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S.F. No. 215 - Department of Human Rights Technical Changes

Author: Senator Mee Moua

Prepared by: Harry Walsh, Senate Counsel (651/296-6200)

Date: January 18, 2005

S.F. No. 215 contains numerous changes to the law governing the Department of Human Rights.

Article 1, sections 1 and 2, make style changes in definitions.

Article 1, section 3, makes a verified complaint necessary for a person to be a charging party.

Article 1, section 4, changes the procedural position of the Commissioner as "complainant."

Article 1, section 5, extends the definition of "educational institution" to religious educational institutions.

Article 1, section 6, enlarges the definition of "investigative data" to include various electronic data.

Article 1, section 7, adds state councils to the definition of "public service."

Article 1, section 8, clarifies powers and duties of the Commissioner relating to use of state services, the development of policies, and the provision of services and programs. Subdivision 4 allows the disclosure of settlement negotiations after final resolution of a case.

Article 1, section 9, removes obsolete language.

Article 1, section 10, changes a reference to a definition of “direct threat.”

Article 1, section 11, makes it an unfair practice to make an application form for admission that elicits improper information.

Article 1, section 12, revises language relating to various classes of business discrimination and moves it to the beginning of the section.

Article 1, section 13, adds a reference to the general definition of “public accommodation” in the prohibition of discrimination against the disabled.

Article 1, sections 14, 15, and 16, make grammatical changes.

Article 1, section 17, repeats the word “verified” in the procedure for bringing actions.

Article 1, section 18, substitutes “memorandum” for “short, plain written statement” in the requirements for service of a Commissioner’s complaint.

Article 1, sections 19 and 20, clarify references.

Article 2 removes an old schedule, a tolling provision, and two definitions.

Article 3, section 1, updates and reworks the state’s policy statement about discrimination.

Article 3, section 2, adds material to the definition of “civil right.”

Article 3, section 3, defines “direct threat.”

Article 3, section 4, adds redesign of facilities as a remedy for access for disabled persons.

Article 3, section 5, adds sexual harassment to the definition of “sex.”

Article 3, section 6, adds a definition of “verified charge.”

Article 3, sections 7 to 11, add employment by a human rights commission to the references to protected characteristics.

Article 3, section 12, adds religion and familial status to prohibited discrimination in property transactions.

Article 3, section 13, defines “reprisals” and extends the list of protected characteristics.

HW:cs

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TO: Senator Mee Moua

FROM: Harry Walsh, Senate Counsel (651/296-6200)

DATE: February 9, 2005

RE: S.F. No. 215 Amendment

For your consideration, I enclose an amendment to S.F. No. 215 that would clarify some grammar. The amendment is drawn to a committee engrossment of the bill that includes the committee amendments that have been adopted so far. I also attach a copy of the engrossment.

HW:cs

Attachments: SCS0215CE1
SCS0215A-4



1 Senator moves to amend the committee engrossment
2 (SCS0215CE1) of S.F. No. 215 as follows:

3 Page 4, line 25, delete the period and insert "i;
4 (16)"

5 Page 4, line 30, strike "(16)" and insert "(17)"

6 Page 4, line 36, reinstate the stricken language and delete
7 the new language

8 Page 5, line 4, reinstate the stricken language and delete
9 the new language

1 A bill for an act

2 relating to human rights; making agency technical
3 changes; amending Minnesota Statutes 2004, sections
4 363A.02, subdivisions 1, 2; 363A.03, subdivisions 1,
5 2, 5, 8, 14, 21, 31, 35, 42, by adding subdivisions;
6 363A.04; 363A.06; 363A.08, subdivisions 1, 2, 3, 4, 6;
7 363A.11, subdivision 4; 363A.12, subdivision 1;
8 363A.13, subdivision 4; 363A.15; 363A.17; 363A.19;
9 363A.20, subdivision 4; 363A.21, subdivisions 1, 2;
10 363A.28, subdivisions 1, 6, 7; 363A.29, subdivision 2;
11 363A.40, subdivision 1; repealing Minnesota Statutes
12 2004, section 363A.03, subdivisions 3, 29.

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

14 ARTICLE 1

15 CLARIFYING AMENDMENTS

16 Section 1. Minnesota Statutes 2004, section 363A.03,
17 subdivision 1, is amended to read:

18 Subdivision 1. [~~TERMS~~ SCOPE.] For the purposes of this
19 chapter, the words defined in this section have the meanings
20 ~~ascribed-to~~ given them.

21 Sec. 2. Minnesota Statutes 2004, section 363A.03,
22 subdivision 2, is amended to read:

23 Subd. 2. [~~AGE~~.] The prohibition against unfair employment
24 or education practices based on age prohibits using a person's
25 age as a basis for a decision if the person is over the age
26 of ~~majority~~ 18 years, except for section 363A.13 which shall be
27 deemed to protect any individual over the age of 25 years.

28 Sec. 3. Minnesota Statutes 2004, section 363A.03,
29 subdivision 5, is amended to read:

1 Subd. 5. [CHARGING PARTY.] "Charging party" means a person
2 filing a verified charge with the commissioner or the
3 commissioner's designated agent pursuant to section 363A.28,
4 subdivision 1.

5 Sec. 4. Minnesota Statutes 2004, section 363A.03,
6 subdivision 8, is amended to read:

7 Subd. 8. [COMPLAINANT.] "Complainant" means the
8 commissioner of human rights after issuing a finding of probable
9 cause is made by the commissioner and the commissioner issues a
10 complaint pursuant to sections 363A.06, subdivision 3, paragraph
11 (8), and 363A.28, subdivisions 1 to 9.

12 Sec. 5. Minnesota Statutes 2004, section 363A.03,
13 subdivision 14, is amended to read:

14 Subd. 14. [EDUCATIONAL INSTITUTION.] "Educational
15 institution" means a public or private institution and includes
16 an academy, college, elementary or secondary school, extension
17 course, kindergarten, nursery, school system and a business,
18 nursing, professional, secretarial, technical, vocational
19 school; and includes an agent of an educational
20 institution. "Educational institution" also includes "religious
21 or denominational educational institution" as defined in section
22 363A.03, subdivision 40.

23 Sec. 6. Minnesota Statutes 2004, section 363A.03,
24 subdivision 21, is amended to read:

25 Subd. 21. [HUMAN RIGHTS INVESTIGATIVE DATA.] "Human rights
26 investigative data" means written-documents government data as
27 defined in section 13.02, subdivision 7, issued or gathered
28 collected by the department for the purpose of investigating and
29 prosecuting alleged or suspected discrimination.

30 Sec. 7. Minnesota Statutes 2004, section 363A.03,
31 subdivision 35, is amended to read:

32 Subd. 35. [PUBLIC SERVICE.] "Public service" means any
33 public facility, department, agency, council, board or
34 commission, owned, operated or managed by or on behalf of the
35 state of Minnesota, or any subdivision thereof, including any
36 county, city, town, township, or independent district in the

1 state.

2 Sec. 8. Minnesota Statutes 2004, section 363A.06, is
3 amended to read:

4 363A.06 [POWERS AND DUTIES OF COMMISSIONER.]

5 Subdivision 1. [FORMULATION OF POLICIES.] The commissioner
6 shall formulate policies to effectuate the purposes of this
7 chapter and shall:

8 (1) exercise leadership under the direction of the governor
9 in the development of human rights policies, procedures, and
10 programs, and make recommendations to the governor and the
11 legislature for their consideration and implementation;

12 (2) establish and maintain a principal office in St. Paul,
13 and any other necessary branch offices at any location within
14 the state;

15 (3) meet and function at any place within the state;

16 (4) employ attorneys, clerks, and other employees and
17 agents as the commissioner may deem necessary and prescribe
18 their duties;

19 (5) to the extent permitted by federal and state law and
20 regulation, utilize the records and services of ~~the-Department~~
21 ~~of-Employment-and-Economic-Development-of-the-state~~ all state
22 governmental departments and agencies when necessary to
23 effectuate the purposes of this chapter;

24 ~~(6) obtain-upon-request-and-utilize-the-services-of-all~~
25 ~~state-governmental-departments-and-agencies;~~

26 ~~{7}~~ adopt suitable rules for effectuating the purposes of
27 this chapter;

28 ~~{8}~~ (7) issue complaints, receive and investigate charges
29 alleging unfair discriminatory practices, and determine whether
30 or not probable cause exists for hearing;

31 ~~{9}~~ (8) subpoena witnesses, administer oaths, take
32 testimony, and require the production for examination of any
33 books or papers relative to any matter under investigation or in
34 question as the commissioner deems appropriate to carry out the
35 purposes of this chapter;

36 ~~{10}~~ (9) attempt, by means of education, conference,

1 conciliation, and persuasion to eliminate unfair discriminatory
2 practices as being contrary to the public policy of the state;

3 ~~{11}~~ (10) develop and conduct programs of formal and
4 informal education designed to eliminate discrimination and
5 intergroup conflict by use of educational techniques and
6 programs the commissioner deems necessary;

7 ~~{12}~~ (11) make a written report of the activities of the
8 commissioner to the governor each year;

9 ~~{13}~~ (12) accept gifts, bequests, grants or other payments
10 public and private to help finance the activities of the
11 department;

12 ~~{14}~~ (13) create such local and statewide advisory
13 committees as will in the commissioner's judgment aid in
14 effectuating the purposes of the Department of Human Rights;

15 (14) provide staff services to such advisory committees as
16 may be created in aid of the functions of the Department of
17 Human Rights;

18 (15) develop such programs as will aid in determining the
19 compliance throughout the state with the provisions of this
20 chapter, and in the furtherance of such duties, conduct research
21 and study discriminatory practices based upon race, color,
22 creed, religion, national origin, sex, age, disability, marital
23 status, status with regard to public assistance, familial
24 status, sexual orientation, membership or activity in a local
25 human rights commission, or other factors and. Develop accurate
26 data on the nature and extent of discrimination and other
27 matters as they may affect housing, employment, public
28 accommodations, ~~schools,--and-other-areas-of-public-life~~ public
29 services, education, credit, and business;

30 (16) develop and disseminate technical assistance to
31 persons subject to the provisions of this chapter, and to
32 agencies and officers of governmental and private agencies;

33 ~~{17}-provide-staff-services-to-such-advisory-committees-as~~
34 ~~may-be-created-in-aid-of-the-functions-of-the-Department-of~~
35 ~~Human-Rights;~~

36 ~~{18}~~ (17) make grants in aid to the extent that

1 appropriations are made available for ~~that~~ the purpose ~~in-aid~~ of
2 carrying out the duties and responsibilities of this chapter;
3 and

4 ~~{19}~~ (18) cooperate and consult with the commissioner of
5 labor and industry regarding the investigation of violations of,
6 and resolution of complaints regarding section 363A.08,
7 subdivision 7.

8 In performing these duties, the commissioner shall give
9 priority to those duties in clauses (7), (8), and (9) ~~-and-{10}~~
10 and to the duties in section 363A.36.

11 Subd. 2. [SERVICE, ENFORCEMENT, AND EFFECT OF SUBPOENA.]

12 (a) Disobedience of a subpoena issued by the commissioner
13 pursuant to subdivision 1, clause (8), shall be punishable in
14 like manner as a contempt of the district court in proceedings
15 instituted upon application of the commissioner made to the
16 district court of the county where the alleged unfair
17 discriminatory practice in connection with a charge made by a
18 charging party or a complaint filed by the commissioner has
19 occurred or where the respondent resides or has a principal
20 place of business.

21 (b) It is not a violation of rights conferred by chapter 13
22 or any other statute related to the confidentiality of
23 government data for a state agency, statewide system, or
24 political subdivision, as defined in section 13.02, subdivision
25 11, to provide data or information under a subpoena issued by
26 the commissioner under this section.

27 (c) A subpoena issued under subdivision 1, clause (8), must
28 be served personally or by mailing a copy of the subpoena, by
29 first class mail, postage prepaid, to the person to be served.
30 The subpoena must include two copies of a notice and
31 acknowledgment of service on a form to be provided by the
32 commissioner, and a return envelope, postage prepaid, addressed
33 to the sender. If acknowledgment of service is not received by
34 the commissioner within 20 days, service is not effective.
35 Unless good cause is shown for not doing so, a court or
36 administrative law judge shall order the payment of the costs of

1 personal service by the person served if the person does not
2 complete and return the notice and acknowledgment of receipt of
3 the subpoena within the time allowed.

4 Subd. 3. [MISSION; EFFICIENCY.] It is part of the
5 department's mission that within the department's resources the
6 commissioner shall endeavor to:

7 (1) prevent the waste or unnecessary spending of public
8 money;

9 (2) use innovative fiscal and human resource practices to
10 manage the state's resources and operate the department as
11 efficiently as possible;

12 (3) coordinate the department's activities wherever
13 appropriate with the activities of other governmental agencies;

14 (4) use technology where appropriate to increase agency
15 productivity, improve customer service, increase public access
16 to information about government, and increase public
17 participation in the business of government;

18 (5) utilize constructive and cooperative labor-management
19 practices ~~to-the-extent-otherwise~~ as required by chapters 43A
20 and 179A;

21 (6) report to the legislature on the performance of agency
22 operations and the accomplishment of agency goals in the
23 agency's biennial budget according to section 16A.10,
24 subdivision 1; and

25 (7) recommend to the legislature appropriate changes in law
26 necessary to carry out the mission and improve the performance
27 of the department.

28 Subd. 4. [PUBLICATION OF CASE ACCOUNT.] The commissioner
29 may publish an account of a case in which the complaint has been
30 dismissed or the terms of settlement of a case that has been
31 voluntarily adjusted. Except as provided in other sections of
32 this chapter, the commissioner shall not disclose any
33 information concerning efforts settlement negotiations in a
34 particular case ~~to-eliminate-an-unfair-discriminatory-practice~~
35 ~~through-education, conference, conciliation and persuasion~~ prior
36 to final resolution.

1 Sec. 9. Minnesota Statutes 2004, section 363A.08,
2 subdivision 6, is amended to read:

3 Subd. 6. [REASONABLE ACCOMMODATION.] Except when based on
4 a bona fide occupational qualification, it is an unfair
5 employment practice for an employer ~~with-a-number-of~~ who employs
6 equal to or greater than 15 part-time or full-time employees for
7 each working day in each of 20 or more calendar weeks in the
8 current or preceding calendar year ~~equal-to-or-greater-than-25~~
9 ~~effective-July-17-19927-and-equal-to-or-greater-than-15~~
10 ~~effective-July-17-1994~~, an employment agency, or a labor
11 organization, not to make reasonable accommodation to the known
12 disability of a qualified disabled person or job applicant
13 unless the employer, agency, or organization can demonstrate
14 that the accommodation would impose an undue hardship on the
15 business, agency, or organization. "Reasonable accommodation"
16 means steps which must be taken to accommodate the known
17 physical or mental limitations of a qualified disabled person.
18 "Reasonable accommodation" may include but is not limited to,
19 nor does it necessarily require: (a) making facilities readily
20 accessible to and usable by disabled persons; and (b) job
21 restructuring, modified work schedules, reassignment to a vacant
22 position, acquisition or modification of equipment or devices,
23 and the provision of aides on a temporary or periodic basis.

24 In determining whether an accommodation would impose an
25 undue hardship on the operation of a business or organization,
26 factors to be considered include:

27 (a) the overall size of the business or organization with
28 respect to number of employees or members and the number and
29 type of facilities;

30 (b) the type of the operation, including the composition
31 and structure of the work force, and the number of employees at
32 the location where the employment would occur;

33 (c) the nature and cost of the needed accommodation;

34 (d) the reasonable ability to finance the accommodation at
35 each site of business; and

36 (e) documented good faith efforts to explore less

1 restrictive or less expensive alternatives, including
2 consultation with the disabled person or with knowledgeable
3 disabled persons or organizations.

4 A prospective employer need not pay for an accommodation
5 for a job applicant if it is available from an alternative
6 source without cost to the employer or applicant.

7 Sec. 10. Minnesota Statutes 2004, section 363A.11,
8 subdivision 4, is amended to read:

9 Subd. 4. [DIRECT THREAT TO HEALTH AND SAFETY.] Nothing in
10 this chapter requires an entity to permit an individual to
11 participate in and benefit from the goods, services, facilities,
12 privileges, advantages, and accommodations of the entity if the
13 individual poses a direct threat, as defined in section 363A.03,
14 subdivision 11a, to the health or safety of others. "Direct
15 threat"-means-a-significant-risk-to-the-health-or-safety-of
16 others-that-cannot-be-eliminated-by-a-modification-of-policies,
17 practices,-or-procedures-or-by-the-provision-of-auxiliary-aids
18 or-services-

19 Sec. 11. Minnesota Statutes 2004, section 363A.13,
20 subdivision 4, is amended to read:

21 Subd. 4. [PURPOSE FOR INFORMATION AND RECORD.] It is an
22 unfair discriminatory practice to make or use a written or oral
23 inquiry or form of application for admission that elicits or
24 attempts to elicit information, or to make or keep a record
25 concerning the race, color, national origin, sex, age, or
26 marital status of a person seeking admission, unless the
27 information is collected for purposes of evaluating the
28 effectiveness of recruitment, admissions, and other educational
29 policies, and is maintained separately from the application.

30 Sec. 12. Minnesota Statutes 2004, section 363A.17, is
31 amended to read:

32 363A.17 [BUSINESS DISCRIMINATION.]

33 It is an unfair discriminatory practice for a person
34 engaged in a trade or business or in the provision of a service:

35 (a) to intentionally refuse to do business with, to refuse
36 to contract with, to refuse to provide a service to or to

1 discriminate in the basic terms, conditions, or performance of
2 the contract because of a person's race, national origin, color,
3 sex, sexual orientation, or disability, unless the alleged
4 refusal or discrimination is because of a legitimate business
5 purpose;

6 {a} (b) to refuse to do business with or provide a service
7 to a woman based on her use of her current or former surname; or

8 {b} (c) to impose, as a condition of doing business with or
9 providing a service to a woman, that a woman use her current
10 surname rather than a former surname; or

11 ~~{c} to intentionally refuse to do business with, to refuse~~
12 ~~to contract with, or to discriminate in the basic terms,~~
13 ~~conditions, or performance of the contract because of a person's~~
14 ~~race, national origin, color, sex, sexual orientation, or~~
15 ~~disability, unless the alleged refusal or discrimination is~~
16 ~~because of a legitimate business purpose.~~

17 Nothing in this section shall prohibit positive action
18 plans.

19 Sec. 13. Minnesota Statutes 2004, section 363A.19, is
20 amended to read:

21 363A.19 [DISCRIMINATION AGAINST BLIND, DEAF, OR OTHER
22 PERSONS WITH PHYSICAL OR SENSORY DISABILITIES PROHIBITED.]

23 (a) It is an unfair discriminatory practice for an owner,
24 operator, or manager of a hotel, restaurant, public conveyance,
25 or other place of public place accommodation as defined in
26 section 363A.03, subdivision 34, to prohibit a blind or deaf
27 person or a person with a physical or sensory disability from
28 taking a service animal into the public place or conveyance if
29 the service animal can be properly identified as being from a
30 recognized program which trains service animals to aid blind or
31 deaf persons or persons with physical or sensory disabilities,
32 and if the animal is properly harnessed or leashed so that the
33 blind or deaf person or a person with a physical or sensory
34 disability may maintain control of the animal.

35 (b) No person shall require a blind, physically
36 handicapped, or deaf person to make an extra payment or pay an

1 additional charge when taking a service animal into any of the
2 public places referred to in paragraph (a).

3 Sec. 14. Minnesota Statutes 2004, section 363A.20,
4 subdivision 4, is amended to read:

5 Subd. 4. [EMPLOYMENT SELECTION.] The provisions of section
6 363A.08 do not apply to the employment of one person in place of
7 another which, standing by itself, shall not be considered
8 evidence of an unfair discriminatory practice.

9 Sec. 15. Minnesota Statutes 2004, section 363A.21,
10 subdivision 1, is amended to read:

11 Subdivision 1. [HOUSING.] The provisions of section
12 363A.09 shall not apply to:

13 (a) rooms in a temporary or permanent residence home run by
14 a nonprofit organization, if the discrimination is by on the
15 basis of sex;

16 (b) the rental by a resident owner or occupier of a
17 one-family accommodation of a room or rooms in the accommodation
18 to another person or persons if the discrimination is by on the
19 basis of sex, marital status, status with regard to public
20 assistance, sexual orientation, or disability. Except as
21 provided elsewhere in this chapter or other state or federal
22 law, no person or group of persons selling, renting, or leasing
23 property is required to modify the property in any way, or
24 exercise a higher degree of care for a person having a
25 disability than for a person who does not have a disability; nor
26 shall this chapter be construed to relieve any person or persons
27 of any obligations generally imposed on all persons regardless
28 of any disability in a written lease, rental agreement, or
29 contract of purchase or sale, or to forbid distinctions based on
30 the inability to fulfill the terms and conditions, including
31 financial obligations of the lease, agreement, or contract; or

32 (c) the rental by a resident owner of a unit in a dwelling
33 containing not more than two units, if the discrimination is on
34 the basis of sexual orientation.

35 Sec. 16. Minnesota Statutes 2004, section 363A.21,
36 subdivision 2, is amended to read:

1 Subd. 2. [FAMILIAL STATUS.] (a) The provisions of section
2 363A.09 prohibiting discrimination ~~because~~ on the basis of
3 familial status shall not be construed to defeat the
4 applicability of any local, state, or federal restrictions
5 regarding the maximum number of occupants permitted to occupy a
6 dwelling unit and shall not apply to any owner occupied building
7 containing four or fewer dwelling units or housing for elderly
8 persons.

9 (b) "Housing for elderly persons" means housing:

10 (1) provided under any state or federal program that the
11 commissioner determines is specifically designed and operated to
12 assist elderly persons, as defined in the state or federal
13 program;

14 (2) intended for, and solely occupied by, persons 62 years
15 of age or older; or

16 (3) intended and operated for occupancy by at least one
17 person 55 years of age or older per unit, provided that at least
18 80 percent of the units are occupied by at least one person 55
19 years of age or older per unit, and there is publication of, and
20 adherence to, policies and procedures that demonstrate an intent
21 by the owner or manager to provide housing for persons 55 years
22 of age or older.

23 (c) Housing does not fail to meet the requirements for
24 housing for elderly persons by reason of persons residing in the
25 housing as of August 1, 1989, who do not meet the age
26 requirements of paragraph (b), clauses (2) and (3), if new
27 occupants of the housing meet the age requirements of paragraph
28 (b), clause (2) or (3). In addition, housing does not fail to
29 meet the requirements by reason of unoccupied units if
30 unoccupied units are reserved for occupancy by persons who meet
31 the age requirements of paragraph (b), clause (2) or (3).

32 Sec. 17. Minnesota Statutes 2004, section 363A.28,
33 subdivision 1, is amended to read:

34 Subdivision 1. [ACTIONS.] Any person aggrieved by a
35 violation of this chapter may bring a civil action as provided
36 in section 363A.33, subdivision 1, or may file a verified charge

1 with the commissioner or the commissioner's designated agent. A
2 verified charge filed with the commissioner must be in writing
3 on a form provided by the commissioner and signed by the
4 charging party. The charge must state the name of the person
5 alleged to have committed an unfair discriminatory practice and
6 set out a summary of the details of the practice complained of.
7 The commissioner may require a charging party to provide the
8 address of the person alleged to have committed the unfair
9 discriminatory practice, names of witnesses, documents, and any
10 other information necessary to process the charge. The
11 commissioner may dismiss a charge when the charging party fails
12 to provide required information. The commissioner within ten
13 days of the filing shall serve a copy of the charge and a form
14 for use in responding to the charge upon the respondent
15 personally or by mail. The respondent shall file with the
16 department a written response setting out a summary of the
17 details of the respondent's position relative to the charge
18 within 20 days of receipt of the charge. If the respondent
19 fails to respond with a written summary of the details of the
20 respondent's position within 30 days after service of the
21 charge, and service was consistent with Rule 4 of the Rules of
22 Civil Procedure, the commissioner, on behalf of the complaining
23 party, may bring an action for default in district court
24 pursuant to Rule 55.01 of the Rules of Civil Procedure.

25 Sec. 18. Minnesota Statutes 2004, section 363A.28,
26 subdivision 6, is amended to read:

27 Subd. 6. [CHARGE PROCESSING.] (1) Consistent with clause
28 (7), the commissioner shall promptly inquire into the truth of
29 the allegations of the charge. The commissioner shall make an
30 immediate inquiry when a charge alleges actual or threatened
31 physical violence. The commissioner shall also make an
32 immediate inquiry when it appears that a charge is frivolous or
33 without merit and shall dismiss those charges.

34 The commissioner shall give priority to investigating and
35 processing those charges, in the order below, which the
36 commissioner determines have the following characteristics:

1 (a) there is evidence of irreparable harm if immediate
2 action is not taken;

3 (b) there is evidence that the respondent has intentionally
4 engaged in a reprisal;

5 (c) a significant number of recent charges have been filed
6 against the respondent;

7 (d) the respondent is a government entity;

8 (e) there is potential for broadly promoting the policies
9 of this chapter; or

10 (f) the charge is supported by substantial and credible
11 documentation, witnesses, or other evidence.

12 The commissioner shall inform charging parties of these
13 priorities and shall tell each party if their charge is a
14 priority case or not.

15 On other charges the commissioner shall make a
16 determination within 12 months after the charge was filed as to
17 whether or not there is probable cause to credit the allegation
18 of unfair discriminatory practices, ~~and~~.

19 (2) If the commissioner determines after investigation that
20 no probable cause exists to credit the allegations of the unfair
21 discriminatory practice, the commissioner shall, within ten days
22 of the determination, serve upon the charging party and
23 respondent written notice of the determination. Within ten days
24 after receipt of notice, the charging party may request in
25 writing, on forms prepared by the department, that the
26 commissioner reconsider the determination. The request shall
27 contain a brief statement of the reasons for and new evidence in
28 support of the request for reconsideration. At the time of
29 submission of the request to the commissioner, the charging
30 party shall deliver or mail to the respondent a copy of the
31 request for reconsideration. The commissioner shall reaffirm,
32 reverse, or vacate and remand for further consideration the
33 determination of no probable cause within 20 days after receipt
34 of the request for reconsideration, and shall within ten days
35 notify in writing the charging party and respondent of the
36 decision to reaffirm, reverse, or vacate and remand for further

1 consideration.

2 A decision by the commissioner that no probable cause
3 exists to credit the allegations of an unfair discriminatory
4 practice shall not be appealed to the Court of Appeals pursuant
5 to section 363A.36 or sections 14.63 to 14.68.

6 (3) If the commissioner determines after investigation that
7 probable cause exists to credit the allegations of unfair
8 discriminatory practices, the commissioner shall serve on the
9 respondent and the respondent's attorney if the respondent is
10 represented by counsel, by first class mail, a notice setting
11 forth a ~~short-plain-written-statement~~ memorandum of the alleged
12 facts which support the finding of probable cause and an
13 enumeration of the provisions of law allegedly violated. If the
14 commissioner determines that attempts to eliminate the alleged
15 unfair practices through conciliation pursuant to subdivision 8
16 have been or would be unsuccessful or unproductive, the
17 commissioner shall issue a complaint and serve on the
18 respondent, by registered or certified mail, a written notice of
19 hearing together with a copy of the complaint, requiring the
20 respondent to answer the allegations of the complaint at a
21 hearing before an administrative law judge at a time and place
22 specified in the notice, not less than ten days after service of
23 said complaint. A copy of the notice shall be furnished to the
24 charging party and the attorney general.

25 (4) If, at any time after the filing of a charge, the
26 commissioner has reason to believe that a respondent has engaged
27 in any unfair discriminatory practice, the commissioner may file
28 a petition in the district court in a county in which the
29 subject of the complaint occurs, or in a county in which a
30 respondent resides or transacts business, seeking appropriate
31 temporary relief against the respondent, pending final
32 determination of proceedings under this chapter, including an
33 order or decree restraining the respondent from doing or
34 procuring an act tending to render ineffectual an order the
35 commissioner may enter with respect to the complaint. The court
36 shall have power to grant temporary relief or a restraining

1 order as it deems just and proper, but no relief or order
2 extending beyond ten days shall be granted except by consent of
3 the respondent or after hearing upon notice to the respondent
4 and a finding by the court that there is reasonable cause to
5 believe that the respondent has engaged in a discriminatory
6 practice. Except as modified by subdivisions 1 to 9 and section
7 363A.06, subdivision 4, the Minnesota Rules of Civil Procedure
8 shall apply to an application, and the district court shall have
9 authority to grant or deny the relief sought on conditions as it
10 deems just and equitable. All hearings under subdivisions 1 to
11 9 and section 363A.06, subdivision 4, shall be given precedence
12 as nearly as practicable over all other pending civil actions.

13 (5) If a lessor, after engaging in a discriminatory
14 practice defined in section 363A.09, subdivision 1, clause (a),
15 leases or rents a dwelling unit to a person who has no knowledge
16 of the practice or of the existence of a charge with respect to
17 the practice, the lessor shall be liable for actual damages
18 sustained by a person by reason of a final order as provided in
19 subdivisions 1 to 9 and section 363A.06, subdivision 4,
20 requiring the person to be evicted from the dwelling unit.

21 (6) In any complaint issued under subdivisions 1 to 9 and
22 section 363A.06, subdivision 4, the commissioner may seek relief
23 for a class of individuals affected by an unfair discriminatory
24 practice occurring on or after a date one year prior to the
25 filing of the charge from which the complaint originates.

26 (7) The commissioner may adopt policies to determine which
27 charges are processed and the order in which charges are
28 processed based on their particular social or legal
29 significance, administrative convenience, difficulty of
30 resolution, or other standard consistent with the provisions of
31 this chapter.

32 (8) The chief administrative law judge shall adopt policies
33 to provide sanctions for intentional and frivolous delay caused
34 by any charging party or respondent in an investigation,
35 hearing, or any other aspect of proceedings before the
36 department under this chapter.

1 Sec. 19. Minnesota Statutes 2004, section 363A.28,
2 subdivision 7, is amended to read:

3 Subd. 7. [APPLICATION OF RULES.] Rules adopted pursuant to
4 this ~~subdivision~~ chapter apply to cases pending before the
5 commissioner on the date of adoption.

6 Sec. 20. Minnesota Statutes 2004, section 363A.40,
7 subdivision 1, is amended to read:

8 Subdivision 1. [DEFINITIONS.] The definitions in this
9 subdivision apply to this section.

10 (a) "Accessible unit" means an accessible rental housing
11 unit that meets the handicapped facility requirements of the
12 State Building Code, Minnesota Rules, chapter ~~1340~~ 1341.

13 (b) "Landlord" has the meaning given it in section
14 504B.001, subdivision 7.

15 ARTICLE 2

16 OBSOLETE LANGUAGE AMENDMENTS

17 Section 1. Minnesota Statutes 2004, section 363A.12,
18 subdivision 1, is amended to read:

19 Subdivision 1. [ACCESS TO PUBLIC SERVICE.] It is an unfair
20 discriminatory practice to discriminate against any person in
21 the access to, admission to, full utilization of or benefit from
22 any public service because of race, color, creed, religion,
23 national origin, disability, sex, sexual orientation, or status
24 with regard to public assistance or to fail to ensure physical
25 and program access for disabled persons unless the public
26 service can demonstrate that providing the access would impose
27 an undue hardship on its operation. In determining whether
28 providing physical and program access would impose an undue
29 hardship, factors to be considered include:

30 (a) the type and purpose of the public service's operation;

31 (b) the nature and cost of the needed accommodation;

32 (c) documented good faith efforts to explore less

33 restrictive or less expensive alternatives; and

34 (d) the extent of consultation with knowledgeable disabled
35 persons and organizations.

36 ~~Physical-and-program-access-must-be-accomplished-within-six~~

1 ~~months-of-June-7,1983,-except-for-needed-architectural~~
2 ~~modifications,-which-must-be-made-within-two-years-of-June-7,~~
3 ~~1983-~~

4 Sec. 2. Minnesota Statutes 2004, section 363A.29,
5 subdivision 2, is amended to read:

6 Subd. 2. [HEARINGS 180 DAYS AFTER CHARGE.] At any time
7 after 180 days from the filing of a charge, if there has been
8 neither a finding of probable cause nor of no probable cause,
9 the charging party may file a request with the commissioner to
10 appear at a hearing on the party's own behalf or through a
11 private attorney. The amount of time during which a case is
12 involved in significant settlement negotiations, is being
13 investigated by another enforcement agency under a work sharing
14 agreement, or has been referred to mediation ~~or-to-a-local-human~~
15 ~~rights-commission-for-no-fault-grievance-processing~~ is not
16 counted in computing the 180 days. Tolling of the time during
17 settlement negotiations requires written approval of the
18 charging party or the party's attorney. The right of a charging
19 party to file a request for hearing does not apply in cases that
20 have been certified as complex by the commissioner within 60
21 days of the filing of the charge. A case may not be certified
22 as complex unless it involves multiple parties or issues,
23 presents complex issues of law or fact, or presents
24 substantially new issues of law in the discrimination area.
25 Within five days of certifying a case as complex, the
26 commissioner shall give notice of the certification to the
27 charging party and the respondent. The commissioner shall make
28 a determination of probable cause or no probable cause within
29 one year of the filing of a case in which the time has not been
30 counted or a case certified as complex. Upon receipt of the
31 request, the commissioner shall review the documents and
32 information held in the department's files concerning the charge
33 and shall release to the charging party and respondent all
34 documents and information that are accessible to the charging
35 party and respondent under chapter 13. The commissioner shall
36 forward the request for hearing to the Office of Administrative

1 Hearings, which shall promptly set the matter for hearing. If
2 the charging party prevails at this hearing, the administrative
3 law judge may require the respondent to reimburse the charging
4 party for reasonable attorney's fees.

5 Sec. 3. [REPEALER.]

6 Minnesota Statutes 2004, section 363A.03, subdivisions 3
7 and 29, are repealed.

8 ARTICLE 3

9 OMISSIONS AMENDMENTS

10 Section 1. Minnesota Statutes 2004, section 363A.02,
11 subdivision 1, is amended to read:

12 Subdivision 1. [FREEDOM FROM DISCRIMINATION.] (a) It is
13 the public policy of this state to secure for persons in this
14 state, freedom from discrimination:

15 (1) in employment because of race, color, creed, religion,
16 national origin, sex, marital status, disability, status with
17 regard to public assistance, sexual orientation, and age, and
18 membership or activity in a local human rights commission;

19 (2) in housing and real property because of race, color,
20 creed, religion, national origin, sex, marital status,
21 disability, status with regard to public assistance, sexual
22 orientation, and familial status;

23 (3) in public accommodations because of race, color, creed,
24 religion, national origin, sex, marital status, sexual
25 orientation, and disability;

26 (4) in public services because of race, color, creed,
27 religion, national origin, sex, marital status, disability,
28 sexual orientation, and status with regard to public assistance;
29 and

30 (5) in education because of race, color, creed, religion,
31 national origin, sex, marital status, disability, status with
32 regard to public assistance, sexual orientation, and age;

33 (6) in credit because of race, color, creed, religion,
34 national origin, sex, marital status, disability, status with
35 regard to public assistance, and sexual orientation;

36 (7) in business because of race, color, national origin,

1 sex, disability, and sexual orientation; and

2 (8) due to reprisal because of race, color, creed,
3 religion, national origin, sex, marital status, disability,
4 status with regard to public assistance, age, sexual
5 orientation, familial status, or membership or activity in a
6 local human rights commission.

7 (b) Such discrimination threatens the rights and privileges
8 of the inhabitants of this state and menaces the institutions
9 and foundations of democracy. It is also the public policy of
10 this state to protect all persons from wholly unfounded charges
11 of discrimination. Nothing in this chapter shall be interpreted
12 as restricting the implementation of positive action programs to
13 combat discrimination.

14 Sec. 2. Minnesota Statutes 2004, section 363A.02,
15 subdivision 2, is amended to read:

16 Subd. 2. [CIVIL RIGHT.] The opportunity to obtain
17 employment, housing, and other real estate, and credit; the
18 opportunity to conduct business; and the opportunity to obtain
19 full and equal utilization of public accommodations, public
20 services, and educational institutions without such
21 discrimination as is prohibited by this chapter is are hereby
22 recognized as and declared to be a civil ~~right~~ rights.

23 Sec. 3. Minnesota Statutes 2004, section 363A.03, is
24 amended by adding a subdivision to read:

25 Subd. 11a. [DIRECT THREAT.] "Direct threat" means a
26 significant risk to the health or safety of others that cannot
27 be eliminated by a modification of policies, practices, or
28 procedures or by the provision of auxiliary aids or services.

29 Sec. 4. Minnesota Statutes 2004, section 363A.03,
30 subdivision 31, is amended to read:

31 Subd. 31. [PHYSICAL ACCESS.] "Physical access" means (1)
32 the absence of physical obstacles that limit a disabled person's
33 opportunity for full and equal use of or benefit from goods,
34 services, and privileges; or, when necessary, (2) the use of
35 methods to overcome the discriminatory effect of physical
36 obstacles. The methods may include redesign of equipment, or

1 facilities, assignment of aides, or use of alternate accessible
2 locations.

3 Sec. 5. Minnesota Statutes 2004, section 363A.03,
4 subdivision 42, is amended to read:

5 Subd. 42. [SEX.] "Sex" includes, but is not limited to,
6 pregnancy, childbirth, and disabilities related to pregnancy or
7 childbirth, and sexual harassment.

8 Sec. 6. Minnesota Statutes 2004, section 363A.03, is
9 amended by adding a subdivision to read:

10 Subd. 50. [VERIFIED CHARGE.] "Verified charge" means a
11 written statement signed under oath or affirmation, filed by any
12 person including the commissioner, containing a statement of
13 allegation that a person may have engaged or may be engaging in
14 an unfair discriminatory practice.

15 Sec. 7. Minnesota Statutes 2004, section 363A.04, is
16 amended to read:

17 363A.04 [CONSTRUCTION AND EXCLUSIVITY.]

18 The provisions of this chapter shall be construed liberally
19 for the accomplishment of the purposes thereof. Nothing
20 contained in this chapter shall be deemed to repeal any of the
21 provisions of the civil rights law or of any other law of this
22 state relating to discrimination because of race, creed, color,
23 religion, sex, age, disability, marital status, status with
24 regard to public assistance, national origin, sexual
25 orientation, ~~or~~ familial status, or membership or activity in a
26 local human rights commission; but, as to acts declared unfair
27 by sections 363A.08 to 363A.19, and 363A.28, subdivision 10, the
28 procedure herein provided shall, while pending, be exclusive.

29 Sec. 8. Minnesota Statutes 2004, section 363A.08,
30 subdivision 1, is amended to read:

31 Subdivision 1. [LABOR ORGANIZATION.] Except when based on
32 a bona fide occupational qualification, it is an unfair
33 employment practice for a labor organization, because of race,
34 color, creed, religion, national origin, sex, marital status,
35 status with regard to public assistance, disability, sexual
36 orientation, ~~or~~ age, or membership or activity in a local human

1 rights commission:

2 (a) to deny full and equal membership rights to a person
3 seeking membership or to a member;

4 (b) to expel a member from membership;

5 (c) to discriminate against a person seeking membership or
6 a member with respect to hiring, apprenticeship, tenure,
7 compensation, terms, upgrading, conditions, facilities, or
8 privileges of employment; or

9 (d) to fail to classify properly, or refer for employment
10 or otherwise to discriminate against a person or member.

11 Sec. 9. Minnesota Statutes 2004, section 363A.08,
12 subdivision 2, is amended to read:

13 Subd. 2. [EMPLOYER.] Except when based on a bona fide
14 occupational qualification, it is an unfair employment practice
15 for an employer, because of race, color, creed, religion,
16 national origin, sex, marital status, status with regard to
17 public assistance, membership or activity in a local human
18 rights commission, disability, sexual orientation, or age to:

19 (a) refuse to hire or to maintain a system of employment
20 which unreasonably excludes a person seeking employment; or

21 (b) discharge an employee; or

22 (c) discriminate against a person with respect to hiring,
23 tenure, compensation, terms, upgrading, conditions, facilities,
24 or privileges of employment.

25 Sec. 10. Minnesota Statutes 2004, section 363A.08,
26 subdivision 3, is amended to read:

27 Subd. 3. [EMPLOYMENT AGENCY.] Except when based on a bona
28 fide occupational qualification, it is an unfair employment
29 practice for an employment agency, because of race, color,
30 creed, religion, national origin, sex, marital status, status
31 with regard to public assistance, disability, sexual
32 orientation, ~~er~~ age, or membership or activity in a local human
33 rights commission to:

34 (a) refuse or fail to accept, register, classify properly,
35 or refer for employment or otherwise to discriminate against a
36 person; or

1 (b) comply with a request from an employer for referral of
2 applicants for employment if the request indicates directly or
3 indirectly that the employer fails to comply with the provisions
4 of this chapter.

5 Sec. 11. Minnesota Statutes 2004, section 363A.08,
6 subdivision 4, is amended to read:

7 Subd. 4. [EMPLOYER, EMPLOYMENT AGENCY, OR LABOR
8 ORGANIZATION.] (a) Except when based on a bona fide occupational
9 qualification, it is an unfair employment practice for an
10 employer, employment agency, or labor organization, before a
11 person is employed by an employer or admitted to membership in a
12 labor organization, to:

13 (1) require or request the person to furnish information
14 that pertains to race, color, creed, religion, national origin,
15 sex, marital status, status with regard to public assistance,
16 disability, sexual orientation, or age, or membership or
17 activity in a local human rights commission; or, subject to
18 section 363A.20, subdivisions 1 to 7, and 8, paragraph (a),
19 clauses (1) to (5), to require or request a person to undergo
20 physical examination; unless for the sole and exclusive purpose
21 of national security, information pertaining to national
22 origin ~~is~~ as required by the United States, this state or a
23 political subdivision or agency of the United States or of this
24 state, or for the sole and exclusive purpose of compliance with
25 the Public Contracts Act or any rule, regulation, or laws of the
26 United States or of this state requiring the information or
27 examination. A law enforcement agency may, after notifying an
28 applicant for a peace officer or part-time peace officer
29 position that the law enforcement agency is commencing the
30 background investigation on the applicant, request the
31 applicant's date of birth, gender, and race on a separate form
32 for the sole and exclusive purpose of conducting a criminal
33 history check, a driver's license check, and fingerprint
34 criminal history inquiry. The form shall include a statement
35 indicating why the data is being collected and what its limited
36 use will be. No document which has date of birth, gender, or

1 race information will be included in the information given to or
2 available to any person who is involved in selecting the person
3 or persons employed other than the background investigator. No
4 person may act both as background investigator and be involved
5 in the selection of an employee except that the background
6 investigator's report about background may be used in that
7 selection as long as no direct or indirect references are made
8 to the applicant's race, age, or gender; or

9 (2) seek and obtain for purposes of making a job decision,
10 information from any source that pertains to the person's race,
11 color, creed, religion, national origin, sex, marital status,
12 status with regard to public assistance, disability, sexual
13 orientation, membership or activity in a local human rights
14 commission, or age, unless for the sole and exclusive purpose of
15 compliance with the Public Contracts Act or any rule,
16 regulation, or laws of the United States or of this state
17 requiring the information; or

18 (3) cause to be printed or published a notice or
19 advertisement that relates to employment or membership and
20 discloses a preference, limitation, specification, or
21 discrimination based on race, color, creed, religion, national
22 origin, sex, marital status, status with regard to public
23 assistance, membership or activity in a local human rights
24 commission, disability, sexual orientation, or age.

25 (b) Any individual who is required to provide information
26 that is prohibited by this subdivision is an aggrieved party
27 person under section 363A.06, subdivision 4, and 363A.28,
28 subdivisions 1 to 9.

29 Sec. 12. Minnesota Statutes 2004, section 363A.15, is
30 amended to read:

31 363A.15 [REPRISALS.]

32 A reprisal includes, but is not limited to, any form of
33 intimidation, retaliation, or harassment. It is an unfair
34 discriminatory practice for any individual who participated in
35 the alleged discrimination as a perpetrator, employer, labor
36 organization, employment agency, public accommodation, public

1 service, educational institution, or owner, lessor, lessee,
2 sublessee, assignee or managing agent of any real property, or
3 any real estate broker, real estate salesperson, or employee or
4 agent thereof to intentionally engage in any reprisal against
5 any person because that person:

6 (1) Opposed a practice forbidden under this chapter or has
7 filed a charge, testified, assisted, or participated in any
8 manner in an investigation, proceeding, or hearing under this
9 chapter; or

10 (2) Associated with a person or group of persons who are
11 disabled or who are of different race, color, creed, religion,
12 sexual orientation, or national origin.

13 ~~A-reprisal-includes,-but-is-not-limited-to,-any-form-of~~
14 ~~intimidation,-retaliation,-or-harassment-~~ It is a reprisal for
15 an employer to do any of the following with respect to an
16 individual because that individual has engaged in the activities
17 listed in clause (1) or (2): refuse to hire the individual;
18 depart from any customary employment practice; transfer or
19 assign the individual to a lesser position in terms of wages,
20 hours, job classification, job security, or other employment
21 status; or inform another employer that the individual has
22 engaged in the activities listed in clause (1) or (2).

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State of Minnesota

S.F. No. 901 - Methamphetamine Provisions (First Engrossment)

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Prepared by: Kenneth P. Backhus, Senate Counsel (651/296-4396)

Date: February 18, 2005

Overview

S.F. No. 901 addresses methamphetamine by: establishing a toll-free telephone number for citizen tips; making it a crime to improperly dispose of or abandon methamphetamine waste products; amending the nuisance law to make it easier to establish nuisances involving methamphetamine manufacturing; requesting a report from the Legislative Auditor on the efficacy of drug treatment programs; requiring the Board of Veterinary Medicine to report on animal products that may be used to manufacture methamphetamine; and establishing a methamphetamine awareness and educational account in the state treasury.

Section 1 requires the Department of Health to maintain and publicize a toll-free telephone number to enable citizens to report suspected methamphetamine crimes.

Section 2 creates a new crime for disposing or abandoning methamphetamine waste products or chemical substances. A knowing violation is a five year/\$50,000 felony, but if it places another person in imminent danger of death, great bodily harm, or substantial bodily harm, it is a ten-year/\$100,000 felony. Provides an exception for peace officers acting in the course of their employment and persons who lawfully dispose of any product or substance in a manner approved by the Pollution Control Agency. Defines key terms.

Section 3 creates a methamphetamine awareness and educational account as a special revenue account in the State Treasury. The state is authorized to accept contributions, gifts, grants, and bequests for deposit into the fund. Appropriates money in the account to the Commissioner of Public Safety to support projects related to educating retailers and the public on the dangers of methamphetamine, including an educational initiative entitled Minnesota meth watch.

Section 4 amends the nuisance law to allow a public nuisance involving the manufacture of methamphetamine to be established upon a showing of a single methamphetamine manufacturing incident within the building in the previous 12 months. The nuisance law generally requires two incidents to have occurred in a 12-month period.

Sections 5 and 6 are technical changes related to **section 4**.

Section 7 requests the Legislative Audit Commission to direct the legislative auditor to conduct a study related to the efficacy of controlled substance treatment programs for criminal offenders. If the commission directs the auditor to conduct the study, requires a report to the Legislature by February 1, 2006.

Section 8 requires the Minnesota Board of Veterinary Medicine to study and issue a report to the Legislature by February 1, 2006, on animal products that may be used in the manufacture of methamphetamine.

KPB:ph

1 A bill for an act

2 relating to public safety; establishing a
3 methamphetamine waste disposal crime; creating a
4 methamphetamine awareness and educational account;
5 providing for the establishment of civil nuisances
6 involving methamphetamine manufacture; requiring a
7 toll-free number for citizen reports of
8 methamphetamine laboratories; providing for reports;
9 imposing criminal penalties; amending Minnesota
10 Statutes 2004, sections 617.81, subdivision 4, by
11 adding a subdivision; 617.85; proposing coding for new
12 law in Minnesota Statutes, chapters 144; 152.

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

14 Section 1. [144.4188] [CITIZEN REPORTS OF METHAMPHETAMINE
15 VIOLATIONS.]

16 The Department of Health shall maintain and publicize a
17 toll-free telephone number to enable citizens to report
18 information about potential methamphetamine violations,
19 including, but not limited to, illicit methamphetamine
20 laboratories. The department shall take appropriate steps after
21 receiving a citizen report after considering the nature and
22 trustworthiness of the information reported, including, but not
23 limited to, contacting the appropriate law enforcement agency.

24 [EFFECTIVE DATE.] This section is effective July 1, 2005.

25 Sec. 2. [152.139] [DISPOSING OF METHAMPHETAMINE WASTE
26 PRODUCTS; CRIME.]

27 Subdivision 1. [DEFINITIONS.] As used in this section:

28 (1) "chemical substance" means a substance intended to be used
29 as a precursor in the manufacture of methamphetamine or any

1 other chemical intended to be used in the manufacture of
2 methamphetamine; and (2) "methamphetamine waste product" means a
3 substance, chemical, or item of any kind used in the manufacture
4 or attempted manufacture of methamphetamine or any part of the
5 manufacturing process, or the by-product or degradate of
6 manufacturing or attempting to manufacture methamphetamine.

7 Subd. 2. [CRIMES DESCRIBED; PENALTIES.] (a) Except as
8 provided in paragraph (b), a person who knowingly disposes of or
9 abandons any methamphetamine waste product or chemical substance
10 is guilty of a felony and may be sentenced to imprisonment for
11 not more than five years or to payment of a fine of not more
12 than \$50,000, or both.

13 (b) A person who knowingly disposes of or abandons any
14 methamphetamine waste product or chemical substance in a manner
15 that places another person in imminent danger of death, great
16 bodily harm, or substantial bodily harm, is guilty of a felony
17 and may be sentenced to imprisonment for not more than ten years
18 or to payment of a fine of not more than \$100,000, or both.

19 Subd. 3. [EXCEPTION.] This section does not apply to:

20 (1) a peace officer acting in the course of the officer's
21 employment; or

22 (2) a person who lawfully disposes of any product or
23 substance in a manner approved by the Pollution Control Agency.

24 [EFFECTIVE DATE.] This section is effective August 1, 2005,
25 and applies to crimes committed on or after that date.

26 Sec. 3. [152.185] [METHAMPHETAMINE AWARENESS AND
27 EDUCATIONAL ACCOUNT; MINNESOTA METH WATCH.]

28 Subdivision 1. [ACCOUNT ESTABLISHED; EDUCATIONAL PROGRAM.]
29 The methamphetamine awareness and educational account is a
30 special revenue account in the state treasury. Money in the
31 account is appropriated to the commissioner of public safety to
32 be used to support projects relating to educating retailers and
33 the public on the dangers of methamphetamine and methamphetamine
34 precursor drugs and the laws and regulations governing their
35 use, including an educational initiative entitled "Minnesota
36 meth watch" addressing methamphetamine, its use and manufacture,

1 and the impact of methamphetamine-related activities on
2 children, the environment, and the state's quality of life.

3 Subd. 2. [CONTRIBUTIONS.] The state may accept
4 contributions, gifts, grants, and bequests for deposit into the
5 fund.

6 [EFFECTIVE DATE.] This section is effective July 1, 2005.

7 Sec. 4. Minnesota Statutes 2004, section 617.81, is
8 amended by adding a subdivision to read:

9 Subd. 2b. [EXCEPTION; NUISANCES INVOLVING METHAMPHETAMINE
10 MANUFACTURE.] Notwithstanding subdivision 2, for purposes of
11 sections 617.80 to 617.87, a public nuisance exists upon proof
12 of one or more behavioral incidents involving the manufacturing
13 or attempted manufacture of methamphetamine in the previous 12
14 months within the building. The requirement of two or more
15 behavioral incidents in subdivision 2, paragraph (b), does not
16 apply to incidents involving the manufacturing or attempted
17 manufacture of methamphetamine.

18 [EFFECTIVE DATE.] This section is effective August 1, 2005,
19 and applies to acts committed on or after that date.

20 Sec. 5. Minnesota Statutes 2004, section 617.81,
21 subdivision 4, is amended to read:

22 Subd. 4. [NOTICE.] (a) If a prosecuting attorney has
23 reason to believe that a nuisance is maintained or permitted in
24 the jurisdiction the prosecuting attorney serves, and intends to
25 seek abatement of the nuisance, the prosecuting attorney shall
26 provide the written notice described in paragraph (b), by
27 personal service or certified mail, return receipt requested, to
28 the owner and all interested parties known to the prosecuting
29 attorney.

30 (b) The written notice must:

31 (1) state that a nuisance as defined in subdivision 2 is
32 maintained or permitted in the building and must specify the
33 kind or kinds of nuisance being maintained or permitted;

34 (2) summarize the evidence that a nuisance is maintained or
35 permitted in the building, including the date or dates on which
36 nuisance-related activity or activities are alleged to have

1 occurred;

2 (3) inform the recipient that failure to abate the conduct
3 constituting the nuisance or to otherwise resolve the matter
4 with the prosecuting attorney within 30 days of service of the
5 notice may result in the filing of a complaint for relief in
6 district court that could, among other remedies, result in
7 enjoining the use of the building for any purpose for one year
8 or, in the case of a tenant, could result in cancellation of the
9 lease; and

10 (4) inform the owner of the options available under section
11 617.85.

12 [EFFECTIVE DATE.] This section is effective August 1, 2005,
13 and applies to acts committed on or after that date.

14 Sec. 6. Minnesota Statutes 2004, section 617.85, is
15 amended to read:

16 617.85 [NUISANCE; MOTION TO CANCEL LEASE.]

17 Where notice is provided under section 617.81, subdivision
18 4, that an abatement of a nuisance is sought and the
19 circumstances that are the basis for the requested abatement
20 involved the acts of a commercial or residential tenant or
21 lessee of part or all of a building, the owner of the building
22 that is subject to the abatement proceeding may file before the
23 court that has jurisdiction over the abatement proceeding a
24 motion to cancel the lease or otherwise secure restitution of
25 the premises from the tenant or lessee who has maintained or
26 conducted the nuisance. The owner may assign to the prosecuting
27 attorney the right to file this motion. In addition to the
28 grounds provided in chapter 566, the maintaining or conducting
29 of a nuisance as defined in section 617.81, subdivision 2, by a
30 tenant or lessee, is an additional ground authorized by law for
31 seeking the cancellation of a lease or the restitution of the
32 premises. Service of motion brought under this section must be
33 served in a manner that is sufficient under the Rules of Civil
34 Procedure and chapter 566.

35 It is no defense to a motion under this section by the
36 owner or the prosecuting attorney that the lease or other

1 agreement controlling the tenancy or leasehold does not provide
2 for eviction or cancellation of the lease upon the ground
3 provided in this section.

4 Upon a finding by the court that the tenant or lessee has
5 maintained or conducted a nuisance in any portion of the
6 building, the court shall order cancellation of the lease or
7 tenancy and grant restitution of the premises to the owner. The
8 court must not order abatement of the premises if the court:

9 (a) cancels a lease or tenancy and grants restitution of
10 that portion of the premises to the owner; and

11 (b) further finds that the act or acts constituting the
12 nuisance as defined in section 617.81, subdivision 2, were
13 committed by the tenant or lessee whose lease or tenancy has
14 been canceled pursuant to this section and the tenant or lessee
15 was not committing the act or acts in conjunction with or under
16 the control of the owner.

17 [EFFECTIVE DATE.] This section is effective August 1, 2005,
18 and applies to acts committed on or after that date.

19 Sec. 7. [REQUESTED LEGISLATIVE AUDITOR'S REPORT; DRUG
20 TREATMENT.]

21 (a) The Legislative Audit Commission is requested to direct
22 the legislative auditor to study and issue a report on the
23 efficacy of controlled substance treatment programs for criminal
24 offenders in Minnesota. The report must include programs
25 offered in state and local correctional facilities and
26 community-based programs. The auditor shall study the programs
27 offered for each type of controlled substance addiction. The
28 report must compare the costs of the programs and their success
29 rates. The report must also address funding sources for these
30 programs, including, but not limited to, rule 25 funding. To
31 the degree feasible, the auditor shall investigate treatment
32 programs offered in other states for controlled substance
33 offenders and compare the breadth and comprehensiveness of the
34 treatment options available in Minnesota, their costs, and their
35 success rates to those in other states.

36 (b) If the Legislative Audit Commission directs the

1 legislative auditor to conduct the study described in paragraph
2 (a), the auditor shall report its findings to the legislature by
3 February 1, 2006.

4 [EFFECTIVE DATE.] This section is effective July 1, 2005.

5 Sec. 8. [BOARD OF VETERINARY MEDICINE REPORT, PRECURSOR
6 ANIMAL PRODUCTS.]

7 The Minnesota Board of Veterinary Medicine shall study and
8 issue a report on animal products that may be used in the
9 manufacture of methamphetamine. The report must include
10 proposals for restricting access to such products only to
11 legitimate users, specifically addressing the manufacturing,
12 wholesaling, distributing, and retailing of precursor veterinary
13 products. The board shall report its findings to the chairs and
14 ranking minority members of the senate and house committees
15 having jurisdiction over criminal justice and veterinary policy
16 by February 1, 2006.

17 [EFFECTIVE DATE.] This section is effective the day
18 following final enactment.

1 Senator moves to amend S.F. No. 901 as follows:

2 Page 1, delete section 1

3 Page 3, after line 6, insert:

4 "Sec. 3. [299C.90] [CITIZEN REPORTS OF METHAMPHETAMINE
5 VIOLATIONS.]

6 The superintendent of the Bureau of Criminal Investigation
7 shall maintain and publicize a toll-free telephone number to
8 enable citizens to report information about potential
9 methamphetamine violations, including, but not limited to,
10 illicit methamphetamine laboratories. The agency shall take
11 appropriate steps after receiving a citizen report after
12 considering the nature and trustworthiness of the information
13 reported, including, but not limited to, contacting the
14 appropriate law enforcement agency.

15 [EFFECTIVE DATE.] This section is effective July 1, 2005."

16 Renumber the sections in sequence and correct the internal
17 references

18 Amend the title accordingly

1 Senator Betzold from the Committee on Judiciary, to which
2 was re-referred

3 S.F. No. 901: A bill for an act relating to public safety;
4 establishing a methamphetamine waste disposal crime; creating a
5 methamphetamine awareness and educational account; providing for
6 the establishment of civil nuisances involving methamphetamine
7 manufacture; requiring a toll-free number for citizen reports of
8 methamphetamine laboratories; providing for reports; imposing
9 criminal penalties; amending Minnesota Statutes 2004, sections
10 617.81, subdivision 4, by adding a subdivision; 617.85;
11 proposing coding for new law in Minnesota Statutes, chapters
12 144; 152.

13 Reports the same back with the recommendation that the bill
14 be amended as follows:

15 Page 1, delete section 1

16 Page 3, after line 6, insert:

17 "Sec. 3. [299C.90] [CITIZEN REPORTS OF METHAMPHETAMINE
18 VIOLATIONS.]

19 The superintendent of the Bureau of Criminal Apprehension
20 shall maintain and publicize a toll-free telephone number to
21 enable citizens to report information about potential
22 methamphetamine violations, including, but not limited to,
23 illicit methamphetamine laboratories. The agency shall take
24 appropriate steps after receiving a citizen report after
25 considering the nature and trustworthiness of the information
26 reported, including, but not limited to, contacting the
27 appropriate law enforcement agency.

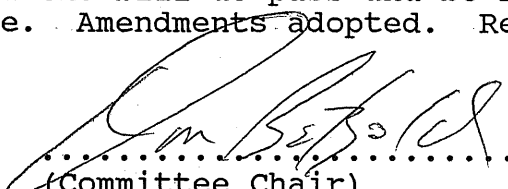
28 [EFFECTIVE DATE.] This section is effective July 1, 2005."

29 Renumber the sections in sequence

30 Amend the title as follows:

31 Page 1, line 12, delete "144;" and before the period,
32 insert "; 299C"

33 And when so amended the bill do pass and be re-referred to
34 the Committee on Finance. Amendments adopted. Report adopted.

35
36 
37
38 (Committee Chair)

39 March 1, 2005.....
40 (Date of Committee recommendation)

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Senate
State of Minnesota

**S.F. No. 423 (first engrossment) - Methamphetamine
Judiciary Issues**

Author: Senator Julie A. Rosen

Prepared by: Harry Walsh, Senate Counsel (651/296-6200)

Date: February 25, 2005

S.F. No. 423, article 1, section 4, subdivision 2, relates to the treatment of property that has been affected by the presence of a methamphetamine lab.

Paragraph (a) provides definitions.

Paragraph (b) requires the police to notify the Department of Health of the location of the lab.

Paragraph (c) prohibits the use of the affected property until it has been cleaned up.

Paragraph (d) makes general health and nuisance laws apply.

Paragraph (e) requires verification that a cleanup has been accomplished.

Paragraph (f) requires that contaminated motor vehicles be reported to the registrar.

Paragraph (g) requires that the location of the lab be recorded in the property records by the public authority.

Paragraph (h) requires the owner to record the lab location information if the public authority does not.

Paragraph (i) allows a record to be filed that the property has been remediated.

Paragraph (j) requires the property records offices to accept and file the lab affidavits.

Paragraph (k) requires the Commissioner of Health to post certain contact information on the Internet.

Paragraph (l) requires the local community health services administrator to maintain a file of information about affected properties.

Article 1, section 6, subdivision 5, provides for protective custody of endangered children.

Article 1, section 6, subdivision 6, provides for reports about possible maltreatment of vulnerable adults.

Article 1, section 8, requires notices to schools about children possibly endangered by meth activity.

HW:cs

A handwritten signature in black ink, appearing to be 'HW' followed by a stylized flourish.

1 A bill for an act

2 relating to public safety; further regulating while
3 recodifying activities involving anhydrous ammonia;
4 requiring courts to order restitution in certain
5 situations involving controlled substances; imposing
6 property restrictions in certain situations involving
7 controlled substances; increasing the criminal
8 penalties for possessing certain substances with the
9 intent to manufacture methamphetamine and recodifying
10 this crime; establishing new methamphetamine-related
11 crimes; clarifying the definition of "narcotic drug";
12 expanding the definition of "violent crime" for
13 mandatory sentencing purposes; requiring that vehicles
14 and other property used to manufacture methamphetamine
15 indicate this in the title or by an affidavit;
16 requiring notice to schools when children are taken
17 into protective custody after being found at a
18 methamphetamine laboratory; establishing a
19 methamphetamine laboratory cleanup revolving fund and
20 authorizing loans to assist counties and cities in
21 conducting methamphetamine cleanup; imposing criminal
22 penalties; providing for ten new Bureau of Criminal
23 Apprehension agents dedicated to methamphetamine
24 enforcement; appropriating money; amending Minnesota
25 Statutes 2004, sections 152.01, subdivision 10;
26 152.021, subdivisions 2a, 3; 168A.05, subdivision 3;
27 260C.171, by adding a subdivision; 609.1095,
28 subdivision 1; proposing coding for new law in
29 Minnesota Statutes, chapters 152; 446A; repealing
30 Minnesota Statutes 2004, sections 18C.005,
31 subdivisions 1a, 35a; 18C.201, subdivisions 6, 7;
32 18D.331, subdivision 5.

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

34 ARTICLE 1

35 METHAMPHETAMINE PROVISIONS

36 Section 1. Minnesota Statutes 2004, section 152.01,
37 subdivision 10, is amended to read:

38 Subd. 10. [NARCOTIC DRUG.] "Narcotic drug" means any of
39 the following, whether produced directly or indirectly by

1 extraction from substances of vegetable origin, or independently
2 by means of chemical synthesis, or by a combination of
3 extraction and chemical synthesis:

4 (1) Opium, coca leaves, and opiates, and methamphetamine;

5 (2) A compound, manufacture, salt, derivative, or
6 preparation of opium, coca leaves, or opiates, or
7 methamphetamine;

8 (3) A substance, and any compound, manufacture, salt,
9 derivative, or preparation thereof, which is chemically
10 identical with any of the substances referred to in clauses (1)
11 and (2), except that the words "narcotic drug" as used in this
12 chapter shall not include decocainized coca leaves or extracts
13 of coca leaves, which extracts do not contain cocaine or
14 ecgonine.

15 [EFFECTIVE DATE.] This section is effective August 1, 2005,
16 and applies to crimes committed on or after that date.

17 Sec. 2. Minnesota Statutes 2004, section 152.021,
18 subdivision 2a, is amended to read:

19 Subd. 2a. [METHAMPHETAMINE MANUFACTURE CRIMES CRIME;
20 POSSESSION OF SUBSTANCES WITH INTENT TO MANUFACTURE

21 METHAMPHETAMINE CRIME.] (a) Notwithstanding subdivision 1,
22 sections 152.022, subdivision 1, 152.023, subdivision 1, and
23 152.024, subdivision 1, a person is guilty of controlled
24 substance crime in the first degree if the person manufactures
25 any amount of methamphetamine.

26 ~~(b) Notwithstanding-paragraph-(a)-and-section-609-17,~~ A
27 person is guilty of ~~attempted-manufacture-of-methamphetamine a~~
28 crime if the person possesses any chemical reagents or
29 precursors with the intent to manufacture methamphetamine. As
30 used in this section, "chemical reagents or precursors" ~~refers~~
31 ~~to-one-or-more~~ includes any of the following substances, or any
32 similar substances that can be used to manufacture
33 methamphetamine, or their the salts, isomers, and salts of
34 isomers of a listed or similar substance:

35 (1) ephedrine;

36 (2) pseudoephedrine;

- (3) phenyl-2-propanone;
(4) phenylacetone;
(5) anhydrous ammonia, ~~as defined in section 18C.005,~~
~~subdivision 1a;~~
(6) organic solvents;
(7) hydrochloric acid;
(8) lithium metal;
(9) sodium metal;
(10) ether;
(11) sulfuric acid;
(12) red phosphorus;
(13) iodine;
(14) sodium hydroxide;
(15) benzaldehyde;
(16) benzyl methyl ketone;
(17) benzyl cyanide;
(18) nitroethane;
(19) methylamine;
(20) phenylacetic acid;
(21) hydriodic acid; or
(22) hydriotic acid.

[EFFECTIVE DATE.] This section is effective August 1, 2005,
and applies to crimes committed on or after that date.

Sec. 3. Minnesota Statutes 2004, section 152.021,
subdivision 3, is amended to read:

Subd. 3. **[PENALTY.]** (a) A person convicted under
subdivisions 1 to 2a, paragraph (a), may be sentenced to
imprisonment for not more than 30 years or to payment of a fine
of not more than \$1,000,000, or both; a person convicted under
subdivision 2a, paragraph (b), may be sentenced to imprisonment
for not more than ~~three~~ ten years or to payment of a fine of not
more than ~~\$5,000~~ \$20,000, or both.

(b) If the conviction is a subsequent controlled substance
conviction, a person convicted under subdivisions 1 to 2a,
paragraph (a), shall be committed to the commissioner of
corrections for not less than four years nor more than 40 years

1 and, in addition, may be sentenced to payment of a fine of not
2 more than \$1,000,000; a person convicted under subdivision 2a,
3 paragraph (b), may be sentenced to imprisonment for not more
4 than ~~four~~ 15 years or to payment of a fine of not more than
5 ~~\$5,000~~ \$30,000, or both.

6 (c) In a prosecution under subdivision 1 involving sales by
7 the same person in two or more counties within a 90-day period,
8 the person may be prosecuted for all of the sales in any county
9 in which one of the sales occurred.

10 [EFFECTIVE DATE.] This section is effective August 1, 2005,
11 and applies to crimes committed on or after that date.

12 Sec. 4. [152.0275] [CERTAIN CONTROLLED SUBSTANCE OFFENSES;
13 RESTITUTION; PROHIBITIONS ON PROPERTY USE; NOTICE PROVISIONS.]

14 Subdivision 1. [RESTITUTION.] (a) As used in this
15 subdivision:

16 (1) "clandestine lab site" means any structure or
17 conveyance or outdoor location occupied or affected by
18 conditions or chemicals typically associated with the
19 manufacturing of methamphetamine;

20 (2) "emergency response" includes, but is not limited to,
21 removing and collecting evidence, securing the site, removal,
22 remediation, and hazardous chemical assessment or inspection of
23 the site where the relevant offense or offenses took place,
24 regardless of whether these actions are performed by the public
25 entities themselves or by private contractors paid by the public
26 entities, or the property owner;

27 (3) "remediation" means proper cleanup, treatment, or
28 containment of hazardous substances or methamphetamine at or in
29 a clandestine lab site, and may include demolition or disposal
30 of structures or other property when an assessment so indicates;
31 and

32 (4) "removal" means the removal from the clandestine lab
33 site of precursor or waste chemicals, chemical containers, or
34 equipment associated with the manufacture, packaging, or storage
35 of illegal drugs.

36 (b) A court shall require a person convicted of

1 manufacturing or attempting to manufacture a controlled
2 substance or of an illegal activity involving a precursor
3 substance, where the response to the crime involved an emergency
4 response, to pay restitution to all public entities that
5 participated in the response. The restitution ordered must
6 cover the reasonable costs of their participation in the
7 response.

8 (c) In addition to the restitution required in paragraph
9 (b), a court shall require a person convicted of manufacturing
10 or attempting to manufacture a controlled substance or of
11 illegal activity involving a precursor substance to pay
12 restitution to a property owner who incurred removal or
13 remediation costs because of the crime.

14 (d) Notwithstanding paragraphs (b) and (c), if the court
15 finds that the convicted person is indigent or that payment of
16 the restitution would create undue hardship for the convicted
17 person's immediate family, the court may reduce the amount of
18 restitution to an appropriate level.

19 Subd. 2. [PROPERTY-RELATED PROHIBITIONS; NOTICE; WEB
20 SITE.] (a) As used in this subdivision:

21 (1) "clandestine lab site" has the meaning given in
22 subdivision 1, paragraph (a);

23 (2) "property" includes buildings and other structures, and
24 motor vehicles as defined in section 609.487, subdivision 2a.
25 Property also includes real property whether publicly or
26 privately owned and public waters and rights-of-way;

27 (3) "remediation" has the meaning given in subdivision 1,
28 paragraph (a); and

29 (4) "removal" has the meaning given in subdivision 1,
30 paragraph (a).

31 (b) A peace officer who arrests a person at a clandestine
32 lab site shall notify the appropriate county or local health
33 department, state duty officer, and child protection services of
34 the arrest and the location of the site.

35 (c) A county or local health department or sheriff shall
36 order that all property that has been found to be a clandestine

1 lab site and contaminated by substances, chemicals, or items of
2 any kind used in the manufacture of methamphetamine or any part
3 of the manufacturing process, or the by-products or degradates
4 of manufacturing methamphetamine be prohibited from being
5 occupied, rented, sold, or used until it has been assessed and
6 remediated as provided in the Department of Health's clandestine
7 drug labs general cleanup guidelines.

8 (d) Unless clearly inapplicable, the procedures specified
9 in chapter 145A and any related rules adopted under that chapter
10 addressing the enforcement of public health laws, the removal
11 and abatement of public health nuisances, and the remedies
12 available to property owners or occupants apply to this
13 subdivision.

14 (e) Upon the proper removal and remediation of any property
15 used as a clandestine lab site, the contractor shall verify to
16 the applicable authority that issued the order under paragraph
17 (c) that the work was completed according to the Department of
18 Health's clandestine drug labs general cleanup guidelines and
19 best practices and that levels of contamination have been
20 reduced to levels set forth in the guidelines. Following this,
21 the applicable authority shall vacate its order.

22 (f) If the applicable authority determines under paragraph
23 (c) that a motor vehicle has been contaminated by substances,
24 chemicals, or items of any kind used in the manufacture of
25 methamphetamine or any part of the manufacturing process, or the
26 by-products or degradates of manufacturing methamphetamine and
27 if the authority is able to obtain the certificate of title for
28 the motor vehicle, the authority shall notify the registrar of
29 motor vehicles of this fact and in addition, forward the
30 certificate of title to the registrar. The authority shall also
31 notify the registrar when it vacates its order under paragraph
32 (e).

33 (g) The applicable authority issuing an order under
34 paragraph (c) shall record with the county recorder or registrar
35 of titles of the county where the clandestine lab is located an
36 affidavit containing a legal description of the property where

1 the clandestine lab was located that discloses to any potential
2 transferee:

3 (1) that the land was the site of a clandestine lab;

4 (2) the location, condition, and circumstances of the
5 clandestine lab, to the full extent known or reasonably
6 ascertainable; and

7 (3) that the use of the property or some portion of it may
8 be restricted as provided by paragraph (c).

9 If the authority vacates its order under paragraph (e), the
10 authority shall record an affidavit noting this fact.

11 (h) Unless an affidavit has already been filed under
12 paragraph (g), before any transfer of ownership of any property
13 that the owner knew or should have known had been used as a
14 clandestine lab site and contaminated by substances, chemicals,
15 or items of any kind used in the manufacture of methamphetamine
16 or any part of the manufacturing process, or the by-products or
17 degradates of manufacturing methamphetamine, regardless of when
18 this occurred or whether an order under paragraph (c) had been
19 issued, the owner shall record with the county recorder or
20 registrar of titles of the county in which the property is
21 located an affidavit containing the information required under
22 paragraph (g), clauses (1) and (2). Any person who violates
23 this paragraph is guilty of a petty misdemeanor.

24 (i) If proper removal and remediation has occurred on the
25 property, an interested party may record an affidavit indicating
26 that this has occurred. Failure to record such an affidavit
27 does not affect or prevent any transfer of ownership of the
28 property.

29 (j) The county recorder or registrar of titles must record
30 all affidavits presented under paragraph (g), (h), or (i) in a
31 manner that assures their disclosure in the ordinary course of a
32 title search of the subject property.

33 (k) The commissioner of health shall post on the Internet
34 contact information for each local community health services
35 administrator.

36 (l) Each local community health services administrator

1 shall maintain information related to property within the
2 administrator's jurisdiction that is currently or was previously
3 subject to an order issued under paragraph (c). The information
4 maintained must include the location of the property, the extent
5 of the contamination, the status of the removal and remediation
6 work on the property, and whether the order has been vacated.
7 The administrator shall make this information available to the
8 public either upon request or by other means.

9 [EFFECTIVE DATE.] This section is effective August 1, 2005,
10 and applies to crimes committed on or after that date.

11 Sec. 5. [152.136] [ANHYDROUS AMMONIA; PROHIBITED CONDUCT;
12 CRIMINAL PENALTIES; CIVIL LIABILITY.]

13 Subdivision 1. [DEFINITIONS.] As used in this section,
14 "tamper" means action taken by a person not authorized to take
15 that action by law or by the owner or authorized custodian of an
16 anhydrous ammonia container or of equipment where anhydrous
17 ammonia is used, stored, distributed, or transported.

18 Subd. 2. [PROHIBITED CONDUCT.] (a) A person may not:

19 (1) steal or unlawfully take or carry away any amount of
20 anhydrous ammonia;

21 (2) purchase, possess, transfer, or distribute any amount
22 of anhydrous ammonia, knowing, or having reason to know, that it
23 will be used to unlawfully manufacture a controlled substance;

24 (3) place, have placed, or possess anhydrous ammonia in a
25 container that is not designed, constructed, maintained, and
26 authorized to contain or transport anhydrous ammonia;

27 (4) transport anhydrous ammonia in a container that is not
28 designed, constructed, maintained, and authorized to transport
29 anhydrous ammonia;

30 (5) use, deliver, receive, sell, or transport a container
31 designed and constructed to contain anhydrous ammonia without
32 the express consent of the owner or authorized custodian of the
33 container; or

34 (6) tamper with any equipment or facility used to contain,
35 store, or transport anhydrous ammonia.

36 (b) For the purposes of this subdivision, containers

1 designed and constructed for the storage and transport of
2 anhydrous ammonia are described in rules adopted under section
3 18C.121, subdivision 1, or in Code of Federal Regulations, title
4 49.

5 Subd. 3. [NO CAUSE OF ACTION.] (a) Except as provided in
6 paragraph (b), a person tampering with anhydrous ammonia
7 containers or equipment under subdivision 2 shall have no cause
8 of action for damages arising out of the tampering against:

9 (1) the owner or lawful custodian of the container or
10 equipment;

11 (2) a person responsible for the installation or
12 maintenance of the container or equipment; or

13 (3) a person lawfully selling or offering for sale the
14 anhydrous ammonia.

15 (b) Paragraph (a) does not apply to a cause of action
16 against a person who unlawfully obtained the anhydrous ammonia
17 or anhydrous ammonia container or who possesses the anhydrous
18 ammonia or anhydrous ammonia container for any unlawful purpose.

19 Subd. 4. [CRIMINAL PENALTY.] A person who knowingly
20 violates subdivision 2 is guilty of a felony and may be
21 sentenced to imprisonment for not more than five years or to
22 payment of a fine of not more than \$50,000, or both.

23 [EFFECTIVE DATE.] This section is effective August 1, 2005,
24 and applies to crimes committed on or after that date.

25 Sec. 6. [152.137] [METHAMPHETAMINE-RELATED CRIMES
26 INVOLVING CHILDREN AND VULNERABLE ADULTS.]

27 Subdivision 1. [DEFINITIONS.] (a) As used in this section,
28 the following terms have the meanings given.

29 (b) "Chemical substance" means a substance intended to be
30 used as a precursor in the manufacture of methamphetamine or any
31 other chemical intended to be used in the manufacture of
32 methamphetamine.

33 (c) "Child" means any person under the age of 18 years.

34 (d) "Methamphetamine paraphernalia" means all equipment,
35 products, and materials of any kind that are used, intended for
36 use, or designed for use in manufacturing, injecting, ingesting,

1 inhaling, or otherwise introducing methamphetamine into the
2 human body.

3 (e) "Methamphetamine waste products" means substances,
4 chemicals, or items of any kind used in the manufacture of
5 methamphetamine or any part of the manufacturing process, or the
6 by-products or degradates of manufacturing methamphetamine.

7 (f) "Vulnerable adult" has the meaning given in section
8 609.232, subdivision 11.

9 Subd. 2. [PROHIBITED CONDUCT.] (a) No person may knowingly
10 engage in any of the following activities in the presence of a
11 child or vulnerable adult; in the residence of a child or a
12 vulnerable adult; in a building, structure, conveyance, or
13 outdoor location where a child or vulnerable adult might
14 reasonably be expected to be present; in a room offered to the
15 public for overnight accommodation; or in any multiple unit
16 residential building:

17 (1) manufacturing or attempting to manufacture
18 methamphetamine;

19 (2) storing any chemical substance;

20 (3) storing any methamphetamine waste products; or

21 (4) storing any methamphetamine paraphernalia.

22 (b) No person may knowingly cause or permit a child or
23 vulnerable adult to inhale, be exposed to, have contact with, or
24 ingest methamphetamine, a chemical substance, or methamphetamine
25 paraphernalia.

26 Subd. 3. [CRIMINAL PENALTY.] A person who violates
27 subdivision 2 is guilty of a felony and may be sentenced to
28 imprisonment for not more than five years or to payment of a
29 fine of not more than \$10,000, or both.

30 Subd. 4. [MULTIPLE SENTENCES.] Notwithstanding sections
31 609.035 and 609.04, a prosecution for or conviction under this
32 section is not a bar to conviction of or punishment for any
33 other crime committed by the defendant as part of the same
34 conduct.

35 Subd. 5. [PROTECTIVE CUSTODY.] A peace officer may take
36 any child present in an area where any of the activities

described in subdivision 2, paragraph (a), clauses (1) to (4),
are taking place into protective custody in accordance with
section 260C.175, subdivision 1, paragraph (b), clause (2). A
child taken into protective custody under this subdivision shall
be provided health screening to assess potential health concerns
related to methamphetamine as provided in section 260C.188. A
child not taken into protective custody under this subdivision
but who is known to have been exposed to methamphetamine shall
be offered health screening for potential health concerns
related to methamphetamine as provided in section 260C.188.

Subd. 6. [REPORTING MALTREATMENT OF VULNERABLE ADULT.] (a)
A peace officer shall make a report of suspected maltreatment of
a vulnerable adult if the vulnerable adult is present in an area
where any of the activities described in subdivision 2,
paragraph (a), clauses (1) to (4), are taking place, and the
peace officer has reason to believe the vulnerable adult
inhaled, was exposed to, had contact with, or ingested
methamphetamine, a chemical substance, or methamphetamine
paraphernalia. The peace officer shall immediately report to
the county common entry point as described in section 626.557,
subdivision 9b.

(b) As required in section 626.557, subdivision 9b, law
enforcement is the primary agency to conduct investigations of
any incident when there is reason to believe a crime has been
committed. Law enforcement shall initiate a response
immediately. If the common entry point notified a county agency
for adult protective services, law enforcement shall cooperate
with that county agency when both agencies are involved and
shall exchange data to the extent authorized in section 626.557,
subdivision 12b, paragraph (g). County adult protection shall
initiate a response immediately.

(c) The county social services agency shall immediately
respond as required in section 626.557, subdivision 10, upon
receipt of a report from the common entry point staff.

[EFFECTIVE DATE.] This section is effective August 1, 2005,
and applies to crimes committed on or after that date.

1 Sec. 7. Minnesota Statutes 2004, section 168A.05,
2 subdivision 3, is amended to read:

3 Subd. 3. [CONTENT OF CERTIFICATE.] Each certificate of
4 title issued by the department shall contain:

5 (1) the date issued;

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

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

13 (4) any liens filed pursuant to a court order or by a
14 public agency responsible for child support enforcement against
15 the owner;

16 (5) the title number assigned to the vehicle;

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

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

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

29 (9) with respect to a vehicle contaminated by
30 methamphetamine production, if the registrar has received the
31 certificate of title and notice described in section 152.0275,
32 subdivision 2, paragraph (f), the term "hazardous waste
33 contaminated vehicle"; and

34 (10) any other data the department prescribes.

35 [EFFECTIVE DATE.] This section is effective August 1, 2005.

36 Sec. 8. Minnesota Statutes 2004, section 260C.171, is

1 amended by adding a subdivision to read:

2 Subd. 6. [NOTICE TO SCHOOL.] (a) As used in this
3 subdivision, the following terms have the meanings given.
4 "Chemical substance," "methamphetamine paraphernalia," and
5 "methamphetamine waste products" have the meanings given in
6 section 152.137, subdivision 1. "School" means a charter school
7 or a school as defined in section 120A.22, subdivision 4, except
8 a home school.

9 (b) If a child has been taken into protective custody after
10 being found in an area where methamphetamine was being
11 manufactured or attempted to be manufactured or where any
12 chemical substances, methamphetamine paraphernalia, or
13 methamphetamine waste products were stored, and the child is
14 enrolled in school, the officer who took the child into custody
15 shall notify the chief administrative officer of the child's
16 school of this fact.

17 [EFFECTIVE DATE.] This section is effective August 1, 2005,
18 and applies to acts occurring on or after that date.

19 Sec. 9. [446A.083] [METHAMPHETAMINE LABORATORY CLEANUP
20 REVOLVING FUND.]

21 Subdivision 1. [DEFINITIONS.] As used in this section:

22 (1) "clandestine lab site" has the meaning given in section
23 152.0275, subdivision 1, paragraph (a);

24 (2) "property" has the meaning given in section 152.0275,
25 subdivision 2, paragraph (a), but does not include motor
26 vehicles; and

27 (3) "remediate" has the meaning given to remediation in
28 section 152.0275, subdivision 1, paragraph (a).

29 Subd. 2. [FUND ESTABLISHED.] The authority shall establish
30 a methamphetamine laboratory cleanup revolving fund to provide
31 loans to counties and cities to remediate clandestine lab
32 sites. The fund must be credited with repayments.

33 Subd. 3. [APPLICATIONS.] Applications by a county or city
34 for a loan from the fund must be made to the authority on the
35 forms prescribed by the authority. The application must
36 include, but is not limited to:

1 (1) the amount of the loan requested and the proposed use
2 of the loan proceeds;

3 (2) the source of revenues to repay the loan; and

4 (3) certification by the county or city that it meets the
5 loan eligibility requirements of subdivision 4.

6 Subd. 4. [LOAN ELIGIBILITY.] A county or city is eligible
7 for a loan under this section if the county or city:

8 (1) identifies a site or sites designated by a local public
9 health department or law enforcement as a clandestine lab site;

10 (2) has required the site's property owner to remediate the
11 site at cost, under chapter 145A or a local public health
12 nuisance ordinance that addresses clandestine lab remediation;

13 (3) certifies that the property owner cannot pay for the
14 remediation immediately;

15 (4) certifies that the property owner has not properly
16 remediated the site; and

17 (5) issues a revenue bond payable to the authority to
18 secure the loan.

19 Subd. 5. [USE OF LOAN PROCEEDS; REIMBURSEMENT BY PROPERTY
20 OWNER.] (a) A loan recipient shall use the loan to remediate the
21 clandestine lab site or if this has already been done to
22 reimburse the applicable county or city fund for costs paid by
23 the recipient to remediate the clandestine lab site.

24 (b) A loan recipient shall seek reimbursement from the
25 owner of the property containing the clandestine lab site for
26 the costs of the remediation. In addition to other lawful means
27 of seeking reimbursement, the loan recipient may recover its
28 costs through a property tax assessment by following the
29 procedures specified in section 145A.08, subdivision 2,
30 paragraph (c).

31 Subd. 6. [AWARD AND DISBURSEMENT OF FUNDS.] The authority
32 shall award loans to recipients on a first-come, first-served
33 basis, provided that the recipient is able to comply with the
34 terms and conditions of the authority loan, which must be in
35 conformance with this section. The authority shall make a
36 single disbursement of the loan upon receipt of a payment

1 request that includes a list of remediation expenses and
2 evidence that a second-party sampling was undertaken to ensure
3 that the remediation work was successful or a guarantee that
4 such a sampling will be undertaken.

5 Subd. 7. [LOAN CONDITIONS AND TERMS.] (a) When making
6 loans from the revolving fund, the authority shall comply with
7 the criteria in paragraphs (b) to (e).

8 (b) Loans must be made at a two percent per annum interest
9 rate for terms not to exceed ten years unless the recipient
10 requests a 20-year term due to financial hardship.

11 (c) The annual principal and interest payments must begin
12 no later than one year after completion of the clean up. Loans
13 must be amortized no later than 20 years after completion of the
14 clean up.

15 (d) A loan recipient must identify and establish a source
16 of revenue for repayment of the loan and must undertake whatever
17 steps are necessary to collect payments within one year of
18 receipt of funds from the authority.

19 (e) The fund must be credited with all payments of
20 principal and interest on all loans, except the costs as
21 permitted under section 446A.04, subdivision 5, paragraph (a).

22 (f) Loans must be made only to recipients with clandestine
23 lab ordinances that address remediation.

24 Subd. 8. [AUTHORITY TO INCUR DEBT.] Counties and cities
25 may incur debt under this section by resolution of the board or
26 council authorizing issuance of a revenue bond to the authority.

27 [EFFECTIVE DATE.] This section is effective July 1, 2005.

28 Sec. 10. Minnesota Statutes 2004, section 609.1095,
29 subdivision 1, is amended to read:

30 Subdivision 1. [DEFINITIONS.] (a) As used in this section,
31 the following terms have the meanings given.

32 (b) "Conviction" means any of the following accepted and
33 recorded by the court: a plea of guilty, a verdict of guilty by
34 a jury, or a finding of guilty by the court. The term includes
35 a conviction by any court in Minnesota or another jurisdiction.

36 (c) "Prior conviction" means a conviction that occurred

1 before the offender committed the next felony resulting in a
2 conviction and before the offense for which the offender is
3 being sentenced under this section.

4 (d) "Violent crime" means a violation of or an attempt or
5 conspiracy to violate any of the following laws of this state or
6 any similar laws of the United States or any other state:

7 ~~section~~ sections 152.137; 609.165; 609.185; 609.19; 609.195;
8 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228;
9 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662;
10 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268;
11 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1;
12 609.561; 609.562; 609.582, subdivision 1; 609.66, subdivision
13 1e; 609.687; and 609.855, subdivision 5; any provision of
14 sections 609.229; 609.377; 609.378; 609.749; and 624.713 that is
15 punishable by a felony penalty; or any provision of chapter 152
16 that is punishable by a maximum sentence of 15 years or more.

17 [EFFECTIVE DATE.] This section is effective August 1, 2005,
18 and applies to crimes committed on or after that date.

19 Sec. 11. [REVISOR'S INSTRUCTION.]

20 The revisor of statutes shall recodify the provisions of
21 Minnesota Statutes, section 152.021, subdivision 2a, paragraph
22 (b), and subdivision 3, as amended by this act, that relate to
23 the possession of chemical reagents or precursors with the
24 intent to manufacture methamphetamine and the penalties for
25 doing this into a new section of law codified as Minnesota
26 Statutes, section 152.0262. The revisor shall make any
27 necessary technical changes, including, but not limited to,
28 changes to statutory cross-references, to Minnesota Statutes,
29 section 152.021, and any other statutory sections to accomplish
30 this.

31 Sec. 12. [REPEALER.]

32 Minnesota Statutes 2004, sections 18C.005, subdivisions 1a
33 and 35a; 18C.201, subdivisions 6 and 7; and 18D.331, subdivision
34 5, are repealed.

35 [EFFECTIVE DATE.] This section is effective August 1, 2005,
36 and applies to crimes committed on or after that date.

1 ARTICLE 2

2 METHAMPHETAMINE APPROPRIATIONS

3 Section 1. [TOTAL APPROPRIATIONS.]

4 The dollar amounts in the columns under "APPROPRIATIONS"
5 are appropriated to the specified agencies for the purposes
6 specified. The appropriations are from the general fund and are
7 available for the fiscal years indicated for each purpose. The
8 figures "2006" and "2007" used in this article mean that the
9 addition to or subtraction from the appropriations listed under
10 the figure is for the fiscal years ending June 30, 2006, and
11 June 30, 2007, respectively.

12 SUMMARY

13		2006	2007	TOTAL
14	GENERAL	\$,.,.,.,.,.,.	\$,.,.,.,.,.,.	\$,.,.,.,.,.,.

15		APPROPRIATIONS		
16		Available for the Year		
17		Ending June 30		
18		2006	2007	

19 Sec. 2. CORRECTIONS

20 For the increased prison
21 population based on this act. \$ \$

22 Sec. 3. BOARD OF PUBLIC DEFENSE

23 For a methamphetamine trial team.

24 Sec. 4. HUMAN SERVICES

25 For grants to counties to fund three
26 pilot projects addressing
27 methamphetamine.

28 A county seeking a grant under this
29 section shall submit a detailed
30 application to the commissioner that
31 specifies how the money will be used.
32 The application must demonstrate a
33 comprehensive countywide plan to combat
34 methamphetamine. At a minimum, this
35 plan must address how the county will
36 handle: (1) methamphetamine-related
37 child endangerment cases; (2)
38 methamphetamine-related cleanup and
39 remediation; (3) enforcing
40 methamphetamine-related criminal laws;
41 and (4) methamphetamine-related
42 treatment. To the extent possible, the
43 commissioner shall ensure that one
44 pilot project has an emphasis on
45 adolescents and one has a
46 maternal/early childhood emphasis.

47 Sec. 5. EMPLOYMENT AND
48 ECONOMIC DEVELOPMENT

1 To carry out the public facilities
2 authority's duties involving the
3 methamphetamine laboratory cleanup
4 revolving fund under Minnesota
5 Statutes, section 446A.083.

6 Sec. 6. PUBLIC SAFETY

.....

7 For ten Bureau of Criminal Apprehension
8 agents to be assigned exclusively to
9 methamphetamine enforcement, including
10 the investigation of manufacturing and
11 distributing methamphetamine and
12 related violence. These appropriations
13 are intended to increase the current
14 allocation of Bureau of Criminal
15 Apprehension resources dedicated to
16 methamphetamine enforcement. Positions
17 funded by these appropriations may not
18 supplant existing agent assignments or
19 positions.

20 Sec. 7. HEALTH

.....

21 To provide technical assistance on
22 methamphetamine lab remediation.

23 Sec. 8. EDUCATION

.....

24 To develop and distribute to school
25 districts materials addressing the
26 dangers of methamphetamine.

APPENDIX
Repealed Minnesota Statutes for S0423-1

18C.005 DEFINITIONS.

Subd. 1a. **Anhydrous ammonia.** "Anhydrous ammonia" means a compound formed by the chemical combination of the elements nitrogen and hydrogen in the molar proportion of one part nitrogen to three parts hydrogen. This relationship is shown by the chemical formula, NH_3 . On a weight basis, the ratio is 14 parts nitrogen to three parts hydrogen or approximately 82 percent nitrogen to 18 percent hydrogen. Anhydrous ammonia may exist in either a gaseous or a liquid state.

Subd. 35a. **Tamper.** "Tamper" means action taken by a person not authorized to take that action by law or by the owner or authorized custodian of an anhydrous ammonia container or of equipment where anhydrous ammonia is used, stored, distributed, or transported.

18C.201 PROHIBITED FERTILIZER ACTIVITIES.

Subd. 6. **Anhydrous ammonia.** (a) A person may not:

(1) place, have placed, or possess anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to contain or transport anhydrous ammonia;

(2) transport anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to transport anhydrous ammonia;

(3) use, deliver, receive, sell, or transport a container designed and constructed to contain anhydrous ammonia without the express consent of the owner or authorized custodian of the container; or

(4) tamper with any equipment or facility used to contain, store, or transport anhydrous ammonia.

(b) For the purposes of this subdivision, containers designed and constructed for the storage and transport of anhydrous ammonia are described in rules adopted under section 18C.121, subdivision 1, or in Code of Federal Regulations, title 49.

Subd. 7. **No cause of action.** (a) Except as provided in paragraph (b), a person tampering with anhydrous ammonia containers or equipment under subdivision 6 shall have no cause of action for damages arising out of the tampering against (1) the owner or lawful custodian of the container or equipment; (2) a person responsible for the installation or maintenance of the container or equipment; or (3) a person lawfully selling or offering for sale the anhydrous ammonia.

(b) Paragraph (a) does not apply to a cause of action against a person who unlawfully obtained the anhydrous ammonia or anhydrous ammonia container or who possesses the anhydrous ammonia or anhydrous ammonia container for any unlawful purpose.

18D.331 CRIMINAL PENALTIES.

Subd. 5. **Anhydrous ammonia containment, tampering, theft, transport.** A person who knowingly violates section 18C.201, subdivision 6, is guilty of a felony and may be sentenced to imprisonment for not more than five years, or to payment of a fine of not more than \$50,000, or both.

1 Senator moves to amend S.F. No. 423 as follows:

2 Page 5, delete lines 23 to 26, and insert:

3 "(2) "property" means publicly or privately owned real
4 property including buildings and other structures, motor
5 vehicles as defined in section 609.487, subdivision 2a, public
6 waters, and public rights-of-way;"

7 Page 5, line 36, delete "all property" and insert "any
8 property or portion of a property"

9 Page 6, line 5, delete ", rented, sold,"

10 Page 6, line 7, after the period, insert "The remediation
11 shall be accomplished by a contractor who will make the
12 verification required under paragraph (e)."

13 Page 6, line 20, after the period, insert "The contractor
14 shall provide the verification to the property owner and the
15 applicable authority within five days from the completion of the
16 remediation."

17 Page 6, after line 21, insert:

18 "(f) If a contractor issues a verification and the property
19 was not remediated according to the Department of Health's
20 clandestine drug labs general cleanup guidelines or the levels
21 of contamination were not reduced to levels set forth in the
22 guidelines, the contractor is liable to the property owner for
23 the additional costs relating to the proper remediation of the
24 property according to the guidelines and reducing the levels of
25 contamination to levels set in the guidelines and for reasonable
26 attorney fees for collection of costs by the property owner. An
27 action under this paragraph must be commenced within six years
28 from the date on which the verification was issued by the
29 contractor."

30 Page 6, line 22, delete "(f)" and insert "(g)"

31 Page 6, delete lines 33 to 36

32 Page 7, delete lines 1 to 10, and insert:

33 "(h) The applicable authority issuing an order under
34 paragraph (c) shall record with the county recorder or registrar
35 of titles of the county where the clandestine lab is located an
36 affidavit containing the name of the owner and a legal

1 description of the property where the clandestine lab was
2 located that discloses to any potential transferee:

3 (1) that the property, or a portion of the property, was
4 the site of a clandestine lab;

5 (2) the location, condition, and circumstances of the
6 clandestine lab, to the full extent known or reasonably
7 ascertainable; and

8 (3) that the use of the property or some portion of it may
9 be restricted as provided by paragraph (c).

10 If only a part of the described property is contaminated,
11 the affidavit shall include a map showing the location of the
12 contaminated area on the property. If only a dwelling is
13 contaminated, the affidavit may include a statement to that
14 effect instead of a map. The authority shall inform the owner
15 that an affidavit has been filed.

16 If an inaccurate drawing or description is filed, the
17 authority, on request of the owner or another interested person,
18 shall file a supplemental affidavit with a corrected drawing or
19 description.

20 If only a portion of the property may be restricted, the
21 affidavit shall include a drawing or legal description that
22 clearly identifies the restricted portion. If an inaccurate
23 drawing or description is filed, the authority, on request of
24 the owner or another interested person, shall file a corrected
25 drawing or description."

26 Page 7, delete lines 11 to 23

27 Page 8, line 4, after "include" insert "the name of the
28 owner,"

29 Page 8, after line 8, insert:

30 "(m) Before signing an agreement to sell or transfer real
31 property, the seller or transferor must disclose in writing to
32 the buyer or transferee if, to the seller's or transferor's
33 knowledge, methamphetamine production has occurred on the
34 property. If methamphetamine production has occurred on the
35 property, the disclosure shall include a statement to the buyer
36 or transferee informing the buyer or transferee:

1 (1) whether an order has been issued on the property as
2 described in paragraph (c);

3 (2) whether any orders issued against the property under
4 paragraph (c) have been vacated under paragraph (i); or

5 (3) if there was no order issued against the property and
6 the seller or transferor is aware that methamphetamine
7 production has occurred on the property, the status of removal
8 and remediation on the property.

9 Unless the buyer or transferee and seller or transferor
10 agree to the contrary in writing before the closing of the sale,
11 a seller or transferor who fails to disclose, to the best of
12 their knowledge, at the time of sale any of the facts required
13 above, and who knew or had reason to know of methamphetamine
14 production on the property, is liable to the buyer or transferee
15 for:

16 (1) costs relating to remediation of the property according
17 to the Department of Health's clandestine drug labs general
18 cleanup guidelines and best practices so that contamination is
19 reduced to levels set forth in the guidelines; and

20 (2) reasonable attorney fees for collection of costs from
21 the seller or transferor.

22 An action under this paragraph must be commenced within six
23 years after the date on which the buyer or transferee closed the
24 purchase or transfer of the real property where the
25 methamphetamine production occurred."

26 Page 8, line 9, delete "August 1, 2005" and insert "January
27 1, 2006"

1 Senator moves to amend S.F. No. 423 as follows:

2 Page 6, delete lines 33 to 36

3 Page 7, delete lines 1 to 10, and insert:

4 "(g) The applicable authority issuing an order under
5 paragraph (c) shall record with the county recorder or registrar
6 of titles of the county where the clandestine lab is located an
7 affidavit containing the name of the owner, a legal description
8 of the property where the clandestine lab was located, and a map
9 drawn from available information showing the boundary of the
10 property and the location of the contaminated area on the
11 property that is prohibited from being occupied or used that
12 discloses to any potential transferee:

13 (1) that the property, or a portion of the property, was
14 the site of a clandestine lab;

15 (2) the location, condition, and circumstances of the
16 clandestine lab, to the full extent known or reasonably
17 ascertainable; and

18 (3) that the use of the property or some portion of it may
19 be restricted as provided by paragraph (c).

20 If an inaccurate drawing or description is filed, the authority,
21 on request of the owner or another interested person, shall file
22 a supplemental affidavit with a corrected drawing or
23 description."

1 Senator moves to amend S.F. No. 423 as follows:

2 Page 7, delete lines 9 and 10, and insert:

3 "If the authority vacates its order under paragraph (e), the
4 authority shall record an affidavit that contains the recording
5 information of the above affidavit and states that the order is
6 vacated. Upon filing the affidavit vacating the order, the
7 affidavit and the affidavit filed under this paragraph, together
8 with the information set forth in the affidavits, cease to
9 constitute either actual or constructive notice."

10 Page 7, delete lines 24 to 28, and insert:

11 "(i) If proper removal and remediation has occurred on the
12 property, an interested party may record an affidavit indicating
13 that this has occurred. Upon filing the affidavit described in
14 this paragraph, the affidavit and the affidavit filed under
15 paragraph (g), together with the information set forth in the
16 affidavits, cease to constitute either actual or constructive
17 notice. Failure to record an affidavit under this section does
18 not affect or prevent any transfer of ownership of the property."

Minnesota	Meth Lab Task Force
Name	Organization
Sub	Committee
Paul Stevens	BCA
Deborah Durkin	MN Dept of Health
Rebecca Kenow	MN Dept of Health
Steve Lee	MN Pollution Control Agency
Tom Rime	DFO Community Corrections Supervisor
Brad Gerhardt	Martin Co Sheriff
Ginger Peterson	MN River Valley Drug Task Force
Greg Brolsma	Fairmont Police Dept Chief
Mark Harig	Freeborn Co Sheriff
Steve Borchardt	Olmsted Co Sheriff
Nancy Schroeder	Dept of Corrections
Jim Franklin	MN Sheriffs Assoc-Exec Director
Tracy Perzel	Assistant Attorney General
Scott Hersey	Dakota Co Attorney's Office & MCAA
Bob Nance	BCA
Paul Liemandt	MN Dept of Ag
Terese Amazi	Mower Co Sheriff
Tim Gallagher	Astrup Drug/MN Pharm Assn
Paul Philipp	Austin PD Chief
Kate Gaynor	MN Pollution Control Agency
Robert Walker	5th District Court Judge
Greg Herzog	Dept of Pub Safety Grants Specialist
Mary Ellison	DPS, Deputy Commissioner
Sue Perkins	Dept of Pub Safety
Nancy Schouweiler	Dakota Co Commissioner
Elizabeth Carpenter	MN Pharmacists Assn
Laura LaCroix	Local Pub Health Assn of MN c/o AMC
Dan Griffin	MN Supreme Court
Ruth Clinard	Dept of Human Services
Megan Helge	MN Dept of Health
Jay McLaren	Dept of Health
Abbie Laugtug	MN Pharmacists Assn
Jenn O'Rourke	League of MN Cities
Anne Finn	League of MN Cities
Ed Kaiser	MN Dept of Ag
Dr. Barbara Knox	Pediatric & Adolescent Medicine, Mayo
Clara James	Social Worker
Joanne Smith	Ramsey Co Judge
Scott Simmons	AMC
Terry Whitman	Jackson Co Human Services
Amy Rudolph	Dept of Education
Kevin Spading	MN Prevention Resource Center

1 Senator Betzold from the Committee on Judiciary, to which
2 was re-referred

3 S.F. No. 423: A bill for an act relating to public safety;
4 further regulating while recodifying activities involving
5 anhydrous ammonia; requiring courts to order restitution in
6 certain situations involving controlled substances; imposing
7 property restrictions in certain situations involving controlled
8 substances; increasing the criminal penalties for possessing
9 certain substances with the intent to manufacture
10 methamphetamine and recodifying this crime; establishing new
11 methamphetamine-related crimes; clarifying the definition of
12 "narcotic drug"; expanding the definition of "violent crime" for
13 mandatory sentencing purposes; requiring that vehicles and other
14 property used to manufacture methamphetamine indicate this in
15 the title or by an affidavit; requiring notice to schools when
16 children are taken into protective custody after being found at
17 a methamphetamine laboratory; establishing a methamphetamine
18 laboratory cleanup revolving fund and authorizing loans to
19 assist counties and cities in conducting methamphetamine
20 cleanup; imposing criminal penalties; providing for ten new
21 Bureau of Criminal Apprehension agents dedicated to
22 methamphetamine enforcement; appropriating money; amending
23 Minnesota Statutes 2004, sections 152.01, subdivision 10;
24 152.021, subdivisions 2a, 3; 168A.05, subdivision 3; 260C.171,
25 by adding a subdivision; 609.1095, subdivision 1; proposing
26 coding for new law in Minnesota Statutes, chapters 152; 446A;
27 repealing Minnesota Statutes 2004, sections 18C.005,
28 subdivisions 1a, 35a; 18C.201, subdivisions 6, 7; 18D.331,
29 subdivision 5.

30 Reports the same back with the recommendation that the bill
31 be amended as follows:

32 Page 5, delete lines 23 to 26 and insert:

33 "(2) "property" means publicly or privately owned real
34 property including buildings and other structures, motor
35 vehicles as defined in section 609.487, subdivision 2a, public
36 waters, and public rights-of-way;"

37 Page 5, line 36, delete "all property" and insert "any
38 property or portion of a property"

39 Page 6, line 5, delete ", rented, sold,"

40 Page 6, line 7, after the period, insert "The remediation
41 shall be accomplished by a contractor who will make the
42 verification required under paragraph (e)."

43 Page 6, line 20, after the period, insert "The contractor
44 shall provide the verification to the property owner and the
45 applicable authority within five days from the completion of the
46 remediation."

47 Page 6, after line 21, insert:

48 "(f) If a contractor issues a verification and the property
49 was not remediated according to the Department of Health's
50 clandestine drug labs general cleanup guidelines or the levels

1 of contamination were not reduced to levels set forth in the
2 guidelines, the contractor is liable to the property owner for
3 the additional costs relating to the proper remediation of the
4 property according to the guidelines and reducing the levels of
5 contamination to levels set in the guidelines and for reasonable
6 attorney fees for collection of costs by the property owner. An
7 action under this paragraph must be commenced within six years
8 from the date on which the verification was issued by the
9 contractor."

10 Page 6, line 22, delete "(f)" and insert "(g)"

11 Page 6, delete lines 33 to 36

12 Page 7, delete lines 1 to 28 and insert:

13 "(h) The applicable authority issuing an order under
14 paragraph (c) shall record with the county recorder or registrar
15 of titles of the county where the clandestine lab is located an
16 affidavit containing the name of the owner, a legal description
17 of the property where the clandestine lab was located, and a map
18 drawn from available information showing the boundary of the
19 property and the location of the contaminated area on the
20 property that is prohibited from being occupied or used that
21 discloses to any potential transferee:

22 (1) that the property, or a portion of the property, was
23 the site of a clandestine lab;

24 (2) the location, condition, and circumstances of the
25 clandestine lab, to the full extent known or reasonably
26 ascertainable; and

27 (3) that the use of the property or some portion of it may
28 be restricted as provided by paragraph (c).

29 If an inaccurate drawing or description is filed, the authority,
30 on request of the owner or another interested person, shall file
31 a supplemental affidavit with a corrected drawing or description.

32 If the authority vacates its order under paragraph (e), the
33 authority shall record an affidavit that contains the recording
34 information of the above affidavit and states that the order is
35 vacated. Upon filing the affidavit vacating the order, the
36 affidavit and the affidavit filed under this paragraph, together

1 with the information set forth in the affidavits, cease to
2 constitute either actual or constructive notice.

3 (i) If proper removal and remediation has occurred on the
4 property, an interested party may record an affidavit indicating
5 that this has occurred. Upon filing the affidavit described in
6 this paragraph, the affidavit and the affidavit filed under
7 paragraph (h), together with the information set forth in the
8 affidavits, cease to constitute either actual or constructive
9 notice. Failure to record an affidavit under this section does
10 not affect or prevent any transfer of ownership of the property."

11 Page 7, line 30, delete "(g), (h)," and insert "(h)"

12 Page 8, line 4, after "include" insert "the name of the
13 owner,"

14 Page 8, after line 8, insert:

15 "(m) Before signing an agreement to sell or transfer real
16 property, the seller or transferor must disclose in writing to
17 the buyer or transferee if, to the seller's or transferor's
18 knowledge, methamphetamine production has occurred on the
19 property. If methamphetamine production has occurred on the
20 property, the disclosure shall include a statement to the buyer
21 or transferee informing the buyer or transferee:

22 (1) whether an order has been issued on the property as
23 described in paragraph (c);

24 (2) whether any orders issued against the property under
25 paragraph (c) have been vacated under paragraph (i); or

26 (3) if there was no order issued against the property and
27 the seller or transferor is aware that methamphetamine
28 production has occurred on the property, the status of removal
29 and remediation on the property.

30 Unless the buyer or transferee and seller or transferor
31 agree to the contrary in writing before the closing of the sale,
32 a seller or transferor who fails to disclose, to the best of
33 their knowledge, at the time of sale any of the facts required
34 above, and who knew or had reason to know of methamphetamine
35 production on the property, is liable to the buyer or transferee
36 for:

1 (1) costs relating to remediation of the property according
2 to the Department of Health's clandestine drug labs general
3 cleanup guidelines and best practices so that contamination is
4 reduced to levels set forth in the guidelines; and

5 (2) reasonable attorney fees for collection of costs from
6 the seller or transferor.

7 An action under this paragraph must be commenced within six
8 years after the date on which the buyer or transferee closed the
9 purchase or transfer of the real property where the
10 methamphetamine production occurred."

11 Page 8, line 9, delete "August 1, 2005" and insert "January
12 1, 2006"

13 Page 12, line 32, delete "(f)" and insert "(g)"

14 And when so amended the bill do pass and be re-referred to
15 the Committee on Jobs, Energy and Community Development.
16 Amendments adopted. Report adopted.

17
18
19 (Committee Chair)

20
21 March 1, 2005.....
22 (Date of Committee recommendation)

Senate Counsel & Research

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S.F. No. 608 - Department of Commerce Law Enforcement Data

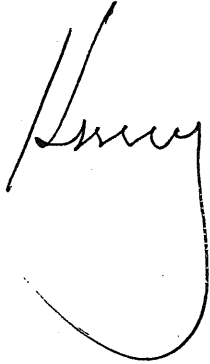
Author: Senator Don Betzold

Prepared by: Harry Walsh, Senate Counsel (651/296-6200)

Date: February 8, 2005

S.F. No. 608 subjects all law enforcement data generated by the state Commerce Department to the provisions of **Minnesota Statutes, section 13.82**, the comprehensive law enforcement data section.

HW:cs



Senators Betzold, Skoglund, Scheid and Limmer introduced--
S.F. No. 608: Referred to the Committee on Judiciary.

1 A bill for an act

2 relating to government data; regulating comprehensive
3 law enforcement data of the Department of Commerce;
4 amending Minnesota Statutes 2004, section 13.82,
5 subdivision 1.

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

7 Section 1. Minnesota Statutes 2004, section 13.82,
8 subdivision 1, is amended to read:

9 Subdivision 1. [APPLICATION.] This section shall apply to
10 agencies which carry on a law enforcement function, including
11 but not limited to municipal police departments, county sheriff
12 departments, fire departments, the Bureau of Criminal
13 Apprehension, the Minnesota State Patrol, the Board of Peace
14 Officer Standards and Training, ~~the-Division-of-Insurance-Fraud~~
15 ~~Prevention-in~~ the Department of Commerce, and the program
16 integrity section of, and county human service agency client and
17 provider fraud prevention and control units operated or
18 supervised by the Department of Human Services.

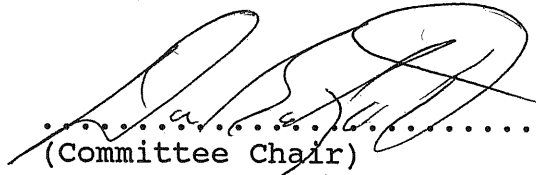
19 Sec. 2. [EFFECTIVE DATE.]

20 Section 1 is effective the day following final enactment.

1 Senator Betzold from the Committee on Judiciary, to which
2 was referred

3 S.F. No. 608: A bill for an act relating to government
4 data; regulating comprehensive law enforcement data of the
5 Department of Commerce; amending Minnesota Statutes 2004,
6 section 13.82, subdivision 1.

7 Reports the same back with the recommendation that the bill
8 do pass. Report adopted.

9
10
11 
12
13 (Committee Chair)

14 March 1, 2005.....
15 (Date of Committee recommendation)

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S.F. No. 647 - Allocation of Common Expenses of Certain Condominiums

Author: Senator Richard J. Cohen

Prepared by: Harry Walsh, Senate Counsel (651/296-6200)

Date: February 10, 2005

S.F. No. 647 requires that a class of older condominiums allocate common expenses in proportion to the area of their units.

HW:cs



Senator Cohen introduced--

S.F. No. 647: Referred to the Committee on Judiciary.

1 A bill for an act

2 relating to real property; providing for the
3 allocation of the common expenses of certain
4 condominiums; amending Minnesota Statutes 2004,
5 section 515A.2-108.

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

7 Section 1. Minnesota Statutes 2004, section 515A.2-108, is
8 amended to read:

9 515A.2-108 [ALLOCATION OF COMMON ELEMENT INTERESTS, VOTES,
10 AND COMMON EXPENSE LIABILITIES.]

11 (a) The declaration shall allocate a fraction or percentage
12 of the undivided interests in the common elements, common
13 expenses and votes in the association to each unit in such
14 manner that each of the items is equally allocated or is
15 allocated according to the proportion of the area or volume of
16 each unit to the area or volume of all units, and the items need
17 not be allocated the same for all purposes. The declaration may
18 provide that a portion of each common expense assessment may be
19 allocated on the basis of equality and the remainder on the
20 basis of area or volume of each unit. The sum of the
21 percentages or fractions shall equal 100 percent or 1.

22 (b) Except in the case of eminent domain (section
23 515A.1-107), expansion of a flexible condominium (section
24 515A.2-111), relocation of boundaries between adjoining units
25 (section 515A.2-114), or subdivision of units (section

1 515A.2-115), the common element interest, votes and common
2 expense liability allocated to any unit may not be altered,
3 except as an amendment to the declaration which is signed by all
4 unit owners and first mortgagees, and which complies with
5 section 515A.2-119. The common elements are not subject to
6 partition, and any purported conveyance, encumbrance, judicial
7 sale or other voluntary or involuntary transfer of an undivided
8 interest or involuntary transfer of an undivided interest in the
9 common elements without the unit to which the interest is
10 allocated is void.

11 (c) The association may assess certain common expenses
12 against fewer than all units pursuant to section 515A.3-114.

13 (d) Notwithstanding any provision of chapter 515B or other
14 law, for a condominium originally created under this chapter, in
15 which the area of the largest unit is 2-1/2 times or more larger
16 than the area of the smallest unit, the common expenses must be
17 allocated according to the proportion of the area of each unit
18 to the area of all units. If the declaration provides for a
19 different allocation of common expenses, each unit sold after
20 the effective date of this paragraph shall be allocated expenses
21 in the proportion required by this paragraph, but the remaining
22 units may continue to be allocated the balance of the common
23 expenses in the proportion provided by the declaration.