

STATE OF MINNESOTA

Journal of the Senate

EIGHTY-THIRD LEGISLATURE

EIGHTY-THIRD DAY

St. Paul, Minnesota, Wednesday, March 31, 2004

The Senate met at 12:00 noon and was called to order by the President.

CALL OF THE SENATE

Senator Betzold imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by Senator Michael J. Jungbauer.

The roll was called, and the following Senators answered to their names:

Anderson	Frederickson	Langseth	Olson	Saxhaug
Bachmann	Hann	Larson	Ortman	Scheid
Bakk	Higgins	LeClair	Ourada	Senjem
Belanger	Johnson, D.E.	Limmer	Pappas	Skoe
Berglin	Johnson, D.J.	Lourey	Pariseau	Skoglund
Betzold	Jungbauer	Marko	Pogemiller	Solon
Chaudhary	Kelley	Marty	Ranum	Sparks
Cohen	Kierlin	McGinn	Reiter	Stumpf
Day	Kiscaden	Metzen	Rest	Tomassoni
Dibble	Kleis	Michel	Robling	Vickerman
Dille	Knutson	Moua	Rosen	Wergin
Fischbach	Koering	Neuville	Ruud	Wiger
Foley	Kubly	Nienow	Sams	

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

March 26, 2004

The Honorable James P. Metzen
President of the Senate

Dear President Metzen:

On behalf of the people of Minnesota, I am honored to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 1626, 1748, 2498 and 1745.

Sincerely,
Tim Pawlenty, Governor

March 29, 2004

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2004 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 2004	Date Filed 2004
1626		141	6:50 p.m. March 26	March 29
	307	142	6:30 p.m. March 26	March 29
	1064	143	7:25 p.m. March 26	March 29
1748		144	7:30 p.m. March 26	March 29
2498		145	6:50 p.m. March 26	March 29
1745		146	7:05 p.m. March 26	March 29

Sincerely,
Mary Kiffmeyer
Secretary of State

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 1958.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 29, 2004

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 1621.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned March 30, 2004

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 995, 1851, 2671, 1645, 1691, 1941, 2071, 2187, 2227 and 2235.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 29, 2004

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 2630, 2651, 2691, 3067, 2383, 2455, 2586, 1961, 1983, 1683, 2363 and 2419.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted March 30, 2004

FIRST READING OF HOUSE BILLS

The following bills were read the first time and referred as indicated.

H.F. No. 995: A bill for an act relating to utilities; modifying notice and plan requirements before excavating around utility facilities; making technical and clarifying changes; amending Minnesota Statutes 2002, sections 216D.01, by adding a subdivision; 216D.04, subdivisions 1, 1a, 2, 3, 4; 216D.05.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1268, now on General Orders.

H.F. No. 1851: A bill for an act relating to bridges; deleting requirement for Regional Development Commission or Metropolitan Council approval of projects funded from state transportation fund; repealing Minnesota Statutes 2002, section 174.50, subdivision 4.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1954, now on General Orders.

H.F. No. 2671: A bill for an act relating to motor carriers; modifying provisions governing motor carriers; making technical and clarifying changes; amending Minnesota Statutes 2002, sections 221.011, subdivision 6; 221.0269, subdivision 3; 221.0314, subdivisions 7, 9; 221.033, subdivision 1; 221.036, subdivisions 1, 3, 12; 221.037, subdivision 2; 221.605, subdivision 1; 299K.07; Minnesota Statutes 2003 Supplement, sections 169.86, subdivision 5; 221.602, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 221; repealing Minnesota Statutes 2002, sections 221.011, subdivision 2b; 221.033, subdivision 3; 221.034; Minnesota Rules, parts 8860.0100; 8860.0200; 8860.0300; 8860.0400; 8860.0500; 8860.0600; 8860.0700; 8860.0800.

Referred to the Committee on Finance.

H.F. No. 1645: A bill for an act relating to museums and archives repositories; regulating loans to and abandoned property of museums and archives repositories; providing a process for establishing ownership of property loaned to museums and archives repositories; proposing coding for new law in Minnesota Statutes, chapter 345.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1559, now on General Orders.

H.F. No. 1691: A bill for an act relating to highways; modifying provisions relating to local government road construction and improvement contracts; amending Minnesota Statutes 2002, section 160.17, subdivision 3; repealing Minnesota Statutes 2002, section 160.17, subdivision 4.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1798.

H.F. No. 1941: A bill for an act relating to Anoka County; authorizing the county to establish a Personnel Board of Appeals.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2122, now on General Orders.

H.F. No. 2071: A bill for an act relating to employment; re-enacting certain employment agency provisions; amending Minnesota Statutes 2002, section 184.22, by adding subdivisions.

Referred to the Committee on Jobs, Energy and Community Development.

H.F. No. 2187: A bill for an act relating to commerce; requiring debt collection agency

employees to be registered instead of licensed; amending Minnesota Statutes 2002, sections 332.33; 332.335, subdivision 1; 332.35; 332.37; 332.395; 332.40; 332.41; 332.42; 332.43, subdivision 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2650, now on General Orders.

H.F. No. 2227: A bill for an act relating to manufactured home parks; regulating water and sewage charges; amending Minnesota Statutes 2002, sections 327C.01, by adding a subdivision; 327C.02, subdivision 2; 327C.04, by adding a subdivision.

Referred to the Committee on Jobs, Energy and Community Development.

H.F. No. 2235: A bill for an act relating to unemployment insurance; modifying definitions; making technical, housekeeping, and policy changes; modifying penalty provisions; amending Minnesota Statutes 2002, sections 176.011, subdivision 20; 268.035, subdivisions 3, 8a, 12a, 17, 20, 23a, 28, by adding a subdivision; 268.043; 268.044, subdivisions 2, 3, 4; 268.051, subdivisions 4, 7; 268.0511; 268.053, subdivision 2; 268.057, as amended; 268.058, as amended; 268.059, subdivision 3; 268.0625, as amended; 268.064, subdivisions 1, 3; 268.065, subdivisions 1, 2; 268.07, subdivisions 1, 3; 268.085, subdivisions 2, 12, 13a, 14; 268.095, subdivisions 4, 6a; 268.101, subdivisions 2, 4; 268.103; 268.105, as amended; 268.115, subdivision 5; 268.125, subdivision 5; 268.135, subdivisions 1, 2, 4; 268.145, subdivision 1; 268.18, subdivisions 2b, 6; 268.182; 268.184; Minnesota Statutes 2003 Supplement, sections 268.035, subdivision 15; 268.042, subdivisions 1, 3; 268.044, subdivisions 1, 1a; 268.045; 268.047, subdivision 5; 268.051, subdivisions 1, 1a, 3, 5, 6; 268.052, subdivisions 1, 2; 268.053, subdivisions 1, 3; 268.059, subdivision 1; 268.063; 268.066; 268.067; 268.0675; 268.07, subdivision 2; 268.085, subdivisions 1, 3, 4, 5, 6; 268.095, subdivisions 1, 3; 268.101, subdivisions 3, 3a; 268.18, subdivisions 1, 2; 268.186; 268.19, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 268.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2243.

H.F. No. 2630: A bill for an act relating to courts; limiting postconviction relief; amending Minnesota Statutes 2002, section 590.01, subdivision 1, by adding a subdivision.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2479, now on General Orders.

H.F. No. 2651: A bill for an act relating to corrections; amending the Interstate Compact for Adult Offender Supervision by providing procedures for retaking and reincarceration of parolees and probationers; delaying the repeal of the interstate compact for the supervision of parolees and probationers to provide more transition time for adoption of rules under the new compact; amending Minnesota Statutes 2002, section 243.1605; Laws 2002, chapter 268, section 8.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2347, now on the Consent Calendar.

H.F. No. 2691: A bill for an act relating to human services; council on disability; permitting the council to meet by telephone or electronic means if certain conditions are met; amending Minnesota Statutes 2002, section 256.482, by adding a subdivision.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2639.

H.F. No. 3067: A bill for an act relating to domestic abuse; authorizing an additional extension of the domestic fatality review team pilot project in the fourth judicial district; amending Laws 2002, chapter 266, section 1.

Referred to the Committee on Judiciary. Senator Betzold questioned the reference thereon and, under Rule 4.9, the bill was referred to the Committee on Rules and Administration.

H.F. No. 2383: A bill for an act relating to natural resources; modifying the forest resources Interagency Information Cooperative; modifying the State Timber Act; modifying provisions for

timber sales on tax-forfeited land; amending Minnesota Statutes 2002, sections 89A.09, subdivision 1; 90.02; 90.181, subdivision 2; 90.191, subdivision 2, by adding a subdivision; 90.252; 282.04, subdivision 1; Minnesota Statutes 2003 Supplement, sections 90.101, subdivision 1; 90.14; 90.151, subdivision 1; repealing Minnesota Statutes 2003 Supplement, section 90.191, subdivisions 3, 4.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2583.

H.F. No. 2455: A bill for an act relating to corrections; authorizing a five-level correctional facility classification system; amending Minnesota Statutes 2003 Supplement, section 243.53, subdivision 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2499, now on the Consent Calendar.

H.F. No. 2586: A bill for an act relating to education; providing for immunity from liability for school district and district employee notification of students with a history of violent behavior; amending Minnesota Statutes 2002, section 121A.75, by adding a subdivision; Minnesota Statutes 2003 Supplement, section 121A.64.

Referred to the Committee on Education.

H.F. No. 1961: A bill for an act relating to crime prevention; expanding the crime of causing death while committing child abuse; amending Minnesota Statutes 2002, section 609.185.

Referred to the Committee on Crime Prevention and Public Safety.

H.F. No. 1983: A bill for an act relating to commerce; enacting the revisions to the general provisions of the Uniform Commercial Code and enacting a revised Article 7 of the Uniform Commercial Code recommended by the National Conference of Commissioners on Uniform State Laws; making conforming changes; amending provisions in Articles 3 and 4 of the Uniform Commercial Code relating to warranties on remotely created items; amending Minnesota Statutes 2002, sections 17.94; 84.787, subdivision 9; 84.797, subdivision 10; 84.92, subdivision 6; 86B.820, subdivision 12; 168A.01, subdivision 20; 234.27; 325L.03; 325L.16; 336.2-103; 336.2-104; 336.2-202; 336.2-310; 336.2-323; 336.2-401; 336.2-503; 336.2-505; 336.2-506; 336.2-509; 336.2-605; 336.2-705; 336.2A-103; 336.2A-501; 336.2A-514; 336.2A-518; 336.2A-519; 336.2A-526; 336.2A-527; 336.2A-528; 336.4-210; 336.4A-105; 336.4A-106; 336.4A-204; 336.5-103; 336.8-102; 336.8-103; 336.9-102; 336.9-203; 336.9-207; 336.9-208; 336.9-301; 336.9-310; 336.9-312; 336.9-313; 336.9-314; 336.9-317; 336.9-338; 336.9-601; 513.33, subdivision 1; 514.963, subdivision 9; 514.965, subdivision 10; 514.973; Minnesota Statutes 2003 Supplement, sections 336.3-103; 336.3-416; 336.3-417; 336.4-104; 336.4-207; 336.4-208; proposing coding for new law in Minnesota Statutes, chapter 336; repealing Minnesota Statutes 2002, sections 336.1-101; 336.1-102; 336.1-103; 336.1-104; 336.1-105; 336.1-106; 336.1-107; 336.1-108; 336.1-109; 336.1-110; 336.1-201; 336.1-202; 336.1-203; 336.1-204; 336.1-205; 336.1-206; 336.1-207; 336.1-208; 336.1-209; 336.2-208; 336.2A-207; 336.7-101; 336.7-102; 336.7-103; 336.7-104; 336.7-105; 336.7-201; 336.7-202; 336.7-203; 336.7-204; 336.7-205; 336.7-206; 336.7-207; 336.7-208; 336.7-209; 336.7-210; 336.7-301; 336.7-302; 336.7-303; 336.7-304; 336.7-305; 336.7-306; 336.7-307; 336.7-308; 336.7-309; 336.7-401; 336.7-402; 336.7-403; 336.7-404; 336.7-501; 336.7-502; 336.7-503; 336.7-504; 336.7-505; 336.7-506; 336.7-507; 336.7-508; 336.7-509; 336.7-601; 336.7-602; 336.7-603; 336.10-104.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1805, now on General Orders.

H.F. No. 1683: A bill for an act relating to traffic regulations; restricting possession of traffic signal-override device; providing a penalty; amending Minnesota Statutes 2002, sections 169.06, by adding a subdivision; 169.20, subdivision 5.

Referred to the Committee on Finance.

H.F. No. 2363: A bill for an act relating to natural resources; modifying provisions for the

control of invasive and nonnative species; providing criminal penalties; requiring rulemaking; amending Minnesota Statutes 2002, sections 17.4982, subdivision 18a; 84D.01, subdivisions 6, 9, 12, 13, 15, 17, 18, by adding subdivisions; 84D.02, subdivisions 1, 3, 4, 5, 6; 84D.03; 84D.04; 84D.05; 84D.06; 84D.07; 84D.08; 84D.09, subdivision 2; 84D.10, subdivisions 1, 3; 84D.11, subdivisions 1, 2, 2a; 84D.12; 84D.13, subdivision 3; 86B.415, subdivision 7; 97C.821; Minnesota Statutes 2003 Supplement, sections 18.78, subdivision 2; 84.027, subdivision 13; 84D.14; repealing Minnesota Statutes 2002, section 84D.01, subdivisions 5, 7; Minnesota Rules, part 6216.0400, subpart 3.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2211, now on General Orders.

H.F. No. 2419: A bill for an act relating to real property; providing for certain purchase money mortgages; amending Minnesota Statutes 2002, sections 507.02; 507.03.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 2393, now on General Orders.

REPORTS OF COMMITTEES

Senator Johnson, D.E. moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 2397, 2709, 2827, 2399, 2622, 2747, 2080 and 2037. The motion prevailed.

Senator Foley from the Committee on Crime Prevention and Public Safety, to which was referred

S.F. No. 1727: A bill for an act relating to crimes; prohibiting falsely reporting police misconduct; providing penalties; amending Minnesota Statutes 2002, section 609.505.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 609.505, is amended to read:

609.505 [FALSELY REPORTING CRIME; PROVIDING FALSE INFORMATION.]

Subdivision 1. [FALSE REPORTING.] Whoever informs a law enforcement officer that a crime has been committed, knowing that it is false and intending that the officer shall act in reliance upon it, is guilty of a misdemeanor. A person who is convicted a second or subsequent time under this section is guilty of a gross misdemeanor.

Subd. 2. [FALSE INFORMATION.] (a) Except as provided in subdivision 1 and unless a more severe penalty is imposed elsewhere in law, whoever provides false information about another person to a law enforcement officer knowing that it is false, intending that the officer shall act in reliance upon it, and intending to obstruct justice, is guilty of a gross misdemeanor. A person who is convicted a second or subsequent time under this section is guilty of a felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$4,000, or both.

(b) Paragraph (a) does not apply to a report of police misconduct.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective August 1, 2004, and applies to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to crimes; prohibiting providing false information to police; providing penalties; amending Minnesota Statutes 2002, section 609.505."

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

Senator Foley from the Committee on Crime Prevention and Public Safety, to which was referred

S.F. No. 2387: A bill for an act relating to crimes; treating probation officers the same as correctional employees for purposes of certain assaults; amending Minnesota Statutes 2003 Supplement, section 609.2231, subdivision 3.

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

Page 1, after line 6, insert:

"Section 1. Minnesota Statutes 2002, section 609.2231, subdivision 1, is amended to read:

Subdivision 1. [PEACE OFFICERS.] Whoever physically assaults a peace officer licensed under section 626.845, subdivision 1, when that officer is effecting a lawful arrest or executing any other duty imposed by law is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both. If the assault inflicts demonstrable bodily harm or the person intentionally throws or otherwise transfers bodily fluids or feces at or onto the officer, the person is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$6,000, or both.

[EFFECTIVE DATE.] This section is effective August 1, 2004, and applies to crimes committed on or after that date."

Re-number the sections in sequence

Amend the title as follows:

Page 1, line 4, after "amending" insert "Minnesota Statutes 2002, section 609.2231, subdivision 1;"

And when so amended the bill do pass and be placed on the Consent Calendar. Amendments adopted. Report adopted.

Senator Lourey from the Committee on Health and Family Security, to which was re-referred

S.F. No. 1175: A bill for an act relating to commerce; prohibiting certain deliveries of tobacco products; prescribing criminal penalties; proposing coding for new law in Minnesota Statutes, chapter 325F.

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

Delete everything after the enacting clause and insert:

"Section 1. [325F.781] [REQUIREMENTS; TOBACCO PRODUCT DELIVERY SALES.]

Subdivision 1. [SCOPE OF DEFINITIONS.] The terms used in this section have the following meanings unless otherwise provided for by text.

Subd. 2. [CONSUMER.] "Consumer" means an individual who purchases, receives, or possesses tobacco products for personal consumption and not for resale.

Subd. 3. [DELIVERY SALE.] "Delivery sale" means:

(1) a sale of tobacco products to a consumer in this state when:

(i) the purchaser submits the order for the sale by means of a telephonic or other method of voice transmission, the mail or any other delivery service, or the Internet or other on-line service; or

(ii) the tobacco products are delivered by use of the mail or other delivery service; or

(2) a sale of tobacco products that satisfies the criteria in clause (1), item (i), regardless of whether the seller is located inside or outside of the state.

For purposes of this subdivision, a sale of tobacco products to an individual in this state must be treated as a sale to a consumer, unless the individual is licensed as a distributor or retailer of tobacco products.

Subd. 4. [DELIVERY SERVICE.] "Delivery service" means a person, including the United States Postal Service, that is engaged in the commercial delivery of letters, packages, or other containers.

Subd. 5. [DISTRIBUTOR.] "Distributor" means a person, whether located inside or outside of this state, other than a retailer, who sells or distributes tobacco products in the state. Distributor does not include a tobacco products manufacturer, export warehouse proprietor, or importer with a valid permit under United States Code, title 26, section 5712 (1997), if the person sells or distributes tobacco products in this state only to distributors who hold valid and current licenses under the laws of a state, or to an export warehouse proprietor or another manufacturer. Distributor does not include a common or contract carrier that is transporting tobacco products under a proper bill of lading or freight bill that states the quantity, source, and destination of tobacco products, or a person who ships tobacco products through this state by common or contract carrier under a bill of lading or freight bill.

Subd. 6. [RETAILER.] "Retailer" means a person, whether located inside or outside this state, who sells or distributes tobacco products to a consumer in this state.

Subd. 7. [REQUIREMENTS FOR ACCEPTING ORDER FOR DELIVERY SALE.] (a) This subdivision applies to acceptance of an order for a delivery sale of tobacco products.

(b) When accepting the first order for a delivery sale from a consumer, the tobacco retailer shall obtain the following information from the person placing the order:

(1) a copy of a valid government-issued document that provides the person's name, current address, photograph, and date of birth; and

(2) an original written statement signed by the person documenting that the person:

(i) is of legal age to purchase tobacco products in the state;

(ii) has made a choice whether to receive mailings from a tobacco retailer;

(iii) understands that providing false information may be a violation of law; and

(iv) understands that it is a violation of law to purchase tobacco products for subsequent resale or for delivery to persons who are under the legal age to purchase tobacco products.

(c) If an order is made as a result of advertisement over the Internet, the tobacco retailer shall request the e-mail address of the purchaser and shall receive payment by credit card or check prior to shipping.

(d) Prior to shipping the tobacco products, the tobacco retailer shall verify the information provided under paragraph (b) against a commercially available database. Any such database or databases may also include age and identity information from other government or validated commercial sources, if that additional information is regularly used by government and businesses for the purpose of identity verification and authentication, and if the additional information is used only to supplement and not to replace the government-issued identification data in the age and identity verification process.

Subd. 8. [REQUIREMENTS FOR SHIPPING A DELIVERY SALE.] (a) This subdivision applies to a tobacco retailer shipping tobacco products pursuant to a delivery sale.

(b) The tobacco retailer shall clearly mark the outside of the package of tobacco products to be shipped "tobacco products - adult signature required" and to show the name of the tobacco retailer.

(c) The tobacco retailer shall utilize a delivery service that imposes the following requirements:

(1) an adult must sign for the delivery; and

(2) if the person signing for the delivery is believed to be under 27 years of age, the person signing for the delivery must show valid government-issued identification that contains a photograph of the person signing for the delivery and indicates that the person signing for the delivery is of legal age to purchase tobacco products and resides at the delivery address.

(d) The retailer must provide delivery instructions that clearly indicate the requirements of this subdivision and must declare that state law requires compliance with the requirements.

Subd. 9. [COMMON CARRIERS.] This section may not be construed as imposing liability upon any common carrier, or officers or employees of the common carrier, when acting within the scope of business of the common carrier.

Subd. 10. [REGISTRATION REQUIREMENT.] Prior to making delivery sales or shipping tobacco products in connection with any sales, a distributor shall file with the Department of Revenue a statement setting forth the distributor's name, trade name, and the address of the distributor's principal place of business and any other place of business.

Subd. 11. [REPORTING REQUIREMENTS.] No later than the tenth day of each calendar month, a tobacco retailer that has made a delivery sale of tobacco products or shipped or delivered tobacco products into the state in a delivery sale in the previous calendar month shall file with the Department of Revenue a memorandum or a copy of each invoice that provides for each delivery sale the name and address of the purchaser and the brand or brands and quantity of tobacco products sold. A tobacco retailer that meets the requirements of United States Code, title 15, section 375 et seq. satisfies the requirements of this subdivision.

Subd. 12. [COLLECTION OF TAXES.] (a) Prior to shipping any tobacco products to a purchaser in this state, the distributor shall ensure that all state excise taxes that apply to such tobacco products have been collected and paid to the state and that all related state excise tax stamps or other indicators of state excise tax payment have been properly affixed to those tobacco products.

(b) A distributor who fails to pay any tax due according to paragraph (a) shall pay, in addition to any other penalty, a penalty of 50 percent of the tax due but unpaid.

Subd. 13. [APPLICATION OF STATE LAWS.] All state laws that apply to in-state tobacco product retailers shall apply to Internet and mail-order sellers that sell into this state.

Subd. 14. [FORFEITURE.] Any tobacco product sold or attempted to be sold in a delivery sale that does not meet the requirements of this section is deemed to be contraband and is subject to forfeiture in the same manner as and in accordance with the provisions of section 297F.21.

Subd. 15. [CIVIL PENALTIES.] (a) A tobacco retailer or distributor who violates this section or rules adopted under this section is subject to the following fines:

(1) for the first violation, a fine of not more than \$1,000; and

(2) for the second and any subsequent violation, a fine of not more than \$5,000.

(b) A person who submits ordering information under subdivision 7, paragraph (b), in another person's name is subject to a fine of not more than \$1,000.

Subd. 16. [ENFORCEMENT.] The attorney general may bring an action to enforce this section

and may seek injunctive relief, including a preliminary or final injunction, and fines, penalties, and equitable relief and may seek to prevent or restrain actions in violation of this section by any person or any person controlling such person. In addition, a violation of this section is a violation of the Unfair Trade Practices Act."

Delete the title and insert:

"A bill for an act relating to commerce; regulating certain sales and deliveries of tobacco products; proposing coding for new law in Minnesota Statutes, chapter 325F."

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

Senator Kelley from the Committee on Education, to which was referred

S.F. No. 2605: A bill for an act relating to education; requiring a mental health screening when a student is suspended from school for more than ten school days in a school year; amending Minnesota Statutes 2003 Supplement, section 121A.61, subdivision 3.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 121A.45, subdivision 3, is amended to read:

Subd. 3. [PARENT NOTIFICATION AND MEETING.] If a pupil's total days of removal from school exceeds ten cumulative days in a school year, the school district shall make reasonable attempts to convene a meeting with the pupil and the pupil's parent or guardian ~~prior to~~ before subsequently removing the pupil from school and, with the permission of the parent or guardian, arrange for a mental health screening for the pupil. The district is not required to pay for the mental health screening. The purpose of this meeting is to attempt to determine the pupil's need for assessment or other services or whether the parent or guardian should have the pupil assessed or diagnosed to determine whether the pupil needs treatment for a mental health disorder."

Delete the title and insert:

"A bill for an act relating to education; allowing for mental health screenings; amending Minnesota Statutes 2002, section 121A.45, subdivision 3."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Cohen from the Committee on Finance, to which was referred

S.F. No. 1729: A bill for an act relating to motor vehicles; prohibiting leaving a child under the age of nine unattended in a passenger vehicle; imposing petty misdemeanor penalty; proposing coding for new law in Minnesota Statutes, chapter 169.

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

Delete everything after the enacting clause and insert:

"Section 1. [169.355] [LEAVING UNATTENDED CHILD IN MOTOR VEHICLE.]

Subdivision 1. [REQUIREMENT OF SUPERVISION OF YOUNG CHILD.] A parent, legal guardian, or other person responsible for a child who is eight years old or younger may not leave the child inside a motor vehicle if the child is not subject to the supervision of a person 14 years old or older, when:

(1) conditions present a significant risk to the child's health or safety; or

(2) the vehicle's engine is running or the vehicle's keys are in the ignition, or both.

Subd. 2. [VIOLATION.] A violation of subdivision 1 is punishable by a fine of not less than \$150 for a first offense and not less than \$300 for a subsequent offense. The court may reduce or waive the fine if the violator is economically disadvantaged and attends a community education program that includes education on the dangers of leaving young children unattended in motor vehicles, and certifies completion of the program. The violator shall submit the certification to the court. The court may require any violator described in this section to attend an education program on the dangers of leaving young children unattended in motor vehicles. Nothing in this section shall preclude prosecution under both this section or any other provision of law.

Subd. 3. [ALLOCATION OF FINES.] Notwithstanding any other provision of law, the fines collected for a violation of this section shall be paid by the person collecting the fines to the treasurer of the county where the violation occurred and allocated by the county treasurer, as follows:

(1) 70 percent to the county or city health department where the violation occurred, to be used by the health department or by a person or organization under contract with the health department for the development and implementation of community education programs on the dangers of leaving young children unattended in motor vehicles. Each county and city health department shall prepare and annually update a list of community education programs that provide information on the dangers of leaving young children unattended in motor vehicles and ways to avoid that danger. The county or city health department shall forward the list to the courts and shall make the list available to the public;

(2) 15 percent to the county or city for the administration of the program and for the county's costs to account for and disburse fine revenues; and

(3) 15 percent to the city to be deposited in its general fund, except that if the violation occurred in an unincorporated area, this amount shall be deposited in the county's general fund.

Sec. 2. Minnesota Statutes 2002, section 171.13, subdivision 1, is amended to read:

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

Sec. 3. Minnesota Statutes 2002, section 171.13, is amended by adding a subdivision to read:

Subd. 1i. [DRIVER'S MANUAL; UNATTENDED CHILDREN.] The commissioner shall include in each edition of the driver's manual published after August 1, 2004, information concerning the dangers of, and penalties for, leaving children unattended in motor vehicles, including the effect of solar heat on vehicle interior temperature."

Delete the title and insert:

"A bill for an act relating to motor vehicles; prohibiting leaving a child under the age of eight unattended in a passenger vehicle; imposing a penalty; amending Minnesota Statutes 2002, section 171.13, subdivision 1, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 169."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Wiger from the Committee on Elections, to which was referred

H.F. No. 3005: A bill for an act relating to elections; changing times for voting on changing county seats; amending Minnesota Statutes 2002, section 372.07.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Senator Higgins from the Committee on State and Local Government Operations, to which was referred

S.F. No. 2903: A bill for an act relating to local government; increasing the threshold amount for towns required to have annual audits; amending Minnesota Statutes 2002, section 471.697, subdivision 1.

Reports the same back with the recommendation that the bill do pass and be placed on the Consent Calendar. Report adopted.

Senator Higgins from the Committee on State and Local Government Operations, to which was re-referred

S.F. No. 2397: A bill for an act relating to highways; requiring commissioner of transportation to prepare toll facilities plan; prohibiting noncompete provisions in toll facility development agreements from restricting or prohibiting development, design, construction, or operation of public transit; amending Minnesota Statutes 2002, sections 160.84, subdivision 9; 160.86; proposing coding for new law in Minnesota Statutes, chapter 160.

Reports the same back with the recommendation that the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Senator Foley from the Committee on Crime Prevention and Public Safety, to which was re-referred

S.F. No. 1614: A bill for an act relating to animals; requiring restitution for harm done by dogs to service animals; amending Minnesota Statutes 2002, section 609.226, by adding a subdivision.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 609.226, subdivision 3, is amended to read:

Subd. 3. [DEFENSE.] If proven by a preponderance of the evidence, it shall be an affirmative defense to liability under ~~this section~~ subdivision 1 or 2 that the victim provoked the dog to cause the victim's bodily harm.

Sec. 2. Minnesota Statutes 2002, section 609.226, is amended by adding a subdivision to read:

Subd. 4. [HARM TO SERVICE ANIMAL CAUSED BY DOG; CRIME, MANDATORY RESTITUTION.] (a) As used in this subdivision, "service animal" means an animal individually

trained or being trained to do work or perform tasks for the benefit of an individual with a disability.

(b) A person who negligently or intentionally (1) permits the person's dog to run uncontrolled off the person's premises, or (2) fails to keep the person's dog properly confined or controlled; and as a result the dog causes bodily harm to a service animal or otherwise renders a service animal unable to perform its duties, is guilty of a misdemeanor.

(c) The court shall order a person convicted of violating this subdivision to pay restitution for the costs and expenses resulting from the crime. Costs and expenses include, but are not limited to, the service animal user's loss of income, veterinary expenses, transportation costs, and other expenses of temporary replacement assistance services, and service animal replacement or retraining costs incurred by a school, agency, or individual. If the court finds that the convicted person is indigent, the court may reduce the amount of restitution to a reasonable level or order it paid in installments.

(d) This subdivision does not preclude a person from seeking any available civil remedies for an act that violates this subdivision.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective August 1, 2004, and apply to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to animals; criminalizing certain harm caused to a service animal by a dog; requiring restitution; clarifying civil liability; imposing a criminal penalty; amending Minnesota Statutes 2002, section 609.226, subdivision 3, by adding a subdivision."

And when so amended the bill do pass and be placed on the Consent Calendar. Amendments adopted. Report adopted.

Senator Higgins from the Committee on State and Local Government Operations, to which was re-referred

S.F. No. 2709: A bill for an act relating to airports; requiring a chapter on aviation planning in the state transportation plan; creating an advisory council on aviation planning; amending Minnesota Statutes 2002, section 174.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 174.

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

Delete everything after the enacting clause and insert:

"Section 1. [174.032] [ADVISORY COUNCIL ON AVIATION PLANNING.]

Subdivision 1. [ADVISORY COUNCIL CREATED.] (a) The commissioner shall create an advisory council on aviation planning to advise the commissioner and the department's Office of Aeronautics on the development of the state aviation system plan supplemental chapter. The council consists of the members of a policy committee and a technical committee as set forth in paragraphs (b) and (c). The members must be invited to serve by the commissioner except where otherwise provided.

(b) The Policy Committee consists of:

(1) one commissioner of the Metropolitan Airports Commission;

(2) one representative of major commercial airlines;

(3) one representative of independent pilots who fly for small business or charter aviation services;

- (4) one representative of the air cargo industry;
 - (5) two representatives of the business community unrelated to aviation, one of whom must reside within the seven-county metropolitan area and one of whom must reside outside that area;
 - (6) one representative of environmental interests;
 - (7) one employee of the Department of Transportation's Office of Aeronautics;
 - (8) two representatives of neighborhoods that are significantly affected by airplane noise;
 - (9) one elected representative of each of the following airports in Minnesota: St. Cloud, Duluth, Willmar, Mankato, and Rochester;
 - (10) one representative of the Regional Airline Association;
 - (11) one representative of the Local Airline Service Action Committee;
 - (12) one representative of the Minnesota Aviation Trades Association;
 - (13) one representative from the Minnesota Council of Airports;
 - (14) one representative from the Citizens' League;
 - (15) one representative from the Minnesota Association of Counties;
 - (16) one representative of the League of Minnesota Cities;
 - (17) one representative of the Minnesota Department of Employment and Economic Development;
 - (18) one representative of program management of the Department of Transportation;
 - (19) one member of the Metropolitan Council;
 - (20) one member of the senate committee having jurisdiction over transportation policy, appointed by the chair of that committee; and
 - (21) one member of the house of representatives committee having jurisdiction over transportation policy, appointed by the chair of that committee.
- (c) The Technical Committee consists of:
- (1) one representative of the Department of Transportation's Office of Aeronautics;
 - (2) one representative of the Metropolitan Airports Commission;
 - (3) one representative of the Metropolitan Council;
 - (4) one representative of the Federal Aviation Administration;
 - (5) one representative of the Local Airline Service Action Committee;
 - (6) one representative of the Minnesota Aerial Applicator Association;
 - (7) one representative of the Minnesota Air Medical Safety Council;
 - (8) one representative of the Minnesota Council of Airports;
 - (9) one representative of the Minnesota Department of Military Affairs;
 - (10) one representative of the Minnesota Flying Farmers;
 - (11) one representative of the Minnesota Department of Natural Resources;

(12) one representative of the Minnesota Department of Public Safety;

(13) one representative of neighborhoods that are significantly affected by aircraft noise;

(14) one representative of environmental interests; and

(15) one representative of each of the following airports in Minnesota: St. Cloud, Duluth, Willmar, Mankato, and Rochester.

(d) Members of the advisory council serve at the pleasure of the appointing authority. Members shall serve without compensation.

Subd. 2. [ADVISORY COUNCIL DUTIES.] (a) The advisory council on aviation planning shall advise the commissioner on the state aviation system plan. The advisory council shall assist with the development of the state aviation system plan by reviewing the work and making recommendations on improvements to the plan to address the identified needs. The state aviation system plan must consist of an inventory of airport facilities, based aircraft and operations, forecasts of aviation activity, a needs assessment to determine improvements needed, and recommendations on development and system operations for each airport by short-term (five years), medium-term (ten years), and long-term (20 years) forecast periods. In addition to these basic elements of the plan, the state aviation system plan must include the following elements:

(1) present and anticipated capacity needs of commercial service airports, including limitations on expanding the capacity of individual commercial service airports imposed by state or local regulations, safety or environmental concerns, and land uses near the airport that are incompatible with airport operations;

(2) the needs of Minnesota residents and businesses for passenger and cargo service, from both a statewide and a regional perspective;

(3) anticipated changes in commercial aircraft types and characteristics;

(4) noise and other environmental impacts of aviation at commercial service airports;

(5) trends in the aviation and airline industries; and

(6) the relationship between aviation and other forms of transportation covered by the state transportation plan.

(b) The advisory council may also make recommendations to the commissioner, the Metropolitan Airports Commission, and the legislature concerning the policy steps needed to implement the chapter.

Subd. 3. [TERM OF COUNCIL; EXPIRATION; RECONVENING.] (a) The commissioner shall appoint and convene the first advisory council by July 1, 2004. The council shall submit any recommendations it makes to the legislature by January 15, 2005. The terms of all members of the advisory council serving on July 1, 2004, expire on January 1, 2006.

(b) The commissioner shall invite members to participate and convene a new advisory council not less than two years before the date on which each revision of the state aviation system plan is required. Each advisory council must consist of members as prescribed in subdivision 1, who shall serve on the same terms as set forth under subdivision 1. Each advisory council expires on the date on which the revision of the state aviation system plan becomes final.

Sec. 2. [360.0123] [STATE AVIATION SYSTEM PLAN.]

(a) Each revision of the state aviation system plan must be in compliance with Federal Aviation Administration (FAA) requirements and include a supplemental chapter that provides:

(1) an analysis of the projected commercial aviation needs of the state over the next 20 years;

(2) a description of the present capacity, function, and levels of activity at each commercial

service airport within the state as designated by the FAA, each airport that the commissioner determines is likely to become a commercial service airport in the next 20 years, and any other airport that the commissioner determines should be included by reason of commercial passenger or cargo service levels; and

(3) a description of the capacity, function, and levels of activity that each airport identified in clause (2) must have in order to carry out the plan's goal and objectives and meet the needs described under clause (1).

(b) In assessing aviation needs and the capacity, function, and level of activity at any airport, the plan must consider both commercial passenger service and cargo service."

Delete the title and insert:

"A bill for an act relating to airports; providing for state aviation system plan; creating an advisory council on aviation planning; proposing coding for new law in Minnesota Statutes, chapters 174; 360."

And when so amended the bill do pass and be re-referred to the Committee on Rules and Administration.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Senator Higgins from the Committee on State and Local Government Operations, to which was re-referred

S.F. No. 2613: A bill for an act relating to Minnesota Comprehensive Health Association; increasing the minimum premium rate; authorizing enrollee incentives for participation in a disease management program; phasing out Medicare-extended basic supplement plans; modifying eligibility requirements; amending Minnesota Statutes 2002, sections 62A.65, by adding a subdivision; 62E.10, subdivisions 2, 10; 62E.141; Minnesota Statutes 2003 Supplement, sections 62E.08, subdivision 1; 62E.091; 62E.12; 62E.14, subdivision 5.

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

Page 1, delete section 1

Page 6, line 3, strike "nine" and insert "ten"

Page 6, line 6, strike "four" and insert "five"

Page 6, line 11, reinstate the stricken "Public"

Page 6, delete line 12 and insert "members ~~may~~ must include one licensed insurance agents agent. In determining"

Page 8, line 30, delete "had" and insert "has"

Page 8, lines 31 and 32, delete "prior to being terminated"

Re-number the sections in sequence

Amend the title as follows:

Page 1, line 8, delete "62A.65, by adding a subdivision;"

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

Senator Anderson from the Committee on Jobs, Energy and Community Development, to which was referred

S.F. No. 2827: A bill for an act relating to employment; extending the period of availability of certain extra unemployment benefits; amending Laws 2002, chapter 380, article 1, section 5, subdivisions 3, 5, 6.

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

Delete everything after the enacting clause and insert:

"Section 1. [EXTRA UNEMPLOYMENT BENEFITS FOR MILITARY RESERVISTS.]

Subdivision 1. [ENTITLEMENT.] An applicant may be entitled to extra unemployment benefits if:

(1) covered employment was not available to the applicant upon release from active military service, or the applicant was laid off due to lack of work from covered employment within 90 days of release from active military service; and

(2) the applicant then filed an application for unemployment benefits and established a benefit account under Minnesota Statutes, section 268.07.

Subd. 2. [PAYMENT FROM FUND; EFFECT ON EMPLOYER.] Extra unemployment benefits under this section are payable from the trust fund and subject to Minnesota Statutes, section 268.047.

Subd. 3. [ELIGIBILITY CONDITIONS.] An applicant described in subdivision 1 is eligible to collect extra unemployment benefits for any week during the applicant's benefit year if:

(1) the applicant was in the military reserves;

(2) the applicant had wages paid in covered employment in each of the last four completed calendar quarters prior to being called up for active military service;

(3) the applicant was called up for active military service after January 1, 2003;

(4) the applicant was on active duty in the military for at least six months;

(5) the applicant meets the eligibility requirements of Minnesota Statutes, section 268.085;

(6) the applicant is not subject to a disqualification under Minnesota Statutes, section 268.095; and

(7) the applicant is not entitled to any regular, additional, or extended unemployment benefits for that week and the applicant is not entitled to receive unemployment benefits under any other state or federal law or the law of Canada for that week.

Subd. 4. [WEEKLY AMOUNT OF EXTRA BENEFITS.] The weekly amount of extra unemployment benefits available to an applicant under this section is the same as the applicant's regular weekly benefit amount on the benefit account established under subdivision 1.

Subd. 5. [MAXIMUM AMOUNT OF EXTRA BENEFITS.] The maximum amount of extra unemployment benefits available is 13 times the applicant's weekly extra unemployment benefit amount. Amounts collected under section 2 must reduce the maximum amount that may be collected under this section.

Subd. 6. [PROGRAM EXPIRATION.] This extra unemployment benefit program expires the last Saturday in March 2006. No extra unemployment benefits shall be paid under this section after the expiration of this program.

Subd. 7. [APPLICABILITY.] This section shall apply to applicants whose unemployment benefit entitlement results, in whole or in part, because of United States Code, title 5, section 8522.

Subd. 8. [DEFINITIONS.] The definitions in Minnesota Statutes, section 268.035, shall apply to this section.

Subd. 9. [EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 2. [EXTRA UNEMPLOYMENT BENEFITS.]

Subdivision 1. [AVAILABILITY.] Extra unemployment benefits are available to an applicant who was laid off due to lack of work if the applicant was laid off by Northwest Airlines.

Subd. 2. [PAYMENT FROM FUND; EFFECT ON EMPLOYER.] Extra unemployment benefits under this section are payable from the unemployment insurance trust fund and subject to Minnesota Statutes, section 268.047, subdivision 1.

Subd. 3. [ELIGIBILITY CONDITIONS.] An applicant described in subdivision 1 is eligible to collect extra unemployment benefits for any week through December 25, 2004, if:

(1) a majority of the applicant's wage credits were earned while working as an airline mechanic with the employer responsible for the layoff described in subdivision 1;

(2) the applicant exhausted all regular unemployment benefits available after December 21, 2003, and on or before June 26, 2004;

(3) the applicant meets the eligibility requirements of Minnesota Statutes, section 268.085;

(4) the applicant is not subject to a disqualification under Minnesota Statutes, section 268.095;

(5) the applicant is not entitled to any regular, additional, or extended unemployment benefits for that week and the applicant is not entitled to receive unemployment benefits under any other state or federal law or the law of Canada for that week; and

(6) the applicant is enrolled in, or has within the last two weeks successfully completed, a program that qualifies as reemployment assistance training under the state dislocated worker program except that an applicant whose training is scheduled to begin in more than 30 days may be considered to be in training if:

(i) the applicant's chosen training program does not offer an available start date within 30 days;

(ii) the applicant is scheduled to begin training on the earliest available start date for the chosen training program; and

(iii) the applicant is scheduled to begin training in no more than 60 days.

If an applicant qualifies for a new regular benefit account at any time after exhausting regular unemployment benefits as a result of the layoff under subdivision 1, the applicant must apply for and exhaust entitlement to those new regular or any other type of unemployment benefits under any state or federal law.

Subd. 4. [WEEKLY AMOUNT OF EXTRA BENEFITS.] The weekly unemployment extra benefits amount available to an applicant under this section is the same as the applicant's regular weekly benefit amount on the benefit account established as a result of the layoff under subdivision 1.

Subd. 5. [MAXIMUM AMOUNT OF EXTRA UNEMPLOYMENT BENEFITS.] The maximum amount of extra unemployment benefits available is 13 times the applicant's weekly extra unemployment benefit amount.

Subd. 6. [PROGRAM EXPIRATION.] This extra unemployment benefit program expires December 25, 2004. No extra unemployment benefits shall be paid under this section after the expiration of this program.

Subd. 7. [EFFECTIVE DATE.] This section is effective the day following final enactment retroactive to June 1, 2001."

Delete the title and insert:

"A bill for an act relating to unemployment compensation; providing extra benefits for certain employees and military reservists."

And when so amended the bill do pass and be re-referred to the Committee on Finance.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Senator Foley from the Committee on Crime Prevention and Public Safety, to which was referred

S.F. No. 2640: A bill for an act relating to correctional officer safety; establishing an expedited process for the nonconsensual collection of a blood sample from an inmate when a corrections employee is significantly exposed to the potential transfer of a bloodborne pathogen; amending Minnesota Statutes 2002, section 241.336, by adding a subdivision.

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

Page 2, lines 16 and 17, delete "specifies the purposes for which the test results may be used" and insert "limits uses of samples to those authorized by section 241.338"

And when so amended the bill do pass. Amendments adopted. Report adopted.

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

S.F. No. 2680: A bill for an act relating to traffic regulations; specifying duty of care of bus drivers to passengers; proposing coding for new law in Minnesota Statutes, chapter 169.

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

Page 1, line 9, after the first "is" insert "either an elementary or"

Page 1, line 12, after "is" insert "either an elementary or"

Page 1, line 15, after the period, insert "Boarding or disembarking is the process of boarding or disembarking and includes a duty to use reasonable care to provide and select a reasonably safe bus stop from which to board or disembark."

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

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

S.F. No. 2880: A bill for an act relating to civil actions; providing requirements for certification of a class action; proposing coding in Minnesota Statutes, chapter 540.

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

Page 2, line 30, delete ", by employing a rigorous analysis,"

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

Senator Higgins from the Committee on State and Local Government Operations, to which was re-referred

S.F. No. 2607: A bill for an act relating to insurance; creating a law enforcement agency to deal with insurance fraud; prescribing its powers and duties; establishing insurance assessments to fund the insurance fraud prevention account; transferring duties relating to auto theft prevention from the Department of Public Safety to the Department of Commerce; amending Minnesota Statutes

2002, sections 45.0135, subdivision 6, by adding subdivisions; 299A.75, subdivision 1; 626.84, subdivision 1; repealing Minnesota Statutes 2002, section 45.0135, subdivisions 1, 2.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance. Report adopted.

Senator Higgins from the Committee on State and Local Government Operations, to which was re-referred

S.F. No. 1798: A bill for an act relating to highways; modifying provisions relating to local government road construction and improvement contracts; amending Minnesota Statutes 2002, section 160.17, subdivision 3; repealing Minnesota Statutes 2002, section 160.17, subdivision 4.

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

Senator Higgins from the Committee on State and Local Government Operations, to which was re-referred

S.F. No. 2399: A bill for an act relating to highways; allowing counties right of first refusal in toll facility contracts; requiring commissioner of transportation to allow public review of proposed toll facility development agreement; prohibiting private toll facility operator from acquiring right-of-way by donation; prohibiting noncompete clause in private toll facility development agreement; including toll facilities as element of final layout for municipal consent purposes; amending Minnesota Statutes 2002, sections 160.85, subdivisions 1, 3, 3a, 5; 160.86; 160.88; 161.162, subdivision 2; 161.163, subdivision 1; 161.164, subdivision 2; 161.165, subdivisions 2, 3, 4; 161.166, subdivisions 2, 3.

Reports the same back with the recommendation that the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Senator Higgins from the Committee on State and Local Government Operations, to which was re-referred

S.F. No. 2583: A bill for an act relating to natural resources; modifying the forest resources Interagency Information Cooperative; modifying the State Timber Act; modifying provisions for timber sales on tax-forfeited land; amending Minnesota Statutes 2002, sections 89A.09, subdivision 1; 90.02; 90.181, subdivision 2; 90.191, subdivision 2, by adding a subdivision; 90.252; 282.04, subdivision 1; Minnesota Statutes 2003 Supplement, sections 90.101, subdivision 1; 90.14; 90.151, subdivision 1; repealing Minnesota Statutes 2003 Supplement, section 90.191, subdivisions 3, 4.

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

Senator Scheid from the Committee on Commerce, to which was referred

S.F. No. 2696: A bill for an act relating to liquor; clarifying restrictions on location of retail licenses in proximity to certain institutions; amending Minnesota Statutes 2002, section 340A.412, subdivision 4.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2003 Supplement, section 340A.301, subdivision 6, is amended to read:

Subd. 6. [FEES.] The annual fees for licenses under this section are as follows:

(a) Manufacturers (except as provided in clauses (b) and (c))	\$15,000
Duplicates	\$3,000
(b) Manufacturers of wines of not more than 25 percent alcohol by volume	\$500
(c) Brewers other than those described in clauses (d) and (i) who manufacture more than 3,500 barrels of malt liquor in a year	\$2,500
(d) Brewers who also hold one or more retail on-sale licenses and who manufacture fewer than 3,500 barrels of malt liquor in a year, at any one licensed premises, using only wort produced in Minnesota, the entire production of which is solely for consumption on tap on the licensed premises or for off-sale from that licensed premises. A brewer licensed under this clause must obtain a separate license for each licensed premises where the brewer brews malt liquor. A brewer licensed under this clause may not be licensed as an importer under this chapter	\$500
(e) Wholesalers (except as provided in clauses (f), (g), and (h))	\$15,000
Duplicates	\$3,000
(f) Wholesalers of wines of not more than 25 percent alcohol by volume	\$2,000
(g) Wholesalers of intoxicating malt liquor	\$600
Duplicates	\$25
(h) Wholesalers of 3.2 percent malt liquor	\$10
(i) Brewers who manufacture fewer than 2,000 barrels of malt liquor in a year	\$150
(j) <u>Brewers who manufacture 2,000 to 3,500 barrels of malt liquor in a year</u>	<u>\$500</u>

If a business licensed under this section is destroyed, or damaged to the extent that it cannot be carried on, or if it ceases because of the death or illness of the licensee, the commissioner may refund the license fee for the balance of the license period to the licensee or to the licensee's estate.

Sec. 2. Minnesota Statutes 2003 Supplement, section 340A.301, subdivision 7, is amended to read:

Subd. 7. [INTEREST IN OTHER BUSINESS.] (a) Except as provided in this subdivision, a holder of a license as a manufacturer, brewer, importer, or wholesaler may not have any ownership, in whole or in part, in a business holding a retail intoxicating liquor or 3.2 percent malt liquor license. The commissioner may not issue a license under this section to a manufacturer, brewer, importer, or wholesaler if a retailer of intoxicating liquor has a direct or indirect interest in

the manufacturer, brewer, importer, or wholesaler. A manufacturer or wholesaler of intoxicating liquor may use or have property rented for retail intoxicating liquor sales only if the manufacturer or wholesaler has owned the property continuously since November 1, 1933. A retailer of intoxicating liquor may not use or have property rented for the manufacture or wholesaling of intoxicating liquor.

(b) A brewer licensed under subdivision 6, clause (d), may be issued an on-sale intoxicating liquor or 3.2 percent malt liquor license by a municipality for a restaurant operated in the place of manufacture. Notwithstanding section 340A.405, a brewer who holds an on-sale license issued pursuant to this paragraph or a brewer who manufactures fewer than 3,500 barrels of malt liquor in a year may, with the approval of the commissioner, be issued a license by a municipality for off-sale of malt liquor produced and packaged on the licensed premises. Off-sale of malt liquor shall be limited to the legal hours for off-sale at exclusive liquor stores in the jurisdiction in which the brewer is located, and the malt liquor sold off-sale must be removed from the premises before the applicable off-sale closing time at exclusive liquor stores. The malt liquor shall be packaged in 64-ounce containers commonly known as "growlers." The containers shall bear a twist-type closure, cork, stopper, or plug. At the time of the sale, a paper or plastic adhesive band, strip, or sleeve shall be applied to the container and extend over the top of the twist-type closure, cork, stopper, or plug forming a seal that must be broken upon opening of the container. The adhesive band, strip, or sleeve shall bear the name and address of the brewer. The containers shall be identified as malt liquor, contain the name of the malt liquor, bear the name and address of the brewer selling the malt liquor, and shall be considered intoxicating liquor unless the alcoholic content is labeled as otherwise in accordance with the provisions of Minnesota Rules, part 7515.1100. A brewer's total retail sales at on- or off-sale under this paragraph may not exceed 3,500 barrels per year, provided that off-sales may not total more than 50 percent of the brewer's production or 500 barrels, whichever is less. A brewer licensed under subdivision 6, clause (d), may hold or have an interest in other retail on-sale licenses, but may not have an ownership interest in whole or in part, or be an officer, director, agent, or employee of, any other manufacturer, brewer, importer, or wholesaler, or be an affiliate thereof whether the affiliation is corporate or by management, direction, or control. Notwithstanding this prohibition, a brewer licensed under subdivision 6, clause (d), may be an affiliate or subsidiary company of a brewer licensed in Minnesota or elsewhere if that brewer's only manufacture of malt liquor is:

- (i) manufacture licensed under subdivision 6, clause (d);
- (ii) manufacture in another state for consumption exclusively in a restaurant located in the place of manufacture; or
- (iii) manufacture in another state for consumption primarily in a restaurant located in or immediately adjacent to the place of manufacture if the brewer was licensed under subdivision 6, clause (d), on January 1, 1995.

(c) Except as provided in subdivision 7a, no brewer as defined in subdivision 7a or importer may have any interest, in whole or in part, directly or indirectly, in the license, business, assets, or corporate stock of a licensed malt liquor wholesaler.

Sec. 3. Minnesota Statutes 2002, section 340A.404, subdivision 10, is amended to read:

Subd. 10. [TEMPORARY ON-SALE LICENSES.] (a) The governing body of a municipality may issue to (1) a club or charitable, religious, or other nonprofit organization in existence for at least three years, (2) a political committee registered under section 10A.14, or (3) a state university, a temporary license for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the licensee. The license may authorize the on-sale of intoxicating liquor for not more than four consecutive days, and may authorize on-sales on premises other than premises the licensee owns or permanently occupies. The license may provide that the licensee may contract for intoxicating liquor catering services with the holder of a full-year on-sale intoxicating liquor license issued by any municipality. The licenses are subject to the terms, including a license fee, imposed by the issuing municipality. Licenses issued under this subdivision are subject to all laws and ordinances governing the sale of intoxicating liquor except sections 340A.409 and 340A.504, subdivision 3, paragraph (d), and those laws and ordinances

which by their nature are not applicable. Licenses under this subdivision are not valid unless first approved by the commissioner of public safety.

(b) A county under this section may issue a temporary license only to a premises located in the unincorporated or unorganized territory of the county.

(c) The governing body of a municipality may issue to a brewer who manufactures fewer than 3,500 barrels of malt liquor in a year a temporary license for the on-sale of intoxicating liquor in connection with a social event within the municipality sponsored by the brewer. The terms and conditions specified for temporary licenses under paragraph (a) shall apply to a license issued under this paragraph, except that the requirements of section 340A.409 shall apply to such license.

Sec. 4. Minnesota Statutes 2002, section 340A.412, subdivision 4, is amended to read:

Subd. 4. [LICENSES PROHIBITED IN CERTAIN AREAS.] (a) No license to sell intoxicating liquor may be issued within the following areas:

(1) where restricted against commercial use through zoning ordinances and other proceedings or legal processes regularly had for that purpose, except licenses may be issued to restaurants in areas which were restricted against commercial uses after the establishment of the restaurant;

(2) within the capitol or on the capitol grounds, except as provided under Laws 1983, chapter 259, section 9, or Laws 1999, chapter 202, section 13;

(3) on the state fairgrounds or at any place in a city of the first class within one-half mile of the fairgrounds, except as otherwise provided by charter;

(4) on the campus of the College of Agriculture of the University of Minnesota or at any place in a city of the first class within one-half mile of the campus, provided that a city may issue one on-sale wine license in this area that is not included in the area described in clause (3), except as provided by charter;

(5) within 1,000 feet of a state hospital, training school, reformatory, prison, or other institution under the supervision or control, in whole or in part, of the commissioner of human services or the commissioner of corrections, provided that this restriction does not apply to a county jail;

(6) in a town or municipality in which a majority of votes at the last election at which the question of license was voted upon were not in favor of license under section 340A.416, or within one-half mile of any such town or municipality, except that intoxicating liquor manufactured within this radius may be sold to be consumed outside it;

(7) at any place on the east side of the Mississippi River within one-tenth of a mile of the main building of the University of Minnesota unless (i) the licensed establishment is on property owned or operated by a nonprofit corporation organized prior to January 1, 1940, for and by former students of the University of Minnesota, or (ii) the licensed premises is Northrop Auditorium;

(8) within 1,500 feet of a state university, except that:

(i) the minimum distance in the case of Winona and Southwest State University is 1,200 feet, measured by a direct line from the nearest corner of the administration building to the main entrance of the licensed establishment;

(ii) within 1,500 feet of St. Cloud State University one on-sale wine and two off-sale intoxicating liquor licenses may be issued, measured by a direct line from the nearest corner of the administration building to the main entrance of the licensed establishment;

(iii) at Mankato State University the distance is measured from the front door of the student union of the Highland campus;

(iv) a temporary license under section 340A.404, subdivision 10, may be issued to a location on the grounds of a state university for an event sponsored or approved by the state university; and

(v) this restriction does not apply to the area surrounding the premises leased by Metropolitan State University at 730 Hennepin Avenue South in Minneapolis; and

(9) within 1,500 feet of any public school that is not within a city.

(b) The restrictions of this subdivision do not apply to a manufacturer or wholesaler of intoxicating liquor or to a drugstore or to a person who had a license originally issued lawfully prior to July 1, 1967.

Sec. 5. Minnesota Statutes 2003 Supplement, section 340A.504, subdivision 1, is amended to read:

Subdivision 1. [3.2 PERCENT MALT LIQUOR.] No sale of 3.2 percent malt liquor may be made between 2:00 a.m. and 8:00 a.m. on the days of Monday through Saturday, nor between 2:00 a.m. and ~~12:00 noon~~ 10:00 a.m. on Sunday, ~~provided that an establishment located on land owned by the Metropolitan Sports Commission, or the sports arena for which one or more licenses have been issued under section 340A.404, subdivision 2, paragraph (c), may sell 3.2 percent malt liquor between 10:00 a.m. and 12:00 noon on a Sunday on which a sports or other event is scheduled to begin at that location on or before 1:00 p.m. of that day.~~

Sec. 6. Minnesota Statutes 2003 Supplement, section 340A.504, subdivision 3, is amended to read:

Subd. 3. [INTOXICATING LIQUOR; SUNDAY SALES; ON-SALE.] (a) A restaurant, club, bowling center, or hotel with a seating capacity for at least 30 persons and which holds an on-sale intoxicating liquor license may sell intoxicating liquor for consumption on the premises in conjunction with the sale of food between the hours of ~~12:00 noon~~ 10:00 a.m. on Sundays and 2:00 a.m. on Mondays.

(b) ~~The governing body of a municipality may after one public hearing by ordinance permit a restaurant, hotel, bowling center, or club to sell alcoholic beverages for consumption on the premises in conjunction with the sale of food between the hours of 10:00 a.m. on Sundays and 2:00 a.m. on Mondays, provided that the licensee is in conformance with the Minnesota Clean Air Act.~~

(e) An establishment serving intoxicating liquor on Sundays must obtain a Sunday license. The license must be issued by the governing body of the municipality for a period of one year, and the fee for the license may not exceed \$200.

(d) (c) A city may issue a Sunday intoxicating liquor license only if authorized to do so by the voters of the city voting on the question at a general or special election. A county may issue a Sunday intoxicating liquor license in a town only if authorized to do so by the voters of the town as provided in paragraph (e) (d). A county may issue a Sunday intoxicating liquor license in unorganized territory only if authorized to do so by the voters of the election precinct that contains the licensed premises, voting on the question at a general or special election.

(e) (d) An election conducted in a town on the question of the issuance by the county of Sunday sales licenses to establishments located in the town must be held on the day of the annual election of town officers.

(f) (e) Voter approval is not required for licenses issued by the Metropolitan Airports Commission or common carrier licenses issued by the commissioner. Common carriers serving intoxicating liquor on Sunday must obtain a Sunday license from the commissioner at an annual fee of \$50, plus \$20 for each duplicate.

Sec. 7. Minnesota Statutes 2002, section 340A.504, subdivision 4, is amended to read:

Subd. 4. [INTOXICATING LIQUOR; OFF-SALE.] No sale of intoxicating liquor may be made by an off-sale licensee:

(1) on Sundays;

(2) before 8:00 a.m. or after 10:00 p.m. on Monday through Saturday;

(3) after 10:00 p.m. on Monday through Saturday at an establishment located in a city other than a city of the first class or within a city located within 15 miles of a city of the first class in the same county;

(4) after 8:00 p.m. on Monday through Thursday and after 10:00 p.m. on Friday and Saturday at an establishment located in a city of the first class or within a city located within 15 miles of a city of the first class in the same county, provided that an establishment may sell intoxicating liquor until 10:00 p.m. on December 31 and July 3, and on the day preceding Thanksgiving day, unless otherwise prohibited under clause (1);

(5) on Thanksgiving Day;

(6) (4) on Christmas Day, December 25; or

(7) (5) after 8:00 p.m. on Christmas Eve, December 24.

Sec. 8. Minnesota Statutes 2003 Supplement, section 340A.510, subdivision 2, is amended to read:

Subd. 2. [MALT LIQUOR SAMPLES AUTHORIZED.] (a) Notwithstanding section 340A.308, a brewer may purchase from or furnish at no cost to a licensed retailer malt liquor the brewer manufactures if:

(1) the malt liquor is dispensed by the retailer only for samples in a quantity of less than 100 milliliters of malt liquor per variety per customer;

(2) where the brewer furnishes the malt liquor, the retailer makes available for return to the brewer any unused malt liquor and empty containers;

(3) the samples are dispensed by an employee of the retailer or brewer or by a sampling service retained by the retailer or brewer and not affiliated directly or indirectly with a malt liquor wholesaler;

(4) not more than three cases of malt liquor are purchased from or furnished to the retailer by the brewer for each sampling;

(5) each sampling continues for not more than eight hours;

(6) the brewer has furnished malt liquor for not more than five samplings for any retailer in any calendar year;

(7) where the brewer furnishes the malt liquor, the brewer delivers the malt liquor for the sampling to its exclusive wholesaler for that malt liquor;

(8) the brewer has at least seven days before the sampling filed with the commissioner, on a form the commissioner prescribes, written notice of intent to furnish malt liquor for the sampling, which contains (i) the name and address of the retailer conducting the sampling, (ii) the maximum amount of malt liquor to be furnished or purchased by the brewer, (iii) the number of times the brewer has furnished malt liquor to the retailer in the calendar year in which the notice is filed, (iv) the date and time of the sampling, (v) where the brewer furnishes the malt liquor, the exclusive wholesaler to whom the brewer will deliver the malt liquor, and (vi) a statement by the brewer to the effect that to the brewer's knowledge all requirements of this section have been or will be complied with; and

(9) the commissioner has not notified the brewer filing the notice under clause (8) that the commissioner disapproves the notice.

(b) For purposes of this subdivision, "licensed retailer" means a licensed on-sale or off-sale retailer of alcoholic beverages and a municipal liquor store.

(c) A brewer may provide samples of its own products on its premises to persons touring the brewery in a quantity of less than 100 milliliters of malt liquor per variety per person.

Sec. 9. [340A.910] [SEVERABILITY.]

In the event that a court of competent jurisdiction holds that any section of this chapter is unconstitutional or otherwise invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provisions or application, and to this end the provisions of chapter 340A are severable.

Sec. 10. Laws 2003, chapter 126, section 28, is amended to read:

Sec. 28. [ELKO SPEEDWAY; ON-SALE LICENSE.]

Notwithstanding Minnesota Statutes, section 340A.404, subdivision 1, the city of Elko may issue an on-sale intoxicating liquor license to the Elko Speedway in addition to the number authorized by law. The license may authorize sales only to persons attending racing events at the speedway. The license authorizes sales on all days of the week. All provisions of Minnesota Statutes, chapter 340A, not inconsistent with this provision, apply to the license authorized under this section. The license may be issued for a space that is not compact and contiguous, provided that the licensed premises may include only the space within the fenced grandstand area as described in the approved license application.

Sec. 11. Laws 2003, chapter 126, section 29, is amended to read:

Sec. 29. [WINE AND MALT LIQUOR LICENSES; STATE FAIR.]

(a) Notwithstanding Minnesota Statutes, sections 37.21 and 340A.412, subdivision 4, paragraph (a), clause (3), the city of St. Paul Ramsey County may issue a license to the holder of a state fair concessions contract with the state agricultural society which authorizes the licensee to sell (i) Minnesota-produced wine by the glass at the state fair in connection with the sale of food by the concessionaire; or (ii) Minnesota-produced malt liquor. All provisions of Minnesota Statutes, chapter 340A, not inconsistent herewith, apply to licenses issued under this section.

(b) For purposes of this section "Minnesota-produced wine" means wine produced by a farm winery licensed under Minnesota Statutes, section 340A.315, and made from at least 75 percent Minnesota-grown grapes, grape juice, other fruit bases, other juices, and honey.

Sec. 12. [WADE MUNICIPAL STADIUM; LIQUOR LICENSE.]

Notwithstanding any other law to the contrary, the city of Duluth may issue an on-sale wine and malt liquor license in addition to the number authorized by law for the premises known as Wade Municipal Stadium, for use during baseball games and other events sponsored by the Duluth Huskies. The license may authorize the sale and consumption of wine and malt liquor in the grandstand and dining areas of the stadium. The license authorizes sales on all days of the week.

Sec. 13. [CITY OF MINNEAPOLIS; LIQUOR LICENSE.]

Notwithstanding any law, ordinance, or charter provision to the contrary, the city of Minneapolis may issue an intoxicating liquor license to an establishment located at 2200 Como Avenue Southeast, which currently holds an on-sale wine license.

Sec. 14. [STATE CAPITOL CENTENNIAL EVENTS.]

Notwithstanding any other law to the contrary, the city of St. Paul may issue an on-sale wine and malt liquor license to the Capitol 2005 Commission or Friends of the Minnesota State Capitol for special events held in the State Capitol and on the capitol grounds relating to the centennial anniversary of the Capitol Building. The license authorized by this section is valid from November 30, 2004, to January 2, 2006. All provisions of Minnesota Statutes, chapter 340A, not inconsistent with this section, apply to the license authorized by this section.

Sec. 15. [EFFECTIVE DATE.]

Section 1 is effective July 1, 2004. Sections 2, 8, and 9 are effective the day following final enactment. Section 10 is effective on approval by the Elko city council and compliance with Minnesota Statutes, section 645.021."

Delete the title and insert:

"A bill for an act relating to liquor; providing for conformity in license fees and production levels for brewpubs and small brewers; authorizing issuance of temporary licenses to small brewers; authorizing off-sale of growlers by small brewers; clarifying restrictions on location of retail licenses in proximity to certain institutions; providing for uniform off-sale hours statewide; regulating Sunday on-sales; modifying sampling provisions; providing that the on-sale license for Elko Speedway authorizes sales on all days of the week; changing the issuer of a certain license at the state fair; authorizing the city of Duluth to issue a liquor license for Wade Municipal Stadium; authorizing the city of St. Paul to issue a liquor license for special events at the State Capitol; amending Minnesota Statutes 2002, sections 340A.404, subdivision 10; 340A.412, subdivision 4; 340A.504, subdivision 4; Minnesota Statutes 2003 Supplement, sections 340A.301, subdivisions 6, 7; 340A.504, subdivisions 1, 3; 340A.510, subdivision 2; Laws 2003, chapter 126, section 28; Laws 2003, chapter 126, section 29; proposing coding for new law in Minnesota Statutes, chapter 340A."

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

Senator Marty from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2621: A bill for an act relating to the environment; providing for exemptions from environmental review for ethanol plants; amending Minnesota Statutes 2003 Supplement, section 116D.04, subdivision 2a.

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

Page 1, line 24, after "No" insert "mandatory"

Page 2, line 1, delete "uses less than 100,000,000 gallons of water" and insert "produces less than 125,000,000 gallons of ethanol"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Anderson from the Committee on Jobs, Energy and Community Development, to which was referred

S.F. No. 2622: A bill for an act relating to consumer protection; providing criminal penalties involving the transmission of certain e-mail messages; classifying a violation of this provision as a designated offense in the forfeiture laws; amending Minnesota Statutes 2002, section 609.531, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 325E.

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

Page 4, line 30, delete "or"

Page 4, line 33, after the semicolon, insert "or

(6) conspires to do any of the foregoing;"

Page 4, line 35, after "(b)" insert "Except as provided in paragraph (c) or (d),"

Page 4, line 36, delete "gross misdemeanor" and insert "felony and may be sentenced to imprisonment for not more than two years or to payment of a fine of not more than \$4,000, or both,"

Page 5, after line 19, insert:

"(c) Except as provided in paragraph (d), a person who violates paragraph (a) in a manner described in paragraph (b), is guilty of a felony and may be sentenced to imprisonment for not more than three years or to a payment of a fine of not more than \$5,000, or both, if:

(1) the person knowingly assisted in a violation of this section through the provision or selection of addresses to which the message was transmitted; and

(2) the person knew that electronic mail addresses of such recipients were obtained using an automated means:

(i) from an Internet Web site or proprietary online service operated by another person, and that such Web site or online service included, at the time the addresses were obtained, a notice stating that the operator of such Web site or online service will not transfer addresses maintained by such Web site or online service to any other party for the purposes of initiating, or enabling others to initiate, electronic mail messages; or

(ii) that generates possible electronic mail addresses by combining names, letters, or numbers into numerous permutations."

Page 5, line 20, delete "(c)" and insert "(d)"

Page 5, line 26, delete "two" and insert "five"

Page 5, line 27, delete "\$4,000" and insert "\$10,000"

And when so amended the bill do pass and be re-referred to the Committee on Crime Prevention and Public Safety.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Senator Anderson from the Committee on Jobs, Energy and Community Development, to which was re-referred

S.F. No. 2747: A bill for an act relating to education; creating an education telecommunications fund; providing support for kindergarten through grade 12 schools and public library telecommunications networks; providing for an access fee; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 125B.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Finance.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Senator Lourey from the Committee on Health and Family Security, to which was referred

S.F. No. 2639: A bill for an act relating to human services; council on disability; permitting the council to meet by telephone or electronic means if certain conditions are met; amending Minnesota Statutes 2002, section 256.482, by adding a subdivision.

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

Page 1, line 18, delete "and testimony"

Page 1, line 19, before the semicolon, insert "and participate in testimony"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Lourey from the Committee on Health and Family Security, to which was referred

S.F. No. 2080: A bill for an act relating to health; modifying requirements for outpatient surgical centers; requiring licensure of diagnostic imaging facilities; modifying procedures for the Board of Medical Practice; requiring rule amendments; amending Minnesota Statutes 2002, sections 144.55, subdivisions 1, 2, 3, 5, 6, 7; 144.651, subdivision 2; 144.653, subdivision 4; 144.696, by adding a subdivision; 144.698, subdivisions 1, 2, 3, 5; 144.699, subdivisions 1, 2; 144.701, subdivisions 1, 2, 3; 144.702, subdivisions 1, 2, 3; 147.091, subdivision 1; 256B.0644; Minnesota Statutes 2003 Supplement, section 144.7063, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 144.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 144.55, subdivision 1, is amended to read:

Subdivision 1. [ISSUANCE.] The state commissioner of health is hereby authorized to issue licenses to operate hospitals, sanitariums, outpatient surgical centers, or other institutions for the hospitalization or care of human beings, which are found to comply with the provisions of sections 144.50 to 144.56 and any reasonable rules promulgated by the commissioner. The commissioner shall not require an outpatient surgical center licensed as part of a hospital to obtain a separate outpatient surgical center license. All decisions of the commissioner thereunder may be reviewed in the district court in the county in which the institution is located or contemplated.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 2. Minnesota Statutes 2002, section 144.55, is amended by adding a subdivision to read:

Subd. 1a. [LICENSE FEE.] The annual license fee for outpatient surgical centers is \$1,512.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 3. Minnesota Statutes 2002, section 144.55, is amended by adding a subdivision to read:

Subd. 1b. [STANDARDS FOR NURSING CARE.] As a condition of licensure, outpatient surgical centers must provide nursing care consistent with nationally accepted nursing clinical standards for perioperative nursing, including, but not limited to Association of Operating Room Nurses and American Nurses Association standards, which are generally accepted in the professional nursing community.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 4. Minnesota Statutes 2002, section 144.55, subdivision 2, is amended to read:

Subd. 2. [DEFINITION DEFINITIONS.] For the purposes of this section, the following terms have the meanings given:

(a) "Outpatient surgical center" or "center" means a freestanding facility organized for the specific purpose of providing elective outpatient surgery for preexamined, prediagnosed, low-risk patients. Admissions are limited to procedures that utilize general anesthesia or conscious sedation and that do not require overnight inpatient care. An outpatient surgical center is not organized to provide regular emergency medical services and does not include a physician's or dentist's office or clinic for the practice of medicine, the practice of dentistry, or the delivery of primary care.

(b) "Joint commission" means the Joint Commission on Accreditation of Hospitals Health Care Organizations.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 5. Minnesota Statutes 2002, section 144.55, subdivision 3, is amended to read:

Subd. 3. [STANDARDS FOR LICENSURE.] (a) Notwithstanding the provisions of section 144.56, for the purpose of hospital licensure, the commissioner of health shall use as minimum standards the hospital certification regulations promulgated pursuant to Title XVIII of the Social Security Act, United States Code, title 42, section 1395, et seq. The commissioner may use as minimum standards changes in the federal hospital certification regulations promulgated after May 7, 1981, if the commissioner finds that such changes are reasonably necessary to protect public health and safety. The commissioner shall also promulgate in rules additional minimum standards for new construction.

(b) Each hospital and outpatient surgical center shall establish policies and procedures to prevent the transmission of human immunodeficiency virus and hepatitis B virus to patients and within the health care setting. The policies and procedures shall be developed in conformance with the most recent recommendations issued by the United States Department of Health and Human Services, Public Health Service, Centers for Disease Control. The commissioner of health shall evaluate a hospital's compliance with the policies and procedures according to subdivision 4.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 6. Minnesota Statutes 2002, section 144.55, subdivision 5, is amended to read:

Subd. 5. [COORDINATION OF INSPECTIONS.] Prior to conducting routine inspections of hospitals and outpatient surgical centers, a state agency shall notify the commissioner of its intention to inspect. The commissioner shall then determine whether the inspection is necessary in light of any previous inspections conducted by the commissioner, any other state agency, or the joint commission. The commissioner shall notify the agency of the determination and may authorize the agency to conduct the inspection. No state agency may routinely inspect any hospital without the authorization of the commissioner. The commissioner shall coordinate, insofar as is possible, routine inspections conducted by state agencies, so as to minimize the number of inspections to which hospitals are subject.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 7. Minnesota Statutes 2002, section 144.55, subdivision 6, is amended to read:

Subd. 6. [SUSPENSION, REVOCATION, AND REFUSAL TO RENEW.] (a) The commissioner may refuse to grant or renew, or may suspend or revoke, a license on any of the following grounds:

(1) Violation of any of the provisions of sections 144.50 to 144.56 or the rules or standards issued pursuant thereto, or Minnesota Rules, chapters 4650 and 4675;

(2) Permitting, aiding, or abetting the commission of any illegal act in the institution;

(3) Conduct or practices detrimental to the welfare of the patient; or

(4) Obtaining or attempting to obtain a license by fraud or misrepresentation; or

(5) With respect to hospitals and outpatient surgical centers, if the commissioner determines that there is a pattern of conduct that one or more physicians who have a "financial or economic interest", as defined in section 144.6521, subdivision 3, in the hospital or outpatient surgical center, have not provided the notice and disclosure of the financial or economic interest required by section 144.6521.

(b) The commissioner shall not renew a license for a boarding care bed in a resident room with more than four beds.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 8. Minnesota Statutes 2002, section 144.55, subdivision 7, is amended to read:

Subd. 7. [HEARING.] Prior to any suspension, revocation or refusal to renew a license, the licensee shall be entitled to notice and a hearing as provided by sections 14.57 to 14.69. At each

hearing, the commissioner shall have the burden of establishing that a violation described in subdivision 6 has occurred.

If a license is revoked, suspended, or not renewed, a new application for license may be considered by the commissioner if the conditions upon which revocation, suspension, or refusal to renew was based have been corrected and evidence of this fact has been satisfactorily furnished. A new license may then be granted after proper inspection has been made and all provisions of sections 144.50 to 144.56 and any rules promulgated thereunder, or Minnesota Rules, chapters 4650 and 4675, have been complied with and recommendation has been made by the inspector as an agent of the commissioner.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 9. [144.565] [DIAGNOSTIC IMAGING FACILITIES.]

Subdivision 1. [UTILIZATION AND SERVICES DATA; ECONOMIC AND FINANCIAL INTERESTS.] The commissioner shall require diagnostic imaging facilities to annually report to the commissioner, in the form and manner specified by the commissioner:

- (1) utilization data by individual payor;
- (2) medical service data by individual payor; and
- (3) the names of all individuals with a financial or economic interest in the facility.

Subd. 2. [COMMISSIONER'S RIGHT TO INSPECT RECORDS.] If the report is not filed or the commissioner of health has reason to believe the report is incomplete or false, the commissioner shall have the right to inspect diagnostic imaging facility books, audits, and records.

Subd. 3. [SEPARATE REPORTS.] For a diagnostic imaging facility that is not attached or not contiguous to a hospital or a hospital affiliate, the commissioner shall require the information in subdivision 1 be reported separately for each detached diagnostic imaging facility as part of the report required under section 144.702. If any entity owns more than one diagnostic imaging facility, that entity must report by individual facility.

Subd. 4. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given:

(a) "Diagnostic imaging facility" means a health care facility that provides diagnostic imaging services through the use of ionizing radiation or other imaging technique including, but not limited to magnetic resonance imaging (MRI) or computerized tomography (CT) scan on a freestanding or mobile basis.

(b) "Financial or economic interest" means a direct or indirect:

(1) equity or debt security issued by an entity, including, but not limited to, shares of stock in a corporation, membership in a limited liability company, beneficial interest in a trust, units or other interests in a partnership, bonds, debentures, notes or other equity interests or debt instruments, or any contractual arrangements;

(2) membership, proprietary interest, or co-ownership with an individual, group, or organization to which patients, clients, or customers are referred to; or

(3) employer-employee or independent contractor relationship, including, but not limited to, those that may occur in a limited partnership, profit-sharing arrangement, or other similar arrangement with any facility to which patients are referred, including any compensation between a facility and a health care provider, the group practice of which the provider is a member or employee or a related party with respect to any of them.

(c) "Freestanding" means a diagnostic imaging facility that is not located within a:

- (1) hospital;

(2) location licensed as a hospital; or

(3) physician's office or clinic where the professional practice of medicine by licensed physicians is the primary purpose and not the provision of ancillary services such as diagnostic imaging.

(d) "Mobile" means a diagnostic imaging facility that is transported to various sites not including movement within a hospital or a physician's office or clinic.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 10. Minnesota Statutes 2002, section 144.651, subdivision 2, is amended to read:

Subd. 2. **[DEFINITIONS.]** For the purposes of this section, "patient" means a person who is admitted to an acute care inpatient facility for a continuous period longer than 24 hours, for the purpose of diagnosis or treatment bearing on the physical or mental health of that person. For purposes of subdivisions 4 to 9, 12, 13, 15, 16, and 18 to 20, "patient" also means a person who receives health care services at an outpatient surgical center. "Patient" also means a minor who is admitted to a residential program as defined in section 253C.01. For purposes of subdivisions 1, 3 to 16, 18, 20 and 30, "patient" also means any person who is receiving mental health treatment on an outpatient basis or in a community support program or other community-based program. "Resident" means a person who is admitted to a nonacute care facility including extended care facilities, nursing homes, and boarding care homes for care required because of prolonged mental or physical illness or disability, recovery from injury or disease, or advancing age. For purposes of all subdivisions except subdivisions 28 and 29, "resident" also means a person who is admitted to a facility licensed as a board and lodging facility under Minnesota Rules, parts 4625.0100 to 4625.2355, or a supervised living facility under Minnesota Rules, parts 4665.0100 to 4665.9900, and which operates a rehabilitation program licensed under Minnesota Rules, parts 9530.4100 to 9530.4450.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 11. [144.6521] **[DISCLOSURE OF FINANCIAL INTEREST.]**

Subdivision 1. [DISCLOSURE.] No health care provider with a financial or economic interest in, or an employment or contractual arrangement that limits referral options with, a hospital, outpatient surgical center or diagnostic imaging facility, or an affiliate of one of these entities, shall refer a patient to that hospital, center, or facility, or an affiliate of one of these entities, unless the health care provider discloses in writing to the patient, in advance of the referral, the existence of such an interest, employment, or arrangement.

The written disclosure form must be printed in letters of at least 12-point boldface type and must read as follows: "Your health care provider is referring you to a facility or service in which your health care provider has a financial or economic interest."

Hospitals, outpatient surgical centers, and diagnostic imaging facilities shall promptly report to the commissioner of health any suspected violations of this section by a health care provider who has made a referral to such hospital, outpatient surgical center, or diagnostic imaging facility without providing the written notice.

Subd. 2. [POSTING OF NOTICE.] In addition to the requirement in subdivision 1, each health care provider who makes referrals to a hospital, outpatient surgical center or diagnostic imaging facility, or an affiliate of one of these entities in which the health care provider has a financial or economic interest, or has an employment or contractual arrangement with one of these entities that limits referral options, shall post a notice of this interest, employment, or arrangement in a patient reception area or waiting room or other conspicuous public location within the provider's facility.

Subd. 3. [DEFINITION.] (a) For purposes of this section, the following definitions apply.

(b) "Affiliate" means an entity that controls, is controlled by, or is under common control with another entity.

(c) "Diagnostic imaging facility" has the meaning provided in section 144.565, subdivision 4.

(d) "Employment or contractual arrangement that limits referral options" means a requirement of, or a financial incentive, provided to a health care provider to refer a patient to a specific hospital, outpatient surgical center or diagnostic imaging facility, or an affiliate of one of these entities even if other options exist for the patient.

(e) "Freestanding" has the meaning provided in section 144.565, subdivision 4.

(f) "Financial or economic interest" means a direct or indirect:

(1) equity or debt security issued by an entity, including, but not limited to, shares of stock in a corporation, membership in a limited liability company, beneficial interest in a trust, units or other interests in a partnership, bonds, debentures, notes or other equity interests or debt instruments, or any contractual arrangements;

(2) membership, proprietary interest, or co-ownership with an individual, group, or organization to which patients, clients, or customers are referred to; or

(3) employer-employee or independent contractor relationship, including, but not limited to, those that may occur in a limited partnership, profit-sharing arrangement, or other similar arrangement with any facility to which patients are referred, including any compensation between a facility and a health care provider, the group practice of which the provider is a member or employee or a related party with respect to any of them.

(g) "Health care provider" means an individual licensed by a health licensing board as defined in section 214.01, subdivision 2, who has the authority, within the individual's scope of practice, to make referrals to a hospital, outpatient surgical center, or diagnostic imaging facility.

(h) "Mobile" has the meaning provided in section 144.565, subdivision 4.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 12. Minnesota Statutes 2002, section 144.653, subdivision 4, is amended to read:

Subd. 4. [WITHOUT NOTICE.] One or more unannounced inspections of each facility required to be licensed under the provisions of sections 144.50 to 144.58 or Minnesota Rules, chapter 4675, shall be made annually.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 13. Minnesota Statutes 2002, section 144.698, subdivision 1, is amended to read:

Subdivision 1. [YEARLY REPORTS.] Each hospital and each outpatient surgical center, which has not filed the financial information required by this section with a voluntary, nonprofit reporting organization pursuant to section 144.702, shall file annually with the commissioner of health after the close of the fiscal year:

(1) a balance sheet detailing the assets, liabilities, and net worth of the hospital or outpatient surgical center;

(2) a detailed statement of income and expenses;

(3) a copy of its most recent cost report, if any, filed pursuant to requirements of Title XVIII of the United States Social Security Act;

(4) a copy of all changes to articles of incorporation or bylaws;

(5) information on services provided to benefit the community, including services provided at no cost or for a reduced fee to patients unable to pay, teaching and research activities, or other community or charitable activities;

(6) information required on the revenue and expense report form set in effect on July 1, 1989, or as amended by the commissioner in rule; ~~and~~

(7) information on changes in ownership or control; and

(8) other information required by the commissioner in rule.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 14. Minnesota Statutes 2002, section 144.698, subdivision 5, is amended to read:

Subd. 5. **[COMMISSIONER'S RIGHT TO INSPECT RECORDS.]** If the report is not filed or the commissioner of health has reason to believe the report is incomplete or false, the commissioner shall have the right to inspect hospital and outpatient surgical center books, audits, and records as reasonably necessary to verify hospital and outpatient surgical center reports.

Sec. 15. Minnesota Statutes 2003 Supplement, section 144.7063, subdivision 3, is amended to read:

Subd. 3. **[FACILITY.]** "Facility" means a hospital or outpatient surgical center licensed under sections 144.50 to 144.58.

[EFFECTIVE DATE.] This section is effective August 1, 2004, or on the date of full implementation of the adverse health care events reporting system as provided in Laws 2003, chapter 99, section 7, whichever is later.

Sec. 16. Minnesota Statutes 2002, section 147.091, subdivision 1, is amended to read:

Subdivision 1. **[GROUNDS LISTED.]** The board may refuse to grant a license, may refuse to grant registration to perform interstate telemedicine services, or may impose disciplinary action as described in section 147.141 against any physician. The following conduct is prohibited and is grounds for disciplinary action:

(a) Failure to demonstrate the qualifications or satisfy the requirements for a license contained in this chapter or rules of the board. The burden of proof shall be upon the applicant to demonstrate such qualifications or satisfaction of such requirements.

(b) Obtaining a license by fraud or cheating, or attempting to subvert the licensing examination process. Conduct which subverts or attempts to subvert the licensing examination process includes, but is not limited to: (1) conduct which violates the security of the examination materials, such as removing examination materials from the examination room or having unauthorized possession of any portion of a future, current, or previously administered licensing examination; (2) conduct which violates the standard of test administration, such as communicating with another examinee during administration of the examination, copying another examinee's answers, permitting another examinee to copy one's answers, or possessing unauthorized materials; or (3) impersonating an examinee or permitting an impersonator to take the examination on one's own behalf.

(c) Conviction, during the previous five years, of a felony reasonably related to the practice of medicine or osteopathy. Conviction as used in this subdivision shall include a conviction of an offense which if committed in this state would be deemed a felony without regard to its designation elsewhere, or a criminal proceeding where a finding or verdict of guilt is made or returned but the adjudication of guilt is either withheld or not entered thereon.

(d) Revocation, suspension, restriction, limitation, or other disciplinary action against the person's medical license in another state or jurisdiction, failure to report to the board that charges regarding the person's license have been brought in another state or jurisdiction, or having been refused a license by any other state or jurisdiction.

(e) Advertising which is false or misleading, which violates any rule of the board, or which claims without substantiation the positive cure of any disease, or professional superiority to or greater skill than that possessed by another physician.

(f) Violating a rule promulgated by the board or an order of the board, a state, or federal law which relates to the practice of medicine, or in part regulates the practice of medicine including without limitation sections 148A.02, 609.344, and 609.345, or a state or federal narcotics or controlled substance law.

(g) Engaging in any unethical conduct; conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare or safety of a patient; or medical practice which is professionally incompetent, in that it may create unnecessary danger to any patient's life, health, or safety, in any of which cases, proof of actual injury need not be established.

(h) Failure to supervise a physician's assistant or failure to supervise a physician under any agreement with the board.

(i) Aiding or abetting an unlicensed person in the practice of medicine, except that it is not a violation of this paragraph for a physician to employ, supervise, or delegate functions to a qualified person who may or may not be required to obtain a license or registration to provide health services if that person is practicing within the scope of that person's license or registration or delegated authority.

(j) Adjudication as mentally incompetent, mentally ill or mentally retarded, or as a chemically dependent person, a person dangerous to the public, a sexually dangerous person, or a person who has a sexual psychopathic personality by a court of competent jurisdiction, within or without this state. Such adjudication shall automatically suspend a license for the duration thereof unless the board orders otherwise.

(k) Engaging in unprofessional conduct. Unprofessional conduct shall include any departure from or the failure to conform to the minimal standards of acceptable and prevailing medical practice in which proceeding actual injury to a patient need not be established.

(l) Inability to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, use of drugs, narcotics, chemicals or any other type of material or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills.

(m) Revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law.

(n) Failure by a doctor of osteopathy to identify the school of healing in the professional use of the doctor's name by one of the following terms: osteopathic physician and surgeon, doctor of osteopathy, or D.O.

(o) Improper management of medical records, including failure to maintain adequate medical records, to comply with a patient's request made pursuant to section 144.335 or to furnish a medical record or report required by law.

(p) Fee splitting, including without limitation:

(1) paying, offering to pay, receiving, or agreeing to receive, a commission, rebate, or remuneration, directly or indirectly, primarily for the referral of patients or the prescription of drugs or devices;

(2) dividing fees with another physician or a professional corporation, unless the division is in proportion to the services provided and the responsibility assumed by each professional and the physician has disclosed the terms of the division;

(3) referring a patient to any health care provider as defined in section 144.335 in which the referring physician has a significant "financial or economic interest", as defined in section 144.6521, subdivision 3, unless the physician has disclosed the physician's own financial interest financial or economic interest in accordance with section 144.6521; and

(4) dispensing for profit any drug or device, unless the physician has disclosed the physician's own profit interest.

The physician must make the disclosures required in this clause in advance and in writing to the patient and must include in the disclosure a statement that the patient is free to choose a different health care provider. This clause does not apply to the distribution of revenues from a partnership, group practice, nonprofit corporation, or professional corporation to its partners, shareholders, members, or employees if the revenues consist only of fees for services performed by the physician or under a physician's direct supervision, or to the division or distribution of prepaid or capitated health care premiums, or fee-for-service withhold amounts paid under contracts established under other state law.

(q) Engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws.

(r) Becoming addicted or habituated to a drug or intoxicant.

(s) Prescribing a drug or device for other than medically accepted therapeutic or experimental or investigative purposes authorized by a state or federal agency or referring a patient to any health care provider as defined in section 144.335 for services or tests not medically indicated at the time of referral.

(t) Engaging in conduct with a patient which is sexual or may reasonably be interpreted by the patient as sexual, or in any verbal behavior which is seductive or sexually demeaning to a patient.

(u) Failure to make reports as required by section 147.111 or to cooperate with an investigation of the board as required by section 147.131.

(v) Knowingly providing false or misleading information that is directly related to the care of that patient unless done for an accepted therapeutic purpose such as the administration of a placebo.

(w) Aiding suicide or aiding attempted suicide in violation of section 609.215 as established by any of the following:

(1) a copy of the record of criminal conviction or plea of guilty for a felony in violation of section 609.215, subdivision 1 or 2;

(2) a copy of the record of a judgment of contempt of court for violating an injunction issued under section 609.215, subdivision 4;

(3) a copy of the record of a judgment assessing damages under section 609.215, subdivision 5; or

(4) a finding by the board that the person violated section 609.215, subdivision 1 or 2. The board shall investigate any complaint of a violation of section 609.215, subdivision 1 or 2.

(x) Practice of a board-regulated profession under lapsed or nonrenewed credentials.

(y) Failure to repay a state or federally secured student loan in accordance with the provisions of the loan.

(z) Providing interstate telemedicine services other than according to section 147.032.

[EFFECTIVE DATE.] This section is effective August 1, 2004.

Sec. 17. Minnesota Statutes 2002, section 256B.02, subdivision 7, is amended to read:

Subd. 7. [VENDOR OF MEDICAL CARE.] (a) "Vendor of medical care" means any person or persons furnishing, within the scope of the vendor's respective license, any or all of the following goods or services: medical, surgical, hospital, ambulatory surgical center services, optical, visual, dental and nursing services; drugs and medical supplies; appliances; laboratory, diagnostic, and

therapeutic services; nursing home and convalescent care; screening and health assessment services provided by public health nurses as defined in section 145A.02, subdivision 18; health care services provided at the residence of the patient if the services are performed by a public health nurse and the nurse indicates in a statement submitted under oath that the services were actually provided; and such other medical services or supplies provided or prescribed by persons authorized by state law to give such services and supplies. The term includes, but is not limited to, directors and officers of corporations or members of partnerships who, either individually or jointly with another or others, have the legal control, supervision, or responsibility of submitting claims for reimbursement to the medical assistance program. The term only includes directors and officers of corporations who personally receive a portion of the distributed assets upon liquidation or dissolution, and their liability is limited to the portion of the claim that bears the same proportion to the total claim as their share of the distributed assets bears to the total distributed assets.

(b) "Vendor of medical care" also includes any person who is credentialed as a health professional under standards set by the governing body of a federally recognized Indian tribe authorized under an agreement with the federal government according to United States Code, title 25, section 450f, to provide health services to its members, and who through a tribal facility provides covered services to American Indian people within a contract health service delivery area of a Minnesota reservation, as defined under Code of Federal Regulations, title 42, section 36.22.

(c) A federally recognized Indian tribe that intends to implement standards for credentialing health professionals must submit the standards to the commissioner of human services, along with evidence of meeting, exceeding, or being exempt from corresponding state standards. The commissioner shall maintain a copy of the standards and supporting evidence, and shall use those standards to enroll tribal-approved health professionals as medical assistance providers. For purposes of this section, "Indian" and "Indian tribe" mean persons or entities that meet the definition in United States Code, title 25, section 450b.

[EFFECTIVE DATE.] This section is effective August 1, 2004."

Delete the title and insert:

"A bill for an act relating to health; modifying requirements for outpatient surgical centers; requiring reporting requirements of diagnostic imaging facilities; modifying procedures for the Board of Medical Practice; amending Minnesota Statutes 2002, sections 144.55, subdivisions 1, 2, 3, 5, 6, 7, by adding subdivisions; 144.651, subdivision 2; 144.653, subdivision 4; 144.698, subdivisions 1, 5; 147.091, subdivision 1; 256B.02, subdivision 7; Minnesota Statutes 2003 Supplement, section 144.7063, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 144."

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Senator Marty from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 1740: A bill for an act relating to water; providing for the consumptive use of groundwater.

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

Page 1, line 11, after "the" insert "approval of the"

Page 1, line 12, delete "of the Department" and delete "making a"

Page 1, delete lines 13 and 14

Page 1, line 15, delete "subsequent approval by the commissioner"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Higgins from the Committee on State and Local Government Operations, to which was re-referred

S.F. No. 2472: A bill for an act relating to natural resources; providing for certain rulemaking exemptions; granting authorities to the commissioner of natural resources; authorizing fees; modifying civil penalties; amending Minnesota Statutes 2002, sections 83A.02; 84.027, by adding a subdivision; 84.029, by adding a subdivision; 84.033; 84.0855, by adding a subdivision; 84.791, subdivision 2, by adding a subdivision; 84.86, subdivision 1; 84.8712, subdivision 2; 84.925, subdivision 1, by adding a subdivision; 84D.13, subdivision 5; 85.052, subdivisions 1, 2, by adding subdivisions; 85.055, subdivision 1a; 85.22, subdivision 3; 86A.05, subdivision 5; 86A.07, subdivision 3; 86A.21; 86B.321, subdivision 2; 86B.521, by adding a subdivision; 88.79, by adding a subdivision; 89.012; 89.018, subdivisions 1, 2, by adding a subdivision; 89.19; 89.21; 89.37, by adding a subdivision; 89.53, subdivision 1; 89.71, subdivision 1; 97A.101, subdivision 2; 97A.133, subdivision 3; 97A.135, subdivision 1; 97A.145, subdivision 1; 97B.015, by adding a subdivision; 97B.025; 103G.223; 103I.601, subdivision 3; 282.01, subdivision 3; Minnesota Statutes 2003 Supplement, sections 84.029, subdivision 1; 84.775, subdivision 1; 84.780.

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

Page 28, after line 20, insert:

"Sec. 46. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Higgins from the Committee on State and Local Government Operations, to which was referred

S.F. No. 2285: A bill for an act relating to local government; adding to the list of unpaid special charges for which a city may collect a service charge as a special assessment; making a conforming change; amending Minnesota Statutes 2002, section 504B.445, subdivision 4; Minnesota Statutes 2003 Supplement, section 429.101, subdivision 1.

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

Page 2, line 6, after the semicolon, insert "or"

Page 2, line 11, delete "or"

Page 2, delete lines 12 and 13

Page 3, after line 27, insert:

"Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Higgins from the Committee on State and Local Government Operations, to which was re-referred

S.F. No. 2037: A bill for an act relating to eminent domain; requiring exchange of certain appraisals between commissioner of transportation and owner; allowing owner's appraiser to seek

payment directly from commissioner; classifying appraisal data; requiring commissioner to prepare and distribute summary of eminent domain process for transportation projects; requiring demonstration of public purpose to justify exercise of eminent domain in certain cases; amending Minnesota Statutes 2002, section 117.075; Minnesota Statutes 2003 Supplement, sections 13.44, subdivision 3; 117.036, subdivisions 2, 3, by adding a subdivision.

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

Pages 4 to 6, delete section 5

Amend the title as follows:

Page 1, line 8, delete "requiring"

Page 1, delete lines 9 and 10

Page 1, line 11, delete everything before "Minnesota" and insert "amending"

And when so amended the bill do pass and be re-referred to the Committee on Finance.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Senator Marty from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2299: A bill for an act relating to the environment; providing for enforcement for certain aboveground petroleum storage tanks; modifying field citations procedures for petroleum storage tanks; amending Minnesota Statutes 2002, section 115.071, subdivision 7; Minnesota Statutes 2003 Supplement, section 116.073, subdivisions 1, 2.

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

Pages 2 and 3, delete section 2 and insert:

"Sec. 2. Minnesota Statutes 2003 Supplement, section 116.073, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY TO ISSUE.] (a) Pollution Control Agency staff designated by the commissioner and Department of Natural Resources conservation officers may issue citations to a person who:

(1) disposes of solid waste as defined in section 116.06, subdivision 22, at a location not authorized by law for the disposal of solid waste without permission of the owner of the property;

(2) fails to report or recover discharges as required under section 115.061;

(3) fails to take discharge preventive or preparedness measures required under chapter 115E; or

(4) fails to install or use vapor recovery equipment during the transfer of gasoline from a transport delivery vehicle to an underground storage tank as required in section 116.49, subdivisions 3 and 4.

(b) In addition, Pollution Control Agency staff designated by the commissioner may issue citations to owners and operators of facilities ~~dispensing petroleum products~~ who violate sections 116.46 to 116.50 and Minnesota Rules, chapters 7150 and 7151 and parts 7001.4200 to 7001.4300. A citation issued under this subdivision must include a requirement that the person cited remove and properly dispose of or otherwise manage the waste or discharged oil or hazardous substance, reimburse any government agency that has disposed of the waste or discharged oil or hazardous substance and contaminated debris for the reasonable costs of disposal, or correct any storage tank violations.

(c) ~~Until June 1, 2004, Citations for violation violations~~ of sections 115E.045 and 116.46 to 116.50 and Minnesota Rules, chapters 7150 and 7151, may be issued only after the owners and operators have had a ~~90-day~~ 60-day period to correct violations stated in writing by Pollution Control Agency staff, unless there is a discharge associated with the violation or the violation is of Minnesota Rules, part 7151.6400, subpart 1, item B, or 7151.6500 a repeat violation from a previous inspection."

And when so amended the bill do pass and be placed on the Consent Calendar. Amendments adopted. Report adopted.

Senator Higgins from the Committee on State and Local Government Operations, to which was referred

S.F. No. 2895: A bill for an act relating to state government; providing for local government impact notes; providing that certain rules take effect only upon legislative approval; amending Minnesota Statutes 2002, section 14.19; proposing coding for new law in Minnesota Statutes, chapter 14.

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

Page 2, line 17, after "in" insert "an account in" and delete "general" and insert "special revenue" and before the period, insert "and are appropriated from the fund to the commissioner of finance for the purposes of this section"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred

H.F. No. 1836 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
		1836	1693		

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

Senator Johnson, D.E., from the Committee on Rules and Administration, to which was referred

H.F. No. 2930 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
2930	2733				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 2930 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2930 and insert the language after the enacting clause of S.F. No. 2733, the first engrossment; further, delete the title of H.F. No. 2930 and insert the title of S.F. No. 2733, the first engrossment.

And when so amended H.F. No. 2930 will be identical to S.F. No. 2733, and further recommends that H.F. No. 2930 be given its second reading and substituted for S.F. No. 2733, and that the Senate File be indefinitely postponed.

Pursuant to Rule 45, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

Senator Marty from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 2203: A bill for an act relating to game and fish; modifying deer hunting provisions and fees; modifying restriction on importation of cervidae carcasses; modifying restriction on the transport of game birds; clarifying validity of firearms safety certificates issued to youth; modifying turtle license requirements; eliminating prohibition on the use of vehicles for trapping beaver and otter; amending Minnesota Statutes 2002, sections 97A.545, subdivision 5; 97B.015, subdivision 5; 97B.301, subdivisions 6, 7; Minnesota Statutes 2003 Supplement, sections 97A.475, subdivision 2; 97A.505, subdivision 8; 97C.605, subdivision 2c; repealing Minnesota Statutes 2002, section 97B.935.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 97A.015, subdivision 24, is amended to read:

Subd. 24. [GAME BIRDS.] "Game birds" means migratory waterfowl, pheasant, ruffed grouse, sharp-tailed grouse, Canada spruce grouse, prairie chickens, gray partridge, bob-white quail, turkeys, coots, gallinules, sora and Virginia rails, mourning dove, American woodcock, and common snipe.

Sec. 2. Minnesota Statutes 2002, section 97A.085, subdivision 2, is amended to read:

Subd. 2. [ESTABLISHMENT BY COMMISSIONER.] The commissioner may designate a contiguous area of at least 640 acres as a game refuge if more than 50 percent of the area is in public ownership. The game refuge must be a contiguous area of at least 640 acres unless it borders or includes a marsh, or other body of water or watercourse suitable for wildlife habitat.

Sec. 3. Minnesota Statutes 2002, section 97A.085, subdivision 3, is amended to read:

Subd. 3. [ESTABLISHMENT BY PETITION OF LAND HOLDERS.] The commissioner may designate a land area or portion of a land area described in a petition as a game refuge. The petition must be signed by the owner, the lessee, or the person in possession of each tract in the area. A certificate of the auditor of the county where the lands are located must accompany the petition stating that the persons named in the petition are the owners, lessees, or persons in possession of all of the land described according to the county records. The game refuge must be a contiguous area of at least 640 acres unless it borders or includes a marsh, or other body of water or watercourse suitable for wildlife habitat.

Sec. 4. Minnesota Statutes 2002, section 97A.085, subdivision 4, is amended to read:

Subd. 4. [ESTABLISHMENT BY PETITION OF COUNTY RESIDENTS.] The commissioner may designate as a game refuge public waters or a contiguous area of at least 640 acres, described in a petition, signed by 50 or more residents of the county where the public waters or area is located. The game refuge must be a contiguous area of at least 640 acres unless it borders or includes a marsh, or other body of water or watercourse suitable for wildlife habitat. The game refuge may be designated only if the commissioner finds that protected wild animals are depleted and are in danger of extermination, or that it will best serve the public interest.

Sec. 5. Minnesota Statutes 2002, section 97A.095, subdivision 1, is amended to read:

Subdivision 1. [MIGRATORY WATERFOWL REFUGES SANCTUARY.] The

commissioner shall ~~may~~ designate by rule any part of a state game refuge or any part of a public water that is designated for management purposes under section 97A.101, subdivision 2, as a migratory waterfowl ~~refuge~~ sanctuary if there is presented to the commissioner a petition signed by ten resident licensed hunters describing an area that is primarily a migratory waterfowl refuge. The commissioner shall post the area as a migratory waterfowl ~~refuge~~ sanctuary. A person may not enter a posted migratory waterfowl ~~refuge~~ sanctuary during the open migratory waterfowl season unless accompanied by or under a permit issued by a conservation officer or ~~game refuge~~ wildlife manager. Upon a request from a private landowner within a migratory waterfowl ~~refuge~~ sanctuary, an annual permit must be issued to provide access to the property during the waterfowl season. The permit shall include conditions that allow no activity which would disturb waterfowl using the refuge during the waterfowl season.

Sec. 6. Minnesota Statutes 2002, section 97A.095, subdivision 2, is amended to read:

Subd. 2. [WATERFOWL FEEDING AND RESTING AREAS.] The commissioner may, by rule, designate any part of a lake as a migratory feeding ~~or~~ and resting area. Before designation, the commissioner must receive a petition signed by at least ten local resident licensed hunters describing the area of a lake that is a substantial feeding or resting area for migratory waterfowl, and find that the statements in the petition are correct, and that adequate, free public access to the lake exists near the designated area. The commissioner shall post the area as a migratory waterfowl feeding and resting area. Except as authorized in rules adopted by the commissioner, a person may not enter a posted migratory waterfowl feeding and resting area, during a period when hunting of migratory waterfowl is allowed, with watercraft or aircraft propelled by a motor, other than an electric motor of less than 30 pounds thrust. The commissioner may, by rule, further restrict the use of electric motors in migratory waterfowl feeding and resting areas.

Sec. 7. Minnesota Statutes 2002, section 97A.095, subdivision 4, is amended to read:

Subd. 4. [SWAN LAKE MIGRATORY WATERFOWL REFUGE SANCTUARY.] The land described in Laws 1999, chapter 81, section 2, is designated Swan Lake migratory waterfowl ~~refuge~~ sanctuary under subdivision 1.

Sec. 8. Minnesota Statutes 2002, section 97A.420, subdivision 4, is amended to read:

Subd. 4. [HEARING.] (a) A hearing under subdivision 3 must be before a district court judge in the county where the incident occurred giving rise to the license seizure. The hearing must be to the court and may be conducted at the same time as hearings upon pretrial motions in a related criminal prosecution. The commissioner must be represented by the county attorney.

(b) The hearing must be held at the earliest practicable date and in any event no later than 60 days following the filing of the petition for review.

(c) The scope of the hearing must be limited to the issue of whether there is probable cause to believe that the person ~~violated section 97A.338~~ had unlawfully taken, possessed, or transported wild animals with a restitution value over \$500.

(d) The court shall order that the license seizure be either sustained or rescinded. Within 14 days following the hearing, the court shall forward a copy of the order to the commissioner.

(e) Any party aggrieved by the decision of the reviewing court may appeal the decision as provided in the Rules of Civil Appellate Procedure.

Sec. 9. Minnesota Statutes 2002, section 97A.421, is amended by adding a subdivision to read:

Subd. 4a. [SUSPENSION FOR FAILURE TO APPEAR IN COURT OR TO PAY A FINE OR SURCHARGE.] When a court reports to the commissioner that a person (1) has failed to appear in court under the summons issued for a violation of the game and fish laws or (2) has been convicted of violating a provision of the game and fish laws, has been sentenced to the payment of a fine or had a surcharge levied against them, and refused or failed to comply with that sentence or to pay the fine or surcharge, the commissioner shall suspend the game and fish license and permit privileges of the person until notified by the court that the person has appeared in court under clause (1) or that any fine or surcharge due the court has been paid under clause (2).

Sec. 10. Minnesota Statutes 2002, section 97A.435, subdivision 4, is amended to read:

Subd. 4. [SEPARATE SELECTION OF ELIGIBLE LICENSEES.] (a) The commissioner may conduct a separate selection for up to 20 percent of the turkey licenses to be issued for any area. Only persons who are owners or tenants of and who live on at least 40 acres of ~~agricultural or grazing~~ land in the area, and their family members, are eligible applicants for turkey licenses for the separate selection. The qualifying ~~agricultural or grazing~~ land may be noncontiguous. Persons who are unsuccessful in a separate selection must be included in the selection for the remaining licenses. Persons who obtain a license in a separate selection must allow public turkey hunting on their land during that turkey season. A license issued under this subdivision is restricted to the land owned or leased by the holder of the license within the permit area where the qualifying land is located.

(b) The commissioner may by rule establish criteria for determining eligible family members under this subdivision.

Sec. 11. Minnesota Statutes 2002, section 97A.435, is amended by adding a subdivision to read:

Subd. 5. [SPRING SEASON.] (a) A person who has not applied for a turkey license through the lottery or applied for a license and was unsuccessful in the lottery, may purchase a turkey hunting license to hunt by archery for the spring turkey season during a combined seventh and eighth time period. A turkey hunting license under this subdivision is separate from the normal lottery process and is effective for hunting only in a wild turkey permit area in the state where 50 or more licenses are issued during an established time period.

(b) Turkey lottery preference points shall not be reduced for a person purchasing a license under this subdivision.

(c) A person may take only one bearded turkey in a spring turkey season regardless whether the hunter purchased a license through the lottery system or as provided in this subdivision.

Sec. 12. Minnesota Statutes 2003 Supplement, section 97A.475, subdivision 2, is amended to read:

Subd. 2. [RESIDENT HUNTING.] Fees for the following licenses, to be issued to residents only, are:

- (1) for persons age 18 or over and under age 65 to take small game, \$12.50;
- (2) for persons ages 16 and 17 and age 65 or over, \$6 to take small game;
- (3) to take turkey, \$18;
- (4) for persons age ~~16~~ 18 or over to take deer with firearms, \$26;
- (5) for persons age ~~16~~ 18 or over to take deer by archery, \$26;
- (6) to take moose, for a party of not more than six persons, \$310;
- (7) to take bear, \$38;
- (8) to take elk, for a party of not more than two persons, \$250;
- (9) to take antlered deer in more than one zone, \$52;
- (10) to take Canada geese during a special season, \$4;
- (11) to take two deer throughout the state in any open deer season, except as restricted under section 97B.305, \$78;
- (12) to take prairie chickens, \$20;

- (13) for persons at least age 12 and under age 16 18 to take deer with firearms, \$13; and
(14) for persons at least age 12 and under age 16 18 to take deer by archery, \$13.

Sec. 13. Minnesota Statutes 2003 Supplement, section 97A.475, subdivision 3, is amended to read:

Subd. 3. [NONRESIDENT HUNTING.] Fees for the following licenses, to be issued to nonresidents, are:

- (1) to take small game, \$73;
- (2) to take deer with firearms, \$135;
- (3) to take deer by archery, the greater of:
 - (i) an amount equal to the total amount of license fees and surcharges charged to a Minnesota resident to take deer by archery in the person's state or province of residence; or
 - (ii) \$135;
- (4) to take bear, \$195;
- (5) to take turkey, \$73;
- (6) to take raccoon, bobcat, fox, coyote, or lynx, \$155;
- (7) to take antlered deer in more than one zone, \$270; and
- (8) to take Canada geese during a special season, \$4.

Sec. 14. Minnesota Statutes 2002, section 97A.475, subdivision 20, is amended to read:

Subd. 20. [TRAPPING LICENSE.] The fee for a license to trap fur-bearing animals is:

- (1) for ~~persons~~ residents over age 13 and under age 18, \$6; ~~and~~
- (2) for ~~persons~~ residents age 18 and older, \$20; ~~and~~
- (3) for nonresidents, \$73.

Sec. 15. Minnesota Statutes 2002, section 97A.475, is amended by adding a subdivision to read:

Subd. 25a. [LIVE BAIT RETAILER.] The fee for a live bait retailer license is \$15.

Sec. 16. Minnesota Statutes 2003 Supplement, section 97A.505, subdivision 8, is amended to read:

Subd. 8. [IMPORTATION OF HUNTER-HARVESTED CERVIDAE.] Importation into Minnesota of hunter-harvested cervidae carcasses from known chronic wasting disease endemic areas, as determined by the Board of Animal Health, is prohibited except for cut and wrapped meat, quarters or other portions of meat with no part of the spinal column or head attached, antlers, hides, teeth, finished taxidermy mounts, and antlers attached to skull caps that are cleaned of all brain tissue. Hunter-harvested cervidae carcasses taken from chronic wasting disease endemic areas outside of Minnesota may be transported on a direct route through the state by nonresidents.

Sec. 17. Minnesota Statutes 2002, section 97A.545, subdivision 5, is amended to read:

Subd. 5. [BIRDS MUST BE IN UNDRESSED CONDITION; EXCEPTIONS.] (a) Except as provided in paragraph (b), a person may ship or otherwise transport game birds in an undressed condition only.

- (b) Paragraph (a) does not apply if the birds being shipped or otherwise transported:

(1) were taken on a shooting preserve and are marked or identified in accordance with section 97A.121, subdivision 5; or

(2) were taken, dressed, and lawfully shipped or otherwise transported in another state; or

(3) are migratory game birds that were lawfully tagged and packed by a federally permitted migratory bird preservation facility.

Sec. 18. Minnesota Statutes 2002, section 97B.015, subdivision 5, is amended to read:

Subd. 5. [FIREARMS SAFETY CERTIFICATE.] The commissioner shall issue a firearms safety certificate to a person that satisfactorily completes the required course of instruction. ~~A certificate may not be issued to a person under age 12.~~ A person ~~that is~~ must be at least age 11 ~~may~~ to take the firearms safety course and may receive a firearms safety certificate, ~~but the certificate is not valid until the person is at least age 12.~~ A firearms safety certificate issued to a person under age 12 by another state as provided in section 97B.020 is not valid in Minnesota until the person reaches age 12. The form and content of the firearms safety certificate shall be prescribed by the commissioner.

Sec. 19. Minnesota Statutes 2002, section 97B.075, is amended to read:

97B.075 [HUNTING RESTRICTED BETWEEN EVENING AND MORNING.]

(a) A person may not take protected wild animals, except raccoon and fox, with a firearm between the evening and morning times established by commissioner's rule, except as provided in this section.

(b) Big game may be taken from one-half hour before sunrise until one-half hour after sunset, and,

(c) Except as otherwise prescribed by the commissioner during the first eight days of the season before the Saturday nearest October 8, until January 1, 2001, waterfowl may be taken from one-half hour before sunrise until sunset during the entire season prescribed by the commissioner. On the opening day of the duck season, shooting hours for migratory game birds, except woodcock, begin at 9:00 a.m.

Sec. 20. Minnesota Statutes 2002, section 97B.301, subdivision 6, is amended to read:

Subd. 6. [RESIDENTS UNDER AGE ~~16~~ 18 MAY TAKE DEER OF EITHER SEX.] A resident under the age of ~~16~~ 18 may take a deer of either sex except in those antlerless permit areas and seasons where no antlerless permits are offered. In antlerless permit areas where no antlerless permits are offered, the commissioner may provide a limited number of youth either sex permits to residents under age ~~16~~ 18, under the procedures provided in section 97B.305, and may give preference to residents under the age of ~~16~~ 18 that have not previously been selected. This subdivision does not authorize the taking of an antlerless deer by another member of a party under subdivision 3.

Sec. 21. Minnesota Statutes 2002, section 97B.301, subdivision 7, is amended to read:

Subd. 7. [ALL SEASON DEER LICENSE.] (a) A resident may obtain an all season deer license. This license authorizes the resident to take one buck by firearm or archery during any season statewide. In addition, a resident obtaining this license may take one antlerless deer:

(1) by firearms in the regular firearms season if the resident first obtains an antlerless deer permit or if the resident takes the antlerless deer in an area where the commissioner has authorized taking a deer of either sex without an antlerless permit;

(2) by archery in the archery season; or

(3) by muzzleloader in the muzzleloader season.

(b) ~~A person obtaining an all season deer license does not qualify for hunting under subdivision~~

3. The commissioner shall issue one tag for a buck and one tag for an antlerless deer when issuing a license under this subdivision.

Sec. 22. Minnesota Statutes 2003 Supplement, section 97B.311, is amended to read:

97B.311 [DEER SEASONS AND RESTRICTIONS.]

Subdivision 1. [RULEMAKING.] (a) The commissioner may, by rule, prescribe restrictions and designate areas where deer may be taken, including hunter selection criteria for special hunts established under section 97A.401, subdivision 4. The commissioner may, by rule, prescribe the open seasons for deer within the following periods:

(1) taking with firearms, other than muzzle-loading firearms, between November 1 and December 15;

(2) taking with muzzle-loading firearms between September 1 and December 31; and

(3) taking by archery between September 1 and December 31.

(b) Notwithstanding paragraph (a), the commissioner may establish special seasons within designated areas at any time of year.

Subd. 2. [ALBINO DEER PROTECTED.] A person may not take an albino deer.

Sec. 23. Minnesota Statutes 2002, section 97B.601, subdivision 3, is amended to read:

Subd. 3. [NONRESIDENTS: RACCOON, BOBCAT, FOX, COYOTE, CANADA LYNX.] A nonresident may not take raccoon, bobcat, fox, coyote, or Canada lynx by firearms without a separate license to take that animal in addition to a small game license.

Sec. 24. Minnesota Statutes 2002, section 97B.601, is amended by adding a subdivision to read:

Subd. 3a. [NONRESIDENTS; TRAPPING SMALL GAME.] A nonresident may take small game by trapping only on land owned by the nonresident, if the nonresident possesses a trapping license and a small game license.

Sec. 25. Minnesota Statutes 2002, section 97B.721, is amended to read:

97B.721 [LICENSE AND STAMP VALIDATION REQUIRED TO TAKE TURKEY; TAGGING AND REGISTRATION REQUIREMENTS.]

(a) Except as provided in paragraph (b) or section 97A.405, subdivision 2, a person may not take a turkey without possessing a turkey license and a turkey stamp validation.

(b) The requirement in paragraph (a) to have a turkey stamp validation does not apply to persons under age 18. An unlicensed adult age 18 or older may assist a licensed wild turkey hunter under the age of 16. The unlicensed adult may not shoot or possess a firearm or bow while assisting a youth under this paragraph.

(c) The commissioner may by rule prescribe requirements for the tagging and registration of turkeys.

Sec. 26. Minnesota Statutes 2002, section 97B.901, is amended to read:

97B.901 [REGISTRATION AND TAGGING OF FUR-BEARING ANIMALS.]

(a) The commissioner may, by rule, require persons taking, possessing, and transporting fur-bearing animals to tag the animals. The commissioner shall prescribe the manner of issuance and the type of tag, which must show the year of issuance. The commissioner shall issue the tag, without a fee, upon request.

(b) The pelt of each bobcat, fisher, pine marten, and otter must be presented, by the person taking it, to a state wildlife manager designee for registration before the pelt is sold and before the

pelt is transported out of the state, but in no event more than 48 hours after the season closes for the species. Until March 1, 2003, a possession or site tag is not required prior to registration of the fisher, pine marten, or otter.

Sec. 27. [97C.392] [SELLING LIVE BAIT.]

Subdivision 1. [LICENSE REQUIRED.] A person may not sell live bait at retail without a live bait retailer license. A person must purchase a live bait retailer license for each live bait retail outlet operated.

Subd. 2. [LICENSE APPLICATION.] (a) An applicant for a live bait retailer license must give the business name and address for the retail outlet. The address must include a street address or fire number.

(b) The retail outlet name and location may be changed for licensing purposes upon application to the commissioner.

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

- (1) a person who possesses a minnow retailer or dealer license; or
- (2) a resident under age 18 who does not buy bait for resale.

Sec. 28. Minnesota Statutes 2003 Supplement, section 97C.605, subdivision 2c, is amended to read:

Subd. 2c. [LICENSE EXEMPTIONS.] A person does not need a turtle seller's license or an angling license:

- (1) when buying turtles for resale at a retail outlet;
- (2) when buying a turtle at a retail outlet;
- (3) if the person is a nonresident buying a turtle from a licensed turtle seller for export out of state. Shipping documents provided by the turtle seller must accompany each shipment exported out of state by a nonresident. Shipping documents must include: name, address, city, state, and zip code of the buyer; number of each species of turtle; and name and license number of the turtle seller; or
- (4) to take, possess, and rent or sell up to 25 turtles greater than four inches in length for the purpose of providing the turtles to participants at a nonprofit turtle race, if the person is a resident under age 18. The person is responsible for the well-being of the turtles.

Sec. 29. [ISSUANCE OF MOOSE LICENSE.]

The commissioner of natural resources shall issue a moose license for the 2004 hunting season to a resident who is 70 years of age or older and who has applied for a moose license for at least nine seasons since 1985, but has never received a moose license. The license shall be valid for a party of up to three additional individuals chosen by the resident in the open zone chosen by the resident.

Sec. 30. [REPORT.]

By January 15, 2006, the commissioner shall report to the chairs of the senate and house committees having jurisdiction over natural resources policy, evaluating the impacts of the change in shooting hours, including harvest success and the effect on local waterfowl populations.

Sec. 31. [REPORTS AND COOPERATIVE EFFORTS REGARDING LEAD FISHING TACKLE.]

Subdivision 1. [MULTIJURISDICTIONAL COOPERATION FOR LEAD TACKLE RESTRICTIONS AND EDUCATION.] In order to promote consistent, nationally applicable

regulations and education, the commissioner of natural resources shall coordinate and participate in efforts to promote national laws and educational programs regarding lead fishing tackle. The commissioner may participate with other jurisdictions, including federal, state and international governments, in activities under this subdivision, including advocacy for uniform laws, educational efforts, and the creation of incentives to use nonlead tackle. The commissioner may solicit and involve tackle manufacturers, conservation organizations, and fishing associations in cooperative efforts under this subdivision.

Subd. 2. [LEAD TACKLE AWARENESS AND PUBLIC EDUCATION.] The commissioner of natural resources and the director of the Office of Environmental Assistance shall provide public education regarding concerns about lead fishing tackle and promote the availability of nonlead fishing tackle.

Sec. 32. [GRANTS.]

The director of the Office of Environmental Assistance, in consultation with the commissioner of natural resources, may make grants under Minnesota Statutes, sections 115A.152 and 115D.04, to generators, conservation organizations, and angler associations to assist in reducing the use of lead fishing tackle, including grants for educational activities.

Sec. 33. [REPORT.]

By March 1, 2005, the commissioner shall report to the house and senate policy committees with jurisdiction over natural resources on the results of the mourning dove season authorized by this act. The report must include a description of the impact of the season on the mourning dove population in the state.

Sec. 34. [QUALITY DEER MANAGEMENT PILOT ZONE; YOUTH EARLY SEASON FIREARMS DEER HUNT.]

(a) The commissioner of natural resources may establish a quality deer management pilot zone, under Minnesota Statutes, section 97B.311, consisting of Kittson, Lake of the Woods, Marshall, Pennington, and Roseau Counties. A person age 18 or older may not take an antlered deer by firearms in the quality deer management pilot zone with antlers that:

- (1) are less than the width of the ears when the ears are fully extended; and
- (2) have fewer than four points on one side.

(b) The commissioner shall establish an early season two-day, special firearms deer season, under Minnesota Statutes, section 97B.112, for youth residents that are at least age 12 and under age 15 to take an antlerless deer in Kittson, Lake of the Woods, Marshall, Pennington, and Roseau Counties. The two-day special season shall be established on the weekend following the third Thursday in October.

(c) A violation related to antler size in the quality deer management zone is not a crime and shall not result in a penalty, but is punishable only by a warning.

(d) If a quality deer management pilot zone is established, the commissioner shall annually report to the senate and house of representatives committees with jurisdiction over natural resource policy on the quality deer management pilot zone. The report must include information on the number of antlered deer taken in the quality deer management pilot zone and estimates of the antlered deer population in the zone, including the quality of the population.

- (e) This section expires on December 31, 2008.

Sec. 35. [REPEALER.]

Minnesota Statutes 2002, section 97B.731, subdivision 2, is repealed."

Delete the title and insert:

"A bill for an act relating to game and fish; modifying deer hunting provisions and fees; modifying restriction on importation of cervidae carcasses; modifying restrictions on the transport of game birds; clarifying validity of firearms safety certificates issued to youth; modifying turtle license requirements; eliminating prohibition on the use of vehicles for trapping beaver and otter; modifying waterfowl refuge provisions; providing for suspension of game and fish license and permit privileges under certain conditions; modifying shooting hours for migratory game birds; authorizing a season on mourning doves; prohibiting taking albino deer; modifying certain game license provisions; requiring public education efforts regarding lead tackle; authorizing grants; providing for the issuance of a moose hunting license under certain conditions; providing for a quality deer management pilot zone; requiring reports; amending Minnesota Statutes 2002, sections 97A.015, subdivision 24; 97A.085, subdivisions 2, 3, 4; 97A.095, subdivisions 1, 2, 4; 97A.420, subdivision 4; 97A.421, by adding a subdivision; 97A.435, subdivision 4, by adding a subdivision; 97A.475, subdivision 20, by adding a subdivision; 97A.545, subdivision 5; 97B.015, subdivision 5; 97B.075; 97B.301, subdivisions 6, 7; 97B.601, subdivision 3, by adding a subdivision; 97B.721; 97B.901; Minnesota Statutes 2003 Supplement, sections 97A.475, subdivisions 2, 3; 97A.505, subdivision 8; 97B.311; 97C.605, subdivision 2c; proposing coding for new law in Minnesota Statutes, chapter 97C; repealing Minnesota Statutes 2002, section 97B.731, subdivision 2."

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

SECOND READING OF SENATE BILLS

S.F. Nos. 2387, 2605, 1729, 2903, 1614, 2640, 1798, 2583, 2621, 2639, 1740, 2472, 2285, 2299 and 2895 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 3005, 1836 and 2930 were read the second time.

MOTIONS AND RESOLUTIONS

Senator Stumpf moved that the name of Senator Marty be added as a co-author to S.F. No. 2654. The motion prevailed.

Senator Wiger introduced--

Senate Resolution No. 133: A Senate resolution congratulating Nick Pechmann for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

Senator Wiger introduced--

Senate Resolution No. 134: A Senate resolution congratulating Ben Doehne for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

Senator Wiger introduced--

Senate Resolution No. 135: A Senate resolution congratulating Chris Long for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

Senator Wiger introduced--

Senate Resolution No. 136: A Senate resolution congratulating John Kablan for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

Senator Wiger introduced--

Senate Resolution No. 137: A Senate resolution congratulating Adam Thyne for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

Senator Wiger introduced--

Senate Resolution No. 138: A Senate resolution congratulating Jack Kluge for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

Senator Johnson, D.E. moved that S.F. No. 2871 be withdrawn from the Committee on Judiciary, given a second reading, and placed on the Consent Calendar. The motion prevailed.

S.F. No. 2871 was read the second time.

Senator Johnson, D.E. moved that H.F. No. 2906 be withdrawn from the Committee on Judiciary and re-referred to the Committee on Rules and Administration for comparison with S.F. No. 2871, now on the Consent Calendar. The motion prevailed.

Senator Foley moved that S.F. No. 2008 be withdrawn from the Committee on Crime Prevention and Public Safety and re-referred to the Committee on Rules and Administration. The motion prevailed.

Senator Senjem moved that S.F. No. 2895, on General Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time and referred to the committees indicated.

Senator Sams introduced--

S.F. No. 3017: A bill for an act relating to tourism; providing for a later start date for school districts; providing for valuation and deferment of taxes on certain homestead resorts; delaying the date by which taxes on certain resort property must be paid; exempting from sales tax certain purchases from resorts; appropriating money; amending Minnesota Statutes 2002, sections 120A.40; 278.03, subdivision 1; 279.01, subdivision 1, by adding a subdivision; 297A.71, by adding a subdivision; 297A.75, as amended; proposing coding for new law in Minnesota Statutes, chapter 273.

Referred to the Committee on Taxes.

Senator Bakk introduced--

S.F. No. 3018: A bill for an act relating to local sales taxes; allowing certain cities to impose a

local sales tax if certain criteria are met; amending Minnesota Statutes 2002, sections 297A.99, subdivision 1, by adding a subdivision; 477A.016.

Referred to the Committee on Taxes.

Senator Chaudhary introduced--

S.F. No. 3019: A bill for an act relating to the city of New Brighton; changing certain requirements relating to a tax increment financing district; amending Laws 1998, chapter 389, article 11, section 24, subdivisions 1, 2.

Referred to the Committee on Taxes.

MEMBERS EXCUSED

Senators Gaither and Hottinger were excused from the Session of today.

ADJOURNMENT

Senator Johnson, D.E. moved that the Senate do now adjourn until 9:00 a.m., Thursday, April 1, 2004. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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