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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. **104**

01/17/2019 Authored by Dettmer, Lueck, Baker, Runbeck, Johnson and others
The bill was read for the first time and referred to the Committee on Ways and Means

1.1 A bill for an act

1.2 relating to public safety; increasing the penalties for texting while driving and

1.3 authorizing the forfeiture of wireless communications devices used in certain

1.4 violations; providing that certain improper use of wireless communications devices

1.5 while driving crimes are not payable offenses; expanding the criminal vehicular

1.6 operation crime; requiring driver education and driver's manual to cover distracted

1.7 driving; authorizing rulemaking; amending Minnesota Statutes 2018, sections

1.8 169.475, subdivision 2, by adding a subdivision; 171.0701, subdivision 1; 171.0705,

1.9 by adding a subdivision; 609.2112, subdivision 1; 609.2113, subdivisions 1, 2, 3;

1.10 609.2114, subdivisions 1, 2; 609.531, subdivision 1; 609.5312, subdivision 2.

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

1.12 Section 1. Minnesota Statutes 2018, section 169.475, subdivision 2, is amended to read:

1.13 Subd. 2. **Prohibition on use; penalty.** (a) ~~When a motor vehicle is in motion or a~~

1.14 ~~part of traffic, the person may operate a motor~~ operating the vehicle while is prohibited

1.15 from using a wireless communications device to compose, read, or send an electronic

1.16 message, when the vehicle is in motion or a part of traffic.

1.17 (b) ~~A person who violates paragraph (a) a second or subsequent time must pay a fine of~~

1.18 ~~\$225, plus the amount specified in the uniform fine schedule established by the Judicial~~

1.19 ~~Council~~ A person who violates this subdivision is guilty of a misdemeanor.

1.20 (c) A court must require a person who violates this subdivision to pay the following

1.21 fine:

1.22 (1) for a first offense, a fine of \$150;

1.23 (2) for a second offense, a fine of \$300; or

1.24 (3) for a third or subsequent offense, a fine of \$500.

2.1 (d) Notwithstanding section 609.101, subdivision 4, the Judicial Council may not add
 2.2 a violation of this subdivision that is a third or subsequent violation to the Statewide Payables
 2.3 List.

2.4 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
 2.5 committed on or after that date.

2.6 Sec. 2. Minnesota Statutes 2018, section 169.475, is amended by adding a subdivision to
 2.7 read:

2.8 Subd. 4. **Forfeiture.** The wireless communications device used by a person while
 2.9 violating subdivision 2 is subject to forfeiture under section 609.5312 if the violation is a
 2.10 third or subsequent violation of that subdivision committed by the person.

2.11 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
 2.12 committed on or after that date.

2.13 Sec. 3. Minnesota Statutes 2018, section 171.0701, subdivision 1, is amended to read:

2.14 Subdivision 1. **Driver education requirements.** (a) The commissioner shall adopt rules
 2.15 requiring a minimum of 30 minutes of instruction, beginning January 1, 2007, relating to
 2.16 organ and tissue donations and the provisions of section 171.07, subdivision 5, for persons
 2.17 enrolled in driver education programs offered at public schools, private schools, and
 2.18 commercial driver training schools.

2.19 (b) The commissioner shall adopt rules for persons enrolled in driver education programs
 2.20 offered at public schools, private schools, and commercial driver training schools, requiring
 2.21 inclusion in the course of instruction, by January 1, 2009, a section on awareness and safe
 2.22 interaction with commercial motor vehicle traffic. The rules must require classroom
 2.23 instruction and behind-the-wheel training that includes, but is not limited to, truck stopping
 2.24 distances, proper distances for following trucks, identification of truck blind spots, and
 2.25 avoidance of driving in truck blind spots.

2.26 (c) By January 1, 2012, the commissioner shall adopt rules for persons enrolled in driver
 2.27 education programs offered at public schools, private schools, and commercial driver training
 2.28 schools, requiring inclusion in the course of instruction of a section on carbon monoxide
 2.29 poisoning. The instruction must include but is not limited to (1) a description of the
 2.30 characteristics of carbon monoxide, (2) a review of the risks and potential speed of death
 2.31 from carbon monoxide poisoning, and (3) specific suggestions regarding vehicle idling
 2.32 practices.

3.1 (d) By January 1, 2020, the commissioner must adopt rules requiring driver education
3.2 programs offered at public schools, private schools, and commercial driver training schools
3.3 to include instruction on distracted driving. The instruction must include but is not limited
3.4 to:

3.5 (1) the laws governing distracted driving and the related penalties; and

3.6 (2) the dangers of distracted driving.

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

3.8 Sec. 4. Minnesota Statutes 2018, section 171.0705, is amended by adding a subdivision
3.9 to read:

3.10 Subd. 11. **Distracted driving.** The commissioner must include in each edition of the
3.11 driver's manual a section on distracted driving that includes:

3.12 (1) the laws governing distracted driving and the related penalties; and

3.13 (2) the dangers of distracted driving.

3.14 **EFFECTIVE DATE.** This section is effective January 1, 2020.

3.15 Sec. 5. Minnesota Statutes 2018, section 609.2112, subdivision 1, is amended to read:

3.16 Subdivision 1. **Criminal vehicular homicide.** (a) Except as provided in paragraph (b),
3.17 a person is guilty of criminal vehicular homicide and may be sentenced to imprisonment
3.18 for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the
3.19 person causes the death of a human being not constituting murder or manslaughter as a
3.20 result of operating a motor vehicle:

3.21 (1) in a grossly negligent manner;

3.22 (2) in a negligent manner while under the influence of:

3.23 (i) alcohol;

3.24 (ii) a controlled substance; or

3.25 (iii) any combination of those elements;

3.26 (3) while having an alcohol concentration of 0.08 or more;

3.27 (4) while having an alcohol concentration of 0.08 or more, as measured within two hours
3.28 of the time of driving;

4.1 (5) in a negligent manner while under the influence of an intoxicating substance and the
 4.2 person knows or has reason to know that the substance has the capacity to cause impairment;

4.3 (6) in a negligent manner while any amount of a controlled substance listed in Schedule
 4.4 I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the
 4.5 person's body;

4.6 (7) where the driver who causes the collision leaves the scene of the collision in violation
 4.7 of section 169.09, subdivision 1 or 6; ~~or~~

4.8 (8) where the driver had actual knowledge that a peace officer had previously issued a
 4.9 citation or warning that the motor vehicle was defectively maintained, the driver had actual
 4.10 knowledge that remedial action was not taken, the driver had reason to know that the defect
 4.11 created a present danger to others, and the death was caused by the defective maintenance;
 4.12 or

4.13 (9) in a negligent manner while the driver is operating a cellular phone or other electronic
 4.14 device in any manner without the use of a hands-free setting.

4.15 (b) If a person is sentenced under paragraph (a) for a violation under paragraph (a),
 4.16 clauses (2) to (6), occurring within ten years of a qualified prior driving offense, the statutory
 4.17 maximum sentence of imprisonment is 15 years.

4.18 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
 4.19 committed on or after that date.

4.20 Sec. 6. Minnesota Statutes 2018, section 609.2113, subdivision 1, is amended to read:

4.21 Subdivision 1. **Great bodily harm.** A person is guilty of criminal vehicular operation
 4.22 resulting in great bodily harm and may be sentenced to imprisonment for not more than five
 4.23 years or to payment of a fine of not more than \$10,000, or both, if the person causes great
 4.24 bodily harm to another not constituting attempted murder or assault as a result of operating
 4.25 a motor vehicle:

4.26 (1) in a grossly negligent manner;

4.27 (2) in a negligent manner while under the influence of:

4.28 (i) alcohol;

4.29 (ii) a controlled substance; or

4.30 (iii) any combination of those elements;

4.31 (3) while having an alcohol concentration of 0.08 or more;

5.1 (4) while having an alcohol concentration of 0.08 or more, as measured within two hours
5.2 of the time of driving;

5.3 (5) in a negligent manner while under the influence of an intoxicating substance and the
5.4 person knows or has reason to know that the substance has the capacity to cause impairment;

5.5 (6) in a negligent manner while any amount of a controlled substance listed in Schedule
5.6 I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the
5.7 person's body;

5.8 (7) where the driver who causes the accident leaves the scene of the accident in violation
5.9 of section 169.09, subdivision 1 or 6; ~~or~~

5.10 (8) where the driver had actual knowledge that a peace officer had previously issued a
5.11 citation or warning that the motor vehicle was defectively maintained, the driver had actual
5.12 knowledge that remedial action was not taken, the driver had reason to know that the defect
5.13 created a present danger to others, and the injury was caused by the defective maintenance;
5.14 or

5.15 (9) in a negligent manner while the driver is operating a cellular phone or other electronic
5.16 device in any manner without the use of a hands-free setting.

5.17 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
5.18 committed on or after that date.

5.19 Sec. 7. Minnesota Statutes 2018, section 609.2113, subdivision 2, is amended to read:

5.20 Subd. 2. **Substantial bodily harm.** A person is guilty of criminal vehicular operation
5.21 resulting in substantial bodily harm and may be sentenced to imprisonment for not more
5.22 than three years or to payment of a fine of not more than \$10,000, or both, if the person
5.23 causes substantial bodily harm to another as a result of operating a motor vehicle:

5.24 (1) in a grossly negligent manner;

5.25 (2) in a negligent manner while under the influence of:

5.26 (i) alcohol;

5.27 (ii) a controlled substance; or

5.28 (iii) any combination of those elements;

5.29 (3) while having an alcohol concentration of 0.08 or more;

5.30 (4) while having an alcohol concentration of 0.08 or more, as measured within two hours
5.31 of the time of driving;

6.1 (5) in a negligent manner while under the influence of an intoxicating substance and the
6.2 person knows or has reason to know that the substance has the capacity to cause impairment;

6.3 (6) in a negligent manner while any amount of a controlled substance listed in Schedule
6.4 I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the
6.5 person's body;

6.6 (7) where the driver who causes the accident leaves the scene of the accident in violation
6.7 of section 169.09, subdivision 1 or 6; ~~or~~

6.8 (8) where the driver had actual knowledge that a peace officer had previously issued a
6.9 citation or warning that the motor vehicle was defectively maintained, the driver had actual
6.10 knowledge that remedial action was not taken, the driver had reason to know that the defect
6.11 created a present danger to others, and the injury was caused by the defective maintenance;
6.12 or

6.13 (9) in a negligent manner while the driver is operating a cellular phone or other electronic
6.14 device in any manner without the use of a hands-free setting.

6.15 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
6.16 committed on or after that date.

6.17 Sec. 8. Minnesota Statutes 2018, section 609.2113, subdivision 3, is amended to read:

6.18 Subd. 3. **Bodily harm.** A person is guilty of criminal vehicular operation resulting in
6.19 bodily harm and may be sentenced to imprisonment for not more than one year or to payment
6.20 of a fine of not more than \$3,000, or both, if the person causes bodily harm to another as a
6.21 result of operating a motor vehicle:

6.22 (1) in a grossly negligent manner;

6.23 (2) in a negligent manner while under the influence of:

6.24 (i) alcohol;

6.25 (ii) a controlled substance; or

6.26 (iii) any combination of those elements;

6.27 (3) while having an alcohol concentration of 0.08 or more;

6.28 (4) while having an alcohol concentration of 0.08 or more, as measured within two hours
6.29 of the time of driving;

6.30 (5) in a negligent manner while under the influence of an intoxicating substance and the
6.31 person knows or has reason to know that the substance has the capacity to cause impairment;

7.1 (6) in a negligent manner while any amount of a controlled substance listed in Schedule
 7.2 I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the
 7.3 person's body;

7.4 (7) where the driver who causes the accident leaves the scene of the accident in violation
 7.5 of section 169.09, subdivision 1 or 6; ~~or~~

7.6 (8) where the driver had actual knowledge that a peace officer had previously issued a
 7.7 citation or warning that the motor vehicle was defectively maintained, the driver had actual
 7.8 knowledge that remedial action was not taken, the driver had reason to know that the defect
 7.9 created a present danger to others, and the injury was caused by the defective maintenance;
 7.10 or

7.11 (9) in a negligent manner while the driver is operating a cellular phone or other electronic
 7.12 device in any manner without the use of a hands-free setting.

7.13 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
 7.14 committed on or after that date.

7.15 Sec. 9. Minnesota Statutes 2018, section 609.2114, subdivision 1, is amended to read:

7.16 Subdivision 1. **Death to an unborn child.** (a) Except as provided in paragraph (b), a
 7.17 person is guilty of criminal vehicular operation resulting in death to an unborn child and
 7.18 may be sentenced to imprisonment for not more than ten years or to payment of a fine of
 7.19 not more than \$20,000, or both, if the person causes the death of an unborn child as a result
 7.20 of operating a motor vehicle:

7.21 (1) in a grossly negligent manner;

7.22 (2) in a negligent manner while under the influence of:

7.23 (i) alcohol;

7.24 (ii) a controlled substance; or

7.25 (iii) any combination of those elements;

7.26 (3) while having an alcohol concentration of 0.08 or more;

7.27 (4) while having an alcohol concentration of 0.08 or more, as measured within two hours
 7.28 of the time of driving;

7.29 (5) in a negligent manner while under the influence of an intoxicating substance and the
 7.30 person knows or has reason to know that the substance has the capacity to cause impairment;

8.1 (6) in a negligent manner while any amount of a controlled substance listed in Schedule
 8.2 I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the
 8.3 person's body;

8.4 (7) where the driver who causes the accident leaves the scene of the accident in violation
 8.5 of section 169.09, subdivision 1 or 6; ~~or~~

8.6 (8) where the driver had actual knowledge that a peace officer had previously issued a
 8.7 citation or warning that the motor vehicle was defectively maintained, the driver had actual
 8.8 knowledge that remedial action was not taken, the driver had reason to know that the defect
 8.9 created a present danger to others, and the injury was caused by the defective maintenance;
 8.10 or

8.11 (9) in a negligent manner while the driver is operating a cellular phone or other electronic
 8.12 device in any manner without the use of a hands-free setting.

8.13 (b) If a person is sentenced under paragraph (a) for a violation under paragraph (a),
 8.14 clauses (2) to (6), occurring within ten years of a qualified prior driving offense, the statutory
 8.15 maximum sentence of imprisonment is 15 years.

8.16 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
 8.17 committed on or after that date.

8.18 Sec. 10. Minnesota Statutes 2018, section 609.2114, subdivision 2, is amended to read:

8.19 Subd. 2. **Injury to an unborn child.** A person is guilty of criminal vehicular operation
 8.20 resulting in injury to an unborn child and may be sentenced to imprisonment for not more
 8.21 than five years or to payment of a fine of not more than \$10,000, or both, if the person
 8.22 causes the great bodily harm to an unborn child subsequently born alive as a result of
 8.23 operating a motor vehicle:

8.24 (1) in a grossly negligent manner;

8.25 (2) in a negligent manner while under the influence of:

8.26 (i) alcohol;

8.27 (ii) a controlled substance; or

8.28 (iii) any combination of those elements;

8.29 (3) while having an alcohol concentration of 0.08 or more;

8.30 (4) while having an alcohol concentration of 0.08 or more, as measured within two hours
 8.31 of the time of driving;

9.1 (5) in a negligent manner while under the influence of an intoxicating substance and the
 9.2 person knows or has reason to know that the substance has the capacity to cause impairment;

9.3 (6) in a negligent manner while any amount of a controlled substance listed in Schedule
 9.4 I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the
 9.5 person's body;

9.6 (7) where the driver who causes the accident leaves the scene of the accident in violation
 9.7 of section 169.09, subdivision 1 or 6; ~~or~~

9.8 (8) where the driver had actual knowledge that a peace officer had previously issued a
 9.9 citation or warning that the motor vehicle was defectively maintained, the driver had actual
 9.10 knowledge that remedial action was not taken, the driver had reason to know that the defect
 9.11 created a present danger to others, and the injury was caused by the defective maintenance;
 9.12 or

9.13 (9) in a negligent manner while the driver is operating a cellular phone or other electronic
 9.14 device in any manner without the use of a hands-free setting.

9.15 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
 9.16 committed on or after that date.

9.17 Sec. 11. Minnesota Statutes 2018, section 609.531, subdivision 1, is amended to read:

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

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

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

9.26 (c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

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

9.28 (e) "Appropriate agency" means the Bureau of Criminal Apprehension, the Department
 9.29 of Commerce Fraud Bureau, the Minnesota Division of Driver and Vehicle Services, the
 9.30 Minnesota State Patrol, a county sheriff's department, the Three Rivers Park District park
 9.31 rangers, the Department of Natural Resources Division of Enforcement, the University of
 9.32 Minnesota Police Department, the Department of Corrections Fugitive Apprehension Unit,

10.1 a city, metropolitan transit, or airport police department; or a multijurisdictional entity
 10.2 established under section 299A.642 or 299A.681.

10.3 (f) "Designated offense" includes:

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

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

10.6 ~~and~~

10.7 (3) for misuse of wireless communications devices while driving: a violation of section
 10.8 169.475, subdivision 2, that is the third or subsequent violation of that subdivision committed
 10.9 by the person; and

10.10 ~~(3)~~ (4) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy
 10.11 to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.2112; 609.2113;
 10.12 609.2114; 609.221; 609.222; 609.223; 609.2231; 609.2335; 609.24; 609.245; 609.25;
 10.13 609.255; 609.282; 609.283; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343,
 10.14 subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j);
 10.15 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.352; 609.42; 609.425; 609.466;
 10.16 609.485; 609.487; 609.52; 609.525; 609.527; 609.528; 609.53; 609.54; 609.551; 609.561;
 10.17 609.562; 609.563; 609.582; 609.59; 609.595; 609.611; 609.631; 609.66, subdivision 1e;
 10.18 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89;
 10.19 609.893; 609.895; 617.246; 617.247; or a gross misdemeanor or felony violation of section
 10.20 609.891 or 624.7181; or any violation of section 609.324; or a felony violation of, or a
 10.21 felony-level attempt or conspiracy to violate, Minnesota Statutes 2012, section 609.21.

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

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

10.25 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
 10.26 committed on or after that date.

10.27 Sec. 12. Minnesota Statutes 2018, section 609.5312, subdivision 2, is amended to read:

10.28 **Subd. 2. Limitations on forfeiture of property associated with designated offenses.** (a)
 10.29 Property used by a person as a common carrier in the transaction of business as a common
 10.30 carrier is subject to forfeiture under this section only if the owner of the property is a
 10.31 consenting party to, or is privy to, the commission of a designated offense.

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

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

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

11.12 (e) Notwithstanding any contrary provision in this section, for a designated offense
11.13 involving a violation of section 169.475, only the wireless communications device used in
11.14 the offense is subject to forfeiture under this section.

11.15 **EFFECTIVE DATE.** This section is effective August 1, 2019, and applies to crimes
11.16 committed on or after that date.

11.17 Sec. 13. **RULEMAKING.**

11.18 Minnesota Statutes, section 171.0701, subdivision 2, applies to section 3.

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