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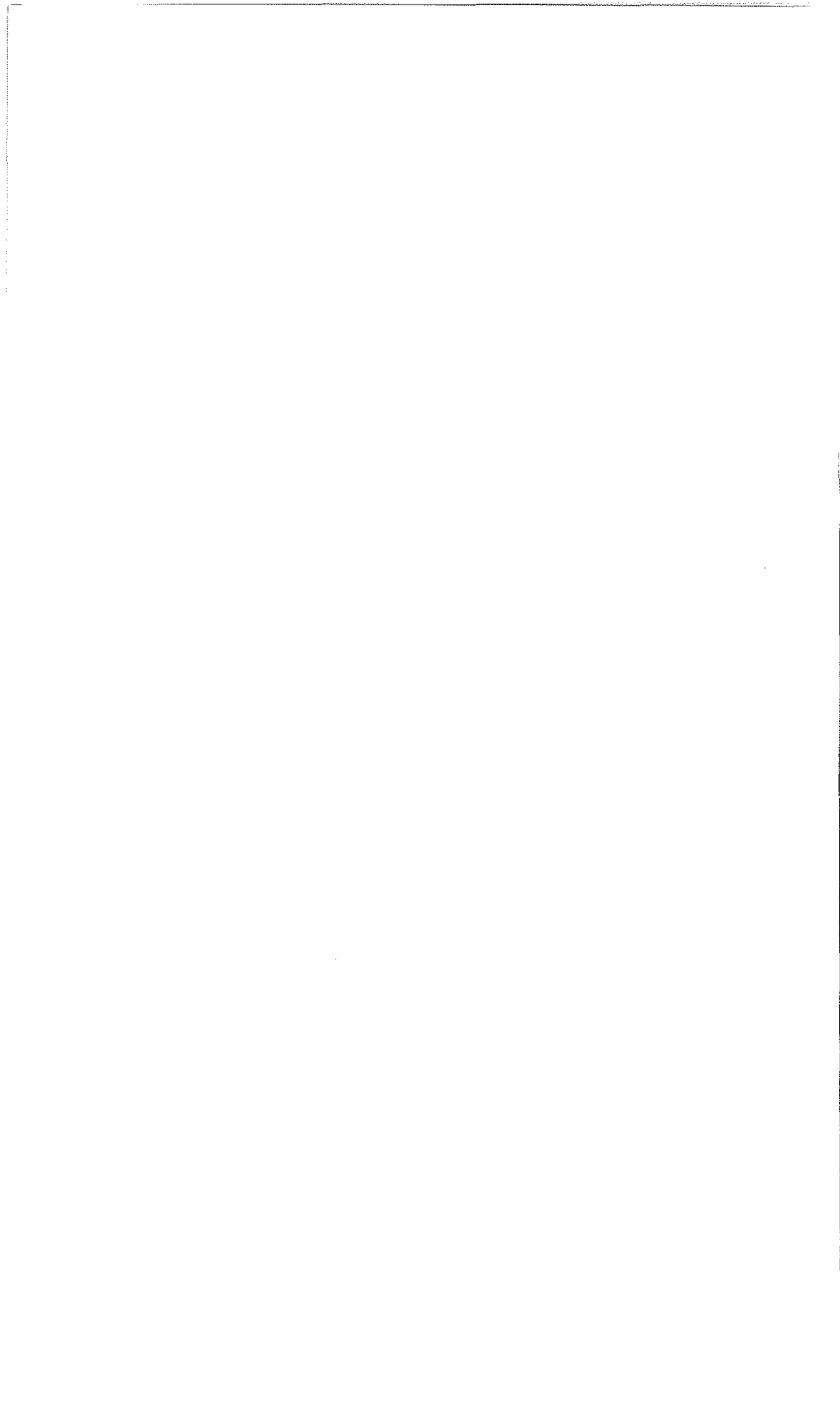
**2007  
LEGISLATIVE SESSION**

**UPDATE TO  
2007 OFF-HIGHWAY VEHICLE  
AND SNOWMOBILE LAW BOOK**

**Minnesota Department of Natural Resources  
Enforcement Division**

***Note:* The statutes/subdivisions included  
in this packet were changed by the  
2007 Legislature and identified as of  
June 15, 2007**

**Effective dates are as noted**



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## CHAPTER 84

### 84.777 OFF-HIGHWAY VEHICLE USE OF STATE LANDS RESTRICTED.

#### **Subdivision 1. Designated trails.**

(a) Except as otherwise allowed by law or rules adopted by the commissioner, effective June 1, 2003, notwithstanding sections 84.787 to 84.805 and 84.92 to 84.929, the use of off-highway vehicles is prohibited on state land administered by the commissioner of natural resources, and on county-administered forest land within the boundaries of a state forest, except on roads and trails specifically designated and posted by the commissioner for use by off-highway vehicles.

(b) Paragraph (a) does not apply to county-administered land within a state forest if the county board adopts a resolution that modifies restrictions on the use of off-highway vehicles on county-administered land within the forest.

#### **Subd. 2. Off-highway vehicle seasons.**

(a) The commissioner shall prescribe seasons for off-highway vehicle use on state forest lands. Except for designated forest roads, a person must not operate an off-highway vehicle on state forest lands outside of the seasons prescribed under this paragraph.

(b) The commissioner may designate and post winter trails on state forest lands for use by off-highway vehicles.

(c) For the purposes of this subdivision, "state forest lands" means forest lands under the authority of the commissioner as defined in section 89.001, subdivision 13, and lands managed by the commissioner under section 282.011. **Effective July 1, 2007**

#### **Subd. 3. Mapped trails.**

(a) Except as provided in sections 84.926 and 84.928, after completion of official department off-highway vehicle maps for the area, a person must not operate an off-highway vehicle on state land that is not mapped for the type of off-highway vehicle. **Effective July 1, 2007.** This paragraph does not apply to state forest land north of U.S. Highway 2 until after June 30, 2009. **Effective August 1, 2007.**

(b) This subdivision does not apply to a forest access route in a managed forest north of U.S. Highway 2 that the commissioner has not designated as a road or trail. Forest access routes will not be signed or maintained and will not be included on published user maps of the forest. Off-highway vehicle operation on forest access routes is subject to the prohibitions on causing erosion, rutting, damage to trees or crops, and construction of unauthorized trails contained in Minnesota Rules. Damaged routes are subject to closure to off-highway vehicle use. **Effective August 1, 2007.**

**Subd. 4. Exemption from rulemaking.**

Determinations of the commissioner under this section may be by written order published in the State Register and are exempt from the rulemaking provisions of chapter 14. Section 14.386 does not apply. Effective July 1, 2007.

**84.780 OFF-HIGHWAY VEHICLE DAMAGE ACCOUNT.**

(a) The off-highway vehicle damage account is created in the natural resources fund. Money in the off-highway vehicle damage account is appropriated to the commissioner of natural resources for the repair or restoration of property damaged by the illegal operation of off-highway vehicles or the operation of off-highway vehicles in an unpermitted area after August 1, 2003, and for the costs of administration for this section. Before the commissioner may make a payment from this account, the commissioner must determine whether the damage to the property was caused by the unpermitted or illegal use of off-highway vehicles, that the applicant has made reasonable efforts to identify the responsible individual and obtain payment from the individual, and that the applicant has made reasonable efforts to prevent reoccurrence. ~~By June 30, 2008, the commissioner of finance must transfer the remaining balance in the account to the off-highway motorcycle account under section 84.794, the off-road vehicle account under section 84.803, and the all-terrain vehicle account under section 84.927. The amount transferred to each account must be proportionate to the amounts received in the damage account from the relevant off-highway vehicle accounts.~~

(b) Determinations of the commissioner under this section may be made by written order and are exempt from the rulemaking provisions of chapter 14. Section 14.386 does not apply.

(c) ~~This section expires July 1, 2008. Money in the account is available until 53.13 expended.~~ **Effective July 1, 2007.**

**84.788 REGISTRATION.**

**Subdivision 1. General requirements.**

Unless exempted in subdivision 2, ~~after January 1, 1994,~~ a person may not operate and an owner may not give permission for another to operate an off-highway motorcycle ~~on public lands or waters~~ unless the vehicle has been registered under this section. **Effective August 1, 2007.**

**84.8045 RESTRICTIONS ON OFF-ROAD VEHICLE TRAILS.**

Notwithstanding any provision of sections 84.797 to 84.805 or other law to the contrary, the commissioner shall not permit land administered by the commissioner in Cass, Crow Wing, and Hubbard Counties to be used or developed for trails

primarily for off-road vehicles as defined in section 84.797, subdivision 7, except:

(1) upon approval by the legislature; or

(2) in designated off-road vehicle use areas. **Effective May 9, 2007.**

## **84.82 SNOWMOBILE REGISTRATION.**

### **Subd. 6. Exemptions.**

Registration is not required under this section for:

(1) a snowmobile owned and used by the United States, another state, or a political subdivision thereof;

(2) a snowmobile registered in a country other than the United States temporarily used within this state;

(3) a snowmobile that is covered by a valid license of another state and has not been within this state for more than 30 consecutive days;

(4) a snowmobile used exclusively in organized track racing events;

(5) a snowmobile in transit by a manufacturer, distributor, or dealer; ~~or~~

(6) a snowmobile at least 15 years old in transit by an individual for use only on land owned or leased by the individual; or

(7) a snowmobile while being used to groom a state or grant-in-aid trail. **Effective August 1, 2007.**

## **84.8205 SNOWMOBILE STATE TRAIL STICKER.**

### **Subdivision 1. Sticker required; fee.**

(a) Except as provided in paragraph (b), a person may not operate a snowmobile on a state or grant-in-aid snowmobile trail unless a snowmobile state trail sticker is affixed to the snowmobile. The commissioner of natural resources shall issue a sticker upon application and payment of a \$15 fee. The fee for a three-year snowmobile state trail sticker that is purchased at the time of snowmobile registration is \$30. In addition to other penalties prescribed by law, a person in violation of this subdivision must purchase an annual state trail sticker for a fee of \$30. The sticker is valid from November 1 through April 30. Fees collected under this section, except for the issuing fee for licensing agents, shall be deposited in the state treasury and credited to the snowmobile trails and enforcement account in the natural resources fund and, except for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, must be used for grants-in-aid, trail maintenance, grooming, and easement acquisition.

(b) A state trail sticker is not required under this section for:

(1) a snowmobile owned by the state or a political subdivision of the state that is registered under section 84.82, subdivision 5;

(2) a snowmobile that is owned and used by the United States, another state, or a political subdivision thereof that is exempt from registration under section 84.82, subdivision 6;

(3) a collector snowmobile that is operated as provided in a special permit issued for the collector snowmobile under section 84.82, subdivision 7a; or

(4) a person operating a snowmobile only on the portion of a trail that is owned by the person or the person's spouse, child, or parent; or

(5) a snowmobile while being used to groom a state or grant-in-aid trail. **Effective August 1, 2007.**

## **84.9011 OFF-HIGHWAY VEHICLE SAFETY AND CONSERVATION PROGRAM.**

### **Subdivision 1. Creation.**

The commissioner of natural resources shall establish a program to promote the safe and responsible operation of off-highway vehicles in a manner that does not harm the environment.

### **Subd. 2. Agreements.**

(a) The commissioner shall enter into agreements with organizations for volunteer services that promote the safe and responsible operation of off-highway vehicles in a manner that does not harm the environment to maintain, make improvements to, and monitor trails on state forest land and other public lands. The organizations shall promote the operation of off-highway vehicles in a safe and responsible manner that complies with the laws and rules that relate to the operation of off-highway vehicles.

(b) The organizations may provide assistance to the department in locating, recruiting, and training instructors for off-highway vehicle training programs.

(c) The commissioner may provide assistance to enhance the comfort and safety of volunteers and to facilitate the implementation and administration of the safety and conservation program.

(d) The commissioner shall establish standards, train, and certify organizations and individuals participating as volunteers under this section. The training shall include:

(1) the identification of invasive species;

(2) correctly reporting the location of invasive species; and

(3) basic global positioning system operation.

### **Subd. 3. Worker displacement prohibited.**

The commissioner may not enter into any agreement that has the purpose of or results in the displacement of public employees by volunteers participating in the off-highway safety and conservation program under this section. The commissioner must certify to the appropriate bargaining agent that the work performed by a volunteer will not result in the



displacement of currently employed workers or workers on seasonal layoff or layoff from a substantially equivalent position, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits.

**Subd. 4. Off-Highway Vehicle Safety Advisory Council.**

(a) The commissioner of natural resources shall appoint an Off-Highway Vehicle Safety Advisory Council to advise the commissioner on:

(1) off-highway vehicle safety; and

(2) standards and certification for organizations and individuals participating as volunteers under this section.

**Effective July 1, 2007.**

**84.922 REGISTRATION.**

**Subd. 1a. Exemptions.**

All-terrain vehicles exempt from registration are:

(1) vehicles owned and used by the United States, the state, another state, or a political subdivision;

(2) vehicles registered in another state or country that have not been in this state for more than 30 consecutive days; and

(3) vehicles used exclusively in organized track racing events; and

(4) vehicles that are 25 years old or older and were originally produced as a separate identifiable make by a manufacturer. **Effective July 1, 2007**

**Subd. 5. Fees for registration.**

(a) The fee for a three-year registration of an all-terrain vehicle under this section, other than those registered by a dealer or manufacturer under paragraph (b) or (c), is:

~~(1) for public use before January 1, 2005, \$23;~~

~~(2) for public use on January 1, 2005, and after, \$30 \$45;~~

~~(3) (2) for private use, \$6; and~~

~~(4) (3) for a duplicate or transfer, \$4.~~

(b) The total registration fee for all-terrain vehicles owned by a dealer and operated for demonstration or testing purposes is \$50 per year. Dealer registrations are not transferable.

(c) The total registration fee for all-terrain vehicles owned by a manufacturer and operated for research, testing, experimentation, or demonstration purposes is \$150 per year. Manufacturer registrations are not transferable.

(d) The fees collected under this subdivision must be credited to the all-terrain vehicle account. **Effective January 1, 2008.**

**84.925 EDUCATION AND TRAINING PROGRAM.**

**Subd. 5. Training requirements.**

(a) An individual who was born after July 1, 1987, and who is 16 years of age or older, must successfully complete the

independent study course component of all-terrain vehicle safety training before operating an all-terrain vehicle on public lands or waters, public road rights-of-way, or state or grant-in-aid trails.

(b) An individual who is convicted of violating a law related to the operation of an all-terrain vehicle must successfully complete the independent study course component of all-terrain vehicle safety training before continuing operation of an all-terrain vehicle.

(c) An individual who is convicted for a second or subsequent excess speed, trespass, or wetland violation in an all-terrain vehicle season, or any conviction for careless or reckless operation of an all-terrain vehicle, must successfully complete the independent study and the testing and operating course components of all-terrain vehicle safety training before continuing operation of an all-terrain vehicle.

(d) An individual who receives three or more citations and convictions for violating a law related to the operation of an all-terrain vehicle in a two-year period must successfully complete the independent study and the testing and operating course components of all-terrain vehicle safety training before continuing operation of an all-terrain vehicle.

(e) An individual must present evidence of compliance with this subdivision before an all-terrain vehicle registration is issued or renewed. **Effective August 1, 2007.**

## **84.9256 YOUTHFUL OPERATORS; PROHIBITION.**

### **Subd. 2. Helmet and seat belts required.**

(a) A person less than 18 years of age shall not operate ride as a passenger or as an operator of an all-terrain vehicle on public land, public waters, or on a public road right-of-way unless wearing a safety helmet approved by the commissioner of public safety.

(b) A person less than 18 years of age shall not ride as a passenger or as an operator of class 2 all-terrain vehicle without wearing a seat belt when provided by the manufacturer. **Effective August 1, 2007.**

### **Subd. 2a. Parent or guardian authorization.**

A person under age 16 shall not operate and a person shall not allow a person under age 16 to operate an all-terrain vehicle, unless the parent or guardian of the person under age 16 authorizes the operation. For purposes of this subdivision, "guardian" means the legal guardian of the person under age 16 or a person age 18 or older who has been authorized by the parent or legal guardian to supervise the person under age 16. **Effective August 1, 2007.**

## **84.9257 PASSENGERS.**

~~(a) A parent or guardian may operate a class 1 all-terrain vehicle carrying one passenger who is under 16 years of age and who wears a safety helmet approved by the commissioner of public safety.~~

~~(b) For the purpose of this section, "guardian" means a legal guardian of a person under age 16, or a person 18 or older who has been authorized by the parent or legal guardian to supervise the person under age 16.~~

~~(c) A person 18 years of age or older may operate an a class 1 all-terrain vehicle carrying one passenger who is 16 or 17 years of age and wears a safety helmet approved by the commissioner of public safety.~~

~~(d) (b) A person 18 years of age or older may operate an all-terrain vehicle carrying one passenger who is 18 years of age or older.~~

~~(e) An operator of a class 2 all-terrain vehicle may carry two passengers while carrying a passenger, or up to the number of passengers for which the vehicle was designed, whichever is greater. Effective August 1, 2007.~~

## **84.926 VEHICLE USE ON PUBLIC LANDS; EXCEPTIONS.**

### **Subd. 6. Operation; class 2 vehicles.**

Except as provided in subdivision 4, operation of class 2 all-terrain vehicles on lands administered by the commissioner is limited to forest roads, minimum maintenance roads, and trails designated or signed for class 2 all-terrain vehicles. Effective August 1, 2007.

### **Subd. 7. Snowmobiles; closed forests; off trail.**

Forests classified as closed forests are open to off-trail snowmobile use unless prohibited, as determined by the commissioner by written order published in the State Register. The determination is not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. Effective August 1, 2007.

## **84.927 ALL-TERRAIN VEHICLE ACCOUNT; RECEIPTS AND ALLOCATIONS.**

### **Subd. 2. Purposes.**

Subject to appropriation by the legislature, money in the all-terrain vehicle account may only be spent for:

(1) the education and training program under section 84.925;

(2) administration, enforcement, and implementation of sections 84.773 to 84.929;

(3) acquisition, maintenance, and development of vehicle trails and use areas;

(4) grant-in-aid programs to counties and municipalities to construct and maintain all-terrain vehicle trails and use areas;

- (5) grants-in-aid to local safety programs; and
- (6) enforcement and public education grants to local law enforcement agencies; and
- (7) maintenance of minimum-maintenance forest roads designated under section 89.71, subdivision 5, and county forest roads that are part of a designated trail system within state forest boundaries as established under section 89.021.

The distribution of funds made available through grant-in-aid programs must be guided by the statewide comprehensive outdoor recreation plan. **Effective July 1, 2007.**

## **84.928 OPERATION REQUIREMENTS; LOCAL REGULATION.**

### **Subdivision 1. Operation on roads and rights-of-way; class 1 vehicles.**

(a) Unless otherwise allowed in sections 84.92 to 84.929, a person shall not operate ~~a class 1~~ an all-terrain vehicle in this state along or on the roadway, shoulder, or inside bank or slope of a public road right-of-way of a trunk, county state-aid, or county highway ~~other than~~.

(b) A person may operate a class 1 all-terrain vehicle in the ditch or the outside bank or slope of a trunk, county state-aid, or county highway unless prohibited under paragraph ~~(b)~~ (d) or (f).

(c) A person may operate a class 2 all-terrain vehicle within the public road right-of-way of a county state-aid or county highway on the extreme right-hand side of the road and left turns may be made from any part of the road if it is safe to do so under the prevailing conditions, unless prohibited under paragraph (d) or (f). A person may operate a class 2 all-terrain vehicle on the bank or ditch of a public road right-of-way on a designated class 2 all-terrain vehicle trail.

~~(b) (d)~~ A road authority as defined under section 160.02, subdivision 25, may after a public hearing restrict the use of ~~class 1~~ all-terrain vehicles in the ~~ditch or outside bank or slope of a public road right-of-way~~ under its jurisdiction.

~~(e) (e)~~ The restrictions in paragraphs (a), ~~(b)~~, ~~(g)~~, ~~(d)~~, (h), and (i), and (j) do not apply to the operation of ~~a class 1~~ an all-terrain vehicle on the shoulder, inside bank or slope, ditch, or outside bank or slope of a trunk, interstate, county state-aid, or county highway when the ~~class 1~~ all-terrain vehicle is:

- (1) owned by or operated under contract with a publicly or privately owned utility or pipeline company; and
- (2) used for work on utilities or pipelines.

~~(d) (f)~~ The commissioner may limit the use of a right-of-way for a period of time if the commissioner determines that use of the right-of-way causes:

- (1) degradation of vegetation on adjacent public property;
- (2) siltation of waters of the state;

(3) impairment or enhancement to the act of taking game; or

(4) a threat to safety of the right-of-way users or to individuals on adjacent public property.

(e) The commissioner must notify the road authority as soon as it is known that a closure will be ordered. The notice must state the reasons and duration of the closure.

(f) ~~(g)~~ A person may operate ~~a class 1~~ an all-terrain vehicle registered for private use and used for agricultural purposes ~~or a class 2 all-terrain vehicle~~ on a public road right-of-way of a trunk, county state-aid, or county highway in this state if the ~~class 1 or class 2~~ all-terrain vehicle is operated on the extreme right-hand side of the road, and left turns may be made from any part of the road if it is safe to do so under the prevailing conditions.

(g) ~~(h)~~ A person shall not operate ~~a class 1~~ an all-terrain vehicle within the public road right-of-way of a trunk, county state-aid, or county highway from April 1 to August 1 in the agricultural zone unless the vehicle is being used exclusively as transportation to and from work on agricultural lands. This paragraph does not apply to an agent or employee of a road authority, as defined in section 160.02, subdivision 25, or the Department of Natural Resources when performing or exercising official duties or powers.

(h) ~~(i)~~ A person shall not operate ~~a class 1~~ an all-terrain vehicle within the public road right-of-way of a trunk, county state-aid, or county highway between the hours of one-half hour after sunset to one-half hour before sunrise, except on the right-hand side of the right-of-way and in the same direction as the highway traffic on the nearest lane of the adjacent roadway.

(i) ~~(j)~~ A person shall not operate ~~a class 1~~ an all-terrain vehicle at any time within the right-of-way of an interstate highway or freeway within this state. **Effective August 1, 2007.**

**Subd. 8 Operating Class 2 Vehicles. Repealed. Effective August 1, 2007.**

#### **84.929 PENALTIES.**

Any person who violates any provision of sections 84.773, 84.777, and 84.92 to 84.928 or rules of the commissioner is guilty of a misdemeanor. **Effective August 1, 2007.**

## CHAPTER 169A

### 169A.03 DEFINITIONS.

#### Subd. 20. Prior impaired driving conviction.

"Prior impaired driving conviction" includes a prior conviction under:

(1) section 169A.20 (driving while impaired); 169A.31 (alcohol-related school bus or Head Start bus driving); or 360.0752 (impaired aircraft operation);

(2) section 609.21 (criminal vehicular homicide and injury, substance-related offenses), 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);~~

(3) Minnesota Statutes 1998, section 169.121 (driver under influence of alcohol or controlled substance); 169.1211 (alcohol-related driving by commercial vehicle drivers); or 169.129 (aggravated DWI-related violations; penalty);

(4) Minnesota Statutes 1996, section 84.91, subdivision 1, paragraph (a) (operating snowmobile or all-terrain vehicle while impaired); or 86B.331, subdivision 1, paragraph (a) (operating motorboat while impaired); or

(5) an ordinance from this state, or a statute or ordinance from another state, in conformity with any provision listed in clause (1), (2), (3), or (4). 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.

#### Effective August 1, 2007.

#### Subd. 21. Prior impaired driving-related loss of license.

(a) "Prior impaired driving-related loss of license" includes a driver's license suspension, revocation, cancellation, denial, or disqualification under:

(1) section 169A.31 (alcohol-related school bus or Head Start bus driving); 169A.50 to 169A.53 (implied consent law); 169A.54 (impaired driving convictions and adjudications; administrative penalties); 171.04 (persons not eligible for drivers' licenses); 171.14 (cancellation); 171.16 (court may recommend suspension); 171.165 (commercial driver's license, disqualification); 171.17 (revocation); or 171.18 (suspension); because of an alcohol-related incident;

(2) section 609.21 (criminal vehicular homicide and injury, substance-related offenses), 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);~~

(3) Minnesota Statutes 1998, section 169.121 (driver under influence of alcohol or controlled substance); 169.1211 (alcohol-related driving by commercial vehicle drivers); or 169.123 (chemical tests for intoxication); or

(4) an ordinance from this state, or a statute or ordinance from another state, in conformity with any provision listed in clause (1), (2), or (3).

(b) "Prior impaired driving-related loss of license" also includes the revocation of snowmobile or all-terrain vehicle operating privileges under section 84.911 (chemical testing), or motorboat operating privileges under section 86B.335 (testing for alcohol and controlled substances), for violations that occurred on or after August 1, 1994; the revocation of snowmobile or all-terrain vehicle operating privileges under section 84.91 (operation of snowmobiles and all-terrain vehicles by persons under the influence of alcohol or controlled substances); or the revocation of motorboat operating privileges under section 86B.331 (operation while using alcohol or drugs or with a physical or mental disability).

(c) "Prior impaired driving-related loss of license" does not include any license action stemming solely from a violation of section 169A.33 (underage drinking and driving), 171.09 (conditions of a restricted license), or 340A.503 (persons under the age of 21, illegal acts). **Effective August 1, 2007.**

#### **169A.24 FIRST-DEGREE DRIVING WHILE IMPAIRED.**

##### **Subdivision 1. Degree described.**

A person who violates section 169A.20 (driving while impaired) is guilty of first-degree driving while impaired if the person:

(1) commits the violation within ten years of the first of three or more qualified prior impaired driving incidents;

(2) has previously been convicted of a felony under this section; or

(3) has previously been convicted of a felony under section 609.21, subdivision 1, clause (2), (3), (4), (5), or (6); ~~subdivision 2, clause (2), (3), (4), (5), or (6); subdivision 2a, clause (2), (3), (4), (5), or (6); subdivision 3, clause (2), (3), (4), (5), or (6); or subdivision 4, clause (2), (3), (4), (5), or (6).~~ **Effective August 1, 2007.**

#### **169A.275 MANDATORY PENALTIES; NONFELONY VIOLATIONS.**

##### **Subd. 7. Exception.**

(a) A judge is not required to sentence a person as provided in this section if the judge requires the person as a condition of probation to drive only motor vehicles equipped with an ignition interlock device meeting the standards described in section 171.306.

(b) This subdivision expires July 1, 2009. **Effective July 1, 2007.**

## **169A.35 OPEN BOTTLE LAW.**

### **Subdivision 1. Definitions.**

As used in this section:

(1) "alcoholic beverage" has the meaning given it in section 340A.101, subdivision 2;

(2) "distilled spirits" has the meaning given it in section 340A.101, subdivision 9;

(3) "motor vehicle" does not include motorboats in operation, or off-road recreational vehicles except when being operated on a roadway or shoulder of a roadway that is not part of a grant-in-aid trail or trail designated for that vehicle by the commissioner of natural resources;

(4) "possession" means either that the person had actual possession of the bottle or receptacle or that the person consciously exercised dominion and control over the bottle or receptacle; and

(5) "3.2 percent malt liquor" has the meaning given it in section 340A.101, 9subdivision 19. **Effective August 1, 2007.**

## **169A.51 CHEMICAL TESTS FOR INTOXICATION.**

### **Subd. 7. Requirements for conducting tests; liability.**

(a) Only a physician, medical technician, emergency medical technician-paramedic, registered nurse, medical technologist, medical laboratory technician, phlebotomist, or laboratory assistant acting at the request of a peace officer may withdraw blood for the purpose of determining the presence of alcohol, a controlled substance or its metabolite, or a hazardous substance. This limitation does not apply to the taking of a breath or urine sample.

(b) The person tested has the right to have someone of the person's own choosing administer a chemical test or tests in addition to any administered at the direction of a peace officer; provided, that the additional test sample on behalf of the person is obtained at the place where the person is in custody, after the test administered at the direction of a peace officer, and at no expense to the state. The failure or inability to obtain an additional test or tests by a person does not preclude the admission in evidence of the test taken at the direction of a peace officer unless the additional test was prevented or denied by the peace officer.

(c) The physician, medical technician, emergency medical technician-paramedic, medical technologist, medical laboratory technician, laboratory assistant, phlebotomist, or registered nurse drawing blood at the request of a peace officer for the purpose of determining the concentration of alcohol, a controlled substance or its metabolite, or a hazardous substance is in no manner liable in any civil or criminal action except for negligence in drawing the blood. The person



administering a breath test must be fully trained in the administration of breath tests pursuant to training given by the commissioner of public safety. **Effective May 8, 2007.**

## CHAPTER 609

### **609.21 CRIMINAL VEHICULAR HOMICIDE AND INJURY.**

#### **Subdivision 1. Criminal vehicular homicide or operation; crime described.**

~~A person is guilty of criminal vehicular homicide resulting in death and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, or operation and may be sentenced as provided in subdivision 1a, if the person causes injury to or the death of a human being not constituting murder or manslaughter~~ another as a result of operating a motor vehicle:

- (1) in a grossly negligent manner;
- (2) in a negligent manner while under the influence of:
  - (i) alcohol;
  - (ii) a controlled substance; or
  - (iii) any combination of those elements;
- (3) while having an alcohol concentration of 0.08 or more;
- (4) while having an alcohol concentration of 0.08 or more, as measured within two hours of the time of driving;
- (5) in a negligent manner while knowingly under the influence of a hazardous substance;
- (6) in a negligent manner while any amount of a controlled substance listed in schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols, is present in the person's body; ~~or~~
- (7) where the driver who causes the accident leaves the scene of the accident in violation of section 169.09, subdivision 1 or 6; or
- (8) where the driver had actual knowledge that a peace officer had previously issued a citation or warning that the motor vehicle was defectively maintained, the driver had actual knowledge that remedial action was not taken, the driver had reason to know that the defect created a present danger to others, and the injury or death was caused by the defective maintenance. **Effective August 1, 2007.**

#### **Subd. 1a. Criminal penalties.**

(a) A person who violates subdivision 1 and causes the death of a human being not constituting murder or manslaughter or the death of an unborn child may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both.

(b) A person who violates subdivision 1 and causes great bodily harm to another not constituting attempted murder or assault or great bodily harm to an unborn child who is

subsequently born alive may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

(c) A person who violates subdivision 1 and causes substantial bodily harm to another may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$10,000, or both.

(d) A person who violates subdivision 1 and causes bodily harm to another 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. Effective August 1, 2007.

**Subd. 1b. Conviction not bar to punishment for other crimes.**

A prosecution for or a conviction of a crime under this section relating to causing death or injury to an unborn child is not a bar to conviction of or punishment for any other crime committed by the defendant as part of the same conduct.

**Effective August 1, 2007.**

**Subd. 2 Resulting in great bodily harm. Repealed.**

**Effective August 1, 2007.**

**Subd. 2a Resulting in substantial bodily harm. Repealed.**

**Effective August 1, 2007.**

**Subd. 2b Resulting in bodily harm. Repealed. Effective August 1, 2007.**

**Subd. 3 Resulting in death to an unborn child. Repealed. Effective August 1, 2007.**

**Subd. 4 Resulting in injury to an unborn child. Repealed. Effective August 1, 2007.**

**Subd. 4a. Affirmative defense.**

It shall be an affirmative defense to a charge under subdivision 1, clause (6); ~~2, clause (6); 2a, clause (6); 2b, clause (6); 3, clause (6); or 4, clause (6),~~ that the defendant used the controlled substance according to the terms of a prescription issued for the defendant in accordance with sections 152.11 and 152.12. **Effective August 1, 2007.**

**Subd. 5. Definitions.**

For purposes of this section, the terms defined in this subdivision have the meanings given them.

(a) "Motor vehicle" has the meaning given in section 609.52, subdivision 1, and includes attached trailers.

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

(c) "Hazardous substance" means any chemical or chemical compound that is listed as a hazardous substance in rules adopted under chapter 182. **Effective August 1, 2007.**