the county in which the seizure occurred, together with proof of service of
25.9 a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture
25.10 and the appropriate agency that initiated the forfeiture, including the standard filing fee
25.11 for civil actions unless the petitioner has the right to sue in forma pauperis under section
25.12 563.01. If the value of the seized property is \$7,500 or less, the claimant may file an
25.13 action in conciliation court for recovery of the seized vehicle. A copy of the conciliation
25.14 court statement of claim must be served personally or by mail on the prosecuting authority
25.15 having jurisdiction over the forfeiture, as well as on the appropriate agency that initiated
25.16 the forfeiture, within 30 days following service of the notice of seizure and forfeiture
25.17 under this subdivision. If the value of the seized property is less than \$500, the claimant
25.18 does not have to pay the conciliation court filing fee.

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

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

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

25.32 **EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes
25.33 committed on or after that date.

25.34 Sec. 18. Minnesota Statutes 2008, section 169A.63, subdivision 9, is amended to read:

26.1 Subd. 9. **Judicial forfeiture procedure.** (a) This subdivision governs judicial
26.2 determinations of the forfeiture of a motor vehicle used to commit a designated offense
26.3 ~~or used in conduct resulting in a designated license revocation.~~ An action for forfeiture is
26.4 a civil in rem action and is independent of any criminal prosecution. All proceedings are
26.5 governed by the Rules of Civil Procedure.

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

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

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

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

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

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

27.1 (h) If the court orders the return of a seized vehicle under this subdivision it must
27.2 order that filing fees be reimbursed to the person who filed the demand for judicial
27.3 determination. In addition, the court may order sanctions under section 549.211 (sanctions
27.4 in civil actions). Any reimbursement fees or sanctions must be paid from other forfeiture
27.5 proceeds of the law enforcement agency and prosecuting authority involved and in the
27.6 same proportion as distributed under subdivision 10, paragraph (b).

27.7 **EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes
27.8 committed on or after that date.

27.9 Sec. 19. Minnesota Statutes 2009 Supplement, section 609.035, subdivision 2, is
27.10 amended to read:

27.11 Subd. 2. **Consecutive sentences.** (a) When a person is being sentenced for a
27.12 violation of a provision listed in paragraph (e), the court may sentence the person to a
27.13 consecutive term of imprisonment for a violation of any other provision listed in paragraph
27.14 (e), notwithstanding the fact that the offenses arose out of the same course of conduct,
27.15 subject to the limitation on consecutive sentences contained in section 609.15, subdivision
27.16 2, and except as provided in paragraphs (b), (c), and (f).

27.17 (b) When a person is being sentenced for a violation of section 171.09, 171.20,
27.18 171.24, or 171.30, the court may not impose a consecutive sentence for another violation
27.19 of a provision in chapter 171.

27.20 (c) When a person is being sentenced for a violation of section 169.791 or 169.797,
27.21 the court may not impose a consecutive sentence for another violation of a provision
27.22 of sections 169.79 to 169.7995.

27.23 (d) This subdivision does not limit the authority of the court to impose consecutive
27.24 sentences for crimes arising on different dates or to impose a consecutive sentence when a
27.25 person is being sentenced for a crime and is also in violation of the conditions of a stayed
27.26 or otherwise deferred sentence under section 609.135.

27.27 (e) This subdivision applies to misdemeanor and gross misdemeanor violations of
27.28 the following if the offender has two or more prior impaired driving convictions as defined
27.29 in section 169A.03 within the past ten years:

27.30 (1) section 169A.20, subdivision 1, 1a, 1b, or 1c, driving while impaired;

27.31 (2) section 169A.20, subdivision 2, test refusal;

27.32 (3) section 169.791, failure to provide proof of insurance;

27.33 (4) section 169.797, failure to provide vehicle insurance;

27.34 (5) section 171.09, violation of condition of restricted license;

28.1 (6) section 171.20, subdivision 2, operation after revocation, suspension,
28.2 cancellation, or disqualification;
28.3 (7) section 171.24, driving without valid license; and
28.4 (8) section 171.30, violation of condition of limited license.
28.5 (f) When a court is sentencing an offender for a violation of section 169A.20 and a
28.6 violation of an offense listed in paragraph (e), and the offender has five or more ~~qualified~~
28.7 prior impaired driving ~~incidents~~ convictions, as defined in section 169A.03, within the
28.8 past ten years, the court shall sentence the offender to serve consecutive sentences for the
28.9 offenses, notwithstanding the fact that the offenses arose out of the same course of conduct.

28.10 **EFFECTIVE DATE.** This section is effective July 1, 2010, and applies to crimes
28.11 committed on or after that date.

APPENDIX
Article locations in s2741-1

ARTICLE 1	IMPLIED CONSENT MODIFICATIONS; IGNITION INTERLOCK PROVISIONS	Page.Ln 1.17
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169A.54 DWI CONVICTIONS, ADJUDICATIONS; ADMINISTRATIVE PENALTIES.

Subd. 11. **Chemical use assessment.** When the evidentiary test shows an alcohol concentration of 0.07 or more, that result must be reported to the commissioner. The commissioner shall record that fact on the driver's record. When the driver's record shows a second or subsequent report of an alcohol concentration of 0.07 or more within two years of a recorded report, the commissioner may require that the driver have a chemical use assessment meeting the commissioner's requirements. The assessment must be at the driver's expense. In no event shall the commissioner deny the license of a person who refuses to take the assessment or to undertake treatment, if treatment is indicated by the assessment, for longer than 90 days. If an assessment is made pursuant to this section, the commissioner may waive the assessment required by section 169A.70.

169A.55 LICENSE REVOCATION TERMINATION; LICENSE REINSTATEMENT.

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

171.30 LIMITED LICENSE.

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

171.305 IGNITION INTERLOCK DEVICE.

Subdivision 1. **Definition.** "Ignition interlock device" or "device" means breath alcohol ignition equipment designed to prevent a motor vehicle's ignition from being started by a person whose alcohol concentration exceeds the calibrated setting on the device.

Subd. 3. **Performance standards.** The commissioner shall specify performance standards for ignition interlock devices, including standards relating to accuracy, safe operation of the vehicle, and degree of difficulty rendering the device inoperative. The interlock ignition device must be designed to operate from a 12-volt DC vehicle battery and be capable of locking a motor vehicle's ignition when a minimum alcohol concentration of 0.020 grams of ethyl alcohol per 210 liters of breath is introduced into the device. The device must also require a breath sample to determine alcohol concentration at variable time intervals ranging from five to 30 minutes while the engine is running. The device must also be capable of recording information for later review that includes the date and time of any use of the vehicle or any attempt to use the vehicle, including all times that the vehicle engine was started or stopped and the alcohol concentration of each breath sample provided.

Subd. 4. **Certification.** The commissioner shall certify ignition interlock devices that meet the performance standards and may charge the manufacturer of the ignition interlock device a certification fee. A manufacturer who submits a device for certification must provide an application for certification on a form prescribed by the department.

Subd. 5. **Issuance of limited license.** The commissioner may issue a limited license to a person whose driver's license has been canceled and denied due to an alcohol or controlled substance-related incident under section 171.04, subdivision 1, clause (10), under the following conditions:

- (1) at least one-half of the person's required abstinence period has expired;
- (2) the person has successfully completed chemical dependency treatment and is currently participating in a generally recognized support group based on ongoing abstinence; and

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(3) the person agrees to drive only a motor vehicle equipped with a functioning and certified ignition interlock device.

Subd. 6. **Monitoring.** The ignition interlock device must be monitored for proper use and accuracy by an entity approved by the commissioner.

Subd. 7. **Payment.** The commissioner shall require that the person issued a limited license under subdivision 5 pay all costs associated with use of the device.

Subd. 8. **Proof of installation.** A person approved for a limited license must provide proof of installation prior to issuance of the limited license.

Subd. 9. **Misdemeanor.** (a) A person who knowingly lends, rents, or leases a motor vehicle that is not equipped with a functioning ignition interlock device to a person with a limited license issued under subdivision 5 is guilty of a misdemeanor.

(b) A person who tampers with, circumvents, or bypasses the ignition interlock device, or assists another to tamper with, circumvent, or bypass the device, is guilty of a misdemeanor.

(c) The penalties of this subdivision do not apply if the action was taken for emergency purposes or for mechanical repair, and the person limited to the use of an ignition interlock device does not operate the motor vehicle while the device is disengaged.

Subd. 10. **Cancellation of limited license.** The commissioner shall cancel a limited license issued under this section if the device registers a positive reading for use of alcohol or the person violates any conditions of the limited license.

Subd. 11. **Program standards.** The program standards applicable to section 171.306 also apply to this section.