

CHAPTER 59—S.F.No. 59

An act relating to highway traffic regulations; prescribing who shall prosecute persons who operate motorboats while under the influence of alcohol or a controlled substance; amending Minnesota Statutes 1986, section 361.12, subdivision 5.

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

Section 1. Minnesota Statutes 1986, section 361.12, subdivision 5, is amended to read:

Subd. 5. **PENALTIES.** (a) A person who violates any prohibition contained in subdivision 1 is guilty of a misdemeanor; except that a person who violates any prohibition contained in subdivision 1 within five years of a prior conviction under that subdivision or civil liability under section 361.121, subdivision 2, or within ten years of two or more prior convictions under that subdivision or civil liability under section 361.121, subdivision 2, is guilty of a gross misdemeanor. The attorney in the jurisdiction in which the violation occurred who is responsible for prosecution of misdemeanor violations of this section is also responsible for prosecution of gross misdemeanor violations of this section.

(b) A person who operates a motorboat on the waters of this state during the period the person is prohibited from operating any motorboat or after the person's motorboat operator's permit has been revoked, as provided under subdivision 6, is guilty of a misdemeanor.

Approved May 7, 1987

CHAPTER 60—S.F.No. 157

An act relating to property interests; enacting the uniform statutory rule against perpetuities; amending Minnesota Statutes 1986, section 500.17, subdivision 2; proposing coding for new law as Minnesota Statutes, chapter 501A; repealing Minnesota Statutes 1986, section 500.13.

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

Section 1. **[501A.01] STATUTORY RULE AGAINST PERPETUITIES.**

(a) A nonvested property interest is invalid unless:

(1) when the interest is created, it is certain to vest or terminate no later than 21 years after the death of an individual then alive; or

(2) the interest either vests or terminates within 90 years after its creation.

(b) A general power of appointment not presently exercisable because of a condition precedent is invalid unless:

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(1) when the power is created, the condition precedent is certain to be satisfied or become impossible to satisfy no later than 21 years after the death of an individual then alive; or

(2) the condition precedent either is satisfied or becomes impossible to satisfy within 90 years after its creation.

(c) A nongeneral power of appointment or a general testamentary power of appointment is invalid unless:

(1) when the power is created, it is certain to be irrevocably exercised or otherwise to terminate no later than 21 years after the death of an individual then alive; or

(2) the power is irrevocably exercised or otherwise terminates within 90 years after its creation.

(d) In determining whether a nonvested property interest or a power of appointment is valid under subsection (a)(1), (b)(1), or (c)(1), the possibility that a child will be born to an individual after the individual's death is disregarded.

Sec. 2. [501A.02] WHEN NONVESTED PROPERTY INTEREST OR POWER OF APPOINTMENT CREATED.

(a) Except as provided in subsections (b) and (c) and in section 5, subsection (a), the time of creation of a nonvested property interest or a power of appointment is determined under general principles of property law.

(b) For purposes of this act, if there is a person who alone can exercise a power created by a governing instrument to become the unqualified beneficial owner of (i) a nonvested property interest or (ii) a property interest subject to a power of appointment described in section 1, subsection (b) or (c), the nonvested property interest or power of appointment is created when the power to become the unqualified beneficial owner terminates.

(c) For purposes of this act, a nonvested property interest or a power of appointment arising from a transfer of property to a previously funded trust or other existing property arrangement is created when the nonvested property interest or power of appointment in the original contribution was created.

Sec. 3. [501A.03] REFORMATION.

Upon the petition of an interested person, a court shall reform a disposition in the manner that most closely approximates the transferor's manifested plan of distribution and is within the 90 years allowed by section 1, subsection (a)(2), subsection (b)(2), or subsection (c)(2) if:

(1) a nonvested property interest or a power of appointment becomes invalid under section 1 (statutory rule against perpetuities);

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(2) a class gift is not but might become invalid under section 1 (statutory rule against perpetuities) and the time has arrived when the share of any class member is to take effect in possession or enjoyment; or

(3) a nonvested property interest that is not validated by section 1, subsection (a)(1) can vest but not within 90 years after its creation.

Sec. 4. [501A.04] EXCLUSIONS FROM STATUTORY RULE AGAINST PERPETUITIES.

Section 1 (statutory rule against perpetuities) does not apply to:

(1) a nonvested property interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of (i) a premarital or postmarital agreement, (ii) a separation or divorce settlement, (iii) a spouse's election, (iv) a similar arrangement arising out of a prospective, existing, or previous marital relationship between the parties, (v) a contract to make or not to revoke a will or trust, (vi) a contract to exercise or not to exercise a power of appointment, (vii) a transfer in satisfaction of a duty of support, or (viii) a reciprocal transfer;

(2) a fiduciary's power relating to the administration or management of assets, including the power of a fiduciary to sell, lease, or mortgage property, and the power of a fiduciary to determine principal and income;

(3) a power to appoint a fiduciary;

(4) a discretionary power of a trustee to distribute principal before termination of a trust to a beneficiary having an indefeasibly vested interest in the income and principal;

(5) a nonvested property interest held by a charity, government, or governmental agency or subdivision, if the nonvested property interest is preceded by an interest held by another charity, government, or governmental agency or subdivision;

(6) a nonvested property interest in or a power of appointment with respect to a trust or other property arrangement forming part of a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral, or other current or deferred benefit plan for one or more employees, independent contractors, or their beneficiaries or spouses, to which contributions are made for the purpose of distributing to or for the benefit of the participants or their beneficiaries or spouses the property, income, or principal in the trust or other property arrangement, except a nonvested property interest or a power of appointment that is created by an election of a participant or a beneficiary or spouse; or

(7) a property interest, power of appointment, or arrangement that was not subject to the common law rule against perpetuities or is excluded by another statute of this state.

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Sec. 5. [501A.05] PROSPECTIVE APPLICATION.

(a) Except as extended by subsection (b), this act applies to a nonvested property interest or a power of appointment that is created after December 31, 1987. For purposes of this section, a nonvested property interest or a power of appointment created by the exercise of a power of appointment is created when the power is irrevocably exercised or when a revocable exercise becomes irrevocable.

(b) If a nonvested property interest or a power of appointment was created before January 1, 1988, and is determined in a judicial proceeding, commenced after December 31, 1987, to violate this state's rule against perpetuities as that rule existed before January 1, 1988, a court upon the petition of an interested person may reform the disposition in the manner that most closely approximates the transferor's manifested plan of distribution and is within the limits of the rule against perpetuities applicable when the nonvested property interest or power of appointment was created.

Sec. 6. [501A.06] SUPERSESSSION; REPEAL.

This act supersedes the rule of the common law known as the rule against perpetuities and repeals Minnesota Statutes, section 500.13.

Sec. 7. [501A.07] SHORT TITLE.

This act may be cited as the Uniform Statutory Rule Against Perpetuities.

Sec. 8. DEFINITION.

Where used in sections 1 to 7, the term "this act" refers to sections 1 to 7.

Sec. 9. Minnesota Statutes 1986, section 500.17, subdivision 2, is amended to read:

Subd. 2. **ACCUMULATION.** Where the controlling will or other written instrument permits accumulation, either expressly or by necessary implication, rents and profits from real estate may be accumulated to the same extent and for the same period permitted by law for the accumulation of income from personal property. ~~This section shall not be deemed to extend the period during which the power of alienation may be suspended under the provisions of section 500.13.~~ Where any will or other instrument authorizes accumulation beyond the period permissible under this section, such authorization shall be void only as to the excess period.

Reasonable sums set aside for depreciation and depletion shall not be deemed an accumulation within the meaning of this section.

Sec. 10. TIME OF TAKING EFFECT.

This act takes effect August 1, 1988.

Approved May 6, 1987

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