

SENATE
STATE OF MINNESOTA
EIGHTY-NINTH SESSION

S.F. No. 384

(SENATE AUTHORS: NEWMAN, Latz, Hall, Torres Ray and Limmer)

| DATE | D-PG | OFFICIAL STATUS |
|------------|------|------------------------------------------------------------------------|
| 01/29/2015 | 165 | Introduction and first reading Referred to Judiciary |
| 03/04/2015 | 510a | Comm report: To pass as amended and re-refer to Environment and Energy |
| 03/11/2015 | 686 | Withdrawn and re-referred to Judiciary |
| 03/18/2015 | | Comm report: To pass as amended and re-refer to Finance |

A bill for an act

1.1 relating to forfeiture; establishing the burden of production on the innocent owner
 1.2 claimant and the burden of proof on the prosecutor in an innocent owner case
 1.3 involving off-highway vehicles, DWI, designated offenses, controlled substance
 1.4 offenses, fleeing offenses, and prostitution offenses; expanding the homestead
 1.5 exemption; amending Minnesota Statutes 2014, sections 84.7741, subdivisions
 1.6 7, 9; 169A.60, subdivision 1; 169A.63, subdivisions 1, 7, 9; 609.531, subdivision
 1.7 1, by adding subdivisions; 609.5311, subdivision 3; 609.5312, subdivisions 2,
 1.8 3, 4; 609.5318, subdivision 5.

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

1.11 Section 1. Minnesota Statutes 2014, section 84.7741, subdivision 7, is amended to read:

1.12 Subd. 7. **Presumptions; limitations on vehicle forfeiture.** (a) An off-highway
 1.13 vehicle is presumed subject to forfeiture under this section if the driver:

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

1.15 (2) fails to appear for a scheduled court appearance with respect to the designated
 1.16 offense charged and fails to voluntarily surrender within 48 hours after the time required
 1.17 for appearance.

1.18 (b) ~~An off-highway vehicle encumbered by a security interest perfected according to~~
 1.19 ~~section 168A.17, subdivision 2, or subject to a lease that has a term of 180 days or more, is~~
 1.20 ~~subject to the interest of the secured party or lessor unless the party or lessor had knowledge~~
 1.21 ~~of or consented to the act upon which the forfeiture is based. However, when the proceeds~~
 1.22 ~~of the sale of a seized vehicle do not equal or exceed the outstanding loan balance, the~~
 1.23 ~~appropriate agency shall remit all proceeds of the sale to the secured party after deducting~~
 1.24 ~~the agency's costs for the seizure, tow, storage, forfeiture, and sale of the vehicle. If the sale~~
 1.25 ~~of the vehicle is conducted in a commercially reasonable manner consistent with section~~
 1.26 ~~336.9-610, the agency is not liable to the secured party for any amount owed on the loan~~

2.1 ~~in excess of the sale proceeds. The validity and amount of a nonperfected security interest~~
2.2 ~~must be established by its holder by clear and convincing evidence. The limitations and~~
2.3 ~~defenses in section 609.531, subdivisions 9 and 10, apply to forfeitures under this section.~~

2.4 ~~(e) Notwithstanding paragraph (b), the secured party's or lessor's interest in an~~
2.5 ~~off-highway vehicle is not subject to forfeiture based solely on the secured party's or~~
2.6 ~~lessor's knowledge of the act or omission upon which the forfeiture is based if the secured~~
2.7 ~~party or lessor demonstrates by clear and convincing evidence that the party or lessor took~~
2.8 ~~reasonable steps to terminate use of the vehicle by the offender.~~

2.9 ~~(d) An off-highway vehicle is not subject to forfeiture under this section if its owner~~
2.10 ~~can demonstrate by clear and convincing evidence that the owner did not have actual~~
2.11 ~~or constructive knowledge that the vehicle would be used or operated in any manner~~
2.12 ~~contrary to law or that the owner took reasonable steps to prevent use of the vehicle by~~
2.13 ~~the offender. If the offender is a family or household member of the owner and has three~~
2.14 ~~or more prior off-highway vehicle convictions, the owner is presumed to know of any~~
2.15 ~~vehicle use by the offender that is contrary to law.~~

2.16 ~~**EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to~~
2.17 ~~offenses committed on or after that date.~~

2.18 Sec. 2. Minnesota Statutes 2014, section 84.7741, subdivision 9, is amended to read:

2.19 Subd. 9. **Judicial forfeiture procedure.** (a) This subdivision governs judicial
2.20 determinations of the forfeiture of an off-highway vehicle used to commit a designated
2.21 offense. An action for forfeiture is a civil in rem action and is independent of any criminal
2.22 prosecution. All proceedings are governed by the Rules of Civil Procedure.

2.23 (b) If no demand for judicial determination of the forfeiture is pending, the
2.24 prosecuting authority may, in the name of the jurisdiction pursuing the forfeiture, file a
2.25 separate complaint against the vehicle, describing it, specifying that it was used in the
2.26 commission of a designated offense, and specifying the time and place of its unlawful use.

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

2.30 (d) A judicial determination under this subdivision must be held at the earliest
2.31 practicable date, and in any event no later than 180 days following the filing of the
2.32 demand by the claimant. If a related criminal proceeding is pending, the hearing shall not
2.33 be held until the conclusion of the criminal proceedings. The district court administrator
2.34 shall schedule the hearing as soon as practicable after the conclusion of the criminal

3.1 prosecution. The district court administrator shall establish procedures to ensure efficient
 3.2 compliance with this subdivision. The hearing is to the court without a jury.

3.3 ~~(e) There is a presumption that an off-highway vehicle seized under this section is~~
 3.4 ~~subject to forfeiture if the prosecuting authority establishes that the vehicle was used in~~
 3.5 ~~the commission of a designated offense. A claimant bears the burden of proving any~~
 3.6 ~~affirmative defense raised~~ The prosecuting authority has the burden of proof to show
 3.7 by a preponderance of the evidence that the vehicle was used in the commission of a
 3.8 designated offense. The limitations and defenses in section 609.531, subdivisions 9 and
 3.9 10, apply to forfeitures under this section.

3.10 (f) If the forfeiture is based on the commission of a designated offense and the person
 3.11 charged with the designated offense appears in court as required and is not convicted of
 3.12 the offense, the court shall order the property returned to the person legally entitled to it
 3.13 upon that person's compliance with the redemption requirements of subdivision 12.

3.14 ~~(g) If the lawful ownership of the vehicle used in the commission of a designated~~
 3.15 ~~offense can be determined and the owner makes the demonstration required under~~
 3.16 ~~subdivision 7, paragraph (d)~~ If the prosecuting authority fails to establish by a
 3.17 preponderance of the evidence that the vehicle was used in the commission of a designated
 3.18 offense, the vehicle must be returned immediately upon the owner's compliance with the
 3.19 redemption requirements of subdivision 12.

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

3.26 Sec. 3. Minnesota Statutes 2014, section 169A.60, subdivision 1, is amended to read:

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

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

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

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

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

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

4.5 (d) "Plate impoundment violation" includes:

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

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

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

4.17 (4) a violation of section 169A.20 or 169A.52 while having a child under the age of
4.18 16 in the vehicle if the child is more than 36 months younger than the offender; or

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

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

4.25 Sec. 4. Minnesota Statutes 2014, section 169A.63, subdivision 1, is amended to read:

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

4.28 (b) "Appropriate agency" means a law enforcement agency that has the authority to
4.29 make an arrest for a violation of a designated offense or to require a test under section
4.30 169A.51 (chemical tests for intoxication).

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

4.33 (d) "Designated license revocation" includes a license revocation under section
4.34 169A.52 (license revocation for test failure or refusal) or a license disqualification under
4.35 section 171.165 (commercial driver's license disqualification) resulting from a violation

5.1 of section 169A.52; within ten years of the first of two or more qualified prior impaired
5.2 driving incidents.

5.3 (e) "Designated offense" includes:

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

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

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

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

5.14 (f) ~~"Family or household member" means:~~

5.15 ~~(1) a parent, stepparent, or guardian;~~

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

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

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

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

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

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

6.4 Sec. 5. Minnesota Statutes 2014, section 169A.63, subdivision 7, is amended to read:

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

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

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

6.11 (3) the driver's conduct results in a designated license revocation and the driver
6.12 fails to seek judicial review of the revocation in a timely manner as required by section
6.13 169A.53, subdivision 2, (petition for judicial review), or the license revocation is judicially
6.14 reviewed and sustained under section 169A.53, subdivision 2.

6.15 (b) ~~A vehicle encumbered by a security interest perfected according to section
6.16 168A.17, subdivision 2, or subject to a lease that has a term of 180 days or more, is subject
6.17 to the interest of the secured party or lessor unless the party or lessor had knowledge of
6.18 or consented to the act upon which the forfeiture is based. However, when the proceeds
6.19 of the sale of a seized vehicle do not equal or exceed the outstanding loan balance, the
6.20 appropriate agency shall remit all proceeds of the sale to the secured party after deducting
6.21 the agency's costs for the seizure, tow, storage, forfeiture, and sale of the vehicle. If the
6.22 sale of the vehicle is conducted in a commercially reasonable manner consistent with the
6.23 provisions of section 336.9-610, the agency is not liable to the secured party for any
6.24 amount owed on the loan in excess of the sale proceeds. The validity and amount of a
6.25 nonperfected security interest must be established by its holder by clear and convincing
6.26 evidence. The limitations and defenses in section 609.531, subdivisions 9 and 10, apply
6.27 to forfeitures under this section.~~

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

6.33 (d) ~~A motor vehicle is not subject to forfeiture under this section if its owner can
6.34 demonstrate by clear and convincing evidence that the owner did not have actual or
6.35 constructive knowledge that the vehicle would be used or operated in any manner contrary~~

7.1 ~~to law or that the owner took reasonable steps to prevent use of the vehicle by the offender.~~
7.2 ~~If the offender is a family or household member of the owner and has three or more prior~~
7.3 ~~impaired driving convictions, the owner is presumed to know of any vehicle use by the~~
7.4 ~~offender that is contrary to law. "Vehicle use contrary to law" includes, but is not limited~~
7.5 ~~to, violations of the following statutes:~~

- 7.6 (1) ~~section 171.24 (violations; driving without valid license);~~
7.7 (2) ~~section 169.791 (criminal penalty for failure to produce proof of insurance);~~
7.8 (3) ~~section 171.09 (driving restrictions; authority, violations);~~
7.9 (4) ~~section 169A.20 (driving while impaired);~~
7.10 (5) ~~section 169A.33 (underage drinking and driving); and~~
7.11 (6) ~~section 169A.35 (open bottle law).~~

7.12 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to
7.13 offenses committed on or after that date.

7.14 Sec. 6. Minnesota Statutes 2014, section 169A.63, subdivision 9, is amended to read:

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

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

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

7.28 (d) A judicial determination under this subdivision must be held at the earliest
7.29 practicable date, and in any event no later than 180 days following the filing of the
7.30 demand by the claimant. If a related criminal proceeding is pending, the hearing shall not
7.31 be held until the conclusion of the criminal proceedings. The district court administrator
7.32 shall schedule the hearing as soon as practicable after the conclusion of the criminal
7.33 prosecution. The district court administrator shall establish procedures to ensure efficient
7.34 compliance with this subdivision. The hearing is to the court without a jury.

8.1 ~~(e) There is a presumption that a vehicle seized under this section is subject~~
 8.2 ~~to forfeiture if the prosecuting authority establishes that the vehicle was used in the~~
 8.3 ~~commission of a designated offense or designated license revocation. A claimant bears the~~
 8.4 ~~burden of proving any affirmative defense raised~~ The prosecuting authority has the burden
 8.5 of proof to show by a preponderance of the evidence that the vehicle was used in the
 8.6 commission of a designated offense or designated license revocation. The limitations and
 8.7 defenses in section 609.531, subdivisions 9 and 10, apply to forfeitures under this section.

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

8.16 ~~(g) If the lawful ownership of the vehicle used in the commission of a designated~~
 8.17 ~~offense or used in conduct resulting in a designated license revocation can be determined~~
 8.18 ~~and the owner makes the demonstration required under subdivision 7, paragraph (d)~~ If the
 8.19 prosecuting authority fails to establish by a preponderance of the evidence that the vehicle
 8.20 was used in the commission of a designated offense or designated license revocation, the
 8.21 vehicle must be returned immediately upon the owner's compliance with the redemption
 8.22 requirements of section 169A.42.

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

8.29 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to
 8.30 offenses committed on or after that date.

8.31 Sec. 7. Minnesota Statutes 2014, section 609.531, subdivision 1, is amended to read:

8.32 Subdivision 1. **Definitions.** For the purpose of sections 609.531 to 609.5318, the
 8.33 following terms have the meanings given them.

8.34 (a) "Actual knowledge" means direct and clear awareness of information, a fact,
 8.35 or a condition.

9.1 (b) "Conveyance device" means a device used for transportation and includes, but
 9.2 is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any
 9.3 equipment attached to it. The term "conveyance device" does not include property which
 9.4 is, in fact, itself stolen or taken in violation of the law.

9.5 ~~(b)~~ (c) "Weapon used" means a dangerous weapon as defined under section 609.02,
 9.6 subdivision 6, that the actor used or had in possession in furtherance of a crime.

9.7 ~~(e)~~ (d) "Property" means property as defined in section 609.52, subdivision 1,
 9.8 clause (1).

9.9 (e) "Constructive knowledge" means knowledge that is imputed to family or
 9.10 household members of the owner, as defined in section 169A.60, subdivision 1, paragraph
 9.11 (b), if the owner has been adjudicated guilty three or more times for the same or a specified
 9.12 similar violation in the last ten years.

9.13 ~~(d)~~ (f) "Contraband" means property which is illegal to possess under Minnesota law.

9.14 ~~(e)~~ (g) "Appropriate agency" means the Bureau of Criminal Apprehension, the
 9.15 Department of Commerce Fraud Bureau, the Minnesota Division of Driver and Vehicle
 9.16 Services, the Minnesota State Patrol, a county sheriff's department, the Three Rivers Park
 9.17 District park rangers, the Department of Natural Resources Division of Enforcement, the
 9.18 University of Minnesota Police Department, the Department of Corrections Fugitive
 9.19 Apprehension Unit, a city, metropolitan transit, or airport police department; or a
 9.20 multijurisdictional entity established under section 299A.642 or 299A.681.

9.21 ~~(f)~~ (h) "Designated offense" includes:

9.22 (1) for weapons used: any violation of this chapter, chapter 152 or 624;

9.23 (2) for driver's license or identification card transactions: any violation of section
 9.24 171.22; and

9.25 (3) for all other purposes: a felony violation of, or a felony-level attempt or
 9.26 conspiracy to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.21;
 9.27 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.282;
 9.28 609.283; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1,
 9.29 clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345,
 9.30 subdivision 1, clauses (a) to (e), and (h) to (j); 609.352; 609.42; 609.425; 609.466;
 9.31 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551; 609.561;
 9.32 609.562; 609.563; 609.582; 609.59; 609.595; 609.611; 609.631; 609.66, subdivision 1e;
 9.33 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88;
 9.34 609.89; 609.893; 609.895; 617.246; 617.247; or a gross misdemeanor or felony violation
 9.35 of section 609.891 or 624.7181; or any violation of section 609.324.

9.36 ~~(g)~~ (i) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

10.1 ~~(h)~~ (j) "Prosecuting authority" means the attorney who is responsible for prosecuting
10.2 an offense that is the basis for a forfeiture under sections 609.531 to 609.5318.

10.3 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to
10.4 offenses committed on or after that date.

10.5 Sec. 8. Minnesota Statutes 2014, section 609.531, is amended by adding a subdivision
10.6 to read:

10.7 **Subd. 9. Limitations and defenses to forfeiture; ownership or interest at time of**
10.8 **the crime.** (a) For purposes of sections 84.7741, 169A.63, 609.5311, 609.5312, 609.5314,
10.9 and 609.5318, an innocent owner claimant may file a claim for the return of property
10.10 that the claimant owned or had interest in at the time of the crime by using the process
10.11 described in this subdivision. The innocent owner claimant may file a claim at any time
10.12 prior to the commencement of the underlying criminal trial and request a prompt hearing.

10.13 (b) The prosecuting authority may move to postpone the hearing for a reasonable
10.14 period of time not to exceed five days, unless approved by the court, for the prosecuting
10.15 authority to complete an investigation of the property related to the underlying criminal
10.16 charge.

10.17 (c) The alleged suspect or convicted offender may invoke the right against
10.18 self-incrimination at a civil hearing consistent with state law.

10.19 (d) The innocent owner claimant has the burden of production to show by a
10.20 preponderance of the evidence that the claimant:

10.21 (1) had a full or joint ownership or security interest in the property at the time the
10.22 conduct giving rise to the forfeiture occurred; and

10.23 (2) is not the person accused or convicted of the crime for which the property is
10.24 subject to forfeiture.

10.25 (e) If the claimant meets the burden of production in paragraph (d), the property
10.26 is subject to forfeiture if the prosecuting authority proves by a preponderance of the
10.27 evidence that the claimant:

10.28 (1) had actual or constructive knowledge of the crime giving rise to the forfeiture; or

10.29 (2) consented to the act or omission upon which the forfeiture is based.

10.30 (f) If the trier-of-fact determines the property is not subject to forfeiture, all claims
10.31 of right, title, and interest to the property that vested in the state are relinquished. The
10.32 court shall order the return of the property within a reasonable period of time.

10.33 (g) Notwithstanding paragraph (f), if the property is jointly owned, the court may
10.34 divide and allocate interest in the property among its joint owners and order the return
10.35 of a prorated amount of the property only to the innocent owner claimant. The court

11.1 may divide and allocate the property based on the joint owners' history of payments of
11.2 initial and ongoing costs, or other factors required to realize an equitable division and
11.3 allocation of the property.

11.4 (h) At the claimant's option, the court may realize the division of jointly owned
11.5 property in paragraph (g) by ordering:

11.6 (1) the sale of property in a commercially reasonable manner and dividing the
11.7 resulting net proceeds after first extinguishing any security interest perfected according to
11.8 section 168A.17, subdivision 2, or subject to a lease that has a term of 180 days or more;

11.9 (2) the claimant to remit payment for the portion of the net value in the property
11.10 not awarded to the claimant; or

11.11 (3) other equitable means.

11.12 For purposes of clause (2), the net value is calculated by first establishing the market value
11.13 of the property and then subtracting any security interest perfected according to section
11.14 168A.17, subdivision 2, or subject to a lease that has a term of 180 days or more.

11.15 (i) Notwithstanding paragraphs (e) to (h), the court may order the return of the
11.16 undivided property to the claimant in a case involving forfeiture under section 169A.63
11.17 if the claimant shows by a preponderance of the evidence either that failing to return
11.18 the vehicle would deprive the claimant of reasonable means to employment or care for
11.19 dependents residing with the claimant, or the innocent owner claimant took reasonable
11.20 steps to prevent the use of the vehicle by the offender.

11.21 (j) The claimant is responsible for paying towing and storage fees if the appropriate
11.22 agency returns a seized vehicle within 60 days following seizure. After 60 days following
11.23 seizure, the appropriate agency is responsible for paying towing and storage fees if the
11.24 trier-of-fact determines the claims are valid.

11.25 (k) Except as provided in paragraph (h), an off-highway or motor vehicle
11.26 encumbered by a security interest perfected according to section 168A.17, subdivision
11.27 2, or subject to a lease that has a term of 180 days or more, is subject to the interest of
11.28 the secured party or lessor. When the proceeds of the sale of a seized off-highway or
11.29 motor vehicle encumbered by a perfected security interest vehicle do not equal or exceed
11.30 the outstanding loan balance, the appropriate agency shall remit all proceeds of the sale
11.31 to the secured party after deducting the agency's allowed costs for the seizure, towing,
11.32 storage, forfeiture, and sale of the vehicle.

11.33 (l) If a sale of a vehicle is conducted in a commercially reasonable manner consistent
11.34 with section 336.9-610, the agency is not liable to the secured party for any amount owed
11.35 on the loan in excess of the sale proceeds.

12.1 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to
12.2 offenses committed on or after that date.

12.3 Sec. 9. Minnesota Statutes 2014, section 609.531, is amended by adding a subdivision
12.4 to read:

12.5 Subd. 10. **Limitations and defenses to forfeiture; ownership or interest acquired**
12.6 **after crime.** (a) For purposes of sections 84.7741, 169A.63, 609.5311, 609.5312,
12.7 609.5314, and 609.5318, an innocent owner claimant may file a claim for the return of
12.8 property that the claimant acquired an interest in after the time of the crime by using the
12.9 process described in this subdivision. The innocent owner claimant may file a claim
12.10 at any time prior to the commencement of the underlying criminal trial and request
12.11 a prompt hearing.

12.12 (b) The prosecuting authority may move to postpone the hearing for a reasonable
12.13 period of time not to exceed five days, unless approved by the court, for the prosecuting
12.14 authority to complete an investigation of the property related to the underlying criminal
12.15 charge.

12.16 (c) The alleged suspect or convicted offender may invoke the right against
12.17 self-incrimination at a civil hearing consistent with state law.

12.18 (d) The innocent owner claimant has the burden of production to show by a
12.19 preponderance of the evidence that the claimant:

12.20 (1) acquired a full or joint ownership or security interest in the property after the
12.21 commission of the crime giving rise to the forfeiture; and

12.22 (2) is not the person accused or convicted of the crime for which the property is
12.23 subject to forfeiture.

12.24 (e) Property is subject to forfeiture if the prosecuting authority proves by a
12.25 preponderance of the evidence that, at the time of acquisition of the property, the claimant:

12.26 (1) had actual or constructive knowledge of the crime giving rise to the forfeiture;

12.27 (2) consented to the act or omission upon which the forfeiture is based; or

12.28 (3) was not a bona fide purchaser for valuable consideration and without notice of
12.29 any defect in title.

12.30 (f) If the trier-of-fact determines the property is not subject to forfeiture, all claims
12.31 of right, title, and interest to the property that vested in the state are relinquished. The
12.32 court shall order the return of the property within a reasonable period of time.

12.33 (g) The claimant is responsible for paying towing and storage fees if the appropriate
12.34 agency returns a seized vehicle within 60 days following seizure. After 60 days following

13.1 seizure, the appropriate agency is responsible for paying towing and storage fees if the
13.2 trier-of-fact determines the claims are valid.

13.3 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to
13.4 offenses committed on or after that date.

13.5 Sec. 10. Minnesota Statutes 2014, section 609.531, is amended by adding a subdivision
13.6 to read:

13.7 Subd. 11. **Return of filing fees.** If the court orders the return of seized property
13.8 under this section, it must order that filing fees be reimbursed to the person who filed the
13.9 demand for judicial determination or contested the forfeiture. Any reimbursement fees
13.10 must be paid from other forfeiture proceeds of the appropriate agency and prosecuting
13.11 authority involved, in the same proportion as proceeds would be distributed for the sale
13.12 of the property had it been forfeited, and any remaining proportion shall be divided and
13.13 paid evenly from the agencies.

13.14 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to
13.15 offenses committed on or after that date.

13.16 Sec. 11. Minnesota Statutes 2014, section 609.531, is amended by adding a subdivision
13.17 to read:

13.18 Subd. 12. **Exemption; homestead property.** Real property that qualifies for the
13.19 homestead exemption as determined in sections 510.01 and 510.02, is not subject to
13.20 forfeiture.

13.21 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to
13.22 offenses committed on or after that date.

13.23 Sec. 12. Minnesota Statutes 2014, section 609.5311, subdivision 3, is amended to read:

13.24 **Subd. 3. Limitations on forfeiture of certain property associated with controlled**
13.25 **substances.** (a) A conveyance device is subject to forfeiture under this section only if
13.26 the retail value of the controlled substance is \$75 or more and the conveyance device is
13.27 associated with a felony-level controlled substance crime.

13.28 (b) Real property that does not qualify for the homestead exemption as determined
13.29 in sections 510.01 and 510.02, is subject to forfeiture under this section only if the retail
13.30 value of the controlled substance or contraband is \$2,000 or more.

13.31 (c) ~~Property used by any person as a common carrier in the transaction of business~~
13.32 ~~as a common carrier is subject to forfeiture under this section only if the owner of the~~

14.1 ~~property is a consenting party to, or is privy to, the use or intended use of the property as~~
 14.2 ~~described in subdivision 2. The limitations and defenses in section 609.531, subdivisions~~
 14.3 ~~9 and 10, apply to forfeitures under this section.~~

14.4 ~~(d) Property is subject to forfeiture under this section only if its owner was privy to~~
 14.5 ~~the use or intended use described in subdivision 2, or the unlawful use or intended use of~~
 14.6 ~~the property otherwise occurred with the owner's knowledge or consent.~~

14.7 ~~(e) Forfeiture under this section of a conveyance device or real property encumbered~~
 14.8 ~~by a bona fide security interest is subject to the interest of the secured party unless the~~
 14.9 ~~secured party had knowledge of or consented to the act or omission upon which the~~
 14.10 ~~forfeiture is based. A person claiming a security interest bears the burden of establishing~~
 14.11 ~~that interest by clear and convincing evidence.~~

14.12 ~~(f) Forfeiture under this section of real property is subject to the interests of a good~~
 14.13 ~~faith purchaser for value unless the purchaser had knowledge of or consented to the act or~~
 14.14 ~~omission upon which the forfeiture is based.~~

14.15 ~~(g) Notwithstanding paragraphs (d), (e), and (f), property is not subject to forfeiture based~~
 14.16 ~~solely on the owner's or secured party's knowledge of the unlawful use or intended use of~~
 14.17 ~~the property if: (1) the owner or secured party took reasonable steps to terminate use of~~
 14.18 ~~the property by the offender; or (2) the property is real property owned by the parent of the~~
 14.19 ~~offender, unless the parent actively participated in, or knowingly acquiesced to, a violation~~
 14.20 ~~of chapter 152, or the real property constitutes proceeds derived from or traceable to a~~
 14.21 ~~use described in subdivision 2.~~

14.22 ~~(h) (d)~~ The Department of Corrections Fugitive Apprehension Unit shall not seize a
 14.23 conveyance device or real property, for the purposes of forfeiture under paragraphs (a)
 14.24 ~~to (g) and (b).~~

14.25 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
 14.26 committed on or after that date.

14.27 Sec. 13. Minnesota Statutes 2014, section 609.5312, subdivision 2, is amended to read:

14.28 **Subd. 2. Limitations on forfeiture of property associated with designated**
 14.29 **offenses.** ~~(a) Property used by a person as a common carrier in the transaction of business~~
 14.30 ~~as a common carrier is subject to forfeiture under this section only if the owner of the~~
 14.31 ~~property is a consenting party to, or is privy to, the commission of a designated offense.~~
 14.32 The limitations and defenses in section 609.531, subdivisions 9 and 10, apply to forfeitures
 14.33 under subdivisions 1 and 1a.

15.1 ~~(b) Property is subject to forfeiture under this section only if the owner was privy to~~
 15.2 ~~the act or omission upon which the forfeiture is based, or the act or omission occurred~~
 15.3 ~~with the owner's knowledge or consent.~~

15.4 ~~(c) Property encumbered by a bona fide security interest is subject to the interest of~~
 15.5 ~~the secured party unless the party had knowledge of or consented to the act or omission~~
 15.6 ~~upon which the forfeiture is based. A person claiming a security interest bears the burden~~
 15.7 ~~of establishing that interest by clear and convincing evidence.~~

15.8 ~~(d) Notwithstanding paragraphs (b) and (c), property is not subject to forfeiture~~
 15.9 ~~based solely on the owner's or secured party's knowledge of the act or omission upon~~
 15.10 ~~which the forfeiture is based if the owner or secured party took reasonable steps to~~
 15.11 ~~terminate use of the property by the offender.~~

15.12 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
 15.13 committed on or after that date.

15.14 Sec. 14. Minnesota Statutes 2014, section 609.5312, subdivision 3, is amended to read:

15.15 **Subd. 3. Vehicle forfeiture for prostitution offenses.** (a) A motor vehicle is subject
 15.16 to forfeiture under this subdivision if it was used to commit or facilitate, or used during
 15.17 the commission of, a violation of section 609.324 or a violation of a local ordinance
 15.18 substantially similar to section 609.324. A motor vehicle is subject to forfeiture under
 15.19 this subdivision only if the offense is established by proof of a criminal conviction for
 15.20 the offense. Except as otherwise provided in this subdivision, a forfeiture under this
 15.21 subdivision is governed by sections 609.531, 609.5312, and 609.5313.

15.22 (b) When a motor vehicle subject to forfeiture under this subdivision is seized in
 15.23 advance of a judicial forfeiture order, a hearing before a judge or referee must be held
 15.24 within 96 hours of the seizure. Notice of the hearing must be given to the registered owner
 15.25 within 48 hours of the seizure. The prosecuting authority shall certify to the court, at or
 15.26 in advance of the hearing, that it has filed or intends to file charges against the alleged
 15.27 violator for violating section 609.324 or a local ordinance substantially similar to section
 15.28 609.324. After conducting the hearing, the court shall order that the motor vehicle be
 15.29 returned to the owner if:

15.30 (1) the prosecuting authority has failed to make the certification required by
 15.31 paragraph (b);

15.32 ~~(2) the owner of the motor vehicle has demonstrated to the court's satisfaction~~
 15.33 ~~that the owner has a defense to the forfeiture, including but not limited to the defenses~~
 15.34 ~~contained in subdivision 2~~ the court finds that the motor vehicle is not subject to forfeiture
 15.35 under section 609.531, subdivision 9 or 10; or

16.1 (3) the court determines that seizure of the vehicle creates or would create an undue
16.2 hardship for members of the owner's family.

16.3 (c) If the defendant is acquitted or prostitution charges against the defendant are
16.4 dismissed, neither the owner nor the defendant is responsible for paying any costs
16.5 associated with the seizure or storage of the vehicle.

16.6 (d) A vehicle leased or rented under section 168.27, subdivision 4, for a period of
16.7 180 days or less is not subject to forfeiture under this subdivision.

16.8 (e) For purposes of this subdivision, seizure occurs either:

16.9 (1) at the date at which personal service of process upon the registered owner is
16.10 made; or

16.11 (2) at the date when the registered owner has been notified by certified mail at the
16.12 address listed in the Minnesota Department of Public Safety computerized motor vehicle
16.13 registration records.

16.14 (f) The Department of Corrections Fugitive Apprehension Unit shall not participate
16.15 in paragraphs (a) to (e).

16.16 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
16.17 committed on or after that date.

16.18 Sec. 15. Minnesota Statutes 2014, section 609.5312, subdivision 4, is amended to read:

16.19 Subd. 4. **Vehicle forfeiture for fleeing peace officer.** (a) A motor vehicle is subject
16.20 to forfeiture under this subdivision if it was used to commit a violation of section 609.487
16.21 and endanger life or property. A motor vehicle is subject to forfeiture under this subdivision
16.22 only if the offense is established by proof of a criminal conviction for the offense. Except
16.23 as otherwise provided in this subdivision, a forfeiture under this subdivision is governed
16.24 by sections 609.531, 609.5312, 609.5313, and 609.5315, subdivision 6.

16.25 (b) When a motor vehicle subject to forfeiture under this subdivision is seized in
16.26 advance of a judicial forfeiture order, a hearing before a judge or referee must be held
16.27 within 96 hours of the seizure. Notice of the hearing must be given to the registered owner
16.28 within 48 hours of the seizure. The prosecuting authority shall certify to the court, at or
16.29 in advance of the hearing, that it has filed or intends to file charges against the alleged
16.30 violator for violating section 609.487. After conducting the hearing, the court shall order
16.31 that the motor vehicle be returned to the owner if:

16.32 (1) the prosecuting authority has failed to make the certification required by this
16.33 paragraph;

16.34 (2) ~~the owner of the motor vehicle has demonstrated to the court's satisfaction~~
16.35 ~~that the owner has a defense to the forfeiture, including but not limited to the defenses~~

17.1 ~~contained in subdivision 2~~ the court finds that the motor vehicle is not subject to forfeiture
 17.2 under section 609.531, subdivision 9 or 10; or

17.3 (3) the court determines that seizure of the vehicle creates or would create an undue
 17.4 hardship for members of the owner's family.

17.5 (c) If the defendant is acquitted or the charges against the defendant are dismissed,
 17.6 neither the owner nor the defendant is responsible for paying any costs associated with the
 17.7 seizure or storage of the vehicle.

17.8 (d) A vehicle leased or rented under section 168.27, subdivision 4, for a period of
 17.9 180 days or less is not subject to forfeiture under this subdivision.

17.10 (e) A motor vehicle that is an off-road recreational vehicle as defined in section
 17.11 169A.03, subdivision 16, or a motorboat as defined in section 169A.03, subdivision 13,
 17.12 is not subject to paragraph (b).

17.13 (f) For purposes of this subdivision, seizure occurs either:

17.14 (1) at the date at which personal service of process upon the registered owner is
 17.15 made; or

17.16 (2) at the date when the registered owner has been notified by certified mail at the
 17.17 address listed in the Minnesota Department of Public Safety computerized motor vehicle
 17.18 registration records.

17.19 (g) The Department of Corrections Fugitive Apprehension Unit shall not seize a
 17.20 motor vehicle for the purposes of forfeiture under paragraphs (a) to (f).

17.21 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
 17.22 committed on or after that date.

17.23 Sec. 16. Minnesota Statutes 2014, section 609.5318, subdivision 5, is amended to read:

17.24 Subd. 5. **Limitations.** ~~(a) A vehicle used by a person as a common carrier in the~~
 17.25 ~~transaction of business as a common carrier is subject to forfeiture under this section only~~
 17.26 ~~if the owner is a consenting party to, or is privy to, the commission of the act giving rise~~
 17.27 ~~to the forfeiture.~~ The limitations and defenses in section 609.531, subdivisions 9 and
 17.28 10, apply to forfeitures under this section.

17.29 ~~(b) A vehicle is subject to forfeiture under this section only if the registered owner~~
 17.30 ~~was privy to the act upon which the forfeiture is based, the act occurred with the owner's~~
 17.31 ~~knowledge or consent, or the act occurred due to the owner's gross negligence in allowing~~
 17.32 ~~another to use the vehicle.~~

17.33 ~~(c) A vehicle encumbered by a bona fide security interest is subject to the interest of~~
 17.34 ~~the secured party unless the party had knowledge of or consented to the act upon which the~~

18.1 ~~forfeiture is based. A person claiming a security interest bears the burden of establishing~~
18.2 ~~that interest by clear and convincing evidence.~~

18.3 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to crimes
18.4 committed on or after that date.