

Sec. 19. **EFFECTIVE DATE.**

Section 2 is effective for claims submitted by a claimant agency after June 30, 1994. Section 3 is effective for taxes levied in 1994, payable in 1995, and subsequent years. The remainder of this act is effective the day following final enactment.

Presented to the governor May 6, 1994

Signed by the governor May 10, 1994, 4:42 p.m.

CHAPTER 615—S.F.No. 1961

An act relating to driving while intoxicated; imposing increased penalties on persons who operate a snowmobile or motorboat while intoxicated and who have previously been convicted of driving a motor vehicle while intoxicated; requiring reports of accidents and deaths related to recreational motor vehicles and watercraft; modifying provisions relating to forfeited vehicles; imposing minimum mandatory sentences for habitual offenders; clarifying conditions under which juvenile's driver's license may be suspended for underage drinking violations; changing sentencing guidelines; extending maximum length for multiple gross misdemeanor sentences and combined gross misdemeanor and misdemeanor sentences; extending maximum length of a stayed gross misdemeanor DWI sentence and certain felony sentences; authorizing consecutive sentences for multiple crimes committed by repeat DWI offenders; authorizing certain cities to transfer responsibility for petty misdemeanor and misdemeanor offenses to the county attorney; clarifying prosecution authority for certain offenses; amending Minnesota Statutes 1992, sections 84.91, subdivisions 5 and 7; 84.911, by adding a subdivision; 86B.331, subdivisions 5 and 7; 86B.335, by adding a subdivision; 86B.341, subdivision 1; 168.042, subdivision 8; 169.121, subdivision 11; 169.791, subdivision 2; 171.12, subdivision 2; and 629.471, subdivision 2; Minnesota Statutes 1993 Supplement, sections 84.924, subdivision 3; 169.121, subdivisions 1c, 3, 3a, and 4; 169.1217, subdivision 9; 169.129; 171.24; 340A.503, subdivision 1; 487.25, subdivision 10; 609.035; 609.135, subdivision 2; and 609.15, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 169; repealing Minnesota Statutes 1992, sections 84.87, subdivision 2b; and 84.928, subdivision 3.

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

Section 1. Minnesota Statutes 1992, section 84.91, subdivision 5, is amended to read:

Subd. 5. **PENALTIES.** (a) A person who violates any prohibition contained in 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 any prohibition contained in subdivision 1;

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(1) within five years of a prior:

(i) conviction under ~~that subdivision or subdivision 1, sections 86B.331, subdivision 1, 169.121, 169.129, or 609.21, subdivisions 1, clauses (2) to (4), 2, clauses (2) to (4), 3, clauses (2) to (4), or 4, clauses (2) to (4);~~

(ii) civil liability under section 84.911, subdivision 2, or section 86B.335, subdivision 2; or

(iii) conviction under an ordinance of this state or a statute or ordinance from another state in conformity with either any of them; or

(2) within ten years of the first of two or more prior:

(i) convictions under ~~that subdivision or subdivision 1, sections 86B.331, subdivision 1, 169.121, 169.129, or 609.21, subdivision 1, clauses (2) to (4), 2, clauses (2) to (4), 3, clauses (2) to (4), or 4, clauses (2) to (4);~~

(ii) ~~civil liability liabilities~~ under section 84.911, subdivision 2, or an ordinance section 86B.335, subdivision 2;

(iii) convictions of ordinances in conformity with either any of them; is guilty of a gross misdemeanor; or

(iv) convictions or liabilities under any combination of items (i) to (iii).

(c) The attorney in the jurisdiction where the violation occurred who is responsible for prosecuting misdemeanor violations of this section is also responsible for prosecuting gross misdemeanor violations of this section. When an attorney responsible for prosecuting gross misdemeanors under this section requests criminal history information relating to prior convictions from a court, the court must furnish the information without charge.

(d) A person who operates a snowmobile or all-terrain vehicle during the period the person is prohibited from operating the vehicle under subdivision 6 is guilty of a misdemeanor.

Sec. 2. Minnesota Statutes 1992, section 84.91, subdivision 7, is amended to read:

Subd. 7. **DUTIES OF COMMISSIONER.** The court shall promptly forward to the commissioner and the department of public safety copies of all convictions and criminal and civil penalties imposed under subdivision 5 and section 84.911, subdivision 2. The commissioner shall notify the convicted person of the period during which the person is prohibited from operating a snowmobile or all-terrain vehicle under subdivision 6 or section 84.911, subdivision 2. The commissioner shall also periodically circulate to appropriate law enforcement agencies a list of all persons who are prohibited from operating a snowmobile or all-terrain vehicle under subdivision 6 or section 84.911, subdivision 2.

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Sec. 3. Minnesota Statutes 1992, section 84.911, is amended by adding a subdivision to read:

Subd. 7. CORONER TO REPORT DEATH. Every coroner or medical examiner shall report in writing to the department of natural resources the death of any person within the coroner's jurisdiction as the result of an accident involving a recreational motor vehicle, as defined in section 84.90, subdivision 1, and the circumstances of the accident. The report shall be made within 15 days after the death.

In the case of drivers killed in recreational motor vehicle accidents and of the death of passengers 14 years of age or older, who die within four hours after accident, the coroner or medical examiner shall examine the body and shall make tests as are necessary to determine the presence and percentage concentration of alcohol, and drugs if feasible, in the blood of the victim. This information shall be included in each report submitted pursuant to the provisions of this subdivision and shall be tabulated by the department of natural resources. Periodically, the commissioner of natural resources must transmit a summary of the reports to the commissioner of public safety.

Sec. 4. Minnesota Statutes 1993 Supplement, section 84.924, subdivision 3, is amended to read:

Subd. 3. ACCIDENT REPORT; REQUIREMENT AND FORM. The operator and an officer investigating an accident of an all-terrain vehicle involved in an accident resulting in injury requiring medical attention or hospitalization to or death of a person or total damage to an extent of \$500 or more shall within ten business days forward a written report of the accident to the commissioner of natural resources on a form prescribed by either the commissioner of natural resources or by the commissioner of public safety. If the operator is killed or is unable to file a report due to incapacitation, any peace officer investigating the accident shall file the accident report within ten business days. Periodically, the commissioner of natural resources must transmit a summary of the accident reports to the commissioner of public safety.

Sec. 5. Minnesota Statutes 1992, section 86B.331, subdivision 5, is amended to read:

Subd. 5. PENALTIES. (a) A person who violates a prohibition contained in 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 a prohibition contained in subdivision 1:

(1) within five years of a prior:

(i) conviction under that subdivision or subdivision 1, sections 84.91, subdivision 1, 169.121, 169.129, or 609.21, subdivision 1, clauses (2) to (4), 2, clauses (2) to (4), 3, clauses (2) to (4), or 4, clauses (2) to (4);

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(ii) civil liability under section 84.911, subdivision 2, or 86B.335, subdivision 2; or

(iii) conviction under an ordinance of this state or a statute or ordinance from another state in conformity with either any of them; or

(2) within ten years of the first of two or more prior;

(i) convictions under that subdivision or subdivision 1, sections 84.91, subdivision 1, 169.121, 169.129, or 609.21, subdivisions 1, clauses (2) to (4), 2, clauses (2) to (4), 3, clauses (2) to (4), or 4, clauses (2) to (4);

(ii) civil liability liabilities under section 84.911, subdivision 2, or 86B.335, subdivision 2; or an ordinance;

(iii) convictions of ordinances in conformity with either any of them; is guilty of a gross misdemeanor; or

(iv) convictions or liabilities under any combination of items (i) to (iii).

(c) The attorney in the jurisdiction where the violation occurred who is responsible for prosecution of misdemeanor violations of this section is also responsible for prosecution of gross misdemeanor violations of this section. When an attorney responsible for prosecuting gross misdemeanors under this section requests criminal history information relating to prior convictions from a court, the court must furnish the information without charge.

(d) A person who operates a motorboat on the waters of this state during the period the person is prohibited from operating any motorboat or after the person's watercraft operator's permit has been revoked, as provided under subdivision 6, is guilty of a misdemeanor.

Sec. 6. Minnesota Statutes 1992, section 86B.331, subdivision 7, is amended to read:

Subd. 7. **DUTIES OF COMMISSIONER.** The court shall promptly forward copies of all convictions and criminal and civil penalties imposed under subdivision 5 and section 86B.335, subdivision 2, to the commissioner and the department of public safety. The commissioner shall notify the convicted person of the period when the person is prohibited from operating a motorboat as provided under subdivision 6 or section 86B.335, subdivision 2. The commissioner shall also periodically circulate to appropriate law enforcement agencies a list of all persons who are prohibited from operating any motorboat or have had their watercraft operator's permits revoked pursuant to subdivision 6 or section 86B.335, subdivision 2.

Sec. 7. Minnesota Statutes 1992, section 86B.335, is amended by adding a subdivision to read:

Subd. 13. CORONER TO REPORT DEATH. Every coroner or medical

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examiner shall report in writing to the department of natural resources the death of any person within the coroner's jurisdiction as the result of an accident involving any watercraft or drowning and the circumstances of the accident. The report shall be made within 15 days after the death or recovery.

In the case of operators killed in watercraft accidents, or the death of passengers or drowning victims 14 years of age or older, who die within four hours after accident, the coroner or medical examiner shall examine the body and shall make tests as are necessary to determine the presence and percentage concentration of alcohol, and drugs if feasible, in the blood of the victim. This information shall be included in each report submitted pursuant to the provisions of this subdivision and shall be tabulated by the department of natural resources. Periodically, the commissioner of natural resources must transmit a summary of the reports to the commissioner of public safety.

Sec. 8. Minnesota Statutes 1992, section 86B.341, subdivision 1, is amended to read:

Subdivision 1. **OPERATOR'S DUTY AT ACCIDENT OR INCIDENT.** (a) The operator of a watercraft involved in an accident or incident resulting in injury or death to a person or in damage to property shall, if possible without serious danger to the watercraft or the persons aboard, immediately stop at the scene of the accident or incident and render assistance as may be practicable and necessary.

(b) The operator must give the operator's name, address, and license number of the watercraft and the name and address of the owner of the watercraft to the person injured or the operator or occupants of the other watercraft or owner or occupant of the property involved. The operator must promptly report the accident or incident to the sheriff of the county where the accident or incident occurred. Sheriffs are required to report all accidents and incidents to the commissioner of natural resources, who ~~shall~~ must periodically transmit a summary of the reports to the commissioner of public safety, and transmit statistics on boating accidents and incidents to the United States Coast Guard.

Sec. 9. Minnesota Statutes 1992, section 168.042, subdivision 8, is amended to read:

Subd. 8. **REISSUANCE OF REGISTRATION PLATES.** (a) The commissioner shall rescind the impoundment order if a person subject to an impoundment order under this section, other than the violator, files with the commissioner an acceptable sworn statement ~~that the person~~ containing the following information:

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

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

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

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

(5) that the person was not a passenger in the vehicle at the time of the violation; and

(4) (6) that the person knows that the violator may not drive, operate, or be in physical control of a vehicle without a valid driver's license.

(b) The commissioner may not rescind the impoundment order nor reissue registration plates to a registered owner if the owner knew or had reason to know that the violator did not have a valid driver's license on the date the violator obtained the vehicle from the owner.

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

Sec. 10. Minnesota Statutes 1993 Supplement, section 169.121, subdivision 1c, is amended to read:

Subd. 1c. **CONDITIONAL RELEASE.** Unless maximum bail is imposed, a person charged with violating subdivision 1 within ten years of the first of three prior impaired driving convictions or within the person's lifetime after four or more prior impaired driving convictions may be released from detention only ~~upon~~ if the following conditions unless maximum bail is imposed are imposed in addition to the other conditions of release ordered by the court:

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

(2) a requirement that the alleged violator report weekly to a probation agent;

(3) a requirement that the alleged violator abstain from consumption of alcohol and controlled substances and submit to random, weekly alcohol tests or urine analyses; and

(4) a requirement that, if convicted, the alleged violator reimburse the court or county for the total cost of these services.

Sec. 11. Minnesota Statutes 1993 Supplement, section 169.121, subdivision 3, is amended to read:

Subd. 3. **CRIMINAL PENALTIES.** (a) As used in this subdivision:

(1) "prior impaired driving conviction" means a prior conviction under this section; section 84.91, subdivision 1, paragraph (a); 86B.331, subdivision 1, paragraph (a); 169.129; 360.0752; 609.21, subdivision 1, clauses (2) to (4);

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609.21, subdivision 2, clauses (2) to (4); 609.21, subdivision 2a, clauses (2) to (4); 609.21, subdivision 3, clauses (2) to (4); 609.21, subdivision 4, clauses (2) to (4); 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; and

(2) "prior license revocation" means a driver's license suspension, revocation, or cancellation under this section; section 169.123; 171.04; 171.14; 171.16; 171.17; or 171.18 because of an alcohol-related incident; 609.21, subdivision 1, clauses (2) to (4); 609.21, subdivision 2, clauses (2) to (4); 609.21, subdivision 2a, clauses (2) to (4); 609.21, subdivision 3, clauses (2) to (4); or 609.21, subdivision 4, clauses (2) to (4).

(b) A person who violates subdivision 1 or 1a, or an ordinance in conformity with either of them, is guilty of a misdemeanor.

(c) A person is guilty of a gross misdemeanor under any of the following circumstances:

(1) the person violates subdivision 1 within five years of a prior impaired driving conviction, or within ten years of the first of two or more prior impaired driving convictions;

(2) the person violates subdivision 1a within five years of a prior license revocation, or within ten years of the first of two or more prior license revocations;

(3) the person violates section 169.26 while in violation of subdivision 1; or

(4) the person violates subdivision 1 or 1a while a child under the age of 16 is in the vehicle, if the child is more than 36 months younger than the violator.

(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.

(e) The court must impose consecutive sentences when it sentences a person for a violation of this section or section 169.29 arising out of separate behavioral incidents. The court also must impose a consecutive sentence when it sentences a person for a violation of this section or section 169.129 and the person, at the time of sentencing, is on probation for, or serving, an executed sentence for a violation of this section or section 169.29 and the prior sentence involved a separate behavioral incident. The court also may order that the sentence imposed for a violation of this section or section 169.29 shall run consecutively to a previously imposed misdemeanor, gross misdemeanor or felony sentence for a violation other than this section or section 169.129.

(f) When an attorney responsible for prosecuting gross misdemeanors under this section requests criminal history information relating to prior impaired

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driving convictions from a court, the court must furnish the information without charge.

(g) A violation of subdivision 1a may be prosecuted either in the jurisdiction where the arresting officer observed the defendant driving, operating, or in control of the motor vehicle or in the jurisdiction where the refusal occurred.

Sec. 12. Minnesota Statutes 1993 Supplement, section 169.121, subdivision 3a, is amended to read:

Subd. 3a. **HABITUAL OFFENDER PENALTIES.** (a) If Except as otherwise provided in paragraph (b), a person has been convicted under this section, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them, and if the person is then convicted of a gross misdemeanor violation of this section, a violation of section 169.129, or an ordinance in conformity with either of them (1) once within five years after the first conviction or (2) two or more times within ten years after the first conviction, the person must be sentenced to a minimum of 30 days imprisonment, at least 48 hours of which must be served consecutively, or to eight hours of community work service for each day less than 30 days that the person is ordered to serve in jail. Provided, that if a person is convicted of violating this section, section 169.129, or an ordinance in conformity with either of them two or more times within five years after the first conviction, or within five years after the first of two or more license revocations, as defined in subdivision 3, paragraph (a), clause (2), the person must be sentenced to a minimum of 30 days imprisonment, at least 48 hours of which must be served consecutively, and the sentence may not be waived under paragraph ~~(b)~~ or (c) or (d). Notwithstanding section 609.135, the above sentence must be executed, unless the court departs from the mandatory minimum sentence under paragraph ~~(b)~~ or (c) or (d).

(b) A person must be sentenced to a minimum of one year of incarceration, at least 48 hours of which must be served consecutively, or of intensive probation using an electronic alcohol monitoring system, or a combination thereof, if the person is convicted of violating this section, section 169.129, or an ordinance in conformity with either of them: (1) within 10 years of the first of five, or within 15 years of the first of seven, prior license revocations, as defined in subdivision 3, paragraph (a), clause (2), or (2) within 10 years of the first of five, or within 15 years of the first of seven, prior convictions under this section, section 169.129, or an ordinance in conformity with either of them.

~~(b)~~ (c) Prior to sentencing the prosecutor may file a motion to have the defendant sentenced without regard to the mandatory minimum sentence established by this subdivision. The motion must be accompanied by a statement on the record of the reasons for it. When presented with the prosecutor's motion and if it finds that substantial mitigating factors exist, the court shall sentence the defendant without regard to the mandatory minimum sentence established by this subdivision.

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(e) (d) The court may, on its own motion, sentence the defendant without regard to the mandatory minimum sentence established by this subdivision if it finds that substantial mitigating factors exist and if its sentencing departure is accompanied by a statement on the record of the reasons for it.

(d) (e) The court may sentence the defendant without regard to the mandatory minimum sentence established by this subdivision if the defendant is sentenced to probation and ordered to participate in a program established under section 169.1265.

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

Sec. 13. Minnesota Statutes 1993 Supplement, section 169.121, subdivision 4, is amended to read:

Subd. 4. **ADMINISTRATIVE PENALTIES.** (a) The commissioner of public safety shall revoke the driver's license of a person convicted of violating this section or an ordinance in conformity with it as follows:

(1) first offense under subdivision 1: not less than 30 days;

(2) first offense under subdivision 1a: not less than 90 days;

(3) second offense in less than five years, or third or subsequent offense on the record: (i) if the current conviction is for a violation of subdivision 1, not less than 180 days and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169.126; or (ii) if the current conviction is for a violation of subdivision 1a, not less than one year and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169.126;

(4) third offense in less than five years: not less than one year, together with denial under section 171.04, subdivision 1, clause (8), until rehabilitation is established in accordance with standards established by the commissioner;

(5) fourth or subsequent offense on the record: not less than two years, together with denial under section 171.04, subdivision 1, clause (8), until rehabilitation is established in accordance with standards established by the commissioner.

(b) If the person convicted of violating this section is under the age of 21 years, the commissioner of public safety shall revoke the offender's driver's license or operating privileges for a period of six months or for the appropriate

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period of time under paragraph (a), clauses (1) to (5), for the offense committed, whichever is the greatest period.

(c) For purposes of this subdivision, a juvenile adjudication under this section, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them is an offense.

(d) Whenever department records show that the violation involved personal injury or death to any person, not less than 90 additional days shall be added to the base periods provided above.

(e) Except for a person whose license has been revoked under paragraph (b), and except for a person who commits a violation described in subdivision 3, paragraph (c), clause (4), (child endangerment), any person whose license has been revoked pursuant to section 169.123 as the result of the same incident, and who does not have a prior impaired driving conviction or prior license revocation as defined in subdivision 3 within the previous ten years, is subject to the mandatory revocation provisions of paragraph (a), clause (1) or (2), in lieu of the mandatory revocation provisions of section 169.123.

Sec. 14. Minnesota Statutes 1992, section 169.121, subdivision 11, is amended to read:

Subd. 11. **APPLICABILITY TO RECREATIONAL VEHICLES.** For purposes of this section and section 169.123, "motor vehicle" does not include a snowmobile as defined in section 84.81, or an all-terrain vehicle as defined in section 84.92. This subdivision does not prevent the commissioner of public safety from recording on driving records violations involving snowmobiles and all-terrain vehicles.

Sec. 15. Minnesota Statutes 1993 Supplement, section 169.1217, subdivision 9, is amended to read:

Subd. 9. **DISPOSITION OF FORFEITED VEHICLES.** (a) If the court finds under subdivision 8 that the vehicle is subject to forfeiture, it shall order the appropriate agency to:

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

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

(b) The proceeds from the sale of forfeited vehicles, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be forwarded to the treasury of the political subdivision that employs the appropriate agency responsible for the forfeiture for use in DWI-related enforcement, training and education. If the appropriate agency is an

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agency of state government, the net proceeds must be forwarded to the agency for use in DWI-related enforcement, training, and education until June 30, 1994, and thereafter to the state treasury and credited to the general fund.

Sec. 16. Minnesota Statutes 1993 Supplement, section 169.129, is amended to read:

169.129 AGGRAVATED VIOLATIONS; PENALTY.

Any person is guilty of a gross misdemeanor who drives, operates, or is in physical control of a motor vehicle, the operation of which requires a driver's license, within this state or upon the ice of any boundary water of this state in violation of section 169.121 or an ordinance in conformity with it before the person's driver's license or driver's privilege has been reinstated following its cancellation, suspension, revocation, or denial under any of the following: section 169.121, 169.1211, or 169.123; section 171.04, 171.14, 171.16, 171.17, or 171.18 because of an alcohol-related incident; section 609.21, subdivision 1, clauses (2) to (4); 609.21, subdivision 2, clauses (2) to (4); 609.21, subdivision 2a, clauses (2) to (4); 609.21, subdivision 3, clauses (2) to (4); or 609.21, subdivision 4, clauses (2) to (4).

The attorney in the jurisdiction in which the violation of this section occurred who is responsible for prosecution of misdemeanor violations of section 169.121 shall also be responsible for prosecution of violations of this section.

Sec. 17. Minnesota Statutes 1992, section 169.791, subdivision 2, is amended to read:

Subd. 2. REQUIREMENT FOR DRIVER WHETHER OR NOT THE OWNER. Every driver shall have in possession at all times when operating a vehicle and shall produce on demand of a peace officer proof of insurance in force at the time of the demand covering the vehicle being operated. If the driver does not produce the required proof of insurance upon the demand of a peace officer, the driver is guilty of a misdemeanor. A person is guilty of a gross misdemeanor who violates this section within ten years of the first of two prior convictions under this section, section 169.797, or a statute or ordinance in conformity with one of those sections. The same prosecuting authority who is responsible for prosecuting misdemeanor violations of this section is responsible for prosecuting gross misdemeanor violations of this section. A driver who is not the owner of the vehicle may not be convicted under this section unless the driver knew or had reason to know that the owner did not have proof of insurance required by this section, provided that the driver provides the officer with the name and address of the owner at the time of the demand or complies with subdivision 3.

Sec. 18. TAB CHARGES.

The supreme court is requested to consider adding to the offenses listed in

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rule 17.01 of the Rules of Criminal Procedures a gross misdemeanor violation of section 171.24 (driving without a license) so that that offense may be prosecuted by tab charge in lieu of indictment or complaint.

Sec. 19. Minnesota Statutes 1992, section 171.12, subdivision 2, is amended to read:

Subd. 2. **ACCIDENT REPORTS AND RECORDS OF CONVICTION FILED.** The department shall file all accident reports and abstracts of court records of convictions and violations received by it under the laws of this state and its political subdivisions, and in connection therewith maintain convenient records or make suitable notations in order that an individual record of each licensee showing the convictions of such licensee and the traffic accidents in which the licensee has been involved shall be readily ascertainable and available for the consideration of the department upon any application for renewal of license and the revocation, suspension, or limitation of licenses.

Sec. 20. Minnesota Statutes 1993 Supplement, section 171.24, is amended to read:

171.24 VIOLATIONS; DRIVING WITHOUT VALID LICENSE.

(a) Except as otherwise provided in paragraph (c), any person whose driver's license or driving privilege has been canceled, suspended, or revoked and who has been given notice of, or reasonably should know of the revocation, suspension, or cancellation, and who disobeys such order by operating anywhere in this state any motor vehicle, the operation of which requires a driver's license, while such license or privilege is canceled, suspended, or revoked is guilty of a misdemeanor.

(b) Any person who has been disqualified from holding a commercial driver's license or been denied the privilege to operate a commercial motor vehicle, who has been given notice of or reasonably should know of the disqualification, and who disobeys the order by operating in this state a commercial motor vehicle while the person is disqualified to hold the license or privilege, is guilty of a misdemeanor.

(c) A person is guilty of a gross misdemeanor if:

(1) the person's driver's license or driving privileges has been canceled under section 171.04, subdivision 1, clause (8), and the person has been given notice of or reasonably should know of the cancellation; and

(2) the person disobeys the order by operating in this state any motor vehicle, the operation of which requires a driver's license, while the person's license or privilege is canceled.

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

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(e) Notice of revocation, suspension, cancellation, or disqualification is sufficient if personally served, or if mailed by first class mail to the person's last known address or to the address listed on the person's driver's license. Notice is also sufficient if the person was informed that revocation, suspension, cancellation, or disqualification would be imposed upon a condition occurring or failing to occur, and where the condition has in fact occurred or failed to occur. It is not a defense that a person failed to file a change of address with the post office, or failed to notify the department of public safety of a change of name or address as required under section 171.11.

Sec. 21. Minnesota Statutes 1993 Supplement, section 340A.503, subdivision 1, is amended to read:

Subdivision 1. **CONSUMPTION.** (a) It is unlawful for any:

(1) retail intoxicating liquor or nonintoxicating liquor licensee, municipal liquor store, or bottle club permit holder under section 340A.414, to permit any person under the age of 21 years to ~~consume~~ drink alcoholic beverages on the licensed premises or within the municipal liquor store; or

(2) person under the age of 21 years to consume any alcoholic beverages. ~~As used in this clause, "consume" includes the ingestion of an alcoholic beverage and the physical condition of having ingested an alcoholic beverage.~~ If proven by a preponderance of the evidence, it is an affirmative defense to a violation of this clause that the defendant consumed the alcoholic beverage in the household of the defendant's parent or guardian and with the consent of the parent or guardian.

(b) An offense under paragraph (a), clause (2), may be prosecuted either at the place where consumption occurs or the place where evidence of consumption is observed.

(c) When a person is convicted of or adjudicated for an offense under paragraph (a), clause (2), the court shall determine whether the person ~~committed the offense~~ consumed the alcohol while operating a motor vehicle. If so, the court shall notify the commissioner of public safety of its determination. Upon receipt of the court's determination, the commissioner shall suspend the person's driver's license or operating privileges for 30 days, or for 180 days if the person has previously been convicted of or adjudicated for an offense under paragraph (a), clause (2).

(d) As used in this paragraph, "consume" includes the ingestion of an alcoholic beverage and the physical condition of having ingested an alcoholic beverage.

Sec. 22. Minnesota Statutes 1993 Supplement, section 487.25, subdivision 10, is amended to read:

Subd. 10. **PROSECUTING ATTORNEYS.** Except as otherwise provided

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by law, violations of state law that are petty misdemeanors or misdemeanors must be prosecuted by the attorney of the statutory or home rule charter city where the violation is alleged to have occurred, if the city has a population greater than 500 600. If a city has a population of 500 600 or less, it may, by resolution of the city council, and with the approval of the board of county commissioners, give the duty to the county attorney. In cities of the first, second, and third class, gross misdemeanor violations of sections 609.52, 609.535, 609.595, 609.631, and 609.821 must be prosecuted by the attorney of the city where the violation is alleged to have occurred. The statutory or home rule charter city may enter into an agreement with the county board and the county attorney to provide prosecution services for any criminal offense. All other petty misdemeanors, misdemeanors, and gross misdemeanors must be prosecuted by the county attorney of the county in which the alleged violation occurred. All violations of a municipal ordinance, charter provision, rule, or regulation must be prosecuted by the attorney for the governmental unit that promulgated the municipal ordinance, charter provision, rule, or regulation, regardless of its population, or by the county attorney with whom it has contracted to prosecute these matters.

In the counties of Anoka, Carver, Dakota, Scott, and Washington, violations of state law that are petty misdemeanors, misdemeanors, or gross misdemeanors except as provided in section 388.051, subdivision 2, must be prosecuted by the attorney of the statutory or home rule charter city where the violation is alleged to have occurred. The statutory or home rule charter city may enter into an agreement with the county board and the county attorney to provide prosecution services for any criminal offense. All other petty misdemeanors, misdemeanors, or gross misdemeanors must be prosecuted by the county attorney of the county in which the alleged violation occurred. All violations of a municipal ordinance, charter provision, rule, or regulation must be prosecuted by the attorney for the governmental unit that promulgated the municipal ordinance, charter provision, rule, or regulation or by the county attorney with whom it has contracted to prosecute these matters.

Sec. 23. Minnesota Statutes 1993 Supplement, section 609.035, is amended to read:

609.035 CRIME PUNISHABLE UNDER DIFFERENT PROVISIONS.

Subdivision 1. Except as provided in subdivision 2, and in sections 609.251, 609.585, 609.21, subdivisions 3 and 4, 609.2691, 609.486, 609.494, and 609.856, if a person's conduct constitutes more than one offense under the laws of this state, the person may be punished for only one of the offenses and a conviction or acquittal of any one of them is a bar to prosecution for any other of them. All the offenses, if prosecuted, shall be included in one prosecution which shall be stated in separate counts.

Subd. 2. (a) When a person is being sentenced for a violation of a provision listed in paragraph (f), the court may sentence the person to a consecutive term of imprisonment for a violation of any other provision listed in paragraph (f),

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notwithstanding the fact that the offenses arose out of the same course of conduct, subject to the limitation on consecutive sentences contained in section 609.15, subdivision 2, and except as provided in paragraphs (b), (c), and (d) of this subdivision.

(b) When a person is being sentenced for a violation of section 169.129 the court may not impose a consecutive sentence for a violation of a provision of section 169.121, subdivision 1, or for a violation of a provision of section 171.20, 171.24, or 171.30.

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

(d) When a person is being sentenced for a violation of section 169.791 or 169.797, the court may not impose a consecutive sentence for another violation of a provision of sections 169.79 to 169.795.

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

(f) This subdivision applies to misdemeanor and gross misdemeanor violations of the following if the offender has two or more prior impaired driving convictions as defined in section 169.121, subdivision 3:

- (1) section 169.121, subdivision 1, driving while intoxicated;
- (2) section 169.121, subdivision 1a, testing refusal;
- (3) section 169.129, aggravated driving while intoxicated;
- (4) section 169.791, failure to provide proof of insurance;
- (5) section 169.797, failure to provide vehicle insurance;
- (6) section 171.20, subdivision 2, operation after revocation, suspension, cancellation, or disqualification;
- (7) section 171.24, driving without valid license;
- (8) section 171.30, violation of condition of limited license; and
- (9) section 609.487, fleeing a peace officer.

Sec. 24. Minnesota Statutes 1993 Supplement, section 609.135, subdivision 2, is amended to read:

Subd. 2. (a) If the conviction is for a felony the stay shall be for not more

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than ~~three~~ four years or the maximum period for which the sentence of imprisonment might have been imposed, whichever is longer.

(b) If the conviction is for a gross misdemeanor violation of section 169.121 or 169.129, the stay shall be for not more than ~~three~~ four years. The court shall provide for unsupervised probation for the last one year of the stay unless the court finds that the defendant needs supervised probation for all or part of the last one year.

(c) If the conviction is for a gross misdemeanor not specified in paragraph (b), the stay shall be for not more than two years.

(d) If the conviction is for any misdemeanor under section 169.121; 609.746, subdivision 1; 609.79; or 617.23; or for a misdemeanor under section 609.224, subdivision 1, in which the victim of the crime was a family or household member as defined in section 518B.01, the stay shall be for not more than two years. The court shall provide for unsupervised probation for the second year of the stay unless the court finds that the defendant needs supervised probation for all or part of the second year.

(e) If the conviction is for a misdemeanor not specified in paragraph (d), the stay shall be for not more than one year.

(f) The defendant shall be discharged six months after the term of the stay expires, unless the stay has been revoked or extended under paragraph (g), or the defendant has already been discharged.

(g) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to one year if it finds, at a hearing conducted under subdivision 1a, that:

(1) the defendant has not paid court-ordered restitution or a fine in accordance with the payment schedule or structure; and

(2) the defendant is likely to not pay the restitution or fine the defendant owes before the term of probation expires.

This one-year extension of probation for failure to pay restitution or a fine may be extended by the court for up to one additional year if the court finds, at another hearing conducted under subdivision 1a, that the defendant still has not paid the court-ordered restitution or fine that the defendant owes.

Sec. 25. Minnesota Statutes 1993 Supplement, section 609.15, subdivision 2, is amended to read:

Subd. 2. **LIMIT ON SENTENCES; MISDEMEANOR AND GROSS MISDEMEANOR.** If the court specifies that the sentence shall run consecutively and all of the sentences are for misdemeanors, the total of the sentences shall not exceed one year. If the sentences are for a gross misdemeanor and one or more misdemeanors, the total of the sentences shall not exceed two years. If

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all of the sentences are for gross misdemeanors, the total of the sentences shall not exceed ~~three~~ four years.

Sec. 26. Minnesota Statutes 1992, section 629.471, subdivision 2, is amended to read:

Subd. 2. **QUADRUPLE THE FINE.** For offenses under sections 169.09, 169.121, 169.129, 171.24, paragraph (c), 518B.01, 609.2231, subdivision 2, 609.224, 609.487, and 609.525, the maximum cash bail that may be required for a person charged with a misdemeanor or gross misdemeanor violation is quadruple the highest cash fine that may be imposed for the offense.

Sec. 27. **SENTENCING GUIDELINES MODIFICATION.**

The sentencing guidelines commission shall modify the sentencing guidelines by ranking violations of section 609.21, subdivisions 1, clauses (3) and (4); and 3, clauses (3) and (4), (criminal vehicular homicide) in severity level VII of the sentencing guidelines grid.

Sec. 28. **REPEALER.**

Minnesota Statutes 1992, sections 84.87, subdivision 2b; and 84.928, subdivision 3, are repealed.

Sec. 29. **EFFECTIVE DATE.**

Sections 1 to 28 are effective August 1, 1994 and apply to crimes committed on or after that date.

Presented to the governor May 6, 1994

Signed by the governor May 10, 1994, 3:52 p.m.

CHAPTER 616—S.F.No. 2540

An act relating to utilities; classifying and requiring information on applications for the municipal energy conservation investment loan program; authorizing fee to fund enhanced 911 emergency telephone service; appropriating money; amending Minnesota Statutes 1992, sections 13.99, by adding a subdivision; 216C.37, subdivision 3, and by adding subdivisions; 403.02, by adding a subdivision; 403.11, subdivisions 1 and 4; Minnesota Statutes 1993 Supplement, section 216C.37, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 403; repealing Minnesota Statutes 1992, section 216C.37, subdivision 8.

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

Section 1. Minnesota Statutes 1992, section 13.99, is amended by adding a subdivision to read:

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