

CHAPTER 145—H.F.No. 2133

An act relating to state government; authorizing lease of certain state property under specified conditions.

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

Section 1. BUILDING LEASE.

Notwithstanding any provision of Minnesota Statutes, section 16B.24, or other law or rule to the contrary, the commissioner of administration may, without approval of the State Executive Council, enter into a lease of up to ten years with a private tenant for use of the state-owned building at 168 Aurora Avenue in the city of St. Paul as a child care and after-school activity facility. If leased to a faith-based organization, the program may not promote any particular faith and must operate in a nondiscriminatory manner.

Sec. 2. EFFECTIVE DATE.

Section 1 is effective the day following final enactment.

Presented to the governor May 31, 2005

Signed by the governor June 3, 2005, 11:04 a.m.

CHAPTER 146—H.F.No. 847

An act relating to game and fish; modifying purchasing requirements; providing for background checks; modifying certain definitions; providing for special fish management tags; specifying status of and regulating stands and blinds on public lands; modifying authority to take animals causing damage; modifying use of scopes and laser sights by visually impaired hunters; modifying certain license requirements; modifying restrictions on taking waterfowl and big game; authorizing rulemaking; modifying requirements for field training hunting dogs; modifying certain seasons; modifying trapping provisions; modifying period for treeing raccoons; prohibiting computer-assisted remote hunting; modifying restrictions on decoys; modifying disposition of state hatchery products; modifying fishing and commercial fishing provisions; repealing authority for the Mississippi River Fish Refuge; repealing authority to issue certain orders; amending Minnesota Statutes 2004, sections 84.025, subdivision 10; 84.027, subdivision 13, by adding a subdivision; 84.91, subdivision 1; 84.9256, subdivision 1; 97A.015, subdivisions 29, 49; 97A.045, subdivision 1; 97A.401, subdivision 5; 97A.405, subdivision 4, by adding a subdivision; 97A.435, subdivisions 2, 4; 97A.441, subdivision 7; 97A.451, subdivisions 3, 5; 97A.465, by adding a subdivision; 97A.475, subdivisions 7, 16; 97A.485, subdivision 9; 97B.005, subdivisions 1, 3; 97B.015, subdivisions 1, 2, 5; 97B.025; 97B.031, subdivisions 1, 5; 97B.111, subdivision 2; 97B.621, subdivision 2; 97B.625, subdivision 2; 97B.631, subdivision 2; 97B.655, subdivision 2; 97B.711, subdivision 1; 97B.725; 97B.803; 97B.805, subdivision 1; 97B.811, subdivisions 3, 4a; 97C.203; 97C.327; 97C.345, subdivision 2; 97C.395, subdivision 1; 97C.401, subdivision 2; 97C.825, subdivision 5; 171.07, subdivision 13; 349.12, subdivision 25; proposing coding for new law in Minnesota Statutes, chapter 97B; repealing Minnesota Statutes 2004, sections 88.27;

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97B.005, subdivision 4; 97B.935; 97C.015; 97C.403; 97C.825, subdivisions 6, 7, 8, 9; Minnesota Rules, parts 6234.2300, subparts 2, 3; 6236.1100; 6236.1300.

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

Section 1. Minnesota Statutes 2004, section 84.025, subdivision 10, is amended to read:

Subd. 10. **RECREATIONAL VEHICLES AND BOATS USED FOR PUBLIC PURPOSES.** All snowmobiles and outboard motors that are purchased by the commissioner of natural resources must be of the four-stroke engine model, except that the commissioner may purchase models with two-stroke engines if the commissioner determines that they are as environmentally efficient or that four-stroke engines are not practical for the intended natural resource management purpose. The commissioner shall give preference to engine models manufactured in the United States. All all-terrain vehicles purchased by the commissioner must be manufactured in the state of Minnesota.

Sec. 2. Minnesota Statutes 2004, section 84.027, subdivision 13, is amended to read:

Subd. 13. **GAME AND FISH RULES.** (a) The commissioner of natural resources may adopt rules under sections 97A.0451 to 97A.0459 and this subdivision that are authorized under:

(1) chapters 97A, 97B, and 97C to set open seasons and areas, to close seasons and areas, to select hunters for areas, to provide for tagging and registration of game and fish, to prohibit or allow taking of wild animals to protect a species, to prevent or control wildlife disease, and to prohibit or allow importation, transportation, or possession of a wild animal;

(2) sections 84.093, 84.15, and 84.152 to set seasons for harvesting wild ginseng roots and wild rice and to restrict or prohibit harvesting in designated areas; and

(3) section 84D.12 to designate prohibited invasive species, regulated invasive species, unregulated nonnative species, and infested waters.

(b) If conditions exist that do not allow the commissioner to comply with sections 97A.0451 to 97A.0459, the commissioner may adopt a rule under this subdivision by submitting the rule to the attorney general for review under section 97A.0455, publishing a notice in the State Register and filing the rule with the secretary of state and the Legislative Coordinating Commission, and complying with section 97A.0459, and including a statement of the emergency conditions and a copy of the rule in the notice. The notice may be published after it is received from the attorney general or five business days after it is submitted to the attorney general, whichever is earlier.

(c) Rules adopted under paragraph (b) are effective upon publishing in the State Register and may be effective up to seven days before publishing and filing under paragraph (b), if:

(1) the commissioner of natural resources determines that an emergency exists;

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- (2) the attorney general approves the rule; and
- (3) for a rule that affects more than three counties the commissioner publishes the rule once in a legal newspaper published in Minneapolis, St. Paul, and Duluth, or for a rule that affects three or fewer counties the commissioner publishes the rule once in a legal newspaper in each of the affected counties.
- (d) Except as provided in paragraph (e), a rule published under paragraph (c), clause (3), may not be effective earlier than seven days after publication.
- (e) A rule published under paragraph (c), clause (3), may be effective the day the rule is published if the commissioner gives notice and holds a public hearing on the rule within 15 days before publication.
- (f) The commissioner shall attempt to notify persons or groups of persons affected by rules adopted under paragraphs (b) and (c) by public announcements, posting, and other appropriate means as determined by the commissioner.
- (g) Notwithstanding section 97A.0458, a rule adopted under this subdivision is effective for the period stated in the notice but not longer than 18 months after the rule is adopted.

Sec. 3. Minnesota Statutes 2004, section 84.027, is amended by adding a subdivision to read:

Subd. 17. BACKGROUND CHECKS FOR VOLUNTEER INSTRUCTORS.

(a) The commissioner may conduct background checks for volunteer instructor applicants for department safety training and education programs, including the programs established under sections 84.791 (youth off-highway motorcycle safety education and training), 84.86 and 84.862 (youth and adult snowmobile safety training), 84.925 (youth all-terrain vehicle safety education and training), 97B.015 (youth firearms safety training), and 97B.025 (hunter and trapper education and training).

(b) The commissioner shall perform the background check by retrieving criminal history data maintained in the criminal justice information system (CJIS) and other data sources.

(c) The commissioner shall develop a standardized form to be used for requesting a background check, which must include:

(1) a notification to the applicant that the commissioner will conduct a background check under this section;

(2) a notification to the applicant of the applicant's rights under paragraph (d); and

(3) a signed consent by the applicant to conduct the background check expiring one year from the date of signature.

(d) The volunteer instructor applicant who is the subject of a background check has the right to:

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(1) be informed that the commissioner will request a background check on the applicant;

(2) be informed by the commissioner of the results of the background check and obtain a copy of the background check;

(3) obtain any record that forms the basis for the background check and report;

(4) challenge the accuracy and completeness of the information contained in the report or a record; and

(5) be informed by the commissioner if the applicant is rejected because of the result of the background check.

Sec. 4. Minnesota Statutes 2004, section 84.91, subdivision 1, is amended to read:

Subdivision 1. **ACTS PROHIBITED.** (a) No owner or other person having charge or control of any snowmobile or all-terrain vehicle shall authorize or permit any individual the person knows or has reason to believe is under the influence of alcohol or a controlled substance or other substance to operate the snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state.

(b) No owner or other person having charge or control of any snowmobile or all-terrain vehicle shall knowingly authorize or permit any person, who by reason of any physical or mental disability is incapable of operating the vehicle, to operate the snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state.

(c) A person who operates or is in physical control of a snowmobile or all-terrain vehicle anywhere in this state or on the ice of any boundary water of this state is subject to chapter 169A. In addition to the applicable sanctions under chapter 169A, a person who is convicted of violating section 169A.20 or an ordinance in conformity with it while operating a snowmobile or all-terrain vehicle, or who refuses to comply with a lawful request to submit to testing under sections 169A.50 to 169A.53 or an ordinance in conformity with it, shall be prohibited from operating the snowmobile or all-terrain vehicle for a period of one year. The commissioner shall notify the person of the time period during which the person is prohibited from operating a snowmobile or all-terrain vehicle.

(d) Administrative and judicial review of the operating privileges prohibition is governed by section 97B.066, subdivisions 7 to 9, if the person does not have a prior impaired driving conviction or prior license revocation, as defined in section 169A.03. Otherwise, administrative and judicial review of the prohibition is governed by section 169A.53.

(e) The court shall promptly forward to the commissioner and the Department of Public Safety copies of all convictions and criminal and civil sanctions imposed under this section and chapter chapters 169 and 169A relating to snowmobiles and all-terrain vehicles.

(f) A person who violates paragraph (a) or (b), or an ordinance in conformity with either of them, is guilty of a misdemeanor. A person who operates a snowmobile or

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all-terrain vehicle during the time period the person is prohibited from operating a vehicle under paragraph (c) is guilty of a misdemeanor.

Sec. 5. Minnesota Statutes 2004, section 84.9256, subdivision 1, is amended to read:

Subdivision 1. **PROHIBITIONS ON YOUTHFUL OPERATORS.** (a) Except for operation on public road rights-of-way that is permitted under section 84.928, a driver's license issued by the state or another state is required to operate an all-terrain vehicle along or on a public road right-of-way.

(b) A person under 12 years of age shall not:

- (1) make a direct crossing of a public road right-of-way;
- (2) operate an all-terrain vehicle on a public road right-of-way in the state; or
- (3) operate an all-terrain vehicle on public lands or waters.

(c) Except for public road rights-of-way of interstate highways, a person 12 years of age but less than 16 years may make a direct crossing of a public road right-of-way of a trunk, county state-aid, or county highway or operate on public lands and waters, only if that person possesses a valid all-terrain vehicle safety certificate issued by the commissioner and is accompanied on another all-terrain vehicle by a person 18 years of age or older who holds a valid driver's license.

(d) All-terrain vehicle safety certificates issued by the commissioner to persons 12 years old, but less than 16 years old, are not valid for machines in excess of 90cc engine capacity unless:

- (1) the person successfully completed the safety education and training program under section 84.925, subdivision 1, including a riding component; and
- (2) ~~the riding component of the training was conducted using an all-terrain vehicle with over 90cc engine capacity; and~~
- (3) the person is able to properly reach and control the handle bars and reach the foot pegs while sitting upright on the seat of the all-terrain vehicle.

Sec. 6. Minnesota Statutes 2004, section 97A.015, subdivision 29, is amended to read:

Subd. 29. **MINNOWS.** "Minnows" means: (1) members of the minnow family, Cyprinidae, except carp and goldfish; (2) members of the mudminnow family, Umbridae; (3) members of the sucker family, Catostomidae, not over 12 inches in length; (4) bullheads, ciscoes, lake whitefish, goldeyes, and mooneyes, not over seven inches long; and (5) leeches; and (6) tadpole madtoms (willow cats) and stonecats.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 7. Minnesota Statutes 2004, section 97A.015, subdivision 49, is amended to read:

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Subd. 49. **UNDRESSED BIRD.** "Undressed bird" means:

(1) a bird, excluding migratory waterfowl, pheasant, Hungarian partridge, turkey, or grouse, with feet and feathered head intact;

(2) a migratory waterfowl, excluding geese, with a fully feathered wing and head attached;

(3) a pheasant, Hungarian partridge, turkey, or grouse with one leg and foot or the fully feathered head or wing intact; or

(4) a goose with a fully feathered wing attached.

Sec. 8. Minnesota Statutes 2004, section 97A.045, subdivision 1, is amended to read:

Subdivision 1. **DUTIES; GENERALLY.** The commissioner shall do all things the commissioner determines are necessary to preserve, protect, and propagate desirable species of wild animals. The commissioner shall make special provisions for the management of fish and wildlife to ensure recreational opportunities for anglers and hunters. The commissioner shall acquire wild animals for breeding or stocking and may dispose of or destroy undesirable or predatory wild animals and their dens, nests, houses, or dams.

Sec. 9. Minnesota Statutes 2004, section 97A.401, subdivision 5, is amended to read:

Subd. 5. **WILD ANIMALS DAMAGING PROPERTY.** Special permits may be issued with or without a fee to take protected wild animals that are damaging property or to remove or destroy their dens, nests, houses, or dams. A special permit issued under this subdivision to take beaver must state the number to be taken.

Sec. 10. Minnesota Statutes 2004, section 97A.405, subdivision 4, is amended to read:

Subd. 4. **REPLACEMENT LICENSES.** (a) The commissioner may permit licensed firearms deer hunters to change zone, license, or season options before the regular firearms deer season begins. The commissioner may issue a replacement license if the applicant submits the original firearms deer license and unused tags that is are being replaced and the applicant pays any increase in cost between the original and the replacement license. When a person submits both an archery and a firearms license for replacement, the commissioner may apply the value of both licenses towards the replacement license fee.

(b) A replacement license may be issued only if the applicant has not used any tag from the original license and meets the conditions of paragraph (c). The original license and all unused tags for that license must be submitted to the issuing agent at the time the replacement license is issued.

(c) A replacement license may be issued under the following conditions, or as otherwise prescribed by rule of the commissioner:

(1) when the season for the license being surrendered has not yet opened; or

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(2) when the person is upgrading from a regular firearms or archery deer license to a deer license that is valid in multiple zones.

(d) Notwithstanding section 97A.411, subdivision 3, a replacement license is valid immediately upon issuance if the license being surrendered is valid at that time.

Sec. 11. Minnesota Statutes 2004, section 97A.405, is amended by adding a subdivision to read:

Subd. 5. RESIDENT LICENSES. To obtain a resident license, a resident 21 years of age or older must:

(1) possess a current Minnesota driver's license;

(2) possess a current identification card issued by the commissioner of public safety; or

(3) present evidence showing proof of residency in cases when clause (1) or (2) would violate the Religious Freedom Restoration Act of 1993, Public Law 103-141.

Sec. 12. Minnesota Statutes 2004, section 97A.435, subdivision 2, is amended to read:

Subd. 2. ELIGIBILITY. Persons eligible for a turkey license shall be determined by this section and commissioner's rule. A person is eligible for a turkey license only if the person is at least age 16 before the season opens or, possesses a firearms safety certificate, or, if under age 12, is accompanied by a parent or guardian.

Sec. 13. Minnesota Statutes 2004, 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 land in the area, and their family members, are eligible applicants for turkey licenses for the separate selection. The qualifying 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. 14. Minnesota Statutes 2004, section 97A.441, subdivision 7, is amended to read:

Subd. 7. OWNERS OR TENANTS OF AGRICULTURAL LAND. (a) The commissioner may issue, without a fee, a license to take an antlerless deer to a person who is an owner or tenant and is living and actively farming on at least 80 acres of agricultural land, as defined in section 97B.001, in deer permit areas that have deer

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archery licenses to take additional deer under section 97B.301, subdivision 4. A person may receive only one license per year under this subdivision. For properties with co-owners or cotenants, only one co-owner or cotenant may receive a license under this subdivision per year. The license issued under this subdivision is restricted to the land owned or leased for agricultural purposes or owned by the holder of the license within the permit area where the qualifying land is located. The holder of the license may transfer the license to the holder's spouse or dependent. Notwithstanding sections 97A.415, subdivision 1, and 97B.301, subdivision 2, the holder of the license may purchase an additional license for taking deer and may take an additional deer under that license.

(b) A person who obtains a license under paragraph (a) must allow public deer hunting on their land during that deer hunting season, with the exception of the first Saturday and Sunday during the deer hunting season applicable to the license issued under section 97A.475, subdivision 2, clauses (4) and (13).

Sec. 15. Minnesota Statutes 2004, section 97A.451, subdivision 3, is amended to read:

Subd. 3. **RESIDENTS UNDER AGE 16; SMALL GAME.** (a) A resident under age 16 may not obtain a small game license but may take small game by firearms or bow and arrow without a license if the resident is:

(1) age 14 or 15 and possesses a firearms safety certificate;

(2) age 13, possesses a firearms safety certificate, and is accompanied by a parent or guardian; or

(3) age 12 or under and is accompanied by a parent or guardian.

(b) A resident under age 16 may take small game by trapping without a small game license, but a resident 13 years of age or older must have a trapping license. A resident under age 13 may trap without a trapping license, but may not register fisher, otter, bobcat, or pine marten unless the resident is at least age five. Any fisher, otter, bobcat, or pine marten taken by a resident under age five must be included in the limit of the accompanying parent or guardian.

(c) A resident under age 12 may apply for a turkey license and may take a turkey without a firearms safety certificate if the resident is accompanied by an adult parent or guardian who has a firearms safety certificate.

Sec. 16. Minnesota Statutes 2004, section 97A.451, subdivision 5, is amended to read:

Subd. 5. **NONRESIDENTS UNDER AGE 16.** (a) A nonresident under the age of 16 may take fish by angling without a license if a parent or guardian has a fishing license. Fish taken by a nonresident under the age of 16 without a license must be included in the limit of the parent or guardian.

(b) A nonresident under age 16 may purchase a ~~nonresident~~ fishing license at the resident fee or be included under a nonresident family license, take fish by angling, and possess a limit of fish.

EFFECTIVE DATE. This section is effective March 1, 2006.

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Sec. 17. Minnesota Statutes 2004, section 97A.465, is amended by adding a subdivision to read:

Subd. 5. PREFERENCE TO SERVICE MEMBERS. (a) For purposes of this subdivision:

(1) "qualified service member or veteran" means a Minnesota resident who is currently serving, or has served at any time during the past 24 months, in active service as a member of the United States armed forces, including the National Guard or other military reserves; and

(2) "active service" means service defined under section 190.05, subdivision 5b or 5c.

(b) Notwithstanding any other provision of this chapter, chapter 97B or 97C, or administrative rules, the commissioner may give first preference to qualified service members or veterans in any drawing or lottery involving the selection of applicants for hunting or fishing licenses, permits, and special permits. This subdivision does not apply to licenses or permits for taking moose, elk, or prairie chickens. Actions of the commissioner under this subdivision are not rules under the Administrative Procedures Act and section 14.386 does not apply.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 18. Minnesota Statutes 2004, section 97A.475, subdivision 7, is amended to read:

Subd. 7. NONRESIDENT FISHING. Fees for the following licenses, to be issued to nonresidents, are:

(1) to take fish by angling, \$34;

(2) to take fish by angling limited to seven consecutive days selected by the licensee, \$24;

(3) to take fish by angling for a 72-hour period selected by the licensee, \$20;

(4) to take fish by angling for a combined license for a family for one or both parents and dependent children under the age of 16, \$46;

(5) to take fish by angling for a 24-hour period selected by the licensee, \$8.50; and

(6) to take fish by angling for a combined license for a married couple, limited to 14 consecutive days selected by one of the licensees, \$35.

EFFECTIVE DATE. This section is effective March 1, 2006.

Sec. 19. Minnesota Statutes 2004, section 97A.475, subdivision 16, is amended to read:

Subd. 16. RESIDENT HUNTING GUIDES. The fees fee ~~for the following a~~ resident guide licenses are:

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(1) license to guide bear hunters; is \$82.50; and

(2) to guide turkey hunters, \$22.

Sec. 20. Minnesota Statutes 2004, section 97A.485, subdivision 9, is amended to read:

Subd. 9. **CERTAIN LICENSES NOT TO BE ISSUED AFTER SEASON OPENS.** The following licenses A license to guide bear hunters may not be issued after the day before the opening of the related firearms season:

(1) to guide bear hunters; and

(2) to guide turkey hunters.

Sec. 21. Minnesota Statutes 2004, section 97B.005, subdivision 1, is amended to read:

Subdivision 1. **FIELD TRAINING; PERMIT REQUIRED FOR CERTAIN PERIOD.** A person may not train hunting dogs afield on public lands from April 16 to July 14 except by special permit. The commissioner may issue a special permit, without a fee, to train hunting dogs afield on land owned by the trainer or on land that the owner provides written permission. The written permission must be carried in personal possession of the trainer while training the dogs.

Sec. 22. Minnesota Statutes 2004, section 97B.005, subdivision 3, is amended to read:

Subd. 3. **PERMITS FOR ORGANIZATIONS AND INDIVIDUALS TO USE GAME BIRDS AND FIREARMS.** (a) The commissioner may issue special permits, without a fee, to organizations and individuals to use firearms and live ammunition on domesticated birds or banded game birds from game farms.

(b) Permits for holding field trials and may be issued to organizations. The permit shall specify the dates and locations of the field trial. The commissioner may limit the number of dates approved for any organization.

(c) Permits for training hunting dogs may be issued to an individual.

(d) Domesticated birds, other than pigeons, and game farm birds used for trials or training under this section must be clearly marked with dye or a streamer attached to a leg in a manner that makes them visually identifiable prior to being taken.

Sec. 23. Minnesota Statutes 2004, section 97B.015, subdivision 1, is amended to read:

Subdivision 1. **ESTABLISHMENT.** The commissioner shall make rules establishing establish a statewide course in the safe use of firearms and identification of wild mammals and birds. At least one course must be held within the boundary of each school district. A course may be held in a school district. The courses must be conducted by the commissioner in cooperation with other organizations. The courses must instruct youths in commonly accepted principles of safety in hunting and handling common hunting firearms and identification of various species of wild mammals and birds by sight and other unique characteristics.

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Sec. 24. Minnesota Statutes 2004, section 97B.015, subdivision 2, is amended to read:

Subd. 2. ADMINISTRATION, SUPERVISION, AND ENFORCEMENT. (a)

The commissioner shall appoint a qualified person from the Enforcement Division under civil service rules as supervisor of hunting safety and prescribe the duties and responsibilities of the position. The commissioner shall determine and provide the Enforcement Division with the necessary personnel for this section.

(b) ~~The commissioner may appoint one or more county directors of hunting safety in each county. An appointed county director is responsible to the Enforcement Division. The Enforcement Division may appoint instructors necessary for this section. County directors and instructors shall serve on a voluntary basis without compensation. The Enforcement Division must supply the materials necessary for the course. School districts may cooperate with the commissioner and volunteer instructors to provide space for the classroom portion of the training.~~

Sec. 25. Minnesota Statutes 2004, 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 person must be at least age 11 to take the firearms safety course and may receive a firearms safety certificate, but the certificate is not valid for hunting until the person is at least reaches age 12. A person who is age 11 and has a firearms safety certificate may purchase a deer, bear, turkey, or prairie chicken license that will become valid when the person reaches 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 for hunting in Minnesota until the person reaches age 12. The form and content of the firearms safety certificate shall be prescribed by the commissioner.

Sec. 26. Minnesota Statutes 2004, section 97B.025, is amended to read:

97B.025 HUNTER AND TRAPPER EDUCATION.

(a) The commissioner may establish education courses for hunters ~~and trappers~~. The commissioner shall collect a fee from each person attending a course. A fee shall be collected for issuing a duplicate certificate. The commissioner shall establish the fees in a manner that neither significantly overrecovers nor underrecovers costs, including overhead costs, involved in providing the services. The fees are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. The commissioner may establish the fees notwithstanding section 16A.1283. The fees shall be deposited in the game and fish fund and the amount thereof is appropriated annually to the Enforcement Division of the Department of Natural Resources for the administration of the program. In addition to the fee established by the commissioner for each course, instructors may charge each person up to the established fee amount for class materials and expenses. School districts may cooperate with the commissioner and volunteer instructors to provide space for the classroom portion of the training.

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(b) The commissioner shall enter into an agreement with a statewide nonprofit trappers association to conduct a trapper education program. At a minimum, the program must include at least six hours of classroom, electronic, or correspondence instruction and in the field training. The program must include a review of state trapping laws and regulations, trapping ethics, the setting and tending of traps and snares, tagging and registration requirements, and the preparation of pelts. The association shall issue a certificate to persons who complete the program. The association shall be responsible for all costs of conducting the education program, and shall not charge any fee for attending the course.

Sec. 27. [97B.026] TRAPPER EDUCATION CERTIFICATE REQUIREMENT.

A person born after December 31, 1989, and who has not been issued a trapping license in a previous license year, may not obtain a trapping license unless the person has been issued a trapper education certificate under section 97B.025, paragraph (b).

EFFECTIVE DATE. This section is effective March 1, 2007.

Sec. 28. Minnesota Statutes 2004, section 97B.031, subdivision 1, is amended to read:

Subdivision 1. **FIREARMS AND AMMUNITION THAT MAY BE USED TO TAKE BIG GAME.** (a) A person may take big game with a firearm only if:

- (1) the rifle, shotgun, and handgun used is a caliber of at least .23 inches;
 - (2) the firearm is loaded only with single projectile ammunition;
 - (3) a projectile used is a caliber of at least .23 inches and has a soft point or is an expanding bullet type;
 - (4) the ammunition has a case length of at least 1.285 inches;
 - (5) the muzzle-loader used is incapable of being loaded at the breech;
 - (6) the smooth-bore muzzle-loader used is a caliber of at least .45 inches; and
 - (7) the rifled muzzle-loader used is a caliber of at least .40 inches.
- (b) A person may not take big game with a .30 caliber M-1 carbine cartridge.

(c) Notwithstanding paragraph (a), clause (4), a person may take big game with a ten millimeter cartridge that is at least 0.95 inches in length, a .45 Winchester Magnum cartridge, or a .50 A. E. (Action Express) handgun cartridge.

Sec. 29. Minnesota Statutes 2004, section 97B.031, subdivision 5, is amended to read:

Subd. 5. **SCOPES; VISUALLY IMPAIRED HUNTERS.** (a) Notwithstanding any other law to the contrary, the commissioner may issue a special permit, without a fee, to use a muzzleloader with a scope to take deer during the muzzleloader season to a person who obtains the required licenses and who has a visual impairment. The scope may not have magnification capabilities.

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(b) The visual impairment must be to the extent that the applicant is unable to identify targets and the rifle sights at the same time without a scope. The visual impairment and specific conditions must be established by medical evidence verified in writing by a licensed physician, ophthalmologist, or optometrist. The commissioner may request additional information from the physician if needed to verify the applicant's eligibility for the permit. ~~Notwithstanding section 97A.418, the commissioner may, in consultation with appropriate advocacy groups, establish reasonable minimum standards for permits to be issued under this subdivision.~~

(c) A permit issued under this subdivision may be valid for up to five years, based on the permanence of the visual impairment as determined by the licensed physician, ophthalmologist, or optometrist.

(d) The permit must be in the immediate possession of the permittee when hunting under the special permit.

(e) The commissioner may deny, modify, suspend, or revoke a permit issued under this subdivision for cause, including a violation of the game and fish laws or rules.

(e) (f) A person who knowingly makes a false application or assists another in making a false application for a permit under this subdivision is guilty of a misdemeanor. A physician, ophthalmologist, or optometrist who fraudulently certifies to the commissioner that a person is visually impaired as described in this subdivision is guilty of a misdemeanor.

Sec. 30. Minnesota Statutes 2004, section 97B.111, subdivision 2, is amended to read:

Subd. 2. **PERMIT FOR ORGANIZATION.** (a) The commissioner may issue a special permit without a fee to a nonprofit organization to provide an assisted hunting opportunity to physically disabled hunters. The assisted hunting opportunity may take place:

- (1) in areas designated by the commissioner under subdivision 1; or
- (2) on private property or a licensed shooting preserve.

(b) The sponsoring organization shall provide a physically capable person to assist each disabled hunter with safety-related aspects of hunting and, notwithstanding section 97B.081, a person with a physical disability who is totally blind may use laser sights.

(c) The commissioner may impose reasonable permit conditions.

Sec. 31. **[97B.115] COMPUTER-ASSISTED REMOTE HUNTING PROHIBITION.**

(a) No person shall operate, provide, sell, use or offer to operate, provide, sell or use any computer software or service that allows a person, not physically present at the site, to remotely control a weapon that could be used to take any wild animal by remote operation, including, but not limited to, weapons or devices set up to fire through the use of the Internet or through a remote control device.

(b) A person who violates this section is guilty of a misdemeanor.

EFFECTIVE DATE. This section is effective the day following final enactment.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 32. **[97B.326] STANDS AND BLINDS ON PUBLIC LANDS.**

Any unoccupied permanent stand or blind on public land is public and not the property of the person who constructed it.

EFFECTIVE DATE. This section is effective August 1, 2006.

Sec. 33. Minnesota Statutes 2004, section 97B.621, subdivision 2, is amended to read:

Subd. 2. **PERIOD FOR TREEING RACCOONS.** Notwithstanding subdivision 1 and section 97B.005, subdivision 1, a person may use dogs to pursue and tree raccoons without killing or capturing the raccoons:

(1) from January 1 to April 15 and from July 15 to October 14; and

(2) from April 16 to July 14 in raccoon dog field trials under special permit issued by the commissioner under section 97B.005, subdivision 1 during the closed season and a license is not required.

Sec. 34. Minnesota Statutes 2004, section 97B.625, subdivision 2, is amended to read:

Subd. 2. **PERMIT REQUIRED TO USE OF A SNARE.** A person may not use a snare to take lynx or bobcat except under a permit from, as prescribed by the commissioner, without a permit.

Sec. 35. Minnesota Statutes 2004, section 97B.631, subdivision 2, is amended to read:

Subd. 2. **PERMIT REQUIRED TO USE OF A SNARE.** A person may not use a snare to take fox except under a permit from, as prescribed by the commissioner, without a permit.

Sec. 36. Minnesota Statutes 2004, section 97B.655, subdivision 2, is amended to read:

Subd. 2. **SPECIAL PERMIT FOR TAKING PROTECTED WILD ANIMALS.** The commissioner may issue special permits under section 97A.401, subdivision 5, to take protected wild animals that are damaging property or to remove or destroy their dens, nests, houses, or dams.

Sec. 37. Minnesota Statutes 2004, section 97B.711, subdivision 1, is amended to read:

Subdivision 1. **SEASONS FOR CERTAIN UPLAND GAME BIRDS.** (a) The commissioner may, by rule, prescribe an open season in designated areas between September 16 and ~~December 31~~ January 3 for:

(1) pheasant;

New language is indicated by underline, deletions by ~~strikeout~~.

- (2) ruffed grouse;
- (3) sharp tailed grouse;
- (4) Canada spruce grouse;
- (5) prairie chicken;
- (6) gray partridge;
- (7) bob-white quail; and
- (8) turkey.

(b) The commissioner may by rule prescribe an open season for turkey in the spring.

Sec. 38. Minnesota Statutes 2004, section 97B.725, is amended to read:

97B.725 LICENSE REQUIRED TO GUIDE GUIDING HUNTERS.

A person may not guide turkey hunters for compensation ~~without a turkey hunter guide license. The license must be obtained before the day of the opening of the turkey season. The commissioner shall prescribe qualifications for the issuance of turkey hunter guide licenses.~~

Sec. 39. Minnesota Statutes 2004, section 97B.803, is amended to read:

97B.803 MIGRATORY WATERFOWL SEASONS AND LIMITS.

(a) The commissioner shall prescribe seasons, limits, and areas for taking migratory waterfowl in accordance with federal law.

(b) The regular duck season may not open before the Saturday closest to October 1.

Sec. 40. Minnesota Statutes 2004, section 97B.805, subdivision 1, is amended to read:

Subdivision 1. **HUNTER MUST BE CONCEALED.** (a) A person may not take migratory waterfowl, coots, or rails in open water unless the person is:

(1) within a natural growth of vegetation sufficient to partially conceal the person or boat; or

(2) on a river or stream that is not more than 100 yards in width; or

(3) pursuing or shooting wounded birds.

(b) A person may not take migratory waterfowl, coots, or rails in public waters from a permanent artificial blind or sink box.

Sec. 41. Minnesota Statutes 2004, section 97B.811, subdivision 3, is amended to read:

Subd. 3. **RESTRICTIONS ON LEAVING DECOYS OVERNIGHT UNATTENDED.** During the open season for waterfowl, a person may not leave decoys in

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public waters between sunset and one hour before lawful shooting hours or leave decoys unattended during other times for more than four consecutive hours unless:

(1) the decoys are in waters adjacent to private land under the control of the hunter; and

(2) there is not natural vegetation growing in water sufficient to partially conceal a hunter.

Sec. 42. Minnesota Statutes 2004, section 97B.811, subdivision 4a, is amended to read:

Subd. 4a. **RESTRICTIONS ON CERTAIN MOTORIZED DECOYS.** From the opening day of the duck season through the Saturday nearest October 8, a person may not use a motorized decoy on public waters with visible, moving parts that are above the water surface to take migratory, or other motorized device designed to attract migratory waterfowl, other than geese. During the remainder of the duck season, the commissioner may, by rule, designate all or any portion of a wetland or lake closed to the use of motorized decoys or motorized devices designed to attract migratory waterfowl. On water bodies and lands fully contained within wildlife management area boundaries, a person may not use motorized decoys or motorized devices designed to attract migratory waterfowl at any time during the duck season.

Sec. 43. Minnesota Statutes 2004, section 97C.203, is amended to read:

97C.203 DISPOSAL OF STATE HATCHERY EGGS OR FRY PRODUCTS.

The commissioner shall dispose of game fish eggs and fry fish hatchery products according to the following order of priorities:

(1) distribution of fish eggs and fry to state hatcheries to hatch fry or raise fingerlings for stocking waters of the state for recreational fishing;

(2) transfer to other government agencies in exchange for fish or wildlife resources of equal value or private fish hatcheries in exchange for fish to be stocked in waters of the state for recreational fishing;

(3) sale ~~of fish eggs and fry~~ to private fish hatcheries or licensed aquatic farms at a price not less than the fair wholesale market value, established as the average price charged at the state's private hatcheries and contiguous states per volume rates; and

(4) transfer to other government agencies, colleges, or universities for cooperative fish management and research purposes; and

(5) sale of not more than \$25 fair market value to any school, museum, or commercial enterprise for curriculum implementation, educational programs, public exhibition, or cooperative displays.

EFFECTIVE DATE. This section is effective the day following final enactment.

New language is indicated by underline, deletions by strikeout.

Sec. 44. Minnesota Statutes 2004, section 97C.327, is amended to read:

97C.327 MEASUREMENT OF FISH LENGTH.

For the purpose of determining compliance with size limits for fish in this chapter or in rules of the commissioner, the length of a fish must be measured from the tip of the nose or jaw, whichever is longer, to the farthest tip of the tail when fully extended.

Sec. 45. Minnesota Statutes 2004, section 97C.345, subdivision 2, is amended to read:

Subd. 2. **POSSESSION.** (a) Except as specifically authorized, a person may not possess a spear, fish trap, net, dip net, seine, or other device capable of taking fish on or near any waters. Possession includes personal possession and in a vehicle.

(b) A person may possess spears, dip nets, bows and arrows, and spear guns allowed under section 97C.381 on or near waters between sunrise and sunset from May 1 to the third last Sunday in February, or as otherwise prescribed by the commissioner.

Sec. 46. Minnesota Statutes 2004, section 97C.395, subdivision 1, is amended to read:

Subdivision 1. **DATES FOR CERTAIN SPECIES.** (a) The open seasons to take fish by angling are as follows:

(1) for walleye, sauger, northern pike, muskellunge, largemouth bass, and smallmouth bass, the Saturday two weeks prior to the Saturday of Memorial Day weekend to the third last Sunday in February;

(2) for lake trout, from January 1 to October 31;

(3) for brown trout, brook trout, rainbow trout, and splake, between January 1 to October 31 as prescribed by the commissioner by rule except as provided in section 97C.415, subdivision 2; and

(4) for salmon, as prescribed by the commissioner by rule.

(b) The commissioner shall close the season in areas of the state where fish are spawning and closing the season will protect the resource.

Sec. 47. Minnesota Statutes 2004, section 97C.401, subdivision 2, is amended to read:

Subd. 2. **WALLEYE; NORTHERN PIKE.** (a) Except as provided in paragraphs paragraph (b) and (e), a person may take no more than one walleye larger than 24 20 inches and one northern pike larger than 30 inches daily.

(b) The restrictions in paragraph (a) do not apply to boundary waters.

(e) ~~On Lake of the Woods, a person may take no more than one walleye larger than 19.5 inches and one northern pike larger than 36 inches daily.~~

EFFECTIVE DATE. This section is effective March 1, 2006.

Sec. 48. Minnesota Statutes 2004, section 97C.825, subdivision 5, is amended to read:

Subd. 5. **NET LIMITS FOR LAKE OF THE WOODS AND RAINY LAKE.**

(a) The maximum amount of nets permitted to be licensed shall be:

New language is indicated by underline, deletions by ~~strikeout~~.

(a) ~~(1) in Lake of the Woods, 50-pound nets, 80,000 feet of gill nets or 160 submerged trap nets, and 80 fyke or staked trap nets. Licenses for submerged trap nets may be issued instead of licenses for gill nets in the ratio of not more than one submerged trap net per 500 feet of gill net, and the maximum permissible amount of gill nets shall be reduced by 500 feet for each submerged trap net licensed.; and~~

(b) (2) in Rainy Lake, 20-pound nets and 20,000 feet of gill nets.

(c) ~~When a licensee has had a license revoked or surrendered, the commissioner shall not be required to issue licenses for the amount of netting previously authorized under the revoked or surrendered license.~~

(d) (b) Commercial fishing may be prohibited in the Minnesota portions of international waters when it is prohibited in the international waters by Canadian authorities.

(e) ~~The commissioner may adopt rules to limit the total amount of game fish taken by commercial fishing operators in Lake of the Woods in any one season and shall apportion the amount to each licensee in accordance with the number and length of nets licensed.~~

Sec. 49. Minnesota Statutes 2004, section 171.07, subdivision 13, is amended to read:

Subd. 13. **FIREARMS SAFETY DESIGNATION.** (a) When an applicant has a record transmitted to the department as described in paragraph (c) or presents:

(1) a firearms safety certificate issued for successfully completing a firearms safety course administered under section 97B.015; or

(2) an advanced hunter certificate issued for successfully completing an advanced hunter education course administered under section 97B.025,

and requests a driver's license or identification card described in paragraph (b), the department shall issue, renew, or reissue to the applicant a driver's license or Minnesota identification card described in paragraph (b).

(b) Pursuant to paragraph (a), the department shall issue a driver's license or Minnesota identification card bearing a graphic or written indication that the applicant has successfully completed a firearms safety course administered under section 97B.015, an advanced hunter education course administered under section 97B.025, or both of the described courses.

(c) The department shall maintain in its records information transmitted electronically from the commissioner of natural resources identifying each person to whom the commissioner has issued a firearms safety certificate or an advanced hunter education certificate. The records transmitted from the Department of Natural Resources must contain the full name and date of birth as required for the driver's license or identification card. Records that are not matched to a driver's license or identification card record may be deleted after seven years.

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Sec. 50. Minnesota Statutes 2004, section 349.12, subdivision 25, is amended to read:

Subd. 25. **LAWFUL PURPOSE.** (a) "Lawful purpose" means one or more of the following:

(1) any expenditure by or contribution to a 501(c)(3) or festival organization, as defined in subdivision 15a, provided that the organization and expenditure or contribution are in conformity with standards prescribed by the board under section 349.154, which standards must apply to both types of organizations in the same manner and to the same extent;

(2) a contribution to an individual or family suffering from poverty, homelessness, or physical or mental disability, which is used to relieve the effects of that poverty, homelessness, or disability;

(3) a contribution to an individual for treatment for delayed posttraumatic stress syndrome or a contribution to a program recognized by the Minnesota Department of Human Services for the education, prevention, or treatment of compulsive gambling;

(4) a contribution to or expenditure on a public or private nonprofit educational institution registered with or accredited by this state or any other state;

(5) a contribution to a scholarship fund for defraying the cost of education to individuals where the funds are awarded through an open and fair selection process;

(6) activities by an organization or a government entity which recognize humanitarian or military service to the United States, the state of Minnesota, or a community, subject to rules of the board, provided that the rules must not include mileage reimbursements in the computation of the per diem reimbursement limit and must impose no aggregate annual limit on the amount of reasonable and necessary expenditures made to support:

(i) members of a military marching or color guard unit for activities conducted within the state;

(ii) members of an organization solely for services performed by the members at funeral services; or

(iii) members of military marching, color guard, or honor guard units may be reimbursed for participating in color guard, honor guard, or marching unit events within the state or states contiguous to Minnesota at a per participant rate of up to \$35 per diem;

(7) recreational, community, and athletic facilities and activities intended primarily for persons under age 21, provided that such facilities and activities do not discriminate on the basis of gender and the organization complies with section 349.154;

(8) payment of local taxes authorized under this chapter, taxes imposed by the United States on receipts from lawful gambling, the taxes imposed by section 297E.02,

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subdivisions 1, 4, 5, and 6, and the tax imposed on unrelated business income by section 290.05, subdivision 3;

(9) payment of real estate taxes and assessments on permitted gambling premises wholly owned by the licensed organization paying the taxes, or wholly leased by a licensed veterans organization under a national charter recognized under section 501(c)(19) of the Internal Revenue Code, not to exceed:

(i) for premises used for bingo, the amount that an organization may expend under board rules on rent for bingo; and

(ii) \$35,000 per year for premises used for other forms of lawful gambling;

(10) a contribution to the United States, this state or any of its political subdivisions, or any agency or instrumentality thereof other than a direct contribution to a law enforcement or prosecutorial agency;

(11) a contribution to or expenditure by a nonprofit organization which is a church or body of communicants gathered in common membership for mutual support and edification in piety, worship, or religious observances;

(12) payment of the reasonable costs of an audit required in section 297E.06, subdivision 4, provided the annual audit is filed in a timely manner with the Department of Revenue;

(13) a contribution to or expenditure on a wildlife management project that benefits the public at-large, provided that the state agency with authority over that wildlife management project approves the project before the contribution or expenditure is made;

(14) expenditures, approved by the commissioner of natural resources, by an organization for grooming and maintaining snowmobile trails and all-terrain vehicle trails that are (1) grant-in-aid trails established under section 85.019, or (2) other trails open to public use, including purchase or lease of equipment for this purpose; projects or activities approved by the commissioner of natural resources for:

(i) wildlife management projects that benefit the public at large;

(ii) grant-in-aid trail maintenance and grooming established under sections 84.83 and 84.927, and other trails open to public use, including purchase or lease of equipment for this purpose; or

(iii) supplies and materials for safety training and educational programs coordinated by the Department of Natural Resources, including the Enforcement Division;

~~(14)~~ (14) conducting nutritional programs, food shelves, and congregate dining programs primarily for persons who are age 62 or older or disabled;

~~(16)~~ (15) a contribution to a community arts organization, or an expenditure to sponsor arts programs in the community, including but not limited to visual, literary, performing, or musical arts;

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~~(17)~~ (16) an expenditure by a licensed veterans organization for payment of water, fuel for heating, electricity, and sewer costs for a building wholly owned or wholly leased by and used as the primary headquarters of the licensed veterans organization;

~~(18)~~ (17) expenditure by a licensed veterans organization of up to \$5,000 in a calendar year in net costs to the organization for meals and other membership events, limited to members and spouses, held in recognition of military service. No more than \$5,000 can be expended in total per calendar year under this clause by all licensed veterans organizations sharing the same veterans post home; or

~~(19)~~ (18) payment of fees authorized under this chapter imposed by the state of Minnesota to conduct lawful gambling in Minnesota.

(b) Notwithstanding paragraph (a), "lawful purpose" does not include:

(1) any expenditure made or incurred for the purpose of influencing the nomination or election of a candidate for public office or for the purpose of promoting or defeating a ballot question;

(2) any activity intended to influence an election or a governmental decision-making process;

(3) the erection, acquisition, improvement, expansion, repair, or maintenance of real property or capital assets owned or leased by an organization, unless the board has first specifically authorized the expenditures after finding that (i) the real property or capital assets will be used exclusively for one or more of the purposes in paragraph (a); (ii) with respect to expenditures for repair or maintenance only, that the property is or will be used extensively as a meeting place or event location by other nonprofit organizations or community or service groups and that no rental fee is charged for the use; (iii) with respect to expenditures, including a mortgage payment or other debt service payment, for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building, a building owned by the organization and destroyed or made uninhabitable by fire or natural disaster, provided that the expenditure may be only for that part of the replacement cost not reimbursed by insurance; (iv) with respect to expenditures, including a mortgage payment or other debt service payment, for erection or acquisition only, that the erection or acquisition is necessary to replace with a comparable building a building owned by the organization that was acquired from the organization by eminent domain or sold by the organization to a purchaser that the organization reasonably believed would otherwise have acquired the building by eminent domain, provided that the expenditure may be only for that part of the replacement cost that exceeds the compensation received by the organization for the building being replaced; or (v) with respect to an expenditure to bring an existing building into compliance with the Americans with Disabilities Act under item (ii), an organization has the option to apply the amount of the board-approved expenditure to the erection or acquisition of a replacement building that is in compliance with the Americans with Disabilities Act;

(4) an expenditure by an organization which is a contribution to a parent organization, foundation, or affiliate of the contributing organization, if the parent

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organization, foundation, or affiliate has provided to the contributing organization within one year of the contribution any money, grants, property, or other thing of value;

(5) a contribution by a licensed organization to another licensed organization unless the board has specifically authorized the contribution. The board must authorize such a contribution when requested to do so by the contributing organization unless it makes an affirmative finding that the contribution will not be used by the recipient organization for one or more of the purposes in paragraph (a); or

(6) a contribution to a statutory or home rule charter city, county, or town by a licensed organization with the knowledge that the governmental unit intends to use the contribution for a pension or retirement fund.

Sec. 51. CONFORMING CHANGES; RULES.

The commissioner may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to amend rules to conform to sections 44 and 46. Minnesota Statutes, section 14.386, does not apply to the rulemaking under this section except to the extent provided under Minnesota Statutes, section 14.388.

Sec. 52. REPEALER.

(a) Minnesota Statutes 2004, sections 88.27; 97B.005, subdivision 4; 97B.935; 97C.015; 97C.403; and 97C.825, subdivisions 6, 7, 8, and 9, are repealed.

(b) Minnesota Rules, parts 6234.2300, subparts 2 and 3; 6236.1100; and 6236.1300, are repealed.

Presented to the governor May 31, 2005

Signed by the governor June 3, 2005, 8:45 a.m.

CHAPTER 147—S.F.No. 1204

An act relating to health; recodifying statutes and rules relating to social work; authorizing rulemaking; providing penalties; modifying provisions relating to physical therapists; providing penalties; modifying the Psychology Practice Act; phasing out licensure as a licensed psychological practitioner; modifying dental licensure provisions; establishing fees; modifying provisions for licensed professional counselors; authorizing certain rulemaking; modifying physician review; modifying information contained on prescriptions; providing recognition for the practice of respiratory therapy in emergency situations; providing that audiologists need not obtain hearing instrument dispenser certification; providing penalties; transferring oversight authority for the Office of Mental Health Practice; requiring a report; establishing penalty fees for certain credentialed health occupations; modifying certain health care provider disclosure and payments; providing criminal penalties; appropriating money; amending Minnesota Statutes 2004, sections 13.383, subdivision 10; 13.411, subdivision 5; 45.0135, by adding a subdivision; 144.335, subdivision 1; 144A.46, subdivision 2; 144E.001, subdivisions 8, 15, by adding a subdivision; 144E.27, subdivision 2; 144E.28, subdivisions 1, 3, 7, 8; 147.09; 147A.18, subdivisions 1, 3;

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