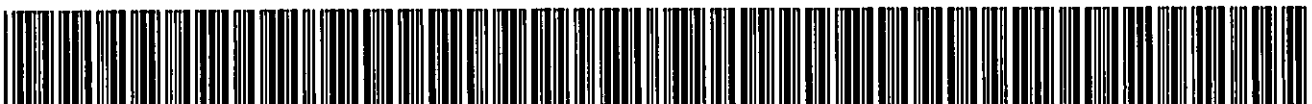
Date Printed: 01/07/2009

JTS Box Number:	IFES_24
Tab Number:	6
Document Title:	MINNESOTA STATUTES 1993 SUPPLEMENT-VOLUME 4, CHAPTERS 160 TO 240A
Document Date:	1993
Document Country:	USA
Document Language:	ENG
IFES ID:	EL00496



BEFCDE2E-6945-4B7E-B6A4-62620C6D3AE4

MINNESOTA

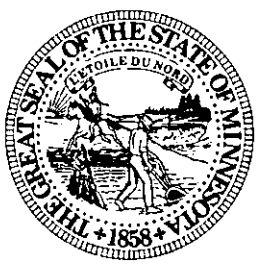
STATUTES

1993 SUPPLEMENT

Volume 4, Chapters 160 to 240A
Insert in back of Minnesota Statutes 1992, Volume 4

Printed by the Revisor of Statutes. Embraces laws of a general and permanent nature enacted at the 1993 Regular Session and 1993 First Special Session of the 78th Legislature

COMPILED, EDITED, AND PUBLISHED BY
the Revisor of Statutes



OFFICIAL PUBLICATION
OF THE
STATE OF MINNESOTA

Certificate

THE STATE OF MINNESOTA

I, Harry M. Walsh, Revisor of Statutes, certify that each of the sections of Minnesota Statutes 1993 Supplement has been compared with the original section in the enrolled act from which it was derived and that all sections appear to be correctly printed.

HARRY M. WALSH
Revisor of Statutes

TABLE OF CONTENTS

EXPLANATION

Cite this publication as Minnesota Statutes
1993 Supplement, Section _____

Minnesota Statutes 1993 Supplement contains the laws of a general and permanent nature enacted at the 1993 Regular Session and the 1993 First Special Session of the 78th legislature. It supplements Minnesota Statutes 1992.

Laws that amend sections or subdivisions in Minnesota Statutes 1992 are published with the numbers of the amended sections and subdivisions. Where all subdivisions of a particular section are not included in this supplement, their omission is indicated in the following manner: [For text of subds 3 and 4, see M.S.1992]. New laws have been classified and numbered in conformity with the numbering system of Minnesota Statutes. Repeals of sections and subdivisions of Minnesota Statutes 1992 are shown. At the beginning of each chapter of the supplement is a list of sections included which are new or have been amended or repealed.

Changes or additions to court rules since publication in Minnesota Statutes 1992 have been supplemented in Volume 9.

A table of allocation of 1993 acts is included, preceding the index in Volume 10, listing section numbers of enactments published for the first time in this supplement.

New statutory text in this supplement is indexed in Volume 10.

The text of all laws and resolutions passed at the 1993 Regular Session and the 1993 First Special Session of the 78th legislature has been published by the revisor of statutes in Laws of Minnesota 1993.

CHAPTER 160

ROADS, GENERAL PROVISIONS

160.80 SIGN FRANCHISE PROGRAM.

Subdivision 1. **Commissioner may establish program.** (a) The commissioner of transportation may establish a sign franchise program for the purpose of providing on the right-of-way of interstate and controlled-access trunk highways specific information on gas, food, camping, and lodging, for the benefit of the motoring public.

(b) The sign franchise program must include urban interstate highways. The commissioner may implement policies that apply only to signs on interstate highways in urban areas, such as distance requirements from the interstate for eligible services, priority issues, and mixing of service logos.

[For text of subds 2 to 5, see M.S.1992]

History: *1993 c 128 s 1*

TOLL FACILITIES

160.84 DEFINITIONS.

Subdivision 1. **Scope.** The terms used in sections 160.84 to 160.92 have the meanings given them in this section and section 160.02.

Subd. 2. **BOT facility.** "BOT facility" means a build-operate-transfer toll facility developed, financed, designed, constructed, improved, rehabilitated, and operated by a private operator who holds title to the facility subject to a development agreement providing that title will be transferred to the road authority on expiration of an agreed term.

Subd. 3. **BTO facility.** "BTO facility" means a build-transfer-operate toll facility developed, financed, designed, constructed, improved, or rehabilitated by a private operator who: (1) transfers any interest it may have in the toll facility to the road authority before operation begins; and (2) operates the toll facility for an agreed term under a lease, management, or toll concession agreement.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of the Minnesota department of transportation.

Subd. 5. **Development agreement.** "Development agreement" means a written agreement between a road authority and a private operator that provides for the development, financing, design, construction, improvement, rehabilitation, ownership, and operation of a toll facility.

Subd. 6. **Metropolitan area.** "Metropolitan area" has the meaning given it in section 473.121, subdivision 2.

Subd. 7. **Private operator.** "Private operator" means an individual, corporation, partnership, cooperative or unincorporated association, joint venture, or consortium that develops, finances, designs, constructs, improves, rehabilitates, owns, or operates a toll facility subject to sections 160.84 to 160.92.

Subd. 8. **Road authority.** "Road authority" has the meaning given it in section 160.02, subdivision 9, and also refers to a joint powers authority formed under section 160.91.

Subd. 9. **Toll facility.** "Toll facility" means a bridge, causeway, or tunnel, and its approaches; a road, street, or highway; an appurtenant building, structure, or other improvement; land lying within applicable rights-of-way; and other appurtenant rights or hereditaments that together comprise a project for which a road authority or private operator is authorized to develop, finance, design, operate, and impose tolls under sections 160.84 to 160.92.

History: *1993 c 211 s 1*

160.85 AUTHORITY FOR TOLL FACILITY.

Subdivision 1. **Road authority.** A road authority may solicit or accept proposals from and enter into development agreements with private operators for developing, financing, designing, constructing, improving, rehabilitating, owning, and operating toll facilities wholly or partly within the road authority's jurisdiction. If a road authority solicits toll facility proposals, it must publish a notice of solicitation in the State Register.

Subd. 2. **Private operators.** Private operators are authorized to develop, finance, design, construct, improve, rehabilitate, own, and operate toll facilities subject to the terms of sections 160.84 to 160.92. Private operators may mortgage, grant security interests in, and pledge their interests in: (1) toll facilities and their components; (2) development, lease, management, toll concessions, and other related agreements; and (3) income, profits, and proceeds of the toll facility.

Subd. 3. **Approval.** No road authority and private operator may execute a development agreement without the approval of the final agreement by the commissioner. A road authority and private operator in the metropolitan area must obtain the approvals required in sections 161.171 to 161.177 and 473.167, subdivision 1. The governing body of a county or municipality through which a facility passes may veto the project within 30 days of approval by the commissioner.

Subd. 4. **Development agreement.** (a) A development agreement for toll facilities may provide for any mode of ownership or operation approved by the road authority, including ownership by the private operator with or without reversion of title, operation of the facilities under leases or management contracts, toll concessions, or BOT or BTO facilities.

(b) A development agreement may permit the private operator to assemble funds from any available source and to incorporate an existing road or highway, bridge, and approach structures, and related improvements, into the toll facility. The agreement must provide the terms and conditions of the incorporation.

(c) A development agreement may include grants of title, easements, rights-of-way, and leasehold estates necessary to the toll facility.

(d) A development agreement may authorize the private operator to charge variable rate tolls based on time of day, vehicle characteristics, or other factors approved by the road authority.

(e) A development agreement may provide for maintenance, snow removal, and police standards that exceed the standards of the road authority for facilities of the same functional classification.

(f) A development agreement may include authorization by the road authority to the private operator to exercise powers possessed by the road authority for similar facilities.

Subd. 5. **Right-of-way acquisition.** A private operator may acquire right-of-way by donation, lease, or purchase. A road authority may acquire right-of-way by eminent domain and may donate, sell, or lease a right-of-way to a private operator.

Subd. 6. **Restriction.** No toll facility may be used for any purpose other than the purposes specified in the development agreement for the term of the agreement.

Subd. 7. **Toll facility acquired by road authority.** A development agreement that requires transfer or reversion of a toll facility to a road authority must provide the terms

and conditions of the transfer or reversion. The facility shall meet at least the maintenance standards of the road authority for facilities of the same functional classification during the term of the agreement.

Subd. 8. **Application of other law.** A private operator must have environmental, navigational, design, or safety approvals as if the toll facility were constructed or operated by a road authority.

History: *1993 c 211 s 2*

160.86 TOLL FACILITY DEVELOPMENT AGREEMENTS; MANDATORY PROVISIONS.

A development agreement must include the following provisions:

(a) The toll facility must meet the road authority's standards of design and construction for roads and bridges of the same functional classification.

(b) The commissioner must review and approve the location and design of a bridge over navigable waters as if the bridge were constructed by a road authority. This requirement does not diminish the private operator's responsibility for bridge safety.

(c) The private operator shall manage and operate the toll facility in cooperation with the road authority and subject to the development agreement.

(d) The toll facility is subject to regular inspections by the road authority and the commissioner.

(e) The agreement must provide the terms and conditions of maintenance, snow removal, and police services to the toll facility. The road authority must provide the services. The services must meet at least the road authority's standards for facilities of the same functional classification.

(f) The agreement must establish a reasonable rate of return on investment and capital during the term of the agreement.

History: *1993 c 211 s 3*

160.87 TOLL FACILITY COST RECOVERY.

Subdivision 1. **Use of toll revenues.** Toll revenues must be applied to repayment of indebtedness incurred for the toll facility; payments to a road authority under the development agreement or a related lease, management, or toll concession agreement; costs of operation necessary to meet applicable standards of the road authority; and reasonable reserves for future capital outlays. The enumeration of uses in this subdivision does not state priorities for the use of these revenues.

Subd. 2. **Residual toll revenues.** Residual toll revenues after the payments specified in subdivision 1 are made belong to the private operator.

Subd. 3. **Continuation of tolls.** After expiration of a lease for a BTO facility, or after title has reverted for a BOT facility, the road authority may continue to charge tolls for the facility.

History: *1993 c 211 s 4*

160.88 PUBLIC TOLL FACILITIES.

A road authority may develop, finance, design, construct, improve, rehabilitate, own, and operate a toll facility.

History: *1993 c 211 s 5*

160.89 TOLL FACILITY REVENUE BONDS.

To provide money to acquire, develop, finance, design, construct, improve, rehabilitate, and operate a toll facility and to establish a reserve for bonds issued under this section, the commissioner of finance, or a road authority by resolution of its governing body, may authorize, issue, and sell revenue bonds payable solely from all or a portion of the revenues derived from a toll facility, including any payments agreed to be made

by a private operator. The bonds may be additionally secured by a mortgage of all or any portion of a toll facility or other property of the private operator. The bonds shall mature, bear the date or dates, bear interest at the rate or rates, be in denomination or denominations, be executed in the manner, be payable in such manner and be subject to redemption, with or without premium as may be provided by the resolution authorizing their issuance or any trust indenture approved by the governing body of the road authority. The bonds may be sold at private sale at the price approved pursuant to the authorizing resolution. The bonds must contain a recital that they are issued in aid of a toll facility under this section and the recital is conclusive evidence of the validity and enforceability of the bonds and the security for the bonds. Neither the road authority nor any director, commissioner, council member, officer, employee, or agent of the road authority is personally liable on the bonds by reason of their issuance. The road authority may make covenants it considers necessary to secure payment of the bonds, including, without limitation, establishing and maintaining reserves, and imposing and collecting tolls and other charges for use of the facility to provide net revenues adequate to provide for principal and interest on the bonds, and providing for the operation of the toll facility. The bonds must not be payable from nor a charge against any funds of the road authority other than the revenues or property pledged or mortgaged to secure their payment. The road authority is not subject to any liability on the bonds and it does not have any power to obligate itself to pay the bonds from funds other than the revenues and properties pledged and mortgaged. No holder or holders of the bonds has the right to compel any exercise of taxing power of the road authority or any other public body, other than as authorized by and pledged pursuant to this section, to pay the principal of or interest on the bonds, nor to enforce payment of the bonds against any property of the road authority or other public body other than that expressly pledged or mortgaged for payment; and the bonds must so state. Bonds payable from the net revenues of a toll facility and property pledged under this section are considered payable wholly from the income of a revenue-producing convenience within the meaning of chapter 475. Sections 474A.01 to 474A.21 apply to any issue of obligations under this section that are subject to limitation under a federal volume limitation act or existing federal tax law as defined in section 474A.02, subdivision 8.

History: *1993 c 211 s 6*

160.90 LAW ENFORCEMENT ON TOLL FACILITIES.

State and local law enforcement authorities have the same powers and authority on a toll facility within their respective jurisdictions as they have on any other highway, road, or street within their jurisdiction. Law enforcement officers have free access to the toll facility at any time to exercise those powers. State and local traffic and motor vehicle laws apply to persons driving or occupying motor vehicles on the toll facility.

History: *1993 c 211 s 7*

160.91 JOINT AUTHORITY OVER TOLL FACILITY.

Two or more road authorities with jurisdiction over a toll facility may enter into a joint powers agreement under section 471.59, to exercise the powers, duties, and functions of the road authorities related to the toll facility, including negotiation and administration of the development agreement and related lease, management, and toll concession agreements. If all road authorities with jurisdiction over a toll facility concur, title to or authority over the facility may be tendered to the commissioner who may accept the title or authority pursuant to the development agreement and this section.

History: *1993 c 211 s 8*

160.92 TOLL FACILITY REPLACEMENT PROJECTS.

When a highway project in the metropolitan area has been scheduled in the department's six-year work program but is designated as a toll facility, the commissioner shall substitute in the work program a similar highway project in the metropolitan area.

History: *1993 c 211 s 9*

CHAPTER 161

TRUNK HIGHWAY SYSTEM

161.081 HIGHWAY USER TAX, DISTRIBUTION, INVESTMENT.

Subdivision 1. **Distribution of five percent.** Pursuant to article 14, section 5, of the constitution, five percent of the net highway user tax distribution fund is set aside, and apportioned as follows:

(1) 28 percent to the trunk highway fund;

(2) 64 percent to a separate account in the county state-aid highway fund to be known as the county turnback account, which account in the state treasury is hereby created;

(3) 8 percent to a separate account in the municipal state-aid street fund to be known as the municipal turnback account, which account in the state treasury is hereby created.

Subd. 2. **Investment.** Upon the request of the commissioner, money in the highway user tax distribution fund shall be invested by the state board of investment in those securities authorized for that purpose in section 11A.21. All interest and profits from the investments must be credited to the highway user tax distribution fund. The state treasurer shall be the custodian of all securities purchased under this section.

History: *1993 c 266 s 15*

161.082 COUNTY TURNBACK ACCOUNT, EXPENDITURE.

[For text of subds 1 and 2, see M.S.1992]

Subd. 2a. **Town bridges and culverts; town road account.** An amount equal to 25 percent of the county turnback account must be expended, within counties having two or more towns, on town road bridge structures that are ten feet or more in length and on town road culverts that replace existing town road bridges. In addition, if the present bridge structure is less than ten feet in length but a hydrological survey indicates that the replacement bridge structure or culvert must be ten feet or more in length, then the bridge or culvert is eligible for replacement funds. In addition, if a culvert that replaces a deficient bridge is in a county comprehensive water plan approved by the board of water and soil resources and the department of natural resources, the costs of the culvert and roadway grading other than surfacing are eligible for replacement funds up to the cost of constructing a replacement bridge. The expenditures on bridge structures and culverts may be on a matching basis, and if on a matching basis, not more than 90 percent of the cost of a bridge structure or culvert may be paid from the county turnback account. When bridge approach construction work exceeds $10,000 in costs, or when the county engineer determines that the cost of the replacement culverts alone will not exceed $20,000, the town shall be eligible for financial assistance from the town bridge account. Financial assistance shall be requested by resolution of the county board and shall be limited to:

(1) 100 percent of the cost of the bridge approach work that is in excess of $10,000; or

(2) 100 percent of the cost of the replacement culverts when the cost does not exceed $20,000 and the town board agrees to be responsible for all the other costs, which may include costs for structural removal, installation, and permitting. The replacement structure design and costs shall be approved and certified by the county engineer, but need not be subsequently approved by the department of transportation.

An amount equal to 47.5 percent of the county turnback account must be set aside as a town road account and distributed as provided in section 162.081.

History: *1993 c 128 s 2*

161.14 NAMES AND DESIGNATIONS OF CERTAIN HIGHWAYS.

[For text of subds 1 to 26, see M.S.1992]

Subd. 27. **B. E. Grottum Memorial Highway.** That segment of Constitutional Route No. 4 from its intersection with marked county state-aid highway 34 in Jackson county to its intersection with North Highway in the city of Jackson, is designated the "B. E. Grottum Memorial Highway." The commissioner of transportation shall adopt a suitable marking design to mark this highway and shall erect appropriate signs.

Subd. 28. **Wally Nelson Highway.** Legislative route No. 330, as described in section 161.115, is named and designated "Wally Nelson Highway." The commissioner shall adopt a suitable marking design to mark this highway and shall erect appropriate signs.

History: *1993 c 39 s 1,2*

161.1419 MISSISSIPPI RIVER PARKWAY COMMISSION.

[For text of subds 1 to 7, see M.S.1992]

Subd. 8. **Expiration.** The commission shall expire on June 30, 1997.

History: *1993 c 337 s 11*

161.39 AID TO OTHER ROAD AUTHORITIES AND STATE DEPARTMENTS.

[For text of subds 1 to 5a, see M.S.1992]

Subd. 5b. **Reimbursement for services.** The office of electronic communication in the department of transportation may perform work for other state agencies and, to the extent that these services are performed beyond the level for which money was appropriated, may deposit revenue generated from this source as dedicated receipts to the account from which it was spent.

[For text of subd 6, see M.S.1992]

History: *1993 c 266 s 16*

CHAPTER 162

STATE-AID SYSTEM

162.08 ALLOCATION OF APPORTIONMENTS.

[For text of subds 1 to 3, see M.S.1992]

Subd. 4. **Purposes; other uses of municipal account allocation.** Except as provided in subdivision 3 money so apportioned and allocated to each county shall be used for aid in the establishment, location, construction, reconstruction, improvement, and maintenance of the county state-aid highway system within each county, including the expense of commissioner-approved signals and safety devices on county state-aid highways, and systems that permit an emergency vehicle operator to activate a green traffic signal for the emergency vehicle; provided, that in the event of hardship, or in the event that the county state-aid highway system of any county is improved to the standards set forth in the commissioner's rules, a portion of the money apportioned other than the money allocated for expenditures within cities having a population of less than 5,000, may be used on other roads within the county with the consent and in accordance with the commissioner's rules. If the portion of the county state-aid highway system lying within cities having a population of less than 5,000 is improved to the standard set forth in the commissioner's rules, a portion of the money credited to the municipal account may be used on other county highways or other streets lying within such cities. Upon the authorization of the commissioner, a county may expend accumulated municipal account funds on county state-aid highways within the county outside of cities having a population of less than 5,000. The commissioner shall authorize the expenditure if:

(a) the county submits a written request to the commissioner and holds a hearing within 30 days of the request to receive and consider any objections by the governing bodies of cities within the county having a population of less than 5,000; and

(b) no written objection is filed with the commissioner by any such city within 14 days of that hearing as provided in this subdivision.

The county shall notify all of the cities of the public hearing by certified mail and shall notify the commissioner in writing of the results of the hearing and any objections to the use of the funds as requested by the county.

If, within 14 days of the hearing, a city having a population of less than 5,000 files a written objection with the commissioner identifying a specific county state-aid highway within the city which is requested for improvement, the commissioner shall investigate the nature of the requested improvement. Notwithstanding clause (b), the commissioner may authorize the expenditure requested by the county if: (1) the identified highway is not deficient in meeting minimum state-aid street standards; or (2) the county shows evidence that the identified highway has been programmed for construction in the county's five-year capital improvement budget in a manner consistent with the county's transportation plan; or (3) there are conditions created by or within the city and beyond the control of the county that prohibit programming or constructing the identified highway.

Authorization by the commissioner for use of municipal account funds on county state-aid highways outside of cities having a population of less than 5,000 shall be applicable only to the county's accumulated and current year allocation. Future municipal account allocations shall be used as directed by law unless subsequent requests are made by the county and approved in accordance with the provisions of this section.

[For text of subds 5 to 11, see M.S.1992]

History: *1993 c 92 s 1*

162.081 TOWN ROAD ACCOUNT.

[For text of subds 1 to 3, see M.S.1992]

Subd. 4. **Formula for distribution to towns; purposes.** Money apportioned to a county from the town road account must be distributed to the treasurer of each town within the county, according to a distribution formula adopted by the county board. The formula must take into account each town's levy for road and bridge purposes, its population and town road mileage, and other factors the county board deems advisable in the interests of achieving equity among the towns. Distribution of town road funds to each town treasurer must be made by March 1, annually, or within 30 days after receipt of payment from the commissioner. Distribution of funds to town treasurers in a county which has not adopted a distribution formula under this subdivision must be made according to a formula prescribed by the commissioner by rule. A formula adopted by a county board or by the commissioner must provide that a town, in order to be eligible for distribution of funds from the town road account in a calendar year, must have levied for taxes payable in the previous year for road and bridge purposes at least 0.04835 percent of taxable market value.

Money distributed to a town under this subdivision may be expended by the town only for the construction, reconstruction, and gravel maintenance of town roads within the town.

History: *1993 c 117 s 1*

CHAPTER 164

TOWN ROADS

164.03 EXPENDITURES.

[For text of subds 1 to 3, see M.S.1992]

Subd. 4. **Report.** The town board shall render to the annual town meeting a written report containing:

(1) the amount of road taxes levied and the amount collected during the preceding year and all money paid into the road and bridge fund from all other sources;

(2) a statement of the improvements needed on roads, cartways, and bridges for the ensuing year, with an estimate of their probable expense;

(3) a statement of all expenses and damages occasioned by establishing, altering, or vacating roads and of all sums expended for machinery, implements, tools, stone, gravel, and other material during the year, with an estimate of the amount required for ensuing year; and

(4) a statement of the improvements made on roads, cartways, and bridges during the preceding year, with a statement of expenditures therefor.

History: *1993 c 25 s 1*

164.06 POWERS REGARDING TOWN ROADS.

[For text of subd 1, see M.S.1992]

Subd. 2. **Extinguishing interest in abandoned road.** After providing notice under section 366.01, subdivision 8, the town board may by resolution disclaim and extinguish a town interest in a town road without action under subdivision 1 if:

(1) the extinguishment is found by the town board to be in the public interest;

(2) the interest is not a fee interest;

(3) the interest was established more than 25 years earlier;

(4) the interest is not recorded or filed with the county recorder;

(5) no road improvement has been constructed on a right-of-way affected by the interest within the last 25 years; and

(6) no road maintenance on a right-of-way affected by the interest has occurred within the last 25 years.

The resolution shall be filed and recorded with the county auditor and recorder.

History: *1993 c 117 s 2*

164.08 CARTWAYS.

[For text of subd 1, see M.S.1992]

Subd. 2. **Mandatory establishment; conditions.** Upon petition presented to the town board by the owner of a tract of land containing at least five acres, who has no access thereto except over the lands of others, or whose access thereto is less than two rods in width, the town board by resolution shall establish a cartway at least two rods wide connecting the petitioner's land with a public road. The town board may select an alternative route other than that petitioned for if the alternative is deemed by the town board to be less disruptive and damaging to the affected landowners and in the public's best interest. In an unorganized territory, the board of county commissioners

of the county in which the tract is located shall act as the town board. The proceedings of the town board shall be in accordance with section 164.07. The amount of damages shall be paid by the petitioner to the town before such cartway is opened. For the purposes of this subdivision damages shall mean the compensation, if any, awarded to the owner of the land upon which the cartway is established together with the cost of professional and other services which the town may incur in connection with the proceedings for the establishment of the cartway. The town board may by resolution require the petitioner to post a bond or other security acceptable to the board for the total estimated damages before the board takes action on the petition.

Town road and bridge funds shall not be expended on the cartway unless the town board, or the county board acting as the town board in the case of a cartway established in an unorganized territory, by resolution determines that an expenditure is in the public interest. If no resolution is adopted to that effect, the grading or other construction work and the maintenance of the cartway is the responsibility of the petitioner, subject to the provisions of section 164.10. After the cartway has been constructed the town board, or the county board in the case of unorganized territory, may by resolution designate the cartway as a private driveway with the written consent of the affected landowner in which case from the effective date of the resolution no town road and bridge funds shall be expended for maintenance of the driveway; provided that the cartway shall not be vacated without following the vacation proceedings established under section 164.07.

[For text of subd 3, see M.S.1992]

History: *1993 c 275 s 1*

CHAPTER 168

MOTOR VEHICLE REGISTRATION, TAXATION, SALE

168.011 DEFINITIONS.

[For text of subds 1 to 35, see M.S.1992]

Subd. 36. **Personal transportation service vehicle.** "Personal transportation service vehicle" is a passenger vehicle that has a seating capacity of up to six persons excluding the driver, or a van or station wagon with a seating capacity of up to 12 persons excluding the driver, that provides personal transportation service as defined in section 221.011, subdivision 34.

History: *1993 c 117 s 3*

NOTE: The repeal of subdivision 36 by Laws 1993, chapter 323, section 4, is effective August 1, 1994. See Laws 1993, chapter 323, section 5.

168.012 VEHICLES EXEMPT FROM LICENSE FEES.

[For text of subds 1 to 2a, see M.S.1992]

Subd. 2b. A trailer used exclusively to carry liquid or dry fertilizer for use on a farm shall not be taxed as a motor vehicle using the public streets and highways and shall be exempt from the provisions of this chapter.

[For text of subds 3 to 12, see M.S.1992]

History: *1993 c 187 s 1*

168.021 LICENSE PLATES FOR PHYSICALLY DISABLED PERSONS.

Subdivision 1. **Special plates; application.** (a) When a motor vehicle registered under section 168.017, a motorcycle, or a self-propelled recreational vehicle is owned or primarily operated by a permanently physically disabled person or a custodial parent or guardian of a permanently physically disabled minor, the owner may apply for and secure from the registrar of motor vehicles (1) immediately, a temporary permit valid for 30 days, if the applicant is eligible for the special plates issued under this paragraph, and (2) two license plates with attached emblems, one plate to be attached to the front, and one to the rear of the vehicle. Application for the plates must be made at the time of renewal or first application for registration. When the owner first applies for the plates, the owner must submit a physician's statement on a form developed by the commissioner under section 169.345, or proof of physical disability provided for in that section.

(b) The owner of a motor vehicle may apply for and secure (i) immediately, a temporary permit valid for 30 days, if the person is eligible to receive the special plates issued under this paragraph, and (ii) a set of special plates for a motor vehicle if:

(1) the owner employs a permanently physically disabled person who would qualify for special plates under this section; and

(2) the owner furnishes the motor vehicle to the physically disabled person for the exclusive use of that person in the course of employment.

Subd. 1a. **Scope of privilege.** If a physically disabled person parks a vehicle displaying license plates described in this section, or a temporary permit valid for 30 days and issued to an eligible person awaiting receipt of the license plates described in this section, or any person parks the vehicle for a physically disabled person, that person shall be entitled to park the vehicle as provided in section 169.345.

[For text of subds 2 to 2b, see M.S.1992]

Subd. 3. **Penalties for unauthorized use of plates.** (a) A person who uses the plates or temporary permit provided under this section on a motor vehicle in violation of this section is guilty of a misdemeanor, and is subject to a fine of $500. This subdivision does not preclude a person who is not physically disabled from operating a vehicle bearing the plates or temporary permit if:

(1) the person is the owner of the vehicle and permits its operation by a physically disabled person;

(2) the person operates the vehicle with the consent of the owner who is physically disabled; or

(3) the person is the owner of the vehicle, is the custodial parent or guardian of a permanently physically disabled minor, and operates the vehicle to transport the minor.

(b) A driver who is not disabled is not entitled to the parking privileges provided in this section and in section 169.346 unless parking the vehicle for a physically disabled person.

[For text of subds 4 to 6, see M.S.1992]

History: *1993 c 98 s 1-3*

168.031 EXEMPTION FROM REGISTRATION; PERSONS IN ARMED FORCES, DISABLED VETERANS, FORMER PRISONERS OF WAR.

The motor vehicle of any person who engages in active service in time of war or other emergency declared by proper authority in any of the military or naval forces of the United States shall be exempt from the motor vehicle registration tax during the period of such active service and for 40 days immediately thereafter if the owner has filed with the registrar of motor vehicles a written application for exemption with such proof of military service as the registrar may have required and if the motor vehicle is not operated on a public highway within the state, except by the owner while on furlough or leave of absence.

The motor vehicle of any disabled war veteran, which vehicle has been furnished free, in whole or in part, by the United States government to said disabled veteran, shall be exempt from the motor vehicle registration tax. The motor vehicle owned and registered by a former prisoner of war that bears the "EX-POW" plates is exempt from the motor vehicle registration tax.

History: *1993 c 214 s 1*

168.042 ADMINISTRATIVE IMPOUNDMENT OF PLATES.

[For text of subd 1, see M.S.1992]

Subd. 2. **Violation; issuance of impoundment order.** The commissioner shall issue a registration plate impoundment order when:

(1) a person's driver's license or driving privileges are revoked for a third violation, as defined in subdivision 1, paragraph (c), clause (1), within five years or a fourth

or subsequent violation, as defined in subdivision 1, paragraph (c), clause (1), within 15 years;

(2) a person's driver's license or driving privileges are revoked for a violation of section 169.121, subdivision 3, paragraph (c), clause (4), within five years of one previous violation or within 15 years of two or more previous violations, as defined in subdivision 1, paragraph (c), clause (1); or

(3) a person is arrested for or charged with a violation described in subdivision 1, paragraph (c), clause (2) or (3).

The order shall require the impoundment of the registration plates of the vehicle involved in the violation and all vehicles owned by, registered, or leased in the name of the violator, including vehicles registered jointly or leased in the name of the violator and another. An impoundment order shall not be issued for the registration plates of a rental vehicle as defined in section 168.041, subdivision 10, or a vehicle registered in another state.

[For text of subds 3 to 15, see M.S.1992]

History: *1993 c 347 s 2*

168.09 REGISTRATION; REREGISTRATION.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. **Proratable vehicles; other vehicles.** (a) Plates or other insignia issued for a motor vehicle registered under the provisions of section 168.187 for a calendar year shall be displayed on the motor vehicle not later than 12:01 a.m. on March 2 of the year unless extended by the registrar for the period of time required for the issuance of the new plates or insignia. The commissioner of public safety shall register all motor vehicles registered under section 168.187 for a period of 14 months for the registration year 1994 to implement the provisions of this subdivision. The registration year for vehicles registered under section 168.187 as provided in this section shall be from March 1 to the last day of February for 1995 and succeeding years.

(b) Plates or other insignia issued for a self-propelled motor vehicle registered for over 27,000 pounds except a motor vehicle registered under the provision of sections 168.017 and 168.187 shall be displayed on the vehicle not later than 12:01 a.m. on March 2 of the year, nor earlier than 12:01 a.m. on February 15 of the year, unless otherwise extended by the registrar for the period of time required for the issuance of the new plates or insignia.

(c) Plates or other insignia issued for a self-propelled vehicle registered for 27,000 pounds or less and all other motor vehicles except those registered under the provisions of section 168.017 or 168.187 shall be displayed not later than 12:01 a.m. on March 2 of the year, and not earlier than January 1 of the year unless otherwise extended by the registrar for the period of time required for the issuance of the new plates or insignia. The registration year for all vehicles as provided in this paragraph and paragraph (b) shall be from March 1 to the last day of February for 1979 and succeeding years.

[For text of subd 4, see M.S.1992]

Subd. 5. **Defenses to failure to renew.** No person may be charged with violating this section by reason of failure to renew the registration of a previously registered motor vehicle, except those vehicles registered under section 168.187, if:

(1) the person produces a statement from the registrar to the effect that the person was not notified by the registrar of the annual renewal for the registration of the vehicle to which a citation was issued; and

(2) the person renews the registration and pays the motor vehicle tax and fees due within ten days of being cited for the violation.

[For text of subds 6 and 7, see M.S.1992]

History: *1993 c 281 s 1,2*

168.091 TEMPORARY VEHICLE PERMITS FOR NONRESIDENTS.

Subdivision 1. **Temporary permit for nonresident buyer.** Upon payment of a fee of $1, the registrar may issue a permit to a nonresident purchasing a new or used motor vehicle in this state for the purpose of allowing such nonresident to remove the vehicle from this state for registration in another state or country. Such permit shall be in lieu of any other registration or taxation for use of the highways and shall be valid for a period of 31 days. The permit shall be in such form as the registrar may determine and, whenever practicable, shall be posted upon the left side of the inside rear window of the vehicle. Each such permit shall be valid only for the vehicle for which issued.

[For text of subds 2 and 3, see M.S.1992]

History: *1993 c 53 s 1*

168.10 REGISTRATION; COLLECTOR VEHICLES.

Subdivision 1. **Application.** Except as provided in subdivisions 1a, 1b, 1c, 1d, 1g, and 1h, every owner of any motor vehicle in this state, not exempted by section 168.012 or 168.26, shall as soon as registered ownership of a motor vehicle is acquired and annually thereafter during the period provided in section 168.31, file with the commissioner of public safety on a blank provided by the commissioner a listing for taxation and application for the registration of such vehicle, stating the first, middle and last names, the date of birth, and the address of the primary residence of each registered owner thereof who is a natural person or mailing address if the address of the primary residence has been classified as private data under this chapter, the full name and address of any other registered owner, the name and address of the person from whom purchased, make of motor vehicle, year and number of the model, manufacturer's identification number or serial number, type of body, the weight of the vehicle in pounds, for trailers only, its rated load carrying capacity and for buses only, its seating capacity, and such other information as the commissioner may require. Any false statement willfully and knowingly made in regard thereto shall be deemed perjury and punished accordingly. The listing and application for registration by dealers or manufacturers' agents within the state, of motor vehicles received for sale or use within the state shall be accepted as compliance with the requirements of this chapter, imposed upon the manufacturer.

Registration shall be refused a motor vehicle if the original identification or serial number has been destroyed, removed, altered, covered, or defaced. However, if the commissioner is satisfied on the sworn statements of the registered owner or registered owners or such other persons as the commissioner may deem advisable that the applicant is the legal owner, a special identification number in the form prescribed by the commissioner shall be assigned to the motor vehicle. When it has been determined that the number had been affixed to such vehicle in a manner prescribed by the commissioner, the vehicle may thereafter be registered in the same manner as other motor vehicles. In the case of a new or rebuilt motor vehicle manufactured or assembled without an identification or serial number, the commissioner may assign an identification number to the motor vehicle in the same manner as prescribed heretofore.

[For text of subds 1a to 4, see M.S.1992]

History: *1993 c 85 s 1*

168.12 LICENSE PLATES.

Subdivision 1. **Number plates; design, visibility, periods of issuance.** The registrar, upon the approval and payment, shall issue to the applicant the number plates required by law, bearing the state name and the number assigned. The number assigned may be a combination of a letter or sign with figures. The color of the plates and the color of the abbreviation of the state name and the number assigned shall be in marked contrast. The plates shall be lettered, spaced, or distinguished to suitably indicate the registration of the vehicle according to the rules of the registrar, and when a vehicle is registered

on the basis of total gross weight, the plates issued shall clearly indicate by letters or other suitable insignia the maximum gross weight for which the tax has been paid. These number plates shall be so treated as to be at least 100 times brighter than the conventional painted number plates. When properly mounted on an unlighted vehicle, these number plates, when viewed from a vehicle equipped with standard headlights, shall be visible for a distance of not less than 1,500 feet and readable for a distance of not less than 110 feet. The registrar shall issue these number plates for the following periods:

(1) New number plates issued pursuant to section 168.012, subdivision 1, shall be issued to a vehicle for as long as it is owned by the exempt agency and shall not be transferable from one vehicle to another but may be transferred with the vehicle from one tax exempt agency to another.

(2) Plates issued for passenger automobiles as defined in section 168.011, subdivision 7, shall be issued for a seven-year period. All plates issued under this paragraph must be replaced if they are seven years old or older at the time of annual registration or will become so during the registration period.

(3) Number plates issued under sections 168.053 and 168.27, subdivisions 16 and 17, shall be for a seven-year period.

(4) Plates for any vehicle not specified in clauses (1) to (3), except for trailers as hereafter provided, shall be issued for the life of the vehicle. Beginning with number plates issued for the year 1981, plates issued for trailers with a total gross weight of 3,000 pounds or less shall be issued for the life of the trailer and shall be not more than seven inches in length and four inches in width.

In a year in which plates are not issued, the registrar shall issue for each registration a tab or sticker to designate the year of registration. This tab or sticker shall show the calendar year or years for which issued, and is valid only for that period. The number plates, number tabs, or stickers issued for a motor vehicle may not be transferred to another motor vehicle during the period for which it is issued, except a motor vehicle registered under section 168.187.

Notwithstanding any other provision of this subdivision, number plates issued to a vehicle which is used for behind-the-wheel instruction in a driver education course in a public school may be transferred to another vehicle used for the same purpose without payment of any additional fee. The registrar shall be notified of each transfer of number plates under this paragraph and may prescribe a form for notification.

[For text of subds 2 to 2d, see M.S.1992]

Subd. 5. **Additional fee.** In addition to any fee otherwise authorized or any tax otherwise imposed upon any motor vehicle, the payment of which is required as a condition to the issuance of any number license plate or plates, the commissioner of public safety may impose a fee that is calculated to cover the cost of manufacturing and issuing the license plate or plates, except for license plates issued to disabled veterans as defined in section 168.031 and license plates issued pursuant to section 168.124, 168.125, or 168.27, subdivisions 16 and 17, for passenger automobiles. Graphic design license plates shall only be issued for vehicles registered pursuant to section 168.017 and recreational vehicles registered pursuant to section 168.013, subdivision 1g.

Fees collected under this subdivision must be paid into the state treasury and credited to the highway user tax distribution fund.

History: *1993 c 214 s 2; 1993 c 281 s 3*

168.125 SPECIAL LICENSE PLATES FOR FORMER PRISONERS OF WAR.

Subdivision 1. **Issuance and design.** The registrar shall issue special license plates bearing the inscription "EX-POW" to any applicant who is both a former prisoner of war and an owner or joint owner of a motor vehicle upon the applicant's compliance with all the laws of this state relating to the registration and licensing of motor vehicles and drivers. The special license plates shall be of a design and size to be determined

by the commissioner. Plates bearing the "EX-POW" inscription may be issued for only one motor vehicle per applicant.

Subd. 1a. **Application.** Application for issuance of these plates shall be made at the time of renewal or first application for registration. The application shall include a certification by the commissioner of veterans affairs that the applicant was a member of the military forces of the United States who was captured, separated, and incarcerated by an enemy of the United States during a period of armed conflict.

Subd. 1b. **No fee.** The registrar shall issue a set of EX-POW plates to qualified applicants, free of charge for the cost of the plates, and shall replace them without charge if they become damaged. In addition, no fee may be charged for a subsequent year when tabs or stickers are issued for that motor vehicle on which the special EX-POW plates are placed.

Subd. 1c. **Plates transfer.** Notwithstanding the provisions of section 168.12, subdivision 1, the special license plates issued under this section may be transferred to another motor vehicle owned or jointly owned by the former prisoner of war upon notification to the registrar of motor vehicles.

Subd. 1d. **Surviving spouse.** Upon the death of a former prisoner of war, the registrar shall continue to issue free of charge, upon renewal, the special license plates to a vehicle owned by the surviving spouse of the former prisoner of war. Special license plates issued to a surviving spouse may be transferred to another vehicle owned by the surviving spouse as provided in subdivision 1c. No fee may be charged for replacement plates issued to a surviving spouse or for tabs or stickers issued for the motor vehicle on which the special "EX-POW" plates are placed. A surviving spouse is not exempt from the motor vehicle registration tax.

Subd. 1e. **Motor vehicle; special definition.** For purposes of this section, "motor vehicle" means a passenger automobile, van, pickup truck, motorcycle, or recreational vehicle.

[For text of subds 2 to 5, see M.S.1992]

History: *1993 c 214 s 3*

168.1281 PERSONAL TRANSPORTATION SERVICE PLATES.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. **Notification of cancellation.** The commissioner shall immediately notify the commissioner of transportation if the policy of a person required to have a permit under section 221.85 is canceled or no longer provides the coverage required by subdivision 2.

Subd. 4. **New license plates.** The registrar may not issue new license plates under subdivision 1 after August 1, 1993.

History: *1993 c 117 s 4; 1993 c 323 s 1*

NOTE: The repeal of this section by Laws 1993, chapter 323, section 4, is effective August 1, 1994. See Laws 1993, chapter 323, section 5.

168.187 INTERSTATE REGISTRATION AND RECIPROCITY.

[For text of subds 1 to 25, see M.S.1992]

Subd. 26. **Delinquent filing or payment.** If a fleet owner or owner-operator licensed under this section and section 296.171 is delinquent in either filing or paying the international fuel tax agreement reports for more than 30 days, or paying the international registration plan billing for more than 30 days, the fleet owner or owner-operator, after ten days' written notice, is subject to suspension of the apportioned license plates and the international fuel tax agreement license.

History: *1993 c 13 art 1 s 29; 1993 c 281 s 4*

168.27 MOTOR VEHICLE DEALERS; VIOLATIONS, PENALTIES.

[For text of subds 1 to 20, see M.S.1992]

Subd. 22. **Motorized bicycles, boat and snowmobile trailers.** Any person, copartnership, or corporation having a permanent enclosed commercial building or structure either owned in fee or leased and engaged in the business, either exclusively or in addition to any other occupation, of selling motorized bicycles, boat trailers, horse trailers, or snowmobile trailers, may apply to the registrar for a dealer's license. Upon payment of a $10 fee the registrar shall license the applicant as a dealer for the remainder of the calendar year in which the application was received. Thereafter the license may be renewed on or before the second day of January of each year by payment of a fee of $10. The registrar shall issue to each dealer, upon request of the dealer, dealer plates as provided in subdivision 16 upon payment of $5 for each plate, and the plates may be used in the same manner and for the same purposes as is provided in subdivision 16. Except for motorized bicycle dealers, the registrar shall also issue to the dealer, upon request of the dealer, "in transit" plates as provided in subdivision 17 upon payment of a fee of $5 for each plate. This subdivision shall not be construed to abrogate any of the provisions of this section as the same relates to the duties, responsibilities, and requirements of persons, copartnerships, or corporations engaged in the business, either exclusively or in addition to other occupations, of selling motor vehicles or manufactured homes. This section shall not be construed to require a manufacturer of snowmobile trailers whose manufacturing facility is located outside of the metropolitan area as defined in section 473.121 to have a dealer's license to transport the snowmobile trailers to dealers or retail outlets in the state.

[For text of subds 23 to 26, see M.S.1992]

History: *1993 c 259 s 1*

168.31 TAX, WHEN DUE AND PAYABLE.

[For text of subds 1 and 4, see M.S.1992]

Subd. 4a. **Installments.** If the tax for a vehicle assessed under section 168.187 amounts to more than $400, the owner may pay the tax by installments. The owner shall submit with the application for registration, no later than January 1, one-third of the Minnesota annual tax due or $400, whichever is greater. The applicant shall furnish a bond, bank letter of credit, or certificate of deposit approved by the registrar of motor vehicles, for the total of the tax still due. The amount of the bond, letter of credit, or certificate of deposit may include any penalties assessed. The bond, letter of credit, or certificate of deposit must be for the benefit of the state for monetary loss caused by failure of the vehicle owner to pay delinquent license fees and penalties. The remainder of the tax due must be paid in two equal installments; the due date of the first installment is May 1 and the second installment is due on September 1. If an owner of a vehicle fails to pay an installment on or before the due date, the vehicle must not be used on the public streets or highways in this state until the installment or installments of the tax remaining due on the vehicle has been paid in full for the licensed year, together with a penalty at the rate of $1 per day for the remainder of the month in which the balance of the tax becomes due and $4 a month for each succeeding month or fraction of it during which the balance of the tax remains unpaid. The registrar shall deny installment payment privileges provided in this subdivision in the subsequent year to any owner on any or all vehicles of an owner who during the current year fails to pay any installment and penalties due within one month after the due date.

[For text of subds 5 and 6, see M.S.1992]

History: *1993 c 281 s 5*

168.34 INFORMATION TO BE FURNISHED.

The registrar shall maintain in the registrar's office an information bureau to answer questions, through personal inquiry, telephone, or letter. Registrations shall be completed with the utmost dispatch to render the most efficient service to the public. The registrar, or any deputy or employee, shall not be liable to any person for mistake or negligence in the giving of information not willfully calculated to injure such person. The registration system shall be so conducted, and the requirements thereof so construed, as to furnish to the public immediate, accurate information as to any single car about which the inquiry may be made, and to furnish the registrar a means of checking back during any year to determine that all motor vehicles subject to taxation and licensing have had the proper tax or fee paid thereon.

History: *1993 c 85 s 2*

168.345 MOTOR VEHICLE REGISTRATIONS; INFORMATION; SURCHARGE.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. **Requests for information; surcharge on fee.** The commissioner shall impose a surcharge of 50 cents on each fee charged by the commissioner under section 13.03, subdivision 3, for copies or electronic transmittal of public information concerning motor vehicle registrations. This surcharge only applies to a fee imposed in responding to a request made in person or by mail, or to a request for transmittal through a computer modem. The surcharge does not apply to the request of an individual for information concerning vehicles registered in that individual's name. The commissioner shall forward the surcharges collected under this subdivision to the commissioner of finance on a monthly basis. Upon receipt, the commissioner of finance shall credit the surcharges to the general fund.

History: *1993 c 266 s 17; 1993 c 326 art 11 s 2,4*

168.346 PRIVACY OF NAME OR RESIDENCE ADDRESS.

The registered owner of a motor vehicle may request in writing that the owner's residence address or name and residence address be classified as private data on individuals, as defined in section 13.02, subdivision 12. The commissioner shall grant the classification upon receipt of a signed statement by the owner that the classification is required for the safety of the owner or the owner's family, if the statement also provides a valid, existing address where the owner consents to receive service of process. The commissioner shall use the mailing address in place of the residence address in all documents and notices pertaining to the motor vehicle. The residence address or name and residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies.

History: *1993 c 326 art 2 s 2*

CHAPTER 168A

MOTOR VEHICLE TITLES

168A.01 DEFINITIONS.

[For text of subds 1 to 8a, see M.S.1992]

Subd. 8b. **Junking certificate.** "Junking certificate" means a receipt issued by the department's driver and vehicle services division when a vehicle is declared unrepairable under section 168A.151.

[For text of subds 9 to 17, see M.S.1992]

Subd. 17a. **Salvage title.** "Salvage title" means a certificate of title that is issued to a vehicle declared a repairable total loss vehicle under section 168A.151 and includes an existing certificate of title that has been stamped with the legend "salvage certificate of title" in accordance with section 168A.151.

Subd. 17b. **Salvage vehicle.** "Salvage vehicle" means a vehicle that has a salvage certificate of title.

[For text of subds 18 to 24, see M.S.1992]

History: *1993 c 93 s 1-3*

168A.04 FORM AND CONTENT OF APPLICATION.

Subdivision 1. **Contents.** The application for the first certificate of title of a vehicle in this state shall be made by the owner to the department on the form prescribed by the department and shall contain:

(1) the first, middle, and last names, the dates of birth, and addresses of all owners who are natural persons, the full names and addresses of all other owners;

(2) a description of the vehicle including, so far as the following data exists, its make, model, year, identifying number, type of body, and whether new or used;

(3) the date of purchase by applicant, the name and address of the person from whom the vehicle was acquired, the names and addresses of any secured parties in the order of their priority, and the dates of their respective security agreements;

(4) with respect to motor vehicles subject to the provisions of section 325E.15, the true cumulative mileage registered on the odometer or that the actual mileage is unknown if the odometer reading is known by the owner to be different from the true mileage;

(5) with respect to vehicles subject to section 325F.6641, whether the vehicle sustained damage by collision or other occurrence which exceeded 70 percent of the actual cash value; and

(6) any further information the department reasonably requires to identify the vehicle and to enable it to determine whether the owner is entitled to a certificate of title, and the existence or nonexistence and priority of any security interest in the vehicle.

[For text of subds 2 and 3, see M.S.1992]

Subd. 4. **Vehicle last registered out of state.** If the application refers to a vehicle last previously registered in another state or country, the application shall contain or be accompanied by:

(1) any certificate of title issued by the other state or country;

(2) any other information and documents the department reasonably requires to establish the ownership of the vehicle and the existence or nonexistence and priority of any security interest in it;

(3) the certificate of a person authorized by the department that the identifying number of the vehicle has been inspected and found to conform to the description given in the application, or any other proof of the identity of the vehicle the department reasonably requires; and

(4) with respect to vehicles subject to section 325F.6641, whether the vehicle sustained damage by collision or other occurrence which exceeded 70 percent of actual cash value.

[For text of subd 5, see M.S.1992]

History: *1993 c 93 s 4,5*

168A.05 CERTIFICATE OF TITLE.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. **Content of certificate.** Each certificate of title issued by the department shall contain:

(1) the date issued;

(2) the first, middle, and last names, the dates of birth, and addresses of all owners who are natural persons, the full names and addresses of all other owners;

(3) the names and addresses of any secured parties in the order of priority as shown on the application, or if the application is based on a certificate of title, as shown on the certificate, or as otherwise determined by the department;

(4) the title number assigned to the vehicle;

(5) a description of the vehicle including, so far as the following data exists, its make, model, year, identifying number, type of body, whether new or used, and if a new vehicle, the date of the first sale of the vehicle for use;

(6) with respect to motor vehicles subject to the provisions of section 325E.15, the true cumulative mileage registered on the odometer or that the actual mileage is unknown if the odometer reading is known by the owner to be different from the true mileage;

(7) with respect to vehicles subject to sections 325F.6641 and 325F.6642, the appropriate term "flood damaged," "rebuilt," "prior salvage," or "reconstructed"; and

(8) any other data the department prescribes.

[For text of subd 4, see M.S.1992]

Subd. 5. **Assignment and warranty of title forms.** The certificate of title shall contain forms for assignment and warranty of title by the owner, and for assignment and warranty of title by a dealer, and shall contain forms for applications for a certificate of title by a transferee, and the naming of a secured party, and shall include language necessary to implement section 325F.6641.

[For text of subds 5a to 7, see M.S.1992]

History: *1993 c 93 s 6,7*

168A.15 RECONSTRUCTED, SCRAPPED, DISMANTLED, OR DESTROYED VEHICLES.

Subd. 2. **Requirements to obtain certificate for reconstructed vehicle.** If a vehicle is altered so as to become a reconstructed vehicle, the owner shall apply for a certificate of title to the reconstructed vehicle in the manner provided in section 168A.04, and any existing certificate of title to the vehicle shall be surrendered for cancellation.

Subd. 3. **Scrapped, dismantled, or destroyed vehicle.** An owner who scraps, dismantles, or destroys a vehicle, or a person who purchases a vehicle as scrap or to be dismantled or destroyed, shall immediately have the certificate of title mailed or delivered to the department for cancellation. A certificate of title for the vehicle shall not again be issued.

History: *1993 c 93 s 8*

168A.151 SALVAGE TITLE; JUNKING CERTIFICATE.

Subdivision 1. **Salvage titles.** When an insurer, licensed to conduct business in Minnesota, acquires ownership of a late model or high value vehicle through payment of damages, the insurer shall immediately apply for a salvage certificate of title or shall stamp the existing certificate of title with the legend "SALVAGE CERTIFICATE OF TITLE" in a manner prescribed by the department. Within 48 hours of taking possession of a vehicle through payment of damages, an insurer must notify the department in a manner prescribed by the department.

Any person who acquires a damaged motor vehicle with an out-of-state title and the cost of repairs exceeds the value of the damaged vehicle or a motor vehicle with an out-of-state salvage title or certificate, as proof of ownership, shall immediately apply for a salvage certificate of title. A self-insured owner of a late model or high value vehicle who sustains damage by collision or other occurrence which exceeds 70 percent of its actual cash value shall immediately apply for a salvage certificate of title.

Subd. 2. [Repealed, 1993 c 93 s 20]

Subd. 3. [Repealed, 1993 c 93 s 20]

Subd. 4. **Junking certificate required.** When a person acquires ownership of a vehicle that is an unrepairable total loss vehicle, the person shall surrender the assigned certificate of title to the department and apply for a junking certificate of title.

Subd. 5. [Repealed, 1993 c 93 s 20]

Subd. 6. **Authority under junking certificate.** A junking certificate authorizes the holder only to possess and transport the vehicle, except that a salvage pool or insurance company, or its agent, may sell an unrepairable total loss vehicle with a junking certificate to a licensed used parts dealer.

History: *1993 c 93 s 9-11*

168A.152 USE AND CERTIFICATION OF TITLE; INSPECTION FEE.

[For text of subd 1, see M.S.1992]

Subd. 1a. **Duties of salvage vehicle purchaser.** No salvage vehicle purchaser shall possess or retain a salvage vehicle which does not have a salvage certificate of title. The salvage vehicle purchaser shall display the salvage certificate of title upon the request of any appropriate public authority.

[For text of subd 2, see M.S.1992]

History: *1993 c 93 s 12*

168A.30 VIOLATIONS AND PENALTIES.

[For text of subd 1, see M.S.1992]

Subd. 2. **Willful or fraudulent acts; failure to notify.** A person is guilty of a misdemeanor who:

(1) With fraudulent intent permits another, not entitled thereto, to use or have possession of a certificate of title;

(2) Willfully fails to mail or deliver a certificate of title to the department within the time required by sections 168A.01 to 168A.31;

(3) Willfully fails to deliver to the transferee a certificate of title within ten days after the time required by sections 168A.01 to 168A.31;

(4) Commits a fraud in any application for a certificate of title;

(5) Fails to notify the department of any fact as required by sections 168A.01 to 168A.31; or

(6) Willfully violates any other provision of sections 168A.01 to 168A.31 except as otherwise provided in sections 168A.01 to 168A.31.

History: *1993 c 85 s 3*

CHAPTER 169

TRAFFIC REGULATIONS

169.01 DEFINITIONS.

[For text of subds 1 to 51, see M.S.1992]

Subd. 52. **Tow truck or towing vehicle.** "Tow truck" or "towing vehicle" means a motor vehicle having a manufacturer's gross vehicle weight rating of 8,000 pounds or more, equipped with a crane and winch, or an attached device used exclusively to transport vehicles, and further equipped to control the movement of the towed or transported vehicle.

[For text of subds 53 and 54, see M.S.1992]

Subd. 55. **Implement of husbandry.** (a) "Implement of husbandry" means every vehicle, including a farm tractor and farm wagon, designed or adapted exclusively for agricultural, horticultural, or livestock-raising operations or for lifting or carrying an implement of husbandry.

(b) A towed vehicle meeting the description in paragraph (a) is an implement of husbandry without regard to whether the vehicle is towed by an implement of husbandry or by a registered motor vehicle.

[For text of subds 56 to 76, see M.S.1992]

Subd. 77. **Transit bus.** "Transit bus" means a bus engaged in regular route transit as defined in section 174.22, subdivision 8.

Subd. 78. **Recreational vehicle combination.** "Recreational vehicle combination" means a combination of vehicles consisting of a pickup truck as defined in section 168.011, subdivision 29, attached by means of a fifth-wheel coupling to a camper-semitrailer which has hitched to it a trailer carrying a watercraft as defined in section 86B.005, subdivision 18. For purposes of this subdivision:

(a) A "fifth-wheel coupling" is a coupling between a camper-semitrailer and a towing pickup truck in which a portion of the weight of the camper-semitrailer is carried over or forward of the rear axle of the towing pickup.

(b) A "camper-semitrailer" is a trailer, other than a manufactured home as defined in section 327B.01, subdivision 13, designed for human habitation and used for vacation or recreational purposes for limited periods.

History: *1993 c 83 s 1; 1993 c 111 s 1; 1993 c 117 s 5; 1993 c 187 s 2*

NOTE: The repeal of subdivision 77, as added by Laws 1993, chapter 111, section 1, is effective November 1, 1995. See Laws 1993, chapter 111, section 3.

169.042 TOWING; NOTICE TO VICTIM OF VEHICLE THEFT.

Subdivision 1. **Notification.** A law enforcement agency shall make a reasonable and good-faith effort to notify the victim of a reported vehicle theft within 48 hours after the agency recovers the vehicle. The notice must specify when the agency expects to release the vehicle to the owner and how the owner may pick up the vehicle.

Subd. 2. **Violation dismissal.** A traffic violation citation given to the owner of the vehicle as a result of the vehicle theft must be dismissed if the owner presents, by mail or in person, a police report or other verification that the vehicle was stolen at the time of the violation.

History: *1993 c 326 art 6 s 1*

169.06 SIGNS, SIGNALS, MARKINGS.

[For text of subds 1 to 5, see M.S.1992]

Subd. 6. **Pedestrian control signals.** Whenever special pedestrian-control signals exhibiting the words "Walk" or "Don't Walk" are in place such signals shall indicate as follows:

(a) "Walk", flashing or steady. Pedestrians facing such signals may proceed across the roadway in the direction of the signal.

(b) "Don't Walk", flashing or steady. No pedestrian shall start to cross the roadway in the direction of such signals, but any pedestrian who has partially crossed on the "Walk" signal shall proceed to a sidewalk or safety island while the "Don't Walk" signal is showing.

(c) A pedestrian crossing a roadway in conformity with this section is lawfully within the intersection and, when in a crosswalk, is lawfully within the crosswalk.

[For text of subds 7 and 8, see M.S.1992]

History: *1993 c 115 s 1*

169.09 ACCIDENTS.

[For text of subds 1 to 6, see M.S.1992]

Subd. 7. **Accident report to commissioner.** The driver of a vehicle involved in an accident resulting in bodily injury to or death of any person or total property damage to an apparent extent of $500 or more, shall forward a written report of the accident to the commissioner of public safety within ten days thereof. On the required report, the driver shall provide the commissioner with the name and policy number of the insurer providing vehicle liability coverage at the time of the accident. On determining that the original report of any driver of a vehicle involved in an accident of which report must be made as provided in this section is insufficient, the commissioner of public safety may require the driver to file supplementary reports.

[For text of subds 8 to 12, see M.S.1992]

Subd. 13. **Reports confidential; evidence, fee, penalty, appropriation.** (a) All written reports and supplemental reports required under this section shall be for the use of the commissioner of public safety and other appropriate state, federal, county, and municipal governmental agencies for accident analysis purposes, except:

(1) the commissioner of public safety or any law enforcement agency shall, upon written request of any person involved in an accident or upon written request of the representative of the person's estate, surviving spouse, or one or more surviving next of kin, or a trustee appointed pursuant to section 573.02, disclose to the requester, the requester's legal counsel, or a representative of the requester's insurer the report required under subdivision 8;

(2) the commissioner of public safety shall, upon written request, provide the driver filing a report under subdivision 7 with a copy of the report filed by the driver;

(3) the commissioner of public safety may verify with insurance companies vehicle insurance information to enforce sections 65B.48, 169.792, 169.793, 169.796, and 169.797;

(4) the commissioner of public safety may give to the commissioner of transportation the name and address of a carrier subject to section 221.031 for use in enforcing accident report requirements under chapter 221; and

(5) the commissioner of public safety may give to the United States Department of Transportation commercial vehicle accident information in connection with federal grant programs relating to safety.

(b) Accident reports and data contained in the reports shall not be discoverable under any provision of law or rule of court. No report shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the commissioner of public safety shall furnish upon the demand of any person who has, or claims to have, made a report, or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the commissioner solely to prove compliance or failure to comply with the requirements that the report be made to the commissioner.

(c) Nothing in this subdivision prevents any person who has made a report pursuant to this section from providing information to any persons involved in an accident or their representatives or from testifying in any trial, civil or criminal, arising out of an accident, as to facts within the person's knowledge. It is intended by this subdivision to render privileged the reports required, but it is not intended to prohibit proof of the facts to which the reports relate.

(d) Disclosing any information contained in any accident report, except as provided in this subdivision, section 13.82, subdivision 3 or 4, or other statutes, is a misdemeanor.

(e) The commissioner of public safety may charge authorized persons a $5 fee for a copy of an accident report.

(f) The commissioner and law enforcement agencies may charge commercial users who request access to response or incident data relating to accidents a fee not to exceed 50 cents per report. "Commercial user" is a user who in one location requests access to data in more than five accident reports per month, unless the user establishes that access is not for a commercial purpose. Money collected by the commissioner under this paragraph is appropriated to the commissioner.

[For text of subds 14 and 15, see M.S.1992]

History: *1993 c 351 s 27,28*

169.121 DRIVERS UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE.

[For text of subds 1 to 1b, see M.S.1992]

Subd. 1c. **Conditional release.** A person charged with violating subdivision 1 within ten years of the first of three prior impaired driving convictions or within the person's lifetime after four or more prior impaired driving convictions may be released from detention only upon the following conditions unless maximum bail is imposed:

(1) the impoundment of the registration plates of the vehicle used to commit the violation occurred, unless already impounded;

(2) a requirement that the alleged violator report weekly to a probation agent;

(3) a requirement that the alleged violator abstain from consumption of alcohol and controlled substances and submit to random, weekly alcohol tests or urine analyses; and

(4) a requirement that, if convicted, the alleged violator reimburse the court or county for the total cost of these services.

Subd. 2. **Evidence.** Upon the trial of any prosecution arising out of acts alleged to have been committed by any person arrested for driving, operating, or being in physical control of a motor vehicle in violation of subdivision 1, the court may admit evidence of the amount of alcohol or a controlled substance in the person's blood, breath, or urine as shown by an analysis of those items.

For the purposes of this subdivision, evidence that there was at the time an alcohol concentration of 0.04 or more is relevant evidence in indicating whether or not the person was under the influence of alcohol.

Evidence of the refusal to take a test is admissible into evidence in a prosecution under this section or an ordinance in conformity with it.

If proven by a preponderance of the evidence, it shall be an affirmative defense to a violation of subdivision 1, clause (e), that the defendant consumed a sufficient quantity of alcohol after the time of actual driving, operating, or physical control of a motor vehicle and before the administration of the evidentiary test to cause the defendant's alcohol concentration to exceed 0.10. Provided, that this evidence may not be admitted unless notice is given to the prosecution prior to the omnibus or pretrial hearing in the matter.

The foregoing provisions do not limit the introduction of any other competent evidence bearing upon the question whether or not the person violated this section, including tests obtained more than two hours after the alleged violation and results obtained from partial tests on an infrared breath-testing instrument. A result from a partial test is the measurement obtained by analyzing one adequate breath sample, as defined in section 169.123, subdivision 2b, paragraph (b).

Subd. 3. **Criminal penalties.** (a) As used in this subdivision:

(1) "prior impaired driving conviction" means a prior conviction under this section; section 84.91, subdivision 1, paragraph (a); 86B.331, subdivision 1, paragraph (a); 169.129; 360.0752; 609.21, subdivision 1, clauses (2) to (4); 609.21, subdivision 2, clauses (2) to (4); 609.21, subdivision 2a, clauses (2) to (4); 609.21, subdivision 3, clauses (2) to (4); 609.21, subdivision 4, clauses (2) to (4); or an ordinance from this state, or a statute or ordinance from another state in conformity with any of them. A prior impaired driving conviction also includes a prior juvenile adjudication that would have been a prior impaired driving conviction if committed by an adult; and

(2) "prior license revocation" means a driver's license suspension, revocation, or cancellation under this section; section 169.123; 171.04; 171.14; 171.16; 171.17; or 171.18 because of an alcohol-related incident; 609.21, subdivision 1, clauses (2) to (4); 609.21, subdivision 2, clauses (2) to (4); 609.21, subdivision 2a, clauses (2) to (4); 609.21, subdivision 3, clauses (2) to (4); or 609.21, subdivision 4, clauses (2) to (4).

(b) A person who violates subdivision 1 or 1a, or an ordinance in conformity with either of them, is guilty of a misdemeanor.

(c) A person is guilty of a gross misdemeanor under any of the following circumstances:

(1) the person violates subdivision 1 within five years of a prior impaired driving conviction, or within ten years of the first of two or more prior impaired driving convictions;

(2) the person violates subdivision 1a within five years of a prior license revocation, or within ten years of the first of two or more prior license revocations;

(3) the person violates section 169.26 while in violation of subdivision 1; or

(4) the person violates subdivision 1 while a child under the age of 16 is in the vehicle, if the child is more than 36 months younger than the violator.

(d) The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section shall also be responsible for prosecution of gross misdemeanor violations of this section.

When an attorney responsible for prosecuting gross misdemeanors under this section requests criminal history information relating to prior impaired driving convictions from a court, the court must furnish the information without charge.

Subd. 3a. **Habitual offender penalties.** (a) If a person has been convicted under this section, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them, and if the person is then convicted of a gross misdemeanor violation of this section, a violation of section 169.129, or an ordinance in conformity with either of them (1) once within five years after the first conviction or (2) two or more times within ten years after the first conviction, the person must be sentenced to a minimum of 30 days imprisonment or to eight hours of community work service for each day less than 30 days that the person is ordered to serve in jail. Provided, that if a person is convicted of violating this section, section 169.129, or an ordinance in conformity with either of them two or more times within five years after the first conviction, or within five years after the first of two or more license revocations, as defined in subdivision 3, paragraph (a), clause (2), the person must be sentenced to a minimum of 30 days imprisonment and the sentence may not be waived under paragraph (b) or (c). Notwithstanding section 609.135, the above sentence must be executed, unless the court departs from the mandatory minimum sentence under paragraph (b) or (c).

(b) Prior to sentencing the prosecutor may file a motion to have the defendant sentenced without regard to the mandatory minimum sentence established by this subdivision. The motion must be accompanied by a statement on the record of the reasons for it. When presented with the prosecutor's motion and if it finds that substantial mitigating factors exist, the court shall sentence the defendant without regard to the mandatory minimum sentence established by this subdivision.

(c) The court may, on its own motion, sentence the defendant without regard to the mandatory minimum sentence established by this subdivision if it finds that substantial mitigating factors exist and if its sentencing departure is accompanied by a statement on the record of the reasons for it.

(d) The court may sentence the defendant without regard to the mandatory minimum sentence established by this subdivision if the defendant is sentenced to probation and ordered to participate in a program established under section 169.1265.

(e) When any portion of the sentence required by this subdivision is not executed, the court should impose a sentence that is proportional to the extent of the offender's prior criminal and moving traffic violation record.

[For text of subds 3b and 3c, see M.S.1992]

Subd. 4. **Administrative penalties.** (a) The commissioner of public safety shall revoke the driver's license of a person convicted of violating this section or an ordinance in conformity with it as follows:

(1) first offense under subdivision 1: not less than 30 days;

(2) first offense under subdivision 1a: not less than 90 days;

(3) second offense in less than five years, or third or subsequent offense on the record: (i) if the current conviction is for a violation of subdivision 1, 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 169.126; or (ii) if the current conviction is for a violation of subdivision 1a, 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 169.126;

(4) third offense in less than five years: not less than one year, together with denial under section 171.04, subdivision 1, clause (8), until rehabilitation is established in accordance with standards established by the commissioner;

(5) fourth or subsequent offense on the record: not less than two years, together with denial under section 171.04, subdivision 1, clause (8), until rehabilitation is established in accordance with standards established by the commissioner.

(b) If the person convicted of violating this section is under the age of 21 years, the commissioner of public safety shall revoke the offender's driver's license or operating privileges for a period of six months or for the appropriate period of time under paragraph (a), clauses (1) to (5), for the offense committed, whichever is the greatest period.

(c) For purposes of this subdivision, a juvenile adjudication under this section, section 169.129, an ordinance in conformity with either of them, or a statute or ordinance from another state in conformity with either of them is an offense.

(d) Whenever department records show that the violation involved personal injury or death to any person, not less than 90 additional days shall be added to the base periods provided above.

(e) Except for a person whose license has been revoked under paragraph (b), any person whose license has been revoked pursuant to section 169.123 as the result of the same incident, and who does not have a prior impaired driving conviction or prior license revocation as defined in subdivision 3 within the previous ten years, is subject to the mandatory revocation provisions of paragraph (a), clause (1) or (2), in lieu of the mandatory revocation provisions of section 169.123.

[For text of subds 5 and 5a, see M.S.1992]

Subd. 6. **Preliminary screening test.** When a peace officer has reason to believe from the manner in which a person is driving, operating, controlling, or acting upon departure from a motor vehicle, or has driven, operated, or controlled a motor vehicle, that the driver may be violating or has violated subdivision 1 or section 169.1211, the officer may require the driver to provide a sample of the driver's breath for a preliminary screening test using a device approved by the commissioner of public safety for this purpose. The results of this preliminary screening test shall be used for the purpose of deciding whether an arrest should be made and whether to require the tests authorized in section 169.123, but shall not be used in any court action except (1) to prove that a test was properly required of a person pursuant to section 169.123, subdivision 2; (2) in a civil action arising out of the operation or use of the motor vehicle; (3) in an action for license reinstatement under section 171.19; or (4) in a prosecution or juvenile court proceeding concerning a violation of section 340A.503, subdivision 1, paragraph (a), clause (2). Following the screening test additional tests may be required of the driver pursuant to the provisions of section 169.123.

The driver who refuses to furnish a sample of the driver's breath is subject to the provisions of section 169.123 unless, in compliance with section 169.123, the driver submits to a blood, breath or urine test to determine the presence of alcohol or a controlled substance.

Subd. 7. **License revocation; court procedures.** On behalf of the commissioner of public safety a court shall serve notice of revocation on a person convicted of a violation of this section unless the commissioner has already revoked the person's driving privileges or served the person with a notice of revocation for a violation of section 169.123 arising out of the same incident.

The court shall invalidate the driver's license or permit in such a way that no identifying information is destroyed.

[For text of subds 8 to 11, see M.S.1992]

History: *1993 c 266 s 18; 1993 c 326 art 13 s 12; 1993 c 347 s 3-7*

169.1217 FORFEITURE OF MOTOR VEHICLES USED TO COMMIT CERTAIN TRAFFIC OFFENSES.

Subdivision 1. **Definitions.** As used in this section, the following terms have the meanings given them:

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

(b) "Designated offense" includes a violation of section 169.121, an ordinance in conformity with it, or 169.129:

(1) within five years of three prior driving under the influence convictions or three prior license revocations based on separate incidents;

(2) within 15 years of the first of four or more prior driving under the influence convictions or the first of four or more prior license revocations based on separate incidents;

(3) by a person whose driver's license or driving privileges have been canceled under section 171.04, subdivision 1, clause (8); or

(4) by a person who is subject to a restriction on the person's driver's license under section 171.09 which provides that the person may not use or consume any amount of alcohol or a controlled substance.

"Designated offense" also includes a violation of section 169.121, subdivision 3, paragraph (c), clause (4):

(1) within five years of two prior driving under the influence convictions or two prior license revocations based on separate incidents; or

(2) within 15 years of the first of three or more prior driving under the influence convictions or the first of three or more prior license revocations based on separate incidents.

(c) "Motor vehicle" and "vehicle" have the meaning given "motor vehicle" in section 169.121, subdivision 11. The terms do not include a vehicle which is stolen or taken in violation of the law.

(d) "Owner" means the registered owner of the motor vehicle according to records of the department of public safety and includes a lessee of a motor vehicle if the lease agreement has a term of 180 days or more.

(e) "Prior driving under the influence conviction" means a prior conviction under section 169.121; 169.129; or 609.21, subdivision 1, clauses (2) to (4); 2, clauses (2) to (4); 2a, clauses (2) to (4); 3, clauses (2) to (4); or 4, clauses (2) to (4); or an ordinance from this state, or a statute or ordinance from another state in conformity with any of them. A prior driving under the influence conviction also includes a prior juvenile adjudication that would have been a prior driving under the influence conviction if committed by an adult.

(f) "Prior license revocation" has the meaning given it in section 169.121, subdivision 3.

(g) "Prosecuting authority" means the attorney in the jurisdiction in which the designated offense occurred who is responsible for prosecuting violations of a designated offense.

[For text of subds 2 to 8, see M.S.1992]

Subd. 9. **Disposition of forfeited vehicles.** (a) If the court finds under subdivision 8 that the vehicle is subject to forfeiture, it shall order the appropriate agency to:

(1) sell the vehicle and distribute the proceeds under paragraph (b); or

(2) keep the vehicle for official use.

(b) The proceeds from the sale of forfeited vehicles, after payment of seizure, storage, forfeiture, and sale expenses, and satisfaction of valid liens against the property, must be forwarded to the treasury of the political subdivision that employs the appropriate agency responsible for the forfeiture for use in DWI-related enforcement, training and education. If the appropriate agency is an agency of state government, the net proceeds must be forwarded to the agency for use in DWI-related enforcement, training, and education until June 30, 1994, and thereafter to the state treasury and credited to the general fund.

History: *1993 c 347 s 8,9*

169.122 OPEN BOTTLE LAW; PENALTY.

[For text of subds 1 to 4, see M.S.1992]

Subd. 5. **Exception.** This section does not apply to the possession or consumption of alcoholic beverages by passengers in:

(1) a bus operated under a charter as defined in section 221.011, subdivision 20; or

(2) a limousine as defined in section 168.011, subdivision 35.

History: *1993 c 350 s 1*

169.123 CHEMICAL TESTS FOR INTOXICATION.

[For text of subd 1, see M.S.1992]

Subd. 2. **Implied consent; conditions; election of test.** (a) Any person who drives, operates, or is in physical control of a motor vehicle within this state or upon the ice of any boundary water of this state consents, subject to the provisions of this section and sections 169.121 and 169.1211, to a chemical test of that person's blood, breath, or urine for the purpose of determining the presence of alcohol or a controlled substance. The test shall be administered at the direction of a peace officer. The test may be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a motor vehicle in violation of section 169.121 and one of the following conditions exist:

(1) the person has been lawfully placed under arrest for violation of section 169.121, or an ordinance in conformity with it;

(2) the person has been involved in a motor vehicle accident or collision resulting in property damage, personal injury, or death;

(3) the person has refused to take the screening test provided for by section 169.121, subdivision 6; or

(4) the screening test was administered and indicated an alcohol concentration of 0.10 or more.

The test may also be required of a person when an officer has probable cause to believe the person was driving, operating, or in physical control of a commercial motor vehicle with the presence of any alcohol.

(b) At the time a test is requested, the person shall be informed:

(1) that Minnesota law requires the person to take a test to determine if the person is under the influence of alcohol or a controlled substance or, if the motor vehicle was a commercial motor vehicle, that Minnesota law requires the person to take a test to determine the presence of alcohol;

(2) that refusal to take a test is a crime;

(3) if the peace officer has probable cause to believe the person has violated the criminal vehicular homicide and injury laws, that a test will be taken with or without the person's consent; and

(4) that the person has the right to consult with an attorney, but that this right is limited to the extent that it cannot unreasonably delay administration of the test.

(c) The peace officer who requires a test pursuant to this subdivision may direct whether the test shall be of blood, breath, or urine. Action may be taken against a person who refuses to take a blood test only if an alternative test was offered and action may be taken against a person who refuses to take a urine test only if an alternative test was offered.

[For text of subds 2a to 3, see M.S.1992]

Subd. 4. **Refusal; revocation of license.** If a person refuses to permit a test, none shall be given, but the peace officer shall report the refusal to the commissioner of public

safety and the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the acts occurred. However, if a peace officer has probable cause to believe that the person has violated section 609.21, a test may be required and obtained despite the person's refusal. A refusal to submit to an alcohol concentration test does not constitute a violation of section 609.50, unless the refusal was accompanied by force or violence or the threat of force or violence. If a person submits to a test and the test results indicate an alcohol concentration of 0.10 or more, or if a person was driving, operating, or in physical control of a commercial motor vehicle and the test results indicate an alcohol concentration of 0.04 or more, the results of the test shall be reported to the commissioner of public safety and to the authority having responsibility for prosecution of misdemeanor offenses for the jurisdiction in which the acts occurred.

Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a motor vehicle while under the influence of alcohol or a controlled substance and that the person refused to submit to a test, the commissioner of public safety shall revoke the person's license or permit to drive, or nonresident operating privilege, for a period of one year even if a test was obtained pursuant to this section after the person refused to submit to testing. Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with the presence of any alcohol and that the person refused to submit to a test, the commissioner shall disqualify the person from operating a commercial motor vehicle for a period of one year under section 171.165 and shall revoke the person's license or permit to drive or nonresident operating privilege for a period of one year. Upon certification by the peace officer that there existed probable cause to believe the person had been driving, operating or in physical control of a motor vehicle while under the influence of alcohol or a controlled substance and that the person submitted to a test and the test results indicate an alcohol concentration of 0.10 or more, the commissioner of public safety shall revoke the person's license or permit to drive, or nonresident operating privilege, for: (1) a period of 90 days; or (2) if the person is under the age of 21 years, for a period of six months; or (3) if the person's driver's license or driving privileges have been revoked within the past five years under this section or section 169.121, for a period of 180 days. On certification by the peace officer that there existed probable cause to believe the person had been driving, operating, or in physical control of a commercial motor vehicle with any presence of alcohol and that the person submitted to a test and the test results indicated an alcohol concentration of 0.04 or more, the commissioner of public safety shall disqualify the person from operating a commercial motor vehicle under section 171.165.

If the person is a resident without a license or permit to operate a motor vehicle in this state, the commissioner of public safety shall deny to the person the issuance of a license or permit for the same period after the date of the alleged violation as provided herein for revocation, subject to review as hereinafter provided.

[For text of subd 5, see M.S.1992]

Subd. 5a. **Test refusal; driving privilege lost.** (a) On behalf of the commissioner of public safety, a peace officer requiring a test or directing the administration of a chemical test shall serve immediate notice of intention to revoke and of revocation on a person who refuses to permit a test or on a person who submits to a test the results of which indicate an alcohol concentration of 0.10 or more.

(b) On behalf of the commissioner of public safety, a peace officer requiring a test or directing the administration of a chemical test of a person driving, operating, or in physical control of a commercial motor vehicle shall serve immediate notice of intention to disqualify and of disqualification on a person who refuses to permit a test, or on a person who submits to a test the results of which indicate an alcohol concentration of 0.04 or more.

(c) The officer shall either:

(1) take the driver's license or permit, if any, send it to the commissioner of public safety along with the certificate required by subdivision 4, and issue a temporary license effective only for seven days; or

(2) invalidate the driver's license or permit in such a way that no identifying information is destroyed.

[For text of subds 5b to 10, see M.S.1992]

History: *1993 c 266 s 19; 1993 c 347 s 10,11*

169.1265 PILOT PROGRAMS OF INTENSIVE PROBATION FOR REPEAT DWI OFFENDERS.

Subdivision 1. **Grant application.** The commissioners of corrections and public safety, in cooperation with the commissioner of human services, shall jointly administer a program to provide grants to counties to establish and operate programs of intensive probation for repeat violators of the driving while intoxicated laws. The commissioners shall adopt an application form on which a county or a group of counties may apply for a grant to establish and operate a DWI repeat offender program.

[For text of subds 2 to 4, see M.S.1992]

History: *1993 c 146 art 2 s 11*

169.129 AGGRAVATED VIOLATIONS; PENALTY.

Any person is guilty of a gross misdemeanor who drives, operates, or is in physical control of a motor vehicle, the operation of which requires a driver's license, within this state or upon the ice of any boundary water of this state in violation of section 169.121 or an ordinance in conformity with it before the person's driver's license or driver's privilege has been reinstated following its cancellation, suspension, revocation, or denial under any of the following: section 169.121, 169.1211, or 169.123; section 171.04, 171.14, 171.16, 171.17, or 171.18 because of an alcohol-related incident; section 609.21, subdivision 1, clauses (2) to (4); 609.21, subdivision 2, clauses (2) to (4); 609.21, subdivision 2a, clauses (2) to (4); 609.21, subdivision 3, clauses (2) to (4); or 609.21, subdivision 4, clauses (2) to (4).

History: *1993 c 347 s 12*

169.14 SPEED RESTRICTIONS.

[For text of subds 1 to 9, see M.S.1992]

Subd. 10. **Radar; speed-measuring devices; standards of evidence.** In any prosecution in which the rate of speed of a motor vehicle is relevant, evidence of the speed as indicated on radar or other speed-measuring device is admissible in evidence, subject to the following conditions:

(a) The officer operating the device has sufficient training to properly operate the equipment;

(b) The officer testifies as to the manner in which the device was set up and operated;

(c) The device was operated with minimal distortion or interference from outside sources; and

(d) The device was tested by an accurate and reliable external mechanism, method, or system at the time it was set up.

Records of tests made of such devices and kept in the regular course of operations of any law enforcement agency are admissible in evidence without further foundation as to the results of the tests. The records shall be available to a defendant upon demand. Nothing in this subdivision shall be construed to preclude or interfere with cross examination or impeachment of evidence of the rate of speed as indicated on the radar or speed-measuring device.

Subd. 11. **Hand-held police traffic radar.** Law enforcement agencies that use hand-held radar units shall establish operating procedures to reduce the operator's exposure to microwave radiation. The procedures, at a minimum, must require:

(1) that the operator turn the unit off when it is not in use;

(2) if the unit has a stand-by mode, that the operator use this mode except when measuring a vehicle's speed;

(3) that the operator not allow the antenna to rest against the operator's body while it is in operation; and

(4) that the operator always point the antenna unit away from the operator and any other person in very close proximity to the unit.

History: *1993 c 26 s 1; 1993 c 61 s 1*

169.145 IMPLEMENTS OF HUSBANDRY; SPEED; BRAKES.

No person may:

(1) drive or tow an implement of husbandry that exceeds 6,000 pounds registered gross weight or gross vehicle weight and is not equipped with brakes; or

(2) tow a vehicle registered as a farm trailer that exceeds 6,000 pounds registered gross weight or gross vehicle weight and is not equipped with brakes and exceeding 6,000 pounds, at a speed in excess of 25 miles per hour.

History: *1993 c 187 s 3*

169.18 DRIVING RULES.

[For text of subds 1 to 4, see M.S.1992]

Subd. 5. **Driving left of roadway center; exception.** (a) No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right-hand side of the roadway before coming within 100 feet of any vehicle approaching from the opposite direction;

(b) Except on a one-way roadway or as provided in paragraph (c), no vehicle shall, in overtaking and passing another vehicle or at any other time, be driven to the left half of the roadway under the following conditions:

(1) When approaching the crest of a grade or upon a curve in the highway where the driver's view along the highway is obstructed within a distance of 700 feet;

(2) When approaching within 100 feet of any underpass or tunnel, railroad grade crossing, intersection within a city, or intersection outside of a city if the presence of the intersection is marked by warning signs; or

(3) Where official signs are in place prohibiting passing, or a distinctive center line is marked, which distinctive line also so prohibits passing, as declared in the manual of traffic-control devices adopted by the commissioner.

(c) Paragraph (b) does not apply to a self-propelled or towed implement of husbandry that (1) is escorted at the front by a registered motor vehicle that is displaying vehicular hazard warning lights visible to the front and rear in normal sunlight, and (2) does not extend into the left half of the roadway to any greater extent than made necessary by the total width of the right half of the roadway together with any adjacent shoulder that is suitable for travel.

[For text of subds 6 and 7, see M.S.1992]

Subd. 8. **Following vehicle too closely.** (a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the conditions of the highway.

(b) The driver of any motor vehicle drawing another vehicle, or the driver of any motor truck or bus, when traveling upon a roadway outside of a business or residence district, shall not follow within 500 feet of another vehicle. The provisions of this clause shall not be construed to prevent overtaking and passing nor shall the same apply upon any lane specially designated for use by motor trucks.

[For text of subds 9 and 10, see M.S.1992]

History: *1993 c 26 s 2,3; 1993 c 187 s 4*

169.20 RIGHT-OF-WAY.

[For text of subds 1 to 5, see M.S.1992]

Subd. 5a. **Citation.** A peace officer may issue a citation in lieu of arrest to the driver of a motor vehicle if the peace officer has probable cause to believe that the driver has failed to yield the right-of-way to an emergency vehicle in violation of subdivision 5.

Subd. 5b. **Violation; penalty for owners and lessees.** (a) If a motor vehicle is operated in violation of subdivision 5, the owner of the vehicle, or for a leased motor vehicle the lessee of the vehicle, is guilty of a petty misdemeanor.

(b) Paragraph (a) does not apply if (1) a person other than the owner or lessee was operating the vehicle at the time the violation occurred, or (2) the owner presents written evidence that the motor vehicle had been reported to a law enforcement agency as stolen at the time of the violation.

(c) Paragraph (a) does not apply to a lessor of a motor vehicle if the lessor keeps a record of the name and address of the lessee.

(d) Paragraph (a) does not prohibit or limit the prosecution of a motor vehicle operator for violating subdivision 5.

(e) A violation under paragraph (a) does not constitute grounds for revocation or suspension of the owner's or lessee's driver's license.

[For text of subd 6, see M.S.1992]

Subd. 7. **Transit bus.** The driver of a vehicle traveling in the right-hand lane of traffic shall yield the right-of-way to any transit bus attempting to enter that lane from a bus stop or shoulder, as indicated by a flashing left turn signal.

History: *1993 c 83 s 2; 1993 c 304 s 1,2*

169.222 OPERATION OF BICYCLES.

[For text of subds 1 to 5, see M.S.1992]

Subd. 6. **Bicycle equipment.** (a) No person shall operate a bicycle at nighttime unless the bicycle or its operator is equipped with a lamp which shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector of a type approved by the department of public safety which is visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle. No person may operate a bicycle at any time when there is not sufficient light to render persons and vehicles on the highway clearly discernible at a distance of 500 feet ahead unless the bicycle or its operator is equipped with reflective surfaces that shall be visible during the hours of darkness from 600 feet when viewed in front of lawful lower beams of head lamps on a motor vehicle.

The reflective surfaces shall include reflective materials on each side of each pedal to indicate their presence from the front or the rear and with a minimum of 20 square inches of reflective material on each side of the bicycle or its operator. Any bicycle equipped with side reflectors as required by regulations for new bicycles prescribed by the United States Consumer Product Safety Commission shall be considered to meet the requirements for side reflectorization contained in this subdivision.

A bicycle may be equipped with a rear lamp that emits a red flashing signal.

(b) No person shall operate a bicycle unless it is equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.

(c) No person shall operate upon a highway any bicycle equipped with handlebars so raised that the operator must elevate the hands above the level of the shoulders in order to grasp the normal steering grip area.

(d) No person shall operate upon a highway any bicycle which is of such a size as to prevent the operator from stopping the bicycle, supporting it with at least one foot on the highway surface and restarting in a safe manner.

[For text of subds 7 to 10, see M.S.1992]

Subd. 11. **Peace officers operating bicycles.** The provisions of this section governing operation of bicycles do not apply to bicycles operated by peace officers while performing their duties.

History: *1993 c 326 art 4 s 2; art 7 s 2*

169.345 PARKING PRIVILEGES FOR PHYSICALLY DISABLED.

[For text of subds 1 to 2a, see M.S.1992]

Subd. 3. **Identifying certificate.** (a) The division of driver and vehicle services in the department of public safety shall issue (1) immediately, a temporary permit valid for 30 days, if the person is eligible for the certificate issued under this paragraph, and (2) a special identifying certificate for a motor vehicle when a physically disabled applicant submits proof of physical disability under subdivision 2a. The commissioner shall design separate certificates for persons with permanent and temporary disabilities that can be readily distinguished from each other from outside a vehicle at a distance of 25 feet. The certificate is valid for the duration of the person's disability, as specified in the physician's or chiropractor's statement, up to a maximum of six years. A person with a disability of longer duration will be required to renew the certificate for additional periods of time, up to six years each, as specified in the physician's or chiropractor's statement.

(b) When the commissioner is satisfied that a motor vehicle is used primarily for the purpose of transporting physically disabled persons, the division may issue without charge (1) immediately, a temporary permit valid for 30 days, if the operator is eligible for the certificate issued under this paragraph, and (2) a special identifying certificate for the vehicle. The operator of a vehicle displaying the certificate or temporary permit has the parking privileges provided in subdivision 1 while the vehicle is in use for transporting physically disabled persons. The certificate issued to a person transporting physically disabled persons must be renewed every third year. On application and renewal, the person must present evidence that the vehicle continues to be used for transporting physically disabled persons.

(c) A certificate must be made of plastic or similar durable material, must be distinct from certificates issued before January 1, 1988, and must bear its expiration date prominently on its face. A certificate issued to a temporarily disabled person must display the date of expiration of the duration of the disability, as determined under paragraph (a). Each certificate must have printed on the back a summary of the parking privileges and restrictions that apply to each vehicle in which it is used. The commissioner may charge a fee of $5 for issuance or renewal of a certificate or temporary permit, and a fee of $5 for a duplicate to replace a lost, stolen, or damaged certificate or temporary permit. The commissioner shall not charge a fee for issuing a certificate to a person who has paid a fee for issuance of a temporary permit.

Subd. 4. **Unauthorized use; revocation; penalty.** If a peace officer finds that the certificate or temporary permit is being improperly used, the officer shall report the violation to the division of driver and vehicle services in the department of public safety and the commissioner of public safety may revoke the certificate or temporary permit.

A person who uses the certificate or temporary permit in violation of this section is guilty of a misdemeanor and is subject to a fine of $500.

History: *1993 c 98 s 4,5*

169.346 PARKING FOR PHYSICALLY DISABLED; PROHIBITIONS; PENALTIES.

Subdivision 1. **Parking criteria.** A person shall not:

(1) park a motor vehicle in or obstruct access to a parking space designated and reserved for the physically disabled, on either private or public property;

(2) park a motor vehicle in or obstruct access to an area designated by a local governmental unit as a transfer zone for disabled persons;

(3) exercise the parking privilege provided in section 169.345, unless:

(i) that person is a physically disabled person as defined in section 169.345, subdivision 2, or the person is transporting or parking a vehicle for a physically disabled person; and

(ii) the vehicle visibly displays one of the following: a license plate issued under section 168.021, a certificate issued under section 169.345, a temporary permit valid for 30 days issued under section 168.021 or 169.345, or an equivalent certificate, insignia, or license plate issued by another state, a foreign country, or one of its political subdivisions; or

(4) park a motor vehicle in an area used as a regular route transit stopping point where a transit vehicle that is accessible to the physically disabled regularly stops and a sign that bears the international symbol of access in white on blue is posted. A sign posted under this clause may display other information relating to the regular route transit service. For purposes of this clause, an area used as a regular route transit stopping point consists of the 80 feet immediately preceding the sign described in this clause.

Subd. 2. **Signs; parking spaces free of obstructions; penalty.** (a) Parking spaces reserved for physically disabled persons must be designated and identified by the posting of signs incorporating the international symbol of access in white on blue and indicating that violators are subject to a fine of up to $200. These parking spaces are reserved for disabled persons with vehicles displaying the required certificate, license plates, temporary permit valid for 30 days, or insignia. Signs sold after August 1, 1991, must conform to the design requirements in this paragraph. For purposes of this subdivision, a parking space that is clearly identified as reserved for physically disabled persons by a permanently posted sign that does not meet all design standards, is considered designated and reserved for physically disabled persons. A sign posted for the purpose of this section must be visible from inside a vehicle parked in the space, be kept clear of snow or other obstructions which block its visibility, and be nonmovable or only movable by authorized persons.

(b) The owner or manager of the property on which the designated parking space is located shall ensure that the space is kept free of obstruction. If the owner or manager allows the space to be blocked by snow, merchandise, or similar obstructions for 24 hours after receiving a warning from a peace officer, the owner or manager is guilty of a misdemeanor and subject to a fine of up to $500.

Subd. 3. **Penalty; enforcement.** A person who violates subdivision 1 is guilty of a misdemeanor and shall be fined not less than $100 or more than $200. This subdivision shall be enforced in the same manner as parking ordinances or regulations in the governmental subdivision in which the violation occurs. Law enforcement officers have the authority to tag vehicles parked on either private or public property in violation of subdivision 1. A physically disabled person, or a person parking a vehicle for a disabled person, who is charged with violating subdivision 1 because the person parked in a parking space for physically disabled persons without the required certificate, license plates, or temporary permit shall not be convicted if the person produces in court or before the court appearance the required certificate, temporary permit, or evidence that

the person has been issued license plates under section 168.021, and demonstrates entitlement to the certificate, plates, or temporary permit at the time of arrest or tagging.

Subd. 4. **Local ordinance; citizen enforcement program.** A city of the first or second class may, by ordinance, establish a program to enforce the parking restrictions of this section or any similar local ordinance, relating to parking spaces for the physically disabled, by using citizen volunteers to issue citations to violators. The ordinance shall contain a process for training program participants in the requirements of the law, the method of issuing citations, and other related matters. Program participants who satisfy the training requirements of the ordinance are authorized to issue citations for violations of this section and are exempt from any other training or licensure requirements imposed on law enforcement officers by chapter 626.

History: *1993 c 83 s 3; 1993 c 98 s 6-8; 1993 c 130 s 1*

169.443 SAFETY OF SCHOOL CHILDREN; BUS DRIVER'S DUTIES.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. **When signals not used.** School bus drivers shall not activate the prewarning flashing amber signals or flashing red signals and shall not use the stop arm signal:

(1) in special school bus loading areas where the bus is entirely off the traveled portion of the roadway and where no other motor vehicle traffic is moving or is likely to be moving within 20 feet of the bus;

(2) in residence districts or business districts, as defined in section 169.01, of home rule or statutory cities when directed not to do so by the local school administrator;

(3) when a school bus is being used on a street or highway for purposes other than the actual transportation of school children to or from school or a school-approved activity, except as provided in subdivision 8;

(4) at railroad grade crossings; and

(5) when loading and unloading people while the bus is completely off the traveled portion of a separated, one-way roadway that has adequate shoulders. The driver shall drive the bus completely off the traveled portion of this roadway before loading or unloading people.

[For text of subds 4 to 8, see M.S.1992]

History: *1993 c 78 s 1*

169.444 SAFETY OF SCHOOL CHILDREN; DUTIES OF OTHER DRIVERS.

[For text of subds 1 to 6, see M.S.1992]

Subd. 7. **Evidentiary presumptions.** (a) There is a rebuttable presumption that signals described in section 169.442 were in working order and operable when a violation of subdivision 1, 2, or 5 was allegedly committed, if the signals of the applicable school bus were inspected and visually found to be in working order and operable within 12 hours preceding the incident giving rise to the violation.

(b) There is a rebuttable presumption that a motor vehicle outwardly equipped and identified as a school bus satisfies all of the identification and equipment requirements of section 169.441 when a violation of subdivision 1, 2, or 5 was allegedly committed, if the applicable school bus bears a current inspection certificate issued under section 169.451.

[For text of subd 8, see M.S.1992]

History: *1993 c 78 s 2*

169.47 UNSAFE EQUIPMENT.

Subdivision 1. **Misdemeanor; exceptions.** (a) It is unlawful and punishable as here-

inafter provided for any person to drive or for the owner to cause or knowingly permit to be driven on any highway any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person, or which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this chapter, or which is equipped in any manner in violation of this chapter, or for any person to do any act forbidden or fail to perform any act required under this chapter.

(b) The provisions of this chapter with respect to equipment on vehicles do not apply to implements of husbandry, road machinery, or road rollers except as otherwise provided in this chapter.

(c) For purposes of this section, a specialized vehicle resembling a low-slung two-wheel trailer having a short bed or platform shall be deemed to be an implement of husbandry when such vehicle is used exclusively to transport implements of husbandry, provided, however, that no such vehicle shall operate on the highway before sunrise or after sunset unless proper lighting is affixed to the implement being drawn.

History: *1993 c 187 s 5*

169.471 TELEVISION; HEADPHONES.

Subdivision 1. **Television screen in vehicle.** No television screen shall be installed or used in any motor vehicle at any point forward of the back of the driver's seat, or which is visible to the driver while operating the motor vehicle except:

(1) video screens installed in law enforcement vehicles;

(2) closed circuit video systems used exclusively to aid the driver's visibility to the rear or sides of the vehicle; and

(3) video screens installed as part of a vehicle control system or used in intelligent vehicle highway applications.

[For text of subd 2, see M.S.1992]

History: *1993 c 26 s 4*

169.522 SLOW-MOVING VEHICLES, SIGNS REQUIRED.

Subdivision 1. **Displaying emblem; rules.** (a) All animal-drawn vehicles, motorized golf carts when operated on designated roadways pursuant to section 169.045, implements of husbandry with load, and other machinery, including all road construction machinery, which are designed for operation at a speed of 25 miles per hour or less shall display a triangular slow-moving vehicle emblem, except (1) when being used in actual construction and maintenance work and traveling within the limits of a construction area which is marked in accordance with requirements of the manual of uniform traffic control devices, as set forth in section 169.06, or (2) for a towed implement of husbandry that is empty and that is not self-propelled, in which case it may be towed at lawful speeds greater than 25 miles per hour without removing the slow-moving vehicle emblem. The emblem shall consist of a fluorescent yellow-orange triangle with a dark red reflective border and be mounted so as to be visible from a distance of not less than 600 feet to the rear. When a primary power unit towing an implement of husbandry or other machinery displays a slow-moving vehicle emblem visible from a distance of 600 feet to the rear, it shall not be necessary to display a similar emblem on the secondary unit. After January 1, 1975, all slow-moving vehicle emblems sold in this state shall be so designed that when properly mounted they are visible from a distance of not less than 600 feet to the rear when directly in front of lawful lower beam of head lamps on a motor vehicle. The commissioner of public safety shall adopt standards and specifications for the design and position of mounting the slow-moving vehicle emblem. Such standards and specifications shall be adopted by rule in accordance with the administrative procedure act. A violation of this section shall not be admissible evidence in any civil cause of action arising prior to January 1, 1970.

(b) An alternate slow-moving vehicle emblem consisting of a dull black triangle

with a white reflective border may be used after obtaining a permit from the commissioner under rules of the commissioner. A person with a permit to use an alternate slow-moving vehicle emblem must:

(1) carry in the vehicle a regular slow-moving vehicle emblem and display the emblem when operating a vehicle between sunset and sunrise, and at any other time when visibility is impaired by weather, smoke, fog, or other conditions; and

(2) permanently affix to the rear of the slow-moving vehicle at least 72 square inches of reflective tape that reflects the color red.

[For text of subds 2 and 3, see M.S.1992]

History: *1993 c 187 s 6*

169.55 LIGHTS ON ALL VEHICLES.

[For text of subd 1, see M.S.1992]

Subd. 2. **Implements of husbandry.** At the times when lighted lamps on vehicles are required:

(1) every self-propelled implement of husbandry must be equipped with at least one lamp displaying a white light to the front, and at least one lamp displaying a red light to the rear;

(2) every self-propelled implement of husbandry must also display two red reflectors visible to the rear;

(3) every combination of a self-propelled and towed implement of husbandry must be equipped with at least one lamp mounted to indicate as nearly as practicable the extreme left projection of the combination and displaying a white or amber light to the front and a red or amber light to the rear of the self-propelled implement of husbandry; and

(4) the last unit of every combination of implements of husbandry must display two red reflectors visible to the rear.

The reflectors must be of the type approved for use upon commercial vehicles. The reflectors must be mounted as close as practicable to the extreme edges of the implement of husbandry. The reflectors must be reflex reflectors that are visible at night from all distances within 600 feet to 100 feet when directly in front of lawful lower beams of headlamps.

Subd. 3. **Implements of husbandry; hazard warning lights.** No person may operate a self-propelled implement of husbandry manufactured after January 1, 1970, on a highway unless the implement of husbandry displays vehicular hazard warning lights visible to the front and rear in normal sunlight.

History: *1993 c 187 s 7,8*

169.56 AUXILIARY LIGHTS.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. **Auxiliary low beam lights.** Except as provided in subdivision 5, any motor vehicle may be equipped with not to exceed two auxiliary low beam lamps mounted on the front at a height of not less than 24 inches nor more than 42 inches above the level surface upon which the vehicle stands. The provisions of section 169.60 shall apply to any combination of headlamps and auxiliary low beam lamps.

Subd. 4. **Auxiliary driving lights.** Except as provided in subdivision 5, any motor vehicle may be equipped with not to exceed two auxiliary driving lamps mounted on the front at a height not less than 16 inches nor more than 42 inches above the level surface upon which the vehicle stands. The provisions of section 169.60 shall apply to any combination of headlamps and auxiliary driving lamps.

Subd. 5. **Obstructed lights.** The auxiliary lamps permitted in subdivisions 3 and

4 may be mounted more than 42 inches high on any truck equipped with a snowplow blade that obstructs the required headlights. When a snowplow blade is not mounted so as to obstruct the required headlights, the auxiliary lamps permitted in subdivisions 3 and 4 and mounted above 42 inches high must be removed or the lens must be covered with an opaque material. No other vehicle may be operated on a public highway unless the auxiliary lamps permitted in subdivisions 3 and 4 comply with the height requirements or are completely covered with an opaque material.

History: *1993 c 26 s 5-7*

169.60 DISTRIBUTION OF LIGHT.

Except as hereinafter provided, the head lamps, the auxiliary low beam lamps, or the auxiliary driving lamps, or combinations thereof, on motor vehicles shall be so arranged that the driver may select at will between distributions of light projected to different elevations, subject to the following requirements and limitations:

(1) There shall be an uppermost distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 350 feet ahead for all conditions of loading;

(2) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead; and on a straight level road under any condition of loading none of the high intensity portion of the beam shall be directed to strike the eyes of an approaching driver;

(3) All road lighting equipment manufactured and installed on and after January 1, 1938, shall be so arranged that when any beam is used which is not in conformity with clause (2), means shall be provided for indicating to the driver when such beams are being used.

History: *1993 c 26 s 8*

169.64 PROHIBITED LIGHTS; EXCEPTIONS.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. **Flashing lights.** Flashing lights are prohibited, except on an authorized emergency vehicle, school bus, bicycle as provided in section 169.222, subdivision 6, road maintenance equipment, tow truck or towing vehicle, service vehicle, farm tractors, self-propelled farm equipment or on any vehicle as a means of indicating a right or left turn, or the presence of a vehicular traffic hazard requiring unusual care in approaching, overtaking or passing. All flashing warning lights shall be of the type authorized by section 169.59, subdivision 4, unless otherwise permitted or required in this chapter.

[For text of subds 4 and 5, see M.S.1992]

Subd. 6. **Flashing amber light.** (a) Any service vehicle may be equipped with a flashing amber lamp of a type approved by the commissioner of public safety.

(b) A service vehicle shall not display the lighted lamp authorized under paragraph (a) when traveling upon the highway or at any other time except at the scene of a disabled vehicle or while engaged in snow removal or road maintenance.

(c) A self-propelled implement of husbandry may display the lighted lamp authorized under paragraph (a) at any time.

[For text of subd 8, see M.S.1992]

Subd. 9. **Warning lamps on vehicles collecting solid waste.** A vehicle used to collect solid waste may be equipped with a single amber gaseous discharge warning lamp that meets the Society of Automotive Engineers standard J 1318, Class 2. The lamp may be operated only when the collection vehicle is in the process of collecting solid waste and is either:

(1) stopped at an establishment where solid waste is to be collected; or

(2) traveling at a speed that is at least ten miles per hour below the posted speed limit and moving between establishments where solid waste is to be collected.

History: *1993 c 187 s 9; 1993 c 281 s 6; 1993 c 326 art 4 s 3*

169.67 BRAKES.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. **Trailers, semitrailers.** (a) No trailer or semitrailer with a gross weight of 3,000 or more pounds, or a gross weight that exceeds the empty weight of the towing vehicle, may be drawn on a highway unless it is equipped with brakes that are adequate to control the movement of and to stop and hold the trailer or semitrailer.

(b) No trailer or semitrailer with a gross weight of more than 6,000 pounds may be drawn on a highway unless it is equipped with brakes that are so constructed that they are adequate to stop and hold the trailer or semitrailer whenever it becomes detached from the towing vehicle.

(c) Except as provided in paragraph (d), paragraph (a) does not apply to:

(1) a trailer used by a farmer while transporting farm products produced on the user's farm, or supplies back to the farm of the trailer's user;

(2) a towed custom service vehicle drawn by a motor vehicle that is equipped with brakes that meet the standards of subdivision 5, provided that such a towed custom service vehicle that exceeds 30,000 pounds gross weight may not be drawn at a speed of more than 45 miles per hour;

(3) a trailer or semitrailer operated or used by retail dealers of implements of husbandry while engaged exclusively in the delivery of implements of husbandry;

(4) a motor vehicle drawn by another motor vehicle that is equipped with brakes that meet the standards of subdivision 5;

(5) a tank trailer of not more than 12,000 pounds gross weight owned by a distributor of liquid fertilizer while engaged exclusively in transporting liquid fertilizer, or gaseous fertilizer under pressure;

(6) a trailer of not more than 12,000 pounds gross weight owned by a distributor of dry fertilizer while engaged exclusively in the transportation of dry fertilizer; and

(7) a disabled vehicle while being towed to a place of repair.

(d) Vehicles described in paragraph (c), clauses (1), (3), and (4), may be operated without complying with paragraph (a) only if the trailer or semitrailer does not exceed the following gross weights:

(1) 3,000 pounds while being drawn by a vehicle registered as a passenger automobile, other than a pickup truck as defined in section 168.011, subdivision 29;

(2) 12,000 pounds while being drawn by any other motor vehicle except a self-propelled implement of husbandry.

Subd. 4. **Service brakes on wheels; exceptions.** (a) All motor vehicles, trailers, and semitrailers manufactured after June 30, 1988, must be equipped with foot brakes on all wheels.

(b) Paragraph (a) does not apply to:

(1) a mobile crane that is not operated at a speed of more than 45 miles per hour and is capable of stopping within the performance standards of subdivision 5;

(2) a motorcycle;

(3) a trailer or semitrailer with a gross weight of less than 3,000 pounds;

(4) a swivel-type third wheel on a travel trailer; and

(5) a temporary auxiliary axle attached to a motor vehicle during a period of vehicle weight restrictions for the purpose of relieving the weight on another axle, if the combined gross weight on the temporary axle and the axle being relieved does not exceed 18,000 pounds and the motor vehicle meets all brake requirements under this section.

(c) Paragraph (a) does not require brakes on the front wheels of a vehicle having three or more axles and manufactured before July 1, 1988, if the brakes on the other wheels of the vehicle meet the standards of subdivision 5.

[For text of subd 5, see M.S.1992]

Subd. 6. **Implements of husbandry.** An implement of husbandry that (1) is not self-propelled, (2) has a manufacturer's recommended capacity of more than 24,000 pounds, and (3) is manufactured and sold after January 1, 1994, must be equipped with brakes adequate to control the movement of and to stop and hold the towed vehicle.

History: *1993 c 187 s 10-12*

169.685 SEAT BELTS AND PASSENGER RESTRAINT SYSTEMS FOR CHILDREN.

[For text of subds 1 to 4, see M.S.1992]

Subd. 5. **Violation; penalty.** (a) Every motor vehicle operator, when transporting a child under the age of four on the streets and highways of this state in a motor vehicle equipped with factory-installed seat belts, shall equip and install for use in the motor vehicle, according to the manufacturer's instructions, a child passenger restraint system meeting federal motor vehicle safety standards.

(b) No motor vehicle operator who is operating a motor vehicle on the streets and highways of this state may transport a child under the age of four in a seat of a motor vehicle equipped with a factory-installed seat belt, unless the child is properly fastened in the child passenger restraint system. Any motor vehicle operator who violates this subdivision is guilty of a petty misdemeanor and may be sentenced to pay a fine of not more than $50. The fine may be waived or the amount reduced if the motor vehicle operator produces evidence that within 14 days after the date of the violation a child passenger restraint system meeting federal motor vehicle safety standards was purchased or obtained for the exclusive use of the operator.

[For text of subd 6, see M.S.1992]

History: *1993 c 74 s 1*

169.686 SEAT BELT USE REQUIRED; PENALTY.

Subdivision 1. **Seat belt requirement.** A properly adjusted and fastened seat belt, including both the shoulder and lap belt when the vehicle is so equipped, shall be worn by:

(1) the driver of a passenger vehicle;

(2) a passenger riding in the front seat of a passenger vehicle; and

(3) a passenger riding in any seat of a passenger vehicle who is older than three but younger than 11 years of age.

A person who is 15 years of age or older and who violates clause (1) or (2) is subject to a fine of $25. The driver of the passenger vehicle in which the violation occurred is subject to a $25 fine for a violation of clause (2) or (3) by a child of the driver under the age of 15 or any child under the age of 11. A peace officer may not issue a citation for a violation of this section unless the officer lawfully stopped or detained the driver of the motor vehicle for a moving violation other than a violation involving motor vehicle equipment. The department of public safety shall not record a violation of this subdivision on a person's driving record.

[For text of subds 2 and 3, see M.S.1992]

History: *1993 c 26 s 9*

169.71 WINDSHIELDS.

Subdivision 1. **Prohibitions generally.** No person shall drive or operate any motor vehicle with a windshield cracked or discolored to an extent to limit or obstruct proper vision, or, except for law enforcement vehicles, with any objects suspended between the driver and the windshield, other than sun visors and rear vision mirrors, or with any sign, poster, or other nontransparent material upon the front windshield, sidewings, side or rear windows of such vehicle, other than a certificate or other paper required to be so displayed by law, or authorized by the state director of the division of emergency management, or the commissioner of public safety.

[For text of subds 2 to 4, see M.S.1992]

History: *1993 c 26 s 10*

169.72 SURFACE OF TIRES; TIRES WITH METAL STUDS.

Subdivision 1. **Solid rubber, metal, and studded tires; exceptions; permits.** Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.

No person shall operate or move on any highway any motor vehicle, trailer, or semitrailer, having any metal tire in contact with the roadway, except in case of emergency.

Except as provided in this section, no tire on a vehicle moved on a highway shall have on its periphery any block, stud, flange, cleat, or spike or any other protuberances of any material other than rubber which projects beyond the tread of the traction surface of the tire. It shall be permissible to use any of the following on highways: implements of husbandry with tires having protuberances which will not injure the highway, and tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid.

The commissioner and local authorities in their respective jurisdictions may, in their discretion, issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this chapter.

[For text of subds 3 and 4, see M.S.1992]

History: *1993 c 187 s 13*

169.77 [Repealed, 1993 c 26 s 11]

169.781 ANNUAL INSPECTION OF COMMERCIAL MOTOR VEHICLES.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. **Inspector certification; suspension and revocation; hearing.** (a) An inspection required by this section may be performed only by:

(1) an employee of the department of public safety or transportation who has been certified by the commissioner after having received training provided by the state patrol; or

(2) another person who has been certified by the commissioner after having received training provided by the state patrol or other training approved by the commissioner.

(b) A person who is not an employee of the department of public safety or transportation may be certified by the commissioner if the person is: (1) an owner, or employee of the owner, of one or more commercial motor vehicles that are power units; (2) a dealer licensed under section 168.27 and engaged in the business of buying and selling commercial motor vehicles, or an employee of the dealer; or (3) engaged in the business of repairing and servicing commercial motor vehicles. Certification of persons

described in clauses (1) to (3) is effective for two years from the date of certification. The commissioner may require biennial retraining of persons holding a certificate under this paragraph as a condition of renewal of the certificate. The commissioner may charge a fee of not more than $10 for each certificate issued and renewed. A certified person described in clauses (1) to (3) may charge a fee of not more than $50 for each inspection of a vehicle not owned by the person or the person's employer.

(c) Except as otherwise provided in subdivision 5, the standards adopted by the commissioner for commercial motor vehicle inspections under sections 169.781 to 169.783 shall be the standards prescribed in Code of Federal Regulations, title 49, section 396.17, and in chapter III, subchapter B, appendix G. The commissioner may classify types of vehicles for inspection purposes and may issue separate classes of inspector certificates for each class.

The commissioner shall issue separate categories of inspector certificates based on the following classifications:

(1) a class of certificate that authorizes the certificate holder to inspect commercial motor vehicles without regard to ownership or lease; and

(2) a class of certificate that authorizes the certificate holder to inspect only commercial motor vehicles the certificate holder owns or leases.

The commissioner shall issue a certificate described in clause (1) only to a person described in paragraph (b), clause (2) or (3).

(d) The commissioner, after notice and an opportunity for a hearing, may suspend a certificate issued under paragraph (b) for failure to meet annual certification requirements prescribed by the commissioner or failure to inspect commercial motor vehicles in accordance with inspection procedures established by the state patrol. The commissioner shall revoke a certificate issued under paragraph (b) if the commissioner determines after notice and an opportunity for a hearing that the certified person issued an inspection decal for a commercial motor vehicle when the person knew or reasonably should have known that the vehicle was in such a state of repair that it would have been declared out of service if inspected by an employee of the state patrol. Suspension and revocation of certificates under this subdivision are not subject to sections 14.57 to 14.69.

[For text of subds 4 to 9, see M.S.1992]

History: *1993 c 187 s 14*

169.797 PENALTIES FOR FAILURE TO PROVIDE VEHICLE INSURANCE.

Subdivision 1. **Tort liability.** Every owner of a vehicle for which security has not been provided as required by section 65B.48, shall not by the provisions of chapter 65B be relieved of tort liability arising out of the operation, ownership, maintenance, or use of the vehicle.

[For text of subds 2 to 6, see M.S.1992]

History: *1993 c 13 art 1 s 30*

169.80 SIZE, WEIGHT, LOAD.

Subdivision 1. **Limitations; penalty.** It is a misdemeanor for a person to drive or move, or for the owner to cause or knowingly permit to be driven or moved, on a highway a vehicle or vehicles of a size or weight exceeding the limitations stated in sections 169.80 to 169.88, or otherwise in violation of sections 169.80 to 169.88, other than section 169.81, subdivision 5a, and the maximum size and weight of vehicles as prescribed in sections 169.80 to 169.88 shall be lawful throughout this state, and local authorities shall have no power or authority to alter these limitations except as express authority may be granted in sections 169.80 to 169.88.

When all the axles of a vehicle or combination of vehicles are weighed separately the sum of the weights of the axles so weighed shall be evidence of the total gross weight of the vehicle or combination of vehicles so weighed.

When each of the axles of any group that contains two or more consecutive axles of a vehicle or combination of vehicles have been weighed separately the sum of the weights of the axles so weighed shall be evidence of the total gross weight on the group of axles so weighed.

When, in any group of three or more consecutive axles of a vehicle or combination of vehicles any axles have been weighed separately and two or more axles consecutive to each other in the group have been weighed together, the sum of the weights of the axles weighed separately and the axles weighed together shall be evidence of the total gross weight of the group of axles so weighed.

The provisions of sections 169.80 to 169.88 governing size, weight, and load shall not apply to fire apparatus, or to a vehicle operated under the terms of a special permit issued as provided by law.

Subd. 2. **Outside width.** The total outside width of a vehicle exclusive of rear view mirrors or load securement devices which are not an integral part of the vehicle and not exceeding three inches on each side, or the load may not exceed 102 inches except that the outside width of a vehicle owned by a political subdivision and used exclusively for the purpose of handling sewage sludge from sewage treatment facilities to farm fields or disposal sites, may not exceed 12 feet, and except as otherwise provided in this section.

A vehicle exceeding 102 inches in total outside width, owned by a political subdivision and used for the purpose of transporting or applying sewage sludge to farm fields or disposal sites may not transport sludge for distances greater than 15 miles, nor may it be used for transportation of sewage sludge or return travel between the hours of sunset and sunrise, or at any other time when visibility is impaired by weather, smoke, fog, or other conditions rendering persons and vehicles not clearly discernible on the highway at a distance of 500 feet.

The total outside width of a low bed trailer or equipment dolly, and the load, used exclusively for transporting farm machinery and construction equipment may not exceed nine feet in width except that a low bed trailer or equipment dolly with a total outside width, including the load, in excess of 102 inches may not be operated on any interstate highway without first having obtained a permit for the operation under section 169.86. The vehicle must display 12-inch square red flags as markers at the front and rear of the left side of the vehicle.

The total outside width of a trackless trolley car or passenger motor bus, operated exclusively in a city or contiguous cities in this state, may not exceed nine feet.

[For text of subd 3, see M.S.1992]

History: *1993 c 187 s 15,16*

169.801 IMPLEMENTS OF HUSBANDRY.

Subdivision 1. **Exemption from size, weight, load provisions.** Except as provided in this section and section 169.82, the provisions of sections 169.80 to 169.88 that govern size, weight, and load do not apply to:

(1) a horse-drawn wagon while carrying a load of loose straw or hay;

(2) a specialized vehicle resembling a low-slung trailer having a short bed or platform, while transporting one or more implements of husbandry; or

(3) an implement of husbandry while being driven or towed at a speed of not more than 25 miles per hour; provided that this exemption applies to an implement of husbandry owned, leased, or under the control of a farmer only while the implement of husbandry is being operated on noninterstate roads or highways within 75 miles of any farmland: (i) owned, leased, or operated by the farmer and (ii) on which the farmer regularly uses the implement of husbandry.

Subd. 2. **Weight per inch of tire width.** An implement of husbandry that is not self-propelled and is equipped with pneumatic tires may not be operated on a public highway with a maximum wheel load that exceeds 600 pounds per inch of tire width before August 1, 1996, and 500 pounds per inch of tire width on and after August 1, 1996.

Subd. 3. **Hitches.** A towed implement of husbandry must be equipped with (1) safety chains that meet the requirements of section 169.82, subdivision 3, paragraph (b); (2) a regulation fifth wheel and kingpin assembly approved by the commissioner of public safety; or (3) a hitch pin or other hitching device with a retainer that prevents accidental unhitching.

History: *1993 c 187 s 17*

169.81 HEIGHT AND LENGTH LIMITATIONS.

[For text of subd 1, see M.S.1992]

Subd. 2. **Length of single vehicle.** (a) No single unit motor vehicle, except mobile cranes which may not exceed 48 feet and buses which may not exceed 45 feet, unladen or with load may exceed a length of 40 feet extreme overall dimensions inclusive of front and rear bumpers, except that the governing body of a city is authorized by permit to provide for the maximum length of a motor vehicle, or combination of motor vehicles, or the number of vehicles that may be fastened together, and which may be operated upon the streets or highways of a city; provided, that the permit may not prescribe a length less than that permitted by state law. A motor vehicle operated in compliance with the permit on the streets or highways of the city is not in violation of this chapter.

(b) No single semitrailer may have an overall length, exclusive of non-cargo-carrying accessory equipment, including refrigeration units or air compressors, necessary for safe and efficient operation mounted or located on the end of the semitrailer adjacent to the truck or truck-tractor, in excess of 48 feet, except that a single semitrailer may have an overall length in excess of 48 feet but not greater than 53 feet if the distance from the kingpin to the centerline of the rear axle group of the semitrailer does not exceed 41 feet. No single trailer may have an overall length inclusive of tow bar assembly and exclusive of rear protective bumpers which do not increase the overall length by more than six inches, in excess of 45 feet. For determining compliance with the provisions of this subdivision, the length of the semitrailer or trailer must be determined separately from the overall length of the combination of vehicles.

(c) No semitrailer or trailer used in a three-vehicle combination may have an overall length in excess of 28-1/2 feet, exclusive of:

(1) non-cargo-carrying accessory equipment, including refrigeration units or air compressors and upper coupler plates, necessary for safe and efficient operation, mounted or located on the end of the semitrailer or trailer adjacent to the truck or truck-tractor;

(2) the tow bar assembly; and

(3) lower coupler equipment that is a fixed part of the rear end of the first trailer.

The commissioner may not grant a permit authorizing the movement, in a three-vehicle combination, of a semitrailer or trailer that exceeds 28-1/2 feet, except that the commissioner may renew a permit that was granted before April 16, 1984, for the movement of a semitrailer or trailer that exceeds the length limitation in this paragraph, or may grant a permit authorizing the transportation of empty trailers that exceed 28-1/2 feet, when using a B-train hitching mechanism as defined in Code of Federal Regulations, title 23, section 658.5, paragraph (o), from a point of manufacture in the state to the state border.

[For text of subd 3, see M.S.1992]

Subd. 3c. **Recreational vehicle combinations.** Notwithstanding subdivision 3, a recreational vehicle combination may be operated without a permit if:

(1) the combination does not consist of more than three vehicles, and the towing rating of the pickup truck is equal to or greater than the total weight of all vehicles being towed;

(2) the combination does not exceed 60 feet in length;

(3) the camper-semitrailer in the combination does not exceed 26 feet in length;

(4) the operator of the combination is at least 18 years of age;

(5) the trailer carrying a watercraft meets all requirements of law;

(6) the trailers in the combination are connected to the pickup truck and each other in conformity with section 169.82; and

(7) the combination is not operated within the seven-county metropolitan area, as defined in section 473.121, subdivision 2, during the hours of 6:00 a.m. to 9:00 a.m. and 4:00 p.m. to 7:00 p.m. on Mondays through Fridays.

[For text of subds 4 to 10, see M.S.1992]

History: *1993 c 111 s 2; 1993 c 117 s 6; 1993 c 182 s 1*

NOTE: The repeal of subdivision 3c, as added by Laws 1993, chapter 111, section 2, is effective November 1, 1995. See Laws 1993, chapter 111, section 3.

169.82 TRAILER EQUIPMENT.

Subdivision 1. **Connection to towing vehicle.** (a) When one vehicle is towing another the drawbar or other connection must be of sufficient strength to pull the weight being towed.

(b) The drawbar or other connection may not exceed 15 feet from one vehicle to the other. This paragraph does not apply to the connection between any two vehicles transporting poles, pipe, machinery or other objects of structural nature which cannot readily be dismembered.

Subd. 2. **Marking.** When one vehicle is towing another and the connection consists of a chain, rope, or cable, the connection must display a white, red, yellow, or orange flag or cloth not less than 12 inches square.

Subd. 3. **Hitches; chains.** (a) Every trailer or semitrailer must be hitched to the towing motor vehicle by a device approved by the commissioner of public safety.

(b) Every trailer and semitrailer must be equipped with safety chains permanently attached to the trailer except in cases where the coupling device is a regulation fifth wheel and kingpin assembly approved by the commissioner of public safety. In towing, the chains must be carried through a ring on the towbar and attached to the towing vehicle, and must be of sufficient strength to control the trailer in the event of failure of the towing device.

(c) This subdivision does not apply to towed implements of husbandry.

No person may be charged with a violation of this section solely by reason of violating a maximum speed prescribed in section 169.145 or 169.67.

History: *1993 c 187 s 18*

169.86 SPECIAL PERMITS.

[For text of subds 1 to 4, see M.S.1992]

Subd. 5. **Fees.** The commissioner, with respect to highways under the commissioner's jurisdiction, may charge a fee for each permit issued. All such fees for permits issued by the commissioner of transportation shall be deposited in the state treasury and credited to the trunk highway fund. Except for those annual permits for which the permit fees are specified elsewhere in this chapter, the fees shall be:

(a) $15 for each single trip permit.

(b) $36 for each job permit. A job permit may be issued for like loads carried on a specific route for a period not to exceed two months. "Like loads" means loads of the same product, weight, and dimension.

(c) $60 for an annual permit to be issued for a period not to exceed 12 consecutive months. Annual permits may be issued for:

(1) motor vehicles used to alleviate a temporary crisis adversely affecting the safety or well-being of the public;

(2) motor vehicles which travel on interstate highways and carry loads authorized under subdivision 1a;

(3) motor vehicles operating with gross weights authorized under section 169.825, subdivision 11, paragraph (a), clause (3); and

(4) special pulpwood vehicles described in section 169.863.

(d) $120 for an oversize annual permit to be issued for a period not to exceed 12 consecutive months. Annual permits may be issued for:

(1) mobile cranes;

(2) construction equipment, machinery, and supplies;

(3) manufactured homes;

(4) implements of husbandry when the movement is not made according to the provisions of paragraph (i);

(5) double-deck buses;

(6) commercial boat hauling.

(e) For vehicles which have axle weights exceeding the weight limitations of section 169.825, an additional cost added to the fees listed above. The additional cost is equal to the product of the distance traveled times the sum of the overweight axle group cost factors shown in the following chart:

Overweight Axle Group Cost Factors

Weight (pounds) exceeding weight limitations on axles	Cost Per Mile For Each Group Of: Two consecutive axles spaced within 8 feet or less	Three consecutive axles spaced within 9 feet or less	Four consecutive axles spaced within 14 feet or less
0- 2,000	.12	.05	.04
2,001- 4,000	.14	.06	.05
4,001- 6,000	.18	.07	.06
6,001- 8,000	.21	.09	.07
8,001-10,000	.26	.10	.08
10,001-12,000	.30	.12	.09
12,001-14,000	Not permitted	.14	.11
14,001-16,000	Not permitted	.17	.12
16,001-18,000	Not permitted	.19	.15
18,001-20,000	Not permitted	Not permitted	.16
20,001-22,000	Not permitted	Not permitted	.20

The amounts added are rounded to the nearest cent for each axle or axle group. The additional cost does not apply to paragraph (c), clauses (1) and (3).

For a vehicle found to exceed the appropriate maximum permitted weight, a cost-per-mile fee of 22 cents per ton, or fraction of a ton, over the permitted maximum weight is imposed in addition to the normal permit fee. Miles must be calculated based on the distance already traveled in the state plus the distance from the point of detection to a transportation loading site or unloading site within the state or to the point of exit from the state.

(f) As an alternative to paragraph (e), an annual permit may be issued for overweight, or oversize and overweight, construction equipment, machinery, and supplies. The fees for the permit are as follows:

Gross Weight (pounds) of Vehicle	Annual Permit Fee
90,000 or less	$200
90,001 - 100,000	$300
100,001 - 110,000	$400
110,001 - 120,000	$500

120,001 - 130,000	$600
130,001 - 140,000	$700
140,001 - 145,000	$800

If the gross weight of the vehicle is more than 145,000 pounds the permit fee is determined under paragraph (e).

(g) For vehicles which exceed the width limitations set forth in section 169.80 by more than 72 inches, an additional cost equal to $120 added to the amount in paragraph (a) when the permit is issued while seasonal load restrictions pursuant to section 169.87 are in effect.

(h) $85 for an annual permit to be issued for a period not to exceed 12 months, for refuse compactor vehicles that carry a gross weight of not more than: 22,000 pounds on a single rear axle; 38,000 pounds on a tandem rear axle; or, subject to section 169.825, subdivision 14, 46,000 pounds on a tridem rear axle. A permit issued for up to 46,000 pounds on a tridem rear axle must limit the gross vehicle weight to not more than 62,000 pounds.

(i) For vehicles exclusively transporting implements of husbandry, an annual permit fee of $24. A vehicle operated under a permit authorized by this paragraph may be moved at the discretion of the permit holder without prior route approval by the commissioner if:

(1) the total width of the transporting vehicle, including load, does not exceed 14 feet;

(2) the vehicle is operated only between sunrise and 30 minutes after sunset, and is not operated at any time after 12:00 noon on Sundays or holidays;

(3) the vehicle is not operated when visibility is impaired by weather, fog, or other conditions that render persons and other vehicles not clearly visible at 500 feet;

(4) the vehicle displays at the front and rear of the load or vehicle a pair of flashing amber lights, as provided in section 169.59, subdivision 4, whenever the overall width of the vehicle exceeds 126 inches; and

(5) the vehicle is not operated on a trunk highway with a surfaced roadway width of less than 24 feet unless such operation is authorized by the permit.

A permit under this paragraph authorizes movements of the permitted vehicle on an interstate highway, and movements of 75 miles or more on other highways.

[For text of subds 6 and 7, see M.S.1992]

History: *1993 c 182 s 2; 1993 c 187 s 19*

169.98 POLICE, PATROL, OR SECURITY GUARD VEHICLES.

[For text of subd 1, see M.S.1992]

Subd. 1a. **Vehicle stops.** Only a person who is licensed as a peace officer, constable, or part-time peace officer under sections 626.84 to section 626.863 may use a motor vehicle governed by subdivision 1 to stop a vehicle as defined in section 169.01, subdivision 2. In addition, a hazardous materials specialist employed by the department of transportation may, in the course of responding to an emergency, use a motor vehicle governed by subdivision 1 to stop a vehicle as defined in section 169.01, subdivision 2.

[For text of subds 1b to 5, see M.S.1992]

History: *1993 c 326 art 7 s 3*

CHAPTER 171

DRIVERS' LICENSES AND TRAINING SCHOOLS

171.01 DEFINITIONS.

[For text of subds 1 to 23, see M.S.1992]

Subd. 24. [Repealed, 1993 c 142 s 4]

[For text of subds 25 and 26, see M.S.1992]

NOTE: Subdivision 24 was also amended by Laws 1993, chapter 78, section 3, to read as follows:

"Subd. 24. **Special transportation service.** (a) "Special transportation service" means motor vehicle transportation provided on a regular basis by a public or private entity or person that is designed primarily to serve individuals who are elderly, handicapped, or disabled and who are unable to use regular means of transportation but do not require ambulance service, as defined in section 144.801, subdivision 4.

(b) Special transportation service includes but is not limited to service provided by specially equipped buses, vans, and taxis.

(c) Special transportation service does not include:

(1) transportation provided by a volunteer driver using a private passenger vehicle that belongs to the volunteer; and

(2) services exempted in section 174.30, subdivision 1, clause (c)."

171.02 LICENSES: TYPES, ENDORSEMENTS, RESTRICTIONS.

Subdivision 1. **License required.** No person, except those hereinafter expressly exempted, shall drive any motor vehicle upon any street or highway in this state unless such person has a license valid under the provisions of this chapter for the type or class of vehicle being driven. No person shall receive a driver's license unless and until the person's license from any jurisdiction has been invalidated by the department. The department shall provide to the issuing department of any jurisdiction, information that the licensee is now licensed in Minnesota. No person shall be permitted to have more than one valid driver's license at any time. No person to whom a current Minnesota identification card has been issued may receive a driver's license, other than an instruction permit or a limited license, unless the person's Minnesota identification card has been invalidated by the department.

Subd. 2. **Driver's license classifications, endorsements, exemptions.** Drivers' licenses shall be classified according to the types of vehicles which may be driven by the holder of each type or class of license. The commissioner may, as appropriate, subdivide the classes listed in this subdivision and issue licenses classified accordingly. No class of license shall be valid to operate a motorcycle, school bus, tank vehicle, double-trailer or triple-trailer combination, vehicle transporting hazardous materials, or bus, unless so endorsed.

There shall be four general classes of licenses as follows:

(a) Class C; valid for:

(1) all farm trucks operated by (i) the owner, (ii) an immediate family member of the owner, (iii) an employee of the owner not primarily employed to operate the farm truck, within 150 miles of the farm, or (iv) an employee of the owner employed during harvest to operate the farm truck for the first, continuous transportation of agricultural products from the production site or on-farm storage site to any other location within 50 miles of that site;

(2) fire trucks and emergency fire equipment, whether or not in excess of 26,000 pounds gross vehicle weight, operated by a firefighter while on duty, or a tiller operator employed by a fire department who drives the rear portion of a midmount aerial ladder truck;

(3) recreational equipment as defined in section 168.011, subdivision 25, that is operated for personal use; and

(4) all single unit vehicles except vehicles with a gross vehicle weight of more than 26,000 pounds, vehicles designed to carry more than 15 passengers including the driver, and vehicles that carry hazardous materials.

The holder of a class C license may also tow vehicles if the combination of vehicles has a gross vehicle weight of 26,000 pounds or less.

(b) Class CC; valid for:

(1) operating class C vehicles;

(2) with a hazardous materials endorsement, transporting hazardous materials in class C vehicles; and

(3) with a school bus endorsement, operating school buses designed to transport 15 or fewer passengers, including the driver.

(c) Class B; valid for all vehicles in class C, class CC, and all other single unit vehicles including, with a passenger endorsement, buses. The holder of a class B license may tow only vehicles with a gross vehicle weight of 10,000 pounds or less.

(d) Class A; valid for any vehicle or combination thereof.

[For text of subds 2a to 4, see M.S.1992]

History: *1993 c 78 s 4; 1993 c 142 s 1; 1993 c 266 s 20*

171.03 PERSONS EXEMPT.

The following persons are exempt from license hereunder:

(1) a person in the employ or service of the United States federal government while driving or operating a motor vehicle owned by or leased to the United States federal government, except that only a noncivilian operator of a commercial motor vehicle owned or leased by the United States Department of Defense or the Minnesota national guard is exempt from the requirement to possess a valid commercial motor vehicle driver's license;

(2) any person while driving or operating any farm tractor, or implement of husbandry temporarily operated or moved on a highway, and for purposes of this section an all-terrain vehicle, as defined in section 84.92, subdivision 8, an off-highway motorcycle, as defined in section 84.787, subdivision 7, and an off-road vehicle, as defined in section 84.797, subdivision 7, are not implements of husbandry;

(3) a nonresident who is at least 15 years of age and who has in immediate possession a valid driver's license issued to the nonresident in the home state or country may operate a motor vehicle in this state only as a driver;

(4) a nonresident who has in immediate possession a valid commercial driver's license issued by a state in compliance with the Commercial Motor Vehicle Safety Act of 1986, United States Code, title 49, sections 521, 2304, and 2701 to 2716, and who is operating in Minnesota the class of commercial motor vehicle authorized by the issuing state;

(5) any nonresident who is at least 18 years of age, whose home state or country does not require the licensing of drivers may operate a motor vehicle as a driver, only

for a period of not more than 90 days in any calendar year if the motor vehicle so operated is duly registered for the current calendar year in the home state or country of such nonresident;

(6) any person who becomes a resident of the state of Minnesota and who has in possession a valid driver's license issued to the person under and pursuant to the laws of some other state or province or by military authorities of the United States may operate a motor vehicle as a driver, only for a period of not more than 60 days after becoming a resident of this state without being required to have a Minnesota driver's license as provided in this chapter;

(7) any person who becomes a resident of the state of Minnesota and who has in possession a valid commercial driver's license issued by another state in compliance with the Commercial Motor Vehicle Safety Act of 1986, United States Code, title 49, sections 521, 2304, and 2701 to 2716, for not more than 30 days after becoming a resident of this state; and

(8) any person operating a snowmobile, as defined in section 84.81.

History: *1993 c 311 art 1 s 14; art 2 s 14*

171.06 APPLICATIONS FOR LICENSES, PERMITS; FEES.

[For text of subd 1, see M.S.1992]

Subd. 2. **Fees.** (a) The fees for a license and Minnesota identification card are as follows:

Classified Driver License	C-$18.50	CC-$22.50	B-$29.50	A-$37.50
Classified Under 21 D.L.	C-$18.50	CC-$22.50	B-$29.50	A-$17.50
Instruction Permit				$ 9.50
Duplicate Driver or Under 21 License				$ 8.00
Minnesota identification card, except as otherwise provided in section 171.07, subdivisions 3 and 3a				$12.50

Subd. 2a. **Fee increased.** The fee for any duplicate drivers license which is obtained for the purpose of adding a two-wheeled vehicle endorsement is increased by $16 for each first such duplicate license and $13 for each renewal thereof. The additional fee shall be paid into the state treasury and credited as follows:

(1) $8.50 of the additional fee for each first duplicate license, and $7 of the additional fee for each renewal, must be credited to the motorcycle safety fund which is hereby created; provided that any fee receipts in excess of $750,000 in a fiscal year shall be credited 90 percent to the trunk highway fund and ten percent to the general fund, as provided in section 171.26.

(2) The remainder of the additional fee must be credited to the general fund.

All application forms prepared by the commissioner for two-wheeled vehicle endorsements shall clearly contain the information that of the total fee charged for the endorsement, $7 is dedicated to the motorcycle safety fund.

[For text of subds 3 and 3a, see M.S.1992]

Subd. 4. **Application, filing; fee retained for expenses.** Any applicant for an instruction permit, a driver's license, restricted license, or duplicate license may file an application with a court administrator of the district court or at a state office. The administrator or state office shall receive and accept the application. To cover all expenses involved in receiving, accepting, or forwarding to the department applications and fees, the court administrator of the district court may retain a county fee of $3.50 for each application for a Minnesota identification card, instruction permit, duplicate license, driver license, or restricted license. The amount allowed to be retained by the court administrator of the district court shall be paid into the county treasury and credited to the general revenue fund of the county. Before the end of the first working day

following the final day of an established reporting period, the court administrator shall forward to the department all applications and fees collected during the reporting period, less the amount herein allowed to be retained for expenses. The court administrators of the district courts may appoint agents to assist in accepting applications, but the administrators shall require every agent to forward to the administrators by whom the agent is appointed all applications accepted and fees collected by the agent, except that an agent may retain the county fee to cover the agent's expenses involved in receiving, accepting or forwarding the applications and fees. The court administrators shall be responsible for the acts of agents appointed by them and for the forwarding to the department of all applications accepted and those fees collected by agents and by themselves as are required to be forwarded to the department.

History: *1993 c 166 s 1; 1993 c 266 s 21,22*

171.07 INFORMATION ON LICENSES AND IDENTIFICATION CARDS.

[For text of subds 1 to 8, see M.S.1992]

Subd. 9. **Improved security.** The commissioner shall develop new drivers' licenses and identification cards, to be issued beginning January 1, 1994, that must be as impervious to alteration as is reasonably practicable in their design and quality of material and technology. The driver's license security laminate shall be made from materials not readily available to the general public. The design and technology employed must enable the driver's license and identification card to be subject to two or more methods of visual verification capable of clearly indicating the presence of tampering or counterfeiting. The driver's license and identification card must not be susceptible to reproduction by photocopying or simulation and must be highly resistant to data or photograph substitution and other tampering.

History: *1993 c 266 s 23*

171.10 DUPLICATE LICENSES; VEHICLE ENDORSEMENT.

[For text of subd 1, see M.S.1992]

Subd. 2. **Endorsements added.** Any person, after applying for or receiving a driver's license and prior to the expiration year of the license, who wishes to have a motorcycle, school bus, tank vehicle, passenger, double-trailer or triple-trailer, or hazardous materials vehicle endorsement added to the license, shall, after taking the necessary examination, apply for a duplicate license and make payment of the proper fee.

History: *1993 c 142 s 2*

171.11 DUPLICATE LICENSE; CHANGE OF DOMICILE OR NAME.

When any person, after applying for or receiving a driver's license, shall change permanent domicile from the address named in such application or in the license issued to the person, or shall change a name by marriage or otherwise, such person shall, within 30 days thereafter, apply for a duplicate driver's license upon a form furnished by the department and pay the required fee. The application or duplicate license shall show both the licensee's old address and new address or the former name and new name as the case may be.

History: *1993 c 266 s 24*

171.12 DRIVING RECORDS; FILING; PRIVATE DATA; SURCHARGE.

[For text of subds 1 to 7, see M.S.1992]

Subd. 8. **Requests for information; surcharge on fee.** The commissioner shall impose a surcharge of 50 cents on each fee charged by the commissioner under section 13.03, subdivision 3, for copies or electronic transmittal of public information concerning driver's license and Minnesota identification card applicants. This surcharge only

applies to a fee imposed in responding to a request made in person or by mail, or to a request for transmittal through a computer modem. The surcharge does not apply to the request of an individual for information concerning that individual's driver's license or Minnesota identification card. The commissioner shall forward the surcharges collected under this subdivision to the commissioner of finance on a monthly basis. Upon receipt, the commissioner of finance shall credit the surcharges to the general fund.

History: *1993 c 266 s 25; 1993 c 326 art 11 s 3,4*

171.13 EXAMINATION.

Subdivision 1. **Applicants.** Except as otherwise provided in this section, the commissioner shall examine each applicant for a driver's license by such agency as the commissioner directs. This examination must include a test of applicant's eyesight; ability to read and understand highway signs regulating, warning, and directing traffic; knowledge of traffic laws; knowledge of the effects of alcohol and drugs on a driver's ability to operate a motor vehicle safely and legally; knowledge of railroad grade crossing safety; knowledge of slow-moving vehicle safety; an actual demonstration of ability to exercise ordinary and reasonable control in the operation of a motor vehicle; and other physical and mental examinations as the commissioner finds necessary to determine the applicant's fitness to operate a motor vehicle safely upon the highways, provided, further however, no driver's license shall be denied an applicant on the exclusive grounds that the applicant's eyesight is deficient in color perception. Provided, however, that war veterans operating motor vehicles especially equipped for handicapped persons, shall, if otherwise entitled to a license, be granted such license. The commissioner shall make provision for giving these examinations either in the county where the applicant resides or at a place adjacent thereto reasonably convenient to the applicant.

[For text of subd 1a, see M.S.1992]

Subd. 1b. **Driver's manual; alcohol consumption.** The commissioner shall include in each edition of the driver's manual published by the department a chapter relating to the effect of alcohol consumption on highway safety and on the ability of drivers to safely operate motor vehicles and a summary of the laws of Minnesota on operating a motor vehicle while under the influence of alcohol or a controlled substance. This chapter shall also include information on the dangers of driving at alcohol concentration levels below the legal limit for alcohol concentration, and specifically state that:

(1) there is no "safe" level or amount of alcohol that an individual can assume will not impair one's driving performance or increase the risk of a crash;

(2) a driver may be convicted of driving while impaired whether or not the driver's alcohol concentration exceeds the legal limit for alcohol concentration; and

(3) a person under the legal drinking age may be convicted of illegally consuming alcohol if found to have consumed any amount of alcohol.

[For text of subds 1c and 1d, see M.S.1992]

Subd. 1e. **Slow-moving vehicles.** The commissioner shall include in each examination under subdivision 1 an examination of the applicant's knowledge of highway safety with respect to approaching, following, and passing slow-moving vehicles and the significance of the slow-moving vehicle emblem.

[For text of subds 2 to 4, see M.S.1992]

Subd. 5. **Examination fee for vehicle endorsement.** Any person applying to secure a motorcycle, school bus, tank vehicle, passenger, double-trailer or triple-trailer, or hazardous materials vehicle endorsement on the person's driver's license shall pay a $2.50 examination fee at the place of application.

History: *1993 c 142 s 3; 1993 c 187 s 20,21; 1993 c 347 s 13*

171.17 REVOCATION.

Subdivision 1. **Offenses.** (a) The department shall immediately revoke the license of a driver upon receiving a record of the driver's conviction of:

(1) manslaughter resulting from the operation of a motor vehicle or criminal vehicular homicide or injury under section 609.21;

(2) a violation of section 169.121 or 609.487;

(3) a felony in the commission of which a motor vehicle was used;

(4) failure to stop and disclose identity and render aid, as required under section 169.09, in the event of a motor vehicle accident, resulting in the death or personal injury of another;

(5) perjury or the making of a false affidavit or statement to the department under any law relating to the ownership or operation of a motor vehicle;

(6) except as this section otherwise provides, three charges of violating within a period of 12 months any of the provisions of chapter 169 or of the rules or municipal ordinances enacted in conformance with chapter 169, for which the accused may be punished upon conviction by imprisonment;

(7) two or more violations, within five years, of the misdemeanor offense described in section 169.444, subdivision 2, paragraph (a);

(8) the gross misdemeanor offense described in section 169.444, subdivision 2, paragraph (b); or

(9) an offense in another state that, if committed in this state, would be grounds for revoking the driver's license.

(b) The department shall immediately revoke the school bus endorsement of a driver upon receiving a record of the driver's conviction of the misdemeanor offense described in section 169.443, subdivision 7.

[For text of subds 2 and 3, see M.S.1992]

History: *1993 c 78 s 5*

171.172 REVOCATION; CONTROLLED SUBSTANCE OFFENSES.

The commissioner of public safety shall revoke the driver's license of any person convicted of or any juvenile adjudicated for a controlled substance offense if the court has notified the commissioner of a determination made under section 152.0271 or 260.185, subdivision 1. The period of revocation shall be for the applicable time period specified in section 152.0271. If the person does not have a driver's license or if the person's driver's license is suspended or revoked at the time of the conviction or adjudication, the commissioner shall, upon the person's application for driver's license issuance or reinstatement, delay the issuance or reinstatement of the person's driver's license for the applicable time period specified in section 152.0271.

History: *1993 c 347 s 14*

171.173 SUSPENSION; UNDERAGE DRINKING OFFENSES.

The commissioner of public safety shall suspend the driver's license of any person convicted of or any juvenile adjudicated for an offense under section 340A.503, subdivision 1, paragraph (a), clause (2), if the court has notified the commissioner of a determination made under section 340A.503, subdivision 1, paragraph (c). The period of suspension shall be for the applicable period specified in that paragraph. If the person does not have a driver's license or if the person's driver's license is suspended or revoked at the time of the conviction or adjudication, the commissioner shall, upon the person's application for driver's license issuance or reinstatement, delay the issuance or reinstatement of the person's driver's license for the applicable time period specified in section 340A.503, subdivision 1, paragraph (c). Upon receipt of the court's order, the commissioner is authorized to take the licensing action without a hearing.

History: *1993 c 347 s 15*

171.20 LICENSES MUST BE SURRENDERED.

Subdivision 1. [Repealed, 1993 c 266 s 34]

[For text of subds 2 to 4, see M.S.1992]

171.22 UNLAWFUL ACTS.

Subdivision 1. **Violations.** With regard to any driver's license, including a commercial driver's license, it shall be unlawful for any person:

(1) to display, cause or permit to be displayed, or have in possession, any:

(i) canceled, revoked, or suspended driver's license;

(ii) driver's license for which the person has been disqualified; or

(iii) fictitious or fraudulently altered driver's license or Minnesota identification card;

(2) to lend the person's driver's license or Minnesota identification card to any other person or knowingly permit the use thereof by another;

(3) to display or represent as one's own any driver's license or Minnesota identification card not issued to that person;

(4) to use a fictitious name or date of birth to any police officer or in any application for a driver's license or Minnesota identification card, or to knowingly make a false statement, or to knowingly conceal a material fact, or otherwise commit a fraud in any such application;

(5) to alter any driver's license or Minnesota identification card;

(6) to take any part of the driver's license examination for another or to permit another to take the examination for that person;

(7) to make a counterfeit driver's license or Minnesota identification card; or

(8) to use the name and date of birth of another person to any police officer for the purpose of falsely identifying oneself to the police officer.

[For text of subd 2, see M.S.1992]

History: *1993 c 266 s 26*

171.24 VIOLATIONS; DRIVING WITHOUT VALID LICENSE.

(a) Except as otherwise provided in paragraph (c), any person whose driver's license or driving privilege has been canceled, suspended, or revoked and who has been given notice of, or reasonably should know of the revocation, suspension, or cancellation, and who disobeys such order by operating anywhere in this state any motor vehicle, the operation of which requires a driver's license, while such license or privilege is canceled, suspended, or revoked is guilty of a misdemeanor.

(b) Any person who has been disqualified from holding a commercial driver's license or been denied the privilege to operate a commercial motor vehicle, who has been given notice of or reasonably should know of the disqualification, and who disobeys the order by operating in this state a commercial motor vehicle while the person is disqualified to hold the license or privilege, is guilty of a misdemeanor.

(c) A person is guilty of a gross misdemeanor if:

(1) the person's driver's license or driving privileges has been canceled under section 171.04, subdivision 1, clause (8), and the person has been given notice of or reasonably should know of the cancellation; and

(2) the person disobeys the order by operating in this state any motor vehicle, the operation of which requires a driver's license, while the person's license or privilege is canceled.

Notice of revocation, suspension, cancellation, or disqualification is sufficient if personally served, or if mailed by first class mail to the person's last known address or to the address listed on the person's driver's license. Notice is also sufficient if the person was informed that revocation, suspension, cancellation, or disqualification would

be imposed upon a condition occurring or failing to occur, and where the condition has in fact occurred or failed to occur. It is not a defense that a person failed to file a change of address with the post office, or failed to notify the department of public safety of a change of name or address as required under section 171.11.

History: *1993 c 347 s 16*

171.26 MONEY CREDITED TO FUNDS.

All money received under this chapter must be paid into the state treasury and credited to the trunk highway fund, except as provided in sections 171.06, subdivision 2a; 171.12, subdivision 8; and 171.29, subdivision 2, paragraph (b).

History: *1993 c 266 s 27*

171.29 REVOKED LICENSE; EXAMINATION FOR NEW LICENSE.

[For text of subd 1, see M.S.1992]

Subd. 2. **Fees, allocation.** (a) A person whose drivers license has been revoked as provided in subdivision 1, except under section 169.121 or 169.123, shall pay a $30 fee before the person's drivers license is reinstated.

(b) A person whose drivers license has been revoked as provided in subdivision 1 under section 169.121 or 169.123 shall pay a $250 fee before the person's drivers license is reinstated to be credited as follows:

(1) 20 percent shall be credited to the trunk highway fund;

(2) 55 percent shall be credited to the general fund;

(3) eight percent shall be credited to a separate account to be known as the bureau of criminal apprehension account. Money in this account may be appropriated to the commissioner of public safety and shall be divided as follows: eight percent for laboratory costs; two percent for carrying out the provisions of section 299C.065;

(4) 12 percent shall be credited to a separate account to be known as the alcohol-impaired driver education account. Money in the account may be appropriated to the commissioner of education for programs in elementary and secondary schools; and

(5) five percent shall be credited to a separate account to be known as the traumatic brain injury and spinal cord injury account. $100,000 is annually appropriated from the account to the commissioner of human services for traumatic brain injury case management services. The remaining money in the account is annually appropriated to the commissioner of health to establish and maintain the traumatic brain injury and spinal cord injury registry created in section 144.662 and to reimburse the commissioner of jobs and training for the reasonable cost of services provided under section 268A.03, clause (o).

[For text of subd 3, see M.S.1992]

History: *1993 c 224 art 11 s 6*

171.30 LIMITED LICENSE.

Subdivision 1. **Conditions of issuance.** In any case where a person's license has been suspended under section 171.18 or 171.173, or revoked under section 169.121, 169.123, 169.792, 169.797, 171.17, or 171.172, the commissioner may issue a limited license to the driver including under the following conditions:

(1) if the driver's livelihood or attendance at a chemical dependency treatment or counseling program depends upon the use of the driver's license;

(2) if the use of a driver's license by a homemaker is necessary to prevent the substantial disruption of the education, medical, or nutritional needs of the family of the homemaker; or

(3) if attendance at a post-secondary institution of education by an enrolled student of that institution depends upon the use of the driver's license.

The commissioner in issuing a limited license may impose such conditions and limitations as in the commissioner's judgment are necessary to the interests of the public safety and welfare including reexamination as to the driver's qualifications. The license may be limited to the operation of particular vehicles, to particular classes and times of operation and to particular conditions of traffic. The commissioner may require that an applicant for a limited license affirmatively demonstrate that use of public transportation or carpooling as an alternative to a limited license would be a significant hardship.

For purposes of this subdivision, "homemaker" refers to the person primarily performing the domestic tasks in a household of residents consisting of at least the person and the person's dependent child or other dependents.

The limited license issued by the commissioner shall clearly indicate the limitations imposed and the driver operating under the limited license shall have the license in possession at all times when operating as a driver.

In determining whether to issue a limited license, the commissioner shall consider the number and the seriousness of prior convictions and the entire driving record of the driver and shall consider the number of miles driven by the driver annually.

If the person's driver's license or permit to drive has been revoked under section 169.792 or 169.797, the commissioner may only issue a limited license to the person after the person has presented an insurance identification card, policy, or written statement indicating that the driver or owner has insurance coverage satisfactory to the commissioner of public safety. The commissioner of public safety may require the insurance identification card provided to satisfy this subdivision be certified by the insurance company to be noncancelable for a period not to exceed 12 months.

[For text of subd 2, see M.S.1992]

Subd. 2a. **Other waiting periods.** Notwithstanding subdivision 2, a limited license shall not be issued for a period of:

(1) 15 days, to a person whose license or privilege has been revoked or suspended for a violation of section 169.121 or 169.123;

(2) 90 days, to a person who submitted to testing under section 169.123 if the person's license or privilege has been revoked or suspended for a second or subsequent violation of section 169.121 or 169.123;

(3) 180 days, to a person who refused testing under section 169.123 if the person's license or privilege has been revoked or suspended for a second or subsequent violation of section 169.121 or 169.123; or

(4) one year, to a person whose license or privilege has been revoked or suspended for commission of the offense of manslaughter resulting from the operation of a motor vehicle or criminal vehicular homicide or injury under section 609.21.

[For text of subds 3 and 4, see M.S.1992]

History: *1993 c 347 s 17,18*

171.305 IGNITION INTERLOCK DEVICE; PILOT PROGRAM; LICENSE CONDITION.

[For text of subd 1, see M.S.1992]

Subd. 2. **Pilot program.** The commissioner shall establish a statewide pilot program for the use of an ignition interlock device by a person whose driver's license or driving privilege has been canceled and denied by the commissioner for an alcohol or controlled substance related incident. The commissioner shall conduct the program until December 31, 1995. The commissioner shall evaluate the program and shall report to the legislature by February 1, 1995, on whether changes in the program are necessary and whether the program should be permanent. No limited license shall be issued under this program after August 1, 1995.

[For text of subds 3 to 10, see M.S.1992]

History: *1993 c 347 s 19*

171.321 QUALIFICATIONS OF SCHOOL BUS DRIVERS.

[For text of subd 1, see M.S.1992]

Subd. 2. **Rules; qualifications and training.** (a) The commissioner of public safety shall prescribe rules governing the qualifications of individuals to drive school buses. The rules must provide that an applicant for a school bus endorsement or renewal is exempt from the physical qualifications and medical examination required to operate a school bus upon providing evidence of being medically examined and certified within the preceding 24 months as physically qualified to operate a commercial motor vehicle, pursuant to Code of Federal Regulations, title 49, part 391, subpart E, or rules of the commissioner of transportation incorporating those federal regulations.

(b) The commissioner of public safety, in conjunction with the commissioner of education, shall adopt a training program for school bus drivers. Adoption of the program is not subject to chapter 14. The program must provide for initial classroom and behind-the-wheel training, and annual in-service training. The program must provide training in defensive driving, human relations, emergency and accident procedures, vehicle maintenance, traffic laws, and use of safety equipment. The program must provide that the training will be conducted by the contract operator for a school district, the school district, the commissioner of education, a licensed driver training school, or by another person or entity approved by both commissioners.

[For text of subd 3, see M.S.1992]

History: *1993 c 57 s 1*

171.323 [Repealed, 1993 c 142 s 4]

CHAPTER 173

ADVERTISING DEVICES

173.17 REMOVAL OF DEVICES; COMPENSATION.

It is hereby declared that where in order to carry out the provisions of this chapter it is necessary that property rights be acquired, such acquisition is for a public purpose and is necessary for a highway purpose. The commissioner of transportation is authorized to acquire by purchase, gift or condemnation all advertising devices and all property rights pertaining thereto which are prohibited under the provisions of this chapter, and any rules promulgated pursuant thereto, provided that such advertising devices were in lawful existence on June 8, 1971. In any such acquisition, purchase or condemnation, just compensation shall be paid for:

(1) The taking from the owner of such sign, display or device of all right, title, leasehold and interest in such sign, display or device; and

(2) The taking from the owner of the real property on which such advertising device is located immediately prior to its removal or relocation, the right to erect and maintain thereon advertising devices, and full compensation therefor, including severance damage and damage to the remainder of the outdoor advertising plant regardless of whether it is located on property contiguous to or a part of that on which such sign is located, shall be included in the amounts paid to the respective owners. Provided, however, that no compensation shall be paid for severance damage and damage to the remainder of the outdoor advertising plant unless federal laws, or rules and regulations promulgated by the United States Department of Transportation provide for federal participation in the cost of such severance damage and damage to the remainder of the outdoor advertising plant.

(3) Compensation required herein shall be paid to the person or persons entitled thereto. Notwithstanding any other provisions of Laws 1971, chapter 883, no advertising device shall be required to be removed or relocated unless and until the commissioner of transportation shall tender payment to the owner of the advertising device and the owner of real property upon which the same is located, in cash or check drawn on the state treasury, of 100 percent of the amount of just compensation required herein, as determined by the commissioner of transportation; provided that the acceptance of said tendered amount by the person or persons to be compensated shall be without prejudice to further rights to have just compensation finally determined in accordance with the provisions of Laws 1971, chapter 883, and to receive any greater or additional amount under chapter 117.

(4) Notwithstanding any other provision of this chapter, including section 173.20, no advertising device which was lawfully erected shall be removed until all rights in the property, personal or real, have been acquired by purchase, gift, or eminent domain proceedings under chapter 117, whether or not the advertising device is removed pursuant to this chapter or any other statute, ordinance, or regulation of any political subdivision of the state or local zoning authority.

History: *1993 c 163 art 1 s 26*

CHAPTER 174

DEPARTMENT OF TRANSPORTATION

174.02 COMMISSIONER'S POWERS AND DUTIES.

[For text of subds 1 to 5, see M.S.1992]

Subd. 6. **Agreements, receipts, appropriation.** To facilitate the implementation of intergovernmental efficiencies, effectiveness, and cooperation, and to promote and encourage economic and technological development in transportation matters within and between governmental and nongovernmental entities:

(a) The commissioner may enter into agreements with other governmental or nongovernmental entities for research and experimentation; for sharing facilities, equipment, staff, data, or other means of providing transportation-related services; or for other cooperative programs that promote efficiencies in providing governmental services or that further development of innovation in transportation for the benefit of the citizens of Minnesota.

(b) In addition to funds otherwise appropriated by the legislature, the commissioner may accept and spend funds received under any agreement authorized in paragraph (a) for the purposes set forth in that paragraph, subject to a report of receipts to the commissioner of finance at the end of each fiscal year and, if receipts from the agreements exceed $100,000 in a fiscal year, the commissioner shall also notify the governor and the committee on finance of the senate and the committee on ways and means of the house of representatives.

(c) Funds received under this subdivision must be deposited in the special revenue fund and are appropriated to the commissioner for the purposes set forth in this subdivision.

History: *1993 c 266 s 28*

174.295 ELIGIBILITY CERTIFICATION; PENALTY FOR FRAUD.

Subdivision 1. **Notice.** A provider of special transportation service, as defined in section 174.29, receiving financial assistance under section 174.24, shall include on the application form for special transportation service, and on the eligibility certification form if different from the application form, a notice of the penalty for fraudulent certification under subdivision 4.

Subd. 2. **Certifier statement.** A provider shall include on the application or eligibility certification form a place for the person certifying the applicant as eligible for special transportation service to sign, and the person certifying the applicant shall sign, stating that the certifier understands the penalty for fraudulent certification and that the certifier believes the applicant to be eligible.

Subd. 3. **Applicant statement.** A provider shall include on the application form a place for the applicant to sign, and the applicant shall sign, stating that the applicant understands the penalty for fraudulent certification and that the information on the application is true.

Subd. 4. **Penalty.** A person is guilty of a misdemeanor if:

(1) the person fraudulently certifies to the special transportation service provider that the applicant is eligible for special transportation service; or

(2) the person obtains certification for special transportation service by misrepresentation or fraud.

History: *1993 c 326 art 4 s 4*

174.30 OPERATING STANDARDS FOR SPECIAL TRANSPORTATION SERVICE.

Subdivision 1. **Applicability limitations; by type of provider; by source of funds.** The operating standards for special transportation service adopted under this section do not apply to special transportation provided by:

(a) A common carrier operating on fixed routes and schedules;

(b) A volunteer driver using a private automobile;

(c) A school bus as defined in section 169.01, subdivision 6; or

(d) An emergency ambulance regulated under chapter 144.

The operating standards adopted under this section only apply to providers of special transportation service who receive grants or other financial assistance from either the state or the federal government, or both, to provide or assist in providing that service; except that the operating standards adopted under this section do not apply to any nursing home licensed under section 144A.02, to any board and care facility licensed under section 144.50, or to any day training and habilitation services, day care, or group home facility licensed under sections 245A.01 to 245A.19 unless the facility or program provides transportation to nonresidents on a regular basis and the facility receives reimbursement, other than per diem payments, for that service under rules promulgated by the commissioner of human services.

[For text of subds 2 to 7, see M.S.1992]

History: *1993 c 339 s 1*

174.32 TRANSIT ASSISTANCE PROGRAM.

[For text of subd 1, see M.S.1992]

Subd. 2. **Transit assistance fund; distribution.** The transit assistance fund receives money distributed under section 297B.09. Eighty percent of the receipts of the fund must be placed into a metropolitan account for distribution to recipients located in the metropolitan area and 20 percent into a separate account for distribution to recipients located outside of the metropolitan area. Except as otherwise provided in this subdivision, the regional transit board created by section 473.373 is responsible for distributing assistance from the metropolitan account, and the commissioner is responsible for distributing assistance from the other account.

[For text of subds 3 to 6, see M.S.1992]

History: *1993 c 353 s 1*

174.35 LIGHT RAIL TRANSIT.

The commissioner of transportation may exercise the powers granted in this chapter and chapter 473, as necessary, to plan, design, acquire, construct, and equip light rail transit facilities in the metropolitan area as defined in section 473.121, subdivision 2.

History: *1993 c 353 s 2*

CHAPTER 175

DEPARTMENT OF LABOR AND INDUSTRY

175.008 CODE ENFORCEMENT ADVISORY COUNCIL; CREATION.

The commissioner shall appoint an 11 member advisory council on code enforcement. The terms, compensation, removal of council members, and expiration of the council are governed by section 15.059, except that the advisory council shall not expire before June 30, 1995. The council shall advise the commissioner on matters within the council's expertise or under the regulation of the commissioner.

History: *1993 c 132 s 2*

CHAPTER 176

WORKERS' COMPENSATION

176.011 DEFINITIONS.

[For text of subds 1 to 9a, see M.S.1992]

Subd. 10. **Employer.** "Employer" means any person who employs another to perform a service for hire; and includes corporation, partnership, limited liability company, association, group of persons, state, county, town, city, school district, or governmental subdivision.

[For text of subds 11 to 27, see M.S.1992]

History: *1993 c 137 s 5*

176.041 EXCLUDED EMPLOYMENTS; APPLICATION, EXCEPTIONS, ELECTION OF COVERAGE.

[For text of subd 1, see M.S.1992]

Subd. 1a. **Election of coverage.** The persons, partnerships, limited liability companies, and corporations described in this subdivision may elect to provide the insurance coverage required by this chapter.

(a) An owner or owners of a business or farm may elect coverage for themselves.

(b) A partnership owning a business or farm may elect coverage for any partner.

(c) A family farm corporation as defined in section 500.24, subdivision 2, clause (c), may elect coverage for any executive officer.

(d) A closely held corporation which had less than 22,880 hours of payroll in the previous calendar year may elect coverage for any executive officer if that executive officer is also an owner of at least 25 percent of the stock of the corporation.

(e) A person, partnership, limited liability company, or corporation hiring an independent contractor, as defined by rules adopted by the commissioner, may elect to provide coverage for that independent contractor.

A person, partnership, limited liability company, or corporation may charge the independent contractor a fee for providing the coverage only if the independent contractor (1) elects in writing to be covered, (2) is issued an endorsement setting forth the terms of the coverage, the name of the independent contractors, and the fee and how it is calculated.

The persons, partnerships, and corporations described in this subdivision may also elect coverage for an employee who is a spouse, parent, or child, regardless of age, of an owner, partner, or executive officer, who is eligible for coverage under this subdivision. Coverage may be elected for a spouse, parent, or child whether or not coverage is elected for the related owner, partner, or executive director and whether or not the person, partnership, or corporation employs any other person to perform a service for hire. Any person for whom coverage is elected pursuant to this subdivision shall be included within the meaning of the term employee for the purposes of this chapter.

Notice of election of coverage or of termination of election under this subdivision shall be provided in writing to the insurer. Coverage or termination of coverage is effective the day following receipt of notice by the insurer or at a subsequent date if so indi-

cated in the notice. The insurance policy shall be endorsed to indicate the names of those persons for whom coverage has been elected or terminated under this subdivision. An election of coverage under this subdivision shall continue in effect as long as a policy or renewal policy of the same insurer is in effect.

Nothing in this subdivision shall be construed to limit the responsibilities of owners, partnerships, limited liability companies, or corporations to provide coverage for their employees, if any, as required under this chapter.

[For text of subds 2 to 6, see M.S.1992]

History: *1993 c 137 s 6*

176.091 MINOR EMPLOYEES.

Except as provided in section 176.092, a minor employee has the same power to enter into a contract, make election of remedy, make any settlement, and receive compensation as an adult employee.

History: *1993 c 194 s 3*

176.092 GUARDIAN; CONSERVATOR.

Subdivision 1. **When required.** An injured employee or a dependent under section 176.111 who is a minor or an incapacitated person as that term is defined in section 525.54, subdivision 2 or 3, shall have a guardian or conservator to represent the interests of the employee or dependent in obtaining compensation according to the provisions of this chapter. This section applies if the employee receives or is eligible for permanent total disability benefits, supplementary benefits, or permanent partial disability benefits or a dependent receives or is eligible for dependency benefits, or if the employee or dependent receives or is offered a lump sum that exceeds five times the statewide average weekly wage.

Subd. 2. **Appointment.** If an injured employee or dependent under section 176.111 does not have a guardian or conservator and the attorney representing the employee or dependent knows or has reason to believe the employee or dependent is a minor or an incapacitated person, the attorney shall, within 30 days, seek a probate court order appointing a guardian or conservator. If the employer, insurer, or special compensation fund in a matter involving a claim against the fund knows or has reason to believe the employee or dependent is a minor or is incapacitated, the employer, insurer, or special compensation fund shall notify the attorney representing the employee or dependent. If the employee or dependent has no attorney or the attorney fails to seek appointment of a guardian or conservator within 30 days of being notified under this subdivision, the employer or insurer shall seek the appointment in probate court and the special compensation fund shall notify the commissioner or a compensation judge for referral of the matter under subdivision 3. In the case of a minor who is not represented by an attorney, the commissioner shall refer the matter under subdivision 3.

Subd. 3. **Referral.** When, in a proceeding before them, it appears to the commissioner, compensation judge, or, in cases upon appeal, the workers' compensation court of appeals, that an injured employee or a dependent is a minor or an incapacitated person without a guardian or conservator, the commissioner, compensation judge, or court of appeals shall refer the matter to probate court. The commissioner has no duty to monitor files at the department but must review a file for referral upon receiving a complaint that an injured employee or dependent is a minor or an incapacitated person without a guardian or conservator.

Subd. 4. **Guardian, conservator; powers, duties.** A guardian or conservator of an injured employee or dependent shall have the powers and duties granted by the probate court including, but not limited to:

(1) representing the interests of the employee or dependent in obtaining compensation according to the provisions of this chapter;

(2) receiving monetary compensation benefits, including the amount of any award, settlement, or judgment; and

(3) acting as a fiduciary in distributing, managing, and investing monetary workers' compensation benefits.

History: *1993 c 194 s 4*

176.111 DEPENDENTS, ALLOWANCES.

[For text of subds 1 to 4, see M.S.1992]

Subd. 5. **Payments, to whom made.** In death cases compensation payable to dependents is computed on the following basis and shall be paid to the persons entitled thereto or to a guardian or conservator as required under section 176.092.

[For text of subds 6 to 21, see M.S.1992]

History: *1993 c 194 s 5*

176.136 MEDICAL FEE REVIEW.

[For text of subds 1 and 1a, see M.S.1992]

Subd. 1b. **Limitation of liability.** (a) The liability of the employer for treatment, articles, and supplies provided to an employee while an inpatient or outpatient at a small hospital shall be the hospital's usual and customary charge, unless the charge is determined by the commissioner or a compensation judge to be unreasonably excessive. A "small hospital," for purposes of this paragraph, is a hospital which has 100 or fewer licensed beds.

(b) The liability of the employer for the treatment, articles, and supplies that are not limited by subdivision 1a or 1c or paragraph (a) shall be limited to 85 percent of the provider's usual and customary charge, or 85 percent of the prevailing charges for similar treatment, articles, and supplies furnished to an injured person when paid for by the injured person, whichever is lower. On this basis, the commissioner or compensation judge may determine the reasonable value of all treatment, services, and supplies, and the liability of the employer is limited to that amount.

(c) The limitation of liability for charges provided by paragraph (b) does not apply to a nursing home that participates in the medical assistance program and whose rates are established by the commissioner of human services.

[For text of subds 1c to 3, see M.S.1992]

History: *1993 c 194 s 6*

176.521 SETTLEMENT OF CLAIMS.

Subdivision 1. **Validity.** An agreement between an employee or an employee's dependent and the employer or insurer to settle any claim, which is not upon appeal before the court of appeals, for compensation under this chapter is valid where it has been executed in writing and signed by the parties and intervenors in the matter, and, where one or more of the parties is not represented by an attorney, the commissioner or a compensation judge has approved the settlement and made an award thereon. If the matter is upon appeal before the court of appeals or district court, the court of appeals or district court is the approving body. An agreement to settle any claim is not valid if a guardian or conservator is required under section 176.092 and an employee or dependent has no guardian or conservator.

Subd. 2. **Approval.** Settlements shall be approved only if the terms conform with this chapter.

The commissioner, a compensation judge, the court of appeals, and the district court shall exercise discretion in approving or disapproving a proposed settlement.

The parties to the agreement of settlement have the burden of proving that the settlement is reasonable, fair, and in conformity with this chapter. A settlement agreement where both the employee or the employee's dependent and the employer or insurer are

represented by an attorney shall be conclusively presumed to be reasonable, fair, and in conformity with this chapter except when the settlement purports to be a full, final, and complete settlement of an employee's right to medical compensation under this chapter or rehabilitation under section 176.102. A settlement which purports to do so must be approved by the commissioner, a compensation judge, or court of appeals.

The conclusive presumption in this subdivision is not available in cases involving an employee or dependent with a guardian or conservator.

The conclusive presumption in this subdivision applies to a settlement agreement entered into on or after January 15, 1982, whether the injury to which the settlement applies occurred prior to or on or after January 15, 1982.

[For text of subds 2a and 3, see M.S.1992]

History: *1993 c 194 s 7,8*

176.5401 TRANSFER OF STATE CLAIMS UNIT TO DEPARTMENT OF EMPLOYEE RELATIONS.

The responsibilities of the commissioner of labor and industry relating to the administration and payment of workers' compensation benefits to state employees under this chapter and the administration of the peace officers benefits fund under chapter 176B, and the staff assigned to administer these responsibilities, are hereby transferred to the department of employee relations under section 15.039. The complement positions to be transferred shall be determined by the commissioner of administration in consultation with the commissioners of employee relations and labor and industry.

History: *1987 c 332 s 99*

CHAPTER 176A

INSURANCE FUND

176A.02 CREATION; PURPOSE; ORGANIZATION OF THE FUND.

[For text of subds 1 and 2, see M.S.1992]

Subd. 2a. **Workers' compensation reinsurance association directors.** Until the obligation owed to the workers' compensation reinsurance association pursuant to section 79.371 has been satisfied, the workers' compensation reinsurance association shall be entitled to designate two persons to represent the workers' compensation reinsurance association on the board of directors.

The workers' compensation reinsurance association's designees shall be appointed to the first available directorships, which the governor is to appoint, which becomes available after the creation of the obligation authorized by section 79.371.

The workers' compensation reinsurance association's designees shall resign immediately upon satisfaction of the obligation authorized by section 79.371.

[For text of subds 3 to 6, see M.S.1992]

History: *1993 c 228 s 2*

NOTE: Subdivision 2a, as added by Laws 1993, chapter 228, section 2, is repealed effective March 1, 2009. See Laws 1993, chapter 228, section 4.

176A.11 APPROPRIATION.

Subdivision 1. **Authorization.** There is appropriated from the general fund to the state fund mutual insurance company a sum of $125,600 to be available until expended. There is appropriated from the general fund to the commissioner of finance the amounts of $1,176,900 in fiscal year 1984, and $4,424,900 in fiscal year 1985, for the purpose of transfer to the state fund mutual insurance company upon certification of need in accordance with procedures developed by the commissioner. If the appropriation for either year is insufficient, the appropriation for the other year is available for it. Any amount appropriated or transferred plus interest at eight percent a year shall be amortized over a ten-year period and shall be repaid by the fund to the general fund in equal installments at the end of each fiscal year with the first payment occurring on June 30, 1986, provided that the fund shall not begin repayment on this date unless there exists sufficient earned surplus to comply with state law. Repayment shall then begin under the terms of this subdivision when sufficient earned surplus exists.

Subd. 2. **Moratorium on payments.** No payments of principal shall be made in regard to the amounts appropriated pursuant to subdivision 1 until all obligations owed to the workers' compensation reinsurance association pursuant to section 79.371 have been satisfied.

Subd. 3. **Insolvency.** In the case of the insolvency of the state fund mutual insurance company, the obligation to the general fund for the amounts appropriated pursuant to subdivision 1 shall be subordinant to the obligations owed to the workers' compensation reinsurance association pursuant to section 79.371. This provision shall not affect the priority of the obligation to the general fund as to any other creditor of the state fund mutual insurance company or in any other way.

History: *1993 c 228 s 3*

NOTE: Subdivisions 2 and 3, as added by Laws 1993, chapter 228, section 3, are repealed effective March 1, 2009. See Laws 1993, chapter 228, section 4.

CHAPTER 178

MASTER AND APPRENTICE

178.02 APPRENTICESHIP ADVISORY COUNCIL.

[For text of subd 1, see M.S.1992]

Subd. 2. **Terms.** The council shall expire and the terms, compensation and removal of appointed members shall be as provided in section 15.059, except that the council shall not expire before June 30, 1995.

[For text of subd 4, see M.S.1992]

History: *1993 c 132 s 3*

CHAPTER 179A

PUBLIC EMPLOYMENT LABOR RELATIONS

179A.03 DEFINITIONS.

[For text of subds 1 to 3, see M.S.1992]

Subd. 4. **Confidential employee.** "Confidential employee" means any employee who:

(1) has access to information subject to use by the public employer in meeting and negotiating; or

(2) actively participates in the meeting and negotiating on behalf of the public employer.

However, for executive branch employees of the state or employees of the regents of the University of Minnesota, "confidential employee" means any employee who:

(a) has access to information subject to use by the public employer in collective bargaining; or

(b) actively participates in collective bargaining on behalf of the public employer.

[For text of subds 5 to 19, see M.S.1992]

History: *1993 c 12 s 1*

179A.04 COMMISSIONER'S POWER, AUTHORITY, AND DUTIES.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. **Other duties.** The commissioner shall:

(a) provide mediation services as requested by the parties until the parties reach agreement. The commissioner may continue to assist parties after they have submitted their final positions for interest arbitration;

(b) issue notices, subpoenas, and orders required by law to carry out duties under sections 179A.01 to 179A.25;

(c) maintain a list of arbitrators for referral to employers and exclusive representatives for the resolution of grievance or interest disputes;

(d) assist the parties in formulating petitions, notices, and other papers required to be filed with the commissioner;

(e) certify the final results of any election or other voting procedure conducted under sections 179A.01 to 179A.25;

(f) adopt rules relating to the administration of this chapter; and the conduct of hearings and elections;

(g) receive, catalogue, and file all decisions of arbitrators and panels authorized by sections 179A.01 to 179A.25, all grievance arbitration decisions, and the commissioner's orders and decisions. All decisions catalogued and filed shall be readily available to the public;

(h) adopt, subject to chapter 14, a grievance procedure to fulfill the purposes of section 179A.20, subdivision 4. The grievance procedure shall not provide for the services of the bureau of mediation services. The grievance procedure shall be available to any employee in a unit not covered by a contractual grievance procedure;

(i) conduct elections;

(j) maintain a schedule of state employee classifications or positions assigned to each unit established in section 179A.10, subdivision 2;

(k) collect such fees as are established by rule for empanelment of persons on the labor arbitrator roster maintained by the commissioner or in conjunction with fair share fee challenges;

(l) provide technical support and assistance to voluntary joint labor-management committees established for the purpose of improving relationships between exclusive representatives and employers, at the discretion of the commissioner;

(m) provide to the parties a list of arbitrators as required by section 179A.16, subdivision 4;

(n) adopt, subject to chapter 14, uniform baseline determination documents and uniform collective bargaining agreement settlement documents applicable to all negotiations between exclusive representatives of appropriate units of public employees and public employers other than townships and prescribe procedures and instructions for completion of the documents. The commissioner must, at a minimum, include these individual elements in the uniform baseline determination document: the costs of any increases to the wage schedule; the costs of employees moving through the wage schedule; costs of medical insurance; costs of dental insurance; costs of life insurance; lump sum payments; shift differentials; extracurricular activities; longevity; and contributions to a deferred compensation account. The calculation of the base year must be based on an annualization of the costs provided in the base year contract. A completed uniform collective bargaining agreement settlement document must be presented to the public employer at the time it ratifies a collective bargaining agreement and must be available afterward for inspection during normal business hours at the principal administrative offices of the public employer; and

(o) from the names provided by representative organizations, maintain a list of arbitrators to conduct teacher discharge or termination hearings according to section 125.12 or 125.17. The persons on the list shall meet at least one of the following requirements:

(1) be a former or retired judge;

(2) be a qualified arbitrator on the list maintained by the bureau;

(3) be a present, former, or retired administrative law judge; or

(4) be a neutral individual who is learned in the law and admitted to practice in Minnesota, who is qualified by experience to conduct these hearings, and who is without bias to either party.

Each year, the Minnesota education association shall provide a list of seven names, the Minnesota federation of teachers a list of seven names, and the Minnesota school boards association a list of 14 names of persons to be on the list. The commissioner may adopt rules about maintaining and updating the list.

[For text of subd 4, see M.S.1992]

History: *1993 c 122 s 3*

179A.09 UNIT DETERMINATION.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. **Division of units.** If a designated appropriate unit contains both peace officers subject to licensure under sections 626.84 to 626.855 and essential employees who are not peace officers, the commissioner, at the request of a majority of either the peace officers or the other essential employees within the unit, shall divide the unit into two separate appropriate units, one for the peace officers and one for the other essential employees.

History: *1993 c 136 s 2*

179A.16 INTEREST ARBITRATION.

[For text of subds 1 to 8, see M.S.1992]

Subd. 9. **No arbitration.** Failure to reach agreement on employer payment of, or contributions toward, premiums for group insurance coverage of retired employees is not subject to interest arbitration procedures under this section, except for units of essential employees.

History: *1993 c 149 s 1*

CHAPTER 181

EMPLOYMENT; WAGES, CONDITIONS, HOURS, RESTRICTIONS

181.101 WAGES; HOW OFTEN PAID.

Every employer must pay all wages earned by an employee at least once every 30 days on a regular pay day designated in advance by the employer regardless of whether the employee requests payment at longer intervals. Unless paid earlier, the wages earned during the first half of the first 30-day pay period become due on the first regular payday following the first day of work. If wages earned are not paid, the commissioner of labor and industry or the commissioner's representative may demand payment on behalf of an employee. If payment is not made within ten days of demand, the commissioner may charge and collect the wages earned and a penalty in the amount of the employee's average daily earnings at the rate agreed upon in the contract of employment, not exceeding 15 days in all, for each day beyond the ten-day limit following the demand. Money collected by the commissioner must be paid to the employee concerned. This subdivision does not prevent an employee from prosecuting a claim for wages. For purposes of this section, "employee" includes a person who performs agricultural labor as defined in section 181.85, subdivision 2. For purposes of this section, wages are earned on the day an employee works.

History: *1993 c 253 s 1*

EMPLOYEE INDEMNIFICATION

181.970 EMPLOYEE INDEMNIFICATION.

Subdivision 1. **Indemnification required.** An employer shall defend and indemnify its employee for civil damages, penalties, or fines claimed or levied against the employee, provided that the employee:

(1) was acting in the performance of the duties of the employee's position;

(2) was not guilty of intentional misconduct, willful neglect of the duties of the employee's position, or bad faith; and

(3) has not been indemnified by another person for the same damages, penalties, or fines.

Subd. 2. **Exception.** Subdivision 1 does not apply to:

(1) employees of the state or a municipality governed by section 3.736 or 466.07;

(2) employees who are subject to a contract or other agreement governing indemnification rights;

(3) employees and employers who are governed by indemnification provisions under section 300.083, 302A.521, 317A.521, or 322B.699, or similar laws of this state or another state specifically governing indemnification of employees of business or nonprofit corporations, limited liability companies, or other legal entities; or

(4) indemnification rights for a particular liability specifically governed by other law.

History: *1993 c 216 s 1*

CHAPTER 181A

CHILD LABOR

181A.04 MINIMUM AGE AND MAXIMUM HOURS.

[For text of subds 1 to 5, see M.S.1992]

Subd. 6. A high school student under the age of 18 must not be permitted to work after 11:00 p.m. on an evening before a school day or before 5:00 a.m. on a school day, except as permitted by section 181A.07, subdivisions 1, 2, 3, and 4. If a high school student under the age of 18 has supplied the employer with a note signed by the parent or guardian of the student, the student may be permitted to work until 11:30 p.m. on the evening before a school day and beginning at 4:30 a.m. on a school day.

For the purpose of this subdivision, a high school student does not include a student enrolled in an alternative education program approved by the state board of education or an area learning center, including area learning centers under sections 124A.45 to 124C.48 or according to section 121.11, subdivision 12.

History: *1993 c 261 s 1*

181A.12 PENALTIES.

Subdivision 1. **Fines; penalty.** Any employer who hinders or delays the department or its authorized representative in the performance of its duties under sections 181A.01 to 181A.12 or refuses to admit the commissioner or an authorized representative to any place of employment or refuses to make certificates or lists available as required by sections 181A.01 to 181A.12, or otherwise violates any provisions of sections 181A.01 to 181A.12 or any rules issued pursuant thereto shall be assessed a fine to be paid to the commissioner for deposit in the general fund. The fine may be recovered in a civil action in the name of the department brought in the district court of the county where the violation is alleged to have occurred or the district court where the commissioner has an office. Fines are in the amounts as follows:

(a) employment of minors under the age of 14 (each employee)	$ 50
(b) employment of minors under the age of 16 during school hours while school is in session (each employee)	50
(c) employment of minors under the age of 16 before 7:00 a.m. (each employee)	50
(d) employment of minors under the age of 16 after 9:00 p.m. (each employee)	50
(e) employment of a high school student under the age of 18 in violation of section 181A.04, subdivision 6 (each employee)	100
(f) employment of minors under the age of 16 over eight hours a day (each employee)	50
(g) employment of minors under the age of 16 over 40 hours a week (each employee)	50
(h) employment of minors under the age of 18 in occupations hazardous or detrimental to their well-being as defined by rule (each employee)	100

(i) employment of minors under the age of 16 in occupations hazardous or detrimental to their well-being as defined by rule (each employee) 100

(j) minors under the age of 18 injured in hazardous employment (each employee) 500

(k) minors employed without proof of age (each employee) 25

An employer who refuses to make certificates or lists available as required by sections 181A.01 to 181A.12 shall be assessed a $500 fine.

Subd. 2. **Misdemeanor.** An employer or other person violating any provision of sections 181A.01 to 181A.12 excluding section 181A.04, subdivision 6, or any rules issued pursuant thereto or assisting another in such violation is guilty of a misdemeanor.

Subd. 3. **Gross misdemeanor.** An employer who engages in repeated violations of sections 181A.01 to 181A.12 excluding section 181A.04, subdivision 6, is also guilty of a gross misdemeanor. An employer who engages in a single violation of sections 181A.01 to 181A.12 excluding section 181A.04, subdivision 6, is guilty of a gross misdemeanor if the violation results in the death of the minor or substantial bodily harm to the minor. For purposes of this subdivision, "substantial bodily harm" has the meaning given in section 609.02, subdivision 7a.

History: *1993 c 261 s 2*

CHAPTER 182

OCCUPATIONAL SAFETY AND HEALTH

182.6521 INDEPENDENT CONTRACTORS.

An independent contractor doing building construction or improvements in the public or private sector must comply with the occupational safety and health standards that apply under this chapter to an employer and its employees. This section applies to an independent contractor however organized including, without limitation, those organized as a partnership, sole proprietorship, or corporation.

History: *1993 c 344 s 1*

182.656 OCCUPATIONAL SAFETY AND HEALTH ADVISORY COUNCIL.

[For text of subd 1, see M.S.1992]

Subd. 3. A majority of the council members constitutes a quorum. The council shall meet at the call of its chair, or upon request of any six members. A tape recording of the meeting with the tape being retained for a one-year period will be available upon the request and payment of costs to any interested party. The council shall expire and the terms, compensation, and removal of members shall be as provided in section 15.059, except that the council shall not expire before June 30, 1995.

History: *1993 c 132 s 4*

CHAPTER 184

EMPLOYMENT AGENCIES

184.23 [Repealed, 1993 c 337 s 20]

CHAPTER 190

MILITARY FORCES

190.02 GOVERNOR TO BE COMMANDER-IN-CHIEF; RULES; STAFF.

The governor shall be the commander-in-chief of the military forces, except so much thereof as may be in the actual service of the United States, and may employ the same for the defense or relief of the state, the enforcement of law, and the protection of persons and property therein.

The governor shall make and publish rules, not inconsistent with law, and enforce all the provisions of the military code.

The governor may appoint a staff, consisting of an adjutant general and six aides-de-camp of field grade who shall be detailed from the national guard.

History: *1993 c 27 s 1*

CHAPTER 192

NATIONAL GUARD

192.501 FINANCIAL INCENTIVES FOR NATIONAL GUARD MEMBERS.

[For text of subd 1, see M.S.1992]

Subd. 2. **Tuition reimbursement.** (a) The adjutant general shall establish a program providing tuition reimbursement for members of the Minnesota national guard in accordance with this section. An active member of the Minnesota national guard serving satisfactorily, as defined by the adjutant general, shall be reimbursed for tuition paid to a post-secondary education institution as defined by section 136A.15, subdivision 5, upon proof of satisfactory completion of course work.

(b) In the case of tuition paid to a public institution located in Minnesota, including any vocational or technical school, tuition is limited to an amount equal to 50 percent of the cost of tuition at that public institution, except as provided in this section. In the case of tuition paid to a Minnesota private institution or vocational or technical school or a public or private institution or vocational or technical school not located in Minnesota, reimbursement is limited to 50 percent of the cost of tuition for lower division programs in the college of liberal arts at the twin cities campus of the University of Minnesota in the most recent academic year, except as provided in this section.

(c) If a member of the Minnesota national guard is killed in the line of state active service or federally funded state active service as defined in section 190.05, subdivision 5b, the state shall reimburse 100 percent of the cost of tuition for post-secondary courses satisfactorily completed by any surviving spouse and any surviving dependents who are 23 years old or younger. Reimbursement for surviving spouses and dependents is limited in amount and duration as is reimbursement for the national guard member.

(d) The amount of tuition reimbursement for each eligible individual shall be determined by the adjutant general according to rules formulated within 30 days of June 4, 1989. Tuition reimbursement received under this section shall not be considered by the Minnesota higher education coordinating board or by any other state board, commission, or entity in determining a person's eligibility for a scholarship or grant-in-aid under sections 136A.095 to 136A.132.

[For text of subd 3, see M.S.1992]

History: *1993 c 192 s 76*

NATIONAL GUARD MUTUAL ASSISTANCE COUNTERDRUG ACTIVITIES COMPACT

192.88 NATIONAL GUARD MUTUAL ASSISTANCE COUNTERDRUG ACTIVITIES COMPACT.

The National Guard mutual assistance counterdrug activities compact is ratified, enacted into law, and entered into by this state as a party with any other state or province which, pursuant to Article 2 of the compact has legally joined in it in the form substantially as follows:

The party states solemnly agree:

ARTICLE 1
PURPOSE

The purposes of this compact are to:

A. provide for mutual assistance and support among the party states in the utilization of the National Guard in drug interdiction, counterdrug, and demand reduction activities;

B. permit the National Guard of this state to enter into mutual assistance and support agreements, on the basis of need, with one or more law enforcement agencies operating within this state, for activities within this state, or with a National Guard of one or more other states, whether said activities are within or without this state, in order to facilitate and coordinate efficient, cooperative enforcement efforts directed toward drug interdiction, counterdrug activities, and demand reduction;

C. permit the National Guard of this state to act as a receiving and a responding state as defined within this compact and to ensure the prompt and effective delivery of National Guard personnel, assets, and services to agencies or areas that are in need of increased support and presence;

D. permit and encourage a high degree of flexibility in the deployment of National Guard forces in the interest of efficiency;

E. maximize the effectiveness of the National Guard in those situations which call for its utilization under this compact;

F. provide protection for the rights of National Guard personnel when performing duty in other states in counterdrug activities; and

G. ensure uniformity of state laws in the area of National Guard involvement in interstate counterdrug activities by incorporating said uniform laws within the compact.

ARTICLE 2
ENTRY INTO FORCE AND WITHDRAWAL

A. This compact shall enter into force when enacted into law by any two states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

B. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states.

ARTICLE 3
MUTUAL ASSISTANCE AND SUPPORT

A. As used in this article:

1. "Drug interdiction and counterdrug activities" means the use of National Guard personnel, while not in federal service, in any law enforcement support activities that are intended to reduce the supply or use of illegal drugs in the United States. The activities include, but are not limited to:

(a) providing information obtained during either the normal course of military training or operations or during counterdrug activities to federal, state, and local law enforcement officials that may be relevant to a violation of any federal or state law within the jurisdiction of such officials;

(b) making available any equipment (including associated supplies or spare parts), base facilities, or research facilities of the National Guard to any federal, state, or local civilian law enforcement official for law enforcement purposes, in accordance with other applicable law or regulation;

(c) providing available National Guard personnel to train federal, state, or local

civilian law enforcement in the operation and maintenance of equipment, including equipment made available above, in accordance with other applicable law;

(d) providing available National Guard personnel to operate and maintain equipment provided to federal, state, or local law enforcement officials pursuant to activities defined and referred to in this compact;

(e) operation and maintenance of equipment and facilities of the National Guard or law enforcement agencies used for the purposes of drug interdiction and counterdrug activities;

(f) providing available National Guard personnel to operate equipment for the detection, monitoring, and communication of the movement of air, land, and sea traffic, to facilitate communications in connection with law enforcement programs, to provide transportation for civilian law enforcement personnel, and to operate bases of operations for civilian law enforcement personnel;

(g) providing available National Guard personnel, equipment, and support for administrative, interpretive, analytic, or other purposes;

(h) providing available National Guard personnel and equipment to aid federal, state, and local officials and agencies otherwise involved in the prosecution or incarceration of individuals processed within the criminal justice system who have been arrested for criminal acts involving the use, distribution, or transportation of controlled substances as defined in United States Code, title 21, section 801 et seq. or otherwise by law, in accordance with applicable law.

2. "Demand reduction" means providing available National Guard personnel, equipment, support, and coordination to federal, state, local, and civic organizations, institutions, and agencies for the purposes of the prevention of drug abuse and the reduction in the demand for illegal drugs.

3. "Requesting state" means that state whose governor requested assistance in the area of counterdrug activities.

4. "Responding state" means the state furnishing assistance, or requested to furnish assistance, in the area of counterdrug activities.

5. "Law enforcement agency" means a lawfully established federal, state, or local public agency that is responsible for the prevention and detection of crime and the enforcement of penal, traffic, regulatory, game, immigration, postal, customs, or controlled substances laws.

6. "Official" means the appointed, elected, designated, or otherwise duly selected representative of an agency, institution, or organization authorized to conduct those activities for which support is requested.

7. "Mutual assistance and support agreement" or "agreement" means an agreement between the National Guard of this state and one or more law enforcement agencies or between the National Guard of this state and the National Guard of one or more other states, consistent with the purposes of this compact.

8. "Party state" refers to a state that has lawfully enacted this compact.

9. "State" means each of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

B. Upon the request of a governor of a party state for assistance in the area of drug interdiction and counterdrug activities and demand reduction, the governor of a responding state shall have authority under this compact to send without the borders of his or her state and place under the temporary operational control of the appropriate National Guard or other military authorities of the requesting state, for the purposes of providing such requested assistance, all or any part of the National Guard forces of his or her state as he or she may deem necessary, and the exercise of his or her discretion in this regard shall be conclusive.

C. The governor of a party state may, within his or her discretion, withhold the National Guard forces of his or her state from such use and recall any forces or part or member thereof previously deployed in a requesting state.

D. The National Guard of this state is hereby authorized to engage in counterdrug activities and demand reduction.

E. The adjutant general of this state, in order to further the purposes of this compact, may enter into a mutual assistance and support agreement with one or more law enforcement agencies of this state, including federal law enforcement agencies operating within this state, or with the National Guard of one or more other party states to provide personnel, assets, and services in the area of counterdrug activities, and demand reduction provided that all parties to the agreement are not specifically prohibited by law to perform said activities.

F. The agreement must set forth the powers, rights, and obligations of the parties to the agreement, where applicable, as follows:

1. its duration;

2. the organization, composition, and nature of any separate legal entity created thereby;

3. the purpose of the agreement;

4. the manner of financing the agreement and establishing and maintaining its budget;

5. the method to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

6. provision for administering the agreement, which may include creation of a joint board responsible for such administration;

7. the manner of acquiring, holding, and disposing of real and personal property used in this agreement, if necessary;

8. the minimum standards for National Guard personnel implementing the provisions of this agreement;

9. the minimum insurance required of each party to the agreement, if necessary;

10. the chain of command or delegation of authority to be followed by National Guard personnel acting under the provisions of the agreement;

11. the duties and authority that the National Guard personnel of each party state may exercise; and

12. any other necessary and proper matters.

Agreements prepared under the provisions of this statute are exempt from any general law pertaining to intergovernmental agreements.

G. As a condition precedent to an agreement becoming effective under this article, the agreement must be submitted to and receive approval of the office of the attorney general of Minnesota. The attorney general of Minnesota may delegate his or her approval authority to the appropriate attorney for the Minnesota National Guard subject to those conditions which he or she decides are appropriate. The delegation must be in writing.

1. The attorney general, or his or her agent in the Minnesota National Guard as stated above, shall approve an agreement submitted to him or her under this article unless he or she finds that it is not in proper form, does not meet the requirements set forth in this article, or otherwise does not conform to the laws of Minnesota. If the attorney general disapproves an agreement, he or she shall provide a written explanation to the adjutant general of the Minnesota National Guard.

2. If the attorney general, or his or her authorized agent as stated above, does not disapprove an agreement within 30 days after its submission to him or her, it is considered approved by him or her.

H. Whenever National Guard forces of any party state are engaged in the performance of duties, in the area of drug interdiction and counterdrug activities and demand reduction, pursuant to orders, they shall not be held personally liable for any acts or omissions which occur during the performance of their duty.

ARTICLE 4
RESPONSIBILITIES

A. Nothing in this compact shall be construed as a waiver of any benefits, privileges, immunities, or rights otherwise provided for National Guard personnel performing duty pursuant to United States Code, title 32, nor shall anything in this compact be construed as a waiver of coverage provided for under the Federal Tort Claims Act. In the event that National Guard personnel performing counterdrug activities do not receive rights, benefits, privileges, and immunities otherwise provided for National Guard personnel as stated above, the following provisions shall apply:

1. Whenever National Guard forces of any responding state are engaged in another state in carrying out the purposes of this compact, the members thereof so engaged shall have the same powers, duties, rights, privileges, and immunities as members of National Guard forces of the requesting state. The requesting state shall save and hold members of the National Guard forces of responding states harmless from civil liability, except as otherwise provided herein, for acts or omissions which occurred in the performance of their duty while engaged in carrying out the purposes of this compact, whether responding forces are serving the requesting state within the borders of the responding state or are attached to the requesting state for purposes of operational control.

2. Subject to the provisions of paragraphs 3, 4, and 5 of this article, all liability that may arise under the laws of the requesting state or the responding states, on account of or in connection with a request for assistance or support, shall be assumed and borne by the requesting state.

3. Any responding state rendering aid or assistance pursuant to this compact shall be reimbursed by the requesting state for any loss or damage to, or expense incurred in the operation of, any equipment answering a request for aid, and for the cost of the materials, transportation, and maintenance of National Guard personnel and equipment incurred in connection with such request, provided that nothing herein contained shall prevent any responding state from assuming such loss, damage, expense, or other cost.

4. Unless there is a written agreement to the contrary, each party shall provide, in the same amounts and manner as if they were on duty within their state, for pay and allowances of the personnel of its National Guard units while engaged without the state pursuant to this compact and while going to and returning from such duty pursuant to this compact.

5. Each party state providing for the payment of compensation and death benefits to injured members and the representatives of deceased members of its National Guard forces in case such members sustain injuries or are killed within their own state shall provide for the payment of compensation and death benefits in the same manner and on the same terms in the event such members sustain injury or are killed while rendering assistance or support pursuant to this compact. Such benefits and compensation shall be deemed items of expense reimbursable pursuant to paragraph 3 of this article.

B. Officers and enlisted personnel of the National Guard performing duties subject to proper orders pursuant to this compact shall be subject to and governed by the provisions of their home state code of military justice whether they are performing duties within or without their home state. In the event that any National Guard member commits, or is suspected of committing, a criminal offense while performing duties pursuant to this compact without his or her home state, he or she may be returned immediately to his or her home state and said home state shall be responsible for any disciplinary action to be taken. However, nothing in this paragraph shall abrogate the general criminal jurisdiction of the state in which the offense occurred.

ARTICLE 5
DELEGATION

Nothing in this compact shall be construed to prevent the governor of a party state from delegating any of his or her responsibilities or authority respecting the National Guard, provided that such delegation is otherwise in accordance with law. For purposes of this compact, however, the governor shall not delegate the power to request assistance from another state.

ARTICLE 6
LIMITATIONS

Nothing in this compact shall:

1. authorize or permit National Guard units or personnel to be placed under the operational control of any person not having the National Guard rank or status required by law for the command in question; or

2. deprive a properly convened court of jurisdiction over an offense or a defendant merely because of the fact that the National Guard, while performing duties pursuant to this compact, was utilized in achieving an arrest or indictment.

ARTICLE 7
CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the Constitution of the United States or of any state or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

History: *1993 c 237 s 1*

CHAPTER 196

DEPARTMENT OF VETERANS AFFAIRS

196.051 GUARDIANSHIP.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. **Funds.** The commissioner may commingle the funds of persons who are under the commissioner's guardianship pursuant to authority granted by section 196.051. The commissioner shall keep complete and accurate accounts showing each transaction that occurs with respect to the funds of each person under the commissioner's guardianship. Money in a guardianship fund is appropriated to the commissioner to carry out the guardianship.

[For text of subd 4, see M.S.1992]

History: *1993 c 192 s 77*

196.054 USE OF FACILITIES OR SERVICES BY OUTSIDE AGENCIES.

[For text of subd 1, see M.S.1992]

Subd. 2. **Appropriation.** There is a veterans affairs resources fund in the state treasury. All money received by the department pursuant to subdivision 1 must be deposited in the state treasury and credited to the veterans affairs resources fund. Money from the veterans affairs resources fund is appropriated to the commissioner for operation, maintenance, repair of facilities, associated legal fees, and other related expenses under subdivision 1.

History: *1993 c 192 s 78*

CHAPTER 197

VETERANS; REWARDS, PRIVILEGES

197.608 VETERANS SERVICE OFFICE GRANT PROGRAM.

Subdivision 1. **Grant program.** A veterans service office grant program is established to be administered by the commissioner of veterans affairs consisting of grants to counties to enable them to enhance the effectiveness of their veterans service offices.

Subd. 2. **Rule development.** The commissioner of veterans affairs shall consult with the Minnesota association of county veterans service officers in formulating rules to implement the grant program.

Subd. 3. **Eligibility.** To be eligible for a grant under this program, a county must:

(1) employ a county veterans service officer as authorized by sections 197.60 and 197.606, who is certified to serve in this position by the commissioner of veterans affairs;

(2) submit a written plan for the proposed expenditures to enhance the functioning of the county veterans service office in accordance with the program rules; and

(3) apply for the grant according to procedures to be established for this program by the commissioner and receive written approval from the commissioner for the grant in advance of making the proposed expenditures.

Subd. 4. **Grant application.** (a) A grant application must be submitted to the department of veterans affairs according to procedures to be established by the commissioner. The grant application must include a specific description of the plan for enhancing the operation of the county veterans service office.

(b) The commissioner shall approve a grant application only if it meets the criteria for eligibility as established and announced by the commissioner and there are sufficient funds remaining in the grant program to cover the amount of the grant. The commissioner may request modification of a plan. If the commissioner rejects a grant application, written reasons for the rejection must be provided to the applicant county and the county may modify the application and resubmit it.

Subd. 5. **Qualifying uses.** The commissioner of veterans affairs shall determine whether the plan specified in the grant application will enable the applicant county to enhance the effectiveness of its county veterans office.

Notwithstanding subdivision 3, clause (1), a county may apply for and use a grant for the training and education required by the commissioner for a newly employed county veterans service officer's certificate, or for the continuing education of other staff.

Subd. 6. **Grant amount.** The amount of each grant must be determined by the commissioner of veterans affairs, and may not exceed the lesser of:

(1) the amount specified in the grant application to be expended on the plan for enhancing the effectiveness of the county veterans service office; or

(2) the county's share of the total funds available under the program, determined in the following manner:

(i) if the county's veteran population is less than 1,000, the county's grant share shall be $2,000;

(ii) if the county's veteran population is 1,000 or more but less than 3,000, the county's grant share shall be $4,000;

(iii) if the county's veteran population is 3,000 or more but less then 10,000, the county's grant share shall be $6,000; or

(iv) if the county's veteran population is 10,000 or more, the county's grant share shall be $8,000.

In any year, only one-half of the counties in each of the four veteran population categories (i) to (iv) may be awarded grants. Grants shall be awarded on a first-come first-served basis to counties submitting applications which meet the commissioner's criteria as established in the rules. Any county not receiving a grant in any given year shall receive priority consideration for a grant the following year.

In any year, after a period of time to be determined by the commissioner, any amounts remaining from undistributed county grant shares may be reallocated to the other counties which have submitted qualifying application.

The veteran population of each county shall be determined by the figure supplied by the United States Department of Veterans Affairs, as adopted by the commissioner.

History: *1993 c 192 s 79; 1993 c 366 s 5*

197.609 EDUCATION PROGRAM.

Subdivision 1. **Establishment and administration.** An education program for county veterans service officers is established to be administered by the commissioner of veterans affairs.

Subd. 2. **Eligibility.** To be eligible for the program in this section, a person must currently be employed as a county veterans service officer as authorized by sections 197.60 to 197.606, and be certified to serve in that position by the commissioner of veterans affairs or be serving a probationary period as authorized by section 197.60, subdivision 2.

Subd. 3. **Program content.** The program in this section must include but is not limited to informing county veteran service officers of the federal, state, and private benefits and services available to veterans, training them in procedures for applying for these benefits, updating them on the changes in these benefits and the eligibility criteria and application procedures, informing them of judicial and regulatory decisions involving veterans programs, training them in the legal procedures for appealing decisions disallowing benefits to veterans, and providing education, information, and training for any other aspects of the veteran service officer position.

History: *1993 c 192 s 80*

CHAPTER 198

VETERANS HOME

198.022 ELIGIBILITY OF SPOUSES AND SURVIVING SPOUSES.

The board is authorized to admit eligible spouses of those veterans who are or if living would be, eligible for admission to the homes.

(1) Except as provided in section 198.03, all applicants for admission to one of the Minnesota veterans homes must be without adequate means of support and unable by reason of wounds, disease, old age, or infirmity to properly maintain themselves.

(2) Veterans must have served in a Minnesota regiment or have been credited to the state of Minnesota, or have been a resident of the state in accordance with board rules preceding the date of application for admission.

(3) Spouses and surviving spouses of eligible veterans must be at least 55 years of age, have been residents of the state of Minnesota in accordance with board rules preceding the date of application for admission, and meet the criteria for admission to a home established in the rules of the home in accordance with this chapter and the applicable statutes and rules of the department of health.

History: *1993 c 103 s 1*

198.16 DONATIONS; GENERAL PURPOSES.

The board is authorized to accept on behalf of the state any gift, grant, bequest, or devise made for the purposes of this chapter, and administer the same as directed by the donor. All proceeds therefrom including money derived from the sale of any real or personal property shall be deposited in the state treasury and credited to the Minnesota veterans home endowment, bequest, and devises fund. Said fund shall consist of two accounts, one of which shall include any trusts prescribed by the donor, the other shall include any currently expendable proceeds. Money in the fund is appropriated to the board for the purposes for which it was received. Disbursements from this fund shall be made in the manner provided for the issuance of other state warrants.

Whenever the board shall deem it advisable, in accordance with law, to sell or otherwise dispose of any real or personal property thus acquired, the commissioner of administration upon the request of the board shall sell or otherwise dispose of said property in the manner provided by law for the sale or disposition of other state property by the commissioner of administration.

History: *1993 c 192 s 81*

198.34 DEPOSIT OF RECEIPTS.

Federal money received by the board for the care of veterans in a veterans home must be deposited into a dedicated account in the state treasury and is appropriated to the veterans homes board of directors for the operational needs of the veterans homes and the board of directors. Money paid to the board by a veteran or by another person on behalf of a veteran for care in a veterans home must be deposited in the state treasury in a dedicated account and is appropriated to the veterans homes board of directors for the operational needs of the veterans homes and the board of directors.

History: *1Sp1993 c 1 art 9 s 65*

198.36 VETERANS HOME; FERGUS FALLS.

Subdivision 1. **Establishment.** The board shall establish a veterans home in Fergus

Falls to provide at least 60 beds for skilled nursing care in conformance with licensing rules of the department of health.

Subd. 2. **Funding.** The home must be purchased or built with funds, 65 percent of which must be provided by the federal government, and 35 percent by other nonstate sources, including local units of government, veterans' organizations, and corporations or other business entities.

Subd. 3. **Support services.** Upon request, the department of human services shall arrange for the extension of support services to the veterans home in Fergus Falls including, but not limited to, the provision of utilities, and kitchen and laundry services.

History: *1Sp1993 c 1 art 9 s 66*

CHAPTER 201

REGISTRATION AND ELIGIBILITY OF VOTERS

201.071 REGISTRATION CARDS.

Subdivision 1. **Form.** A registration card must be of suitable size and weight for mailing and contain spaces for the following required information: voter's first name, middle name, and last name; voter's previous name, if any; voter's current address; voter's previous address, if any; voter's date of birth; voter's municipality and county of residence; voter's telephone number; date of registration; and voter's signature. The card must also contain the following certification: I certify that I will be at least 18 years old on election day and am a citizen of the United States, that I reside at the address shown and will have resided in Minnesota for 20 days immediately preceding election day, and that I am not under guardianship of the person, have not been found by a court to be legally incompetent to vote, and have not been convicted of a felony without having my civil rights restored. I understand that giving false information to procure a registration is a felony punishable by not more than five years imprisonment and a fine of not more than $10,000, or both.

The form of the voter registration card must be as provided in the rules of the secretary of state.

[For text of subds 2 to 8, see M.S.1992]

History: *1993 c 223 s 1*

201.081 REGISTRATION FILES.

The statewide registration system is the official record of registered voters. The voter registration cards and the terminal providing access to the statewide registration system must be under the control of the county auditor or the public official to whom the county auditor has delegated the responsibility for maintaining voter registration records. The voter registration cards and terminals providing access to the statewide registration system must not be removed from the control of the county auditor except as provided in this subdivision. The county auditor may make photographic copies of voter registration cards in the manner provided by section 138.17.

History: *1993 c 223 s 2*

201.11 PRECINCT BOUNDARIES CHANGED, CHANGE OF FILES.

When the boundaries of a precinct are changed, the county auditor shall immediately update the voter records for that precinct in the statewide registration system to accurately reflect those changes.

History: *1993 c 223 s 3*

201.13 REPORT OF DECEASED VOTERS; CHANGES TO VOTER RECORDS.

Subdivision 1. **Commissioner of health, reports of deceased residents.** The commissioner of health shall report monthly to the secretary of state the name, address, date of birth, and county of residence of each individual 18 years of age or older who has died while maintaining residence in Minnesota since the last previous report. The secretary of state shall determine if any of the persons listed in the report are registered to vote and shall prepare a list of those registrants for each county auditor. Within 60 days after receiving the list from the secretary of state, the county auditor shall change

the status of those registrants to "deceased" in the statewide registration system and remove from the files the registration cards of the voters reported to be deceased.

Subd. 2. **Voter registration card removal for deceased nonresidents.** The county auditor may remove from the files the voter registration cards of voters who have died outside of the county, after receiving notice of death. Notice must be in the form of a printed obituary or a written statement signed by a registered voter of the county. The county auditor shall also make the appropriate changes in the data base of the statewide registration system when voter registration cards are removed from the files.

Subd. 3. **Use of change of address system.** The county auditor may delete the records in the statewide registration system of voters whose change of address can be confirmed by the United States Postal Service. The secretary of state may provide the county auditors with periodic reports on voters whose change of address can be confirmed by the United States Postal Service.

History: *1993 c 101 s 1; 1993 c 223 s 4,5*

NOTE: Subdivision 2 was also amended by Laws 1993, chapter 101, section 1, to read as follows:

"Subd. 2. **Voter registration record changes for deceased nonresidents.** Within 60 days after receiving notice of death of a voter who has died outside the county, the county auditor shall change the voter's status to "deceased" and remove from the files the voter's registration cards. Notice must be in the form of a printed obituary or a written statement signed by a registered voter of the county."

201.15 PROBATE JUDGE, REPORT GUARDIANSHIPS AND COMMITMENTS.

Subdivision 1. **Guardianships, incompetents and psychopaths.** The probate judge in each county shall report monthly to the county auditor the name and address of each individual 18 years of age or over, who maintains residence in that county and who, during the month preceding the date of the report:

(a) was placed under a guardianship of the person;

(b) adjudged legally incompetent by reason of mental illness, mental deficiency, or inebriation; or

(c) was adjudged a psychopathic personality.

The judge shall also report the same information for each individual transferred to the jurisdiction of the court who meets a condition specified in clause (a), (b) or (c). Upon receipt of the report, the county auditor shall determine whether any individual named in the report is registered to vote. The county auditor shall change the status on the record in the statewide registration system of any individual named in the report to indicate that the individual is not eligible to reregister or vote.

Subd. 2. **Restoration to capacity.** The probate judge in each county shall report monthly to the county auditor the name and address of each individual transferred from guardianship to conservatorship or who is restored to capacity by the court after being ineligible to vote for any of the reasons specified in subdivision 1. Upon notice from the judge of probate of a restoration to capacity, or of a transfer from guardianship to conservatorship, the county auditor shall change the status on the voter's record in the statewide registration system to "active."

History: *1993 c 223 s 6*

CHAPTER 202A

CAUCUSES AND CONVENTIONS

202A.14 PRECINCT CAUCUS.

Subdivision 1. **Time and manner of holding; postponement.** At 7:00 p.m. on the first Tuesday in March in every state general election year there shall be held for every election precinct a party caucus in the manner provided in sections 202A.14 to 202A.19, except that in the event of severe weather a major political party may request the secretary of state to postpone caucuses. If a major political party makes a request, or upon the secretary of state's own initiative, after consultation with all major political parties and on the advice of the federal weather bureau and the department of transportation, the secretary of state may declare precinct caucuses to be postponed for a week in counties where weather makes travel especially dangerous. The secretary of state shall submit a notice of the postponement to news media covering the affected counties by 6:00 p.m. on the scheduled day of the caucus. A postponed caucus may also be postponed pursuant to this subdivision.

[For text of subds 2 and 3, see M.S.1992]

History: *1993 c 150 s 1*

CHAPTER 204B

ELECTIONS; GENERAL PROVISIONS

204B.06 FILING FOR PRIMARY; AFFIDAVIT OF CANDIDACY.

[For text of subds 1 to 2, see M.S.1992]

Subd. 4. **Particular offices.** Candidates who seek nomination for the following offices shall state the following additional information on the affidavit:

(a) for United States senator, that the candidate will be 30 years of age or older and a citizen of the United States for not less than nine years on the next January 3 or, in the case of an election to fill a vacancy, within 21 days after the special election;

(b) for United States representative, that the candidate will be 25 years of age or older and a citizen of the United States for not less than seven years on the next January 3 or, in the case of an election to fill a vacancy, within 21 days after the special election;

(c) for governor or lieutenant governor, that on the first Monday of the next January the candidate will be 25 years of age or older and, on the day of the state general election, a resident of Minnesota for not less than one year;

(d) for supreme court justice, court of appeals judge, or district court judge, that the candidate is learned in the law;

(e) for county, municipal, school district, or special district office, that the candidate meets any other qualifications for that office prescribed by law;

(f) for senator or representative in the legislature, that on the day of the general or special election to fill the office the candidate will have resided not less than one year in the state and not less than six months in the legislative district from which the candidate seeks election.

[For text of subd 5, see M.S.1992]

Subd. 6. **Judicial candidates; designation of term.** An individual who files as a candidate for the office of chief justice or associate justice of the supreme court, judge of the court of appeals, or judge of the district court shall state in the affidavit of candidacy the office of the particular justice or judge for which the individual is a candidate. The individual shall be a candidate only for the office identified in the affidavit. Each justice of the supreme court and each court of appeals and district court judge is deemed to hold a separate nonpartisan office.

[For text of subd 7, see M.S.1992]

History: *1993 c 223 s 7,8*

204B.10 AFFIDAVITS OF CANDIDACY; NOMINATING PETITIONS; DUTIES OF ELECTION OFFICIALS.

[For text of subds 1 to 5, see M.S.1992]

Subd. 6. **Ineligible voter.** Upon receipt of a certified copy of a final judgment or order of a court of competent jurisdiction that a person who has filed an affidavit of candidacy or who has been nominated by petition:

(1) has been convicted of treason or a felony and the person's civil rights have not been restored;

(2) is under guardianship of the person; or

(3) has been found by a court of law to be legally incompetent;

the filing officer shall notify the person by certified mail at the address shown on the affidavit or petition, and shall not certify the person's name to be placed on the ballot. The actions of a filing officer under this subdivision are subject to judicial review under section 204B.44.

History: *1993 c 364 s 1*

204B.14 ELECTION PRECINCTS.

[For text of subds 1 to 3, see M.S.1992]

Subd. 4. **Boundary change procedure.** Any change in the boundary of an election precinct shall be adopted at least 90 days before the date of the next election and shall not take effect until notice of the change has been posted in the office of the municipal clerk or county auditor for at least 60 days.

The county auditor must publish a notice illustrating or describing the congressional, legislative, and county commissioner district boundaries in the county in one or more qualified newspapers in the county at least 14 days prior to the first day to file affidavits of candidacy for the state general election in the year ending in two.

Alternate dates for adopting changes in precinct boundaries, posting notices of boundary changes, and notifying voters affected by boundary changes pursuant to this subdivision may be established in the manner provided in the rules of the secretary of state.

Subd. 5. **Precinct boundaries; description; maps.** When a precinct boundary has been changed, the municipal clerk shall immediately notify the secretary of state. Upon receipt of this notice or a notice of annexation from the Minnesota municipal board, the secretary of state shall provide the municipal clerk with a base map on which the clerk shall note the boundary change. The clerk shall return the corrected base map to the secretary of state within 30 days after the boundary change was made. The secretary of state shall update the precinct boundary database, prepare a corrected precinct map, and provide the corrected precinct map to the county auditor and the municipal clerk who shall make them available for public inspection. The county auditor shall prepare and file precinct boundary maps for precincts in unorganized territories, and the municipal clerk designated in the combination agreement shall prepare and file precinct boundary maps in the case of municipalities combined for election purposes under subdivision 8, in the same manner as provided for precincts in municipalities. For every election held in the municipality the election judges shall be furnished precinct maps as provided in section 201.061, subdivision 6. If a municipality changes the boundary of an election precinct, the county auditor shall notify each school district with territory affected by the boundary change at least 30 days before the effective date of the change.

Subd. 6. **Precinct boundaries to follow physical features.** The boundaries of election precincts shall follow visible, clearly recognizable physical features. If it is not possible to establish the boundary between any two adjacent precincts along such features, the boundary around the two precincts combined shall be established in the manner provided in the rules of the secretary of state to comply with the provisions of this subdivision. The maps required by subdivision 5 shall clearly indicate which boundaries do not follow visible, clearly recognizable physical features.

For the purposes of this subdivision, "visible, clearly recognizable physical feature" means a street, road, boulevard, parkway, river, stream, shoreline, drainage ditch, railway right-of-way, or any other line which is clearly visible from the ground. A street or other roadway which has been platted but not graded is not a visible, clearly recognizable physical feature for the purposes of this subdivision.

If the secretary of state determines that a precinct boundary does not comply with this subdivision, the secretary of state shall send a notice to the county auditor or municipal clerk specifying the action needed to correct the precinct boundary. If, after

60 days, the county or municipal governing body has not taken action to correct the precinct boundary, the secretary of state shall correct the precinct boundary and notify the county auditor or municipal clerk of the action taken.

If a visible, clearly recognizable physical feature is not available for use as a precinct boundary, an alternate boundary used by the United States Bureau of the Census may be authorized by the secretary of state.

[For text of subds 7 and 8, see M.S.1992]

History: *1993 c 208 s 1,2; 1993 c 223 s 9*

204B.146 DUTIES OF SECRETARY OF STATE.

Subdivision 1. **Redistricting.** The secretary of state shall conduct conferences with the county auditors, municipal clerks, and school district clerks to instruct them on the procedures for redistricting of election districts and establishment of election precincts in the year ending in one.

Subd. 2. **Precinct and election district boundaries.** The secretary of state shall maintain a computer database of precinct and election district boundaries. The secretary of state shall revise the information in the database whenever a precinct or election district boundary is changed. The secretary of state shall prepare maps illustrating precinct and election district boundaries in either paper or electronic formats and make them available to the public at the cost of production.

The secretary of state may authorize municipalities and counties to provide updated precinct and election district boundary information in electronic formats.

The secretary of state shall provide periodic updates of precinct and election district boundaries to the legislative coordinating commission, the state demographer, and the land management information center.

History: *1993 c 208 s 3*

204B.16 POLLING PLACES; DESIGNATION.

[For text of subd 1, see M.S.1992]

Subd. 1a. **Notice to voters.** If the location of polling place has been changed, the governing body establishing the polling place shall send each registered voter in the affected precinct a nonforwardable mailed notice stating the location of the new polling place at least 25 days before the next election. The secretary of state shall prepare a sample of this notice. A notice that is returned as undeliverable must be forwarded immediately to the county auditor, who shall change the registrant's status to "challenged" in the statewide registration system. This subdivision does not apply to a polling place location that is changed on election day under section 204B.17.

[For text of subds 2 to 7, see M.S.1992]

History: *1993 c 223 s 10*

204B.33 NOTICE OF FILING.

(a) Between June 1 and July 1 in each even numbered year, the secretary of state shall notify each county auditor of the offices to be voted for in that county at the next state general election for which candidates file with the secretary of state. The notice shall include the time and place of filing for those offices. Within ten days after notification by the secretary of state, each county auditor shall notify each municipal clerk in the county of all the offices to be voted for in the county at that election and the time and place for filing for those offices. The county auditors and municipal clerks shall promptly post a copy of that notice in their offices.

(b) At least two weeks before the first day to file an affidavit of candidacy, the county auditor shall publish a notice stating the first and last dates on which affidavits of candidacy may be filed in the county auditor's office and the closing time for filing

on the last day for filing. The county auditor shall post a similar notice at least ten days before the first day to file affidavits of candidacy.

History: *1993 c 59 s 1*

204B.36 BALLOTS; FORM.

[For text of subds 1 to 3, see M.S.1992]

Subd. 4. **Judicial candidates.** The official ballot shall contain the names of all candidates for each judicial office and shall state the number of those candidates for whom a voter may vote. Each seat for an associate justice, associate judge, or judge of the district court must be numbered. The title of each judicial office shall be printed on the official primary and general election ballot as follows:

(a) In the case of the supreme court:

"Chief justice - supreme court;

"Associate justice (number) - supreme court"

(b) In the case of the court of appeals:

"Judge (number) - court of appeals; or

(c) In the case of the district court:

"Judge (number) - (number) district court."

[For text of subd 5, see M.S.1992]

History: *1993 c 318 art 2 s 45*

204B.45 MAIL BALLOTING.

Subdivision 1. **Authorization.** Any statutory or home rule charter city or town having fewer than 400 registered voters on June 1 of an election year and not located in a metropolitan county as defined by section 473.121 may provide balloting by mail at any city, county, or state election with no polling place other than the office of the auditor or clerk. The governing body may apply to the county auditor for permission to conduct balloting by mail. The county board may provide for balloting by mail in unorganized territory.

[For text of subds 1a to 3, see M.S.1992]

History: *1993 c 318 art 1 s 1*

204B.46 MAIL ELECTIONS; QUESTIONS.

A county, municipality, or school district submitting questions to the voters at a special election may apply to the county auditor for approval of an election by mail with no polling place other than the office of the auditor or clerk. No more than two questions may be submitted at a mail election and no offices may be voted on. Notice of the election and the special mail procedure must be given at least six weeks prior to the election. No earlier than 20 or later than 14 days prior to the election, the auditor or clerk shall mail ballots by nonforwardable mail to all voters registered in the county, municipality, or school district. Eligible voters not registered at the time the ballots are mailed may apply for ballots pursuant to chapter 203B.

History: *1993 c 223 s 11*

CHAPTER 204C

ELECTION DAY ACTIVITIES

204C.06 CONDUCT IN AND NEAR POLLING PLACES.

Subdivision 1. **Lingering near polling place.** An individual shall be allowed to go to and from the polling place for the purpose of voting without unlawful interference. No one except an election official or an individual who is waiting to register or to vote shall stand within 100 feet of the entrance to a polling place. The entrance to a polling place is the doorway or point of entry leading into the room or area where voting is occurring.

[For text of subds 2 to 7, see M.S.1992]

History: *1993 c 223 s 12*

204C.31 CANVASSING BOARDS; MEMBERSHIP.

[For text of subd 1, see M.S.1992]

Subd. 2. **State canvassing board.** The state canvassing board shall consist of the secretary of state, two judges of the supreme court or the court of appeals, and two judges of the district court selected by the secretary of state. None of the judges shall be a candidate at the election. If a judge fails to appear at the meeting of the canvassing board, the secretary of state shall fill the vacancy in membership by selecting another judge who is not a candidate at the election. Not more than two judges of the supreme court shall serve on the canvassing board at one time.

[For text of subd 3, see M.S.1992]

History: *1993 c 223 s 13*

204C.32 CANVASS OF STATE PRIMARIES.

Subdivision 1. **County canvass.** The county canvassing board shall meet at the county auditor's office at 10:00 a.m. on or before the third day following the state primary. After taking the oath of office, the canvassing board shall publicly canvass the election returns delivered to the county auditor. The board shall complete the canvass by the evening of the sixth day following the election and shall promptly prepare and file with the county auditor a report that states:

(a) The number of individuals voting at the election in the county, and in each precinct;

(b) The number of individuals registering to vote on election day and the number of individuals registered before election day in each precinct;

(c) For each major political party, the names of the candidates running for each partisan office and the number of votes received by each candidate in the county and in each precinct;

(d) The names of the candidates of each major political party who are nominated; and

(e) The number of votes received by each of the candidates for nonpartisan office in each precinct in the county and the names of the candidates nominated for nonpartisan office.

Upon completion of the canvass, the county auditor shall mail or deliver a notice of nomination to each nominee voted for only in that county. The county auditor shall

transmit one of the certified copies of the county canvassing board report for state and federal offices to the secretary of state by express mail or similar service immediately upon conclusion of the county canvass.

Subd. 2. **State canvass.** The state canvassing board shall meet at the secretary of state's office on the second Friday after the state primary to canvass the certified copies of the county canvassing board reports received from the county auditors. No later than two days after the canvassing board declares the results, the secretary of state shall certify the names of the nominees to the county auditors and shall mail to each nominee a notice of nomination.

History: *1993 c 223 s 14*

204C.35 LEGISLATIVE AND JUDICIAL RACES.

Subdivision 1. **Automatic recounts.** In a state primary when the difference between the votes cast for the candidates for nomination to a legislative office or to a district judicial office is 100 or less, the difference is less than ten percent of the total number of votes counted for that nomination and the difference determines the nomination, the canvassing board with responsibility for declaring the results for that office shall recount the vote. In a state general election when the difference between the votes of a candidate who would otherwise be declared elected to a legislative office or to a district judicial office and the votes of any other candidate for that office is 100 or less, the canvassing board shall recount the votes. A recount shall not delay any other part of the canvass. The results of the recount shall be certified by the canvassing board as soon as possible. Time for notice of a contest for an office which is recounted pursuant to this section shall begin to run upon certification of the results of the recount by the canvassing board. A losing candidate may waive a recount required pursuant to this section by filing a written notice of waiver with the canvassing board.

[For text of subd 2, see M.S.1992]

History: *1993 c 68 s 1*

CHAPTER 204D

PARTICULAR ELECTIONS

204D.04 BALLOT PREPARATION.

[For text of subd 1, see M.S.1992]

Subd. 2. **Instructions to printer; printer's bond.** The official charged with the preparation and distribution of the ballots shall prepare instructions to the printer for rotation of the names of candidates and for layout of the ballot. The instructions shall be approved by the legal advisor of the official before delivery to the printer. Before a contract exceeding $1,000 is awarded for printing ballots, the printer shall furnish a sufficient bond, letter of credit, or certified check, acceptable to the official responsible for printing the ballots, conditioned on printing the ballots in conformity with the Minnesota election law and the instructions delivered. The official responsible for printing the ballots shall set the amount of the bond, letter of credit, or certified check in an amount equal to the value of the purchase.

History: *1993 c 223 s 15*

204D.11 STATE GENERAL ELECTION BALLOTS; CANDIDATES; OFFICIAL IN CHARGE; RULES; REIMBURSEMENT.

[For text of subd 1, see M.S.1992]

Subd. 2. **Pink ballots.** Amendments to the state constitution shall be placed on a ballot printed on pink paper which shall be known as the "pink ballot." The pink ballot shall be prepared by the county auditor, in the manner provided in the rules of the secretary of state.

Subd. 3. **Canary ballot.** All questions and the names of all candidates for offices to be voted on at the state general election which are not placed on the white ballot shall be placed on a single ballot printed on canary paper which shall be known as the "canary ballot." The canary ballot shall be prepared by the county auditor in the manner provided in the rules of the secretary of state.

[For text of subds 4 and 5, see M.S.1992]

Subd. 6. **Gray ballot.** When the canary ballot would be longer than 30 inches or when it would not be possible to place all offices on a single ballot card, the judicial offices that should be placed on the canary ballot may be placed instead on a separate gray ballot. The gray ballot shall be prepared by the county auditor in the manner provided in the rules of the secretary of state.

The gray ballot must be headed with the words: "Judicial Nonpartisan General Election Ballot." Separate ballot boxes must be provided for these gray ballots.

History: *1993 c 223 s 16-18*

204D.19 SPECIAL ELECTIONS; WHEN HELD.

[For text of subds 1 to 4, see M.S.1992]

Subd. 5. **Prohibition.** No special election shall be held under this section on the second Tuesday in December.

History: *1993 c 375 art 7 s 6*

204D.24 SPECIAL ELECTIONS; PRECINCTS; ELECTION JUDGES; VOTERS.

[For text of subd 1, see M.S.1992]

Subd. 2. **Voter registration.** An individual may register to vote at a special primary or special election at any time before the day that the polling place rosters for the special primary or special election are prepared by the secretary of state. The secretary of state shall provide the county auditors with notice of this date at least seven days before the printing of the rosters. This subdivision does not apply to a special election held on the same day as the presidential primary, state primary, state general election, or the regularly scheduled primary or general election of a municipality, school district, or special district.

History: *1993 c 223 s 19*

204D.27 SPECIAL ELECTION RETURNS.

[For text of subds 1 to 10, see M.S.1992]

Subd. 11. **Certificate of legislative election.** A certificate of election in a special election for state senator or state representative shall be issued by the county auditor or the secretary of state to the individual declared elected by the county or state canvassing board two days, excluding Sundays and legal holidays, after the appropriate canvassing board finishes canvassing the returns for the election.

In case of a contest the certificate shall not be issued until the district court determines the contest.

History: *1993 c 223 s 20*

CHAPTER 205

MUNICIPAL ELECTIONS

205.10 MUNICIPAL SPECIAL ELECTIONS.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. **Prohibition.** No special election shall be held under this section on the second Tuesday in December.

History: *1993 c 375 art 7 s 7*

CHAPTER 205A

SCHOOL DISTRICT ELECTIONS

205A.05 SPECIAL ELECTIONS.

Subdivision 1. **Questions.** Special elections must be held for a school district on a question on which the voters are authorized by law to pass judgment. The school board may on its own motion call a special election to vote on any matter requiring approval of the voters of a district. Upon petition of 50 or more voters of the school district or five percent of the number of voters voting at the preceding regular school district election, the school board shall by resolution call a special election to vote on any matter requiring approval of the voters of a district. A question is carried only with the majority in its favor required by law. The election officials for a special election are the same as for the most recent school district general election unless changed according to law. Otherwise, special elections must be conducted and the returns made in the manner provided for the school district general election. A special election may not be held during the 30 days before and the 30 days after the state primary or state general election, or on the second Tuesday in December. In addition, a special election may not be held during the 20 days before and the 20 days after any regularly scheduled election of a municipality wholly or partially within the school district. Notwithstanding any other law to the contrary, the time period in which a special election must be conducted under any other law may be extended by the school board to conform with the requirements of this subdivision.

[For text of subd 2, see M.S.1992]

History: *1993 c 375 art 7 s 8*

CHAPTER 206

VOTING MACHINES

206.57 EXAMINATION OF NEW VOTING SYSTEMS.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. [Repealed, 1993 c 337 s 20]

[For text of subd 4, see M.S.1992]

206.83 TESTING OF VOTING SYSTEMS.

The official in charge of elections shall have the voting system tested to ascertain that the system will correctly count the votes cast for all candidates and on all questions (1) within five days prior to election day, for punch card voting systems, or (2) within 14 days prior to election day, for optical scan voting systems. Public notice of the time and place of the test must be given at least two days in advance by publication once in official newspapers. The test must be observed by at least two election judges, who are not of the same major political party, and must be open to representatives of the political parties, candidates, the press, and the public. The test must be conducted by processing a preaudited group of ballots punched or marked to record a predetermined number of valid votes for each candidate and on each question, and must include for each office one or more ballot cards which have votes in excess of the number allowed by law in order to test the ability of the voting system to reject those votes. If any error is detected, the cause must be ascertained and corrected and an errorless count must be made before the voting system may be used in the election. The test for punch card voting systems must be repeated immediately before the start of the official count of the ballots, in the manner provided in this section. After the completion of the count, the programs used and ballot cards must be sealed, retained, and disposed of as provided for paper ballots.

History: *1993 c 223 s 21*

206.90 OPTICAL SCAN VOTING SYSTEMS.

[For text of subds 1 to 5, see M.S.1992]

Subd. 6. **Ballots.** In precincts using optical scan voting systems, a single ballot card on which all ballot information is included must be printed in black ink on white or buff colored material except that marks not to be read by the automatic tabulating equipment may be printed in another color ink. If more than one ballot card is required, the cards must, so far as practicable, be of the same color as is required for paper ballots.

When optical scan ballots are used, the offices to be elected must appear in the following order: federal offices; state legislative offices; constitutional offices; proposed constitutional amendments; county offices and questions; municipal offices and questions; school district offices and questions; special district offices and questions; and judicial offices.

[For text of subds 7 to 10, see M.S.1992]

History: *1993 c 223 s 22*

CHAPTER 207A

PRESIDENTIAL PRIMARY

207A.02 CANDIDATES ON BALLOT.

Subdivision 1. **Required listing.** The following individuals must be listed as candidates on the appropriate major political party presidential ballot with a separate ballot for each major political party:

(1) any individual who files an affidavit of candidacy pursuant to section 204B.06 and submits the appropriate filing fee or petition in place of filing fee pursuant to section 204B.11; and

(2) any individual nominated as a candidate for the presidential nomination of a political party by a petition submitted not later than ten weeks before the primary and bearing the names of 1,000 eligible voters from each congressional district.

In addition, each major political party's ballot must contain a place for a voter to indicate a preference for having delegates to the party's national convention remain uncommitted, and a blank line printed below the other choices on the ballot so that a voter may write in the name of a person who is not listed on the ballot.

The candidates must be listed on the appropriate major political party ballot in the order that the affidavits of candidacy or nominating petitions for the candidates are filed with the secretary of state.

[For text of subds 1a to 4, see M.S.1992]

History: *1993 c 223 s 23*

207A.10 REIMBURSEMENT OF ELECTION EXPENSES.

[For text of subd 1, see M.S.1992]

Subd. 2. **Reimbursable expenses.** The following expenses are eligible for reimbursement: salaries of election judges; postage for absentee ballots; preparation of polling places, in an amount not to exceed $25 per polling place; preparation of electronic voting systems or lever voting machines, in an amount not to exceed $50 per precinct; compensation of county canvassing board members; publication of the sample ballot; and compensation for temporary staff or overtime payments.

[For text of subds 3 and 4, see M.S.1992]

History: *1993 c 223 s 24*

CHAPTER 211A

CAMPAIGN FINANCIAL REPORTS

211A.12 CONTRIBUTION LIMITS.

A candidate may not accept aggregate contributions made or delivered by an individual or committee in excess of $300 in an election year for the office sought and $100 in other years; except that a candidate for an office whose territory has a population over 100,000 may not accept aggregate contributions made or delivered by an individual or committee in excess of $500 in an election year for the office sought and $100 in other years.

History: *1993 c 318 art 2 s 46*

211A.13 PROHIBITED TRANSFERS.

A candidate for political subdivision office must not accept contributions from the principal campaign committee of a candidate as defined in section 10A.01, subdivision 5. A candidate for political subdivision office must not make contributions to a principal campaign committee, unless the contribution is made from the personal funds of the candidate for political subdivision office.

History: *1993 c 318 art 2 s 47*

CHAPTER 211B

FAIR CAMPAIGN PRACTICES

211B.11 ELECTION DAY PROHIBITIONS.

Subdivision 1. **Soliciting near polling places.** A person may not display campaign material, post signs, ask, solicit, or in any manner try to induce or persuade a voter within a polling place or within 100 feet of the building in which a polling place is situated, or anywhere on the public property on which a polling place is situated, on primary or election day to vote for or refrain from voting for a candidate or ballot question. A person may not provide political badges, political buttons, or other political insignia to be worn at or about the polling place on the day of a primary or election. A political badge, political button, or other political insignia may not be worn at or about the polling place on primary or election day. This section applies to areas established by the county auditor or municipal clerk for absentee voting as provided in chapter 203B.

The secretary of state, county auditor, municipal clerk, or school district clerk may provide stickers which contain the words "I VOTED" and nothing more. Election judges may offer a sticker of this type to each voter who has signed the polling place roster.

[For text of subds 2 to 4, see M.S.1992]

History: *1993 c 223 s 25*

211B.12 LEGAL EXPENDITURES.

Use of money collected for political purposes is prohibited unless the use is reasonably related to the conduct of election campaigns, or is a noncampaign disbursement as defined in section 10A.01, subdivision 10c. The following are permitted expenditures when made for political purposes:

(1) salaries, wages, and fees;

(2) communications, mailing, transportation, and travel;

(3) campaign advertising;

(4) printing;

(5) office and other space and necessary equipment, furnishings, and incidental supplies;

(6) charitable contributions of not more than $50 to any charity annually; and

(7) other expenses, not included in clauses (1) to (6), that are reasonably related to the conduct of election campaigns. In addition, expenditures made for the purpose of providing information to constituents, whether or not related to the conduct of an election, are permitted expenses. Money collected for political purposes and assets of a political committee or political fund may not be converted to personal use.

History: *1993 c 318 art 2 s 48*

211B.14 DIGEST OF LAWS.

The secretary of state, with the approval of the attorney general, shall prepare and print an easily understandable digest of this chapter and annotations of it. The digest may include other related laws and annotations at the discretion of the secretary of state.

The secretary of state shall distribute the digest to candidates and committees through the county auditor or otherwise as the secretary of state considers expedient.

History: *1993 c 223 s 26*

211B.15 CORPORATE POLITICAL CONTRIBUTIONS.

Subdivision 1. **Definitions.** For purposes of this section, "corporation" means:

(1) a corporation organized for profit that does business in this state;

(2) a nonprofit corporation that carries out activities in this state; or

(3) a limited liability company formed under chapter 322B, or under similar laws of another state, that does business in this state.

Subd. 2. **Prohibited contributions.** A corporation may not make a contribution or offer or agree to make a contribution, directly or indirectly, of any money, property, free service of its officers, employees, or members, or thing of monetary value to a major political party, organization, committee, or individual to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office. For the purpose of this subdivision, "contribution" includes an expenditure to promote or defeat the election or nomination of a candidate to a political office that is made with the authorization or expressed or implied consent of, or in cooperation or in concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a candidate.

Subd. 3. **Independent expenditures.** A corporation may not make an independent expenditure or offer or agree to make an independent expenditure to promote or defeat the candidacy of an individual for nomination, election, or appointment to a political office. For the purpose of this subdivision, "independent expenditure" means an expenditure that is not made with the authorization or expressed or implied consent of, or in cooperation or concert with, or at the request or suggestion of, a candidate or committee established to support or oppose a candidate.

Subd. 4. **Ballot question.** A corporation may make contributions or expenditures to promote or defeat a ballot question, to qualify a question for placement on the ballot unless otherwise prohibited by law, or to express its views on issues of public concern. A corporation may not make a contribution to a candidate for nomination, election, or appointment to a political office or to a committee organized wholly or partly to promote or defeat a candidate.

Subd. 5. **News media.** This section does not prohibit publication or broadcasting of news items or editorial comments by the news media.

Subd. 6. **Penalty for individuals.** An officer, manager, stockholder, member, agent, employee, attorney, or other representative of a corporation acting in behalf of the corporation who violates this section may be fined not more than $20,000 or be imprisoned for not more than five years, or both.

Subd. 7. **Penalty for corporations.** A corporation convicted of violating this section is subject to a fine not greater than $40,000. A convicted domestic corporation may be dissolved as well as fined. If a foreign or nonresident corporation is convicted, in addition to being fined, its right to do business in this state may be declared forfeited.

Subd. 8. **Permitted activity; political party.** It is not a violation of this section for a political party, as defined in section 200.02, subdivision 7, to form a nonprofit corporation for the sole purpose of holding real property to be used exclusively as the party's headquarters.

Subd. 9. **Media projects.** It is not a violation of this section for a corporation to contribute to or conduct public media projects to encourage individuals to attend precinct caucuses, register, or vote if the projects are not controlled by or operated for the advantage of a candidate, political party, or committee.

Subd. 10. **Meeting facilities.** It is not a violation of this section for a corporation to provide meeting facilities to a committee, political party, or candidate on a nondiscriminatory and nonpreferential basis.

Subd. 11. **Messages on premises.** It is not a violation of this section for a corporation selling products or services to the public to post on its public premises messages that promote participation in precinct caucuses, voter registration, or elections if the messages are not controlled by or operated for the advantage of a candidate, political party, or committee.

Subd. 12. **Reports required.** The total amount of an expenditure or contribution for any one project permitted by subdivisions 9 and 11 that is more than $200, together with the date, purpose, and the names and addresses of the persons receiving the contribution or expenditures, must be reported to the secretary of state. The reports must be filed on forms provided by the secretary of state on the dates required for committees under section 211A.02. Failure to file is a misdemeanor.

Subd. 13. **Aiding violation; penalty.** An individual who aids, abets, or advises a violation of this section is guilty of a gross misdemeanor.

Subd. 14. **Prosecutions; venue.** Violations of this section may be prosecuted in the county where the payment or contribution was made, where services were rendered, or where money was paid or distributed.

Subd. 15. **Nonprofit corporation exemption.** The prohibitions in this section do not apply to a nonprofit corporation that:

(1) cannot engage in business activities;

(2) has no shareholders or other persons affiliated so as to have a claim on its assets or earnings; and

(3) was not established by a business corporation or a labor union and has a policy not to accept significant contributions from those entities.

Subd. 16. **Employee political fund solicitation.** Any solicitation of political contributions by an employee must be in writing, informational and nonpartisan in nature, and not promotional for any particular candidate or group of candidates. The solicitation must consist only of a general request on behalf of an independent political committee (conduit fund) and must state that there is no minimum contribution, that a contribution or lack thereof will in no way impact the employee's employment, that the employee must direct the contribution to candidates of the employee's choice, and that any response by the employee shall remain confidential and shall not be directed to the employee's supervisors or managers. Questions from an employee regarding a solicitation may be answered orally or in writing consistent with the above requirements. Nothing in this subdivision authorizes a corporate donation of an employee's time prohibited under subdivision 2.

History: *1993 c 318 art 2 s 49*

CHAPTER 214

EXAMINING AND LICENSING BOARDS

214.01 DEFINITIONS.

[For text of subd 1, see M.S.1992]

Subd. 2. **Health-related licensing board.** "Health-related licensing board" means the board of examiners of nursing home administrators established pursuant to section 144A.19, the board of medical practice created pursuant to section 147.01, the board of nursing created pursuant to section 148.181, the board of chiropractic examiners established pursuant to section 148.02, the board of optometry established pursuant to section 148.52, the board of psychology established pursuant to section 148.90, the social work licensing board pursuant to section 148B.19, the board of marriage and family therapy pursuant to section 148B.30, the mental health practitioner advisory council established pursuant to section 148B.62, the chemical dependency counseling licensing advisory council established pursuant to section 148C.02, the board of dentistry established pursuant to section 150A.02, the board of pharmacy established pursuant to section 151.02, the board of podiatric medicine established pursuant to section 153.02, and the board of veterinary medicine, established pursuant to section 156.01.

[For text of subd 3, see M.S.1992]

History: *1Sp1993 c 1 art 3 s 15*

214.04 SERVICES.

Subdivision 1. **Services provided.** The commissioner of administration with respect to the board of electricity, the commissioner of education with respect to the board of teaching, the commissioner of public safety with respect to the board of private detective and protective agent services, and the board of peace officer standards and training, and the commissioner of revenue with respect to the board of assessors, shall provide suitable offices and other space, joint conference and hearing facilities, examination rooms, and the following administrative support services: purchasing service, accounting service, advisory personnel services, consulting services relating to evaluation procedures and techniques, data processing, duplicating, mailing services, automated printing of license renewals, and such other similar services of a housekeeping nature as are generally available to other agencies of state government. Investigative services shall be provided the boards by employees of the office of attorney general. The commissioner of health with respect to the health-related licensing boards shall provide mailing and office supply services and may provide other facilities and services listed in this subdivision at a central location upon request of the health-related licensing boards. The commissioner of commerce with respect to the remaining non-health-related licensing boards shall provide the above facilities and services at a central location for the remaining non-health-related licensing boards. The legal and investigative services for the boards shall be provided by employees of the attorney general assigned to the departments servicing the boards. Notwithstanding the foregoing, the attorney general shall not be precluded by this section from assigning other attorneys to service a board if necessary in order to insure competent and consistent legal representation. Persons providing legal and investigative services shall to the extent practicable provide the services on a regular basis to the same board or boards.

[For text of subds 2 to 4, see M.S.1992]

History: *1Sp1993 c 1 art 9 s 67*

214.06 FEES; LICENSE RENEWALS.

Subdivision 1. **Fee adjustment.** Notwithstanding any law to the contrary, the commissioner of health as authorized by section 214.13, all health-related licensing boards and all non-health-related licensing boards shall by rule, with the approval of the commissioner of finance, adjust any fee which the commissioner of health or the board is empowered to assess a sufficient amount so that the total fees collected by each board will as closely as possible equal anticipated expenditures during the fiscal biennium, as provided in section 16A.128. For members of an occupation registered after July 1, 1984, by the commissioner of health under the provisions of section 214.13, the fee established must include an amount necessary to recover, over a five-year period, the commissioner's direct expenditures for adoption of the rules providing for registration of members of the occupation. All fees received shall be deposited in the state treasury. Fees received by the commissioner of health or health-related licensing boards must be credited to the health occupations licensing account in the state government special revenue fund.

[For text of subd 2, see M.S.1992]

Subd. 3. **Health-related licensing boards.** Notwithstanding section 14.22, subdivision 1, clause (3), a public hearing is not required to be held when the health-related licensing boards need to raise fees to cover anticipated expenditures in a biennium. The notice of intention to adopt the rules, as required under section 14.22, must state that no hearing will be held.

History: *1Sp1993 c 1 art 9 s 68,69*

214.09 MEMBERSHIP; COMPENSATION; REMOVAL; VACANCIES.

[For text of subd 1, see M.S.1992]

Subd. 2. **Membership terms.** An appointment to a board must be made in the manner provided in section 15.0597. The terms of the members shall be four years with the terms ending on the first Monday in January. The appointing authority shall appoint as nearly as possible one-fourth of the members to terms expiring each year. If the number of members is not evenly divisible by four, the greater number of members, as necessary, shall be appointed to terms expiring in the year of commencement of the governor's term and the year or years immediately thereafter. If the number of terms which can be served by a member of a board is limited by law, a partial term must be counted for this purpose if the time served by a member is greater than one-half of the duration of the regular term. If the membership is composed of categories of members from occupations, industries, political subdivisions, the public or other groupings of persons, and if the categories have two or more members each, the appointing authority shall appoint as nearly as possible one-fourth of the members in each category at each appointment date. Members may serve until their successors are appointed and qualify. If the appointing authority fails to appoint a successor by July 1 of the year in which the term expires, the term of the member for whom a successor has not been appointed shall extend until the first Monday in January four years after the scheduled end of the original term.

[For text of subds 3 and 4, see M.S.1992]

History: *1993 c 80 s 6*

214.10 NON-HEALTH-RELATED LICENSING BOARDS: COMPLAINTS; INVESTIGATION AND HEARING.

[For text of subds 1 to 3, see M.S.1992]

Subd. 4. [Repealed, 1993 c 326 art 7 s 22]

Subd. 5. [Repealed, 1993 c 326 art 7 s 22]

Subd. 6. [Repealed, 1993 c 326 art 7 s 22]

Subd. 7. [Repealed, 1993 c 326 art 7 s 22]

[For text of subds 8 and 9, see M.S.1992]

Subd. 10. **Board of peace officers standards and training; receipt of complaint.** Notwithstanding the provisions of subdivision 1 to the contrary, when the executive director or any member of the board of peace officer standards and training produces or receives a written statement or complaint that alleges a violation of a statute or rule that the board is empowered to enforce, the executive director shall designate the appropriate law enforcement agency to investigate the complaint and shall order it to conduct an inquiry into the complaint's allegations. The investigating agency must complete the inquiry and submit a written summary of it to the executive director within 30 days of the order for inquiry.

Subd. 11. **Board of peace officers standards and training; reasonable grounds determination.** (a) After the investigation is complete, the executive director shall convene a three-member committee of the board to determine if the complaint constitutes reasonable grounds to believe that a violation within the board's enforcement jurisdiction has occurred. At least two members of the committee must be board members who are peace officers. No later than 30 days before the committee meets, the executive director shall give the licensee who is the subject of the complaint and the complainant written notice of the meeting. The executive director shall also give the licensee a copy of the complaint. Before making its determination, the committee shall give the complaining party and the licensee who is the subject of the complaint a reasonable opportunity to be heard.

(b) The committee shall, by majority vote, after considering the information supplied by the investigating agency and any additional information supplied by the complainant or the licensee who is the subject of the complaint, take one of the following actions:

(1) find that reasonable grounds exist to believe that a violation within the board's enforcement jurisdiction has occurred and order that an administrative hearing be held;

(2) decide that no further action is warranted; or

(3) continue the matter.

The executive director shall promptly give notice of the committee's action to the complainant and the licensee.

(c) If the committee determines that a complaint does not relate to matters within its enforcement jurisdiction but does relate to matters within another state or local agency's enforcement jurisdiction, it shall refer the complaint to the appropriate agency for disposition.

Subd. 12. **Board of peace officers standards and training; administrative hearing; board action.** (a) Notwithstanding the provisions of subdivision 2 to the contrary, an administrative hearing shall be held if ordered by the committee under subdivision 11, paragraph (b). After the administrative hearing is held, the administrative law judge shall refer the matter to the full board for final action.

(b) Before the board meets to take action on the matter and the executive director must notify the complainant and the licensee who is the subject of the complaint. After the board meets, the executive director must promptly notify these individuals and the chief law enforcement officer of the agency employing the licensee of the board's disposition.

Subd. 13. **Board of peace officers standards and training; definition.** As used in subdivisions 10 to 12, "appropriate law enforcement agency" means the law enforcement agency assigned by the executive director and the chair of the committee of the board convened under subdivision 11.

History: *1993 c 326 art 7 s 4-7*

214.101 CHILD SUPPORT; SUSPENSION OF LICENSE.

Subdivision 1. **Court order; hearing on suspension.** (a) For purposes of this section, "licensing board" means a licensing board or other state agency that issues an occupational license.

(b) If a licensing board receives an order from a court under section 518.551, subdivision 12, dealing with suspension of a license of a person found by the court to be in arrears in child support or maintenance payments, or both, the board shall, within 30 days of receipt of the court order, provide notice to the licensee and hold a hearing. If the board finds that the person is licensed by the board and evidence of full payment of arrearages found to be due by the court is not presented at the hearing, the board shall suspend the license unless it determines that probation is appropriate under subdivision 2. The only issues to be determined by the board are whether the person named in the court order is a licensee, whether the arrearages have been paid, and whether suspension or probation is appropriate. The board may not consider evidence with respect to the appropriateness of the court order or the ability of the person to comply with the order. The board may not lift the suspension until the licensee files with the board proof showing that the licensee is current in child support payments and maintenance.

[For text of subds 2 and 3, see M.S.1992]

Subd. 4. **Verification of payments.** Before a board may terminate probation, remove a suspension, issue, or renew a license of a person who has been suspended or placed on probation under this section, it shall contact the court that referred the matter to the board to determine that the applicant is not in arrears for child support or maintenance or both. The board may not issue or renew a license until the applicant proves to the board's satisfaction that the applicant is current in support payments and maintenance.

[For text of subd 5, see M.S.1992]

History: *1993 c 322 s 1,2; 1993 c 340 s 2*

214.103 HEALTH-RELATED LICENSING BOARDS; COMPLAINTS; INVESTIGATION AND HEARING.

Subdivision 1. **Application.** For purposes of this section, "board" means "health-related licensing board" and does not include non-health-related licensing boards. Nothing in this section supersedes section 214.10, subdivisions 2a, 3, 8, and 9, as they apply to the health-related licensing boards.

Subd. 2. **Receipt of complaint.** The boards shall receive and resolve complaints or other communications, whether oral or written, against regulated persons. Before resolving an oral complaint, the executive director or a board member designated by the board to review complaints may require the complainant to state the complaint in writing. The executive director or the designated board member shall determine whether the complaint alleges or implies a violation of a statute or rule which the board is empowered to enforce. The executive director or the designated board member may consult with the designee of the attorney general as to a board's jurisdiction over a complaint. If the executive director or the designated board member determines that it is necessary, the executive director may seek additional information to determine whether the complaint is jurisdictional or to clarify the nature of the allegations by obtaining records or other written material, obtaining a handwriting sample from the regulated person, clarifying the alleged facts with the complainant, and requesting a written response from the subject of the complaint.

Subd. 3. **Referral to other agencies.** The executive director shall forward to another governmental agency any complaints received by the board which do not relate to the board's jurisdiction but which relate to matters within the jurisdiction of another governmental agency. The agency shall advise the executive director of the disposition of the complaint. A complaint or other information received by another governmental agency relating to a statute or rule which a board is empowered to enforce must be for-

warded to the executive director of the board to be processed in accordance with this section.

Subd. 4. **Role of the attorney general.** The executive director or the designated board member shall forward a complaint and any additional information to the designee of the attorney general when the executive director or the designated board member determines that a complaint is jurisdictional and

(1) requires investigation before the executive director or the designated board member may resolve the complaint;

(2) that attempts at resolution for disciplinary action or the initiation of a contested case hearing is appropriate;

(3) that an agreement for corrective action is warranted; or

(4) that the complaint should be dismissed, consistent with subdivision 8.

Subd. 5. **Investigation by attorney general.** If the executive director or the designated board member determines that investigation is necessary before resolving the complaint, the executive director shall forward the complaint and any additional information to the designee of the attorney general. The designee of the attorney general shall evaluate the communications forwarded and investigate as appropriate. The designee of the attorney general may also investigate any other complaint forwarded under subdivision 3 when the designee of the attorney general determines that investigation is necessary. In the process of evaluation and investigation, the designee shall consult with or seek the assistance of the executive director or the designated board member. The designee may also consult with or seek the assistance of other qualified persons who are not members of the board who the designee believes will materially aid in the process of evaluation or investigation. Upon completion of the investigation, the designee shall forward the investigative report to the executive director.

Subd. 6. **Attempts at resolution.** (a) At any time after receipt of a complaint, the executive director or the designated board member may attempt to resolve the complaint with the regulated person. The available means for resolution include a conference or any other written or oral communication with the regulated person. A conference may be held for the purposes of investigation, negotiation, education, or conciliation. The results of attempts at resolution with the regulated person may include a recommendation to the board for disciplinary action, an agreement between the executive director or the designated board member and the regulated person for corrective action, or the dismissal of a complaint. If attempts at resolution are not in the public interest or are not satisfactory to the executive director or the designated board member, then the executive director or the designated board member may initiate a contested case hearing.

(1) The designee of the attorney general shall represent the board in all attempts at resolution which the executive director or the designated board member anticipate may result in disciplinary action. The available remedies for disciplinary action by consent with the regulated person are those listed in section 214.108, subdivision 4. A stipulation between the executive director or the designated board member and the regulated person shall be presented to the board for the board's consideration. An approved stipulation and resulting order shall become public data.

(2) The designee of the attorney general shall represent the board upon the request of the executive director or the designated board member in all attempts at resolution which the executive director or the designated board member anticipate may result in corrective action. Any agreement between the executive director or the designated board member and the regulated person for corrective action shall be in writing and shall be reviewed by the designee of the attorney general prior to its execution. The agreement for corrective action shall provide for dismissal of the complaint upon successful completion by the regulated person of the corrective action.

(b) Upon receipt of a complaint alleging sexual contact or sexual conduct with a client, the board must forward the complaint to the designee of the attorney general for an investigation. If, after it is investigated, the complaint appears to provide a basis for

disciplinary action, the board shall resolve the complaint by disciplinary action or initiate a contested case hearing. Notwithstanding paragraph (a), clause (2), a board may not take corrective action or dismiss a complaint alleging sexual contact or sexual conduct with a client unless, in the opinion of the executive director, the designated board member, and the designee of the attorney general, there is insufficient evidence to justify disciplinary action.

Subd. 7. **Contested case hearing.** If the executive director or the designated board member determines that attempts at resolution of a complaint are not in the public interest or are not satisfactory to the executive director or the designated board member, the executive director or the designated board member, after consultation with the designee of the attorney general, may initiate a contested case hearing under chapter 14. The designated board member or any board member who was consulted during the course of an investigation may participate at the contested case hearing. A designated or consulted board member may not deliberate or vote in any proceeding before the board pertaining to the case.

Subd. 8. **Dismissal of a complaint.** A complaint may not be dismissed without the concurrence of two board members. The designee of the attorney general must review before dismissal any complaints which allege any violation of chapter 609, any conduct which would be required to be reported under section 626.556 or 626.557, any sexual contact or sexual conduct with a client, any violation of a federal law, any actual or potential inability to practice the regulated profession or occupation by reason of illness, use of alcohol, drugs, chemicals, or any other materials, or as a result of any mental or physical condition, any violation of state medical assistance laws, or any disciplinary action related to credentialing in another jurisdiction or country which was based on the same or related conduct specified in this subdivision.

Subd. 9. **Information to complainant.** A board shall furnish to a person who made a complaint a description of the actions of the board relating to the complaint.

Subd. 10. **Prohibited participation by board member.** A board member who has actual bias or a current or former direct financial or professional connection with a regulated person may not vote in board actions relating to the regulated person.

History: *1Sp1993 c 1 art 9 s 70*

214.131 COMMISSIONER CEASE AND DESIST AUTHORITY AND PENALTY FOR VIOLATION.

Subdivision 1. **Cease and desist order.** The commissioner of health may issue a cease and desist order to stop a person from engaging in an unauthorized practice or violating or threatening to violate a statute, rule, or order that the commissioner of health has issued or is empowered to enforce. The cease and desist order must state the reason for its issuance and give notice of the person's right to request a hearing under sections 14.57 to 14.62. If, within 15 days after service of the order, the subject of the order fails to request a hearing in writing, the cease and desist order becomes final.

A hearing must be initiated by the commissioner of health not later than 30 days after the date the commissioner receives a written hearing request. Within 30 days after receiving the administrative law judge's report, the commissioner of health shall issue a final order modifying, vacating, or making permanent the cease and desist order as the facts require. The final order remains in effect until modified or vacated by the commissioner of health.

When a request for a stay accompanies a timely hearing request, the commissioner of health may grant the stay. If the commissioner does not grant a requested stay, the commissioner shall refer the request to the office of administrative hearings within three work days after receiving the request. Within ten days after receiving the request from the commissioner of health, an administrative law judge shall issue a recommendation to grant or deny the stay. The commissioner of health shall grant or deny the stay within five work days after receiving the administrative law judge's recommendation.

In the event of noncompliance with a cease and desist order, the commissioner of health may institute a proceeding in a district court to obtain injunctive relief or other appropriate relief, including a civil penalty payable to the commissioner of health not exceeding $10,000 for each separate violation.

Subd. 2. **Civil penalty.** When the commissioner of health finds that a person has violated one or more provisions of any statute, rule, or order that the commissioner of health is empowered to regulate, enforce, or issue, the commissioner of health may impose, for each violation, a civil penalty that deprives the person of any economic advantage gained by the violation, or that reimburses the department of health for costs of the investigation and proceeding, or both.

Subd. 3. **Injunctive relief.** In addition to any other remedy provided by law, the commissioner of health may bring an action in district court for injunctive relief to restrain any unauthorized practice or violation of any statute, rule, or order that the commissioner of health is empowered to regulate, enforce, or issue. A temporary restraining order may be granted in the proceeding if continued activity by a person would create a serious risk of harm to others.

Subd. 4. **Additional powers.** The issuance of a cease and desist order or injunctive relief granted under this section does not relieve a person from criminal prosecution by any competent authority or from disciplinary action by the commissioner of health. Any violation of any order of the commissioner is a misdemeanor.

History: *1993 c 201 s 6*

214.141 [Repealed, 1Sp1993 c 1 art 9 s 75]

214.16 DATA COLLECTION; HEALTH CARE PROVIDER TAX.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. **Grounds for disciplinary action.** The board shall take disciplinary action, which may include license revocation, against a regulated person for:

(1) intentional failure to provide the commissioner of health or the health care analysis unit established under section 62J.30 with the data required under chapter 62J;

(2) intentional failure to provide the commissioner of revenue with data on gross revenue and other information required for the commissioner to implement sections 295.50 to 295.58; and

(3) intentional failure to pay the health care provider tax required under section 295.52.

History: *1993 c 345 art 12 s 8*

CHAPTER 216B

PUBLIC UTILITIES

216B.09 STANDARDS; CLASSIFICATIONS; RULES; PRACTICES.

Subdivision 1. **Commission authority, generally.** The commission, on its own motion or upon complaint and after reasonable notice and hearing, may ascertain and fix just and reasonable standards, classifications, rules, or practices to be observed and followed by any or all public utilities with respect to the service to be furnished.

Subd. 2. **Electric service, rules, measurement standards, grounding.** The commission, on its own motion or upon complaint and after reasonable notice and hearing, may ascertain and fix adequate and reasonable standards for the measurement of the quantity, quality, pressure, initial voltage, or other condition pertaining to the supply of the service; prescribe reasonable rules for the examination and testing of the service and for the measurement thereof; establish or approve reasonable rules, specifications, and standards to secure the accuracy of all meters, instruments and equipment used for the measurement of any service of any public utility. In this subdivision, service standards or requirements governing any current or voltage originating from the practice of grounding of electrical systems apply to cooperative associations and municipal utilities providing or furnishing retail electric service to agricultural customers.

Subd. 3. **Filings.** Any standards, classifications, rules, or practices now or hereafter observed or followed by any public utility may be filed by it with the commission, and the same shall continue in force until amended by the public utility or until changed by the commission as herein provided.

The commission may require the filing of all rates, including rates charged to and by public utilities.

Subd. 4. **Appearances before federal agency.** The commission is empowered to appear before the Federal Energy Regulatory Commission to offer evidence and to seek appropriate relief in any case in which the rates charged consumers within the state of Minnesota may be affected.

History: *1993 c 327 s 3*

216B.16 RATE CHANGES; PROCEDURE; HEARING.

Subdivision 1. **Notice.** Unless the commission otherwise orders, no public utility shall change a rate which has been duly established under this chapter, except upon 60 days notice to the commission. The notice shall include statements of facts, expert opinions, substantiating documents, and exhibits, supporting the change requested, and state the change proposed to be made in the rates then in force and the time when the modified rates will go into effect. If the filing utility does not have an approved conservation improvement plan on file with the department of public service, it shall also include in its notice an energy conservation plan pursuant to section 216B.241. The filing utility shall give written notice, as approved by the commission, of the proposed change to the governing body of each municipality and county in the area affected. All proposed changes shall be shown by filing new schedules or shall be plainly indicated upon schedules on file and in force at the time.

Subd. 1a. **Settlement.** (a) When a public utility submits a general rate filing, the office of administrative hearings, before conducting a contested case hearing, shall con-

vene a settlement conference including all of the parties for the purpose of encouraging settlement of any or all of the issues in the contested case. If a stipulated settlement is not reached before the contested case hearing, the office of administrative hearings may reconvene the settlement conference during or after completion of the contested case hearing at its discretion or a party's request. The office of administrative hearings or the commission may, upon the request of any party and the public utility, extend the procedural schedule of the contested case in order to permit the parties to engage in settlement discussions. An extension must be for a definite period of time not to exceed 60 days.

(b) If the applicant and all intervening parties agree to a stipulated settlement of the case or parts of the case, the settlement must be submitted to the commission. The commission shall accept or reject the settlement in its entirety and, at any time until its final order is issued in the case, may require the office of administrative hearings to conduct a contested case hearing. The commission may accept the settlement on finding that to do so is in the public interest and is supported by substantial evidence. If the commission does not accept the settlement, it may issue an order modifying the settlement subject to the approval of the parties. Each party shall have ten days in which to reject the proposed modification. If no party rejects the proposed modification, the commission's order becomes final. If the commission rejects the settlement, or a party rejects the commission's proposed modification, a contested case hearing must be completed.

Subd. 2. **Suspension of proposed rates; hearing; final determination defined.** (a) Whenever there is filed with the commission a schedule modifying or resulting in a change in any rates then in force as provided in subdivision 1, the commission may suspend the operation of the schedule by filing with the schedule of rates and delivering to the affected utility a statement in writing of its reasons for the suspension at any time before the rates become effective. The suspension shall not be for a longer period than ten months beyond the initial filing date except as provided in this subdivision or subdivision 1a. During the suspension the commission shall determine whether all questions of the reasonableness of the rates requested raised by persons deemed interested or by the administrative division of the department of public service can be resolved to the satisfaction of the commission. If the commission finds that all significant issues raised have not been resolved to its satisfaction, or upon petition by ten percent of the affected customers or 250 affected customers, whichever is less, it shall refer the matter to the office of administrative hearings with instructions for a public hearing as a contested case pursuant to chapter 14, except as otherwise provided in this section. The commission may order that the issues presented by the proposed rate changes be bifurcated into two separate hearings as follows: (1) determination of the utility's revenue requirements and (2) determination of the rate design. Upon issuance of both administrative law judge reports, the issues shall again be joined for consideration and final determination by the commission. All prehearing discovery activities of state agency intervenors shall be consolidated and conducted by the department of public service. If the commission does not make a final determination concerning a schedule of rates within ten months after the initial filing date, the schedule shall be deemed to have been approved by the commission; except if:

(1) an extension of the procedural schedule has been granted under subdivision 1a, in which case the schedule of rates is deemed to have been approved by the commission on the last day of the extended period of suspension; or

(2) a settlement has been submitted to and rejected by the commission and the commission does not make a final determination concerning the schedule of rates, the schedule of rates is deemed to have been approved 60 days after the initial or, if applicable, the extended period of suspension.

(b) If the commission finds that it has insufficient time during the suspension period to make a final determination of a case involving changes in general rates because of the need to make final determinations of other previously filed cases involving changes in general rates under this section or section 237.075, the commission may

extend the suspension period to the extent necessary to allow itself 20 working days to make the final determination after it has made final determinations in the previously filed cases. An extension of the suspension period under this paragraph does not alter the setting of interim rates under subdivision 3.

(c) For the purposes of this section, "final determination" means the initial decision of the commission and not any order which may be entered by the commission in response to a petition for rehearing or other further relief. The commission may further suspend rates until it determines all those petitions.

Subd. 3. **Interim rates.** Notwithstanding any order of suspension of a proposed increase in rates, the commission shall order an interim rate schedule into effect not later than 60 days after the initial filing date. The commission shall order the interim rate schedule ex parte without a public hearing. Notwithstanding the provisions of sections 216.25, 216B.27 and 216B.52, no interim rate schedule ordered by the commission pursuant to this subdivision shall be subject to an application for a rehearing or an appeal to a court until the commission has rendered its final determination. Unless the commission finds that exigent circumstances exist, the interim rate schedule shall be calculated using the proposed test year cost of capital, rate base, and expenses, except that it shall include: (1) a rate of return on common equity for the utility equal to that authorized by the commission in the utility's most recent rate proceeding; (2) rate base or expense items the same in nature and kind as those allowed by a currently effective order of the commission in the utility's most recent rate proceeding; and (3) no change in the existing rate design. In the case of a utility which has not been subject to a prior commission determination, the commission shall base the interim rate schedule on its most recent determination concerning a similar utility.

If, at the time of its final determination, the commission finds that the interim rates are in excess of the rates in the final determination, the commission shall order the utility to refund the excess amount collected under the interim rate schedule, including interest on it which shall be at the rate of interest determined by the commission. The utility shall commence distribution of the refund to its customers within 120 days of the final order, not subject to rehearing or appeal. If, at the time of its final determination, the commission finds that the interim rates are less than the rates in the final determination, the commission shall prescribe a method by which the utility will recover the difference in revenues between the date of the final determination and the date the new rate schedules are put into effect. In addition, when an extension is granted for settlement discussions under subdivision 1a, the commission shall allow the utility to also recover the difference in revenues for a length of time equal to the length of the extension.

If the public utility fails to make refunds within the period of time prescribed by the commission, the commission shall sue therefor and may recover on behalf of all persons entitled to a refund. In addition to the amount of the refund and interest due, the commission shall be entitled to recover reasonable attorney's fees, court costs and estimated cost of administering the distribution of the refund to persons entitled to it. No suit under this subdivision shall be maintained unless instituted within two years after the end of the period of time prescribed by the commission for repayment of refunds. The commission shall not order an interim rate schedule in a general rate case into effect as provided by this subdivision until at least four months after it has made a final determination concerning any previously filed change of the rate schedule or the change has otherwise become effective under subdivision 2, unless:

(1) the commission finds that a four month delay would unreasonably burden the utility, its customers, or its shareholders and that an earlier imposition of interim rates is therefore necessary; or

(2) the utility files a second general rate case at least 12 months after it has filed a previous general rate case for which the commission has extended the suspension period under subdivision 2.

[For text of subds 4 to 6a, see M.S.1992]

Subd. 6b. **Energy conservation improvements.** All investments and expenses of a public utility as defined in section 216B.241, subdivision 1, paragraph (d), incurred in connection with energy conservation improvements shall be recognized and included by the commission in the determination of just and reasonable rates as if the investments and expenses were directly made or incurred by the utility in furnishing utility service. The commission may permit a public utility to file rate schedules providing for annual recovery of the costs of energy conservation improvements.

[For text of subds 6c to 13, see M.S.1992]

History: *1993 c 49 s 1; 1993 c 327 s 4-7*

216B.162 COMPETITIVE RATES FOR ELECTRIC UTILITIES.

[For text of subds 1 to 6, see M.S.1992]

Subd. 7. **Commission determination.** Except as provided under subdivision 6, competitive rates offered by electric utilities under this section must be filed with the commission and must be approved, modified, or rejected by the commission within 90 days. The utility's filing must include statements of fact demonstrating that the proposed rates meet the standards of this subdivision. The filing must be served on the department of public service and the office of the attorney general at the same time as it is served on the commission. In reviewing a specific rate proposal, the commission shall determine:

(1) that the rate meets the terms and conditions in subdivision 4, unless the commission determines that waiver of one or more terms and conditions would be in the public interest;

(2) that the consumer can obtain its energy requirements from an energy supplier not rate-regulated by the commission under section 216B.16;

(3) that the customer is not likely to take service from the electric utility seeking to offer the competitive rate if the customer was charged the electric utility's standard tariffed rate; and

(4) that after consideration of environmental and socioeconomic impacts it is in the best interest of all other customers to offer the competitive rate to the customer subject to effective competition.

If the commission approves the competitive rate, it becomes effective as agreed to by the electric utility and the customer. If the competitive rate is modified by the commission, the commission shall issue an order modifying the competitive rate subject to the approval of the electric utility and the customer. Each party has ten days in which to reject the proposed modification. If no party rejects the proposed modification, the commissioner's order becomes final. If either party rejects the commission's proposed modification, the electric utility, on its behalf or on the behalf of the customer, may submit to the commission a modified version of the commission's proposal. The commission shall accept or reject the modified version within 30 days. If the commission rejects the competitive rate, it shall issue an order indicating the reasons for the rejection.

[For text of subds 8 and 9, see M.S.1992]

History: *1993 c 190 s 1*

216B.164 COGENERATION AND SMALL POWER PRODUCTION.

[For text of subds 1 to 3, see M.S.1992]

Subd. 4. **Purchases; wheeling; costs.** (a) Except as otherwise provided in paragraph (c), this subdivision shall apply to all qualifying facilities having 40 kilowatt capacity or more as well as qualifying facilities as defined in subdivision 3 which elect to be governed by its provisions.

(b) The utility to which the qualifying facility is interconnected shall purchase all

energy and capacity made available by the qualifying facility. The qualifying facility shall be paid the utility's full avoided capacity and energy costs as negotiated by the parties, as set by the commission, or as determined through competitive bidding approved by the commission. The full avoided capacity and energy costs to be paid a qualifying facility that generates electric power by means of a renewable energy source are the utility's least cost renewable energy facility or the bid of a competing supplier of a least cost renewable energy facility, whichever is lower, unless the commission's resource plan order, under section 216B.2422, subdivision 2, provides that the use of a renewable resource to meet the identified capacity need is not in the public interest.

(c) For all qualifying facilities having 30 kilowatt capacity or more, the utility shall, at the qualifying facility's or the utility's request, provide wheeling or exchange agreements wherever practicable to sell the qualifying facility's output to any other Minnesota utility having generation expansion anticipated or planned for the ensuing ten years. The commission shall establish the methods and procedures to insure that except for reasonable wheeling charges and line losses, the qualifying facility receives the full avoided energy and capacity costs of the utility ultimately receiving the output.

(d) The commission shall set rates for electricity generated by renewable energy.

[For text of subds 5 to 9, see M.S.1992]

History: *1993 c 356 s 1*

216B.168 ALTERNATIVE FUEL VEHICLES.

Subdivision 1. **Rate recovery.** If the department determines under section 216C.40 that a policy that would result in the recovery through public utility rates of expenses or investments in the development and market penetration of alternative fuel vehicles is in the public interest and consistent with the Federal Energy Policy Act, United States Code, title 42, section 13235, the department may approve plans of public utilities to make investments and expenditures in alternative fuel vehicles and supporting equipment. The commission may allow a public utility to recover through its rates the investments and expenses under a plan approved by the department and may allow recovery of any assessment under Laws 1993, chapter 254, section 7. The rate recovery shall provide for the ratable phase-out over a 20-year period at five percent per year of the recovery of those expenses or investments in public utility rates.

Subd. 2. **Repealer.** This section expires July 1, 2003, except that any plan approved by the commission under subdivision 1 prior to that date may continue until the expiration date of the plan.

History: *1993 c 254 s 1*

216B.241 ENERGY CONSERVATION IMPROVEMENTS.

[For text of subds 1 to 4, see M.S.1992]

Subd. 5. **Efficient lighting program.** (a) Each public utility, cooperative electric association, and municipal utility that provides electric service to retail customers shall include as part of its conservation improvement activities a program to strongly encourage the use of fluorescent and high intensity discharge lamps. The program must include at least a public information campaign to encourage use of the lamps and proper management of spent lamps by all customer classifications.

(b) A public utility that provides electric service at retail to 200,000 or more customers shall establish, either directly or through contracts with other persons, including lamp manufacturers, distributors, wholesalers, and retailers and local government units, a system to collect for delivery to a reclamation or recycling facility spent fluorescent and high intensity discharge lamps from households and from small businesses as defined in section 645.445 that generate an average of fewer than ten spent lamps per year.

(c) A collection system must include establishing reasonably convenient locations

for collecting spent lamps from households and financial incentives sufficient to encourage spent lamp generators to take the lamps to the collection locations. Financial incentives may include coupons for purchase of new fluorescent or high intensity discharge lamps, a cash back system, or any other financial incentive or group of incentives designed to collect the maximum number of spent lamps from households and small businesses that is reasonably feasible.

(d) A public utility that provides electric service at retail to fewer than 200,000 customers, a cooperative electric association, or a municipal utility that provides electric service at retail to customers may establish a collection system under paragraphs (b) and (c) as part of conservation improvement activities required under this section.

(e) The commissioner of the pollution control agency may not, unless clearly required by federal law, require a public utility, cooperative electric association, or municipality that establishes a household fluorescent and high intensity discharge lamp collection system under this section to manage the lamps as hazardous waste as long as the lamps are managed to avoid breakage and are delivered to a recycling or reclamation facility that removes mercury and other toxic materials contained in the lamps prior to placement of the lamps in solid waste.

(f) If a public utility, cooperative electric association, or municipal utility contracts with a local government unit to provide a collection system under this subdivision, the contract must provide for payment to the local government unit of all the unit's incremental costs of collecting and managing spent lamps.

(g) All the costs incurred by a public utility, cooperative electric association, or municipal utility for promotion and collection of fluorescent and high intensity discharge lamps under this subdivision are conservation improvement spending under this section.

History: *1993 c 249 s 31*

NOTE: Subdivision 5, as added by Laws 1993, chapter 249, section 31, is effective August 1, 1994. See Laws 1993, chapter 249, section 62.

216B.242 INVERTED RATES.

The commission may initiate a program designed to demonstrate the effect of inverted rates on promoting conservation by the residential customers of natural gas utilities. Any inverted rates ordered by the commission shall present customers with a tailblock price that, to the maximum extent practicable, reflects the replacement cost of gas. Total revenues collected from customers involved in this pilot program may not exceed those that would be collected under a flat rate. The commission may order one public gas utility to implement a pilot program of inverted rates for residential customers and to monitor the effects of these rates on gas consumption, and on costs to residential customers. The program shall include a sufficient number of residential customers to provide statistically significant conclusions regarding the effects and costs of inverted rates.

History: *1993 c 163 art 1 s 27*

216B.2421 DEFINITION OF LARGE ENERGY FACILITY.

Subdivision 1. **Applicability.** The definition in this section applies to this section and sections 216B.2422 and 216B.243.

Subd. 2. **Large energy facility.** "Large energy facility" means:

(a) any electric power generating plant or combination of plants at a single site with a combined capacity of 80,000 kilowatts or more, or any facility of 50,000 kilowatts or more which requires oil, natural gas, or natural gas liquids as a fuel and for which an installation permit has not been applied for by May 19, 1977 pursuant to Minn. Reg. APC 3(a);

(b) any high voltage transmission line with a capacity of 200 kilovolts or more and with more than 50 miles of its length in Minnesota; or, any high voltage transmission line with a capacity of 300 kilovolts or more with more than 25 miles of its length in Minnesota;

(c) any pipeline greater than six inches in diameter and having more than 50 miles of its length in Minnesota used for the transportation of coal, crude petroleum or petroleum fuels or oil or their derivatives;

(d) any pipeline for transporting natural or synthetic gas at pressures in excess of 200 pounds per square inch with more than 50 miles of its length in Minnesota;

(e) any facility designed for or capable of storing on a single site more than 100,000 gallons of liquefied natural gas or synthetic gas;

(f) any underground gas storage facility requiring permit pursuant to section 103I.681;

(g) any nuclear fuel processing or nuclear waste storage or disposal facility; and

(h) any facility intended to convert any material into any other combustible fuel and having the capacity to process in excess of 75 tons of the material per hour.

Subd. 3. **Multifuel facilities; primary fuel source.** If more than one fuel source would be used for any electric power generating plant or combination of plants at a single site, the primary fuel source determines whether the facility is a large energy facility.

History: *1993 c 327 s 8,9; 1993 c 356 s 2*

216B.2422 RESOURCE PLANNING; RENEWABLE ENERGY.

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Utility" means an entity with the capability of generating 100,000 kilowatts or more of electric power and serving, either directly or indirectly, the needs of 10,000 retail customers in Minnesota. Utility does not include federal power agencies.

(c) "Renewable energy" means electricity generated through use of any of the following resources:

(1) wind;

(2) solar;

(3) geothermal;

(4) hydro;

(5) trees or other vegetation; or

(6) landfill gas.

(d) "Resource plan" means a set of resource options that a utility could use to meet the service needs of its customers over a forecast period, including an explanation of the supply and demand circumstances under which, and the extent to which, each resource option would be used to meet those service needs. These resource options include using, refurbishing, and constructing utility plant and equipment, buying power generated by other entities, controlling customer loads, and implementing customer energy conservation.

(e) "Refurbish" means to rebuild or substantially modify an existing electricity generating resource of 30 megawatts or greater.

Subd. 2. **Resource plan filing and approval.** A utility shall file a resource plan with the commission periodically in accordance with rules adopted by the commission. The commission shall approve, reject, or modify the plan of a public utility, as defined in section 216B.02, subdivision 4, consistent with the public interest. In the resource plan proceedings of all other utilities, the commission's order shall be advisory and the order's findings and conclusions shall constitute prima facie evidence which may be rebutted by substantial evidence in all other proceedings. With respect to utilities other than those defined in section 216B.02, subdivision 4, the commission shall consider the filing requirements and decisions in any comparable proceedings in another jurisdiction. As a part of its resource plan filing, a utility shall include the least cost plan for meeting 50 and 75 percent of all new and refurbished capacity needs through a combination of conservation and renewable energy resources.

Subd. 3. **Environmental costs.** (a) The commission shall, to the extent practicable,

quantify and establish a range of environmental costs associated with each method of electricity generation. A utility shall use the values established by the commission in conjunction with other external factors, including socioeconomic costs, when evaluating and selecting resource options in all proceedings before the commission, including resource plan and certificate of need proceedings.

(b) The commission shall establish interim environmental cost values associated with each method of electricity generation by March 1, 1994. These values expire on the date the commission establishes environmental cost values under paragraph (a).

Subd. 4. **Preference for renewable energy facility.** The commission shall not approve a new or refurbished nonrenewable energy facility in an integrated resource plan or a certificate of need, pursuant to section 216B.243, nor shall the commission allow rate recovery pursuant to section 216B.16 for such a nonrenewable energy facility, unless the utility has demonstrated that a renewable energy facility is not in the public interest.

Subd. 5. **Bidding.** A utility may select resources to meet its projected energy demand through a bidding process approved or established by the commission. A utility shall use the environmental cost estimates determined under subdivision 3 in evaluating bids submitted in a process established under this subdivision.

Subd. 6. **Consolidation of resource planning and certificate of need.** A utility shall indicate in its resource plan whether it intends to site or construct a large energy facility. If the utility's resource plan includes a proposed large energy facility and construction of that facility is likely to begin before the utility files its next resource plan, the commission shall conduct the resource plan proceeding consistent with the requirements of section 216B.243 with respect to the proposed facility. If the commission approves the proposed facility in the resource plan, a separate certificate of need proceeding is not required.

History: *1993 c 356 s 3*

216B.245 PUMP AND STORE HYDROPOWER FACILITIES; PROHIBITION.

A state agency may not issue a permit for the construction of a facility for generating electricity if the facility would be located on top of the bluffs along the Mississippi river and would pump water from any portion of the river, store the water on top of the bluffs, and release the water at a later time to generate the electricity.

History: *1993 c 147 s 1*

216B.43 HEARINGS; COMPLAINTS.

Upon the filing of an application under section 216B.42 or upon complaint by an affected utility that the provisions of sections 216B.39 to 216B.42 have been violated, the commission shall hold a hearing, upon notice, within 30 days after the filing of the complaint, and shall render its decision within 30 days after the hearing.

History: *1993 c 327 s 10*

216B.48 RELATIONS WITH AFFILIATED INTERESTS.

Subdivision 1. **Definition of affiliated interests.** "Affiliated interests" with a public utility means the following:

(a) Every corporation and person owning or holding directly or indirectly five percent or more of the voting securities of such public utility.

(b) Every corporation and person in any chain of successive ownership of five percent or more of voting securities.

(c) Every corporation five percent or more of whose voting securities is owned by any person or corporation owning five percent or more of the voting securities of such public utility or by any person or corporation in any such chain of successive ownership of five percent or more of voting securities.

(d) Every person who is an officer or director of such public utility or of any corporation in any chain of successive ownership of five percent or more of voting securities.

(e) Every corporation operating a public utility or a servicing organization for furnishing supervisory, construction, engineering, accounting, legal and similar services to utilities, which has one or more officers or one or more directors in common with the public utility, and every other corporation which has directors in common with the public utility where the number of the directors is more than one-third of the total number of the utility's directors.

(f) Every corporation or person which the commission may determine as a matter of fact after investigation and hearing is actually exercising any substantial influence over the policies and actions of the public utility even though the influence is not based upon stockholding, stockholders, directors or officers to the extent specified in this section.

(g) Every person or corporation who or which the commission may determine as a matter of fact after investigation and hearing is actually exercising substantial influence over the policies and actions of the public utility in conjunction with one or more other corporations or persons with which or whom they are related by ownership or blood relationship or by action in concert that together they are affiliated with such public utility within the meaning of this section even though no one of them alone is so affiliated.

(h) Every subsidiary of a public utility.

(i) Every part of a corporation in which an operating division is a public utility.

[For text of subd 2, see M.S.1992]

Subd. 3. **Contracts.** No contract or arrangement, including any general or continuing arrangement, providing for the furnishing of management, supervisory, construction, engineering, accounting, legal, financial or similar services, and no contract or arrangement for the purchase, sale, lease or exchange of any property, right, or thing, or for the furnishing of any service, property, right, or thing, other than those above enumerated, made or entered into after January 1, 1975 between a public utility and any affiliated interest as defined in subdivision 1, clauses (a) to (h), or any arrangement between a public utility and an affiliated interest as defined in subdivision 1, clause (i), made or entered into after August 1, 1993, is valid or effective unless and until the contract or arrangement has received the written approval of the commission. Regular recurring transactions under a general or continuing arrangement that has been approved by the commission are valid if they are conducted in accordance with the approved terms and conditions. Every public utility shall file with the commission a verified copy of the contract or arrangement, or a verified summary of the unwritten contract or arrangement, and also of all the contracts and arrangements, whether written or unwritten, entered into prior to January 1, 1975, or, for the purposes of subdivision 1, clause (i), prior to August 1, 1993, and in force and effect at that time. The commission shall approve the contract or arrangement made or entered into after that date only if it clearly appears and is established upon investigation that it is reasonable and consistent with the public interest. No contract or arrangement may receive the commission's approval unless satisfactory proof is submitted to the commission of the cost to the affiliated interest of rendering the services or of furnishing the property or service to each public utility. Proof is satisfactory only if it includes the original or verified copies of the relevant cost records and other relevant accounts of the affiliated interest, or an abstract or summary as the commission may deem adequate, properly identified and duly authenticated, provided, however, that the commission may, where reasonable, approve or disapprove the contracts or arrangements without the submission of cost records or accounts. The burden of proof to establish the reasonableness of the contract or arrangement is on the public utility.

Subd. 4. **Contracts not exceeding $50,000.** The provisions of this section requiring the written approval of the commission shall not apply to transactions with affiliated interests where the amount of consideration involved is not in excess of $50,000 or five percent of the capital equity of the utility whichever is smaller; provided, however, that regularly recurring payments under a general or continuing arrangement which aggre-

gate a greater annual amount shall not be broken down into a series of transactions to come within the aforesaid exemption. Such transactions shall be valid or effective without commission approval under this section. However, in any proceeding involving the rates or practices of the public utility, the commission may exclude from the accounts of such public utility any payment or compensation made pursuant to the transaction unless the public utility shall establish the reasonableness of the payment or compensation.

[For text of subds 5 and 6, see M.S.1992]

History: *1993 c 327 s 11-13*

216B.62 REGULATORY EXPENSES.

[For text of subd 2, see M.S.1992]

Subd. 3. **Assessing all public utilities.** (a) The department and commission shall quarterly, at least 30 days before the start of each quarter, estimate the total of their expenditures in the performance of their duties relating to (1) public utilities under section 216A.085, sections 216B.01 to 216B.67, other than amounts chargeable to public utilities under subdivision 2 or 6, and alternative energy engineering activity under section 216C.261. The remainder, except the amount assessed against cooperatives and municipalities for alternative energy engineering activity under subdivision 5, shall be assessed by the commission and department to the several public utilities in proportion to their respective gross operating revenues from retail sales of gas or electric service within the state during the last calendar year. The assessment shall be paid into the state treasury within 30 days after the bill has been mailed to the several public utilities, which shall constitute notice of the assessment and demand of payment thereof. The total amount which may be assessed to the public utilities, under authority of this subdivision, shall not exceed one-sixth of one percent of the total gross operating revenues of the public utilities during the calendar year from retail sales of gas or electric service within the state. The assessment for the third quarter of each fiscal year shall be adjusted to compensate for the amount by which actual expenditures by the commission and department for the preceding fiscal year were more or less than the estimated expenditures previously assessed.

[For text of subd 4, see M.S.1992]

Subd. 5. **Assessing cooperatives and municipals.** The commission and department may charge cooperative electric associations and municipal electric utilities their proportionate share of the expenses incurred in the review and disposition of resource plans, adjudication of service area disputes and the costs incurred in the adjudication of complaints over service standards, practices, and rates. Cooperative electric associations electing to become subject to rate regulation by the commission pursuant to section 216B.026, subdivision 4, are also subject to this section. Neither a cooperative electric association nor a municipal electric utility is liable for costs and expenses in a calendar year in excess of the limitation on costs that may be assessed against public utilities under subdivision 2. A cooperative electric association or municipal electric utility may object to and appeal bills of the commission and department as provided in subdivision 4.

The department shall assess cooperatives and municipalities for the costs of alternative energy engineering activities under section 216C.261. Each cooperative and municipality shall be assessed in proportion that its gross operating revenues for the sale of gas and electric service within the state for the last calendar year bears to the total of those revenues for all public utilities, cooperatives, and municipalities.

[For text of subd 6, see M.S.1992]

History: *1993 c 356 s 4; 1993 c 369 s 66,67*

CHAPTER 216C

DEPARTMENT OF PUBLIC SERVICE; ENERGY DIVISION

216C.01 DEFINITIONS.

[For text of subd 1, see M.S.1992]

Subd. 1a. **Alternative fuel.** "Alternative fuel" means natural gas; liquefied petroleum gas; hydrogen; coal-derived liquefied fuels; electricity; methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more, or other percentage as may be set by regulation by the Secretary of the United States Department of Energy, by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; fuels other than alcohol that are derived from biological materials; and other fuel that the Secretary of the United States Department of Energy determines by regulation to be an alternative fuel within the meaning of section 301(2) of the National Energy Policy Act of 1992.

Subd. 1b. **Alternative fuel vehicle.** "Alternative fuel vehicle" means a dedicated or a dual-fuel vehicle.

[For text of subd 2, see M.S.1992]

Subd. 2a. **Dedicated fuel vehicle.** "Dedicated fuel vehicle" means a vehicle that operates solely on alternative fuels.

[For text of subd 3, see M.S.1992]

Subd. 4. **Dual-fuel vehicle.** "Dual-fuel vehicle" means a vehicle that is capable of operating on an alternative fuel and is capable of operating on gasoline or diesel fuel.

History: *1993 c 254 s 2-5*

216C.15 ENERGY SUPPLY EMERGENCY CONSERVATION AND ALLOCATION PLAN.

Subdivision 1. **Priorities and requirements.** The commissioner shall maintain an emergency conservation and allocation plan. The plan shall provide a variety of strategies and staged conservation measures to reduce energy use and in the event of an energy supply emergency, shall establish guidelines and criteria for allocation of fuels to priority users. The plan shall contain alternative conservation actions and allocation plans to reasonably meet various foreseeable shortage circumstances and allow a choice of appropriate responses. The plan shall be consistent with requirements of federal emergency energy conservation and allocation laws and regulations, shall be based on reasonable energy savings or transfers from scarce energy resources and shall:

(a) give priority to individuals, institutions, agriculture, businesses, and public transit under contract with the commissioner of transportation or the regional transit board which demonstrate they have engaged in energy-saving measures and shall include provisions to insure that:

(1) immediate allocations to individuals, institutions, agriculture, businesses, and public transit be based on needs at energy conservation levels;

(2) successive allocations to individuals, institutions, agriculture, businesses, and public transit be based on needs after implementation of required action to increase energy conservation; and

(3) needs of individuals, institutions, and public transit are adjusted to insure the health and welfare of the young, old and infirm;

(b) insure maintenance of reasonable job safety conditions and avoid environmental sacrifices;

(c) establish programs, controls, standards, priorities or quotas for the allocation, conservation and consumption of energy resources; and for the suspension and modification of existing standards and the establishment of new standards affecting or affected by the use of energy resources, including those related to the type and composition of energy sources, and to the hours and days during which public buildings, commercial and industrial establishments, and other energy consuming facilities may or are required to remain open;

(d) establish programs to control the use, sale or distribution of commodities, materials, goods or services;

(e) establish regional programs and agreements for the purpose of coordinating the energy resources, programs and actions of the state with those of the federal government, of local governments, and of other states and localities;

(f) determine at what level of an energy supply emergency situation the pollution control agency shall be requested to ask the governor to petition the president for a temporary emergency suspension of air quality standards as required by the Clean Air Act, United States Code, title 42, section 7410f; and

(g) establish procedures for fair and equitable review of complaints and requests for special exemptions regarding emergency conservation measures or allocations.

[For text of subds 2 and 3, see M.S.1992]

History: *1993 c 83 s 4*

216C.17 ENERGY FORECASTS, STATISTICS AND INFORMATION.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. **Duplication.** The commissioner shall, to the maximum extent feasible, provide that forecasts required under this section be consistent with material required by other state and federal agencies in order to prevent unnecessary duplication. Public electric utilities submitting advance forecasts containing all information specified in section 116C.54, subdivision 1, as part of an integrated resource plan filed pursuant to public utilities commission rules shall be excluded from the annual reporting requirement in subdivision 2.

[For text of subds 4 and 5, see M.S.1992]

History: *1993 c 327 s 14*

216C.36 [Repealed, 1993 c 327 s 24]

216C.37 ENERGY CONSERVATION INVESTMENT LOANS.

Subdivision 1. **Definitions.** In this section:

(a) "Commissioner" means the commissioner of public service.

(b) "Maxi-audit" means a detailed engineering analysis of energy-saving improvements to existing buildings or stationary energy-using systems, including (1) modifications to building structures; (2) heating, ventilating, and air conditioning systems; (3) operation practices; (4) lighting; and (5) other factors that relate to energy use. The primary purpose of the engineering analysis is to quantify the economic and engineering feasibility of energy-saving improvements that require capital expenditures or major operational modifications.

(c) "Energy conservation investments" means all capital expenditures that are associated with conservation measures identified in a maxi-audit or energy project study, and that have a ten-year or less payback period.

(d) "Municipality" means any county, statutory or home rule charter city, town, school district, or any combination of those units operating under an agreement to jointly undertake projects authorized in this section.

(e) "Energy project study" means a study of one or more energy-related capital improvement projects analyzed in sufficient detail to support a financing application. At a minimum, it must include one year of energy consumption and cost data, a description of existing conditions, a description of proposed conditions, a detailed description of the costs of the project, and calculations sufficient to document the proposed energy savings.

[For text of subds 2 to 8, see M.S.1992]

History: *1993 c 163 art 1 s 28; 1993 c 327 s 15*

216C.40 ALTERNATIVE FUEL VEHICLES.

Subdivision 1. **State policy.** It is in the long-term economic, environmental, and social interest of the state of Minnesota to promote the development and market penetration of alternative fuel vehicles that reduce harmful emissions from motor vehicles as defined in United States Code, title 42, section 7550(2), so as to assist in attaining and maintaining healthful air quality, to provide fuel security through a diversity of alternative fuel supply sources, and to develop additional markets for indigenous crop-based fuels.

Subd. 2. **State plan.** The policies developed and implemented under this section are intended to form part of the state plan that may be submitted by the governor to the Secretary of the United States Department of Energy under section 409 of the National Energy Policy Act of 1992. In developing the policies and the state plan, the department shall hold public hearings, at least one of which must be held outside the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Subd. 3. **Report to legislature.** The department shall, after consultation with the public utilities commission, the environmental quality board, the pollution control agency, the department of transportation, the department of administration, the department of agriculture, and the department of trade and economic development, submit a report to the legislature by January 1, 1994, detailing the department's progress and all actions taken by units of state government to implement the policies set forth in subdivision 1 concerning alternative fuels.

Subd. 4. **Condition precedent.** The duties of the department under this section are conditional on the commissioner of public service finding that there will be at least one public utility that will be subject to the assessment created by Laws 1993, chapter 254, section 7.

Subd. 5. **Repealer.** This section expires July 1, 2003.

History: *1993 c 254 s 6*

CHAPTER 216D

ONE CALL EXCAVATION NOTICE SYSTEM

216D.01 DEFINITIONS.

[For text of subds 1 to 4, see M.S.1992]

Subd. 5. **Excavation.** "Excavation" means an activity that moves, removes, or otherwise disturbs the soil by use of a motor, engine, hydraulic or pneumatically powered tool, or machine-powered equipment of any kind, or by explosives. Excavation does not include:

(1) the extraction of minerals;

(2) the opening of a grave in a cemetery;

(3) normal maintenance of roads and streets if the maintenance does not change the original grade and does not involve the road ditch;

(4) plowing, cultivating, planting, harvesting, and similar operations in connection with growing crops, trees, and shrubs, unless any of these activities disturbs the soil to a depth of 18 inches or more;

(5) gardening unless it disturbs the soil to a depth of 12 inches or more; or

(6) planting of windbreaks, shelterbelts, and tree plantations, unless any of these activities disturbs the soil to a depth of 18 inches or more.

[For text of subds 6 to 11, see M.S.1992]

History: *1993 c 341 art 1 s 20*

216D.04 EXCAVATION.

Subdivision 1. **Notice of excavation required; contents.** (a) Except in an emergency, an excavator shall and a land surveyor may contact the notification center and provide an excavation or location notice at least 48 hours before beginning any excavation or boundary survey, excluding Saturdays, Sundays, and holidays. An excavation or boundary survey begins, for purposes of this requirement, the first time excavation or a boundary survey occurs in an area that was not previously identified by the excavator or land surveyor in an excavation or boundary survey notice.

(b) The excavation or boundary survey notice may be oral or written, and must contain the following information:

(1) the name of the individual providing the excavation or boundary survey notice;

(2) the precise location of the proposed area of excavation or boundary survey;

(3) the name, address, and telephone number of the excavator or land surveyor or excavator's or land surveyor's company;

(4) the excavator's or land surveyor's field telephone number, if one is available;

(5) the type and the extent of the proposed excavation or boundary survey work;

(6) whether or not the discharge of explosives is anticipated; and

(7) the date and time when excavation or boundary survey is to commence.

[For text of subds 2 and 3, see M.S.1992]

History: *1993 c 341 art 1 s 21*

CHAPTER 221

MOTOR CARRIERS; PIPELINE CARRIERS

221.011 DEFINITIONS.

[For text of subds 1 to 41, see M.S.1992]

Subd. 42. **Lightweight vehicle.** "Lightweight vehicle" means a vehicle with a gross vehicle weight of 10,000 pounds or less, but does not include a vehicle transporting passengers for hire or a vehicle transporting hazardous materials that must be placarded or marked under Code of Federal Regulations, title 49, section 177.823.

Subd. 43. **Petroleum transport.** "Petroleum transport" means a vehicle, trailer, or semitrailer with a tank (1) that is mounted on it or made an integral part of it, other than the fuel supply tank for the engine of that vehicle, (2) that is filled or emptied while on the vehicle, and (3) that is used to transport petroleum products in bulk.

Subd. 44. **Armored carrier service.** "Armored carrier service" means transportation of property in armored vehicles protected by at least one armed person other than the driver.

Subd. 45. **Armored carrier.** "Armored carrier" is a motor carrier engaged in providing armored carrier service.

History: *1993 c 117 s 7,8; 1993 c 213 s 1,2*

NOTE: The repeal of subdivision 34 by Laws 1993, chapter 323, section 4, is effective August 1, 1994. See Laws 1993, chapter 323, section 5.

221.025 EXEMPTIONS.

The provisions of this chapter requiring a certificate or permit to operate as a motor carrier do not apply to the intrastate transportation described below:

(a) the transportation of students to or from school or school activities in a school bus inspected and certified under section 169.451;

(b) the transportation of solid waste, as defined in section 116.06, subdivision 22, including recyclable materials and waste tires, except that the term "hazardous waste" has the meaning given it in section 221.011, subdivision 31;

(c) a commuter van as defined in section 221.011, subdivision 27;

(d) authorized emergency vehicles as defined in section 169.01, subdivision 5, including ambulances; and tow trucks equipped with proper and legal warning devices when picking up and transporting (1) disabled or wrecked motor vehicles or (2) vehicles towed or transported under a towing order issued by a public employee authorized to issue a towing order;

(e) the transportation of grain samples under conditions prescribed by the board;

(f) the delivery of agricultural lime;

(g) the transportation of dirt and sod within an area having a 50-mile radius from the home post office of the person performing the transportation;

(h) the transportation of sand, gravel, bituminous asphalt mix, concrete ready mix, concrete blocks or tile and the mortar mix to be used with the concrete blocks or tile, or crushed rock to or from the point of loading or a place of gathering within an area having a 50-mile radius from that person's home post office or a 50-mile radius from the site of construction or maintenance of public roads and streets;

(i) the transportation of pulpwood, cordwood, mining timber, poles, posts, decorator evergreens, wood chips, sawdust, shavings, and bark from the place where the products are produced to the point where they are to be used or shipped;

(j) the transportation of fresh vegetables from farms to canneries or viner stations, from viner stations to canneries, or from canneries to canneries during the harvesting, canning, or packing season, or transporting potatoes, sugar beets, wild rice, or rutabagas from the field of production to the first place of delivery or unloading, including a processing plant, warehouse, or railroad siding;

(k) the transportation of property or freight, other than household goods and petroleum products in bulk, entirely within the corporate limits of a city or between contiguous cities except as provided in section 221.296;

(l) the transportation of unprocessed dairy products in bulk within an area having a 100-mile radius from the home post office of the person providing the transportation;

(m) the transportation of agricultural, horticultural, dairy, livestock, or other farm products within an area having a 25-mile radius from the person's home post office and the carrier may transport other commodities within the 25-mile radius if the destination of each haul is a farm;

(n) passenger transportation service that is not charter service and that is under contract to and with operating assistance from the department or the regional transit board; and

(o) the transportation of newspapers, as defined in section 331A.01, subdivision 5, telephone books, handbills, circulars, or pamphlets in a vehicle with a gross vehicle weight of 10,000 pounds or less.

The exemptions provided in this section apply to a person only while the person is exclusively engaged in exempt transportation.

History: *1993 c 117 s 9*

221.031 RULES FOR OPERATION OF CARRIERS.

Subdivision 1. **Powers, duties, reports, limitations.** (a) This subdivision applies to motor carriers engaged in intrastate commerce.

(b) The commissioner shall prescribe rules for the operation of motor carriers, including their facilities; accounts; leasing of vehicles and drivers; service; safe operation of vehicles; equipment, parts, and accessories; hours of service of drivers; driver qualifications; accident reporting; identification of vehicles; installation of safety devices; inspection, repair, and maintenance; and proper automatic speed regulators if, in the opinion of the commissioner, there is a need for the rules.

(c) The commissioner shall direct the repair and reconstruction or replacement of an inadequate or unsafe motor carrier vehicle or facility. The commissioner may require the construction and maintenance or furnishing of suitable and proper freight terminals, passenger depots, waiting rooms, and accommodations or shelters in a city in this state or at a point on the highway traversed which the commissioner, after investigation by the department, may deem just and proper for the protection of passengers or property.

(d) The commissioner shall require the filing of annual and other reports including annual accounts of motor carriers, schedules of rates and charges, or other data by motor carriers, regulate motor carriers in matters affecting the relationship between them and the traveling and shipping public, and prescribe other rules as may be necessary to carry out the provisions of this chapter.

(e) A motor carrier having gross revenues from for-hire transportation in a calen-

dar year of less than $200,000 may, at the discretion of the commissioner, be exempted from the filing of an annual report, if instead the motor carrier files an abbreviated annual report, in a form as may be prescribed by the commissioner, attesting that the motor carrier's gross revenues did not exceed $200,000 in the previous calendar year. Motor carrier gross revenues from for-hire transportation, for the purposes of this subdivision only, do not include gross revenues received from the operation of school buses as defined in section 169.01, subdivision 6.

(f) The commissioner shall enforce sections 169.781 to 169.783.

(g) The commissioner shall make no rules relating to the granting, limiting, or modifying of permits or certificates of convenience and necessity, which are powers granted to the board.

(h) The board may extend the termini of a route or alter or change the route of a regular route common carrier upon petition and after finding that public convenience and necessity require an extension, alteration, or change.

Subd. 2. **Exemptions for private carriers.** This subdivision applies to private carriers engaged in intrastate commerce.

(a) Private carriers operating vehicles with a gross vehicle weight of more than 10,000 pounds shall comply with rules adopted under:

(1) section 221.0314, subdivisions 2 to 5, for driver qualifications;

(2) section 221.0314, subdivision 9, for hours of service of drivers;

(3) section 221.0314, subdivision 6, for driving of motor vehicles;

(4) section 221.0314, subdivision 7, for parts and accessories necessary for safe operation;

(5) section 221.0314, subdivision 10, for inspection, repair, and maintenance; and

(6) this section for leasing of vehicles or vehicles and drivers.

Private carriers not subject to the rules for driver qualifications before August 1, 1992, must comply with those rules on and after August 1, 1994.

(b) The rules for hours of service of drivers do not apply to private carriers who are (1) public utilities as defined in section 216B.02, subdivision 4; (2) cooperative electric associations organized under chapter 308A; (3) telephone companies as defined in section 237.01, subdivision 2; or (4) engaged in the transportation of construction materials, tools and equipment from shop to job site or job site to job site, for use by the private carrier in the new construction, remodeling, or repair of buildings, structures or their appurtenances.

(c) The rules for driver qualifications and hours of service of drivers do not apply to vehicles controlled by a farmer and operated by a farmer or farm employee to transport agricultural products, farm machinery, or supplies to or from a farm if the vehicle is not used in the operations of a motor carrier and not carrying hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with section 221.033.

(d) The rules for driver qualifications do not apply to a driver employed by a private carrier while operating a lightweight vehicle.

Subd. 2a. **Agricultural exemptions.** (a) Notwithstanding the provisions of subdivision 2, private carriers engaged in intrastate commerce and operating vehicles transporting agricultural and other farm products within an area having a 50-mile radius from the business location of the private carrier must comply only with the rules for driver qualifications; driving of motor vehicles; and parts and accessories necessary for safe operation, except as provided in paragraphs (b) and (c).

(b) A rear-end dump truck or other rear-unloading truck while being used for hauling agricultural and other farm products from a place of production or on-farm storage site to a place of processing or storage, is not subject to any rule of the commissioner requiring rear-end protection, including a federal regulation adopted by reference.

(c) A private carrier operating a commercial motor vehicle as defined in section 169.781, subdivision 1, must comply with sections 169.781 to 169.783.

Subd. 2b. **Other exemptions.** From August 1, 1992, to August 1, 1994, the rules for hours of service of drivers do not apply to a person exclusively engaged in the transportation of asphalt cement, cementitious material, fly ash, or sod, construction debris, and solid waste when transported by a transfer driver, when the transportation is provided within a radius of 100 miles from (1) the person's home post office, or (2) a highway construction or maintenance site where the asphalt cement, cementitious material, fly ash, or sod is being used.

Subd. 3. **Vehicles over 10,000 pounds not exempt.** (a) This subdivision applies to persons engaged in intrastate commerce who operate vehicles providing transportation described in section 221.025 with a gross vehicle weight in excess of 10,000 pounds, except school buses, commuter vans, and authorized emergency vehicles.

(b) Persons providing transportation described in section 221.025, clause (f), (j), (l), or (m), must comply with the rules for driving of motor vehicles and for parts and accessories necessary for safe operation.

(c) Persons providing transportation described in section 221.025, except for persons providing transportation described in clause (f), (j), (l), or (m), must comply with the rules for driving of motor vehicles; parts and accessories necessary for safe operation; and, after August 1, 1994, the rules for driver qualifications.

Subd. 3a. **Contractors or recipients of transportation assistance.** Notwithstanding subdivision 3, providers of passenger transportation service under contract to and with operating assistance from the department or the regional transit board must comply with rules for driver qualifications; driving of motor vehicles; parts and accessories necessary for safe operation; hours of service of drivers; inspection, repair, and maintenance; and the rules adopted in section 221.0314, subdivision 8, for accident reporting.

This subdivision does not apply to (1) a local transit commission, (2) a transit authority created by the legislature, (3) special transportation service certified by the commissioner under section 174.30, or (4) special transportation service defined in section 174.29, subdivision 1, when provided by a volunteer driver operating a private passenger vehicle defined in section 169.01, subdivision 3a.

Subd. 3b. **Passenger transportation; exemptions.** (a) A person who transports passengers for hire in intrastate commerce, who is not made subject to the rules adopted in section 221.0314 by any other provision of this section, must comply with the rules for hours of service of drivers while transporting employees of an employer who is directly or indirectly paying the cost of the transportation.

(b) This subdivision does not apply to:

(1) a local transit commission;

(2) a transit authority created by law; or

(3) persons providing transportation:

(i) in a school bus as defined in section 169.01, subdivision 6;

(ii) in a commuter van;

(iii) in an authorized emergency vehicle as defined in section 169.01, subdivision 5;

(iv) in special transportation service certified by the commissioner under section 174.30;

(v) that is special transportation service as defined in section 174.29, subdivision 1, when provided by a volunteer driver operating a private passenger vehicle as defined in section 169.01, subdivision 3a;

(vi) in a limousine the service of which is licensed by the commissioner under section 221.84; or

(vii) in a taxicab, if the fare for the transportation is determined by a meter inside the taxicab that measures the distance traveled and displays the fare accumulated.

Subd. 3c. **Solid waste transporters not exempt.** Persons providing transportation described in section 221.025, clause (b), must comply with the rules for driver qualifications after August 1, 1994; hours of service of drivers; driving of motor vehicles; parts

and accessories necessary for safe operation; and inspection, repair, and maintenance. A local government unit, as defined in section 115A.03, subdivision 17, shall not enact or enforce laws, ordinances, or regulations for the operation of solid waste transporters that are inconsistent with the rules adopted in section 221.0314.

Subd. 5. **Department investigates.** The department shall investigate the operation of carriers subject to the rules adopted in section 221.0314, their compliance with rules of the department and board and with the provisions of this chapter, and may institute and prosecute actions and proceedings in the proper district court for enforcement of those rules.

Subd. 6. **Vehicle identification rule.** (a) The following carriers shall display the carrier's name and address on the power unit of each vehicle:

(1) motor carriers, regardless of the weight of the vehicle;

(2) interstate and intrastate private carriers operating vehicles with a gross vehicle weight of more than 10,000 pounds; and

(3) vehicles providing transportation described in section 221.025 with a gross vehicle weight of more than 10,000 pounds except those providing transportation described in section 221.025, clauses (a), (c), and (d).

Vehicles described in clauses (2) and (3) that are operated by farmers or farm employees and have four or fewer axles are not required to comply with the vehicle identification rule of the commissioner.

(b) Vehicles subject to this subdivision must show the name or "doing business as" name of the carrier operating the vehicle and the community and abbreviation of the state in which the carrier maintains its principal office or in which the vehicle is customarily based. If the carrier operates a leased vehicle, it may show its name and the name of the lessor on the vehicle, if the lease relationship is clearly shown. If the name of a person other than the operating carrier appears on the vehicle, the words "operated by" must immediately precede the name of the carrier.

(c) The name and address must be in letters that contrast sharply in color with the background, be readily legible during daylight hours from a distance of 50 feet while the vehicle is stationary, and be maintained in a manner that retains the legibility of the markings. The name and address may be shown by use of a removable device if that device meets the identification and legibility requirements of this subdivision.

[For text of subds 7 to 9, see M.S.1992]

History: *1993 c 117 s 10-19*

221.0313 CONTROLLED SUBSTANCES TESTING AND PROCEDURES.

Subdivision 1. **Purpose; intent; exemption.** (a) The purpose of this section is to adopt federal regulations governing testing for controlled substances.

(b) The legislature intends that the adopted federal regulations be applied:

(1) to persons who provide intrastate transportation, who are subject to the rules adopted in section 221.0314, subdivisions 2 to 5, for driver qualifications, and who operate commercial motor vehicles, as defined in Code of Federal Regulations, title 49, section 391.85; and

(2) in the same manner that the federal regulations apply to interstate transportation.

(c) Intrastate carriers who are required to comply with the adopted federal regulations are exempt from the requirements of sections 181.950 to 181.957. This exemption applies only to the testing of drivers.

[For text of subds 2 to 6, see M.S.1992]

History: *1993 c 117 s 20*

221.0314 FEDERAL SAFETY REGULATIONS; ADOPTION.

Subdivision 1. **Applicability.** (a) Intrastate motor carriers, private carriers, and persons providing intrastate transportation described in section 221.025, must comply with the rules incorporated in this section to the extent required by section 221.031. Every carrier and its officers, agents, representatives, and employees responsible for managing, maintaining, equipping, operating, or driving motor vehicles, or hiring, supervising, training, assigning, or dispatching drivers, must be instructed in and comply with the rules incorporated in this section and shall require that its agents, representatives, drivers, and employees comply.

(b) In the rules incorporated in subdivisions 2 to 11:

(1) the term "motor carrier" means a carrier required to comply with this section by section 221.031;

(2) a reference to a federal agency or office means the Minnesota department of transportation; and

(3) a reference to a federal administrative officer means the commissioner of the Minnesota department of transportation.

Subd. 2. **Qualifications of drivers.** Code of Federal Regulations, title 49, part 391 and appendixes C, D, and E, are incorporated by reference except for sections 391.1; 391.2; 391.11, paragraph (b)(1); 391.47; 391.49, paragraphs (b) to (l); 391.51, paragraphs (f) and (g); 391.67; 391.69; 391.71; and those sections incorporated in section 221.0313, subdivision 4. In addition, the cross references to Code of Federal Regulations, title 49, section 391.62, 391.67, or 391.71 or to part 391, subpart G, found in Code of Federal Regulations, title 49, sections 391.11, paragraphs (a) and (b); 391.21, paragraph (a); 391.23, paragraph (a); 391.25; 391.27, paragraph (a); 391.31, paragraph (a); 391.35, paragraph (a); 391.41, paragraph (a); and 391.45, are not incorporated by reference.

Subd. 3. **Waiver for physical defects.** A person who is not physically qualified to drive under subdivision 2, but who meets the other qualifications under subdivision 2, may drive a motor vehicle if the commissioner grants a waiver to that person. The commissioner may grant a waiver to a person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1) or (b)(2), according to rules adopted under section 221.031. The commissioner may grant a waiver to a person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(3) to (b)(13) for medical conditions for which waiver programs have been established by the United States Department of Transportation. The commissioner shall require the same information and follow the same procedure as the United States Department of Transportation in granting the waivers.

Subd. 4. **Age requirement for drivers.** Drivers of vehicles engaged in intrastate transportation and subject to subdivision 2 must be at least 18 years of age. Drivers of vehicles subject to section 221.033 must be at least 21 years of age, except as provided in that section.

Subd. 5. **Location of driver qualification files.** A carrier subject to subdivision 2 must keep each driver's qualification file at the carrier's principal place of business for as long as a driver is employed by that carrier and for three years after the driver leaves employment. Upon written request to and with the written approval of the commissioner, a carrier may retain driver qualification files at a regional or terminal office.

Subd. 6. **Driving of motor vehicles.** Code of Federal Regulations, title 49, part 392, is incorporated by reference, except that sections 392.1, 392.2, and 392.30, paragraph (a), of that part, are not incorporated.

Subd. 7. **Parts and accessories necessary for safe operation.** Code of Federal Regulations, title 49, part 393, is incorporated by reference, except that sections 393.1, 393.3, and 393.5 of that part are not incorporated. In addition, despite the first paragraph of Code of Federal Regulations, title 49, section 393.95, a lightweight vehicle must carry a fire extinguisher meeting the requirements in Code of Federal Regulations, title 49, section 393.95.

Subd. 8. **Accidents by carriers.** The definitions of "accident," "disabling damage," and "fatality" in Code of Federal Regulations, title 49, sections 390.5 and 390.15, are incorporated by reference.

Subd. 9. **Hours of service of drivers.** Code of Federal Regulations, title 49, part 395, is incorporated by reference, except that sections 395.3, paragraphs (d) to (f); 395.8, paragraphs (k)(2) and (l)(2); and 395.13, of that part are not incorporated. In addition, the cross reference to paragraph (e) in Code of Federal Regulations, title 49, section 395.3, paragraph (a), is not incorporated by reference. The requirements of Code of Federal Regulations, title 49, sections 395.3, paragraphs (a) and (b); and 395.8, paragraphs (a) to (k), do not apply to lightweight vehicles.

Subd. 10. **Inspection, repair, and maintenance.** Code of Federal Regulations, title 49, part 396, is incorporated by reference, except that sections 396.1, 396.9, and 396.17 to 396.25 of that part are not incorporated.

Subd. 11. **Transporting hazardous materials; driving and parking.** A person who transports hazardous materials shall comply with this section and rules adopted under section 221.031 when that person is transporting a hazardous material, hazardous waste, or hazardous substance that must be marked or placarded in accordance with Code of Federal Regulations, title 49, section 172.504, incorporated by reference in section 221.033. Code of Federal Regulations, title 49, part 397, is incorporated by reference, except that sections 397.1 to 397.3 of that part are not incorporated. A petroleum transport driver shall not park on a public street adjacent to a bridge, tunnel, dwelling, building, or place where persons work, congregate, or assemble, except when necessary to unload.

History: *1993 c 117 s 21*

221.033 REGULATION OF HAZARDOUS MATERIALS.

[For text of subd 1, see M.S.1992]

Subd. 2. **Exemption for farmers.** (a) This subdivision applies to persons engaged in intrastate commerce.

(b) Farmers or their employees transporting diesel fuel, gasoline, agricultural chemicals, or agricultural fertilizers for use on the transporter's farm are not required to comply with the rules adopted in section 221.0314, subdivisions 2 to 5, for driver qualifications or with the shipping paper requirements of the Code of Federal Regulations, title 49, sections 172.200 and 177.817 or with section 397.7(B) or 397.9(A) of the Federal Motor Carrier Safety Regulations when:

(1) transporting diesel fuel or gasoline in motorized tank truck vehicles of less than 1,500-gallon capacity owned by the transporter, or in tanks securely mounted in other motor vehicles with a gross vehicle weight of less than 10,000 pounds and owned by the transporter; or

(2) transporting agricultural chemicals and agricultural fertilizers.

Subd. 2a. **Agriculturally related exemption.** (a) This subdivision applies to persons engaged in intrastate commerce.

(b) Fertilizer and agricultural chemical retailers or their employees are exempt from the rule in section 221.0314, subdivision 4, requiring that drivers must be at least 21 years of age when:

(1) the retailer or its employee is transporting fertilizer or agricultural chemicals directly to a farm for on-farm use within a radius of 50 miles of the retailer's business location; and

(2) the driver employed by the retailer is at least 18 years of age.

(c) A fertilizer or agricultural chemical retailer, or a driver employed by a fertilizer or agricultural chemical retailer, is exempt from the rule in Code of Federal Regulations, title 49, section 395.3, paragraph (b), relating to hours of service of drivers, and section 395.8, requiring a driver's record of duty status, while exclusively engaged in

the transportation of fertilizer or agricultural chemicals between April 1 and July 1 of each year when:

(1) the transportation is from the retailer's place of business directly to a farm within a 50-mile radius of the retailer's place of business;

(2) the fertilizer or agricultural chemicals are for use on the farm to which they are transported; and

(3) the employer maintains a daily record for each driver showing the time a driver reports for duty, the total number of hours a driver is on duty, and the time a driver is released from duty.

[For text of subds 2b to 4, see M.S.1992]

History: *1993 c 117 s 22,23*

221.035 HAZARDOUS WASTE TRANSPORTER LICENSE.

[For text of subds 1 and 1a, see M.S.1992]

Subd. 2. **Operation requirements.** A vehicle operated under a license issued under this section must be operated in compliance with the rules adopted in section 221.0314: (1) subdivisions 2 to 5 for driver qualifications; (2) subdivision 6 for driving of motor vehicles; (3) subdivision 7 for parts and accessories necessary for safe operation; (4) subdivision 10 for inspection, repair, and maintenance; and (5) subdivision 9 for hours of service of drivers.

[For text of subds 3 and 4, see M.S.1992]

History: *1993 c 117 s 24*

221.036 ADMINISTRATIVE ORDERS AND PENALTIES.

Subdivision 1. **Orders.** The commissioner may issue an order requiring violations to be corrected and administratively assessing monetary penalties for a violation of (1) section 221.021; (2) section 221.041, subdivision 3; (3) section 221.081; (4) section 221.151; (5) section 221.171; (6) section 221.141; (7) section 221.035, a material term or condition of a license issued under that section; or rules of the board or commissioner relating to the transportation of hazardous waste, motor carrier operations, insurance, or tariffs and accounting. An order must be issued as provided in this section.

[For text of subd 2, see M.S.1992]

Subd. 3. **Amount of penalty; considerations.** (a) The commissioner may issue an order assessing a penalty of up to $5,000 for all violations of section 221.021; 221.041, subdivision 3; 221.081; 221.141; 221.151; or 221.171, or rules of the board or commissioner relating to motor carrier operations, insurance, or tariffs and accounting, identified during a single inspection, audit, or investigation.

(b) The commissioner may issue an order assessing a penalty up to a maximum of $10,000 for all violations of section 221.035, and rules adopted under that section, identified during a single inspection or audit.

(c) In determining the amount of a penalty, the commissioner shall consider:

(1) the willfulness of the violation;

(2) the gravity of the violation, including damage to humans, animals, air, water, land, or other natural resources of the state;

(3) the history of past violations, including the similarity of the most recent violation and the violation to be penalized, the time elapsed since the last violation, the number of previous violations, and the response of the person to the most recent violation identified;

(4) the economic benefit gained by the person by allowing or committing the violation; and

(5) other factors as justice may require, if the commissioner specifically identifies the additional factors in the commissioner's order.

[For text of subds 4 to 14, see M.S.1992]

History: *1993 c 117 s 25,26*

221.051 REGULAR ROUTE PASSENGER CARRIERS.

Subdivision 1. **Abandonment or discontinuance of service.** No regular route common carrier of passengers or class I carrier may abandon or discontinue any service required under its certificate without an order of the board therefor, except in cases of emergency or conditions beyond its control.

Subd. 2. **Incidental charter authority.** Notwithstanding any other law, a regular route common carrier of passengers that was granted incidental charter operating authority by the board before August 1, 1993, may continue to exercise that authority.

History: *1993 c 323 s 2*

221.072 CLASS I CARRIERS.

[For text of subd 1, see M.S.1992]

Subd. 2. **Exceptions.** This section does not apply to any carrier listed in section 221.111, clauses (3) to (10).

[For text of subd 3, see M.S.1992]

History: *1993 c 213 s 3*

221.091 LIMITATIONS; RELATIONSHIP TO LOCAL REGULATION.

No provision in sections 221.011 to 221.291 and 221.84 shall authorize the use by any carrier of any public highway in any city of the first class in violation of any charter provision or ordinance of such city in effect January 1, 1925, unless and except as such charter provisions or ordinance may be repealed after that date; nor shall sections 221.011 to 221.291 and 221.84 be construed as in any manner taking from or curtailing the right of any city to reasonably regulate or control the routing, parking, speed or the safety of operation of a motor vehicle operated by any carrier under the terms of those sections, or the general police power of any such city over its highways; nor shall sections 221.011 to 221.291 and 221.84 be construed as abrogating any provision of the charter of any such city requiring certain conditions to be complied with before such carrier can use the highways of such city and such rights and powers herein stated are hereby expressly reserved and granted to such city; but no such city shall prohibit or deny the use of the public highways within its territorial boundaries by any such carrier for transportation of passengers or property received within its boundaries to destinations beyond such boundaries, or for transportation of passengers or property from points beyond such boundaries to destinations within the same, or for transportation of passengers or property from points beyond such boundaries through such municipality to points beyond the boundaries of such municipality, where such operation is pursuant to a certificate of convenience and necessity issued by the commission or to a permit issued by the commissioner under section 221.84.

History: *1993 c 323 s 3*

NOTE: The amendment to this section by Laws 1993, chapter 323, section 3, is effective August 1, 1994. See Laws 1993, chapter 323, section 5.

221.111 PERMITS TO OTHER MOTOR CARRIERS.

Motor carriers other than certificated carriers and local cartage carriers shall obtain a permit in accordance with section 221.121. The board shall issue only the following kinds of permits:

(1) class II-T permits;

(2) class II-L permits;
(3) livestock carrier permits;
(4) contract carrier permits;
(5) charter carrier permits;
(6) courier service carrier permits;
(7) local cartage carrier permits;
(8) household goods mover permits;
(9) temperature-controlled commodities permits; and
(10) armored carrier permits.

History: *1993 c 213 s 4*

221.121 PERMITS: APPROVAL PROCESS; OPERATING AUTHORITY; FEE.

[For text of subds 1 to 6f, see M.S.1992]

Subd. 6g. **Armored carriers.** A person who desires to hold out or to operate as an armored carrier must follow the procedure established in subdivision 1 and specifically request an armored carrier permit. No permit is required of a private carrier shipping its own items of extraordinary value. The board shall issue the permit if it finds that the petitioner meets the criteria established in subdivision 1 and has provided evidence that:

(a) The carriers' personnel, security, and insurance standards and procedures render it fit and able to protect the property the petitioner will transport under the permit.

(b) The carrier has obtained a protective agent's or private detective's license under sections 326.338 and 326.3381, subdivision 1, and holds the license in good standing.

[For text of subd 7, see M.S.1992]

History: *1993 c 213 s 5*

221.131 CARRIER VEHICLE REGISTRATION; FEES; IDENTIFICATION; CAB CARDS.

[For text of subds 1 to 6, see M.S.1992]

Subd. 7. **Armored carriers.** The commissioner shall issue distinct annual identification cards for vehicles that provide armored carrier service under a permit issued by the board. No card may be issued unless the armored carrier submits evidence that it holds in good standing a protective agent's or private detective's license under sections 326.338 and 326.3381, subdivision 1.

History: *1993 c 213 s 6*

221.141 INSURANCE OR BONDS.

[For text of subds 1 to 5, see M.S.1992]

Subd. 6. **Armored carriers.** An armored carrier must maintain in effect cargo insurance, cargo bond, or moneys and securities insurance coverage in a minimum amount of $300,000 per incident and must file, or its insurer must file, with the commissioner a cargo certificate of insurance, cargo bond, or certificate of moneys and securities coverage. A cargo certificate of insurance must conform to Form H, Uniform Motor Cargo Certificate of Insurance, described in Code of Federal Regulations, title 49, part 1023. A cargo bond must conform to Form J described in Code of Federal Regulations, title 49, part 1023. A certificate of moneys and securities coverage must conform to either Form H or Form J with such variances as the commissioner may allow to accommodate industry practice. Form H and Form J are incorporated by reference. The cargo certifi-

cate of insurance, cargo bond, or certificate of moneys and securities coverage must be issued in the full and correct name of the person, corporation, or partnership to whom the armored carrier permit was issued and whose operations are being insured.

History: *1993 c 213 s 7*

221.153 ARMORED CARRIERS; CONVERSION OF OPERATING AUTHORITY.

Subdivision 1. **Expiration of operating authority.** All operating authority under certificates or permits granted by the board that authorizes armored carrier service expires on March 1, 1994. After February 28, 1994, no person may provide armored carrier service unless the person holds a valid armored carrier permit issued by the board. This subdivision does not require the expiration of any operating authority other than authority for armored carrier service. This subdivision does not limit the right of carriers to transport items of exceptional value in nonarmored vehicles that are not protected by at least one armed person exclusive of the driver.

Subd. 2. **Conversion.** A motor carrier holding operating authority that expires on March 1, 1994, under subdivision 1 who wishes to continue providing the service authorized by that operating authority must convert that operating authority into an armored carrier permit before that date.

Subd. 3. **Issuance of new permits.** (a) By November 1, 1993, a motor carrier described in subdivision 2 must submit to the commissioner an application for conversion. The application must be on a form prescribed by the commissioner and must be accompanied by an application fee of $50. The application must state: (1) the name and address of the applicant; (2) the identifying number of all certificates or permits that grant the operating authority the applicant wishes to convert; (3) evidence of armored carrier service that the motor carrier has actually and lawfully performed under a certificate or permit within the two years prior to May 15, 1993; and (4) evidence of a protective agent's or private detective's license in good standing under section 221.121, subdivision 6g, paragraph (b).

(b) The commissioner shall transmit to the board all applications that meet the requirements of paragraph (a). The board shall develop an expedited process for hearing and ruling on applications submitted under this subdivision. Within 60 days after receiving an application under this subdivision, the board shall issue an order approving or denying the issuance of an armored carrier permit. The board shall issue the permit requested in the application if it finds that the issuance is authorized under this section. An application submitted to the commissioner under this subdivision by November 1, 1993, is deemed approved by the board unless by January 1, 1994, the board has issued an order denying the application.

(c) A motor carrier whose actual and lawful provision of armored carrier service has within the two years immediately prior to May 15, 1993, been limited exclusively to service to and from points within the local cartage zone shall only be issued an armored carrier permit that authorizes service as an armored carrier to and from points within that zone. A motor carrier whose actual and lawful provision of armored carrier service has within the two years immediately prior to May 15, 1993, been limited exclusively to service to and from points outside the local cartage zone shall be issued only an armored carrier permit that authorizes service as an armored carrier to and from points outside that zone. A motor carrier whose actual and lawful provision of armored carrier service has within the two years immediately prior to May 15, 1993, included service to and from points within and outside the local cartage zone shall be issued an armored carrier permit that authorizes armored carrier service to and from points anywhere in the state.

History: *1993 c 213 s 8*

221.161 SCHEDULE OF RATES AND CHARGES.

Subdivision 1. **Filing; hearing upon board initiative; armored carrier exemption.** (a) Except as provided in paragraph (b), a permit carrier, including a livestock carrier but

not including a local cartage carrier, shall file and maintain with the commissioner a tariff showing rates and charges for transporting persons or property. Tariffs must be prepared and filed in accordance with the rules of the commissioner. When tariffs are filed in accordance with the rules and accepted by the commissioner, the filing constitutes notice to the public and interested parties of the contents of the tariffs. The commissioner shall not accept for filing tariffs that are unjust, unreasonable, unjustly discriminatory, unduly preferential or prejudicial, or otherwise in violation of this section or rules adopted under this section. If the tariffs appear to be unjust, unreasonable, unjustly discriminatory, unduly preferential or prejudicial, or otherwise in violation of this section or rules adopted under this section, after notification and investigation by the department, the board may suspend and postpone the effective date of the tariffs and assign the tariffs for hearing upon notice to the permit carrier filing the proposed tariffs and to other interested parties, including users of the service and competitive carriers by motor vehicle and rail. At the hearing, the burden of proof is on the permit carrier filing the proposed tariff to sustain the validity of the proposed schedule of rates and charges. Tariffs for transporting livestock are not subject to rejection, suspension, or postponement by the board, except as provided in subdivisions 2 and 3. The tariffs and subsequent supplements to them or reissues of them must state the effective date, which may not be less than ten days following the date of filing, unless the period of time is reduced by special permission of the commissioner.

(b) A holder of an armored carrier permit is not required to file a tariff under this subdivision for the service authorized by the armored carrier permit.

[For text of subds 2 to 4, see M.S.1992]

History: *1993 c 213 s 9*

221.172 SHIPPING DOCUMENTS.

Subdivision 1. **Hazardous material bill of lading.** A person who transports a hazardous material by motor vehicle shall conform to the requirements of Code of Federal Regulations, title 49, with respect to shipping documents.

Subd. 2. **Hazardous waste manifest.** A person who transports a hazardous waste by motor vehicle shall carry in the vehicle a hazardous waste manifest which conforms to the requirements of Minnesota Rules, chapter 7045.

Subd. 3. **Class I, class II, and temperature-controlled commodities carriers; household goods movers.** A class I carrier, class II carrier, household goods mover, and a holder of a temperature-controlled commodities permit shall keep a record of each shipment transported under a certificate or permit. A record may consist of one or more documents, including a bill of lading, freight bill, manifest, delivery receipt, or other document. If it consists of more than one document, the documents constituting a shipment record must be available for inspection together. A record must show the:

(1) names of the consignor and consignee;

(2) date of shipment;

(3) origin and destination points;

(4) number of packages, if applicable to the rating of the freight or if the carrier's operating authority includes a package or article restriction, unless the shipment is transported by a household goods mover;

(5) description of the freight;

(6) weight, volume, or measurement of the freight, if applicable to the rating of the freight or if the carrier's operating authority includes a weight restriction;

(7) exact rate or rates assessed;

(8) total charges due, including the nature and amount of any charges for special service;

(9) the name of each carrier participating in the transportation; and

(10) after January 1, 1994, any terminals through which the shipment moved.

Subd. 4. **Truckload record.** In addition to the items listed in subdivision 3, if the transportation is provided under a class II-T permit or is a shipment of truckload freight, a record must include the word "truckload" or must prominently display the letters "II-T" and must show the name of the driver or drivers who transported the shipment, the pickup and delivery times, and the license plate number or unit number of the power unit and trailer used to transport the shipment.

Subd. 5. **Temperature-controlled commodities carrier.** In addition to the items listed in subdivision 3, if the transportation is provided under a temperature-controlled commodities permit, a record must include the words "temperature-controlled commodities" or must prominently display the letters "TCC" and must indicate the reasons for protecting the commodity from heat or cold.

Subd. 6. **Courier services carrier.** (a) A courier services carrier shall keep a record of each shipment transported. A record may consist of one or more documents, including a bill of lading, freight bill, manifest, delivery receipt, or other document. If it consists of more than one document, the documents constituting a shipment record must be available for inspection together. A record must show the:

(1) names of the consignor and consignee;

(2) date of shipment;

(3) origin and destination points;

(4) number of packages;

(5) weight, volume, or measurement of the freight, if applicable to the rating of the freight;

(6) exact rate or rates assessed; and

(7) total charges due, including the nature and amount of any charges for special service.

(b) In addition to the items listed in paragraph (a), if the transportation is expedited delivery, a record also must show the:

(1) license plate number or unit number of the vehicle used to transport the shipment;

(2) time of the shipper's initial request for service; and

(3) pickup and delivery times.

(c) In addition to the items listed in paragraph (a), if the transportation is overnight small package delivery, a record also must show the:

(1) license plate number or unit number of the vehicle used to transport the shipment at the point of delivery; and

(2) weight of each package or article of a shipment.

Subd. 7. **Contract carrier.** A contract carrier shall keep a record of each shipment transported. A record may consist of one or more documents, including a bill of lading, freight bill, manifest, delivery receipt, or other document. If it consists of more than one document, the documents constituting a shipment record must be available for inspection together. A record must show the:

(1) names of the consignor and consignee;

(2) date of shipment;

(3) origin and destination points;

(4) description of freight;

(5) weight, volume, or measurement of the freight, if applicable to the rating of the freight or if the contract carrier's operating authority includes a weight restriction;

(6) exact rate or rates assessed; and

(7) total charges due, including the nature and amount of any charges for special service.

Subd. 8. **Local cartage carrier.** A local cartage carrier shall keep a record of each shipment transported. A record may consist of one or more documents, including a bill

of lading, freight bill, manifest, delivery receipt, or other document. If it consists of more than one document, the documents constituting a shipment record must be available for inspection together. A record must show the:

(1) date of shipment;

(2) origin and destination points; and

(3) terminal through which the shipment moved, if any.

Subd. 9. **Charter transportation.** A charter carrier and a regular route common carrier with incidental charter operating authority shall keep a record of each charter it provides under a charter carrier permit or a certificate. A charter record may consist of one or more documents. If it consists of more than one document, the documents constituting a charter record must be available for inspection together. A charter record must show the:

(1) name of the carrier;

(2) names of the payor and organization, if any, for which the transportation is performed;

(3) date or dates the transportation was performed;

(4) origin, destination, and general routing of the trip;

(5) identification and seating capacity of each vehicle requested or used;

(6) number of persons transported;

(7) mileage upon which charges are based, including any deadhead mileage, separately noted;

(8) applicable rates per mile, hour, day, or other unit;

(9) itemized charges for the transportation, including special services and fees; and

(10) total charges assessed and collected.

A charter carrier must use the same method of computing its rates in billing for charter services as that shown in its tariff on file with the commissioner.

Subd. 10. **Retained three years.** A shipping document or record described in subdivisions 2 to 9, or a copy of it, must be retained by the carrier for at least three years from the date on the shipping document or record. A carrier may keep a shipping record described in subdivisions 3 to 9 by any technology that prevents the alteration, modification, or erasure of the underlying data and will enable production of an accurate and unaltered paper copy. A carrier shall keep a shipping record in a manner that will make it readily accessible and shall have a means of identifying and producing a legible paper copy for inspection by the commissioner upon request.

History: *1993 c 117 s 27*

221.185 SUSPENSION OR CANCELLATION OF OPERATING AUTHORITY.

Subdivision 1. **Grounds for suspension.** Despite the provisions of section 221.021, authority to operate as a motor carrier under sections 221.011 to 221.296 is suspended without a hearing, by order of the commissioner, for a period not to exceed 45 days upon the occurrence of any of the following and upon notice of suspension as provided in subdivision 2:

(a) the motor carrier fails to maintain and file with the commissioner, the insurance or bond required by sections 221.141 and 221.296 and rules of the commissioner;

(b) the motor carrier fails to renew permits as required by section 221.131;

(c) the motor carrier fails to pay annual vehicle registration fees or renew permits as required by sections 221.071, 221.131, and 221.296; or

(d) the motor carrier fails to maintain in good standing a protective agent's or private detective's license required under section 221.121, subdivision 6g, paragraph (b), or 221.153, subdivision 3.

Subd. 2. **Notice of suspension.** (a) Failure to file and maintain insurance, renew permits under section 221.131, or to pay annual vehicle registration fees or renew permits under section 221.071, 221.131, or 221.296, or to maintain in good standing a pro-

tective agent's or private detective's license required under section 221.121, subdivision 6g, or 221.153, subdivision 3, suspends a motor carrier's permit or certificate two days after the commissioner sends notice of the suspension by certified mail, return receipt requested, to the last known address of the motor carrier.

(b) In order to avoid permanent cancellation of the permit or certificate, the motor carrier must do one of the following within 45 days from the date of suspension:

(1) comply with the law by filing insurance or bond, renewing permits, or paying vehicle registration fees; or

(2) request a hearing before the board regarding the failure to comply with the law.

[For text of subds 3 and 3a, see M.S.1992]

Subd. 4. **Failure to comply, cancellation.** Except as provided in subdivision 5a, failure to comply with the requirements of sections 221.141 and 221.296 relating to bonds and insurance, 221.131 relating to permit renewal, 221.071, 221.131, or 221.296 relating to annual vehicle registration or permit renewal, 221.121, subdivision 6g, or 221.153, subdivision 3, relating to protective agent or private detective licensure, or to request a hearing within 45 days of the date of suspension, is deemed an abandonment of the motor carrier's permit or certificate and the permit or certificate must be canceled by the commissioner.

[For text of subds 5 to 9, see M.S.1992]

History: *1993 c 213 s 10-12*

221.602 INTERSTATE CARRIER REGISTRATION.

Subdivision 1. **Procedure; nonexempt carriers.** A motor carrier subject to the jurisdiction of the Interstate Commerce Commission under United States Code, title 49, chapter 105, subchapter II, with its principal place of business in Minnesota or that designates Minnesota as its base state, may transport persons or property for hire in Minnesota only if it first complies with the insurance and registration regulations adopted by the Interstate Commerce Commission under United States Code, title 49, section 11506. The registration fee is $5; however, a lesser fee may be collected pursuant to a reciprocal agreement authorized by section 221.65. A motor carrier shall pay a service charge of 45 cents for each registration receipt issued in addition to the fee required by this subdivision.

Subd. 2. **Procedure; exempt carriers.** (a) A motor carrier that is exempt from the jurisdiction of the Interstate Commerce Commission under the Interstate Commerce Act, United States Code, title 49, may transport persons or property for hire in interstate commerce in Minnesota only if it first:

(1) complies with section 221.141;

(2) registers and describes the transportation it performs under an exemption contained in the Interstate Commerce Act, United States Code, title 49; and

(3) pays the fee required in subdivision 1.

(b) A motor carrier that complies with subdivision 1 is not also required to comply with this subdivision.

Subd. 3. **Registration period.** The registration period is that provided by the Interstate Commerce Commission in rules adopted under United States Code, title 49, section 11506.

Subd. 4. **Receipt.** On compliance with subdivision 1 or 2, the commissioner shall issue a receipt showing that the motor carrier has complied with the regulations applicable to it. Proof of registration must be kept in each of the carrier's vehicles.

History: *1993 c 117 s 28*

221.81 BUILDING MOVERS.

[For text of subds 1 to 3d, see M.S.1992]

Subd. 3e. **Safety rules.** (a) A building mover must comply with the rules adopted in section 221.0314: (1) subdivision 6 for driving of motor vehicles; (2) subdivision 7 for parts and accessories necessary for the safe operation, except as provided in paragraph (b); (3) subdivision 10 for inspection, repair, and maintenance; (4) subdivision 8 for accident reporting; and, (5) on and after August 1, 1994, subdivisions 2 to 5 for driver qualifications.

(b) A towed vehicle, other than a full trailer, pole trailer, or semitrailer, as those terms are defined in Code of Federal Regulations, title 49, section 390.5, used by a building mover to move a building on a highway is not required to comply with rules for parts and accessories necessary for safe operation.

[For text of subds 4 to 6, see M.S.1992]

History: *1993 c 117 s 29*

CHAPTER 231

WAREHOUSES

231.01 DEFINITIONS.

[For text of subds 1 to 8, see M.S.1992]

Subd. 9. **Household goods.** "Household goods" means:

(a) personal effects and property used or to be used in a dwelling if it is part of the equipment or supply of the dwelling;

(b) furniture, fixtures, equipment, and the property of business places and institutions, public or private, when a part of the stock, equipment, supplies, or property of such establishments. It does not mean the storage of property of a business concern in the usual course of its business activities;

(c) articles which, because of their unusual nature or value, require specialized handling and equipment customarily employed in moving household goods.

History: *1993 c 212 s 1*

231.11 SCHEDULE OF RATES; STORING HOUSEHOLD GOODS.

In order to insure nondiscriminatory rates and charges for all depositors of household goods, the commissioner shall establish a collective rate-making procedure which will insure the publication and maintenance of just and reasonable rates and charges under uniform, reasonably related rate structures. These procedures shall provide for the joint consideration, initiation, and establishment of rates and charges, and shall assure that the respective revenues and expenses of warehouse operators engaged in warehouse services for household goods are ascertained. Any participating warehouse operator party to a collectively mandated rate or charge has the right to petition the commissioner for the establishment of a rate or charge which deviates from the collectively set rate. Upon receiving the commissioner's approval, that warehouse operator may proceed to establish the requested rate or charge. All warehouse operators subject to rate regulation under this chapter must comply with the commissioner's rate-making procedures. No warehouse operator shall undertake to perform any service or store any household goods until a schedule of rates has been filed and published in accordance with this chapter. In case of emergency, however, a service or storage not specifically covered by the schedules filed, may be performed or furnished at a reasonable rate, which must then be promptly filed, and which is subject to review in accordance with this chapter.

History: *1993 c 212 s 2*

231.12 CHANGE OF RATES; STORING HOUSEHOLD GOODS.

Unless the department otherwise orders, no warehouse operator storing household goods may change any rate except after ten days' notice to the department and to the public pursuant to this section. Notice shall be given by filing with the department and keeping open for public inspection new schedules or supplements stating plainly the

changes to be made in the schedules then in force and the time when the changes will go into effect. The department for good cause shown, may, after hearing, allow changes without requiring the ten days' notice by an order specifying the changes to be made, the time when they shall take effect, and the manner in which they shall be filed and published.

History: *1993 c 212 s 3*

231.13 CHARGING MORE OR LESS THAN THE PUBLISHED RATE; STORING HOUSEHOLD GOODS.

Except as specified in sections 231.11 and 231.12, no warehouse operator storing household goods shall have, demand, collect, or receive, a greater or less or different compensation for any service rendered or for storing any household goods than the rates applicable to such service or storage, as specified in the schedules of rates on file with the commissioner and in effect at the time.

When a warehouse operator shall have had household goods in store for such a period that the storage charges thereon accumulated are more than such household goods would bring at a forced sale, the department, upon written application and proof thereof, may authorize such warehouse operator to compromise such charges for a sum not less than the amount which such household goods would bring at such forced sale.

History: *1993 c 212 s 4*

231.14 DISCRIMINATION IN RATES; STORING HOUSEHOLD GOODS.

Except as herein otherwise specified, no warehouse operator storing household goods, or any officer, agent, or employee thereof, shall, directly or indirectly, by remittance, rebate, or any device, inducement, or other means, suffer or permit any corporation or person to obtain any service, or the storage of any household goods at less than the rates then established and in force as shown by the schedule of rates filed and in effect at the time. No person or corporation shall, directly or indirectly, by any device, inducement, or means, either with or without the consent or connivance of a warehouse operator storing household goods, or any of the officers, agents, or employees thereof, obtain, or seek to obtain, any service, or the storage of any household goods at less than the rates then established and in force therefor. Any warehouse operator storing household goods, or the officers, agents, or employees thereof, or any person acting for or employed by it, or transacting business with it, or any other person, who shall violate any provision of this section, shall be guilty of a gross misdemeanor; and, upon conviction, subject to imprisonment not exceeding one year or to a fine not exceeding $3,000, or both.

History: *1993 c 212 s 5*

231.17 BONDS OF WAREHOUSE OPERATORS.

Every warehouse operator applying for and receiving a license from the department, as provided for in this chapter, shall file with the department, acceptable to the department, a surety bond to the state of Minnesota. Such bonds shall be in an amount to be determined by the department as reasonable for the applicant but shall not be less than $10,000.

The commissioner shall, after a study of the existing bonding structure and after consultation with the warehousing industry, adopt rules for bonding. The rules must be adopted by April 1, 1994.

The bond shall be conditioned for the faithful discharge of all duties as a warehouse operator operating under this chapter, and full compliance with the laws of the state and rules and orders of the department relative thereto. Failure to maintain the bond as required shall void the license.

The bond must be continuous until canceled. To cancel a bond, the surety must provide 90 days' written notice of the bond's termination date to the licensee and the department.

In lieu of the bond required by this section, the applicant may deposit with the state treasurer cash; a certified check; a cashier's check; a postal, bank, or express money order; assignable bonds or notes of the United States; or an assignment of bank savings account or investment certificate or an irrevocable bank letter of credit as defined in section 336.5-103, in the same amount as would be required for a bond.

History: *1993 c 212 s 6*

231.18 CLAIMS AGAINST A BOND.

Subdivision 1. **Filing a claim.** A depositor claiming to be damaged by the breach of an agreement to store general merchandise and household goods must file a claim with the department within 180 days of the date of breach.

Subd. 2. **Form of claim.** All claims must be in writing, must state the facts upon which the claim is based, must include any supporting evidence, and must be signed by the claimant. The supporting evidence may consist of, but is not limited to, a bill of lading, a warehouse receipt, a contract form, correspondence, or photographs.

Subd. 3. **Where to file.** All claims must be filed at the following address: Minnesota Department of Agriculture, Grain Licensing and Auditing Division, 316 Grain Exchange Building, Minneapolis, Minnesota 55415.

Subd. 4. **Bond limitations.** The bonds are not cumulative from one year to the next. A claim against the bond may only be made against the bond in effect at the time the agreement is breached. A bond is not liable for claims filed after 180 days from the date of the breach of the bond.

Subd. 5. **Public notice of a claim.** Upon determining that a depositor has filed a valid claim, the department shall publish notice of the claim in the official county newspaper of the county in which the licensee's place of business is located.

The notice must state that a claim against the bond of a licensee has been filed with the department, the name and address of the licensee, that any additional claims should be filed with the department, the bond disbursement date, and where the claims should be filed.

The public notice of the claim must appear for three consecutive days in newspapers with a daily circulation and for two consecutive publications in newspapers published less than daily.

Subd. 6. **Bond disbursement.** (a) Upon expiration of the claim filing period, the department shall promptly determine the validity of all claims filed and notify the claimants of the determination. An aggrieved party may appeal the department's determination by requesting, within 15 days, that the department initiate a contested case proceeding. In the absence of such a request, or following the issuance of a final order in a contested case, the surety company shall issue payment promptly to those claimants entitled to payment.

(b) If a warehouse operator has become liable to more than one depositor by reason of breaches of the conditions of the bond and the amount of the bond is insufficient to pay the entire liability to all depositors entitled to the protection of the bond, the proceeds of the bond shall be apportioned among the bona fide claimants.

History: *1993 c 212 s 7*

231.19 [Repealed, 1993 c 212 s 8]
231.20 [Repealed, 1993 c 212 s 8]
231.21 [Repealed, 1993 c 212 s 8]
231.22 [Repealed, 1993 c 212 s 8]
231.23 [Repealed, 1993 c 212 s 8]
231.25 [Repealed, 1993 c 212 s 8]
231.26 [Repealed, 1993 c 212 s 8]
231.27 [Repealed, 1993 c 212 s 8]

231.29 [Repealed, 1993 c 212 s 8]
231.30 [Repealed, 1993 c 212 s 8]
231.31 [Repealed, 1993 c 212 s 8]
231.33 [Repealed, 1993 c 212 s 8]

CHAPTER 237

TELEPHONE AND TELEGRAPH COMPANIES; TELECOMMUNICATIONS CARRIERS

237.01 DEFINITIONS.

[For text of subd 1, see M.S.1992]

Subd. 2. **Telephone company.** "Telephone company," means and applies to any person, firm, association or any corporation, private or municipal, owning or operating any telephone line or telephone exchange for hire, wholly or partly within this state, or furnishing any telephone service to the public.

A "telephone company" does not include a radio common carrier as defined in subdivision 4. A telephone company which also conforms with the definition of a radio common carrier is subject to regulation as a telephone company. However, none of chapter 237 applies to telephone company activities which conform to the definition of a radio common carrier.

A "telephone company" does not include a telecommunications carrier as defined in subdivision 6, except that a telecommunications carrier is a telephone company for the purposes of section 222.36. A telephone company is not subject to section 237.74.

[For text of subds 3 and 4, see M.S.1992]

Subd. 6. **Telecommunications carrier.** "Telecommunications carrier" means a person, firm, association, or corporation authorized to furnish telephone service to the public but not authorized to furnish local exchange service. Telecommunications carrier does not include entities that derive more than 50 percent of their revenues from operator services provided to transient locations such as hotels, motels, and hospitals. In addition, telecommunications carrier does not include entities that provide centralized equal access services.

History: *1993 c 268 s 1,2*

237.035 TELECOMMUNICATIONS CARRIER EXEMPTION.

Telecommunications carriers are not subject to regulation under this chapter, except that telecommunications carriers shall comply with the requirements of section 237.74.

History: *1993 c 268 s 3*

237.295 ASSESSMENT OF REGULATORY EXPENSES.

[For text of subd 1, see M.S.1992]

Subd. 2. **Assessment of costs.** The department and commission shall quarterly, at least 30 days before the start of each quarter, estimate the total of their expenditures in the performance of their duties relating to telephone companies, other than amounts chargeable to telephone companies under subdivision 1, 5, or 6. The remainder must be assessed by the department to the telephone companies operating in this state in proportion to their respective gross jurisdictional operating revenues during the last calen-

dar year. The assessment must be paid into the state treasury within 30 days after the bill has been mailed to the telephone companies. The bill constitutes notice of the assessment and demand of payment. The total amount that may be assessed to the telephone companies under this subdivision may not exceed one-eighth of one percent of the total gross jurisdictional operating revenues during the calendar year. The assessment for the third quarter of each fiscal year must be adjusted to compensate for the amount by which actual expenditures by the commission and department for the preceding fiscal year were more or less than the estimated expenditures previously assessed. A telephone company with gross jurisdictional operating revenues of less than $5,000 is exempt from assessments under this subdivision.

[For text of subds 3 to 5, see M.S.1992]

Subd. 6. **Extended area service balloting account; appropriation.** The extended area service balloting account is created as a separate account in the special revenue fund in the state treasury. The commission shall render separate bills to telephone companies only for direct balloting costs incurred by the commission under section 237.161. The bill constitutes notice of the assessment and demand of payment. The amount of a bill assessed by the commission under this subdivision must be paid by the telephone company into the state treasury within 30 days from the date of assessment. Money received under this subdivision must be credited to the extended area service balloting account and is appropriated to the commission.

History: *1993 c 369 s 68,69*

237.49 COMBINED LOCAL ACCESS SURCHARGE.

Each local telephone company shall collect from each subscriber an amount per telephone access line representing the total of the surcharges required under sections 237.52, 237.70, and 403.11. Amounts collected must be remitted to the department of administration in the manner prescribed in section 403.11. The department of administration shall divide the amounts received proportional to the individual surcharges and deposit them in the appropriate accounts. A company or the billing agent for a company shall list the surcharges as one amount on a billing statement sent to a subscriber.

History: *1993 c 272 s 1*

237.50 DEFINITIONS.

[For text of subds 1 and 2, see M.S.1992]

Subd. 3. **Communication impaired.** "Communication impaired" means certified as deaf, severely hearing impaired, hard-of-hearing, speech impaired, deaf and blind, or mobility impaired if the mobility impairment significantly impedes the ability to use standard customer premises equipment.

Subd. 4. **Communication device.** "Communication device" means a device that when connected to a telephone enables a communication-impaired person to communicate with another person utilizing the telephone system. A "communication device" includes a ring signaler, an amplification device, a telephone device for the deaf, a brailling device for use with a telephone, and any other device the board deems necessary.

Subd. 4a. **Deaf.** "Deaf" means a hearing impairment of such severity that the individual must depend primarily upon visual communication such as writing, lip reading, manual communication, and gestures.

[For text of subds 5 and 6, see M.S.1992]

Subd. 6a. **Hard-of-hearing.** "Hard-of-hearing" means a hearing impairment resulting in a functional loss, but not to the extent that the individual must depend primarily upon visual communication.

[For text of subds 7 to 10, see M.S.1992]

Subd. 11. **Telecommunication relay service.** "Telecommunication relay service" means a central statewide service through which a communication-impaired person, using a communication device, may send and receive messages to and from a non-communication-impaired person whose telephone is not equipped with a communication device and through which a non-communication-impaired person may, by using voice communication, send and receive messages to and from a communication-impaired person.

History: *1993 c 272 s 2-6*

237.51 BOARD.

Subdivision 1. **Creation.** The telecommunication access for communication-impaired persons board is established to establish and administer a program to distribute communication devices to eligible communication-impaired persons and to create and maintain a telecommunication relay service.

Subd. 2. **Members.** The board consists of 12 persons to include:

(1) the commissioner of the department of administration or the commissioner's designee;

(2) seven communication-impaired persons appointed by the governor at least three of whom reside outside a metropolitan county, as defined in section 473.121, subdivision 4, at the time of appointment, at least four of whom are deaf, one of whom is speech impaired, one of whom is mobility impaired, and one of whom is hard-of-hearing;

(3) one person appointed by the governor who is a professional in the area of communications disabilities;

(4) one person appointed by the governor to represent the telephone company providing local exchange service to the largest number of persons;

(5) one member of the Minnesota Telephone Association appointed by the governor to represent other affected telephone companies; and

(6) one person appointed by the governor to represent companies providing inter-LATA interexchange telephone service if the company with whom the person is employed does not have a contract to operate a telecommunication relay service under section 237.54 and agrees not to enter such a contract for at least one year after the person leaves the board.

[For text of subd 3, see M.S.1992]

Subd. 4. **Meetings.** The board shall meet at least annually.

Subd. 5. **Duties.** In addition to any duties specified elsewhere in sections 237.51 to 237.56, the board shall:

(1) define economic hardship, special needs, and household criteria so as to determine the priority of eligible applicants for initial distribution of devices and to determine circumstances necessitating provision of more than one communication device per household;

(2) establish a method to verify eligibility requirements;

(3) establish specifications for communication devices to be purchased under section 237.53, subdivision 3;

(4) enter contracts for the establishment and operation of the telecommunication relay service pursuant to section 237.54;

(5) inform the public and specifically the community of communication-impaired persons of the program;

(6) prepare the reports required by section 237.55;

(7) administer the fund created in section 237.52;

(8) reestablish and fill the position of program administrator whose position is in the unclassified service and establish and fill other positions in the classified service required to conduct the business of the board;

(9) adopt rules, including emergency rules, under chapter 14 to implement the provisions of sections 237.50 to 237.56; and

(10) notwithstanding any provision of chapter 16B, develop guidelines for the purchase of some communication devices from local retailers and dispensers if the board determines that otherwise they will be economically harmed by implementation of sections 237.50 to 237.56.

Subd. 6. **Administrative support.** The commissioner of the department of administration shall provide staff assistance not including the program administrator and other board staff who are to be chosen by the board, administrative services, and office space under a contract with the board. The board shall reimburse the commissioner for services, staff, and space provided. The board may request necessary information from the supervising officer of any state agency.

History: *1993 c 272 s 7-11*

237.52 FUND; ASSESSMENT.

[For text of subd 1, see M.S.1992]

Subd. 2. **Assessment.** The board shall annually recommend to the commission an adequate and appropriate mechanism to implement sections 237.50 to 237.56. The public utilities commission shall review the board's budget for reasonableness and may modify the budget to the extent it is unreasonable. The commission shall annually determine the funding mechanism to be used within 60 days of receipt of the recommendation of the program administrator and shall order the imposition of surcharges effective on the earliest practicable date. The commission shall establish a monthly charge no greater than 20 cents for each customer access line, including trunk equivalents as designated by the commission pursuant to section 403.11, subdivision 1.

[For text of subds 3 and 4, see M.S.1992]

Subd. 5. **Expenditures.** Money in the fund may only be used for:

(1) expenses of the board, including personnel cost, public relations, board members' expenses, preparation of reports, and other reasonable expenses not to exceed 20 percent of total program expenditures;

(2) reimbursing the commissioner of human services for purchases made or services provided pursuant to section 237.53;

(3) reimbursing telephone companies for purchases made or services provided under section 237.53, subdivision 5; and

(4) contracting for establishment and operation of the telecommunication relay service required by section 237.54.

All costs directly associated with the establishment of the board and program, the purchase and distribution of communication devices, and the establishment and operation of the telecommunication relay service are either reimbursable or directly payable from the fund after authorization by the board. Notwithstanding section 16A.41, the board may advance money to the contractor of the telecommunication relay service if the contractor establishes to the board's satisfaction that the advance payment is necessary for the operation of the service. The advance payment may be used only for working capital reserve for the operation of the service. The advance payment must be offset or repaid by the end of the contract fiscal year together with interest accrued from the date of payment.

History: *1993 c 272 s 12,13*

237.54 TELECOMMUNICATION RELAY SERVICE.

Subdivision 1. **Establishment.** The board shall contract with an inter-LATA interexchange telephone service provider to establish a third-party telecommunication relay service with an "800" number to enable telecommunication between communication-impaired persons and non-communication-impaired persons.

Subd. 2. **Operation.** The board shall contract with a local consumer organization that serves communication-impaired persons for operation of the telecommunication relay system. The board may contract with other than a local consumer organization if the board finds by at least a two-thirds majority vote that no local consumer organization is available to enter into or perform a reasonable contract to operate a telecommunications relay system. The operator of the system shall keep all messages confidential, shall train personnel in the unique needs of communication-impaired people, and shall inform communication-impaired persons and the public of the availability and use of the system. The operator shall not relay a message unless it originates or terminates through a communication device for the deaf or a brailling device for use with a telephone.

History: *1993 c 272 s 14*

237.55 REPORTS; PLANS.

The board must prepare a report for presentation to the commission by January 31 of each year. Each report must review the accessibility of the telephone system to communication-impaired persons, review the ability of non-communication-impaired persons to communicate with communication-impaired persons via the telephone system, describe services provided, account for money received and disbursed annually for each aspect of the program to date, and include predicted future operation.

History: *1993 c 272 s 15*

237.59 CLASSIFICATION OF COMPETITIVE SERVICES; HEARING.

[For text of subds 1 to 6, see M.S.1992]

Subd. 7. [Repealed, 1993 c 268 s 6]

[For text of subds 8 to 10, see M.S.1992]

TELECOMMUNICATIONS REGULATIONS

237.74 REGULATION OF TELECOMMUNICATIONS CARRIERS.

Subdivision 1. **Filing requirements.** Every telecommunications carrier shall elect and keep on file with the department either a tariff or a price list for each service on or before the effective date of the tariff or price, containing the rules, rates, and classifications used by it in the conduct of the telephone business, including limitations on liability. The filings are governed by chapter 13. The department shall require each telecommunications carrier to keep open for public inspection at designated offices so much of these rates, tariffs or price lists, and rules as the department considers necessary for public information.

Subd. 2. **Discrimination prohibited; practices, services, rates.** No telecommunications carrier shall offer telecommunications service within the state upon terms or rates that are unreasonably discriminatory. No telecommunications carrier shall unreasonably limit its service offerings to particular geographic areas unless facilities necessary for the service are not available and cannot be made available at reasonable costs. The rates of a telecommunications carrier must be the same in all geographic locations of the state unless for good cause the commission approves different rates. A company that offers long-distance services shall charge uniform rates and charges on all long-distance routes and in all geographic areas in the state where it offers the services. However, a carrier may offer or provide volume or term discounts or may offer or provide unique pricing to certain customers or to certain geographic locations for special promotions, and may pass through any state, municipal, or local taxes in the specific geographic areas from which the taxes originate.

Notwithstanding any other provision of this subdivision, a telecommunications carrier may furnish service free or at reduced rates to its officers, agents, or employees in furtherance of their employment.

Subd. 3. **Special pricing.** Except as prohibited by this section, prices unique to a particular customer or group of customers may be allowed for services when differences in the cost of providing a service or a service element justify a different price for a particular customer or group of customers. Individual pricing for services may be allowed when a uniform price should not be required because of market conditions. Unique or individual prices for services or service elements in effect before August 1, 1993, are deemed to be lawful under this section.

Subd. 4. **Investigation, hearing, order, appeal.** (a) When the commission or the department believes that an investigation of any matter relating to any telephone service should for any reason be made, it may on its own motion investigate the service or matter upon notice to the carrier. However, telecommunications carriers are not subject to rate or rate of return regulation and neither the commission nor the department may investigate any matter relating to a telecommunications carrier's costs, rates, or rate of return, except the commission and the department may investigate whether a rate is unreasonably discriminatory under subdivision 2.

(b) Upon a complaint made against a telecommunications carrier by a telephone company, by another telecommunications carrier, by the governing body of a political subdivision, or by no fewer than five percent or 100, whichever is the lesser number, of the subscribers or spouses of subscribers of the particular telecommunications carrier, that any of the rates, tolls, tariffs or price lists, charges, or schedules is in any respect unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission, after notice to the telecommunications carrier, shall investigate the matters raised by the complaint.

(c) If, after making an investigation under paragraph (a) or (b), the commission finds that a significant factual issue raised has not been resolved to its satisfaction, the commission may order that a contested case hearing be conducted under chapter 14 unless the complainant, the telecommunications carrier, and the commission agree that an expedited hearing under section 237.61 is appropriate.

(d) In any complaint proceeding authorized under this section, telecommunications carriers shall bear the burden of proof consistent with the allocation of the burden of proof to telephone companies in sections 237.01 to 237.73.

(e) A full and complete record must be kept by the commission of all proceedings before it upon any formal investigation or hearing and all testimony received or offered must be taken down by the stenographer appointed by the commission and a transcribed copy of the record furnished to any party to the investigation upon the payment of the expense of furnishing the transcribed copy.

If the commission finds by a preponderance of the evidence presented during the complaint proceeding that existing rates, tolls, tariffs or price lists, charges, or schedules are unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission may issue its order requiring termination of the discrimination or making the service adequate or obtainable.

(f) A copy of an order issued under this section must be served upon the person against whom it runs or the person's attorney, and notice of the order must be given to the other parties to the proceedings or their attorneys.

(g) Any party to a proceeding before the commission or the attorney general may make and perfect an appeal from the order in accordance with chapter 14.

If the court finds from an examination of the record that the commission erroneously rejected evidence that should have been admitted, it shall remand the proceedings to the commission with instructions to receive the evidence rejected and any rebutting evidence and to make new findings and return them to the court for further review. Then the commission, after notice to the parties in interest, shall proceed to rehear the matter in controversy and receive the wrongfully rejected evidence and any rebutting evidence offered and make new findings, as upon the original hearing, and transmit it and the new record properly certified to the court of appeals, when the matter shall be again considered by the court in the same manner as in an original appeal.

(h) When an appeal is taken from any order of the commission under this chapter, the commission shall, without delay, have a certified transcript made of all proceedings, pleadings and files, and testimony taken or offered before it upon which the order was based, showing particularly what, if any, evidence offered was excluded. The transcript must be made and filed with the court administrator of the district court where the appeal is pending.

Subd. 5. **Extension of facilities.** A telecommunications carrier may extend its facilities into or through a statutory or home rule charter city or town of this state for furnishing its services, subject to the regulation of the governing body of the city or town relative to the location of poles and wires and the preservation of the safe and convenient use of streets and alleys by the public. Nothing in this subdivision shall be construed to allow or prohibit facilities bypass of the local exchange telephone company, nor shall it be construed to prohibit the commission from issuing orders concerning facilities bypass of the local exchange telephone company.

Subd. 6. **Tariff or price list changes.** (a) Telecommunications carriers may:

(1) decrease the rate for a service, or make any change in a tariff or price list that results in a decrease in rates, effective without notice to its customers or the commission; and

(2) offer a new service, increase the rate for a service, or change the terms, conditions, rules, and regulations of its service offering effective upon notice to its customers. Subject to subdivisions 2 and 9, a telecommunications carrier may discontinue a service, except that a telecommunications carrier must first obtain prior commission approval before discontinuing service to another telecommunications carrier if end users would be deprived of service because of the discontinuance.

(b) A telecommunications carrier may give notice to its customers by bill inserts, by publication in newspapers of general circulation, or by any other reasonable means.

Subd. 7. **Occasional use.** A telecommunications carrier shall not be deemed to provide local exchange services within the meaning of sections 237.01 and 237.035 merely because of occasional use of the service by the customer for local exchange service related to the provision of interexchange services.

Subd. 8. **Uniform rules.** Telecommunications carriers are subject to uniform rules pertaining to the conduct of intrastate telephone services by telecommunications carriers that the commission has prescribed and may prescribe, to the extent the rules are not inconsistent with this section. Rules, forms, or reports required by the commission must conform as nearly as practicable to the rules, forms, or reports prescribed by the Federal Communications Commission for interstate business.

Subd. 9. **Discontinuance.** If a physical connection exists between a telephone exchange system operated by a telephone company and the toll line or lines operated by a telecommunications carrier, neither of the companies shall have the connection severed or the service between the companies discontinued without first obtaining an order from the commission upon an application for permission to discontinue the physical connection. Upon the filing of an application for discontinuance of the connection, the department shall investigate and ascertain whether public convenience requires the continuance of the physical connection, and if the department so finds, the commission shall fix the compensation, terms, and conditions of the continuance of the physical connection and service between the telephone company and the telecommunications carrier. Prior commission approval is not required for severing connections where multiple local exchange companies are authorized to provide service. However, the commission may require the connections if it finds that the connections are in the public interest.

Subd. 10. **Cost of examination; assessment of expenses; limitation; objections.** Section 237.295 applies to telecommunications carriers as it does to telephone companies.

Subd. 11. **Enforcement; penalties and remedies.** (a) This section and rules and orders of the commission adopted or issued under this section may be enforced by criminal prosecution, action to recover civil penalties, injunction, action to compel performance, other appropriate action, or any combination of penalties and remedies.

(b) A person who knowingly and intentionally violates this section or a rule or order of the commission adopted or issued under this section shall forfeit and pay to the state a penalty, in an amount to be determined by the court, of at least $100 and not more than $1,000 for each day of each violation. The civil penalties provided for in this paragraph may be recovered by a civil action brought by the attorney general in the name of the state. Amounts recovered under this paragraph must be paid into the state treasury.

Subd. 12. **Certification requirement.** No telecommunications carrier shall construct or operate any line, plant, or system, or any extension of it, or acquire ownership or control of it, either directly or indirectly, without first obtaining from the commission a determination that the present or future public convenience and necessity require or will require the construction, operation, or acquisition, and a new certificate of territorial authority. Nothing in this subdivision requires a telecommunications carrier that has been certified by the commission to provide telephone service before August 1, 1993, to be recertified under this subdivision. Nothing in this subdivision shall be construed to allow or prohibit facilities bypass of the local exchange telephone company, nor shall it be construed to prohibit the commission from issuing orders concerning facilities bypass of the local exchange telephone company.

History: *1993 c 268 s 4*

CUSTOM TELEPHONE SERVICES

237.75 CLASS SERVICE.

Subdivision 1. **Definition.** For purposes of this section, "CLASS" or "custom local area signaling service" means a custom calling telephone service that is enabled through the installation or use of Signaling System 7 or similar signaling system and that includes at least the following features:

(1) automatic call back;

(2) automatic recall;

(3) calling number delivery, commonly known as "caller identification";

(4) calling number delivery blocking;

(5) customer originated call tracing;

(6) distinctive ringing/call waiting;

(7) selective call acceptance;

(8) selective call forwarding; and

(9) selective call rejection.

Subd. 2. **Class; terms and conditions.** By January 1, 1994, the commission shall determine the terms and conditions under which CLASS services may be provided by telephone companies in this state.

Subd. 3. **Class; capability and offering of service.** Each telephone company that provides local telephone service to persons located in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington shall obtain the capability to offer CLASS services in those counties by January 1, 1995, unless the commission approves an extension to a date certain.

History: *1993 c 268 s 5*

CHAPTER 238

CABLE COMMUNICATIONS

238.16 FINES AND PENALTIES.

Subd. 2. **Gross misdemeanor.** Any person violating the provisions of this chapter is guilty of a gross misdemeanor. Any sentence imposed for any violation by a corporation shall be served by the senior resident officer of the corporation.

History: *1993 c 326 art 13 s 13*

CHAPTER 239

WEIGHTS, MEASURES

239.011 DIVISION RESPONSIBILITIES AND POWERS.

[For text of subd 1, see M.S.1992]

Subd. 2. **Duties and powers.** To carry out the responsibilities in section 239.01 and subdivision 1, the director:

(1) shall take charge of, keep, and maintain in good order the standard of weights and measures of the state and keep a seal so formed as to impress, when appropriate, the letters "MINN" and the date of sealing upon the weights and measures that are sealed;

(2) has general supervision of the weights, measures, and weighing and measuring devices offered for sale, sold, or in use in the state;

(3) shall maintain traceability of the state standards to the national standards of the National Institute of Standards and Technology;

(4) shall enforce this chapter;

(5) shall grant variances from department rules, within the limits set by rule, when appropriate to maintain good commercial practices or when enforcement of the rules would cause undue hardship;

(6) shall conduct investigations to ensure compliance with this chapter;

(7) may delegate to division personnel the responsibilities, duties, and powers contained in this section;

(8) shall test annually, and approve when found to be correct, the standards of weights and measures used by the division, by a town, statutory or home rule charter city, or county within the state, or by a person using standards to repair, adjust, or calibrate commercial weights and measures;

(9) shall inspect and test weights and measures kept, offered, or exposed for sale;

(10) shall inspect and test, to ascertain if they are correct, weights and measures commercially used to:

(i) determine the weight, measure, or count of commodities or things sold, offered, or exposed for sale, on the basis of weight, measure, or count; and

(ii) compute the basic charge or payment for services rendered on the basis of weight, measure, or count;

(11) shall approve for use and mark weights and measures that are found to be correct;

(12) shall reject, and mark as rejected, weights and measures that are found to be incorrect and may seize them if those weights and measures:

(i) are not corrected within the time specified by the director;

(ii) are used or disposed of in a manner not specifically authorized by the director; or

(iii) are found to be both incorrect and not capable of being made correct, in which case the director shall condemn those weights and measures;

(13) shall weigh, measure, or inspect packaged commodities kept, offered, or exposed for sale, sold, or in the process of delivery, to determine whether they contain the amount represented and whether they are kept, offered, or exposed for sale in accor-

dance with this chapter and department rules. In carrying out this section, the director must employ recognized sampling procedures, such as those contained in National Institute of Standards and Technology Handbook 133, "Checking the Net Contents of Packaged Goods";

(14) shall prescribe the appropriate term or unit of weight or measure to be used for a specific commodity when an existing term or declaration of quantity does not facilitate value comparisons by consumers, or creates an opportunity for consumer confusion;

(15) shall allow reasonable variations from the stated quantity of contents, including variations caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviations in good manufacturing practice, only after the commodity has entered commerce within the state;

(16) shall inspect and test petroleum products in accordance with this chapter and chapter 296;

(17) shall distribute and post notices for used motor oil and lead acid battery recycling in accordance with sections 239.54, 325E.11, and 325E.115;

(18) shall collect inspection fees in accordance with sections 239.10 and 239.101; and

(19) shall provide metrological services and support to businesses and individuals in the United States who wish to market products and services in the member nations of the European Economic Community, and other nations outside of the United States by:

(i) meeting, to the extent practicable, the measurement quality assurance standards described in the International Standards Organization ISO 9000, Guide 25;

(ii) maintaining, to the extent practicable, certification of the metrology laboratory by a governing body appointed by the European Economic Community; and

(iii) providing calibration and consultation services to metrology laboratories in government and private industry in the United States.

History: *1993 c 369 s 70*

239.05 DEFINITIONS.

[For text of subds 1 to 2b, see M.S.1992]

Subd. 2c. [Repealed, 1993 c 369 s 146]

[For text of subds 6a to 18, see M.S.1992]

239.10 ANNUAL INSPECTION.

The director shall inspect all weights and measures annually, or as often as deemed possible within budget and staff limitations.

History: *1993 c 369 s 71*

239.101 INSPECTION FEES.

Subdivision 1. **Fee setting and cost recovery.** The department shall recover the amount appropriated to the weights and measures program through revenue from two separate fee systems under subdivisions 2 and 3, and according to the fee-setting and cost-recovery requirements in subdivisions 4, 5, and 6.

Subd. 2. **Weights and measures fees.** The director shall charge a fee to the owner for inspecting and testing weights and measures, providing metrology services and consultation, and providing petroleum quality assurance tests at the request of a licensed distributor. Money collected by the director must be paid into the state treasury and credited to the state general fund.

Subd. 3. **Petroleum inspection fee.** A person who owns petroleum products held in storage at a pipeline terminal, river terminal, or refinery shall pay a petroleum inspec-

tion fee of 85 cents for every 1,000 gallons sold or withdrawn from the terminal or refinery storage. The commissioner of revenue shall collect the fee. The revenue from the fee must first be applied to cover the amounts appropriated for petroleum product quality inspection expenses, for the inspection and testing of petroleum product measuring equipment, and for petroleum supply monitoring under chapter 216C.

The commissioner of revenue shall credit a person for inspection fees previously paid in error or for any material exported or sold for export from the state upon filing of a report as prescribed by the commissioner of revenue. The commissioner of revenue may collect the inspection fee along with any taxes due under chapter 296.

Subd. 4. **Setting weights and measures fees.** The department shall review its schedule of inspection fees at the end of each six months. When a review indicates that the schedule of inspection fees should be adjusted, the commissioner shall fix the fees by rule, in accordance with section 16A.128, to ensure that the fees charged are sufficient to recover all costs connected with the inspections.

Subd. 5. **Setting petroleum inspection fee.** When the department estimates that inspection costs will exceed the revenue from the fee, the commissioner shall notify the commissioner of finance. The commissioner of finance shall then request a fee increase from the legislature.

Subd. 6. **Cost recovery requirements.** The cost of inspection activities and services not specified in subdivisions 2 and 3, including related overhead costs, must be equitably apportioned and recovered by the fees.

History: *1993 c 369 s 72*

239.52 [Repealed, 1993 c 369 s 146]

239.78 [Repealed, 1993 c 369 s 146]

239.785 LIQUEFIED PETROLEUM GAS SALES.

Subdivision 1. **Liability for payment.** (a) The operator of a terminal located in Minnesota from which liquefied petroleum gas is dispensed for use or sale in this state other than for delivery to another terminal shall pay a fee equal to one mill for each gallon of liquefied petroleum gas dispensed.

(b) Any person in Minnesota, other than the operator of a terminal, receiving liquefied petroleum gas from a source outside of Minnesota for use or sale in this state shall pay a fee equal to one mill for each gallon of liquefied petroleum gas received.

Subd. 2. **Due dates for filing of returns and payment.** The fee must be remitted monthly on a form prescribed by the commissioner of revenue for deposit in the general fund. The fee must be paid and the return filed on or before the 23rd day of each month following the month in which the liquefied petroleum gas was delivered or received.

Subd. 3. **Penalties.** An operator or person who fails to pay the fee imposed under this section is subject to the penalties provided in sections 296.15 and 296.25.

Subd. 4. **Commissioner's authority.** The provisions of chapter 296 relating to the commissioner's authority to audit, assess, and collect the tax imposed by that chapter apply to the fee imposed by this section.

Subd. 5. **Interest.** Fees and penalties are subject to interest at the rate provided in section 270.75.

History: *1993 c 375 art 9 s 14*

239.791 OXYGENATED GASOLINE.

Subdivision 1. **Minimum oxygen content required.** A person responsible for the product shall comply with the following requirements:

(a) After October 1, 1993, gasoline sold or offered for sale in a carbon monoxide control area, and during a carbon monoxide control period, must contain at least 2.7 percent oxygen by weight.

(b) After October 1, 1995, gasoline sold or offered for sale at any time in a carbon monoxide control area must contain at least 2.7 percent oxygen by weight.

(c) After October 1, 1997, all gasoline sold or offered for sale in Minnesota must contain at least 2.7 percent oxygen by weight.

Subd. 2. [Repealed, 1993 c 250 s 3]

[For text of subds 3 to 5, see M.S.1992]

Subd. 6. **Oxygenate records; self audits.** A registered oxygenate blender shall audit records to demonstrate compliance with this section and with EPA oxygenated fuel requirements. The audit report, including the cumulative record of gasoline oxygenate blends, must be submitted to the director, as prescribed by the director, within 120 days after the end of each carbon monoxide control period.

[For text of subd 7, see M.S.1992]

Subd. 8. **Disclosure.** A person responsible for the product who delivers, distributes, sells, or offers to sell gasoline in a carbon monoxide control area, during a carbon monoxide control period, shall provide, at the time of delivery, a bill of lading or shipping manifest to the person who receives the gasoline. For oxygenated gasoline, the bill of lading or shipping manifest must include the identity and the volume percentage or gallons of oxygenate included in the gasoline, and it must state: "This fuel contains an oxygenate. Do not blend this fuel with ethanol or with any other oxygenate." For non-oxygenated gasoline, the bill or manifest must state: "This fuel must not be sold at retail or used in a carbon monoxide control area." This subdivision does not apply to sales or transfers of gasoline when the gasoline is dispensed into the supply tanks of motor vehicles.

[For text of subd 9, see M.S.1992]

History: *1993 c 250 s 1; 1993 c 369 s 73,74*

239.80 VIOLATIONS; PENALTIES.

Subdivision 1. **Violations; actions of department.** The director, or any delegated employee shall use the methods in section 239.75 to enforce sections 239.10; 239.101, subdivision 3; 239.761; 239.79; 239.791; and 239.792.

Subd. 2. **Penalty.** A person who fails to comply with any provision of section 239.10; 239.101, subdivision 3; 239.761; 239.79; 239.791; or 239.792, is guilty of a misdemeanor.

History: *1993 c 369 s 75,76*

CHAPTER 240

PARI-MUTUEL HORSE RACING

240.01 DEFINITIONS.

[For text of subds 1 to 12, see M.S.1992]

Subd. 14. [Repealed, 1993 c 13 art 1 s 5]

[For text of subds 16 to 23, see M.S.1992]

240.011 APPOINTMENT OF DIRECTOR.

The governor shall appoint the director of the Minnesota racing commission, who serves in the unclassified service at the governor's pleasure. The director must be a person qualified by experience in the administration and regulation of pari-mutuel racing to discharge the duties of the director. The governor must select a director from a list of one or more names submitted by the Minnesota racing commission.

History: *1993 c 13 art 1 s 2,5*

CHAPTER 240A

AMATEUR SPORTS COMMISSION

240A.02 MINNESOTA AMATEUR SPORTS COMMISSION.

Subdivision 1. **Membership; compensation; chair.** (a) The Minnesota amateur sports commission consists of 12 voting members, four of whom must be experienced in promoting amateur sports. Nine of the voting members shall be appointed by the governor to three-year terms. Two legislators, one from each house appointed according to its rules, shall be nonvoting members. Compensation and removal of members and the filling of membership vacancies are as provided in section 15.0575. A member may be reappointed. The governor shall appoint the chair of the commission after consideration of the commission's recommendation.

(b) The governor, speaker of the house of representatives, and senate majority leader shall each appoint one additional voting member to the commission to a two-year term. The purpose of adding three members to the commission is to ensure gender balance in commission membership. Compensation, removal, and filling of vacancies of members appointed under this paragraph are as provided in section 15.0575. A member appointed under this paragraph may be reappointed.

[For text of subds 2 and 3, see M.S.1992]

History: *1993 c 192 s 82*

240A.03 GENERAL POWERS OF THE COMMISSION.

[For text of subds 1 to 14, see M.S.1992]

Subd. 15. **Advertising.** The commission may accept paid advertising in its publications. Funds received from advertising are annually appropriated to the commission for its publications. The commission must annually report the amount of funds received under this subdivision to the chair of the house of representatives ways and means and senate finance committees.

History: *1993 c 192 s 83*