

## CHAPTER 169

## TRAFFIC REGULATIONS

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## 169.01 DEFINITIONS.

*[For text of subs 1 to 5, see M.S.1996]*

Subd. 6. **School bus.** "School bus" means a motor vehicle used to transport pupils to or from a school defined in section 120.101, or to or from school-related activities, by the school or a school district, or by someone under an agreement with the school or a school district. A school bus does not include a motor vehicle transporting children to or from school for which parents or guardians receive direct compensation from a school district, a motor coach operating under charter carrier authority, a transit bus providing services as defined in section 174.22, subdivision 7, or a vehicle otherwise qualifying as a type III vehicle under paragraph (5), when the vehicle is properly registered and insured and being driven by an employee or agent of a school district for nonscheduled transportation. A school bus may be type A, type B, type C, or type D, or type III as follows:

(1) A "type A school bus" is a conversion or body constructed upon a van-type or cut-away front section vehicle with a left-side driver's door, designed for carrying more than ten persons. This definition includes two classifications: type A-I, with a gross vehicle weight rating (GVWR) over 10,000 pounds; and type A-II, with a GVWR of 10,000 pounds or less.

(2) A "type B school bus" is a conversion or body constructed and installed upon a van or front-section vehicle chassis, or stripped chassis, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than ten persons. Part of the engine is beneath or behind the windshield and beside the driver's seat. The entrance door is behind the front wheels.

(3) A "type C school bus" is a body installed upon a flat back cowl chassis with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than ten persons. All of the engine is in front of the windshield and the entrance door is behind the front wheels.

(4) A "type D school bus" is a body installed upon a chassis, with the engine mounted in the front, midship or rear, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than ten persons. The engine may be behind the windshield and

beside the driver's seat; it may be at the rear of the bus, behind the rear wheels, or midship between the front and rear axles. The entrance door is ahead of the front wheels.

(5) Type III school buses and type III Head Start buses are restricted to passenger cars, station wagons, vans, and buses having a maximum manufacturer's rated seating capacity of ten people, including the driver, and a gross vehicle weight rating of 10,000 pounds or less. In this subdivision, "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle. A "type III school bus" and "type III Head Start bus" must not be outwardly equipped and identified as a type A, B, C, or D school bus or type A, B, C, or D Head Start bus.

*[For text of subs 7 to 54, see M.S.1996]*

**Subd. 55. Implement of husbandry.** "Implement of husbandry" has the meaning given in section 168A.01, subdivision 8.

*[For text of subs 56 to 74, see M.S.1996]*

**Subd. 75. Commercial motor vehicle.** (a) "Commercial motor vehicle" means a motor vehicle or combination of motor vehicles used to transport passengers or property if the motor vehicle:

- (1) has a gross vehicle weight of more than 26,000 pounds;
- (2) has a towed unit with a gross vehicle weight of more than 10,000 pounds and the combination of vehicles has a combined gross vehicle weight of more than 26,000 pounds;
- (3) is a bus;
- (4) is of any size and is used in the transportation of hazardous materials, except for those vehicles having a gross vehicle weight of 26,000 pounds or less while carrying in bulk tanks a total of not more than 200 gallons of petroleum products and liquid fertilizer; or
- (5) is outwardly equipped and identified as a school bus, except for school buses defined in subdivision 6, paragraph (c).

(b) For purposes of sections 169.1211, 169.1215, and 169.123, subdivisions 2 and 4:

- (1) a commercial motor vehicle does not include a farm truck, firefighting equipment, or recreational equipment being operated by a person within the scope of section 171.02, subdivision 2, paragraph (a); and
- (2) a commercial motor vehicle includes a vehicle capable of or designed to meet the standards described in paragraph (a), clause (2), whether or not the towed unit is attached to the truck-tractor at the time of the violation or stop.

*[For text of subs 76 and 77, see M.S.1996]*

**Subd. 78. Recreational vehicle combination.** "Recreational vehicle combination" means a combination of vehicles consisting of a pickup truck as defined in section 168.011, subdivision 29, attached by means of a fifth-wheel coupling to a camper-semitrailer which has hitched to it a trailer carrying a watercraft as defined in section 86B.005, subdivision 18; off-highway motorcycle as defined in section 84.787, subdivision 7; motorcycle; motorized bicycle; snowmobile as defined in section 84.81, subdivision 3; or all-terrain vehicle as defined in section 84.92, subdivision 8. For purposes of this subdivision:

(a) A "fifth-wheel coupling" is a coupling between a camper-semitrailer and a towing pickup truck in which a portion of the weight of the camper-semitrailer is carried over or forward of the rear axle of the towing pickup.

(b) A "camper-semitrailer" is a trailer, other than a manufactured home as defined in section 327B.01, subdivision 13, designed for human habitation and used for vacation or recreational purposes for limited periods.

*[For text of subs 79 and 80, see M.S.1996]*

**Subd. 81. Residential roadway.** Residential roadway means a street or portion of a street that is less than one-quarter mile in length and is functionally classified as a local street by the road authority having jurisdiction.

*[For text of subs 82 and 83, see M.S.1996]*

Subd. 84. **Daytime.** For purposes of regulating the operation of a motor vehicle, “daytime” means the time from one-half hour before sunrise to one-half hour after sunset.

Subd. 85. **Nighttime.** For purposes of regulating the operation of a motor vehicle, “nighttime” means the time from one-half hour after sunset to one-half hour before sunrise.

Subd. 86. **Off-road recreational vehicle.** “Off-road recreational vehicle” means an off-highway motorcycle as defined in section 84.787, subdivision 7; off-road vehicle as defined in section 84.797, subdivision 7; snowmobile as defined in section 84.81, subdivision 3; and all-terrain vehicle as defined in section 84.92, subdivision 8.

Subd. 87. **Motorboat.** “Motorboat” means a watercraft propelled in any manner by machinery, including watercraft temporarily equipped with detachable motors.

Subd. 88. **Drug recognition evaluation.** “Drug recognition evaluation” means the systematic, standardized, investigative procedure defined by the National Highway Traffic Safety Administration that is used to determine whether a driver is impaired, whether the impairment relates to drugs or a medical condition and, if drug-related, the categories of drugs likely to have caused the impairment.

Subd. 89. **Drug recognition expert.** “Drug recognition expert” means a peace officer who is certified by the International Association of Chiefs of Police to conduct drug recognition evaluations.

**History:** 1997 c 143 s 5–8; 1997 c 159 art 2 s 17; 1Sp1997 c 2 s 21–25; 1Sp1997 c 4 art 12 s 5

#### **169.042 TOWING; NOTICE TO VICTIM OF VEHICLE THEFT.**

Subdivision 1. **Notification.** The law enforcement agency that originally received the report of a vehicle theft shall make a reasonable and good-faith effort to notify the victim of the reported vehicle theft within 48 hours after recovering the vehicle or receiving notification that the vehicle has been recovered. The notice must specify when the recovering law enforcement agency expects to release the vehicle to the owner and where the owner may pick up the vehicle. The law enforcement agency that recovers the vehicle must promptly inform the agency that received the theft report that the vehicle is recovered, where the vehicle is located, and when the vehicle can be released to the owner.

*[For text of subd 2, see M.S.1996]*

**History:** 1997 c 239 art 7 s 1

#### **169.045 SPECIAL VEHICLE USE ON ROADWAY.**

Subdivision 1. **Designation of roadways, permit.** The governing body of any county, home rule charter or statutory city, or town may by ordinance authorize the operation of motorized golf carts, or four-wheel all-terrain vehicles, on designated roadways or portions thereof under its jurisdiction. Authorization to operate a motorized golf cart or four-wheel all-terrain vehicle is by permit only. For purposes of this section, a four-wheel all-terrain vehicle is a motorized flotation-tired vehicle with four low-pressure tires that is limited in engine displacement of less than 800 cubic centimeters and total dry weight less than 600 pounds.

*[For text of subs 2 to 8, see M.S.1996]*

**History:** 1997 c 159 art 2 s 18

#### **169.06 SIGNS, SIGNALS, MARKINGS.**

Subdivision 1. **Uniform system.** The commissioner shall adopt a manual and specifications for a uniform system of traffic-control devices consistent with the provisions of this chapter for use upon highways within this state. Such uniform system shall correlate with and so far as possible conform to the system then current as approved by the American Association of State Highway Officials. The manual and specifications must include the design and

wording of minimum–maintenance road signs. The adoption of the manual and specifications by the commissioner as herein provided is specifically exempted from chapter 14, including section 14.386.

*[For text of subs 2 and 3, see M.S.1996]*

**Subd. 4. Obedience to and required traffic–control devices.** (a) The driver of any vehicle shall obey the instructions of any official traffic–control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.

(b) No provision of this chapter for which official traffic–control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic–control devices are required, such section shall be effective even though no devices are erected or in place.

(c) Whenever official traffic–control devices are placed in position approximately conforming to the requirements of this chapter, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.

(d) Any official traffic–control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence.

(e) A flagger in a designated work zone may stop vehicles and hold vehicles in place until it is safe for the vehicles to proceed. A person operating a motor vehicle that has been stopped by a flagger in a designated work zone may proceed after stopping only on instruction by the flagger.

*[For text of subs 5 to 8, see M.S.1996]*

**History:** 1997 c 159 art 2 s 19; 1997 c 187 art 5 s 24

## 169.09 ACCIDENTS.

*[For text of subs 1 to 12, see M.S.1996]*

**Subd. 13. Reports confidential; evidence, fee, penalty, appropriation.** (a) All written reports and supplemental reports required under this section shall be for the use of the commissioner of public safety and other appropriate state, federal, county, and municipal governmental agencies for accident analysis purposes, except:

(1) the commissioner of public safety or any law enforcement agency shall, upon written request of any person involved in an accident or upon written request of the representative of the person's estate, surviving spouse, or one or more surviving next of kin, or a trustee appointed pursuant to section 573.02, disclose to the requester, the requester's legal counsel, or a representative of the requester's insurer the report required under subdivision 8;

(2) the commissioner of public safety shall, upon written request, provide the driver filing a report under subdivision 7 with a copy of the report filed by the driver;

(3) the commissioner of public safety may verify with insurance companies vehicle insurance information to enforce sections 65B.48, 169.792, 169.793, 169.796, and 169.797;

(4) the commissioner of public safety shall provide the commissioner of transportation the information obtained for each traffic accident involving a commercial motor vehicle, for purposes of administering commercial vehicle safety regulations; and

(5) the commissioner of public safety may give to the United States Department of Transportation commercial vehicle accident information in connection with federal grant programs relating to safety.

(b) Accident reports and data contained in the reports shall not be discoverable under any provision of law or rule of court. No report shall be used as evidence in any trial, civil or

criminal, arising out of an accident, except that the commissioner of public safety shall furnish upon the demand of any person who has, or claims to have, made a report, or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the commissioner solely to prove compliance or failure to comply with the requirements that the report be made to the commissioner.

(c) Nothing in this subdivision prevents any person who has made a report pursuant to this section from providing information to any persons involved in an accident or their representatives or from testifying in any trial, civil or criminal, arising out of an accident, as to facts within the person's knowledge. It is intended by this subdivision to render privileged the reports required, but it is not intended to prohibit proof of the facts to which the reports relate.

(d) Disclosing any information contained in any accident report, except as provided in this subdivision, section 13.82, subdivision 3 or 4, or other statutes, is a misdemeanor.

(e) The commissioner of public safety may charge authorized persons a \$5 fee for a copy of an accident report.

(f) The commissioner and law enforcement agencies may charge commercial users who request access to response or incident data relating to accidents a fee not to exceed 50 cents per report. "Commercial user" is a user who in one location requests access to data in more than five accident reports per month, unless the user establishes that access is not for a commercial purpose. Money collected by the commissioner under this paragraph is appropriated to the commissioner.

*[For text of subds 14 and 15, see M.S.1996]*

**History:** 1997 c 230 s 2

### **169.121 DRIVERS UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE.**

Subdivision 1. **Crime; acts prohibited.** It is a crime for any person to drive, operate, or be in physical control of any motor vehicle within this state or upon the ice of any boundary water of this state under any of the following circumstances:

(a) when the person is under the influence of alcohol;

(b) when the person is under the influence of a controlled substance;

(c) when the person is under the influence of a combination of any two or more of the elements named in clauses (a), (b), and (g);

(d) when the person's alcohol concentration is 0.10 or more but less than 0.20;

(e) when the person's alcohol concentration as measured within two hours of the time of driving, operating, or being in physical control of the motor vehicle is 0.10 or more but less than 0.20;

(f) when the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the motor vehicle is 0.20 or more;

(g) when the person is knowingly under the influence of a hazardous substance that affects the nervous system, brain, or muscles of the person so as to substantially impair the person's ability to drive or operate the motor vehicle; or

(h) when the person's body contains any amount of a controlled substance listed in schedule I or II other than marijuana or tetrahydrocannabinols.

*[For text of subds 1a and 1b, see M.S.1996]*

Subd. 1c. **Conditional release.** (a) Unless maximum bail is imposed under section 629.471, subdivision 2, a person charged with a crime listed in this paragraph may be released from detention only if the person agrees to abstain from alcohol and submit to a program of electronic alcohol monitoring involving at least daily measurements of the person's alcohol concentration pending resolution of the charge. This paragraph applies only when electronic alcohol monitoring equipment is available to the court and only when a person is charged with:

(1) a violation of subdivision 1 or 1a within five years of two prior impaired driving convictions, or within ten years of three or more prior impaired driving convictions;

(2) a second or subsequent violation of subdivision 1 or 1a, if the person is under the age of 19 years;

(3) a violation of subdivision 1 or 1a, while the person's driver's license or driving privileges have been canceled under section 171.04, subdivision 1, clause (9);

(4) a violation of subdivision 1, clause (f); or

(5) a violation of section 169.129.

If the defendant is convicted of the charged offense, the court shall require partial or total reimbursement from the person for the cost of the electronic alcohol monitoring, to the extent the defendant is able to pay.

(b) Unless maximum bail is imposed under section 629.471, subdivision 2, a person charged with violating subdivision 1 or 1a 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 if the following conditions are imposed in addition to the condition imposed in paragraph (a), if applicable, and any other conditions of release ordered by the court:

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

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

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

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

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

**Subd. 1d. First-time violators; off-road recreational vehicles and motorboats.** A person who violates this section while using an off-road recreational vehicle or motorboat and who does not have a prior impaired driving conviction or prior license revocation is subject only to the criminal penalty provided in subdivision 3 and loss of operating privileges as provided in section 84.91, subdivision 1, or 86B.331, subdivision 1, whichever is applicable. The person is not subject to the provisions of subdivision 1c, 3b, 3f, 4, 5b, or 8, the license revocation sanctions of section 169.123, or the plate impoundment provisions of section 168.042.

**Subd. 2. Evidence.** (a) Upon the trial of any prosecution arising out of acts alleged to have been committed by any person arrested for driving, operating, or being in physical control of a motor vehicle in violation of subdivision 1, the court may admit evidence of the presence or amount of alcohol, controlled substances, or hazardous substances in the person's blood, breath, or urine as shown by an analysis of those items.

(b) For the purposes of this subdivision, evidence that there was at the time an alcohol concentration of 0.04 or more is relevant evidence in indicating whether or not the person was under the influence of alcohol.

(c) Evidence of the refusal to take a test is admissible into evidence in a prosecution under this section or an ordinance in conformity with it.

(d) If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of subdivision 1, clause (e) or (f), that the defendant consumed a sufficient quantity of alcohol after the time of actual driving, operating, or being in physical control of a motor vehicle and before the administration of the evidentiary test to cause the defendant's alcohol concentration to exceed the level specified in the applicable clause. Evidence that the defendant consumed alcohol after the time of actual driving, operating, or being in physical control of a motor vehicle may not be admitted in defense to any alleged violation of this section unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

(e) If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of subdivision 1, clause (h), that the defendant used the controlled substance ac-

ording to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12.

(f) The preceding provisions do not limit the introduction of any other competent evidence bearing upon the question of whether the person violated this section, including tests obtained more than two hours after the alleged violation and results obtained from partial tests on an infrared breath-testing instrument. A result from a partial test is the measurement obtained by analyzing one adequate breath sample, as defined in section 169.123, subdivision 2b, paragraph (b).

**Subd. 3. Criminal penalties.** (a) As used in this section:

(1) "Prior impaired driving conviction" means a prior conviction under:

(i) this section; Minnesota Statutes 1996, section 84.91, subdivision 1, paragraph (a), or 86B.331, subdivision 1, paragraph (a); section 169.1211; section 169.129; or section 360.0752;

(ii) section 609.21, subdivision 1, clauses (2) to (6); subdivision 2, clauses (2) to (6); subdivision 2a, clauses (2) to (6); subdivision 2b, clauses (2) to (6); subdivision 3, clauses (2) to (6); or subdivision 4, clauses (2) to (6); or

(iii) an ordinance from this state, or a statute or ordinance from another state, in conformity with any provision listed in item (i) or (ii).

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.

(2) "Prior license revocation" means a driver's license suspension, revocation, cancellation, denial, or disqualification under:

(i) this section or section 169.1211, 169.123, 171.04, 171.14, 171.16, 171.165, 171.17, or 171.18 because of an alcohol-related incident;

(ii) section 609.21, subdivision 1, clauses (2) to (6); subdivision 2, clauses (2) to (6); subdivision 2a, clauses (2) to (6); subdivision 2b, clauses (2) to (6); subdivision 3, clauses (2) to (6); or subdivision 4, clauses (2) to (6); or

(iii) an ordinance from this state, or a statute or ordinance from another state, in conformity with any provision listed in item (i) or (ii).

"Prior license revocation" also means the revocation of snowmobile or all-terrain vehicle operating privileges under section 84.911, or motorboat operating privileges under section 86B.335, for violations that occurred on or after August 1, 1995.

(b) A person who violates subdivision 1, clause (a), (b), (c), (d), (e), (g), or (h), or subdivision 1a, or an ordinance in conformity with any 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, clause (f);

(2) the person violates subdivision 1, clause (a), (b), (c), (d), (e), (g), or (h), or subdivision 1a, within five years of a prior impaired driving conviction or a prior license revocation;

(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.

A person convicted of a gross misdemeanor under this paragraph is subject to the mandatory penalties provided in subdivision 3d.

(d) A person is guilty of an enhanced gross misdemeanor under any of the following circumstances:

(1) the person violates subdivision 1, clause (f), or commits a violation described in paragraph (c), clause (3) or (4), within ten years of one or more prior impaired driving convictions or prior license revocations;

(2) the person violates subdivision 1, clause (a), (b), (c), (d), (e), (g), or (h), or subdivision 1a, within ten years of the first of two or more prior impaired driving convictions, two or more prior license revocations, or any combination of two or more prior impaired driving convictions and prior license revocations, based on separate incidents.

A person convicted of an enhanced gross misdemeanor under this paragraph may be sentenced to imprisonment in a local correctional facility for not more than two years or to

payment of a fine of not more than \$3,000, or both. Additionally, the person is subject to the applicable mandatory penalties provided in subdivision 3e.

(e) The court shall notify a person convicted of violating subdivision 1 or 1a that the registration plates of the person's motor vehicle may be impounded under section 168.042 and the vehicle may be subject to forfeiture under section 169.1217 upon a subsequent conviction for violating this section, section 169.129, or section 171.24, or a subsequent license revocation under section 169.123. The notice must describe the conduct and the time periods within which the conduct must occur in order to result in plate impoundment or forfeiture. The failure of the court to provide this information does not affect the applicability of the plate impoundment or the forfeiture provision to that person.

(f) 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 and enhanced gross misdemeanor violations of this section.

(g) The court must impose consecutive sentences when it sentences a person for a violation of this section or section 169.129 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 169.129 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 169.129 shall run consecutively to a previously imposed misdemeanor, gross misdemeanor or felony sentence for a violation other than this section or section 169.129.

(h) When the court stays the sentence of a person convicted under this section, the length of the stay is governed by section 609.135, subdivision 2.

(i) The court may impose consecutive sentences for offenses arising out of a single course of conduct as permitted in section 609.035, subdivision 2.

(j) When an attorney responsible for prosecuting gross misdemeanors or enhanced 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.

(k) 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.

Subd. 3a. [Repealed, 1Sp1997 c 2 s 69]

Subd. 3b. **Chemical use assessment.** The court must order a person to submit to the level of care recommended in the chemical use assessment if the person has been convicted of violating:

(1) subdivision 1, clause (f); or

(2) subdivision 1, clause (a), (b), (c), (d), (e), (g), or (h), subdivision 1a, section 169.129, an ordinance in conformity with any of them, or a statute or ordinance from another state in conformity with any of them:

(i) within five years of a prior impaired driving conviction or a prior license revocation; or

(ii) within ten years of two or more prior impaired driving convictions, two or more prior license revocations, or a prior impaired driving conviction and a prior license revocation, based on separate incidents.

Subd. 3c. **Notice of enhanced penalties.** When a court sentences a person for a violation of this section, it shall inform the defendant of the statutory provisions that provide for enhancement of criminal penalties for repeat violators. The failure of a court to provide this information to a defendant does not affect the future applicability of these enhanced penalties to that defendant.

Subd. 3d. **Gross misdemeanors; mandatory penalties.** (a) The mandatory penalties in this subdivision apply to persons convicted of a gross misdemeanor under subdivision 3, paragraph (c), or section 169.129.



(b) A person who is convicted of a gross misdemeanor under subdivision 3, paragraph (c), or is convicted of a gross misdemeanor violation of section 169.129 within five years of a prior impaired driving conviction or prior license revocation, 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. Notwithstanding section 609.135, the above sentence must be executed, unless the court departs from the mandatory minimum sentence under paragraph (c) or (d).

(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.

(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. The court also 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) 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.

**Subd. 3e. Enhanced gross misdemeanors; mandatory penalties.** (a) The mandatory penalties in this subdivision apply to persons who are convicted of an enhanced gross misdemeanor under subdivision 3, paragraph (d), or section 169.129. Notwithstanding section 609.135, these penalties must be imposed and executed.

(b) A person who is convicted of an enhanced gross misdemeanor under the circumstances described in subdivision 3, paragraph (d), clause (1), shall be sentenced as follows:

(1) if the person has one prior impaired driving conviction within the past ten years, the person must be sentenced to a minimum of 90 days of incarceration, at least 30 days of which must be served consecutively in a local correctional facility. The court may order that the person serve not more than 60 days of this minimum penalty on home detention or in an intensive probation program described in section 169.1265;

(2) if the person has two prior impaired driving convictions within the past ten years, the person must be sentenced to a minimum of 180 days of incarceration, at least 30 days of which must be served consecutively in a local correctional facility. The court may order that the person serve not more than 150 days of this minimum penalty on home detention or in an intensive probation program described in section 169.1265; or

(3) if the person has three prior impaired driving convictions within the past 15 years, or four or more prior impaired driving convictions within the person's lifetime, the person must be sentenced to a minimum of one year of incarceration, at least 60 days of which must be served consecutively in a local correctional facility. The court may order that the person serve the remainder of this minimum penalty on intensive probation using an electronic monitoring system or, if such a system is unavailable, on home detention.

(c) A person who is convicted of an enhanced gross misdemeanor under the circumstances described in subdivision 3, paragraph (d), clause (2) or (3), or under section 169.129, shall be sentenced as follows:

(1) if the person has two prior impaired driving convictions, two prior license revocations, or a combination of the two, within the past ten years, the person must be sentenced to a minimum of 90 days incarceration, at least 30 days of which must be served consecutively in a local correctional facility. The court may order that the person serve not more than 60 days

of this minimum penalty on home detention or in an intensive probation program described in section 169.1265;

(2) if the person has three prior impaired driving convictions, three prior license revocations, or a combination of the two, within the past ten years, the person must be sentenced to a minimum of 180 days of incarceration, at least 30 days of which must be served consecutively in a local correctional facility. The court may order that the person serve not more than 150 days of this minimum penalty on home detention or in an intensive probation program described in section 169.1265; or

(3) if the person has: (i) four prior impaired driving convictions, four prior license revocations, or a combination of the two, within the past 15 years; or (ii) five or more prior impaired driving convictions, five or more prior license revocations, or a combination of the two, within the person's lifetime; then the person must be sentenced to a minimum of one year of incarceration, at least 60 days of which must be served consecutively in a local correctional facility. The court may order that the person serve the remainder of this minimum penalty on intensive probation using an electronic monitoring system or, if such a system is unavailable, on home detention.

**Subd. 3f. Long-term monitoring.** (a) This subdivision applies to a person convicted of:

(1) a violation of subdivision 1 or 1a within five years of two prior impaired driving convictions, or within ten years of three or more prior impaired driving convictions;

(2) a second or subsequent violation of subdivision 1 or 1a, if the person is under the age of 19 years;

(3) a violation of subdivision 1 or 1a, while the person's driver's license or driving privileges have been canceled under section 171.04, subdivision 1, clause (9); or

(4) a violation of section 169.129.

(b) When the court sentences a person described in paragraph (a) to a stayed sentence and when electronic monitoring equipment is available to the court, the court shall require that the person participate in a program of electronic alcohol monitoring in addition to any other conditions of probation or jail time it imposes. During the first one-third of the person's probationary term, the electronic alcohol monitoring must be continuous and involve measurements of the person's alcohol at least three times a day. During the remainder of the person's probationary term, the electronic alcohol monitoring may be intermittent, as determined by the court. The court shall require partial or total reimbursement from the person for the cost of the electronic alcohol monitoring, to the extent the person is able to pay.

**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) for an offense under subdivision 1: not less than 30 days;

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

(3) for an offense occurring within five years after a prior impaired driving conviction or a prior license revocation, or any time after two or more prior impaired driving convictions or prior license revocations: (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) for an offense occurring within five years after the first of two prior impaired driving convictions or prior license revocations: not less than one year, together with denial under section 171.04, subdivision 1, clause (9), until rehabilitation is established in accordance with standards established by the commissioner;

(5) for an offense occurring any time after three or more prior impaired driving convictions or prior license revocations: not less than two years, together with denial under section 171.04, subdivision 1, clause (9), 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 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) If the person is convicted of violating subdivision 1, paragraph (f), the commissioner of public safety shall revoke the person's driver's license for twice the period of time otherwise provided for in this subdivision.

(f) 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, 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.

*[For text of subs 5 and 5a, see M.S.1996]*

**Subd. 5b. Penalty assessment.** When a court sentences a person convicted of violating subdivision 1, clause (f), the court may impose a penalty assessment of up to \$1,000. The court may impose this assessment in addition to any other penalties or charges authorized under this section. Money collected under this subdivision must be distributed as follows:

(1) if the arresting officer is an employee of a political subdivision, the assessment must be forwarded to the treasury of the political subdivision for use in enforcement, training, and education activities related to driving while impaired; or

(2) if the arresting officer is an employee of the state, the assessment must be forwarded to the state treasury and credited to the general fund.

**Subd. 6. Preliminary screening test.** (a) When a peace officer has reason to believe from the manner in which a person is driving, operating, controlling, or acting upon departure from a motor vehicle, or has driven, operated, or controlled a motor vehicle, that the driver may be violating or has violated subdivision 1 or section 169.1211, the officer may require the driver to provide a sample of the driver's breath for a preliminary screening test using a device approved by the commissioner of public safety for this purpose.

(b) The results of this preliminary screening test shall be used for the purpose of deciding whether an arrest should be made and whether to require the tests authorized in section 169.123, but shall not be used in any court action except the following:

(1) to prove that a test was properly required of a person pursuant to section 169.123, subdivision 2;

(2) in a civil action arising out of the operation or use of the motor vehicle;

(3) in an action for license reinstatement under section 171.19;

(4) in a prosecution or juvenile court proceeding concerning a violation of section 169.1218 or 340A.503, subdivision 1, paragraph (a), clause (2);

(5) in a prosecution under section 169.1211, subdivision 1, paragraph (b), or 171.30; or

(6) in a prosecution for a violation of a restriction on a driver's license under section 171.09, which provides that the license holder may not use or consume any amount of alcohol or a controlled substance.

(c) Following the screening test additional tests may be required of the driver pursuant to the provisions of section 169.123.

(d) The driver who refuses to furnish a sample of the driver's breath is subject to the provisions of section 169.123 unless, in compliance with section 169.123, the driver submits

to a blood, breath or urine test to determine the presence or amount of alcohol, controlled substances, or hazardous substances.

*[For text of subs 7 to 10a, see M.S.1996]*

**Subd. 11. Applicability to recreational vehicles.** For purposes of this section and section 169.123, "motor vehicle" includes motorboats in operation and off-road recreational vehicles. A "motorboat in operation" does not include a motorboat that is anchored, beached, or securely fastened to a dock or other permanent mooring, or a motorboat that is being rowed or propelled by other than mechanical means.

*[For text of subd 12, see M.S.1996]*

**History:** 1997 c 12 art 3 s 5; 1Sp1997 c 2 s 26-39

### 169.1211 ALCOHOL-RELATED DRIVING BY COMMERCIAL VEHICLE DRIVERS.

**Subdivision 1. Crimes.** (a) It is a crime for any person to drive, operate, or be in physical control of any commercial motor vehicle within this state or upon the ice of any boundary water of this state:

(1) when the person's alcohol concentration is 0.04 or more but less than 0.20;

(2) when the person's alcohol concentration as measured within two hours of the time of driving, operating, or being in physical control of the commercial motor vehicle is 0.04 or more but less than 0.20; or

(3) when the person's alcohol concentration at the time, or as measured within two hours of the time, of driving, operating, or being in physical control of the commercial motor vehicle is 0.20 or more.

(b) It is a crime for any person to drive, operate, or be in physical control of any class of school bus or Head Start bus within this state or upon the ice of any boundary water of this state when there is physical evidence present in the person's body of the consumption of any alcohol.

*[For text of subs 2 to 4, see M.S.1996]*

**Subd. 5. Criminal penalty.** (a) A person who violates subdivision 1, paragraph (a), clause (1) or (2), or paragraph (b), or an ordinance in conformity with any of them, is guilty of a misdemeanor.

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

(1) the person violates subdivision 1, paragraph (a), clause (3);

(2) the person violates subdivision 1, paragraph (a), clause (1) or (2), or paragraph (b), within five years of a prior impaired driving conviction or a prior license revocation, or within ten years of the first of two or more prior impaired driving convictions, two or more prior license revocations, or a combination of a prior impaired driving conviction and a prior license revocation, based on separate incidents;

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

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

**Subd. 6. Definitions.** As used in this section, the terms "prior impaired driving conviction" and "prior license revocation" have the meanings given them in section 169.121, subdivision 3.

**History:** 1Sp1997 c 2 s 40-42

### 169.1217 VEHICLE FORFEITURE FOR DESIGNATED OFFENSES AND LICENSE REVOCATIONS.

**Subdivision 1. Definitions.** As used in this section, the following terms have the meanings given them:

(a) "Appropriate agency" means a law enforcement agency that has the authority to make an arrest for a violation of a designated offense or to require a test under section 169.123.

(b) "Designated license revocation" includes a license revocation under section 169.123:

(1) within five years of two prior impaired driving convictions, two prior license revocations, or a prior impaired driving conviction and a prior license revocation, based on separate incidents; or

(2) within 15 years of the first of three or more prior impaired driving convictions, three or more prior license revocations, or any combination of three or more prior impaired driving convictions and prior license revocations, based on separate incidents.

(c) "Designated offense" includes:

(1) a violation of section 169.121, subdivision 1, clause (a), (b), (c), (d), (e), (g), or (h), subdivision 1a, an ordinance in conformity with any of them, or section 169.129:

(i) within five years of two prior impaired driving convictions, or two prior license revocations, or a prior impaired driving conviction and a prior license revocation, based on separate incidents; or

(ii) within 15 years of the first of three or more prior impaired driving convictions, three or more prior license revocations, or any combination of three or more impaired driving convictions and prior license revocations, based on separate incidents;

(2) a violation of section 169.121, subdivision 1, clause (f), or a violation of section 169.121, subdivision 3, paragraph (c), clause (4):

(i) within five years of a prior impaired driving conviction or a prior license revocation;

or

(ii) within 15 years of the first of two or more prior impaired driving convictions, two or more prior license revocations, or a prior impaired driving conviction and a prior license revocation, based on separate incidents; or

(3) a violation of section 169.121, an ordinance in conformity with it, or section 169.129:

(i) by a person whose driver's license or driving privileges have been canceled under section 171.04, subdivision 1, clause (9); or

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

(d) "Motor vehicle" and "vehicle" have the meaning given "motor vehicle" in section 169.121, subdivision 11. The terms do not include a vehicle which is stolen or taken in violation of the law.

(e) "Owner" means the registered owner of the motor vehicle according to records of the department of public safety and includes a lessee of a motor vehicle if the lease agreement has a term of 180 days or more.

(f) "Prior impaired driving conviction" has the meaning given it in section 169.121, subdivision 3. 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.

(g) "Prior license revocation" has the meaning given it in section 169.121, subdivision 3.

(h) "Prosecuting authority" means the attorney in the jurisdiction in which the designated offense occurred who is responsible for prosecuting violations of a designated offense.

**Subd. 2. Seizure.** A motor vehicle subject to forfeiture under this section may be seized by the appropriate agency upon process issued by any court having jurisdiction over the vehicle. Property may be seized without process if:

(1) the seizure is incident to a lawful arrest or a lawful search;

(2) the vehicle subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding under this section; or

(3) the appropriate agency has probable cause to believe that the delay occasioned by the necessity to obtain process would result in the removal or destruction of the vehicle. If property is seized without process under this clause, the prosecuting authority must institute a forfeiture action under this section as soon as is reasonably possible.

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

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

**Subd. 4. Bond by owner for possession.** If the owner of a vehicle that has been seized under this section seeks possession of the vehicle before the forfeiture action is determined, the owner may, subject to the approval of the appropriate agency, give security or post bond payable to the appropriate agency in an amount equal to the retail value of the seized vehicle. On posting the security or bond, the seized vehicle may be returned to the owner only if a disabling device is attached to the vehicle. The forfeiture action shall proceed against the security as if it were the seized vehicle.

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

**Subd. 6. Motor vehicles subject to forfeiture.** A motor vehicle is subject to forfeiture under this section if it was used in the commission of a designated offense or was used in conduct resulting in a designated license revocation.

**Subd. 7. Limitations on forfeiture of motor vehicles.** (a) A vehicle is subject to forfeiture under this section only if:

- (1) the driver is convicted of the designated offense upon which the forfeiture is based;
- (2) the driver fails to appear with respect to the designated offense charge in violation of section 609.49; or

(3) the driver's conduct results in a designated license revocation and the driver either fails to seek administrative or judicial review of the revocation in a timely manner as required by section 169.123, subdivision 5b or 5c, or the revocation is sustained under section 169.123, subdivision 5b or 6.

(b) A vehicle encumbered by a bona fide security interest, or subject to a lease that has a term of 180 days or more, is subject to the interest of the secured party or lessor unless the party or lessor had knowledge of or consented to the act upon which the forfeiture is based.

(c) Notwithstanding paragraph (b), the secured party's or lessor's interest in a vehicle is not subject to forfeiture based solely on the secured party's or lessor's knowledge of the act or omission upon which the forfeiture is based if the secured party or lessor took reasonable steps to terminate use of the vehicle by the offender.

(d) A motor vehicle is subject to forfeiture under this section only if its owner knew or should have known of the unlawful use or intended use.

(e) A vehicle subject to a security interest, based upon a loan or other financing arranged by a financial institution, is subject to the interest of the financial institution.

**Subd. 7a. Administrative forfeiture procedure.** (a) A motor vehicle used to commit a designated offense or used in conduct resulting in a designated license revocation is subject to administrative forfeiture under this subdivision.

(b) When a motor vehicle is seized under subdivision 2, the appropriate agency shall serve the driver or operator of the vehicle with a notice of the seizure and intent to forfeit the vehicle. Additionally, when a motor vehicle is seized under subdivision 2, or within a reasonable time after that, all persons known to have an ownership or possessory interest in the vehicle must be notified of the seizure and the intent to forfeit the vehicle. Notice mailed by certified mail to the address shown in department of public safety records is sufficient notice

to the registered owner of the vehicle. Otherwise, notice may be given in the manner provided by law for service of a summons in a civil action.

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

(1) a description of the vehicle seized;

(2) the date of seizure; and

(3) notice of the right to obtain judicial review of the forfeiture and of the procedure for obtaining that judicial review, printed in English, Hmong, and Spanish. Substantially the following language must appear conspicuously: "IF YOU DO NOT DEMAND JUDICIAL REVIEW EXACTLY AS PRESCRIBED IN MINNESOTA STATUTES, SECTION 169.1217, SUBDIVISION 7a, YOU LOSE THE RIGHT TO A JUDICIAL DETERMINATION OF THIS FORFEITURE AND YOU LOSE ANY RIGHT YOU MAY HAVE TO THE ABOVE DESCRIBED PROPERTY. YOU MAY NOT HAVE TO PAY THE FILING FEE FOR THE DEMAND IF DETERMINED YOU ARE UNABLE TO AFFORD THE FEE. YOU DO NOT HAVE TO PAY THE FILING FEE IF THE PROPERTY IS WORTH LESS THAN \$500 AND YOU FILE YOUR CLAIM IN CONCILIATION COURT."

(d) Within 30 days following service of a notice of seizure and forfeiture under this subdivision, a claimant may file a demand for a judicial determination of the forfeiture. The demand must be in the form of a civil complaint and must be filed with the court administrator in the county in which the seizure occurred, together with proof of service of a copy of the complaint on the prosecuting authority having jurisdiction over the forfeiture, and the standard filing fee for civil actions unless the petitioner has the right to sue in forma pauperis under section 563.01. If the value of the seized property is less than \$500, the claimant may file an action in conciliation court for recovery of the seized vehicle without paying the conciliation court filing fee. No responsive pleading is required of the prosecuting authority and no court fees may be charged for the prosecuting authority's appearance in the matter. Except as provided in this section, judicial reviews and hearings are governed by section 169.123, subdivisions 5c and 6, and shall take place at the same time as any judicial review of the person's license revocation under section 169.123. The proceedings may be combined with any hearing on a petition filed under section 169.123, subdivision 5c, and are governed by the rules of civil procedure.

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

(f) If the claimant makes a timely demand for a judicial determination under this subdivision, the appropriate agency must conduct the forfeiture under subdivision 8.

(g) If a demand for judicial determination of an administrative forfeiture is filed under this subdivision and the court orders the return of the seized vehicle, the court shall order that filing fees be reimbursed to the person who filed the demand. In addition, the court may order the payment of reasonable costs, expenses, and attorney fees under section 549.21, subdivision 2.

**Subd. 8. Judicial forfeiture procedure.** (a) This subdivision governs judicial determinations of the forfeiture of a motor vehicle used to commit a designated offense or used in conduct resulting in a designated license revocation.

(b) A separate complaint shall be filed against the vehicle, describing it, specifying that it was used in the commission of a designated offense or was used in conduct resulting in a designated license revocation, and specifying the time and place of its unlawful use. If the forfeiture was based on the commission of a designated offense and the person charged with the designated offense appears in court as required and is not convicted of the offense, the court shall dismiss the complaint against the vehicle and order the property returned to the person legally entitled to it. If the forfeiture is based on a designated license revocation, and the designated license revocation is rescinded under section 169.123, subdivision 5a or 6, the court shall dismiss the complaint against the vehicle and order the property returned to the person legally entitled to it. If the lawful ownership of the vehicle used in the commission of a

designated offense or used in conduct resulting in a designated license revocation can be determined and it is found the owner was not privy to commission of a designated offense or was not privy to the conduct resulting in the designated license revocation, the vehicle shall be returned immediately.

**Subd. 9. Disposition of forfeited vehicles.** (a) If the vehicle is administratively forfeited under subdivision 7a, or if the court finds under subdivision 8 that the vehicle is subject to forfeiture under subdivisions 6 and 7, the appropriate agency shall:

(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 agency of state government, the net proceeds must be forwarded to the state treasury and credited to the general fund.

(c) The proceeds from the sale of forfeited off-road recreational vehicles and motorboats, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be forwarded to the state treasury and credited to the following funds:

(1) if the forfeited vehicle is a motorboat, the net proceeds must be credited to the water recreation account in the natural resources fund;

(2) if the forfeited vehicle is a snowmobile, the net proceeds must be credited to the snowmobile trails and enforcement account in the natural resources fund;

(3) if the forfeited vehicle is an all-terrain vehicle, the net proceeds must be credited to the all-terrain vehicle account in the natural resources fund;

(4) if the forfeited vehicle is an off-highway motorcycle, the net proceeds must be credited to the off-highway motorcycle account in the natural resources fund;

(5) if the forfeited vehicle is an off-road vehicle, the net proceeds must be credited to the off-road vehicle account in the natural resources fund; and

(6) if otherwise, the net proceeds must be credited to the general fund.

**History:** 1997 c 12 art 3 s 6; 1Sp1997 c 2 s 43

### 169.1218 UNDERAGE DRINKING AND DRIVING.

(a) It is a misdemeanor for a person under the age of 21 years to drive or operate a motor vehicle while consuming alcoholic beverages, or after having consumed alcoholic beverages while there is physical evidence of the consumption present in the person's body.

(b) When a person is found to have committed an offense under paragraph (a), 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 found to have violated paragraph (a) or a statute or ordinance in conformity with paragraph (a).

(c) If the person's conduct violates section 169.121, subdivision 1 or 1a, or 169.1211, the penalties and license sanctions in those laws apply instead of the license sanction in paragraph (b).

(d) An offense under paragraph (a) may be prosecuted either in the jurisdiction where consumption occurs or the jurisdiction where evidence of consumption is observed.

**History:** 1Sp1997 c 2 s 44

### 169.123 CHEMICAL TESTS FOR INTOXICATION.

**Subdivision 1. Peace officer defined.** For purposes of this section, section 169.121, and section 169.1211, the term peace officer means (1) a state patrol officer, (2) University of Minnesota peace officer, (3) a constable as defined in section 367.40, subdivision 3, (4) po-



lice officer of any municipality, including towns having powers under section 368.01, or county, and (5) for purposes of violations of those sections in or on an off-road recreational vehicle or motorboat, a state conservation officer.

*[For text of subs 2 to 3, see M.S.1996]*

**Subd. 4. Refusal; revocation of license.** (a) If a person refuses to permit a test, none shall be given, but the peace officer shall report the refusal to the commissioner of public safety and the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the acts occurred. However, if a peace officer has probable cause to believe that the person has violated section 609.21, a test may be required and obtained despite the person's refusal. A refusal to submit to an alcohol concentration test does not constitute a violation of section 609.50, unless the refusal was accompanied by force or violence or the threat of force or violence.

(b) If a person submits to a test, the results of that test shall be reported to the commissioner of public safety and to the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the acts occurred, if the test results indicate:

(1) an alcohol concentration of 0.10 or more;

(2) an alcohol concentration of 0.04 or more, if the person was driving, operating, or in physical control of a commercial motor vehicle at the time of the violation; or

(3) the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols.

(c) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169.121 and that the person refused to submit to a test, the commissioner of public safety shall revoke the person's license or permit to drive, or nonresident operating privilege, for a period of one year even if a test was obtained pursuant to this section after the person refused to submit to testing.

(d) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with the presence of any alcohol in violation of section 169.121 or 169.1211, and that the person refused to submit to a test, the commissioner shall disqualify the person from operating a commercial motor vehicle for a period of one year under section 171.165 and shall revoke the person's license or permit to drive or nonresident operating privilege for a period of one year.

(e) Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle in violation of section 169.121 and that the person submitted to a test and the test results indicate an alcohol concentration of 0.10 or more or the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols,

then the commissioner of public safety shall revoke the person's license or permit to drive, or nonresident operating privilege:

(1) for a period of 90 days; or

(2) if the person is under the age of 21 years, for a period of six months; or

(3) for a person with a prior impaired driving conviction or prior license revocation within the past five years, for a period of 180 days; or

(4) if the test results indicate an alcohol concentration of 0.20 or more, for twice the applicable period in clauses (1) to (3).

(f) On certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with any presence of alcohol and that the person submitted to a test and the test results indicated an alcohol concentration of 0.04 or more, the commissioner of public safety shall disqualify the person from operating a commercial motor vehicle under section 171.165.

(g) If the person is a resident without a license or permit to operate a motor vehicle in this state, the commissioner of public safety shall deny to the person the issuance of a license or permit for the same period after the date of the alleged violation as provided herein for revocation, subject to review as hereinafter provided.

(h) As used in this subdivision, the terms "prior impaired driving conviction" and "prior license revocation" have the meanings given in section 169.121, subdivision 3, paragraph (a).

*[For text of subs 5 to 5b, see M.S.1996]*

**Subd. 5c. Petition for judicial review.** (a) Within 30 days following receipt of a notice and order of revocation or disqualification pursuant to this section, a person may petition the court for review. The petition shall be filed with the district court administrator in the county where the alleged offense occurred, together with proof of service of a copy on the commissioner of public safety, and accompanied by the standard filing fee for civil actions. No responsive pleading shall be required of the commissioner of public safety, and no court fees shall be charged for the appearance of the commissioner of public safety in the matter.

(b) The petition must:

(1) be captioned in the full name of the person making the petition as petitioner and the commissioner of public safety as respondent;

(2) include the petitioner's date of birth, driver's license number, and date of the offense; and

(3) state with specificity the grounds upon which the petitioner seeks rescission of the order of revocation, disqualification, or denial and state the facts underlying each claim asserted.

(c) The filing of the petition shall not stay the revocation, disqualification, or denial. The reviewing court may order a stay of the balance of the revocation or disqualification if the hearing has not been conducted within 60 days after filing of the petition upon terms the court deems proper.

(d) Judicial reviews shall be conducted according to the rules of civil procedure except that prehearing discovery is mandatory and is limited to:

(1) the notice of revocation;

(2) the test record, or in the case of blood or urine tests, the certificate of analysis;

(3) the peace officer's certificate and any accompanying documentation submitted by the arresting officer to the commissioner of public safety; and

(4) disclosure of potential witnesses, including experts, and the basis of their testimony. Other types of discovery are not available.

**Subd. 6. Hearing.** (a) A hearing under this section shall be before a district judge in any county in the judicial district where the alleged offense occurred. The hearing shall be to the court and may be conducted at the same time and in the same manner as hearings upon pre-trial motions in the criminal prosecution under section 169.121, if any. The hearing shall be recorded. The commissioner of public safety shall appear and be represented by the attorney general or through the prosecuting authority for the jurisdiction involved. The hearing shall be held at the earliest practicable date, and in any event no later than 60 days following the filing of the petition for review. The judicial district administrator shall establish procedures to ensure efficient compliance with this subdivision. To accomplish this, the administrator may, whenever possible, consolidate and transfer review hearings among the county courts within the judicial district.

(b) The scope of the hearing shall be limited to the issues in clauses (1) to (10):

(1) Did the peace officer have probable cause to believe the person was driving, operating, or in physical control of:

(i) a motor vehicle in violation of section 169.121; or

(ii) a commercial motor vehicle in violation of section 169.1211?

(2) Was the person lawfully placed under arrest for violation of section 169.121 or 169.1211?

(3) Was the person involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death?

(4) Did the person refuse to take a screening test provided for by section 169.121, subdivision 6?

(5) If the screening test was administered, did the test indicate an alcohol concentration of 0.10 or more?

(6) At the time of the request for the test, did the peace officer inform the person of the person's rights and the consequences of taking or refusing the test as required by subdivision 2?

(7) Did the person refuse to permit the test?

(8) If a test was taken by a person driving, operating, or in physical control of a motor vehicle, did the test results indicate at the time of testing:

(i) an alcohol concentration of 0.10 or more; or

(ii) the presence of a controlled substance listed in schedule I or II, other than marijuana or tetrahydrocannabinols?

(9) If a test was taken by a person driving, operating, or in physical control of a commercial motor vehicle, did the test results indicate an alcohol concentration of 0.04 or more at the time of testing?

(10) Was the testing method used valid and reliable and were the test results accurately evaluated?

(c) It shall be an affirmative defense for the petitioner to prove that, at the time of the refusal, the petitioner's refusal to permit the test was based upon reasonable grounds.

(d) Certified or otherwise authenticated copies of laboratory or medical personnel reports, records, documents, licenses, and certificates shall be admissible as substantive evidence.

(e) The court shall order that the revocation or disqualification be either rescinded or sustained and forward the order to the commissioner of public safety. The court shall file its order within 14 days following the hearing. If the revocation or disqualification is sustained, the court shall also forward the person's driver's license or permit to the commissioner of public safety for further action by the commissioner of public safety if the license or permit is not already in the commissioner's possession.

*[For text of subs 7 to 10, see M.S.1996]*

**History:** *1Sp1997 c 2 s 45-48*

### **169.126 CHEMICAL USE ASSESSMENTS.**

Subdivision 1. **Requirement; form.** A chemical use assessment shall be conducted and an assessment report submitted to the court and to the department of public safety by the county agency administering the alcohol safety program when:

(a) The defendant is convicted of an offense described in section 169.121, 169.1211, 169.129, or 360.0752; or

(b) The defendant is arrested for committing an offense described in section 169.121 or 169.129 but is convicted of another offense arising out of the circumstances surrounding the arrest.

*[For text of subs 2 to 6, see M.S.1996]*

**History:** *1Sp1997 c 2 s 49*

### **169.1261 REINSTATEMENT OF DRIVING PRIVILEGES; NOTICE.**

Upon expiration of a period of revocation under section 169.121 or 169.123, the commissioner of public safety shall notify the person of the terms upon which driving privileges can be reinstated, and new registration plates issued, which terms are: (1) successful completion of an examination and proof of compliance with any terms of alcohol treatment or counseling previously prescribed, if any; and (2) any other requirements imposed by the commissioner and applicable to that particular case. The commissioner shall notify the owner of a motor vehicle subject to an impoundment order under section 168.041 as a result of the violation of the procedures for obtaining new registration plates, if the owner is not the violator. The commissioner shall also notify the person that if driving is resumed without reinstatement

ment of driving privileges or without valid registration plates and registration certificate, the person will be subject to criminal penalties.

**History:** *1Sp1997 c 2 s 50*

### 169.129 AGGRAVATED VIOLATIONS; PENALTY.

**Subdivision 1. Crime.** It is a crime for any person to drive, operate, or be 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 driving privilege has been reinstated following its cancellation, suspension, revocation, disqualification, or denial under any of the following:

(1) section 169.121, 169.1211, or 169.123;

(2) section 171.04, 171.14, 171.16, 171.17, or 171.18 because of an alcohol-related incident;

(3) section 609.21, subdivision 1, clauses (2) to (6); subdivision 2, clauses (2) to (6); subdivision 2a, clauses (2) to (6); subdivision 2b, clauses (2) to (6); subdivision 3, clauses (2) to (6); or subdivision 4, clauses (2) to (6).

**Subd. 2. Penalties.** (a) Except as otherwise provided in paragraph (b), a person who violates subdivision 1 is guilty of a gross misdemeanor.

(b) A person is guilty of an enhanced gross misdemeanor and may be sentenced to imprisonment in a local correctional facility for not more than two years or to payment of a fine of not more than \$3,000, or both, if the person violates subdivision 1 and the person's driver's license or driving privilege has been suspended, revoked, canceled, denied, or disqualified two or more times within the past ten years under any of the statutes listed in subdivision 1. A person convicted of an enhanced gross misdemeanor under this paragraph is subject to the applicable mandatory penalties provided in section 169.121, subdivision 3d.

**Subd. 3. Prosecution.** 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.

**History:** *1Sp1997 c 2 s 51*

### 169.14 SPEED RESTRICTIONS.

*[For text of subd 1, see M.S.1996]*

**Subd. 2. Speed limits.** (a) Where no special hazard exists the following speeds shall be lawful, but any speeds in excess of such limits shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful; except that the speed limit within any municipality shall be a maximum limit and any speed in excess thereof shall be unlawful:

(1) 30 miles per hour in an urban district;

(2) 65 miles per hour on non-Interstate freeways and expressways, as defined in section 160.02, subdivision 16;

(3) 55 miles per hour in locations other than those specified in this section;

(4) 70 miles per hour on Interstate highways outside the limits of any urbanized area with a population of greater than 50,000 as defined by order of the commissioner of transportation;

(5) 65 miles per hour on Interstate highways inside the limits of any urbanized area with a population of greater than 50,000 as defined by order of the commissioner of transportation;

(6) ten miles per hour in alleys; and

(7) 25 miles per hour in residential roadways if adopted by the road authority having jurisdiction over the residential roadway.

(b) A speed limit adopted under paragraph (a), clause (7), is not effective unless the road authority has erected signs designating the speed limit and indicating the beginning and end of the residential roadway on which the speed limit applies.

**Subd. 3. Reduced speed required.** (a) The driver of any vehicle shall, consistent with the requirements, drive at an appropriate reduced speed when approaching or passing an authorized emergency vehicle stopped with emergency lights flashing on any street or highway, when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions.

(b) A person who fails to reduce speed appropriately when approaching or passing an authorized emergency vehicle stopped with emergency lights flashing on a street or highway shall be assessed an additional surcharge equal to the amount of the fine imposed for the speed violation, but not less than \$25.

*[For text of subd 4, see M.S.1996]*

Subd. 4a. [Repealed, 1997 c 143 s 20]

*[For text of subd 5, see M.S.1996]*

**Subd. 5a. Speed zoning in school zones.** Local authorities may establish a school speed limit within a school zone of a public or nonpublic school upon the basis of an engineering and traffic investigation as prescribed by the commissioner of transportation. The establishment of a school speed limit on any trunk highway shall be with the consent of the commissioner of transportation. Such school speed limits shall be in effect when children are present, going to or leaving school during opening or closing hours or during school recess periods. The school speed limit shall not be lower than 15 miles per hour and shall not be more than 20 miles per hour below the established speed limit on an affected street or highway if the established speed limit is 40 miles per hour or greater.

The school speed limit shall be effective upon the erection of appropriate signs designating the speed and indicating the beginning and end of the reduced speed zone. Any speed in excess of such posted school speed limit is unlawful. All such signs shall be erected by the local authorities on those streets and highways under their respective jurisdictions and by the commissioner of transportation on trunk highways.

For the purpose of this subdivision, "school zone" means that section of a street or highway which abuts the grounds of a school where children have access to the street or highway from the school property or where an established school crossing is located provided the school advance sign prescribed by the manual on uniform traffic control devices adopted by the commissioner of transportation pursuant to section 169.06 is in place. All signs erected by local authorities to designate speed limits in school zones shall conform to the manual on uniform control devices.

Notwithstanding section 609.0331 or 609.101 or other law to the contrary, a person who violates a speed limit established under this subdivision is assessed an additional surcharge equal to the amount of the fine imposed for the violation, but not less than \$25.

*[For text of subds 5b and 5c, see M.S.1996]*

**Subd. 5d. Speed zoning in work zones; surcharge.** (a) The commissioner, on trunk highways and temporary trunk highways, and local authorities, on streets and highways under their jurisdiction, may authorize the use of reduced maximum speed limits in highway work zones. The commissioner or local authority is not required to conduct an engineering and traffic investigation before authorizing a reduced speed limit in a highway work zone.

(b) The minimum highway work zone speed limit is 20 miles per hour. The work zone speed limit must not reduce the established speed limit on the affected street or highway by more than 15 miles per hour, except that the highway work zone speed limit shall not exceed 40 miles per hour. Highway work zone speed limits are effective on erection of appropriate regulatory speed limit signs. The signs must be removed or covered when they are not required. A speed greater than the posted highway work zone speed limit is unlawful.

(c) For purposes of this subdivision, "highway work zone" means a segment of highway or street where a road authority or its agent is constructing, reconstructing, or maintaining the

physical structure of the roadway, its shoulders, or features adjacent to the roadway, including underground and overhead utilities and highway appurtenances.

(d) Notwithstanding section 609.0331 or 609.101 or other law to the contrary, a person who violates a speed limit established under paragraph (b), or who violates any other provision of this section while in a highway work zone, is assessed an additional surcharge equal to the amount of the fine imposed for the speed violation, but not less than \$25.

*[For text of subs 5e to 12, see M.S.1996]*

**History:** 1997 c 143 s 9–11; 1997 c 159 art 2 s 20,21

### 169.145 IMPLEMENTS OF HUSBANDRY; SPEED; BRAKES.

No person may:

(1) drive or tow an implement of husbandry that exceeds 6,000 pounds registered gross weight or gross vehicle weight and is not equipped with brakes; or

(2) tow a vehicle registered as a farm trailer that exceeds 6,000 pounds registered gross weight or gross vehicle weight and is not equipped with brakes, at a speed in excess of 30 miles per hour.

**History:** 1997 c 7 art 1 s 79; 1997 c 143 s 12

### 169.17 EMERGENCY VEHICLES.

The speed limitations set forth in sections 169.14 to 169.17 do not apply to an authorized emergency vehicle responding to an emergency call. Drivers of all emergency vehicles shall sound an audible signal by siren and display at least one lighted red light to the front, except that law enforcement vehicles or medical emergency vehicles shall sound an audible signal by siren or display at least one lighted red light to the front. This provision does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of persons using the street, nor does it protect the driver of an authorized emergency vehicle from the consequence of a reckless disregard of the safety of others.

**History:** 1997 c 143 s 13; 1997 c 159 art 2 s 22

### 169.20 RIGHT-OF-WAY.

*[For text of subs 1 to 4, see M.S.1996]*

**Subd. 5. Emergency vehicle.** (a) Upon the immediate approach of an authorized emergency vehicle equipped with at least one lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle and, except where otherwise not required by law, when the driver is giving audible signal by siren, the driver of each other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the highway clear of any intersection, and shall stop and remain in this position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer. The driver of another vehicle on a one-way roadway shall drive to the closest edge or curb and stop. The driver of an authorized emergency vehicle escorting the movement of a vehicle or load which is oversize or overweight need not sound an audible signal by siren but shall exhibit the light required by this paragraph. The driver of each other vehicle then shall yield the right-of-way, as required by this paragraph, to the emergency vehicle escorting the vehicle or load which is oversize or overweight.

(b) Upon the approach of an authorized emergency vehicle the driver of each street car and the operator of each trackless trolley car shall immediately stop such car clear of any intersection and keep it in this position and keep the doors and gates of the street car or trackless trolley car closed until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(c) A peace officer may arrest the driver of a motor vehicle if the peace officer has probable cause to believe that the driver has operated the vehicle in violation of paragraph (a) within the four-hour period following the termination of the emergency incident.

(d) This subdivision shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of persons using the highways.

*[For text of subds 5a to 7, see M.S.1996]*

**History:** 1997 c 239 art 3 s 1

## 169.21 PEDESTRIANS.

*[For text of subd 1, see M.S.1996]*

**Subd. 2. Rights in absence of signals.** (a) Where traffic-control signals are not in place or in operation, the driver of a vehicle shall stop to yield the right-of-way to a pedestrian crossing the roadway within a marked crosswalk or within any crosswalk at an intersection but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield. This provision shall not apply under the conditions as otherwise provided in this subdivision.

(b) When any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

(c) It is unlawful for any person to drive a motor vehicle through a column of school children crossing a street or highway or past a member of a school safety patrol or adult crossing guard, while the member of the school safety patrol or adult crossing guard is directing the movement of children across a street or highway and while the school safety patrol member or adult crossing guard is holding an official signal in the stop position. A peace officer may arrest the driver of a motor vehicle if the peace officer has probable cause to believe that the driver has operated the vehicle in violation of this paragraph within the past four hours.

(d) A person who violates this subdivision is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both. A person who violates this subdivision a second or subsequent time within one year of a previous conviction under this subdivision is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

*[For text of subds 3 to 5, see M.S.1996]*

**History:** 1997 c 159 art 2 s 23

## 169.435 STATE SCHOOL BUS SAFETY ADMINISTRATION.

*[For text of subd 1, see M.S.1996]*

**Subd. 2. School bus safety advisory committee.** (a) The commissioner of public safety shall establish the school bus safety advisory committee. The commissioner shall provide the committee with meeting space and clerical support. The commissioner of public safety or the commissioner's designee shall chair the committee. The members of the committee also shall include:

- (1) the commissioner of children, families, and learning or the commissioner's designee;
- (2) the commissioner of human rights or the commissioner's designee;
- (3) a county or city attorney;
- (4) a representative of the state patrol;
- (5) a school board member;
- (6) a school superintendent;
- (7) two school bus drivers, one representing the metropolitan area and one representing greater Minnesota;
- (8) two school transportation contractors, one representing the metropolitan areas and one representing greater Minnesota;

(9) two school transportation safety directors, one representing the metropolitan area and one representing greater Minnesota; and

(10) five public members, including at least four parents of children who ride a school bus, among them a parent of a child with a disability. The public members shall be geographically representative.

The commissioner of public safety, in consultation with the commissioner of children, families, and learning, shall appoint the members listed in clauses (3) to (9). The governor shall appoint the public members in clause (10). Terms, compensation, and removal of committee members shall be according to section 15.059. The committee shall meet quarterly or as required by the chair.

(b) The duties of the committee shall include:

(1) an annual report by January 15 to the governor and the education committees of the legislature, including recommendations for legislative action when needed, on student bus safety education, school bus equipment requirements and inspection, including seat belts and other occupant restraint systems, bus driver licensing, training, and qualifications, bus operation procedures, student behavior and discipline, rules of the road, school bus safety education for the public, or any other aspects of school transportation safety the committee considers appropriate;

(2) a quarterly review of all school transportation accidents, crimes, incidents of serious misconduct, incidents that result in serious personal injury or death, and bus driver dismissals for cause; and

(3) periodic review of school district comprehensive transportation safety policies.

(c) The committee expires June 30, 2001.

*[For text of subd 3, see M.S.1996]*

**History:** 1Sp1997 c 4 art 12 s 6

### 169.443 SAFETY OF SCHOOL CHILDREN; BUS DRIVER'S DUTIES.

*[For text of subs 1 and 2, see M.S.1996]*

**Subd. 3. When signals not used.** School bus drivers shall not activate the prewarning flashing amber signals or flashing red signals and shall not use the stop arm signal:

(1) in special school bus loading areas where the bus is entirely off the traveled portion of the roadway and where no other motor vehicle traffic is moving or is likely to be moving within 20 feet of the bus;

(2) when directed not to do so, in writing, by the local school board;

(3) when a school bus is being used on a street or highway for purposes other than the actual transportation of school children to or from school or a school-approved activity, except as provided in subdivision 8;

(4) at railroad grade crossings; and

(5) when loading and unloading people while the bus is completely off the traveled portion of a separated, one-way roadway that has adequate shoulders. The driver shall drive the bus completely off the traveled portion of this roadway before loading or unloading people.

*[For text of subs 4 to 8, see M.S.1996]*

**History:** 1Sp1997 c 4 art 12 s 7

### 169.444 SAFETY OF SCHOOL CHILDREN; DUTIES OF OTHER DRIVERS.

*[For text of subd 1, see M.S.1996]*

**Subd. 1a. Passing on right.** No person may pass or attempt to pass a school bus in a motor vehicle on the right-hand, passenger-door side of the bus when the school bus is displaying the prewarning flashing amber signals as required in section 169.443, subdivision 1.



**Subd. 2. Violations by drivers; penalties.** (a) A person who fails to stop a vehicle or to keep it stopped, as required in subdivision 1, or who violates subdivision 1a, is guilty of a misdemeanor punishable by a fine of not less than \$300.

(b) A person is guilty of a gross misdemeanor if the person fails to stop a motor vehicle or to keep it stopped, as required in subdivision 1, or who violates subdivision 1a, and commits either or both of the following acts:

(1) passes or attempts to pass the school bus in a motor vehicle on the right-hand, passenger-door side of the bus; or

(2) passes or attempts to pass the school bus in a motor vehicle when a school child is outside of and on the street or highway used by the school bus or on the adjacent sidewalk.

*[For text of subs 3 and 4, see M.S.1996]*

**Subd. 5. Cause for arrest.** A peace officer may arrest the driver of a motor vehicle if the peace officer has probable cause to believe that the driver has operated the vehicle in violation of subdivision 1 or 1a within the past four hours.

**Subd. 6. Violation; penalty for owners and lessees.** (a) If a motor vehicle is operated in violation of subdivision 1 or 1a, the owner of the vehicle, or for a leased motor vehicle the lessee of the vehicle, is guilty of a petty misdemeanor.

(b) The owner or lessee may not be fined under paragraph (a) if (1) another person is convicted for that violation, or (2) the motor vehicle was stolen at the time of the violation.

(c) Paragraph (a) does not apply to a lessor of a motor vehicle if the lessor keeps a record of the name and address of the lessee.

(d) Paragraph (a) does not prohibit or limit the prosecution of a motor vehicle operator for violating subdivision 1 or 1a.

(e) A violation under paragraph (a) does not constitute grounds for revocation or suspension of the owner's or lessee's driver's license.

**Subd. 7. Evidentiary presumptions.** (a) There is a rebuttable presumption that signals described in section 169.442 were in working order and operable when a violation of subdivision 1, 1a, 2, or 5 was allegedly committed, if the signals of the applicable school bus were inspected and visually found to be in working order and operable within 12 hours preceding the incident giving rise to the violation.

(b) There is a rebuttable presumption that a motor vehicle outwardly equipped and identified as a school bus satisfies all of the identification and equipment requirements of section 169.441 when a violation of subdivision 1, 1a, 2, or 5 was allegedly committed, if the applicable school bus bears a current inspection certificate issued under section 169.451.

*[For text of subd 8, see M.S.1996]*

**History:** 1997 c 159 art 2 s 24–28

## 169.447 SCHOOL BUS AND HEAD START BUS SAFETY.

*[For text of subs 1 to 5, see M.S.1996]*

**Subd. 6. Overhead book racks; storage compartments.** School buses may be equipped with padded, permanent overhead book racks that do not hang over the center aisle of the bus. School buses manufactured after January 1, 1998, may also be equipped with interior overhead storage compartments provided they meet the requirements of the 1995 "National Standards for School Buses and School Bus Operations."

**History:** 1Sp1997 c 4 art 12 s 8

## 169.4501 SCHOOL BUS EQUIPMENT STANDARDS.

**Subdivision 1. National standards adopted.** Except as provided in sections 169.4502 and 169.4503, the construction, design, equipment, and color of types A, B, C, and D school buses used for the transportation of school children shall meet the requirements of the "bus chassis standards" and "bus body standards" in the 1995 revised edition of the "National

Standards for School Buses and School Bus Operations” adopted by the Twelfth National Conference on School Transportation. Except as provided in section 169.4504, the construction, design, and equipment of types A, B, C, and D school buses used for the transportation of students with disabilities also shall meet the requirements of the “specially equipped school bus standards” in the 1995 National Standards for School Buses and School Bus Operations. The “bus chassis standards,” “bus body standards,” and “specially equipped school bus standards” sections of the 1995 revised edition of the “National Standards for School Buses and School Bus Operations” are incorporated by reference in this chapter.

**Subd. 2. Applicability.** (a) The standards adopted in this section and sections 169.4502 and 169.4503, govern the construction, design, equipment, and color of school buses used for the transportation of school children, when owned and operated by a school or privately owned and operated under a contract with a school, and these standards must be made a part of that contract by reference. Each school, its officers and employees, and each person employed under the contract is subject to these standards.

(b) The standards apply to school buses manufactured after December 31, 1997. Buses complying with these standards when manufactured need not comply with standards established later except as specifically provided for by law.

(c) A school bus manufactured on or before December 31, 1997, must conform to the Minnesota standards in effect on the date the vehicle was manufactured except as specifically provided for in law.

(d) A new bus body may be remounted on a used chassis provided that the remounted vehicle meets state and federal standards for new buses which are current at the time of the remounting. Permission must be obtained from the commissioner of public safety before the remounting is done. A used bus body may not be remounted on a new or used chassis.

*[For text of subs 3 and 4, see M.S.1996]*

**History:** 1Sp1997 c 4 art 12 s 9,10

## 169.4502 ADDITIONAL MINNESOTA SCHOOL BUS CHASSIS STANDARDS.

*[For text of subd 1, see M.S.1996]*

**Subd. 2. Brakes.** The braking system must meet federal motor vehicle safety standards in effect at the time of manufacture.

*[For text of subs 3 to 5, see M.S.1996]*

**Subd. 6.** [Repealed, 1Sp1997 c 4 art 12 s 34]

**Subd. 7. Exhaust system.** The tailpipe must extend to but not more than two inches beyond the left side of the bus, behind the driver’s compartment. No exhaust pipe shall be reduced in size beyond the muffler.

*[For text of subd 8, see M.S.1996]*

**Subd. 9. Fuel tank.** If mounted behind the rear wheels, the fuel tank on a vehicle constructed with a power lift unit shall be between the frame rails. Fuel tanks must be manufacturer’s standard and must conform with federal motor vehicle safety standard number 301, Code of Federal Regulations, title 49, part 571.

*[For text of subd 10, see M.S.1996]*

**Subd. 11. Tires and rims.** The use of multipiece rims or tube-type tires is permitted. Radial and bias ply tires shall not be used on the same axle. Front tire tread depth shall not be less than 4/32 inch in any major tire tread groove. Rear tire tread shall not be less than 2/32 inch. Tires must be measured in three locations around the tire, in two adjoining grooves. No recapped tires shall be used on the front wheels. Recapped tires are permitted on the rear wheels.

*[For text of subd 12, see M.S.1996]*

Subd. 13. **Air cleaner.** The air intake system for diesel buses may have an air cleaner restriction indicator installed.

Subd. 14. **Clutch.** A starter interlock may be installed to prevent actuation of the starter if the clutch is not depressed.

Subd. 15. **Oil filter.** An oil filtration system may be used in lieu of an oil filter.

**History:** 1Sp1997 c 4 art 12 s 11-17

### 169.4503 ADDITIONAL MINNESOTA SCHOOL BUS BODY STANDARDS.

Subdivision 1. **Relation to national standards.** The bus body standards contained in this section are required in addition to those required by sections 169.4501 and 169.4502. When a Minnesota standard contained in this section conflicts with a national standard adopted in section 169.4501, the Minnesota standard contained in this section is controlling.

Subd. 2. **Backup warning alarm.** An automatic audible backup alarm may be installed. A spring-loaded button in the driver's compartment that will temporarily disable the backup alarm is allowed for usage in school bus overnight parking lots and repair facilities.

Subd. 3. [Repealed, 1Sp1997 c 4 art 12 s 34]

*[For text of subds 4 to 7, see M.S.1996]*

Subd. 8. [Repealed, 1Sp1997 c 4 art 12 s 34]

Subd. 9. [Repealed, 1Sp1997 c 4 art 12 s 34]

Subd. 10. **Emergency equipment; fire extinguishers.** The bus must be equipped with at least one UL-approved pressurized, dry chemical fire extinguisher with a total rating of 2A10BC or greater.

*[For text of subd 10a, see M.S.1996]*

Subd. 11. [Repealed, 1Sp1997 c 4 art 12 s 34]

Subd. 12. [Repealed, 1Sp1997 c 4 art 12 s 34]

Subd. 13. **Identification.** (a) Each bus shall, in the beltline, identify the school district serviced, or company name, or owner of the bus. Numbers necessary for identification must appear on the sides and rear of the bus. Symbols or letters may be used on the outside of the bus near the entrance door for student identification. A manufacturer's nameplate or logo may be placed on the bus.

(b) Effective December 31, 1994, all buses sold must display lettering "Unlawful to pass when red lights are flashing" on the rear of the bus. The lettering shall be in two-inch black letters on school bus yellow background. This message shall be displayed directly below the upper window of the rear door. On rear engine buses, it shall be centered at approximately the same location. Only signs and lettering approved or required by state law may be displayed.

Subd. 14. **Insulation.** (a) Ceilings and wall shall be insulated to a minimum of one and one-half inch fiberglass and installed so the insulation does not compact or sag. Floor insulation must be nominal 19/32 inches thick plywood, or a material of equal or greater strength and insulation R value that equals or exceeds properties of exterior-type softwood plywood, C-D grade as specified in standard issued by the United States Department of Commerce. Type A-II buses must have a minimum of one-half inch plywood. All exposed edges on plywood shall be sealed. Every school bus shall be constructed so that the noise level taken at the ear of the occupant nearest to the primary vehicle noise source shall not exceed 85 dba when tested according to procedures in the 1995 National Standards for School Buses and School Bus Operations.

(b) The underside of metal floor may be undercoated with polyurethane floor insulation, foamed in place. The floor insulation must be combustion resistant. The authorization in this paragraph does not replace the plywood requirement.

*[For text of subds 15 and 16, see M.S.1996]*

Subd. 17. **Mirrors.** After January 1, 1995, all school buses must be equipped with a minimum of two crossover mirrors, mounted to the left and right sides of the bus.

*[For text of subd 18, see M.S.1996]*

Subd. 19. **Rub rails.** There shall be one rub rail at the base of the skirt of the bus on all type A, excluding van conversions, B, C, and D buses.

*[For text of subds 20 and 21, see M.S.1996]*

Subd. 22. [Repealed, 1Sp1997 c 4 art 12 s 34]

Subd. 23. **Windows.** Windshield, entrance, and rear emergency exit doors must be of approved safety glass. Laminated or tempered glass (AS-2 or AS-3) is permitted in all other windows. All glass shall be federally approved and marked as provided in section 169.74. The windshield may be of uniform tint throughout or may have a horizontal gradient band starting slightly above the line of vision and gradually decreasing in light transmission to 20 percent or less at the top of the windshield. The use of tinted glass, as approved by section 169.71, is permitted on side windows and rear windows except for the entrance door, the first window behind the service door, and the window to the left of the driver. The window to the left of the driver, the upper service door windows, and the window immediately behind the entrance door must be thermal glass. The window to the left of the driver for type A buses need not be thermal glass.

Subd. 24. **Wiring.** If a master cutoff switch is used, it shall not be wired as to kill power to the electric brake system.

Subd. 25. **Driver compartment.** The driver's seat must be a high-back seat.

**History:** 1Sp1997 c 4 art 12 s 18-27

#### **169.4504 ADDITIONAL MINNESOTA STANDARDS FOR SPECIALLY EQUIPPED SCHOOL BUSES.**

Subdivision 1. **Relation to national standards.** The specially equipped school bus standards contained in this section are required in addition to those required by section 169.4501. When a Minnesota standard contained in this section conflicts with a national standard adopted in section 169.4501, the Minnesota standard contained in this section is controlling.

*[For text of subds 2 to 5, see M.S.1996]*

Subd. 6. **Securement and restraint system.** The securement and restraint system must be located and installed so that when an occupied wheelchair or other mobility aid is secured, the installation meets the requirements of the applicable federal motor vehicle safety standard.

**History:** 1Sp1997 c 4 art 12 s 28,29

#### **169.452 ACCIDENT AND SERIOUS INCIDENT REPORTING.**

(a) The commissioner of public safety shall adopt rules to:

(1) develop uniform definitions of a school bus accident, an incident of serious misconduct, and an incident that results in personal injury or death; and

(2) determine what type of information on school bus accidents and incidents, including criminal conduct, and bus driver dismissals for cause should be collected.

(b) The commissioner shall develop a uniform accident and incident reporting form to collect those data, including data relating to type III vehicles. In addition to the form, the department shall have an alternative method of reporting that allows school districts to use computer technology to provide the required information. School districts selected by the commissioner shall report the information required by the department using either format. A school district must not be charged for reporting forms or reporting procedures under this section. This paragraph is not subject to chapter 14.

(c) Data collected under this section shall be analyzed to help develop accident, crime, and misconduct prevention programs.

**History:** 1997 c 187 art 1 s 14; 1Sp1997 c 4 art 12 s 30

**169.454 TYPE III VEHICLE STANDARDS.**

*[For text of subs 1 to 10, see M.S.1996]*

Subd. 11. [Repealed, 1Sp1997 c 4 art 12 s 34]

*[For text of subs 12 and 13, see M.S.1996]*

**169.522 SLOW-MOVING VEHICLES, SIGNS REQUIRED.**

Subdivision 1. **Displaying emblem; rules.** (a) All animal-drawn vehicles, motorized golf carts when operated on designated roadways pursuant to section 169.045, implements of husbandry, and other machinery, including all road construction machinery, which are designed for operation at a speed of 30 miles per hour or less shall display a triangular slow-moving vehicle emblem, except (1) when being used in actual construction and maintenance work and traveling within the limits of a construction area which is marked in accordance with requirements of the manual of uniform traffic control devices, as set forth in section 169.06, or (2) for a towed implement of husbandry that is empty and that is not self-propelled, in which case it may be towed at lawful speeds greater than 30 miles per hour without removing the slow-moving vehicle emblem. The emblem shall consist of a fluorescent yellow-orange triangle with a dark red reflective border and be mounted so as to be visible from a distance of not less than 600 feet to the rear. When a primary power unit towing an implement of husbandry or other machinery displays a slow-moving vehicle emblem visible from a distance of 600 feet to the rear, it shall not be necessary to display a similar emblem on the secondary unit. After January 1, 1975, all slow-moving vehicle emblems sold in this state shall be so designed that when properly mounted they are visible from a distance of not less than 600 feet to the rear when directly in front of lawful lower beam of head lamps on a motor vehicle. The commissioner of public safety shall adopt standards and specifications for the design and position of mounting the slow-moving vehicle emblem. Such standards and specifications shall be adopted by rule in accordance with the Administrative Procedure Act. A violation of this section shall not be admissible evidence in any civil cause of action arising prior to January 1, 1970.

(b) An alternate slow-moving vehicle emblem consisting of a dull black triangle with a white reflective border may be used after obtaining a permit from the commissioner under rules of the commissioner. A person with a permit to use an alternate slow-moving vehicle emblem must:

(1) carry in the vehicle a regular slow-moving vehicle emblem and display the emblem when operating a vehicle between sunset and sunrise, and at any other time when visibility is impaired by weather, smoke, fog, or other conditions; and

(2) permanently affix to the rear of the slow-moving vehicle at least 72 square inches of reflective tape that reflects the color red.

*[For text of subs 2 and 3, see M.S.1996]*

**History:** 1997 c 143 s 14

**169.686 SEAT BELT USE REQUIRED; PENALTY.**

*[For text of subs 1 and 2, see M.S.1996]*

Subd. 3. **Appropriation; special account.** The fines collected for a violation of subdivision 1 must be deposited in the state treasury and credited to a special account to be known as the emergency medical services relief account. Ninety percent of the money in the account shall be distributed to the eight regional emergency medical services systems designated by the emergency medical services regulatory board under section 144E.50, for personnel education and training, equipment and vehicle purchases, and operational expenses of emergency life support transportation services. The board of directors of each emergency medical services region shall establish criteria for funding. Ten percent of the money in the account shall be distributed to the commissioner of public safety for the expenses of traffic safety educational programs conducted by state patrol troopers.

**History:** 1997 c 199 s 14

**169.71 WINDSHIELDS.**

*[For text of subs 1 to 3, see M.S.1996]*

**Subd. 4. Glazing materials; prohibitions and exceptions.** No person shall drive or operate any motor vehicle required to be registered in the state of Minnesota upon any street or highway under the following conditions:

(a) when the windshield is composed of, covered by, or treated with any material which has the effect of making the windshield more reflective or in any other way reducing light transmittance through the windshield;

(b) when any window on the vehicle is composed of, covered by, or treated with any material that has a highly reflective or mirrored appearance;

(c) when any side window or rear window is composed of or treated with any material so as to obstruct or substantially reduce the driver's clear view through the window or has a light transmittance of less than 50 percent plus or minus three percent in the visible light range or a luminous reflectance of more than 20 percent plus or minus three percent; or

(d) when any material has been applied after August 1, 1985, to any motor vehicle window without an accompanying permanent marking which indicates the percent of transmittance and the percent of reflectance afforded by the material. The marking must be in a manner so as not to obscure vision and be readable when installed on the vehicle.

This subdivision does not apply to glazing materials which:

(a) have not been modified since the original installation, nor to original replacement windows and windshields, that were originally installed or replaced in conformance with Federal Motor Vehicle Safety Standard 205;

(b) are required to satisfy prescription or medical needs of the driver of the vehicle or a passenger if the driver or passenger is in possession of the prescription or a physician's statement of medical need; or

(c) are applied to:

(1) the rear windows of a pickup truck as defined in section 168.011, subdivision 29;

(2) the rear windows or the side windows on either side behind the driver's seat of a van as defined in section 168.011, subdivision 28;

(3) the side and rear windows of a vehicle used to transport human remains by a funeral establishment holding a license under section 149A.50; or

(4) the side and rear windows of a limousine as defined in section 168.011, subdivision 35.

**History:** 1997 c 215 s 44

**169.79 VEHICLE REGISTRATION.**

No person shall operate, drive or park a motor vehicle on any highway unless the vehicle is registered in accordance with the laws of this state and has the number plates for the current year only, except as provided in sections 168.10 and 168.12, subdivision 2f, as assigned to it by the commissioner of public safety, conspicuously displayed thereon in a manner that the view of any plate is not obstructed. If the vehicle is a semitrailer, the number plate displayed must be assigned to the registered owner and correlate to the certificate of title documentation on file with the department and shall not display a year indicator. If the vehicle is a motorcycle; motor scooter; motorized bicycle; motorcycle sidecar; trailer; semitrailer; collector's vehicle with a pioneer, classic car, collector, or street rod license; vehicle that meets the requirements of a pioneer, classic, or street rod vehicle except that the vehicle is used for general transportation purposes; vehicle that is of model year 1968 or earlier, is not registered under section 168.10, subdivision 1c, and is used for general transportation purposes; or vehicle displaying a dealer plate, one plate shall be displayed on the rear thereof; if the vehicle is a truck-tractor, road-tractor or farm truck, as defined in section 168.011, subdivision 17, but excluding from that definition semitrailers and trailers, one plate shall be displayed on the front thereof; if it is any other kind of motor vehicle, one plate shall be displayed on the front and one on the rear thereof. All plates shall be securely fastened so as to prevent them from

swinging. The person driving the motor vehicle shall keep the plate legible and unobstructed and free from grease, dust, or other blurring material so that the lettering shall be plainly visible at all times. It is unlawful to cover any assigned letters and numbers or the name of the state of origin of a license plate with any material whatever, including any clear or colorless material that affects the plate's visibility or reflectivity. License plates issued to vehicles registered under section 168.017 must display the month of expiration in the lower left corner as viewed facing the plate and the year of expiration in the lower right corner as viewed facing the plate. License plates issued to vehicles registered under section 168.127 must display either fleet registration validation stickers in the lower right corner as viewed facing the plates or distinctive license plates, issued by the registrar, with "FLEET REG" embossed on the bottom center portion of the plate.

**History:** 1997 c 240 s 5; 1997 c 250 s 6

### 169.797 PENALTIES FOR FAILURE TO PROVIDE VEHICLE INSURANCE.

*[For text of subs 1 and 2, see M.S.1996]*

**Subd. 3. Violation by driver.** Any person who operates a vehicle upon a public highway, street, or road in this state who knows or has reason to know that the owner does not have security complying with the terms of section 65B.48 in full force and effect is guilty of a crime and shall be sentenced as provided in subdivision 4.

*[For text of subs 3a to 7, see M.S.1996]*

**History:** 1997 c 239 art 3 s 2

### 169.801 IMPLEMENTS OF HUSBANDRY.

**Subdivision 1. Exemption from size, weight, load provisions.** Except as provided in this section and section 169.82, the provisions of sections 169.80 to 169.88 that govern size, weight, and load do not apply to:

- (1) a horse-drawn wagon while carrying a load of loose straw or hay;
- (2) a specialized vehicle resembling a low-slung trailer having a short bed or platform, while transporting one or more implements of husbandry; or
- (3) an implement of husbandry while being driven or towed at a speed of not more than 30 miles per hour; provided that this exemption applies to an implement of husbandry owned, leased, or under the control of a farmer or implement dealer only while the implement of husbandry is being operated on noninterstate roads or highways within 75 miles of any farmland or implement dealership: (i) owned, leased, or operated by the farmer or implement dealer and (ii) on which the farmer or implement dealer regularly uses or sells or leases the implement of husbandry.

*[For text of subs 2 and 3, see M.S.1996]*

**History:** 1997 c 143 s 15

### 169.81 HEIGHT AND LENGTH LIMITATIONS.

*[For text of subs 1 to 3, see M.S.1996]*

**Subd. 3c. Recreational vehicle combinations.** Notwithstanding subdivision 3, a recreational vehicle combination may be operated without a permit if:

- (1) the combination does not consist of more than three vehicles, and the towing rating of the pickup truck is equal to or greater than the total weight of all vehicles being towed;
- (2) the combination does not exceed 60 feet in length;
- (3) the camper-semitrailer in the combination does not exceed 28 feet in length;
- (4) the operator of the combination is at least 18 years of age;
- (5) the trailer carrying a watercraft, motorcycle, motorized bicycle, off-highway motorcycle, snowmobile, or all-terrain vehicle meets all requirements of law;

(6) the trailers in the combination are connected to the pickup truck and each other in conformity with section 169.82; and

(7) the combination is not operated within the seven-county metropolitan area, as defined in section 473.121, subdivision 2, during the hours of 6:00 a.m. to 9:00 a.m. and 4:00 p.m. to 7:00 p.m. on Mondays through Fridays.

*[For text of subs 4 to 10, see M.S.1996]*

**History:** 1997 c 159 art 2 s 29; 1997 c 250 s 7

### 169.85 WEIGHING; PENALTY.

**Subdivision 1. Drivers to stop for weighing.** The driver of a vehicle which has been lawfully stopped may be required by an officer to submit the vehicle and load to a weighing by means of portable or stationary scales, and the officer may require that the vehicle be driven to the nearest available scales if the distance to the scales is no further than five miles, or if the distance from the point where the vehicle is stopped to the vehicle's destination is not increased by more than ten miles as a result of proceeding to the nearest available scales. Official traffic control devices as authorized by section 169.06 may be used to direct the driver to the nearest scale. When a truck weight enforcement operation is conducted by means of portable or stationary scales and signs giving notice of the operation are posted within the highway right-of-way and adjacent to the roadway within two miles of the operation, the driver of a truck or combination of vehicles registered for or weighing in excess of 12,000 pounds shall proceed to the scale site and submit the vehicle to weighing and inspection.

**Subd. 2. Unloading.** Upon weighing a vehicle and load, as provided in this section, an officer may require the driver to stop the vehicle in a suitable place and remain standing until a portion of the load is removed that is sufficient to reduce the gross weight of the vehicle to the limit permitted under section 169.825. A suitable place is a location where loading or tampering with the load is not prohibited by federal, state, or local law, rule or ordinance. A driver may be required to unload a vehicle only if the weighing officer determines that (a) on routes subject to the provisions of section 169.825, the weight on an axle exceeds the lawful gross weight prescribed by section 169.825, by 2,000 pounds or more, or the weight on a group of two or more consecutive axles in cases where the distance between the centers of the first and last axles of the group under consideration is ten feet or less exceeds the lawful gross weight prescribed by section 169.825, by 4,000 pounds or more; or (b) on routes designated by the commissioner in section 169.832, subdivision 11, the overall weight of the vehicle or the weight on an axle or group of consecutive axles exceeds the maximum lawful gross weights prescribed by section 169.825; or (c) the weight is unlawful on an axle or group of consecutive axles on a road restricted in accordance with section 169.87. Material unloaded must be cared for by the owner or driver of the vehicle at the risk of the owner or driver.

**Subd. 3. Violation.** A driver of a vehicle who (1) fails or refuses to stop and submit the vehicle and load to a weighing as required in this section, (2) fails or refuses, when directed by an officer upon a weighing of the vehicle, to stop the vehicle and otherwise comply with the provisions of this section, or (3) fails to comply with an official traffic control device as authorized by section 169.06 that directs the driver to the nearest scale is guilty of a misdemeanor.

**Subd. 4. Arrest.** A peace officer may arrest the driver of a motor vehicle if the peace officer has probable cause to believe that the driver has operated the vehicle in violation of subdivision 3 within the past four hours.

**Subd. 5. Identification of driver.** A person who owns or leases a motor vehicle that a peace officer has probable cause to believe has been operated in violation of subdivision 3 must identify the driver of the motor vehicle upon request of the peace officer. Violation of this subdivision is a petty misdemeanor.

**Subd. 6. Officer defined.** When used in this section, the word "officer" means a peace officer or an employee of the department of public safety described in section 299D.06.

**History:** 1997 c 159 art 2 s 30; 1997 c 230 s 3



**169.86 SPECIAL PERMITS.**

*[For text of subds 1 and 1a, see M.S.1996]*

**Subd. 1b. Permit for snowplowing vehicle.** The commissioner or a local authority may issue an annual permit to a person that authorizes the person to operate on any highway under the jurisdiction of the grantor of the permit, a motor vehicle bearing a snowplow blade that when deployed does not exceed ten feet in width. The permit authorizes operation of the vehicle between October 1 and April 1.

*[For text of subds 2 to 4, see M.S.1996]*

**Subd. 5. Fees.** The commissioner, with respect to highways under the commissioner's jurisdiction, may charge a fee for each permit issued. All such fees for permits issued by the commissioner of transportation shall be deposited in the state treasury and credited to the trunk highway fund. Except for those annual permits for which the permit fees are specified elsewhere in this chapter, the fees shall be:

(a) \$15 for each single trip permit.

(b) \$36 for each job permit. A job permit may be issued for like loads carried on a specific route for a period not to exceed two months. "Like loads" means loads of the same product, weight, and dimension.

(c) \$60 for an annual permit to be issued for a period not to exceed 12 consecutive months. Annual permits may be issued for:

(1) motor vehicles used to alleviate a temporary crisis adversely affecting the safety or well-being of the public;

(2) motor vehicles which travel on interstate highways and carry loads authorized under subdivision 1a;

(3) motor vehicles operating with gross weights authorized under section 169.825, subdivision 11, paragraph (a), clause (3);

(4) special pulpwood vehicles described in section 169.863; and

(5) motor vehicles bearing snowplow blades not exceeding ten feet in width.

(d) \$120 for an oversize annual permit to be issued for a period not to exceed 12 consecutive months. Annual permits may be issued for:

(1) mobile cranes;

(2) construction equipment, machinery, and supplies;

(3) manufactured homes;

(4) implements of husbandry when the movement is not made according to the provisions of paragraph (i);

(5) double-deck buses;

(6) commercial boat hauling.

(e) For vehicles which have axle weights exceeding the weight limitations of section 169.825, an additional cost added to the fees listed above. The additional cost is equal to the product of the distance traveled times the sum of the overweight axle group cost factors shown in the following chart:

**Overweight Axle Group Cost Factors**

Weight (pounds) exceeding weight limitations on axles	Cost Per Mile For Each Group Of:		
	Two consec- utive axles spaced within 8 feet or less	Three consec- utive axles spaced within 9 feet or less	Four consec- utive axles spaced within 14 feet or less
0- 2,000	.12	.05	.04
2,001- 4,000	.14	.06	.05
4,001- 6,000	.18	.07	.06
6,001- 8,000	.21	.09	.07
8,001-10,000	.26	.10	.08
10,001-12,000	.30	.12	.09

12,001–14,000	Not permitted	.14	.11
14,001–16,000	Not permitted	.17	.12
16,001–18,000	Not permitted	.19	.15
18,001–20,000	Not permitted	Not permitted	.16
20,001–22,000	Not permitted	Not permitted	.20

The amounts added are rounded to the nearest cent for each axle or axle group. The additional cost does not apply to paragraph (c), clauses (1) and (3).

For a vehicle found to exceed the appropriate maximum permitted weight, a cost-per-mile fee of 22 cents per ton, or fraction of a ton, over the permitted maximum weight is imposed in addition to the normal permit fee. Miles must be calculated based on the distance already traveled in the state plus the distance from the point of detection to a transportation loading site or unloading site within the state or to the point of exit from the state.

(f) As an alternative to paragraph (e), an annual permit may be issued for overweight, or oversize and overweight, construction equipment, machinery, and supplies. The fees for the permit are as follows:

Gross Weight (pounds) of Vehicle	Annual Permit Fee
90,000 or less	\$200
90,001 – 100,000	\$300
100,001 – 110,000	\$400
110,001 – 120,000	\$500
120,001 – 130,000	\$600
130,001 – 140,000	\$700
140,001 – 145,000	\$800

If the gross weight of the vehicle is more than 145,000 pounds the permit fee is determined under paragraph (e).

(g) For vehicles which exceed the width limitations set forth in section 169.80 by more than 72 inches, an additional cost equal to \$120 added to the amount in paragraph (a) when the permit is issued while seasonal load restrictions pursuant to section 169.87 are in effect.

(h) \$85 for an annual permit to be issued for a period not to exceed 12 months, for refuse compactor vehicles that carry a gross weight of not more than: 22,000 pounds on a single rear axle; 38,000 pounds on a tandem rear axle; or, subject to section 169.825, subdivision 14, 46,000 pounds on a tridem rear axle. A permit issued for up to 46,000 pounds on a tridem rear axle must limit the gross vehicle weight to not more than 62,000 pounds.

(i) For vehicles exclusively transporting implements of husbandry, an annual permit fee of \$24. A vehicle operated under a permit authorized by this paragraph may be moved at the discretion of the permit holder without prior route approval by the commissioner if:

- (1) the total width of the transporting vehicle, including load, does not exceed 14 feet;
- (2) the vehicle is operated only between sunrise and 30 minutes after sunset, and is not operated at any time after 12:00 noon on Sundays or holidays;
- (3) the vehicle is not operated when visibility is impaired by weather, fog, or other conditions that render persons and other vehicles not clearly visible at 500 feet;
- (4) the vehicle displays at the front and rear of the load or vehicle a pair of flashing amber lights, as provided in section 169.59, subdivision 4, whenever the overall width of the vehicle exceeds 126 inches; and
- (5) the vehicle is not operated on a trunk highway with a surfaced roadway width of less than 24 feet unless such operation is authorized by the permit.

A permit under this paragraph authorizes movements of the permitted vehicle on an interstate highway, and movements of 75 miles or more on other highways.

*[For text of subs 6 and 7, see M.S.1996]*

**History:** 1997 c 114 s 1,2

#### **169.871 CIVIL PENALTY.**

Subdivision 1. **Civil liability.** The owner or lessee of a vehicle that is operated with a gross weight in excess of a weight limit imposed under sections 169.825 and 169.832 to

169.851 and 169.87 or a shipper who ships or tenders goods for shipment in a single truck or combination vehicle that exceeds a weight limit imposed under sections 169.825 and 169.832 to 169.851 and 169.87 is liable for a civil penalty as follows:

- (a) If the total gross excess weight is not more than 1,000 pounds, one cent per pound for each pound in excess of the legal limit;
- (b) If the total gross excess weight is more than 1,000 pounds but not more than 3,000 pounds, \$10 plus five cents per pound for each pound in excess of 1,000 pounds;
- (c) If the total gross excess weight is more than 3,000 pounds but not more than 5,000 pounds, \$110 plus ten cents per pound for each pound in excess of 3,000 pounds;
- (d) If the total gross excess weight is more than 5,000 pounds but not more than 7,000 pounds, \$310 plus 15 cents per pound for each pound in excess of 5,000 pounds;
- (e) If the total gross excess weight is more than 7,000 pounds, \$610 plus 20 cents per pound for each pound in excess of 7,000 pounds.

Any penalty imposed upon a defendant under this subdivision shall not exceed the penalty prescribed by this subdivision. Any fine paid by the defendant in a criminal overweight action that arose from the same overweight violation shall be applied toward payment of the civil penalty under this subdivision. A peace officer or department of public safety employee described in section 299D.06 who cites a driver for a violation of the weight limitations established by sections 169.81 to 169.851 and 169.87 shall give written notice to the driver that the driver or another may also be liable for the civil penalties provided herein in the same or separate proceedings.

**Subd. 1a. Special permit violations.** The owner or lessee of a vehicle that is operated with a gross weight in excess of a weight limit imposed by permit under sections 169.86 and 169.862 and a shipper who ships or tenders goods for shipment in a single truck or combination vehicle that exceeds a weight limit permitted under sections 169.86 or 169.862 is liable for a civil penalty at a rate of five cents per pound for each pound in excess of the weight permitted under section 169.86 or 169.862, or \$100, whichever is greater.

Any penalty imposed upon a defendant under this subdivision shall not exceed the penalty prescribed by this subdivision. Any fine paid by the defendant in a criminal overweight action that arose from the same overweight violation may not be applied toward payment of the civil penalty under this subdivision. A peace officer or department of public safety employee described in section 299D.06 who cites a driver for a violation of the weight limitations established by permit pursuant to section 169.86 or 169.862 shall give written notice to the driver that the driver or another may also be liable for the civil penalty provided in this subdivision in the same or separate proceedings.

*[For text of subs 1b to 7, see M.S.1996]*

**History:** 1997 c 230 s 4,5

## **169.974 MOTORCYCLES, MOTOR SCOOTERS AND MOTOR BIKES.**

*[For text of subd 1, see M.S.1996]*

**Subd. 2. License requirements.** No person shall operate a motorcycle on any street or highway without having a valid standard driver's license with a two-wheeled vehicle endorsement as provided by law. No such two-wheeled vehicle endorsement shall be issued unless the person applying therefor has in possession a valid two-wheeled vehicle instruction permit as provided herein, has passed a written examination and road test administered by the department of public safety for such endorsement, and, in the case of applicants under 18 years of age, shall present a certificate or other evidence of having successfully completed an approved two-wheeled vehicle driver's safety course in this or another state, in accordance with rules promulgated by the state board of education for courses offered through the public schools, or rules promulgated by the commissioner of public safety for courses offered by a private or commercial school or institute. The commissioner of public safety may waive the road test for any applicant on determining that the applicant possesses a valid license to operate a two-wheeled vehicle issued by a jurisdiction that requires a comparable

road test for license issuance. A two-wheeled vehicle instruction permit shall be issued to any person over 16 years of age, who is in possession of a valid driver's license, who is enrolled in an approved two-wheeled vehicle driver's safety course, and who has passed a written examination for such permit and has paid such fee as the commissioner of public safety shall prescribe. A two-wheeled vehicle instruction permit shall be effective for one year, and may be renewed under rules to be prescribed by the commissioner of public safety.

No person who is operating by virtue of a two-wheeled vehicle instruction permit shall:

(a) carry any passengers on the streets and highways of this state on the motorcycle which the person is operating;

(b) drive the motorcycle at nighttime;

(c) drive the motorcycle on any highway marked by the commissioner as an interstate highway pursuant to title 23 of the United States Code; or

(d) drive the motorcycle without wearing protective headgear that complies with standards established by the commissioner of public safety.

Notwithstanding the provisions of this subdivision, the commissioner of public safety may, however, issue a special motorcycle permit, restricted or qualified in such manner as the commissioner of public safety shall deem proper, to any person demonstrating a need therefor and unable to qualify for a standard driver's license.

*[For text of subds 3 to 7, see M.S.1996]*

**History:** 1997 c 159 art 2 s 31

#### **169.99 UNIFORM TRAFFIC TICKET.**

*[For text of subds 1 to 1b, see M.S.1996]*

**Subd. 2. Commissioner prescribes form.** The commissioner of public safety shall prescribe the detailed form of the uniform traffic ticket, and shall revise the uniform ticket on such subsequent occasions as necessary and proper to keep the uniform ticket in conformity with state and federal law.

*[For text of subd 3, see M.S.1996]*

**History:** 1997 c 187 art 2 s 8