

Subd. 39. EMPLOYEE. "Employee" means an individual who is employed by an employer and who resides or works in this state. Employee includes a commission salesperson, as defined in section 181.145, who resides or works in this state.

Approved May 28, 1987

CHAPTER 283—H.F.No. 1209

An act relating to public nuisances; defining a nuisance; providing for the enjoinder of nuisances; proposing coding for new law in Minnesota Statutes, chapter 617; repealing Minnesota Statutes 1986, sections 617.33; 617.34; 617.35; 617.36; 617.37; 617.38; 617.39; 617.40; and 617.41.

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

Section 1. [617.80] DEFINITIONS.

Subdivision 1. GENERALLY. The definitions in this section apply to sections 1 to 8.

Subd. 2. BUILDING. "Building" means a structure suitable for human shelter, a commercial structure that is maintained for business activities that involve human occupation, or any portion of such structures.

Subd. 3. MOVABLE PROPERTY. "Movable property" means furniture and fixtures.

Subd. 4. PROSTITUTION. "Prostitution" or "prostitution related offenses" means the conduct defined in sections 609.321 to 609.324.

Subd. 5. GAMBLING. "Gambling" or "gambling related offenses" means the conduct described in sections 609.75 to 609.762.

Subd. 6. DISORDERLY HOUSE. "Disorderly house" has the meaning assigned to it in section 609.33.

Subd. 7. OWNER. "Owner" for purposes of sections 1 to 8 means the person in whose name the building or affected portion is recorded with the county auditor for taxation purposes.

Subd. 8. INTERESTED PARTY. "Interested party" for purposes of sections 1 to 8 means any lessee, tenant, or occupant of a building or affected portion of a building and any known agent of an owner, lessee, tenant, or occupant.

Sec. 2. [617.81] NUISANCE; ACTS CONSTITUTING; INJUNCTION; NOTICE.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. INJUNCTION. In order to obtain a temporary injunction under section 3 or a permanent injunction or order of abatement under section 4, the provisions of sections 1 to 8 must be followed.

Subd. 2. ACTS CONSTITUTING A NUISANCE. For purposes of sections 1 to 8 a public nuisance exists upon proof of any of the following:

(1) three or more misdemeanor convictions or two or more convictions, of which at least one is a gross misdemeanor or felony, within the previous two years for acts of prostitution or prostitution related offenses committed within the building;

(2) three or more misdemeanor convictions or two or more convictions, of which at least one is a gross misdemeanor or felony, within the previous two years for acts of gambling or gambling related offenses committed within the building; or

(3) two or more convictions within the previous two years for keeping or permitting a disorderly house within the building.

Subd. 3. NOTICE. Notice of a conviction described in subdivision 2 must be mailed by the court administrator to the owner of the building where the offense was committed and all other interested parties and must be filed with the county recorder's office. This notice is considered sufficient to inform all interested parties that the building or a portion of it is being used for purposes constituting a public nuisance.

Sec. 3. [617.82] TEMPORARY ORDER.

Whenever a city attorney, county attorney, or the attorney general has cause to believe that a nuisance described in section 2, subdivision 2 exists within the jurisdiction the attorney serves, that attorney may by verified petition seek a temporary injunction in district court in the county in which the alleged public nuisance exists. No temporary injunction may be issued without a prior show cause notice of hearing to the respondents named in the petition and an opportunity for the respondents to be heard. Upon proof of a nuisance described in section 2, subdivision 2, the court shall issue a temporary injunction. Any temporary injunction issued must describe the conduct to be enjoined.

Sec. 4. [617.83] INJUNCTION; ORDER OF ABATEMENT.

Upon proof of a nuisance described in section 2, subdivision 2, the court shall issue a permanent injunction and enter an order of abatement. The permanent injunction must describe the conduct permanently enjoined. The order of abatement must direct the closing of the building or a portion of it for one year, except as otherwise provided in section 5 or 6, unless sooner released pursuant to section 8. Before an abatement order is enforced against a building or portion of it, the owner must be served with the abatement order and a notice of the right to file a motion under section 6 in the same manner that a summons

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is served under the rules of civil procedure. A copy of the abatement order shall also be posted in a conspicuous place on the building or affected portion.

Sec. 5. [617.84] MOVABLE PROPERTY.

The order of abatement may direct the removal of movable property used in conducting or maintaining the nuisance and direct the sale of property belonging to a respondent who was notified or appeared. The sale shall be conducted pursuant to the provisions of chapter 550 on the sale of property on execution. A person appointed by the court as receiver of the building may use a building or portion of it which is the subject of an abatement order in a manner approved by the court. Costs of the sale on execution, moving and storage fees, and any receivership must be paid out of the receipts from the sale of the movable property or any rents collected during the receivership. The balance from the sale of movable property must be paid to the owner of the property. The balance from any rents collected during any receivership shall be paid to the treasury of the unit of government which brought the abatement action.

Sec. 6. [617.85] NUISANCE; MOTION TO CANCEL LEASE.

Where an abatement of a nuisance is sought and the circumstances that are the basis for the requested abatement involved the acts of a commercial or residential tenant or lessee of part or all of a building, the owner of the building that is subject to the abatement proceeding may file before the court that has jurisdiction over the abatement proceeding a motion to cancel the lease or otherwise secure restitution of the premises from the tenant or lessee who has maintained or conducted the nuisance. In addition to the grounds provided in chapter 566, the maintaining or conducting of a nuisance as defined in section 2, subdivision 2 by a tenant or lessee, is an additional ground authorized by law for seeking the cancellation of a lease or the restitution of the premises. It is no defense to a motion under this section by the owner that the lease or other agreement controlling the tenancy or leasehold does not provide for eviction or cancellation of the lease upon the ground provided in this section.

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

(a) upon the motion of the building owner cancels a lease or tenancy and grants restitution of that portion of the premises to the owner; and

(b) further finds that the acts constituting the nuisance as defined in section 2, subdivision 2, were committed in a portion of the building under the control of the tenant or lessee whose lease or tenancy has been canceled pursuant to this section.

Sec. 7. [617.86] CONTEMPT.

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Whoever violates a temporary injunction, permanent injunction, or abatement order granted under sections 1 to 8 may be adjudged in contempt of court.

Sec. 8. [617.87] RELEASE OF PROPERTY.

If, after an order of abatement has been entered, the owner appears and pays the costs of the action and files a bond in an amount determined by the court, but not to exceed \$50,000, conditioned that the owner will immediately abate the nuisance for a period of one year, the court may, if satisfied of the owner's good faith, order the release of the building or portion of it which is subject to the order of abatement. If the premises are released, for each day during the term of the bond that the owner knowingly permits any part of the premises to be used for any activity which was the basis of the abatement order, the owner shall forfeit \$1,000 under the bond. Forfeiture under the bond does not relieve the owner from prosecution for contempt. Release of the property pursuant to this section does not release it from an injunction issued under section 4 or any other judgment, penalty, lien, or liability to which it may be subject by law.

Sec. 9. REPEALER.

Minnesota Statutes 1986, sections 617.33; 617.34; 617.35; 617.36; 617.37; 617.38; 617.39; 617.40; and 617.41, are repealed.

Approved May 28, 1987

CHAPTER 284—H.F.No. 1213

An act relating to retirement; various public pension plans; implementing various administrative changes; making private certain membership data; conforming mandatory retirement provisions for public employees to the federal Age Discrimination in Employment Amendments of 1986; clarifying the obligation of the state auditor to undertake periodic public pension plan audits; establishing combined service disability and survivor benefits; amending Minnesota Statutes 1986, sections 13.43, by adding a subdivision; 43A.34, subdivisions 1 and 4; 136.81, subdivision 3; 136.82, subdivision 1; 181.81, subdivision 1; 181.811; 352.12, subdivision 6; 352.96, subdivision 1, and by adding a subdivision; 352D.015, subdivision 5; 353.01, subdivisions 2b and 20; 353.03, subdivision 3; 353.27, subdivisions 4, 10, and 12; 353.28, subdivision 5; 353.29, subdivision 8; 353.33, by adding a subdivision; 353.34, by adding a subdivision; 353.36, subdivision 2; 353.64, subdivisions 1 and 2; 353.656, subdivision 6, and by adding a subdivision; 353.657; 354.05, subdivision 35, and by adding a subdivision; 354.06, subdivision 1; 354.07, subdivision 3; 354.094, subdivision 1; 354.44, subdivisions 1a and 5; 354.46, subdivision 5; 354.48, subdivision 7; 354.51, subdivision 5; 354.55, subdivision 11; 354.62, subdivision 5, and by adding a subdivision; 354A.021, by adding a subdivision; 354A.21; 422A.09, subdivision 3; and 423.076; proposing coding for new law in Minnesota Statutes, chapters 13 and 356; repealing Minnesota Statutes 1986, sections 43A.34, subdivision 2; 125.12, subdivision 5; 353.64, subdivision 6; 356.301; and 473.419.

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