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**2009  
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  
2009 Legislature and identified as of  
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**Effective dates are as noted**

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## CHAPTER 84

### OFF-HIGHWAY VEHICLES

#### 84.774 OFF-HIGHWAY VEHICLE CRIMINAL PENALTIES.

(a) Except as provided in paragraph (b), a person who violates a provision of sections 84.773; 84.777; 84.788 to 84.795; 84.798 to 84.804; 84.90; or 84.922 to 84.928 or rules of the commissioner relating to off-highway vehicle use is guilty of a misdemeanor.

(b) A person is guilty of a gross misdemeanor if the person violates section 84.773, subdivision 2, clause (2), and the person recklessly upsets the natural and ecological balance of a wetland or public waters wetland.

(c) A person is prohibited from operating an off-highway vehicle for a period of one year if the person is:

(1) convicted of a gross misdemeanor under paragraph (b);

(2) convicted of or subject to a final order under section 84.775 for a violation of the prohibition on the intentional operation on unfrozen public water, in a state park, in a scientific and natural area, or in a wildlife management area under section 84.773, subdivision 1, clause (3);

(3) convicted of or is subject to a final order under section 84.775 for a violation of the prohibition on the willful, wanton, or reckless disregard for the safety of persons or property under section 84.773, subdivision 2, clause (1); or

(4) convicted of or subject to a final order under section 84.775 for a violation of the prohibition on carelessly upsetting the natural and ecological balance of a wetland or public waters wetland under section 84.773, subdivision 2, clause (2).The commissioner shall notify the person of the time period during which the person is prohibited from operating an off-highway vehicle.

**Effective August 1, 2009**

**84.7741 OFF-HIGHWAY VEHICLE FORFEITURE.****Subdivision 1. Definitions.**

(a) As used in this section, the following terms have the meanings given them.

(b) "Appropriate agency" means a law enforcement agency that has the authority to make an arrest for a violation of a designated offense.

(c) "Claimant" means an owner of an off-highway vehicle or a person claiming a leasehold or security interest in an off-highway vehicle.

(d) "Designated offense" means a second gross misdemeanor violation under section 84.774, paragraph (b).

(e) "Family or household member" means:

(1) a parent, stepparent, or guardian;

(2) any of the following persons related by blood, marriage, or adoption: brother, sister, stepbrother, stepsister, first cousin, aunt, uncle, nephew, niece, grandparent, great-grandparent, great-uncle, or great-aunt; or

(3) persons residing together or persons who regularly associate and communicate with one another outside of a workplace setting.

(f) "Off-highway vehicle" and "vehicle" do not include an off-highway vehicle that is stolen or taken in violation of the law.

(g) "Owner" means a person legally entitled to possession, use, and control of an off-highway vehicle, including a lessee of an off-highway vehicle if the lease agreement has a term of 180 days or more. There is a rebuttable presumption that a person registered as the owner of an off-highway vehicle according to the records of the Department of Public Safety or the Department of Natural Resources is the legal owner. For purposes of this section, if an off-highway vehicle is owned jointly by two or more people, each owner's interest extends to the whole of the vehicle and is not subject to apportionment.

(h) "Prosecuting authority" means the attorney in the jurisdiction in which the designated offense occurred, or a designee, who is responsible for prosecuting violations of a designated offense. If a state agency initiated the forfeiture and the attorney responsible for prosecuting the designated offense declines to pursue forfeiture, the attorney general's

office, or its designee, may initiate forfeiture under this section.

(i) "Security interest" means a bona fide security interest perfected according to section 168A.17, subdivision 2, based on a loan or other financing that, if an off-highway vehicle is required to be registered under chapter 168, is listed on the vehicle's title.

**Effective August 1, 2009**

**Subd. 2. Seizure.**

(a) An off-highway 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.

(b) 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 by serving a notice of seizure and intent to forfeit at the address of the owner as listed in the records of the Department of Public Safety or Department of Natural Resources.

**Effective August 1, 2009**

**Subd. 3. Right to possession vests immediately; custody.**

All right, title, and interest in an off-highway vehicle subject to forfeiture under this section vests in the appropriate agency upon commission of the conduct resulting in the designated offense 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 an

off-highway vehicle is seized under this section, the appropriate agency may:

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

**Effective August 1, 2009**

**Subd. 4. Bond by owner for possession.**

If the owner of an off-highway 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. The forfeiture action must proceed against the security as if it were the seized vehicle.

**Effective August 1, 2009**

**Subd. 5. Evidence.**

Certified copies of court records and off-highway vehicle and driver's records concerning prior incidents are admissible as substantive evidence where necessary to prove the commission of a designated offense.

**Effective August 1, 2009**

**Subd. 6. Vehicle subject to forfeiture.**

An off-highway vehicle is subject to forfeiture under this section if it was used in the commission of a designated offense.

**Effective August 1, 2009**

**Subd. 7. Presumptions; limitations on vehicle forfeiture.**

(a) An off-highway vehicle is presumed subject to forfeiture under this section if the driver:

- (1) is convicted of the designated offense upon which the forfeiture is based; or
- (2) fails to appear for a scheduled court appearance with respect to the designated offense charged and fails to voluntarily surrender within 48 hours after the time required for appearance.



(b) An off-highway vehicle encumbered by a security interest perfected according to section 168A.17, subdivision 2, 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. However, when the proceeds of the sale of a seized vehicle do not equal or exceed the outstanding loan balance, the appropriate agency shall remit all proceeds of the sale to the secured party after deducting the agency's costs for the seizure, tow, storage, forfeiture, and sale of the vehicle. If the sale of the vehicle is conducted in a commercially reasonable manner consistent with section 336.9-610, the agency is not liable to the secured party for any amount owed on the loan in excess of the sale proceeds. The validity and amount of a nonperfected security interest must be established by its holder by clear and convincing evidence.

(c) Notwithstanding paragraph (b), the secured party's or lessor's interest in an off-highway 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 demonstrates by clear and convincing evidence that the party or lessor took reasonable steps to terminate use of the vehicle by the offender.

(d) An off-highway vehicle is not subject to forfeiture under this section if its owner can demonstrate by clear and convincing evidence that the owner did not have actual or constructive knowledge that the vehicle would be used or operated in any manner contrary to law or that the owner took reasonable steps to prevent use of the vehicle by the offender. If the offender is a family or household member of the owner and has three or more prior off-highway vehicle convictions, the owner is presumed to know of any vehicle use by the offender that is contrary to law.

**Effective August 1, 2009**

**Subd. 8. Administrative forfeiture procedure.**

(a) An off-highway vehicle used to commit a designated offense is subject to administrative forfeiture under this subdivision.

(b) When an off-highway vehicle is seized under subdivision 2, or within a reasonable time after seizure, 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 an off-highway vehicle is seized under subdivision 2, or within a reasonable time after that, all persons known to have an ownership, possessory, or security interest in the vehicle must be notified of the seizure and the intent to forfeit the vehicle. For those vehicles required to be registered under chapter 168, the notification to a person known to have a security interest in the vehicle is required only if the vehicle is registered under chapter 168 and the interest is listed on the vehicle's title. 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. For off-highway vehicles not required to be registered under chapter 168, notice mailed by certified mail to the address shown in the applicable filing or registration for the vehicle is sufficient notice to a person known to have an ownership, possessory, or security interest in 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 the 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 84.7741, SUBDIVISION 8, 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. IF THE PROPERTY IS WORTH \$7,500 OR LESS, YOU MAY FILE YOUR CLAIM IN CONCILIATION COURT. YOU DO NOT HAVE TO PAY THE CONCILIATION

COURT FILING FEE IF THE PROPERTY IS WORTH LESS THAN \$500."

(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 \$7,500 or less, the claimant may file an action in conciliation court for recovery of the seized vehicle. A copy of the conciliation court statement of claim must be served personally or by mail on the prosecuting authority having jurisdiction over the forfeiture within 30 days following service of the notice of seizure and forfeiture under this subdivision. If the value of the seized property is less than \$500, the claimant does not have to pay 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. Pleadings, filings, and methods of service 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, the claimant's interest in the vehicle seized, and any affirmative defenses the claimant may have. Notwithstanding any law to the contrary, an action for the return of an off-highway 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 forfeiture proceedings must be conducted according to subdivision 9.

**Effective August 1, 2009**

**Subd. 9. Judicial forfeiture procedure.**

(a) This subdivision governs judicial determinations of the forfeiture of an off-highway vehicle used to commit a designated offense. An action for forfeiture is a civil in rem action and is independent of any criminal prosecution. All proceedings are governed by the Rules of Civil Procedure.

(b) If no demand for judicial determination of the forfeiture is pending, the prosecuting authority may, in the name of the jurisdiction pursuing the forfeiture, file a separate complaint against the vehicle, describing it, specifying that it was used in the commission of a designated offense, and specifying the time and place of its unlawful use.

(c) The prosecuting authority may file an answer to a properly served demand for judicial determination, including an affirmative counterclaim for forfeiture. The prosecuting authority is not required to file an answer.

(d) A judicial determination under this subdivision must not precede adjudication in the criminal prosecution of the designated offense without the consent of the prosecuting authority. The district court administrator shall schedule the hearing as soon as practicable after adjudication in the criminal prosecution. The district court administrator shall establish procedures to ensure efficient compliance with this subdivision. The hearing is to the court without a jury.

(e) There is a presumption that an off-highway vehicle seized under this section is subject to forfeiture if the prosecuting authority establishes that the vehicle was used in the commission of a designated offense. A claimant bears the burden of proving any affirmative defense raised.

(f) If the forfeiture is 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 order the property returned to the person legally entitled to it upon that person's compliance with the redemption requirements of subdivision 12.

(g) If the lawful ownership of the vehicle used in the commission of a designated offense can be

determined and the owner makes the demonstration required under subdivision 7, paragraph (d), the vehicle must be returned immediately upon the owner's compliance with the redemption requirements of subdivision 12.

(h) If the court orders the return of a seized vehicle under this subdivision, it must order that filing fees be reimbursed to the person who filed the demand for judicial determination. In addition, the court may order sanctions under section 549.211. Any reimbursement fees or sanctions must be paid from other forfeiture proceeds of the law enforcement agency and prosecuting authority involved and in the same proportion as distributed under subdivision 10, paragraph (b).

**Effective August 1, 2009**

**Subd. 10. Disposition of forfeited vehicle.**

(a) If the vehicle is administratively forfeited under subdivision 8, or if the court finds under subdivision 9 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 off-highway vehicle for official use, the agency shall make reasonable efforts to ensure that the off-highway vehicle is available for use by the agency's officers who participate in off-highway vehicle enforcement or education programs.

(b) The proceeds from the sale of forfeited vehicles, after payment of seizure, towing, storage, forfeiture, and sale expenses and satisfaction of valid liens against the property, must be distributed as follows:

(1) 70 percent of the proceeds must be forwarded to the appropriate agency for deposit as a supplement to the state or local agency's operating fund or similar fund for use in purchasing equipment for off-highway vehicle enforcement, training, and education; and

(2) 30 percent of the money or proceeds must be forwarded to the prosecuting authority that handled

the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes.

**Effective August 1, 2009**

**Subd. 11. Sale of forfeited vehicle by secured party.**

(a) A financial institution with a valid security interest in or a valid lease covering a forfeited off-highway vehicle may choose to dispose of the vehicle under this subdivision, in lieu of the appropriate agency disposing of the vehicle under subdivision 10. A financial institution wishing to dispose of an off-highway vehicle under this subdivision shall notify the appropriate agency of its intent, in writing, within 30 days after receiving notice of the seizure and forfeiture. The appropriate agency shall release the vehicle to the financial institution or its agent after the financial institution presents proof of its valid security agreement or of its lease agreement and the financial institution agrees not to sell the vehicle to a family or household member of the violator, unless the violator is not convicted of the offense on which the forfeiture is based. The financial institution shall dispose of the vehicle in a commercially reasonable manner as defined in section 336.9-610.

(b) After disposing of the forfeited vehicle, the financial institution shall reimburse the appropriate agency for its seizure, storage, and forfeiture costs. The financial institution may then apply the proceeds of the sale to its storage costs, to its sale expenses, and to satisfy the lien or the lease on the vehicle. If any proceeds remain, the financial institution shall forward the proceeds to the state treasury, which shall credit the appropriate fund as specified in subdivision 10.

**Effective August 1, 2009**

**Subd. 12. Redemption requirements.**

(a) If an off-highway vehicle is seized by a peace officer for a designated offense, the seized vehicle must \_\_\_\_\_ be \_\_\_\_\_ released \_\_\_\_\_ only:

(1) to the registered owner, a person authorized by the registered owner, a lienholder of record, or a person who has purchased the vehicle from the registered owner who provides proof of ownership of the vehicle;

(2) if the vehicle is subject to a rental or lease agreement, to a renter or lessee who provides a copy of the rental or lease agreement; or

(3) to an agent of a towing company authorized by a registered owner if the owner provides proof of ownership of the vehicle.

(b) The proof of ownership or, if applicable, the copy of the rental or lease agreement required under paragraph (a) must be provided to the law enforcement agency seizing the vehicle or to a person or entity designated by the law enforcement agency to receive the information.

(c) No law enforcement agency, local unit of government, or state agency is responsible or financially liable for any storage fees incurred due to a seizure under this section.

**Effective August 1, 2009**

## **OFF-HIGHWAY MOTORCYCLES**

### **84.788 REGISTRATION.**

#### **Subd. 11. Refunds.**

The commissioner may issue a refund on a registration, not including any issuing fees paid under subdivision 3, paragraph (e), or section 84.027, subdivision 15, paragraph (a), clause (3), if the refund request is received within 12 months 60 days of the original registration, the registration is not used or transferred, and:

(1) the off-highway motorcycle was registered incorrectly ~~by the commissioner or the deputy registrar;~~ or

(2) the off-highway motorcycle was registered twice, once by the dealer and once by the customer.

**Effective July 1, 2009**

### **84.793 YOUTHFUL OPERATORS; PROHIBITIONS.**

#### **Subdivision 1. Prohibitions on youthful operators.**

(a) After January 1, 1995, a person less than 16 years of age operating an off-highway motorcycle on public lands or waters must possess a valid off-highway motorcycle safety certificate issued by the commissioner.

(b) Except for operation on public road rights-of-way that is permitted under section 84.795,

subdivision 1, a driver's license issued by the state or another state is required to operate an off-highway motorcycle along or on a public road right-of-way.

(c) A person under 12 years of age may not:

(1) make a direct crossing of a public road right-of-way;

(2) operate an off-highway motorcycle on a public road right-of-way in the state; or

(3) operate an off-highway motorcycle on public lands or waters unless accompanied ~~on another off-highway motorcycle~~ by a person 18 years of age or older or participating in an event for which the commissioner has issued a special use permit.

(d) Except for public road rights-of-way of interstate highways, a person less than 16 years of age may make a direct crossing of a public road right-of-way of a trunk, county state-aid, or county highway only if that person is accompanied ~~on another off-highway motorcycle~~ by a person 18 years of age or older who holds a valid driver's license.

(e) A person less than 16 years of age may operate an off-highway motorcycle on public road rights-of-way in accordance with section 84.795, subdivision 1, paragraph (a), only if that person is accompanied ~~on another off-highway motorcycle~~ by a person 18 years of age or older who holds a valid driver's license.

**Effective July 1, 2009**

## **84.796 PENALTIES. REPEALED, 2009**

**Effective July 1, 2009**

### **OFF-ROAD VEHICLES**

#### **84.798 REGISTRATION.**

##### **Subd. 10. Refunds.**

The commissioner may issue a refund on a registration, not including any issuing fees paid under subdivision 3, paragraph (b), or section 84.027, subdivision 15, paragraph (a), clause (3), if the refund request is received within ~~12 months~~ 60 days of the original registration and ~~the vehicle was registered incorrectly by the commissioner or the deputy registrar,~~ the registration is not used or transferred, and:



(1) the off-road vehicle was registered incorrectly; or

(2) the off-road vehicle was registered twice, once by the dealer and once by the customer.

**Effective July 1, 2009**

**84.805 PENALTIES. REPEALED, 2009**

**Effective July 1, 2009**

**SNOWMOBILES**

**84.82 SNOWMOBILE REGISTRATION.**

**Subd. 11. Refunds.**

The commissioner may issue a refund on a registration, not including any issuing fees paid under subdivision 2, paragraph (e), or section 84.027, subdivision 15, paragraph (a), clause (3), if the refund request is received within 12 months 60 days of the original registration, the registration is not used or transferred, and:

(1) the snowmobile was registered incorrectly by ~~the commissioner or the deputy registrar;~~ or

(2) the snowmobile was registered twice, once by the dealer and once by the customer.

**Effective July 1, 2009**

**84.83 SNOWMOBILE TRAILS AND ENFORCEMENT ACCOUNT; RECEIPTS AND ALLOCATIONS.**

**Subd. 3. Purposes for the account.**

The money deposited in the account and interest earned on that money may be expended only as appropriated by law for the following purposes:

(1) for a grant-in-aid program to counties and municipalities for construction and maintenance of snowmobile trails, including maintenance of trails on lands and waters of Voyageurs National Park~~;~~ on Lake of the Woods~~;~~ on Rainy Lake~~;~~ ~~and~~ on the following lakes in St. Louis County: Burntside, Crane, Little Long, Mud, Pelican, Shagawa, and Vermilion~~;~~ and on the following lakes in Cook County: Devil Track and Hungry Jack;

(2) for acquisition, development, and maintenance of state recreational snowmobile trails;

(3) for snowmobile safety programs; and

(4) for the administration and enforcement of sections 84.81 to 84.91 and appropriated grants to local law enforcement agencies.

**Effective July 1, 2009**

## **ALL-TERRAIN VEHICLES**

### **84.92 DEFINITIONS.**

#### **Subd. 8. All-terrain vehicle or vehicle.**

"All-terrain vehicle" or "vehicle" means a motorized flotation-tired vehicle of not less than three low pressure tires, but not more than six tires, that is limited in engine displacement of less than ~~800~~ 960 cubic centimeters and includes a class 1 all-terrain vehicle and class 2 all-terrain vehicle.

**Effective July 1, 2009**

### **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;

(3) vehicles that:(i) are owned by a resident of another state or country that does not require registration of all-terrain vehicles;(ii) have not been in this state for more than 30 consecutive days; and(iii) are operated on state and grant-in-aid trails by a nonresident possessing a nonresident all-terrain vehicle state trail pass;

~~(3) (4)~~ vehicles used exclusively in organized track racing events; and

~~(4) (5)~~ vehicles that are 25 years old or older and were originally produced as a separate identifiable make by a manufacturer.

**Effective January 1, 2010**

#### **Subd. 12. Refunds.**

The commissioner may issue a refund on a registration, not including any issuing fees paid under subdivision 2, paragraph (e), or section 84.027, subdivision 15, paragraph (a), clause (3), if the refund request is received within ~~12 months~~ 60 days

of the original registration, the registration is not used or transferred, and:

(1) the vehicle was registered incorrectly by the commissioner or the deputy registrar; or

(2) the vehicle was registered twice, once by the dealer and once by the customer.

**Effective July 1, 2009**

**84.9275 NONRESIDENT ALL-TERRAIN VEHICLE STATE TRAIL PASS.**

**Subdivision 1. Pass required; fee.**

(a) A nonresident may not operate an all-terrain vehicle on a state or grant-in-aid all-terrain vehicle trail unless the operator carries a valid nonresident all-terrain vehicle state trail pass in immediate possession. The pass must be available for inspection by a peace officer, a conservation officer, or an employee designated under section 84.0835.

(b) The commissioner of natural resources shall issue a pass upon application and payment of a \$20 fee. The pass is valid from January 1 through December 31. Fees collected under this section, except for the issuing fee for licensing agents, shall be deposited in the state treasury and credited to the all-terrain vehicle 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 to counties and municipalities for all-terrain vehicle organizations to construct and maintain all-terrain vehicle trails and use areas.

(c) A nonresident all-terrain vehicle state trail pass is not required for:

(1) an all-terrain vehicle that is owned and used by the United States, another state, or a political subdivision thereof that is exempt from registration under section 84.922, subdivision 1a; or

(2) a person operating an all-terrain vehicle only on the portion of a trail that is owned by the person or the person's spouse, child, or parent.

**Effective January 1, 2010**

**Subd. 2. License agents.**

The commissioner may appoint agents to issue and sell nonresident all-terrain vehicle state trail passes. The commissioner may revoke the

appointment of an agent at any time. The commissioner may adopt additional rules as provided in section 97A.485, subdivision 11. An agent shall observe all rules adopted by the commissioner for accounting and handling of passes pursuant to section 97A.485, subdivision 11. An agent shall promptly deposit and remit all money received from the sale of the passes, exclusive of the issuing fee, to the commissioner.

**Effective January 1, 2010**

**Subd. 3. Issuance of passes.**

The commissioner and agents shall issue and sell nonresident all-terrain vehicle state trail passes. The commissioner shall also make the passes available through the electronic licensing system established under section 84.027, subdivision 15.

**Effective January 1, 2010**

**Subd. 4. Agent's fee.**

In addition to the fee for a pass, an issuing fee of \$1 per pass shall be charged. The issuing fee may be retained by the seller of the pass. Issuing fees for passes issued by the commissioner shall be deposited in the all-terrain vehicle account in the natural resources fund and retained for the operation of the electronic licensing system.

**Effective January 1, 2010**

**Subd. 5. Duplicate passes.**

The commissioner and agents shall issue a duplicate pass to persons whose pass is lost or destroyed using the process established under section 97A.405, subdivision 3, and rules adopted thereunder. The fee for a duplicate nonresident all-terrain vehicle state trail pass is \$2, with an issuing fee of 50 cents.

**Effective January 1, 2010**

**84.928 OPERATION REQUIREMENTS; LOCAL REGULATIONS.**

**Subd. 1a. Crossing a public road right-of-way.**

(a) An all-terrain vehicle may make a direct crossing of a public road right-of-way provided:

(1) the crossing is made at an angle of approximately 90 degrees to the direction of the road and at a place where no obstruction prevents a quick and safe crossing;

(2) the vehicle is brought to a complete stop before crossing the shoulder or main-traveled way of the road;

(3) the driver yields the right-of-way to all oncoming traffic that constitutes an immediate hazard;

(4) in crossing a divided road, the crossing is made only at an intersection of the road with another public road; and

(5) if the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are on.

(b) An all-terrain vehicle may be operated upon a bridge, other than a bridge that is part of the main-traveled lanes of an interstate highway, or roadway shoulder or inside bank of a public road right-of-way when required for the purpose of avoiding obstructions to travel or environmentally sensitive areas when no other method of avoidance is possible; provided the all-terrain vehicle is operated in the extreme right-hand lane, the entrance to the roadway is made within 100 feet of the bridge or obstacle, or sensitive area, and the crossing is made without undue delay.

(c) A person shall not operate an all-terrain vehicle upon a public street or highway unless the vehicle is equipped with at least one headlight and one taillight, each of minimum candlepower as prescribed by rules of the commissioner, and with brakes conforming to standards prescribed by rule of the commissioner, and all of which are subject to the approval of the commissioner of public safety.

(d) An all-terrain vehicle may be operated upon a public road right-of-way other than as provided by paragraph (b) in an emergency during the period of time when and at locations where the condition of the roadway renders travel by automobile impractical.

(e) Chapters 169 and 169A apply to the operation of all-terrain vehicles upon streets and highways, except for those provisions relating to required equipment and except those provisions which by their nature have no application.

(f) A sled, trailer, or other device being towed by an all-terrain vehicle must be equipped with reflective materials as required by rule of the commissioner.

(g) A driver's license is not required to operate an all-terrain vehicle along or on a public road right-of-way if the right-of-way encompasses a trail administered by the commissioner and designated for all-terrain vehicle use or multiple use.

(h) A road authority as defined in section 160.02, subdivision 25, may by permit designate corridor access trails on public road rights-of-way for purposes of accessing established all-terrain vehicle trails. A driver's license is not required to operate an all-terrain vehicle on a designated corridor access trail.

**Effective July 1, 2009**

## **84.929 PENALTIES. REPEALED, 2009**

**Effective July 1, 2009**

### **TRAFFIC REGULATIONS CHAPTER 169**

#### **169.011 DEFINITIONS.**

##### **Subd. 40a. Mini truck.**

(a) "Mini truck" means a motor vehicle that has four wheels; is propelled by an electric motor with a rated power of 7,500 watts or less or an internal combustion engine with a piston displacement capacity of 660 cubic centimeters or less; has a total dry weight of 900 to 2,200 pounds; contains an enclosed cabin and a seat for the vehicle operator; commonly resembles a pickup truck or van, including a cargo area or bed located at the rear of the vehicle; and was not originally manufactured to meet federal motor vehicle safety standards required of motor vehicles in the Code of Federal Regulations, title 49, sections 571.101 to 571.404, and successor requirements.

(b) A mini truck does not include:

(1) a neighborhood electric vehicle or a medium-speed electric vehicle; or

(2) a motor vehicle that meets or exceeds the regulations in the Code of Federal Regulations, title 49, section 571.500, and successor requirements..  
**Effective August 1, 2009 and expires July 31, 2012**

**169.045 SPECIAL VEHICLE USE ON ROADWAY.  
Subdivision 1. Designation of roadway, 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, or mini trucks, on designated roadways or portions thereof under its jurisdiction. Authorization to operate a motorized golf cart or, four-wheel all-terrain vehicle, or mini truck 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, and a mini truck has the meaning given in section 169.011, subdivision 40a.

**Effective August 1, 2009 and expires July 31, 2012**

**Subd. 2. Ordinance.**

The ordinance shall designate the roadways, prescribe the form of the application for the permit, require evidence of insurance complying with the provisions of section 65B.48, subdivision 5 and may prescribe conditions, not inconsistent with the provisions of this section, under which a permit may be granted. Permits may be granted for a period of not to exceed one year, and may be annually renewed. A permit may be revoked at any time if there is evidence that the permittee cannot safely operate the motorized golf cart or, four-wheel all-terrain vehicle, or mini truck on the designated roadways. The ordinance may require, as a condition to obtaining a permit, that the applicant submit a certificate signed by a physician that the applicant is able to safely operate a motorized golf cart or, four-wheel all-terrain vehicle, or mini truck on the roadways designated.

**Effective August 1, 2009 and expires July 31, 2012**

**Subd. 3. Times of operation.**

Motorized golf carts and four-wheel all-terrain vehicles may only be operated on designated roadways from sunrise to sunset. They shall not be operated in inclement weather or when visibility is impaired by weather, smoke, fog or other conditions, or at any time when there is insufficient light to clearly see persons and vehicles on the roadway at a distance of 500 feet.

**Effective August 1, 2009 and expires July 31, 2012**

**Subd. 4. Slow-moving vehicle emblem.**

Motorized golf carts shall display the slow-moving vehicle emblem provided for in section 169.522, when operated on designated roadways.

**Effective August 1, 2009 and expires July 31, 2012**

**Subd. 5. Crossing intersecting highways.**

The operator, under permit, of a motorized golf cart or, four-wheel all-terrain vehicle, or mini truck may cross any street or highway intersecting a designated roadway.

**Effective August 1, 2009 and expires July 31, 2012**

**Subd. 6. Application of traffic laws.**

Every person operating a motorized golf cart or, four-wheel all-terrain vehicle, or mini truck under permit on designated roadways has all the rights and duties applicable to the driver of any other vehicle under the provisions of this chapter, except when those provisions cannot reasonably be applied to motorized golf carts or, four-wheel all-terrain vehicles, or mini trucks and except as otherwise specifically provided in subdivision 7.

**Effective August 1, 2009 and expires July 31, 2012**

**Subd. 7. Nonapplication of certain laws.**

The provisions of chapter 171 are applicable to persons operating mini trucks, but are not applicable to persons operating motorized golf carts or four-wheel all-terrain vehicles under permit on designated roadways pursuant to this section. Except for the requirements of section 169.70, the provisions of this chapter relating to equipment on vehicles is are not applicable to motorized golf carts or four-wheel all-



terrain vehicles operating, under permit, on designated roadways.

**Effective August 1, 2009 and expires July 31, 2012**

**Subd. 7a. Required equipment on mini trucks.**

Notwithstanding sections 169.48 to 169.68, or any other law, a mini truck may be operated under permit on designated roadways if it is equipped with:

(1) at least two headlamps;

(2) at least two taillamps;

(3) front and rear turn-signal lamps;

(4) an exterior mirror mounted on the driver's side of the vehicle and either (i) an exterior mirror mounted on the passenger's side of the vehicle or (ii) an interior mirror;

(5) a windshield;

(6) a seat belt for the driver and front passenger; and

(7) a parking brake.

**Effective August 1, 2009 and expires July 31, 2012**

**Subd. 8. Insurance.**

In the event persons operating a motorized golf cart ~~or~~, four-wheel, all-terrain vehicle, or mini truck under this section cannot obtain liability insurance in the private market, that person may purchase automobile insurance, including no-fault coverage, from the Minnesota Automobile Assigned Risk Insurance Plan under sections 65B.01 to 65B.12, at a rate to be determined by the commissioner of commerce.

**Effective August 1, 2009 and expires July 31, 2012**

**MINNESOTA IMPAIRED DRIVING CODE  
CHAPTER 169A**

**169A.03 DEFINITIONS.**

**Subd. 23. School bus.**

"School bus" has the meaning given in section 169.011, subdivision 71. In addition, the term includes type III vehicles as ~~described~~ defined in section 169.011, subdivision 71, ~~clause (5)~~, when driven by employees or agents of school districts.

**Effective July 1, 2009**

**169A.20 DRIVING WHILE IMPAIRED.****Subdivision 1. Driving while impaired crime; motor vehicle.**

It is a crime for any person to drive, operate, or be in physical control of any motor vehicle, as defined in section 169A.03, subdivision 15, except for motorboats in operation and off-road recreational vehicles, within this state or on any boundary water of this state when:

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

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

(3) ~~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;

(4) ~~when~~ the person is under the influence of a combination of any two or more of the elements named in clauses (1), ~~(2)~~, and to (3);

(5) ~~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 0.08 or more;

(6) ~~when~~ the vehicle is a commercial motor vehicle and 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 0.04 or more; or

(7) ~~when~~ 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.

**Effective July 1, 2009, and applies to crimes committed on or after that date**

**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 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 motorboat;

(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.

**Effective July 1, 2009, and applies to crimes committed on or after that date**

**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 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 snowmobile or all-terrain vehicle;

(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.

**Effective July 1, 2009, and applies to crimes committed on or after that date**

**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 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 off-highway motorcycle or off-road vehicle;

(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

(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.

**Effective July 1, 2009, and applies to crimes committed on or after that date**

**169A.25 SECOND-DEGREE DRIVING WHILE IMPAIRED.**

**Subdivision 1. Degree described.**

(a) A person who violates section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired crime), is guilty of second-degree driving while impaired if two or more aggravating factors were present when the violation was committed.

(b) A person who violates section 169A.20, subdivision 2 (refusal to submit to chemical test crime), is guilty of second-degree driving while

impaired if one aggravating factor was present when the violation was committed.

**Effective July 1, 2009, and applies to crimes committed on or after that date**

**169A.26 THIRD-DEGREE DRIVING WHILE IMPAIRED.**

**Subdivision 1. Degree described.**

(a) A person who violates section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired crime), is guilty of third-degree driving while impaired if one aggravating factor was present when the violation was committed.

(b) A person who violates section 169A.20, subdivision 2 (refusal to submit to chemical test crime), is guilty of third-degree driving while impaired.

**Effective July 1, 2009, and applies to crimes committed on or after that date**

**169A.27 FOURTH-DEGREE DRIVING WHILE IMPAIRED.**

**Subdivision 1. Degree described.**

A person who violates section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired crime), is guilty of fourth-degree driving while impaired.

**Effective July 1, 2009, and applies to crimes committed on or after that date**

**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~~ 2011.

**Effective July 1, 2009**

**169A.28 CONSECUTIVE SENTENCES.****Subd. 2. Permissive consecutive sentences; multiple offenses.**

(a) When a person is being sentenced for a violation of a provision listed in paragraph (e), the court may sentence the person to a consecutive term of imprisonment for a violation of any other provision listed in paragraph (e), notwithstanding the fact that the offenses arose out of the same course of conduct, subject to the limitation on consecutive sentences contained in section 609.15, subdivision 2, and except as provided in paragraphs (b) and (c).

(b) When a person is being sentenced for a violation of section 171.09 (violation of condition of restricted license), 171.20 (operation after revocation, suspension, cancellation, or disqualification), 171.24 (driving without valid license), or 171.30 (violation of condition of limited license), the court may not impose a consecutive sentence for another violation of a provision in chapter 171 (drivers' licenses and training schools).

(c) When a person is being sentenced for a violation of section 169.791 (failure to provide proof of insurance) or 169.797 (failure to provide vehicle insurance), the court may not impose a consecutive sentence for another violation of a provision of sections 169.79 to 169.7995.

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

(e) This subdivision applies to misdemeanor and gross misdemeanor violations of the following if the offender has two or more prior impaired driving convictions within the past ten years:

(1) section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired; impaired driving offenses);

(2) section 169A.20, subdivision 2 (driving while impaired; test refusal offense);

(3) section 169.791;

(4) section 169.797;

(5) section 171.09 (violation of condition of restricted license);

(6) section 171.20, subdivision 2 (operation after revocation, suspension, cancellation, or disqualification);

(7) section 171.24; and

(8) section 171.30.

**Effective July 1, 2009, and applies to crimes committed on or after that date**

**169A.284 CHEMICAL DEPENDENCY ASSESSMENT CHARGE; SURCHARGE.**

**Subdivision 1. When required.**

(a) When a court sentences a person convicted of an offense enumerated in section 169A.70, subdivision 2 (chemical use assessment; requirement; form), it shall order the person to pay the cost of the assessment directly to the entity conducting the assessment or providing the assessment services in an amount determined by the entity conducting or providing the service and shall impose a chemical dependency assessment charge of \$125 \$25. The court may waive the \$25 assessment charge, but may not waive the cost for the assessment paid directly to the entity conducting the assessment or providing assessment services. A person shall pay an additional surcharge of \$5 if the person is convicted of a violation of section 169A.20 (driving while impaired) within five years of a prior impaired driving conviction or a prior conviction for an offense arising out of an arrest for a violation of section 169A.20 or Minnesota Statutes 1998, section 169.121 (driver under influence of alcohol or controlled substance) or 169.129 (aggravated DWI-related violations; penalty). This section applies when the sentence is executed, stayed, or suspended. The court may not waive payment or authorize payment of the assessment charge and surcharge in installments unless it makes written findings on the record that the convicted person is indigent or that the assessment charge and surcharge would create undue hardship for the convicted person or that person's immediate family.

(b) The chemical dependency assessment charge and surcharge required under this section are in

addition to the surcharge required by section 357.021, subdivision 6 (surcharges on criminal and traffic offenders).

**Effective July 1, 2009**

**Subd. 2. Distribution of money.**

~~The county court administrator shall collect and forward to the commissioner of finance \$25 of the chemical dependency assessment charge and the \$5 surcharge, if any, within 60 days after sentencing or explain to the commissioner in writing why the money was not forwarded within this time period. The commissioner shall credit the money to the commissioner of finance to be deposited in the state treasury and credited to the general fund. The county shall collect and keep \$100 of the chemical dependency assessment charge.~~

**Effective July 1, 2009**

**169A.46 AFFIRMATIVE DEFENSES.**

**Subdivision 1. Impairment occurred after driving ceased.**

If proven by a preponderance of the evidence, it is an affirmative defense to a violation of section 169A.20, subdivision 1, clause (5); 1a, clause (5); 1b, clause (5); or 1c, clause (5) (driving while impaired, alcohol concentration within two hours of driving), or 169A.20 by a person having an alcohol concentration of 0.20 or more as measured at the time, or within two hours of the time, of the offense, that the defendant consumed a sufficient quantity of alcohol after the time of the violation 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 the violation may not be admitted in defense to any alleged violation of section 169A.20, unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

**Effective July 1, 2009, and applies to crimes committed on or after that date**



**169A.54 DWI CONFISCATIONS, ADJUDICATIONS;  
ADMINISTRATIVE PENALTIES.**

**Subdivision 1. Revocation periods for DWI convictions.**

Except as provided in subdivision 7, the commissioner shall revoke the driver's license of a person convicted of violating section 169A.20 (driving while impaired) or an ordinance in conformity with it, as follows:

(1) for an offense under section 169A.20, subdivision 1 (driving while impaired crime): not less than 30 days;

(2) for an offense under section 169A.20, subdivision 2 (refusal to submit to chemical test crime): not less than 90 days;

(3) for an offense occurring within ten years of a qualified prior impaired driving incident:

(i) if the current conviction is for a violation of section 169A.20, subdivision 1, 1a, 1b, or 1c, 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 169A.70 (chemical use assessments); or

(ii) if the current conviction is for a violation of section 169A.20, subdivision 2, 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 169A.70;

(4) for an offense occurring within ten years of the first of two qualified prior impaired driving incidents: not less than one year, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established in accordance with standards established by the commissioner; or

(5) for an offense occurring within ten years of the first of three or more qualified prior impaired driving incidents: not less than two years, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established in accordance with standards established by the commissioner.

**Effective July 1, 2009, and applies to crimes committed on or after that date**