

over time. Even if the group of offenders for whom recidivism is lowered over time were found to be small, that effect could potentially prevent some deaths due to impaired driving and would therefore be worthwhile.

APPENDIX D

SUMMARY OF MINNESOTA REPEAT DWI OFFENDER PLATE IMPOUNDMENT LAW

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Administrative Impoundment of Plates, Minnesota Statutes Section 168.042

The law is based primarily on the implied consent administrative license revocation experienced by repeat DWI offenders. The law requires that the commissioner of public safety issue an impoundment order for the vehicle registration plates of the **vehicle driven by the repeat DWI violator** (regardless of who owns the vehicle) at the time of the "driving incident" that triggers the issuance of the impoundment order and all vehicles owned individually and jointly by a person whose driver's license or privileges have been revoked three times within 5 years or four times or more times within 15 years for an **impaired driving** violation. Impaired driving violation is defined as:

a) A **criminal conviction** for violating Minnesota's DWI laws or drivers license laws applicable to DWI offenders whose driver's license are cancelled (offenders with 3 plus DWI violations of record)

b) An **administrative revocation** for a civil violation of Minnesota's implied consent law (administrative alcohol related license revocation).

The impoundment order can be issued at the time of the arrest of the DWI offender. The impoundment order can be issued by the police officer who invoked Minnesota's implied consent law and the person either failed or refused an implied consent alcohol concentration test. (Minnesota's implied consent law authorizes pre-hearing revocation for failure or refusal of an implied consent test).

THIS IS THE CENTRAL AND KEY PART OF THE PLATE IMPOUNDMENT LAW

The pre-hearing implied consent administrative revocation notice issued by the arresting officer at the time of arrest and test failure or refusal is the basis for and "triggers" the issuance of the pre-hearing administrative plate impoundment order.

The police officer is authorized by the statute to act as the commissioner's agent and issue the impoundment order in the same manner that they act as the commissioner's agent in issuing administrative license revocations.

The commissioner also issues, by mail, impoundment orders to drivers who should have received such an order from the arresting officer but did not do so.

After issuing the impoundment order and seizing the plates the officer issues a temporary vehicle permit to the driver. The permit is valid for seven days if the driver owns the vehicle. The permit is valid for forty five days if the vehicle is owned by someone other than the driver.

The temporary permits allows the owner of the vehicle to remove the vehicle from the street if legally parked after the arrest or the impound lot if the vehicle was towed after the arrest of the driver. The longer period for vehicles not owned by the driver allows the non-driver owner time to obtain new plates (see # 6 below).

All plates impounded by police officer pursuant to the impoundment law are to be destroyed by the police department that impounds them. This is authorized by statute and eliminates the problem of storage of plates or transmittal of the plates to the state.

The owner, if not the violator, can obtain new plates at no cost by filing with the commissioner of public safety a statement containing the following information:

- a) that they are the registered owner of the vehicle;
- b) that they currently own and possess the vehicle;
- c) the date the violator obtained the vehicle from the owner;
- d) the residence addresses of the registered owner and the violator on the date the violator obtained the vehicle from the owner;
- e) that the owner was not passenger in the vehicle at the time of the violation; and
- f) that the owner knows that the violator may not operate a vehicle without a valid driver's license.

The owner is not entitled to receive new plates if they knew or had reason to know that the violator did not have a valid driver's license on the date they obtained the vehicle from the owner.

The cost of implementing plate impoundment is very low. Issuing an impoundment order takes only minutes of an officer's time. Removal of plates is often done by tow lot personnel at the direction and request of the arresting officer after the officer has ordered a tow for the driver's vehicle after the arrest. Storage of plates by police departments is not a problem because the plates are destroyed.

One problem that does exist in the present system is impoundment of plates from vehicles not owned by the

violator. The department of public safety is reissuing a significant percentage of plates for these vehicles because they perceive the language in the current law to require it unless they can prove that the owner was a passenger in the vehicle at the time of the violation or knew the violator did not have a valid license at the time of the violation. Dr. Ross and I found that approximately 27 percent of repeat DWI violators were driving a vehicle registered in someone else's name. We believe, based on our interviews with repeat DWI violators, that a very high percentage of these vehicles were either 1) in fact owned by a spouse of the violator who had knowledge of the violator's lack of a valid driver's license or 2) were owned by the violator but purposely kept registered in the name of the previous owner. (In this situation the violator would buy a vehicle from an "innocent" seller and never transfer the registration from the seller into the violator's name, when the registration expired the violator would sell the vehicle and "jump" the vehicle registration from the previous seller to the new buyer without indicating that the violator owned the vehicle for a significant period of time)

I believe that this problem could be addressed by a statutory change that would denied re-issuance of plates impounded from a vehicle, owned by someone other than the violator, and driven by a repeat DWI violator if the violator did not have valid driver's license as of the date the vehicle was obtained by the violator from the registered owner. This statutory change will be recommended to the 1995 Minnesota legislature by the Minnesota DWI criminal Justice System DWI Task Force.