

STATE OF MINNESOTA

IN SUPREME COURT

A16-0575

Court of Appeals

Hudson, J.

State of Minnesota,

Respondent,

vs.

Filed: February 14, 2018  
Office of Appellate Courts

Tchad Tu Henderson,

Appellant.

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Lori Swanson, Attorney General, Saint Paul, Minnesota; and

Anthony C. Palumbo, Anoka County Attorney, Kelsey R. Kelley, Assistant County Attorney, Anoka, Minnesota, for respondent.

Douglas V. Hazelton, Andrew C. Wilson, Halberg Criminal Defense, Eden Prairie, Minnesota, for appellant.

Cort C. Holten, Jeffrey D. Bores, Gary K. Luloff, Chestnut Cambronne PA, Minneapolis, Minnesota, for amicus curiae Minnesota Police and Peace Officers Association Legal Defense Fund.

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## **S Y L L A B U S**

The term “operating” in Minn. Stat. § 609.2113, subd. 1 (2016), refers to any act that causes a motor vehicle to function or controls the functioning of a motor vehicle, including the act of a passenger grabbing the steering wheel of a moving vehicle.

Affirmed.

## **O P I N I O N**

HUDSON, Justice.

The issue presented in this case is whether a passenger who grabs the steering wheel of a moving vehicle is “operating” the motor vehicle under the criminal-vehicular-operation statute, Minn. Stat. § 609.2113, subd. 1 (2016). The State charged appellant Tchad Tu Henderson with criminal vehicular operation after he grabbed the steering wheel of a moving vehicle, causing it to crash and inflict great bodily harm on the vehicle’s three other occupants. The district court found that Henderson had operated the vehicle when he turned the steering wheel, and the court of appeals affirmed. Because the plain meaning of the term “operating” in the criminal-vehicular-operation statute unambiguously includes Henderson’s conduct, we affirm.

## **F A C T S**

Henderson, A.S., B.F., and B.H. had been at a bar together just minutes before the accident. B.H., who was sober, agreed to drive the group to their next destination. Henderson, who was under the influence of alcohol, sat in the front passenger seat of the vehicle. During the drive, Henderson and B.H. began arguing about how to get to their destination. At some point while the vehicle was in motion, Henderson yelled that B.H.

should have made a turn, grabbed the steering wheel, and pulled it in his direction. B.H. had both hands on the steering wheel but could not resist because of the force that Henderson used. As a result of Henderson's actions, the vehicle swerved off the road, traveled part way up a support cable attached to a utility pole, and flipped upside down. It is undisputed that B.H., A.S., and B.F. all suffered great bodily harm.

The State charged Henderson with four counts of criminal vehicular operation resulting in great bodily harm under Minn. Stat. § 609.21 (2012): one count under subdivision 1(1) (grossly negligent), and three counts under subdivision 1(2)(i) (negligent while under the influence of alcohol).<sup>1</sup> Henderson moved to dismiss the complaint based on a lack of probable cause that he was "operating" the motor vehicle. The district court denied the motion, and Henderson was subsequently convicted of all four counts.

Henderson appealed, challenging the denial of his motion to dismiss and arguing that the State had failed to present sufficient evidence that he had "operated" the motor vehicle. The court of appeals affirmed his convictions on counts two, three, and four, holding that "operation" includes the "manipulation of the steering wheel of a moving motor vehicle by a passenger." *State v. Henderson*, 890 N.W.2d 739, 744 (Minn. App. 2017).<sup>2</sup> The court's conclusion was based on the "policy of giving impaired driving laws

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<sup>1</sup> Henderson was charged and convicted under Minn. Stat. § 609.21, subd. 1. The statute has since been renumbered as Minn. Stat. § 609.2113, subd. 1, but there have been no substantive changes.

<sup>2</sup> The court of appeals reversed Henderson's conviction on count one, subdivision 1(1) (grossly negligent), holding that it constituted a second conviction for a crime committed during a single act because Henderson was convicted of three counts under

the broadest possible effect in favor of public safety, the plain meaning of the word ‘operate,’ and the fact that the vehicle was not stationary when [Henderson] manipulated the steering wheel.” *Id.* We granted review to determine whether a passenger who grabs the steering wheel of a moving vehicle is “operating” a motor vehicle under Minn. Stat. § 609.2113, subd. 1.

## ANALYSIS

When a sufficiency-of-the-evidence claim turns on the meaning of the statute under which a defendant has been convicted, we are presented with a question of statutory interpretation that we review de novo. *State v. Hayes*, 826 N.W.2d 799, 803 (Minn. 2013). The goal of statutory interpretation is to ascertain and effectuate the intent of the Legislature. *State v. Struzyk*, 869 N.W.2d 280, 284 (Minn. 2015). We read a statute as a whole and give effect to all of its provisions. *Am. Family Ins. Grp. v. Schroedl*, 616 N.W.2d 273, 277 (Minn. 2000). The first step in statutory interpretation is to determine whether a statute’s language, on its face, is ambiguous. *500, LLC v. City of Minneapolis*, 837 N.W.2d 287, 290 (Minn. 2013). A statute is ambiguous if it is susceptible to more than one reasonable interpretation. *Id.* If a statute is ambiguous, we may look to canons of construction to ascertain its meaning. *See Hayes*, 826 N.W.2d at 804. If a statute is

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subdivision 1(2)(i) (negligent while under the influence of alcohol). *Henderson*, 890 N.W.2d at 745. This aspect of the court of appeals’ decision is not before us.

unambiguous, we apply its plain meaning. *Larson v. State*, 790 N.W.2d 700, 703 (Minn. 2010).

We begin with the text of the criminal-vehicular-operation statute. *See 500, LLC*, 837 N.W.2d at 290. The statute reads, in relevant part:

A person is guilty of criminal vehicular operation resulting in great bodily harm . . . if the person causes great bodily harm to another . . . as a result of *operating* a motor vehicle:

. . .

(2) in a negligent manner while under the influence of:

(i) alcohol; . . . .

Minn. Stat. § 609.2113, subd. 1 (emphasis added). Chapter 609 does not define the word “operating.” *See* Minn. Stat. § 609.02 (2016); Minn. Stat. § 609.2111 (2016). And we have not previously interpreted the term in the context of this statute.<sup>3</sup>

In the absence of a statutory definition, we look to dictionary definitions to determine a term’s plain and ordinary meaning. *State v. Haywood*, 886 N.W.2d 485, 488 (Minn. 2016). The meaning of a word depends on how it is being used in the context of the statute. *Bd. of Regents of Univ. of Minn. v. Royal Ins. Co. of Am.*, 517 N.W.2d 888,

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<sup>3</sup> The district court, court of appeals, and parties cite to our interpretation of “operating” in *West Bend Mutual Insurance Co. v. Milwaukee Mutual Insurance Co.*, 384 N.W.2d 877 (Minn. 1986). The facts of *West Bend* are nearly identical to this case: a passenger grabbed the steering wheel of a moving vehicle, causing it to crash. 384 N.W.2d at 878. We held in that case that the passenger was not “operating” the motor vehicle. *Id.* at 880. But *West Bend* is a civil case that interpreted the term “operating” in the context of an insurance policy, not in the criminal statute at issue here. *See id.* at 878. It is therefore inappropriate to rely on *West Bend* to interpret the meaning of the term “operating” in the criminal-vehicular-operation statute.

892 (Minn. 1994). Only if more than one meaning is reasonable within that context, and as applied in the particular case, will we declare the statute to be ambiguous. *Id.*

“Operating” is used in the criminal-vehicular-operation statute as a transitive verb.<sup>4</sup> We therefore define “operating” by looking to the definition of “operate” when used as a transitive verb. Two definitions of “operate” are possible: (1) “to cause to function usu[ally] by direct personal effort,” *Webster’s Third International Dictionary* 1581 (2002); and (2) “to control the functioning of; run,” *The American Heritage Dictionary of the English Language* 1236 (5th ed. 2011).<sup>5</sup>

Both of these definitions refer to acts that affect the “function” of a motor vehicle. The commonly understood “function” of a motor vehicle is to transport persons or things. The statutory definition of “motor vehicle” in Chapter 609 reflects this understanding. *See* Minn. Stat. § 609.2111; Minn. Stat. § 609.52, subd. 1(10) (2016) (defining “[m]otor vehicle” as “a self-propelled device *for moving persons or property or pulling implements from one place to another*, whether the device is operated on land, rails, water, or in the air” (emphasis added)). In light of a motor vehicle’s function, both definitions support the interpretation that “operating” a motor vehicle includes the manipulation of a steering wheel, an essential aspect of transporting persons or things in the vehicle.

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<sup>4</sup> Identifying whether this term is a transitive or intransitive verb narrows the possible definitions. *See State v. Thonesavanh*, 904 N.W.2d 432, 436, 436 n.2 (Minn. 2017). A transitive verb is an action verb that requires an object to express a complete thought. *See The Chicago Manual of Style* ¶ 5.96 (16th ed. 2010). Here, “operating” is a transitive verb and its requisite object is “motor vehicle.” *See* Minn. Stat. § 609.2113, subd. 1.

<sup>5</sup> To be sure, other definitions of “operate” exist, but they do not apply in the context of the statute.

Certainly, “to control” the movement of a motor vehicle requires the manipulation of the steering wheel. And “to cause” a motor vehicle to move requires the manipulation of the steering wheel to guide the vehicle and cause it to change direction.

Arguably, the “cause” of a motor vehicle’s movement could be accomplished solely by manipulating the gas pedal and gear shift alone, but such a narrow interpretation is unreasonable. See *Amaral v. Saint Cloud Hosp.*, 598 N.W.2d 379, 384 (Minn. 1999) (“[W]e are to construe words and phrases . . . according to their most natural and obvious usage unless it would be inconsistent with the manifest intent of the [L]egislature.”); 2A Norman J. Singer & Shambi Singer, *Statutes and Statutory Construction* § 46.7, at 274–75 (7th ed. 2014) (“While legislative intent must be ascertained from the words used to express it, a law’s manifest reason and obvious purpose should not be sacrificed to a literal interpretation of such words.”). After all, the common understanding of the function of a motor vehicle is that not only will it propel forward, but that it will also propel backward, brake, and change direction. Thus, “to cause” a motor vehicle to move, under the plain and ordinary meaning of the term, includes the manipulation of a steering wheel, not just the use of the gas pedal or brake.<sup>6</sup>

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<sup>6</sup> Henderson similarly argues that the definition of “operating” is limited to using the controls (e.g. the gas pedal) that “put” a vehicle in motion. But even under this definition, which we decline to adopt, Henderson was “operating” the vehicle. Henderson argues that a steering wheel cannot “put” a vehicle in motion because it only changes the direction of a vehicle. But Henderson fails to acknowledge that the steering wheel, by changing the vehicle’s direction, “puts” the vehicle in motion by setting it in motion in another direction. Even on its own terms, therefore, Henderson’s argument is unpersuasive.

Reading the statute as a whole reinforces this interpretation of “operating” in the criminal-vehicular-operation statute. In determining whether a statute is ambiguous, we also consider the statute as a whole “to harmonize and give effect to all its parts, presuming that the Legislature intended the entire statute to be effective and certain.” *State v. Bakken*, 883 N.W.2d 264, 268 (Minn. 2016) (citation omitted) (internal quotation marks omitted). Here, a reading of the criminal-vehicular-operation statute as a whole supports only one reasonable interpretation of “operating,” which includes manipulation of the steering wheel of a moving vehicle by a passenger.

Subdivision 1 of the statute provides that “[a] person is guilty of criminal vehicular operation . . . if the person causes great bodily harm . . . as a result of operating a motor vehicle.” Minn. Stat. § 609.2113, subd. 1. The statute then lists eight circumstances in which a person may be convicted of criminal vehicular operation. *Id.*, subd. 1(1)–(8). Notably, two of these circumstances expressly refer to a “driver.” *Id.*, subd. 1(7) (“[W]here the driver who causes the accident leaves the scene . . . .”); *id.*, subd. 1(8) (“[W]here the driver had actual knowledge . . . .”). Because the statute accounts for two circumstances in which a “driver” must be the person “operating” the motor vehicle, “operating” must include “driving.”

To “drive,” in turn, means “to operate the controls of (a locomotive) or to operate the mechanism and controls and direct the course of (as a motor vehicle or speedboat),” “to convey in a vehicle,” “to guide a vehicle along or through,” *Webster’s Third New International Dictionary* 692 (2002), and “[t]o guide, control, or direct (a vehicle),” *The American Heritage Dictionary of the English Language* 547 (5th ed. 2011). “Driving”

undoubtedly includes manipulation of the steering wheel of a moving vehicle because doing so “direct[s] the course of [a vehicle],” “guide[s] a vehicle along,” and “control[s a vehicle].” Thus, reading the statute as a whole supports the conclusion that Henderson was “operating” the vehicle because “operating” includes “driving,” and “driving” includes the manipulation of a steering wheel.<sup>7</sup> The fact that Henderson was a passenger of the vehicle, and not located in the driver’s seat, bears no weight on our conclusion.<sup>8</sup>

In sum, because the plain and ordinary meaning of “operating” supports only one reasonable interpretation, the criminal-vehicular-operation statute is unambiguous.<sup>9</sup> We therefore conclude that “operating” a motor vehicle in Minn. Stat. § 609.2113, subd. 1, means any act that causes a motor vehicle to function or controls the functioning of the motor vehicle, which includes manipulation of the steering wheel of a moving vehicle by

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<sup>7</sup> Although we conclude that “operating” includes “driving” in the criminal-vehicular-operation statute, it does not follow that the two terms are synonymous. The statute uses both the term “person” and “driver.” See Minn. Stat. § 609.2113, subd. 1 (person); *id.*, subd. 1(7) (driver); *id.*, subd. 1(8) (driver). Because the statute applies to a “person,” and not just a “driver,” it suggests that the Legislature intended for “operating” to be defined broadly and to include more than just “driving.”

<sup>8</sup> Likewise, the fact that B.H. may have also been “operating” the vehicle does not affect our conclusion. Nothing in the plain meaning of “operating” precludes “operation” of a vehicle by more than one person at a time.

<sup>9</sup> Henderson invokes the *in pari materia* canon by asking the court to adopt the definition of “operates” in CRIMJIG 29.02, a pattern jury instruction for DWI offenses. See 10A Minn. Dist. Judges Ass’n, *Minnesota Practice—Jury Instruction Guides, Criminal*, CRIMJIG 29.02 (6th ed. 2015). *In pari materia* is an extrinsic canon that allows two statutes with common purposes and subject matter to be construed together to determine the meaning of *ambiguous* statutory language. *Thonesavanh*, 904 N.W.2d at 437. Because the term “operating” in the criminal-vehicular-operation statute is unambiguous, we do not apply this canon here.

a passenger. Because the State proved that Henderson operated the motor vehicle under this interpretation, we hold that the evidence was sufficient to support his conviction.

### **CONCLUSION**

For the foregoing reasons, we affirm the decision of the court of appeals.

Affirmed.