

(2) the recipient agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurer, agent, or insurance-support organization.

Presented to the governor April 19, 1990

Signed by the governor April 20, 1990, 10:30 a.m.

CHAPTER 468—H.F.No. 2401

An act relating to traffic regulations; increasing from a petty misdemeanor to a misdemeanor the penalty for driving past railroad crossing warning devices and flaggers; providing a gross misdemeanor penalty for a railroad crossing violation committed while intoxicated; providing for instruction in railroad crossing safety at driver improvement clinics; establishing standards and procedures for closing a railroad crossing; imposing penalties; amending Minnesota Statutes 1988, sections 169.26; and 169.973, subdivision 1; Minnesota Statutes 1989 Supplement, section 169.121, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 219; repealing Minnesota Statutes 1988, sections 219.27 and 219.28.

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

Section 1. Minnesota Statutes 1989 Supplement, section 169.121, subdivision 3, is amended to read:

Subd. 3. **CRIMINAL PENALTIES.** (a) A person who violates subdivision 1 or an ordinance in conformity with it is guilty of a misdemeanor.

(b) A person is guilty of a gross misdemeanor who violates subdivision 1 or an ordinance in conformity with it within five years of a prior impaired driving conviction, or within ten years of the first of two or more prior impaired driving convictions.

For purposes of this paragraph, a prior impaired driving conviction is a prior conviction under this section, section 84.91, subdivision 1, paragraph (a), 169.129, 361.12, subdivision 1, paragraph (a), 609.21, subdivision 1, clause (2) or (3), 609.21, subdivision 2, clause (2) or (3), 609.21, subdivision 3, clause (2) or (3), 609.21, subdivision 4, clause (2) or (3), or an ordinance from this state, or a statute or ordinance from another state in conformity with any of them. A prior impaired driving conviction also includes a prior juvenile adjudication that would have been a prior impaired driving conviction if committed by an adult.

(c) A person who violates subdivision 1a is guilty of a gross misdemeanor.

(d) The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section shall also be responsible for prosecution of gross misdemeanor violations of this section.

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When an attorney responsible for prosecuting gross misdemeanors under this section requests criminal history information relating to prior impaired driving convictions from a court, the court must furnish the information without charge.

(e) A person is guilty of a gross misdemeanor if the person violates section 169.26 while in violation of subdivision 1.

Sec. 2. Minnesota Statutes 1988, section 169.26, is amended to read:

169.26 SPECIAL STOPS AT RAILROADS.

Subdivision 1. REQUIREMENTS. (a) When any person driving a vehicle approaches a railroad grade crossing and a clearly visible electric or mechanical signal device gives warning of the immediate approach of a train, under any of the circumstances stated in this paragraph, the driver of such vehicle shall stop the vehicle not less than ten feet from the nearest railroad track of such railroad and shall not proceed until safe to do so. These requirements apply when:

(1) a clearly visible electric or mechanical signal device warns of the immediate approach of a railroad train;

(2) a crossing gate is lowered warning of the immediate approach or passage of a railroad train; or

(3) an approaching railroad train is plainly visible and is in hazardous proximity.

(b) The driver of a vehicle shall stop and remain standing and not traverse such a the grade crossing when the crossing gate is lowered or when a human flagger gives or continues to give a signal of signals the approach or passage of a train. No person may drive a vehicle past a flagger at a railroad crossing until the flagger signals that the way is clear to proceed.

Subd. 2. PENALTY. A person who violates this section is guilty of a misdemeanor.

Sec. 3. Minnesota Statutes 1988, section 169.973, subdivision 1, is amended to read:

Subdivision 1. The commissioner of public safety shall supervise the administration and conduct of driver improvement clinics. The commissioner of public safety shall promulgate rules setting forth standards for the curriculum and mode of instruction of driver improvement clinics and such other matters as the commissioner of public safety considers necessary for the proper administration of such clinics. In the preparation of such standards the commissioner of public safety shall consult with the commissioner of education and state associations of judges. A driver improvement clinic established under Laws 1965, chapter 711 shall conform to the standards promulgated by the commissioner of

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public safety. The course of study at a driver improvement clinic may not exceed a cumulative total of nine hours with no single class session lasting more than three hours. The course of study at a driver improvement clinic shall include instruction in railroad crossing safety.

Sec. 4. [219.073] COMMISSIONER'S RULES ON GRADE CROSSINGS.

In accordance with chapter 14, the commissioner of transportation shall adopt rules by December 1, 1991, that contain standards governing the establishment, vacation, relocation, consolidation, and separation of grades at public grade crossings. In adopting standards, the commissioner shall consider that the number of grade crossings in this state should be reduced and that public safety will be enhanced by reducing the number of grade crossings.

Sec. 5. [219.074] GRADE CROSSING CHANGES.

Subdivision 1. AGREEMENTS; HEARING. Public officials having the necessary authority and a railway company operating the railroad may agree to the vacation, relocation, consolidation, or separation of grades at grade crossings. If agreement cannot be reached concerning the location, manner of construction, or a reasonable division of expense, either party may file a petition with the board, setting forth the facts and submitting the matter to it for determination. The board shall then conduct a hearing under chapter 14 and shall apply the rules developed under section 4 in coming to a determination. The commissioner may also bring matters concerning vacation, relocation, consolidation, or separation of grades at public grade crossings to the board for determination. If the board determines that the vacation, relocation, consolidation, or separation is consistent with the standards adopted under section 4, the board may order the crossing vacated, relocated, consolidated, or separated.

Subd. 2. CROSSING VACATION PROGRAM. On or before July 1, 1992, and on or before July 1 of each of the next four years, and as necessary afterward, the commissioner shall propose to the board a list of grade crossings proposed to be vacated. The list must be developed by applying the standards set forth in the rules adopted under section 4. Grade crossings that are part of an abandonment, closing, or removal under section 219.741, may not be included in the list. The board shall notify the public officials having the necessary authority and the railway companies operating the railroads of the proposed vacations. Either affected party may request a hearing. If requested, the board shall hold a contested case hearing applying in its determination the rules developed under section 4. If after the hearing the board determines that the vacation is consistent with the standards adopted under section 4, it may order the crossing vacated. If a request for a hearing on a particular crossing is not received within 30 days of the publication in the State Register, the board shall order the crossing vacated.

Sec. 6. REPEALER.

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Minnesota Statutes 1988, sections 219.27 and 219.28, are repealed.

Sec. 7. **EFFECTIVE DATES.**

Sections 1 and 2 are effective August 1, 1990, and apply to violations committed on or after that date. Sections 3 and 4 are effective the day following final enactment. Sections 5 and 6 are effective December 1, 1991.

Presented to the governor April 19, 1990

Signed by the governor April 20, 1990, 10:56 a.m.

CHAPTER 469—H.F.No. 1918

An act relating to waste control; providing for criminal and civil penalties for violations of criteria of the metropolitan waste control commission and the Western Lake Superior Sanitary District board; amending Minnesota Statutes 1988, section 115A.97, subdivision 4; Laws 1971, chapter 478, section 17, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 473.

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

Section 1. Minnesota Statutes 1988, section 115A.97, subdivision 4, is amended to read:

Subd. 4. **INTERIM PROGRAM.** (a) Incinerator ash is considered special waste for an interim period which expires on the occurrence of the earliest of the following events:

(1) The United States Environmental Protection Agency establishes testing and disposal requirements for incinerator ash;

(2) The agency adopts the rules required in subdivision 3; or

(3) June 30, ~~1990~~ 1991.

(b) As a special waste incinerator ash must be stored separately from mixed municipal solid waste with adequate controls to protect the environment as provided in agency permits. For the interim period, the agency, in cooperation with generators of incinerator ash and other interested parties, shall establish a temporary program to test, monitor, and store incinerator ash. The program must include separate testing of fly ash, bottom ash, and combined ash unless the agency determines that because of physical constraints at the facility separate samples of fly ash and bottom ash cannot be reasonably obtained in which case only combined ash must be tested. Incinerator ash stored during the interim is subject to the rules adopted pursuant to subdivision 3 and to the provisions of chapter 115B.

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