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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-FIRST SESSION

H. F. No. **4219**

03/05/2020 Authored by Persell, Christensen, Becker-Finn, Novotny and Neu
The bill was read for the first time and referred to the Committee on Environment and Natural Resources Policy
04/14/2020 Adoption of Report: Amended and re-referred to the Public Safety and Criminal Justice Reform Finance and Policy Division

1.1 A bill for an act

1.2 relating to natural resources; providing uniformity in enforcing driving under the

1.3 influence provisions for certain recreational vehicles; providing criminal penalties;

1.4 amending Minnesota Statutes 2018, sections 84.795, subdivision 5; 84.83,

1.5 subdivision 5; 86B.705, subdivision 2; 97A.065, subdivision 2; 169A.03,

1.6 subdivision 18; 169A.20, subdivision 1; 169A.52, by adding a subdivision;

1.7 169A.54, by adding a subdivision; 171.306, by adding a subdivision; proposing

1.8 coding for new law in Minnesota Statutes, chapters 84; 86B; 171; repealing

1.9 Minnesota Statutes 2018, section 169A.20, subdivisions 1a, 1b, 1c; Minnesota

1.10 Statutes 2019 Supplement, sections 84.91, subdivision 1; 86B.331, subdivision 1.

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

1.12 Section 1. **[84.765] OPERATING OFF-ROAD RECREATIONAL VEHICLES**

1.13 **WHILE IMPAIRED.**

1.14 Subdivision 1. **Definitions.** As used in this section, "controlled substance," "intoxicating

1.15 substance," and "off-road recreational vehicle" have the meanings given in section 169A.03.

1.16 Subd. 2. **Acts prohibited.** (a) An owner or other person having charge or control of an

1.17 off-road recreational vehicle must not authorize or allow an individual the person knows

1.18 or has reason to believe is under the influence of alcohol, a controlled substance, or an

1.19 intoxicating substance to operate the off-road recreational vehicle anywhere in the state or

1.20 on the ice of a boundary water of the state.

1.21 (b) A person who operates or is in physical control of an off-road recreational vehicle

1.22 anywhere in the state or on the ice of a boundary water of the state is subject to chapter

1.23 169A.

1.24 (c) The provisions of chapters 169A, 171, and 609 relating to revoking, suspending, or

1.25 canceling a driver's license, an instruction permit, or a nonresident operating privilege for

2.1 alcohol, controlled substance, or intoxicating substance violations apply to operators of
 2.2 off-road recreational vehicles and operating privileges for off-road recreational vehicles.

2.3 (d) The commissioner of public safety must notify a person of the period during which
 2.4 the person is prohibited from operating an off-road recreational vehicle under section
 2.5 169A.52, 169A.54, or 171.177.

2.6 (e) The court must promptly forward to the commissioner of public safety copies of all
 2.7 convictions and criminal and civil sanctions imposed under chapter 169A and section
 2.8 171.177.

2.9 (f) If the person operating or in physical control of an off-road recreational vehicle is a
 2.10 program participant in the ignition interlock device program described in section 171.306,
 2.11 the off-road recreational vehicle may be operated only if it is equipped with an approved
 2.12 ignition interlock device and all requirements of section 171.306 are satisfied. For purposes
 2.13 of this paragraph, "program participant" and "ignition interlock device" have the meanings
 2.14 given in section 171.306, subdivision 1.

2.15 Subd. 3. **Penalties.** (a) A person who violates subdivision 2, paragraph (a), or an
 2.16 ordinance conforming to subdivision 2, paragraph (a), is guilty of a misdemeanor.

2.17 (b) A person who operates an off-road recreational vehicle during the period the person
 2.18 is prohibited from operating an off-road recreational vehicle under subdivision 2, paragraph
 2.19 (d), is subject to the penalty provided in section 171.24.

2.20 Sec. 2. Minnesota Statutes 2018, section 84.795, subdivision 5, is amended to read:

2.21 **Subd. 5. Operating under influence of alcohol or controlled substance.** A person
 2.22 may not operate or be in control of an off-highway motorcycle anywhere in this state or on
 2.23 the ice of any boundary water of this state while under the influence of alcohol or a controlled
 2.24 substance, as provided in section 169A.20, and is subject to sections 169A.50 to 169A.53
 2.25 or 171.177. ~~A conservation officer of the Department of Natural Resources is a peace officer~~
 2.26 ~~for the purposes of sections 169A.20 and 169A.50 to 169A.53 or 171.177 as applied to the~~
 2.27 ~~operation of an off-highway motorcycle in a manner not subject to registration under chapter~~
 2.28 ~~168.~~

2.29 Sec. 3. Minnesota Statutes 2018, section 84.83, subdivision 5, is amended to read:

2.30 **Subd. 5. Fines and forfeited bail.** ~~The disposition of~~ Fines and forfeited bail collected
 2.31 from prosecutions of violations of sections 84.81 to ~~84.91~~ 84.90 or rules adopted thereunder;
 2.32 ~~and violations of section 169A.20 that involve off-road recreational vehicles, as defined in~~

3.1 ~~section 169A.03, subdivision 16, are governed by section 97A.065. must be deposited in~~
3.2 ~~the state treasury. Half the receipts must be credited to the general fund, and half the receipts~~
3.3 ~~must be credited to the snowmobile trails and enforcement account in the natural resources~~
3.4 ~~fund.~~

3.5 Sec. 4. **[86B.33] OPERATING WHILE IMPAIRED.**

3.6 Subdivision 1. **Definitions.** For purposes of this section, "controlled substance,"
3.7 "intoxicating substance," and "motorboat in operation" have the meanings given under
3.8 section 169A.03.

3.9 Subd. 2. **Acts prohibited.** (a) An owner or other person having charge or control of a
3.10 motorboat must not authorize or allow an individual the person knows or has reason to
3.11 believe is under the influence of alcohol, a controlled substance, or an intoxicating substance
3.12 to operate the motorboat in operation on waters of the state.

3.13 (b) A person who operates or is in physical control of a motorboat on waters of the state
3.14 is subject to chapter 169A.

3.15 (c) The provisions of chapters 169A, 171, and 609 relating to revoking, suspending, or
3.16 canceling a driver's license, an instruction permit, or a nonresident operating privilege for
3.17 alcohol, controlled substance, or intoxicating substance violations apply to motorboat
3.18 operators and to operating privileges for motorboats.

3.19 (d) The commissioner of public safety must notify a person of the period during which
3.20 the person is prohibited from operating a motorboat under section 169A.52, 169A.54, or
3.21 171.177.

3.22 (e) The court must promptly forward to the commissioner of public safety copies of all
3.23 convictions and criminal and civil sanctions imposed under chapter 169A and section
3.24 171.177.

3.25 (f) If the person operating or in physical control of a motorboat is a program participant
3.26 in the ignition interlock device program described in section 171.306, the motorboat may
3.27 be operated only if it is equipped with an approved ignition interlock device and all
3.28 requirements of section 171.306 are satisfied. For purposes of this paragraph, "program
3.29 participant" and "ignition interlock device" have the meanings given in section 171.306,
3.30 subdivision 1.

3.31 Subd. 3. **Penalties.** (a) A person who violates subdivision 2, paragraph (a), or an
3.32 ordinance conforming with subdivision 2, paragraph (a), is guilty of a misdemeanor.

4.1 (b) A person who operates a motorboat during the period the person is prohibited from
4.2 operating a motorboat under subdivision 2, paragraph (d), is guilty of a misdemeanor.

4.3 Sec. 5. Minnesota Statutes 2018, section 86B.705, subdivision 2, is amended to read:

4.4 Subd. 2. **Fines and bail money.** (a) All fines, installment payments, and forfeited bail
4.5 money collected from persons convicted of ~~violations of~~ violating this chapter or rules
4.6 adopted thereunder, ~~or of a violation of section 169A.20 involving a motorboat,~~ shall must
4.7 be deposited in the state treasury.

4.8 (b) ~~One-half of~~ Half the receipts shall must be credited to the general revenue fund. ~~The~~
4.9 ~~other one-half of,~~ and half the receipts shall must be transmitted to the commissioner of
4.10 natural resources and credited to the water recreation account for the purpose of boat and
4.11 water safety.

4.12 Sec. 6. Minnesota Statutes 2018, section 97A.065, subdivision 2, is amended to read:

4.13 Subd. 2. **Fines and forfeited bail.** (a) Fines and forfeited bail collected from prosecutions
4.14 of violations of: the game and fish laws or rules adopted thereunder; sections 84.091 to
4.15 84.15 or rules adopted thereunder; ~~sections 84.81 to 84.91 or rules adopted thereunder;~~
4.16 ~~section 169A.20, when the violation involved an off-road recreational vehicle as defined~~
4.17 ~~in section 169A.03, subdivision 16;~~ chapter 348; and any other law relating to wild animals
4.18 or aquatic vegetation, must be ~~paid to the treasurer of the county where the violation is~~
4.19 ~~prosecuted. The county treasurer shall submit one-half of~~ deposited in the state treasury.
4.20 Half the receipts to the commissioner and credit the balance to the county general revenue
4.21 fund ~~except as provided in paragraphs (b) and (c). In a county in a judicial district under~~
4.22 ~~section 480.181, subdivision 1, paragraph (b), the share that would otherwise go to the~~
4.23 ~~county under this paragraph must be submitted to the commissioner of management and~~
4.24 ~~budget for deposit in the state treasury and credited to the general fund~~ must be credited to
4.25 the general fund, and half the receipts must be credited to the game and fish fund under
4.26 section 97A.055.

4.27 (b) ~~The county treasurer shall submit one-half of the receipts collected under paragraph~~
4.28 ~~(a) from prosecutions of violations of sections 84.81 to 84.91 or rules adopted thereunder,~~
4.29 ~~and 169A.20, except receipts that are surcharges imposed under section 357.021, subdivision~~
4.30 ~~6, to the commissioner and credit the balance to the county general fund. The commissioner~~
4.31 ~~shall credit these receipts to the snowmobile trails and enforcement account in the natural~~
4.32 ~~resources fund.~~

5.1 (e) ~~The county treasurer shall indicate the amount of the receipts that are surcharges~~
5.2 ~~imposed under section 357.021, subdivision 6, and shall submit all of those receipts to the~~
5.3 ~~commissioner of management and budget.~~

5.4 Sec. 7. Minnesota Statutes 2018, section 169A.03, subdivision 18, is amended to read:

5.5 Subd. 18. **Peace officer.** "Peace officer" means:

5.6 (1) a State Patrol officer;

5.7 (2) a University of Minnesota peace officer;

5.8 (3) a police officer of any municipality, including towns having powers under section
5.9 368.01, or county; and

5.10 (4) ~~for purposes of violations of this chapter in or on an off-road recreational vehicle or~~
5.11 ~~motorboat, or for violations of section 97B.065 or 97B.066,~~ a state conservation officer.

5.12 Sec. 8. Minnesota Statutes 2018, section 169A.20, subdivision 1, is amended to read:

5.13 Subdivision 1. **Driving while impaired crime; motor vehicle.** It is a crime for any
5.14 person to drive, operate, or be in physical control of any motor vehicle, as defined in section
5.15 169A.03, subdivision 15, ~~except for motorboats in operation and off-road recreational~~
5.16 ~~vehicles,~~ within this state or on any boundary water of this state when:

5.17 (1) the person is under the influence of alcohol;

5.18 (2) the person is under the influence of a controlled substance;

5.19 (3) the person is under the influence of an intoxicating substance and the person knows
5.20 or has reason to know that the substance has the capacity to cause impairment;

5.21 (4) the person is under the influence of a combination of any two or more of the elements
5.22 named in clauses (1) to (3);

5.23 (5) the person's alcohol concentration at the time, or as measured within two hours of
5.24 the time, of driving, operating, or being in physical control of the motor vehicle is 0.08 or
5.25 more;

5.26 (6) the vehicle is a commercial motor vehicle and the person's alcohol concentration at
5.27 the time, or as measured within two hours of the time, of driving, operating, or being in
5.28 physical control of the commercial motor vehicle is 0.04 or more; or

5.29 (7) the person's body contains any amount of a controlled substance listed in Schedule
5.30 I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

6.1 Sec. 9. Minnesota Statutes 2018, section 169A.52, is amended by adding a subdivision to
6.2 read:

6.3 Subd. 9. **Off-road recreational vehicles and motorboats.** (a) The provisions of this
6.4 section for revoking a driver's license, permit, or nonresident operating privilege also apply
6.5 to the operating privilege for an off-road recreational vehicle and a motorboat.

6.6 (b) Upon certification by a peace officer under subdivision 3, paragraph (a), or subdivision
6.7 4, paragraph (a) or (c), the commissioner must notify a person that the person is prohibited
6.8 from operating off-road recreational vehicles and motorboats for the period provided in
6.9 subdivision 3, paragraph (a), or subdivision 4, paragraph (a).

6.10 Sec. 10. Minnesota Statutes 2018, section 169A.54, is amended by adding a subdivision
6.11 to read:

6.12 Subd. 12. **Off-road recreational vehicles and motorboats.** (a) The provisions of this
6.13 section for revoking a driver's license or nonresident operating privilege also apply to the
6.14 operating privilege for an off-road recreational vehicle and a motorboat.

6.15 (b) Upon conviction, the commissioner must notify a person that the person is prohibited
6.16 from operating off-road recreational vehicles and motorboats for the same period that the
6.17 person's driver's license or operating privilege is revoked or canceled under this section.

6.18 Sec. 11. **[171.188] DRIVING WHILE IMPAIRED REVOCATION AND**
6.19 **PROHIBITION; OFF-ROAD RECREATIONAL VEHICLES AND MOTORBOATS.**

6.20 (a) The provisions of this chapter for revoking or canceling a driver's license or
6.21 nonresident driving privilege for alcohol, controlled substance, or intoxicating substance
6.22 violations also apply to the operating privileges for off-road recreational vehicles and
6.23 motorboats.

6.24 (b) Upon conviction, the commissioner must notify a person that the person is prohibited
6.25 from operating off-road recreational vehicles and motorboats for the same period that the
6.26 person's driver's license or driving privilege is revoked or canceled for the alcohol, controlled
6.27 substance, or intoxicating substance conviction.

6.28 Sec. 12. Minnesota Statutes 2018, section 171.306, is amended by adding a subdivision
6.29 to read:

6.30 Subd. 3a. **Off-road recreational vehicles and motorboats.** A program participant in
6.31 the ignition interlock device program may operate an off-road recreational vehicle or a

7.1 motorboat only if it is equipped with an approved ignition interlock device as provided
7.2 under this section and sections 84.765, subdivision 2, and 86B.33, subdivision 2.

7.3 Sec. 13. **REVISOR INSTRUCTION.**

7.4 The revisor of statutes shall make necessary changes to statutory cross-references to
7.5 reflect the changes made in sections 1 to 12. If necessary, the revisor shall prepare a bill for
7.6 introduction in the 2021 legislative session to make other necessary conforming changes
7.7 that are beyond the scope of the revisor's authority to make editorial changes under this
7.8 section or other law.

7.9 Sec. 14. **REPEALER.**

7.10 Minnesota Statutes 2018, section 169A.20, subdivisions 1a, 1b, and 1c, and Minnesota
7.11 Statutes 2019 Supplement, sections 84.91, subdivision 1; and 86B.331, subdivision 1, are
7.12 repealed.

84.91 OPERATING SNOWMOBILES AND ALL-TERRAIN VEHICLES; PERSONS UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCES.

Subdivision 1. **Acts prohibited.** (a) No owner or other person having charge or control of any snowmobile or all-terrain vehicle shall authorize or permit any individual the person knows or has reason to believe is under the influence of alcohol or a controlled substance or other substance to operate the snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state.

(b) No owner or other person having charge or control of any snowmobile or all-terrain vehicle shall knowingly authorize or permit any person, who by reason of any physical or mental disability is incapable of operating the vehicle, to operate the snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state.

(c) A person who operates or is in physical control of a snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state is subject to chapter 169A. In addition to the applicable sanctions under chapter 169A, a person who is convicted of violating section 169A.20 or an ordinance in conformity with it, or who refuses to comply with a lawful request to submit to testing or fails a test lawfully administered under sections 169A.50 to 169A.53 or 171.177, or an ordinance in conformity with any of these sections, is prohibited from operating a snowmobile or all-terrain vehicle for one year. The commissioner shall notify the person of the period during which the person is prohibited from operating a snowmobile or all-terrain vehicle.

(d) Administrative and judicial review of the operating privileges prohibition is governed by section 169A.53 or 171.177.

(e) The court shall promptly forward to the commissioner and the Department of Public Safety copies of all convictions and criminal and civil sanctions imposed under:

- (1) this section;
- (2) chapter 169 relating to snowmobiles and all-terrain vehicles;
- (3) chapter 169A; and
- (4) section 171.177.

(f) A person who violates paragraph (a) or (b), or an ordinance in conformity with either of them, is guilty of a misdemeanor. A person who operates a snowmobile or all-terrain vehicle during the time period the person is prohibited from operating a vehicle under paragraph (c) is guilty of a misdemeanor.

86B.331 OPERATION WHILE USING ALCOHOL OR DRUGS OR WITH A PHYSICAL OR MENTAL DISABILITY.

Subdivision 1. **Acts prohibited.** (a) An owner or other person having charge or control of a motorboat may not authorize or allow an individual the person knows or has reason to believe is under the influence of alcohol or a controlled or other substance to operate the motorboat in operation on the waters of this state.

(b) An owner or other person having charge or control of a motorboat may not knowingly authorize or allow a person, who by reason of a physical or mental disability is incapable of operating the motorboat, to operate the motorboat in operation on the waters of this state.

(c) A person who operates or is in physical control of a motorboat on the waters of this state is subject to chapter 169A. In addition to the applicable sanctions under chapter 169A, a person who is convicted of violating section 169A.20 or an ordinance in conformity with it, or who fails a test lawfully administered under sections 169A.50 to 169A.53 or 171.177, or an ordinance in conformity with any of these sections, is prohibited from operating a motorboat on the waters of this state for 90 days between May 1 and October 31, extending over two consecutive years if necessary. If the person refuses to comply with a lawful demand to submit to testing under sections 169A.50 to 169A.53 or 171.177, or an ordinance in conformity with any of these sections, the person is prohibited from operating a motorboat for one year. The commissioner shall notify the person of the period during which the person is prohibited from operating a motorboat.

(d) Administrative and judicial review of the operating privileges prohibition is governed by section 169A.53 or 171.177.

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(e) The court shall promptly forward to the commissioner and the Department of Public Safety copies of all convictions and criminal and civil sanctions imposed under: (1) this section; (2) chapter 169 relating to motorboats; (3) chapter 169A; and (4) section 171.177.

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

(g) For purposes of this subdivision, 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.

169A.20 DRIVING WHILE IMPAIRED.

Subd. 1a. **Driving while impaired crime; motorboat in operation.** It is a crime for any person to operate or be in physical control of a motorboat in operation on any waters or boundary water of this state when:

(1) the person is under the influence of alcohol;

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

(3) the person is under the influence of an intoxicating substance and the person knows or has reason to know that the substance has the capacity to cause impairment;

(4) the person is under the influence of a combination of any two or more of the elements named in clauses (1) to (3);

(5) 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 motorboat is 0.08 or more; or

(6) the person's body contains any amount of a controlled substance listed in Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

Subd. 1b. **Driving while impaired crime; snowmobile and all-terrain vehicle.** It is a crime for any person to operate or be in physical control of a snowmobile as defined in section 84.81, subdivision 3, or all-terrain vehicle as defined in section 84.92, subdivision 8, anywhere in this state or on the ice of any boundary water of this state when:

(1) the person is under the influence of alcohol;

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

(3) the person is under the influence of an intoxicating substance and the person knows or has reason to know that the substance has the capacity to cause impairment;

(4) the person is under the influence of a combination of any two or more of the elements named in clauses (1) to (3);

(5) 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 snowmobile or all-terrain vehicle is 0.08 or more; or

(6) the person's body contains any amount of a controlled substance listed in Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.

Subd. 1c. **Driving while impaired crime; off-highway motorcycle and off-road vehicle.** It is a crime for any person to operate or be in physical control of any off-highway motorcycle as defined in section 84.787, subdivision 7, or any off-road vehicle as defined in section 84.797, subdivision 7, anywhere in this state or on the ice of any boundary water of this state when:

(1) the person is under the influence of alcohol;

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

(3) the person is under the influence of an intoxicating substance and the person knows or has reason to know that the substance has the capacity to cause impairment;

(4) the person is under the influence of a combination of any two or more of the elements named in clauses (1) to (3);

(5) 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 off-highway motorcycle or off-road vehicle is 0.08 or more; or

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(6) the person's body contains any amount of a controlled substance listed in Schedule I or II, or its metabolite, other than marijuana or tetrahydrocannabinols.