

**CHAPTER 93--H.F.No. 3255**

*An act relating to commerce; establishing a supplemental budget for the Department of Commerce; adding and modifying provisions governing insurance, financial institutions, and other entities regulated by the Department of Commerce; making technical changes to various provisions administered by the Department of Commerce; updating references to federal law; appropriating money; requiring reports; amending Minnesota Statutes 2020, sections 45.0135, subdivisions 2a, 2b; 46.131, subdivisions 2, 4, 11; 47.08; 47.16, subdivisions 1, 2; 47.172, subdivision 2; 47.28, subdivision 3; 47.30, subdivision 5; 48A.15, subdivision 1; 53.03, subdivisions 1, 5; 53C.02; 55.10, subdivision 1; 56.02; 60A.031, subdivision 6, by adding subdivisions; 60A.033, subdivisions 8, 9, by adding subdivisions; 60A.954, subdivision 1; 65B.84, subdivisions 1, 2; 72A.12, subdivision 4; 72A.20, subdivision 11; 72A.328, subdivisions 1, 2; 80A.61; 80C.05, subdivision 2; 80E.13; 239.761, subdivisions 3, 4; 239.791, subdivision 2a; 296A.01, subdivision 23; 325E.21, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 60B; 72A; 214; repealing Minnesota Statutes 2020, sections 60A.033, subdivision 3; 72A.08; 72A.20, subdivisions 10, 15.*

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

**ARTICLE 1****SUPPLEMENTAL APPROPRIATIONS****Section 1. APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2022" and "2023" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2022, or June 30, 2023, respectively. "The first year" is fiscal year 2022. "The second year" is fiscal year 2023. "The biennium" is fiscal years 2022 and 2023. If an appropriation in this act is enacted more than once in the 2022 legislative session, the appropriation must be given effect only once. Appropriations for the fiscal year ending June 30, 2022, are effective the day following final enactment. The appropriations made under this article supplement, and do not supersede or replace, the appropriations made under Laws 2021, First Special Session chapter 4, article 1.

<b><u>APPROPRIATIONS</u></b>	
<b><u>Available for the Year</u></b>	
<b><u>Ending June 30</u></b>	
<b><u>2022</u></b>	<b><u>2023</u></b>

**Sec. 2. DEPARTMENT OF COMMERCE**

<b><u>Subdivision 1. Total Appropriation</u></b>	<b><u>\$</u></b>	<b><u>-0-</u></b>	<b><u>\$</u></b>	<b><u>\$1,347,000</u></b>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

**Subd. 2. Administrative Services**

-0-

-0-

\$19,000 in fiscal year 2024 and \$23,000 in fiscal year 2025 are base amounts for the licensing disqualification and preliminary application requirements under Minnesota Statutes, section 214.035.

**Subd. 3. Financial Services**

-0-

300,000

\$300,000 in fiscal year 2023 is for additional securities staff.

**Subd. 4. Insurance**

-0-

525,000

\$525,000 in fiscal year 2023 is for additional staff in the insurance and enforcement divisions. The additional staff must focus on property- and casualty-related insurance products and market conduct examinations.

**Subd. 5. Enforcement and Examinations**

-0-

522,000

\$522,000 in fiscal year 2023 is for the auto theft prevention library under Minnesota Statutes, section 65B.84, subdivision 1, paragraph (d). This is a onetime appropriation.

**Sec. 3. BOARD OF ACCOUNTANCY**

\$

-0- \$

-0-

**Licensing Disqualifications; Preliminary Applications.**

\$6,000 in fiscal year 2024 is the base amount to the Board of Accountancy for the licensing disqualification and preliminary application requirements under Minnesota Statutes, section 214.035. This is a onetime appropriation.

**Sec. 4. ATTORNEY GENERAL**

\$

-0- \$

-0-

**Licensing Disqualifications; Preliminary Applications.**

\$24,000 in fiscal year 2024 and \$24,000 in fiscal year 2025 are base amounts to the attorney general for the licensing disqualification and preliminary application



## ARTICLE 2

### COMMERCE POLICY

Section 1. Minnesota Statutes 2020, section 45.0135, subdivision 2a, is amended to read:

Subd. 2a. **Authorization.** (a) The commissioner may appoint peace officers, as defined in section 626.84, subdivision 1, paragraph (c), and establish a law enforcement agency, as defined in section 626.84, subdivision 1, paragraph (f), known as the Commerce Fraud Bureau, to conduct investigations, and to make arrests under sections 629.30 and 629.34. The primary jurisdiction of the law enforcement agency is limited to offenses ~~related to insurance fraud~~ with a nexus to insurance-related crimes or financial crimes.

(b) Upon request and at the commissioner's discretion, the Commerce Fraud Bureau may respond to a law enforcement agency's request to exercise law enforcement duties in cooperation with the law enforcement agency that has jurisdiction over the particular matter.

(c) The Commerce Fraud Bureau must allocate at least 70 percent of its work to insurance fraud, as defined in sections 60A.951, subdivision 4, and 609.611.

Sec. 2. Minnesota Statutes 2020, section 45.0135, subdivision 2b, is amended to read:

Subd. 2b. **Duties.** The Commerce Fraud Bureau shall:

(1) review notices and reports ~~of insurance fraud~~ within the Commerce Fraud Bureau's primary jurisdiction submitted by authorized insurers, their employees, and agents or producers;

(2) respond to notifications or complaints ~~of suspected insurance fraud~~ within the Commerce Fraud Bureau's primary jurisdiction generated by other law enforcement agencies, state or federal governmental units, or any other person;

(3) initiate inquiries and conduct investigations when the bureau has reason to believe that ~~insurance fraud~~ an offense within the Commerce Fraud Bureau's primary jurisdiction has been or is being committed; and

(4) ~~report incidents of alleged insurance fraud crimes disclosed by its~~ the Commerce Fraud Bureau's investigations to appropriate law enforcement agencies, including, but not limited to, the attorney general, county attorneys, or any other appropriate law enforcement or regulatory agency, and shall assemble evidence, prepare charges, and otherwise assist any law enforcement authority having jurisdiction.

Sec. 3. Minnesota Statutes 2020, section 46.131, subdivision 2, is amended to read:

Subd. 2. **Assessment authority.** ~~Each bank, trust company, savings bank, savings association, regulated lender, industrial loan and thrift company, credit union, motor vehicle sales finance company, debt management services provider, debt settlement services provider, insurance premium finance company, and residential PACE administrator, as defined in section 216C.435, subdivision 10a, financial institution governed by chapters 46 to 59A, 216C, and 332 to 332B that is organized under the laws of this state or required to be administered by the commissioner of commerce shall pay into the state treasury its proportionate share of the cost of maintaining the Department of Commerce. This subdivision does not apply to student loan servicers or collection agencies.~~

Sec. 4. Minnesota Statutes 2020, section 46.131, subdivision 4, is amended to read:

Subd. 4. **General assessment basis.** (a) Assessments shall be made by the commissioner against each institution within the industry on an equitable basis, according to the total assets or business volume of each institution as of the end of the previous calendar year.

(b) Assessments against residential PACE administrators, as defined in section 216C.435, subdivision 10a, must be made by the commissioner according to the total business volume as of the end of the previous calendar year.

Sec. 5. Minnesota Statutes 2020, section 46.131, subdivision 11, is amended to read:

Subd. 11. **Financial institutions account; appropriation.** (a) The financial institutions account is created as a separate account in the special revenue fund. Earnings, including interest, dividends, and any other earnings arising from account assets, must be credited to the account.

(b) The account consists of funds received from assessments under subdivision 7, examination fees under subdivision 8, and funds received pursuant to subdivision 10 and the following provisions: sections 46.04; 46.041; 46.048, subdivision 1; 47.101; 47.54, subdivision 1; 47.60, subdivision 3; 47.62, subdivision 4; 48.61, subdivision 7, paragraph (b); 49.36, subdivision 1; 52.203; 53B.09; 53B.11, subdivision 1; 53C.02; 56.02; 58.10; 58A.045, subdivision 2; ~~and 59A.03~~; 216C.437, subdivision 12; 332A.04; and 332B.04.

(c) Funds in the account are annually appropriated to the commissioner of commerce for activities under this section.

Sec. 6. Minnesota Statutes 2020, section 47.08, is amended to read:

#### **47.08 ARTICLES OF INCORPORATION FILED WITH COMMISSIONER.**

All persons proposing to incorporate and organize any financial institution, whether defined or described as such by the laws of the state, shall, before doing any business in the state as a corporation, ~~and before filing their articles of incorporation with the secretary of state or with any other officer with whom the law requires such articles to be filed or recorded,~~ file a copy of such the proposed articles of incorporation with the commissioner of commerce.

Sec. 7. Minnesota Statutes 2020, section 47.16, subdivision 1, is amended to read:

Subdivision 1. **Filing.** The certificate of a corporation must be filed for record with the ~~secretary of state~~ commissioner of commerce. If the ~~secretary of state~~ commissioner of commerce finds that it conforms to law and that the required fee has been paid, the ~~secretary of state~~ commissioner of commerce must record it and certify that fact on it. ~~The secretary of state may not accept a certificate for filing unless the certificate also contains the endorsement of the commissioner of commerce.~~

Sec. 8. Minnesota Statutes 2020, section 47.16, subdivision 2, is amended to read:

Subd. 2. **Certificate of authority.** If the commissioner of commerce is satisfied that the corporation has been organized for legitimate purposes, and under such conditions as to merit and have public confidence, and that all provisions of law applicable to every branch of business in which, by the terms of its certificate, it is authorized to engage, have been complied with, the commissioner shall so certify. When the original ~~certificate and the certificate of incorporation from the secretary of state~~ is filed with the commissioner of

commerce, the commissioner shall, within 60 days thereafter, execute and deliver to it a certificate of authority.

Sec. 9. Minnesota Statutes 2020, section 47.172, subdivision 2, is amended to read:

Subd. 2. **Effect.** The certificate to be filed to accomplish a restated certificate of incorporation must be entitled "restated certificate of incorporation of (name of financial corporation)" and must contain a statement that the restated certificate supersedes and takes the place of the existing certificate of incorporation and all amendments to it. The restated certificate of incorporation when executed, filed and recorded in the manner prescribed for certificate of amendment supersedes and takes the place of an existing certificate of incorporation and amendments to it. ~~The secretary of state upon request must certify the restated certificate of incorporation.~~

Sec. 10. Minnesota Statutes 2020, section 47.28, subdivision 3, is amended to read:

Subd. 3. **Recording.** Upon receipt of the fees required for filing and recording amended articles of incorporation of savings banks, the ~~secretary of state~~ commissioner of commerce shall record the amended articles of incorporation and certify that fact thereon, whereupon the conversion of such savings bank into a savings association shall become final and complete and thereafter said corporation shall have the powers and be subject to the duties and obligations prescribed by the laws of this state applicable to savings associations.

Sec. 11. Minnesota Statutes 2020, section 47.30, subdivision 5, is amended to read:

Subd. 5. **Recording.** Upon receipt of the fees required for filing and recording amended articles of incorporation of savings associations, the ~~secretary of state~~ commissioner of commerce shall record the amended articles of incorporation and certify that fact thereon, whereupon the conversion of such savings association into a savings bank shall become final and complete and thereafter the signers of said amended articles and their successors shall be a corporation, and have the powers and be subject to the duties and obligations prescribed by the laws of this state applicable to savings banks.

Sec. 12. Minnesota Statutes 2020, section 48A.15, subdivision 1, is amended to read:

Subdivision 1. **Authorization.** (a) A trust company organized under the laws of this state or a state bank and trust may, after completing the notification procedure required by this subdivision, establish and maintain a trust service office at any office in this state or of any other state or national bank. A state bank may, after completing the notification procedure required by this subdivision, permit a trust company organized under the laws of this state or a state bank and trust or a national bank in this state that is authorized to exercise trust powers to establish and maintain a trust service office at any of its banking offices.

(b) The trust company or state bank and trust and a state bank at which a trust service office is to be established according to this section shall jointly file, on forms provided by the commissioner, a notification of intent to establish a trust service office. The notification must be accompanied by a filing fee of \$100 payable to the commissioner, to be deposited in the ~~general fund of the state~~ financial institutions account under section 46.131, subdivision 11. No trust service office shall be established according to this section if disallowed by order of the commissioner within 30 days of the filing of a complete and acceptable notification of intent to establish a trust service office. An order of the commissioner to disallow the establishment of a trust service office under this section is subject to judicial review under sections 14.63 to 14.69.

Sec. 13. Minnesota Statutes 2020, section 53.03, subdivision 1, is amended to read:

Subdivision 1. **Application, fee, notice.** Any corporation hereafter organized as an industrial loan and thrift company, shall, after compliance with the requirements set forth in sections 53.01 and 53.02, file a written application with the Department of Commerce for a certificate of authorization. A corporation that will not sell or issue thrift certificates for investment as permitted by this chapter need not comply with subdivision 2b. The application must be in the form prescribed by the Department of Commerce. The application must be made in the name of the corporation, executed and acknowledged by an officer designated by the board of directors of the corporation, requesting a certificate authorizing the corporation to transact business as an industrial loan and thrift company, at the place and in the name stated in the application. At the time of filing the application the applicant shall pay \$1,500 filing fee if the corporation will not sell or issue thrift certificates for investment, and a filing fee of \$8,000 if the corporation will sell or issue thrift certificates for investment. The fees must be ~~turned over by the commissioner to the commissioner of management and budget and credited to the general fund~~ collected by the commissioner and deposited in the financial institutions account under section 46.131, subdivision 11. The applicant shall also submit a copy of the bylaws of the corporation, its articles of incorporation and all amendments thereto at that time. An application for powers under subdivision 2b must also require that a notice of the filing of the application must be published once within 30 days of the receipt of the form prescribed by the Department of Commerce, at the expense of the applicant, in a qualified newspaper published in the municipality in which the proposed industrial loan and thrift company is to be located, or, if there be none, in a qualified newspaper likely to give notice in the municipality in which the company is proposed to be located. If the Department of Commerce receives a written objection to the application from any person within 15 days of the notice having been fully published, the commissioner shall proceed in the same manner as required under section 46.041, subdivisions 3 and 4, relating to state banks.

Sec. 14. Minnesota Statutes 2020, section 53.03, subdivision 5, is amended to read:

Subd. 5. **Place of business.** Not more than one place of business may be maintained under any certificate of authorization issued subsequent to the enactment of Laws 1943, chapter 67, pursuant to the provisions of this chapter, but the Department of Commerce may issue more than one certificate of authorization to the same corporation upon compliance with all the provisions of this chapter governing an original issuance of a certificate of authorization. To the extent that previously filed applicable information remains unchanged, the applicant need not refile this information, unless requested. The filing fee for a branch application shall be \$500 and the investigation fee \$250. An industrial loan and thrift corporation with deposit liabilities may change one or more of its locations upon the written approval of the commissioner of commerce. A fee of \$100 must accompany each application to the commissioner for approval to change the location of an established office. An industrial loan and thrift corporation that does not sell and issue thrift certificates for investment may change one or more locations by giving 30 days' written notice to the Department of Commerce which shall promptly amend the certificate of authorization accordingly. No change in place of business of a company to a location outside of its current trade area or more than 25 miles from its present location, whichever distance is greater, shall be permitted under the same certificate unless all of the applicable requirements of this section have been met. All money collected by the commissioner under this chapter must be deposited into the financial institutions account under section 46.131, subdivision 11.

Sec. 15. Minnesota Statutes 2020, section 53C.02, is amended to read:

**53C.02 SALES FINANCE COMPANY; LICENSE, FEES, REFUND.**

(a) No person shall engage in the business of a sales finance company in this state without a license therefor as provided in sections 53C.01 to 53C.14 provided, however, that no bank, trust company, savings bank, savings association, or credit union, whether state or federally chartered, industrial loan and thrift company, or licensee under the Minnesota Regulated Loan Act authorized to do business in this state shall be required to obtain a license under sections 53C.01 to 53C.14.

(b) The application for a license shall be in writing, under oath and in the form prescribed by the commissioner. The application shall contain the name of the applicant; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners, or, if a corporation or association, of the directors, trustees and principal officers, and other pertinent information the commissioner requires.

(c) The licensee fee for the fiscal year beginning July 1 and ending June 30 of the following year, or any part thereof shall be the sum of \$250 for the principal place of business of the licensee, and the sum of \$125 for each branch of the licensee. Any licensee who proves to the satisfaction of the commissioner, by affidavit or other proof satisfactory to the commissioner, that during the 12 calendar months of the immediately preceding fiscal year, for which the license has been paid that the licensee has not held retail installment contracts exceeding \$15,000 in amount, shall be entitled to a refund of that portion of each license fee paid in excess of \$25. The commissioner shall certify ~~to the commissioner of management and budget~~ that the licensee is entitled to a refund, and payment ~~thereof~~ of the refund shall be made by the commissioner ~~of management and budget~~. The amount necessary to pay for the refundment of the license fee is appropriated ~~out of the general fund~~ from the financial institutions account under section 46.131, subdivision 11. All license fees received by the commissioner under sections 53C.01 to 53C.14 shall be deposited with the commissioner of management and budget.

(d) Each license shall specify the location of the office or branch and must be conspicuously displayed there. In case the location be changed, the commissioner shall endorse the change of location on the license.

(e) Upon the filing of such application, and the payment of the fee, the commissioner shall issue a license to the applicant to engage in the business of a sales finance company under and in accordance with the provisions of sections 53C.01 to 53C.14 for a period which shall expire the last day of June next following the date of its issuance. The license shall not be transferable or assignable. No licensee shall transact any business provided for by sections 53C.01 to 53C.14 under any other name.

(f) Section 58A.04, subdivisions 2 and 3, apply to this section.

Sec. 16. Minnesota Statutes 2020, section 55.10, subdivision 1, is amended to read:

Subdivision 1. **Permitting access, removal, or delivery.** When a safe deposit box shall have been hired from any licensed safe deposit company in the name of two or more persons, including ~~husband and wife~~ a married couple, with the right of access being given to either, or with access to either or the survivor or survivors of the person, or property is held for safekeeping by any licensed safe deposit company for two or more persons, including ~~husband and wife~~ a married couple, with the right of delivery being given to either, or with the right of delivery to either of the survivor or survivors of these persons, any one or more of these persons, whether the other or others be living or not, shall have the right of access to the safe deposit box and the right to remove all, or any part, of the contents thereof, or to have delivered to all or any one of them, or any part of the valuable personal property so held for safekeeping; and, in case of this access,



removal, or delivery, the safe deposit company shall be exempt from any liability for permitting the access, removal, or delivery.

Sec. 17. Minnesota Statutes 2020, section 56.02, is amended to read:

**56.02 APPLICATION FEE.**

(a) Application for license shall be in writing, under oath, and in the form prescribed by the commissioner, and contain the name and the address, both of the residence and place of business, of the applicant and, if the applicant is a copartnership or association, of every member thereof, and if a corporation, of each officer and director thereof; also the county and municipality, with street and number, if any, where the business is to be conducted, and such further information as the commissioner may require. The applicant at the time of making application, shall pay to the commissioner the sum of \$500 as a fee for investigating the application, and the additional sum of \$250 as an annual license fee for a period terminating on the last day of the current calendar year. In addition to the annual license fee, every licensee hereunder shall pay to the commissioner the actual costs of each examination, as provided for in section 56.10. All ~~moneys~~ money collected by the commissioner under this chapter shall be ~~turned over to the commissioner of management and budget and credited by the commissioner of management and budget to the general fund of the state~~ deposited in the financial institutions account under section 46.131, subdivision 11.

(b) Every applicant shall also prove, in form satisfactory to the commissioner, that the applicant has available for the operation of the business at the location specified in the application, liquid assets of at least \$50,000.

(c) Section 58A.04, subdivisions 2 and 3, apply to this section.

Sec. 18. Minnesota Statutes 2020, section 60A.031, subdivision 6, is amended to read:

Subd. 6. **Penalty.** (a) Notwithstanding section 72A.05, any person who violates or aids and abets any violation of a written order issued pursuant to this section may be fined not more than \$10,000 for each day the violation continues for each violation of the order and the money so recovered shall be paid into the general fund.

(b) For conduct prohibited under chapters 60A to 79, multiple violations of an identical or substantially similar law, rule, or order shall be considered a single violation under this section and section 45.027. This paragraph does not apply to willful violations by the insurer. This paragraph does not apply to violations that the insurer has not taken corrective action for and that:

- (1) cause financial harm to the policyholder;
- (2) constitute an unfair method of competition; or
- (3) constitute an unfair or deceptive act or practice.

(c) For any applicable penalty imposed by the commissioner under this section, the commissioner must consider whether corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice, and shall reduce or eliminate the penalty accordingly.

(d) This subdivision does not apply if a different penalty is specified under law.

Sec. 19. Minnesota Statutes 2020, section 60A.031, is amended by adding a subdivision to read:

Subd. 10. **Limitation of enforcement actions or administrative proceedings.** An enforcement action or administrative proceeding brought by the commissioner against a licensee who violates any law, rule, or order related to the duties and responsibilities entrusted to the commissioner in chapters 60A to 79, including without limitation the issuance of an order pursuant to chapters 60A to 79, must be commenced within nine years of the date the violation occurs unless the violation arises out of a contract that remains in force, in which case the action or administrative proceeding must be commenced within two years of the date of the discovery of the violation. If the licensee attempts to conceal a violation, an enforcement action or administrative proceeding must be brought by the commissioner within nine years of discovery of the violation by the commissioner.

Sec. 20. Minnesota Statutes 2020, section 60A.031, is amended by adding a subdivision to read:

Subd. 11. **Multistate examinations.** If the commissioner elects to participate in an examination of a licensee that involves multiple states, the commissioner is prohibited from commencing, undertaking, or continuing an examination under this section against the subject examinee related to the same alleged conduct, including without limitation incurring or charging any examination costs, unless and until the multistate examination is complete or Minnesota has formally withdrawn from that examination. With respect to any completed multistate examination that Minnesota elected to participate in, the commissioner is prohibited from taking separate action against a licensee that was subject to the multistate examination unless the commissioner follows the procedures set forth in this section and section 60A.033, as applicable.

**EFFECTIVE DATE.** This section is effective August 1, 2022, and applies to examinations and investigations initiated on or after that date.

Sec. 21. Minnesota Statutes 2020, section 60A.033, subdivision 8, is amended to read:

Subd. 8. **Costs.** All bills for examination costs being charged to an insurance company pursuant to subdivision 5 or section 60A.031, subdivision 3, paragraph (c), must:

(1) be itemized and, with respect to examiner billings, contain activity detail on a quarterly hourly basis by an individual examiner and disclose the applicable hourly billing rates, together with per-charge detail for related travel or other expenses; and

(2) provide a due date no less than ~~30~~ 60 days from receipt of the bill.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 22. Minnesota Statutes 2020, section 60A.033, subdivision 9, is amended to read:

Subd. 9. **Completion of examination.** An examination under section 60A.031 must not exceed 18 months from the date the commissioner receives the insurance company's first submission pursuant to a scheduling order, unless:

(1) the commissioner determines that there has been a material lack of cooperation by the insurance company and advises the company in writing of the specific instances demonstrating a lack of cooperation;

(2) the examination is a multistate examination; or

(3) the commissioner determines that additional time is necessary to complete the examination and the commissioner notifies the insurance company in writing of the reasons why the examination requires additional time.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 23. Minnesota Statutes 2020, section 60A.033, is amended by adding a subdivision to read:

Subd. 11. **Informal disposition.** (a) The commissioner must make an attempt to informally resolve any alleged violations of law identified during the examination or investigation. An attempt to informally resolve a violation may consist of a consent order, nonpublic letter of reprimand, or other informal resolution or disposition.

(b) The terms of a consent order or other informal disposition that prescribes compliance requirements must be consistent with the requirements of Minnesota law.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 24. Minnesota Statutes 2020, section 60A.033, is amended by adding a subdivision to read:

Subd. 12. **Report to the legislature.** Each year by February 1, the commissioner must report the following information to the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over commerce:

(1) a listing of the number of pending market conduct exams and the year the exams were commenced;

(2) the number of exams closed during the prior year and the current total of costs charged to the companies for each exam;

(3) whether the exam is being conducted, in whole or in part, by third-party examiners; and

(4) other information that the chairs or ranking minority members may reasonably request, subject to the limitations of section 60A.031, subdivision 4, paragraph (f).

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 25. Minnesota Statutes 2020, section 60A.954, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** An insurer shall institute, implement, and maintain an antifraud plan. For the purpose of this section, the term insurer does not include reinsurers, the Workers' Compensation Reinsurance Association, self-insurers, and excess insurers. Within 30 days after instituting or materially modifying an antifraud plan, the insurer shall notify the commissioner in writing. The notice must include the name of the person responsible for administering the plan. An antifraud plan shall establish procedures to:

(1) prevent insurance fraud, including: internal fraud involving the insurer's officers, employees, or agents; fraud resulting from misrepresentations on applications for insurance; and claims fraud;

(2) report insurance fraud to appropriate law enforcement authorities; and

(3) cooperate with the prosecution of insurance fraud cases.

**Sec. 26. [60B.335] FEDERAL HOME LOAN BANK RIGHTS; COLLATERAL PLEDGED BY INSURER-MEMBERS.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Federal home loan bank" means a federal home loan bank established under the federal Home Loan Bank Act, United States Code, title 12, section 1421 et seq.

(c) "Insurer-member" means an insurer that is a member of a federal home loan bank.

Subd. 2. **Certain rights provided.** (a) Notwithstanding any law to the contrary, after the seventh day following the filing of a delinquency proceeding, a federal home loan bank must not be stayed or prohibited from exercising the federal home loan bank's rights regarding collateral pledged by an insurer-member.

(b) If a federal home loan bank exercises rights regarding collateral pledged by an insurer-member subject to a delinquency proceeding, the federal home loan bank must repurchase any outstanding capital stock that is in excess of the amount of federal home loan bank stock that the insurer-member is required to hold as a minimum investment, to the extent the federal home loan bank determines in good faith that the repurchase is: (1) permissible under applicable laws, regulations, regulatory obligations, and the federal home loan bank's capital plan; and (2) consistent with the federal home loan bank's current capital stock practices applicable to the federal home loan bank's entire membership.

Subd. 3. **Process and timeline required.** Following the appointment of a receiver for an insurer-member, the federal home loan bank must, within ten business days after the date a request is received from the receiver, provide a process and establish a timeline for:

(1) release of collateral that exceeds the amount required to support secured obligations remaining after any repayment of loans, as determined in accordance with the applicable agreements between the federal home loan bank and the insurer-member;

(2) release of any of the insurer-member's collateral remaining in the federal home loan bank's possession following repayment in full of the insurer-member's outstanding secured obligations;

(3) payment of fees owed by the insurer-member and the operation of the insurer-member's deposits and other accounts with the federal home loan bank; and

(4) possible redemption or repurchase of federal home loan bank stock or excess stock of any class that an insurer-member is required to own.

Subd. 4. **Options; renew or restructure.** Upon request from a receiver, the federal home loan bank must provide the options available for an insurer-member subject to a delinquency proceeding to renew or restructure a loan to defer associated prepayment fees, subject to (1) market conditions, (2) the terms of any loans outstanding to the insurer-member, (3) the federal home loan bank's applicable policies, and (4) the federal home loan bank's compliance with federal laws and regulations.

Subd. 5. **Void transfers prohibited.** (a) Notwithstanding any law to the contrary, the receiver for an insurer-member is prohibited from voiding any transfer of, or any obligation to transfer, money or any other property arising under or in connection with: (1) any federal home loan bank security agreement; (2) any pledge, security, collateral, or guarantee agreement; or (3) any other similar arrangement or credit enhancement relating to a federal home loan bank security agreement made in the ordinary course of business and in compliance with the applicable federal home loan bank agreement.

(b) A transfer may be voided under this section if the transfer was made with intent to hinder, delay, or defraud the insurer-member, the receiver for the insurer-member, or existing or future creditors.

(c) This section does not affect a receiver's rights regarding advances to an insurer-member in delinquency proceedings pursuant to Code of Federal Regulations, title 12, part 1266.4.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to delinquency proceedings filed on or after that date.

Sec. 27. Minnesota Statutes 2020, section 65B.84, subdivision 1, is amended to read:

Subdivision 1. **Program described; commissioner's duties; appropriation.** (a) The commissioner of commerce shall:

(1) develop and sponsor the implementation of statewide plans, programs, and strategies to combat automobile theft, improve the administration of the automobile theft laws, and provide a forum for identification of critical problems for those persons dealing with automobile theft;

(2) coordinate the development, adoption, and implementation of plans, programs, and strategies relating to interagency and intergovernmental cooperation with respect to automobile theft enforcement;

(3) annually audit the plans and programs that have been funded in whole or in part to evaluate the effectiveness of the plans and programs and withdraw funding should the commissioner determine that a plan or program is ineffective or is no longer in need of further financial support from the fund;

(4) develop a plan of operation including:

(i) an assessment of the scope of the problem of automobile theft, including areas of the state where the problem is greatest;

(ii) an analysis of various methods of combating the problem of automobile theft;

(iii) a plan for providing financial support to combat automobile theft;

(iv) a plan for eliminating car hijacking; and

(v) an estimate of the funds required to implement the plan; and

(5) distribute money, in consultation with the commissioner of public safety, pursuant to subdivision 3 from the automobile theft prevention special revenue account for automobile theft prevention activities, including:

(i) paying the administrative costs of the program;

(ii) providing financial support to the State Patrol and local law enforcement agencies for automobile theft enforcement teams;

(iii) providing financial support to state or local law enforcement agencies for programs designed to reduce the incidence of automobile theft and for improved equipment and techniques for responding to automobile thefts;

(iv) providing financial support to local prosecutors for programs designed to reduce the incidence of automobile theft;

(v) providing financial support to judicial agencies for programs designed to reduce the incidence of automobile theft;

(vi) providing financial support for neighborhood or community organizations or business organizations for programs designed to reduce the incidence of automobile theft and to educate people about the common methods of automobile theft, the models of automobiles most likely to be stolen, and the times and places automobile theft is most likely to occur; and

(vii) providing financial support for automobile theft educational and training programs for state and local law enforcement officials, driver and vehicle services exam and inspections staff, and members of the judiciary.

(b) The commissioner may not spend in any fiscal year more than ten percent of the money in the fund for the program's administrative and operating costs. The commissioner is annually appropriated and must distribute the amount of the proceeds credited to the automobile theft prevention special revenue account each year, less the transfer of \$1,300,000 each year to the insurance fraud prevention account described in section 297I.11, subdivision 2.

(c) At the end of each fiscal year, the commissioner may transfer any unobligated balances in the auto theft prevention account to the insurance fraud prevention account under section 45.0135, subdivision 6.

(d) The commissioner must establish a library of equipment to combat automobile-related theft offenses. The equipment must be available to all law enforcement agencies upon request to support law enforcement agency efforts to combat automobile theft.

Sec. 28. Minnesota Statutes 2020, section 65B.84, subdivision 2, is amended to read:

Subd. 2. **Annual report.** By ~~January 15~~ of September 30 each year, the commissioner shall report to the governor and the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over the Departments of Commerce and Public Safety on the activities and expenditures in the preceding year.

Sec. 29. **[72A.071] REBATES.**

Subdivision 1. **Prohibition.** Notwithstanding any law to the contrary, insurers and producers are prohibited from knowingly permitting or offering to make or making any life insurance policy or annuity, or policy of accident and sickness insurance, or health plan or other insurance, or agreement as to such contract other than as plainly expressed in the policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such policy, any rebate of premiums payable on the policy, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such policy or annuity or in connection therewith, any stocks, bonds or other securities of any company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the policy.

Subd. 2. **Practices not considered discrimination or rebates.** (a) Nothing in subdivision 1, section 72A.20, subdivisions 8 or 9, or section 72A.12, subdivisions 3 or 4, shall be construed as including within the definition of discrimination or rebates any of the following practices:

(1) in the case of life insurance policies or annuities, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance,

provided that any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders;

(2) in the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount that fairly represents the saving in collection expenses;

(3) readjusting the rate of premium for a group insurance policy based on the loss or expense thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year;

(4) engaging in an arrangement that would not violate United States Code 1972, title 12, section 106, as interpreted by the Board of Governors of the Federal Reserve System, or United States Code, title 12, section 1464(q); or

(5) the offer or provision by insurers or producers, by or through employees, affiliates, or third-party representatives, of value-added products or services at no or reduced cost when such products or services are not specified in the policy of insurance if the product or service relates to the insurance coverage and is designed to satisfy one or more of the following:

(i) provide loss mitigation or loss control;

(ii) reduce claim costs or claim settlement costs;

(iii) provide education about liability risks or risk of loss to persons or property;

(iv) monitor or assess risk, identify sources of risk, or develop strategies for eliminating or reducing risk;

(v) enhance health;

(vi) enhance financial wellness through items such as education or financial planning services;

(vii) provide post-loss services;

(viii) incent behavioral changes to improve the health or reduce the risk of death or disability of a customer, a policyholder, potential policyholder, certificate holder, potential certificate holder, insured, potential insured, or applicant; or

(ix) assist in the administration of the employee or retiree benefit insurance coverage.

(b) The cost to the insurer or producer offering the product or service to a customer must be reasonable in comparison to that customer's premiums or insurance coverage for the policy class.

(c) If the insurer or producer is providing the product or service offered, the insurer or producer must ensure that upon request the customer is provided with contact information to assist the customer with questions regarding the product or service.

(d) The availability of the value-added product or service must be based on documented objective criteria and offered in a manner that is not unfairly discriminatory. The documented criteria must be maintained by the insurer or producer and produced upon request of the commissioner.

(e) If an insurer or producer does not have sufficient evidence but has a good-faith belief that the product or service meets the criteria of paragraph (a), clause (5), items (i) through (ix), the insurer or producer may

provide the product or service in a manner that is not unfairly discriminatory as part of a pilot or testing program for no more than one year. An insurer or producer must notify the commissioner of such a pilot or testing program offered to consumers in this state prior to launching and may proceed with the program unless the commissioner objects within 45 days of notice.

Subd. 3. **Exceptions.** (a) An insurer or producer may:

(1) offer or give noncash gifts, items, or services, including meals to or charitable donations on behalf of a customer, in connection with the marketing, sale, purchase, or retention of contracts of insurance, as long as the cost does not exceed the lesser of five percent of the current or projected policyholder premium or \$250 per policy year per term. The offer must be made in a manner that is not unfairly discriminatory. The customer may not be required to purchase, continue to purchase, or renew a policy in exchange for the gift, item, or service;

(2) offer or give noncash gifts, items, or services including meals to or charitable donations on behalf of a customer, to commercial or institutional customers in connection with the marketing, sale, purchase, or retention of contracts of insurance, as long as the cost is reasonable in comparison to the premium or proposed premium and the cost of the gift or service is not included in any amounts charged to another person or entity. The offer must be made in a manner that is not unfairly discriminatory. The customer may not be required to purchase, continue to purchase, or renew a policy in exchange for the gift, item, or service; and

(3) conduct raffles or drawings to the extent permitted by state law, as long as there is no financial cost to entrants to participate, the drawing or raffle does not obligate participants to purchase insurance, the prizes do not exceed the lesser of five percent of the current or projected policyholder premium or \$500, and the drawing or raffle is open to the public. The raffle or drawing must be offered in a manner that is not unfairly discriminatory. The customer may not be required to purchase, continue to purchase, or renew a policy in exchange for the gift, item, or service.

(b) An insurer, producer, or representative of either may not offer or provide insurance at no cost as an inducement to the purchase of another policy.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 30. Minnesota Statutes 2020, section 72A.12, subdivision 4, is amended to read:

Subd. 4. **Discrimination; rebates.** (a) No life insurance company doing business in this state shall make or permit any distinction or discrimination in favor of individuals between insureds of the same class and equal expectation of life in the amount or payment of premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes; nor shall any such company or agent thereof make any contract of insurance or agreement as to such contract other than as plainly expressed in the policy issued thereon; ~~nor shall any such company or any officer, agent, solicitor, or representative thereof pay, allow or give, or offer to pay, allow or give, directly or indirectly, as inducement to insurance, any rebate of premium payable on the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon or any paid employment or contract for services of any kind, or any valuable consideration or inducement whatever not specified in the policy contract of insurance.~~

Any violation of the provisions of this subdivision shall be a misdemeanor and punishable as such.



~~(b) A promotional advertising item of \$25 or less or a gift of \$25 or less per year is not a rebate if the receipt of the item or gift is not conditioned upon purchase of an insurance policy or product.~~

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 31. Minnesota Statutes 2020, section 72A.20, subdivision 11, is amended to read:

Subd. 11. **Application to certain sections.** Violating any provision of the following sections of this chapter not set forth in this section shall constitute an unfair method of competition and an unfair and deceptive act or practice: sections 72A.12, subdivisions 2, 3, and 4, 72A.16, subdivision 2, 72A.03 and 72A.04, ~~72A.08, subdivision 1, as modified by sections 72A.08, subdivision 4, 72A.071, 72A.201, and sections 72A.49 to 72A.505.~~

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 32. Minnesota Statutes 2020, section 72A.328, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For purposes of this section the following terms have the meanings given.

(b) "Affinity program" means ~~a~~ an organization or group formed around a common interest or specified purpose, or a group of individuals who are members of an entity that offers individuals benefits based on their membership in that entity. Affinity program does not include an entity that obtains group insurance, as defined in section 60A.02, subdivision 28, or risk retention groups as defined in section 60E.02, subdivision 12.

(c) "Policy" means an individually underwritten policy of private passenger vehicle insurance, as defined in section 65B.001, subdivision 2, an individually underwritten policy of homeowner's insurance, as defined in section 65A.27, subdivision 4, or an individually underwritten policy issued under section 60A.06, subdivision 1, clause (10).

Sec. 33. Minnesota Statutes 2020, section 72A.328, subdivision 2, is amended to read:

Subd. 2. **Discount.** An insurance company may offer an individual a discount or other benefit relating to a policy based on the individual's membership in an affinity program if:

(1) the benefit or discount is ~~based on an actuarial justification~~ calculated in accordance with section 70A.04; and

(2) ~~the insurance company offers the benefit or discount to~~ all members of the affinity program are eligible for the discount or benefit.

Sec. 34. Minnesota Statutes 2020, section 80A.61, is amended to read:

**80A.61 SECTION 406; REGISTRATION BY BROKER-DEALER, AGENT, FUNDING PORTAL, INVESTMENT ADVISER, AND INVESTMENT ADVISER REPRESENTATIVE.**

(a) **Application for initial registration by broker-dealer, agent, investment adviser, or investment adviser representative.** A person shall register as a broker-dealer, agent, investment adviser, or investment adviser representative by filing an application and a consent to service of process complying with section 80A.88, and paying the fee specified in section 80A.65 and any reasonable fees charged by the designee of the administrator for processing the filing. The application must contain:

(1) the information or record required for the filing of a uniform application; and

(2) upon request by the administrator, any other financial or other information or record that the administrator determines is appropriate.

(b) **Amendment.** If the information or record contained in an application filed under subsection (a) is or becomes inaccurate or incomplete in a material respect, the registrant shall promptly file a correcting amendment.

(c) **Effectiveness of registration.** If an order is not in effect and a proceeding is not pending under section 80A.67, registration becomes effective at noon on the 45th day after a completed application is filed, unless the registration is denied. A rule adopted or order issued under this chapter may set an earlier effective date or may defer the effective date until noon on the 45th day after the filing of any amendment completing the application.

(d) **Registration renewal.** A registration is effective until midnight on December 31 of the year for which the application for registration is filed. Unless an order is in effect under section 80A.67, a registration may be automatically renewed each year by filing such records as are required by rule adopted or order issued under this chapter, by paying the fee specified in section 80A.65, and by paying costs charged by the designee of the administrator for processing the filings.

(e) **Additional conditions or waivers.** A rule adopted or order issued under this chapter may impose such other conditions, not inconsistent with the National Securities Markets Improvement Act of 1996. An order issued under this chapter may waive, in whole or in part, specific requirements in connection with registration as are in the public interest and for the protection of investors.

(f) **Funding portal registration.** A funding portal that has its principal place of business in the state of Minnesota shall register with the state of Minnesota by filing with the administrator a copy of the information or record required for the filing of an application for registration as a funding portal in the manner established by the Securities and Exchange Commission and/or the Financial Institutions Regulatory Authority (FINRA), along with any rule adopted or order issued, and any amendments thereto.

(g) **Application for investment adviser representative registration.**

(1) The application for initial registration as an investment adviser representative pursuant to section 80A.58 is made by completing Form U-4 (Uniform Application for Securities Industry Registration or Transfer) in accordance with the form instructions and by filing the form U-4 with the IARD. The application for initial registration must also include the following:

(i) proof of compliance by the investment adviser representative with the examination requirements of:

(A) the Uniform Investment Adviser Law Examination (Series 65); or

(B) ~~the General Securities Representative Examination (Series 7) and~~ the Uniform Combined State Law Examination (Series 66);

(ii) any other information the administrator may reasonably require.

(2) The application for the annual renewal registration as an investment adviser representative shall be filed with the IARD.

(3)(i) The investment adviser representative is under a continuing obligation to update information required by Form U-4 as changes occur;

(ii) An investment adviser representative and the investment adviser must file promptly with the IARD any amendments to the representative's Form U-4; and

(iii) An amendment will be considered to be filed promptly if the amendment is filed within 30 days of the event that requires the filing of the amendment.

(4) An application for initial or renewal of registration is not considered filed for purposes of section 80A.58 until the required fee and all required submissions have been received by the administrator.

(5) The application for withdrawal of registration as an investment adviser representative pursuant to section 80A.58 shall be completed by following the instructions on Form U-5 (Uniform Termination Notice for Securities Industry Registration) and filed upon Form U-5 with the IARD.

Sec. 35. Minnesota Statutes 2020, section 80C.05, subdivision 2, is amended to read:

Subd. 2. **Commissioner's powers.** The commissioner shall have power to place such conditions, limitations, and restrictions on any registration as may be necessary to carry out the purposes of sections 80C.01 to 80C.22. Upon compliance with the provisions of sections 80C.01 to 80C.22 and other requirements of the commissioner, and if the commissioner finds no ground for denial of the registration, the commissioner shall register the franchise. Registration ~~shall be by entry in a book called Register of Franchises, which entry~~ shall show the franchise registered and for whom registered, and shall specify the conditions, limitations, and restrictions upon such registration, if any, or shall make proper reference to a formal order of the commissioner on file showing such conditions, limitations, and restrictions. The registration shall become effective upon issuance by the commissioner of an order for registration.

Sec. 36. Minnesota Statutes 2020, section 80E.13, is amended to read:

**80E.13 UNFAIR PRACTICES BY MANUFACTURERS, DISTRIBUTORS, FACTORY BRANCHES.**

It is unlawful and an unfair practice for a manufacturer, distributor, or factory branch to engage in any of the following practices directly or through an entity that it controls or is controlled by:

(a) delay, refuse, or fail to deliver new motor vehicles or new motor vehicle parts or accessories in reasonable time and in reasonable quantity relative to the new motor vehicle dealer's facilities and sales potential in the dealer's relevant market area, after having accepted an order from a new motor vehicle dealer having a franchise for the retail sale of any new motor vehicle sold or distributed by the manufacturer or distributor, if the new motor vehicle or new motor vehicle parts or accessories are publicly advertised as being available for delivery or actually being delivered. This clause is not violated, however, if the failure is caused by acts or causes beyond the control of the manufacturer;

(b) refuse to disclose to any new motor vehicle dealer handling the same line make, the manner and mode of distribution of that line make within the relevant market area;

(c) obtain money, goods, service, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and the other person, other than for compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to, the new motor vehicle dealer;

(d) increase prices of new motor vehicles which the new motor vehicle dealer had ordered for private retail consumers prior to the dealer's receiving the written official price increase notification. A sales contract signed by a private retail consumer shall constitute evidence of each order if the vehicle is in fact delivered

to that customer. In the event of manufacturer price reductions, the amount of any reduction received by a dealer shall be passed on to the private retail consumer by the dealer if the retail price was negotiated on the basis of the previous higher price to the dealer;

(e) offer any refunds or other types of inducements to any new motor vehicle dealer for the purchase of new motor vehicles of a certain line make without making the same offer to all other new motor vehicle dealers in the same line make within geographic areas reasonably determined by the manufacturer;

(f) release to any outside party, except under subpoena or in an administrative or judicial proceeding involving the manufacturer or dealer, any business, financial, or personal information which may be provided by the dealer to the manufacturer, without the express written consent of the dealer or unless pertinent to judicial or governmental administrative proceedings or to arbitration proceedings of any kind;

(g) deny any new motor vehicle dealer the right of free association with any other new motor vehicle dealer for any lawful purpose;

(h) unfairly discriminate among its new motor vehicle dealers with respect to warranty reimbursement or authority granted its new vehicle dealers to make warranty adjustments with retail customers;

(i) compete with a new motor vehicle dealer in the same line make operating under an agreement or franchise from the same manufacturer, distributor, or factory branch. A manufacturer, distributor, or factory branch is considered to be competing when it has an ownership interest, other than a passive interest held for investment purposes, in a dealership of its line make ~~located within the~~ in this state, or in a dealership of a competing line make in this state. A manufacturer, distributor, or factory branch shall not, however, be deemed to be competing when operating a dealership, either temporarily or for a reasonable period, which is for sale to any qualified independent person at a fair and reasonable price, or when involved in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership and full management and operational control of the dealership within a reasonable time on reasonable terms and conditions;

(j) prevent a new motor vehicle dealer from transferring or assigning a new motor vehicle dealership to a qualified transferee. There shall be no transfer, assignment of the franchise, or major change in the executive management of the dealership, except as is otherwise provided in sections 80E.01 to 80E.17, without consent of the manufacturer, which shall not be withheld without good cause. In determining whether good cause exists for withholding consent to a transfer or assignment, the manufacturer, distributor, factory branch, or importer has the burden of proving that the transferee is a person who is not of good moral character or does not meet the franchisor's existing and reasonable capital standards and, considering the volume of sales and service of the new motor vehicle dealer, reasonable business experience standards in the market area. Denial of the request must be in writing and delivered to the new motor vehicle dealer within 60 days after the manufacturer receives the completed application customarily used by the manufacturer, distributor, factory branch, or importer for dealer appointments. If a denial is not sent within this period, the manufacturer shall be deemed to have given its consent to the proposed transfer or change. In the event of a proposed sale or transfer of a franchise, the manufacturer, distributor, factory branch, or importer shall be permitted to exercise a right of first refusal to acquire the franchisee's assets or ownership if:

(1) the franchise agreement permits the manufacturer, distributor, factory branch, or importer to exercise a right of first refusal to acquire the franchisee's assets or ownership in the event of a proposed sale or transfer;

(2) the proposed transfer of the dealership or its assets is of more than 50 percent of the ownership or assets;

(3) the manufacturer, distributor, factory branch, or importer notifies the dealer in writing within 60 days of its receipt of the complete written proposal for the proposed sale or transfer on forms generally utilized by the manufacturer, distributor, factory branch, or importer for such purposes and containing the information required therein and all documents and agreements relating to the proposed sale or transfer;

(4) the exercise of the right of first refusal will result in the dealer and dealer's owners receiving the same or greater consideration with equivalent terms of sale as is provided in the documents and agreements submitted to the manufacturer, distributor, factory branch, or importer under clause (3);

(5) the proposed change of 50 percent or more of the ownership or of the dealership assets does not involve the transfer or sale of assets or the transfer or issuance of stock by the dealer or one or more dealer owners to a family member, including a spouse, child, stepchild, grandchild, spouse of a child or grandchild, brother, sister, or parent of the dealer owner; to a manager who has been employed in the dealership for at least four years and is otherwise qualified as a dealer operator; or to a partnership or corporation owned and controlled by one or more of such persons; and

(6) the manufacturer, distributor, factory branch, or importer agrees to pay the reasonable expenses, including reasonable attorney fees, which do not exceed the usual customary and reasonable fees charged for similar work done for other clients incurred by the proposed new owner and transferee before the manufacturer, distributor, factory branch, or importer exercises its right of first refusal, in negotiating and implementing the contract for the proposed change of ownership or transfer of dealership assets. However, payment of such expenses and attorney fees shall not be required if the dealer has not submitted or caused to be submitted an accounting of those expenses within 20 days after the dealer's receipt of the manufacturer, distributor, factory branch, or importer's written request for such an accounting. The manufacturer, distributor, factory branch, or importer may request such an accounting before exercising its right of first refusal. The obligation created under this clause is enforceable by the transferee;

(k) threaten to modify or replace or modify or replace a franchise with a succeeding franchise that would adversely alter the rights or obligations of a new motor vehicle dealer under an existing franchise or that substantially impairs the sales or service obligations or investments of the motor vehicle dealer;

(l) unreasonably deny the right to acquire factory program vehicles to any dealer holding a valid franchise from the manufacturer to sell the same line make of vehicles, provided that the manufacturer may impose reasonable restrictions and limitations on the purchase or resale of program vehicles to be applied equitably to all of its franchised dealers. For the purposes of this paragraph, "factory program vehicle" has the meaning given the term in section 80E.06, subdivision 2;

(m) except as provided in paragraph (n), fail or refuse to offer to its same line make franchised dealers all models manufactured for that line make, ~~other than~~ including alternative fuel vehicles as defined in section 216C.01, subdivision 1b. Failure to offer a model is not a violation of this section if the failure is not arbitrary and is due to a lack of manufacturing capacity, a strike, labor difficulty, or other cause over which the manufacturer, distributor, or factory branch has no control;

(n) require a dealer to pay an extra fee, or remodel, renovate, or recondition the dealer's existing facilities, or purchase unreasonable advertising displays, training, tools, or other materials, or to require the dealer to establish exclusive facilities or dedicated personnel as a prerequisite to receiving a model or a series of vehicles. A manufacturer, distributor, or factory branch may require a dealer to comply with reasonable requirements for the sale and service of an alternative fuel vehicle or to serve an alternative fuel vehicle customer;

(o) require a dealer by program, incentive provision, or otherwise to adhere to performance standards that are not applied uniformly to other similarly situated dealers.

A performance standard, sales objective, or program for measuring dealership performance that may have a material effect on a dealer, including the dealer's right to payment under any incentive or reimbursement program, and the application of the standard or program by a manufacturer, distributor, or factory branch must be fair, reasonable, equitable, and based on accurate information. Upon written request by any of its franchised dealers located within Minnesota, a manufacturer, distributor, or factory branch must provide the method or formula used by the manufacturer in establishing the sales volumes for receiving a rebate or incentive and the specific calculations for determining the required sales volumes of the inquiring dealer and any of the manufacturer's other Minnesota-franchised new motor vehicle dealers of the same line-make located within 75 miles of the inquiring dealer. Nothing contained in this section requires a manufacturer, distributor, or factory branch to disclose confidential business information of any of its franchised dealers or the required numerical sales volumes that any of its franchised dealers must attain to receive a rebate or incentive. An inquiring dealer may file a civil action as provided in section 80E.17 without a showing of injury if a manufacturer, distributor, or factory branch fails to make the disclosure required by this section.

A manufacturer, distributor, or factory branch has the burden of proving that the performance standard, sales objective, or program for measuring dealership performance is fair, reasonable, and uniformly applied under this section;

(p) assign or change a dealer's area of sales effectiveness arbitrarily or without due regard to the present pattern of motor vehicle sales and registrations within the dealer's market. The manufacturer, distributor, or factory branch must provide at least 90 days' notice of the proposed change. The change may not take effect if the dealer commences a civil action within the 90 days' notice period to determine whether the manufacturer, distributor, or factory branch met its obligations under this section. The burden of proof in such an action shall be on the manufacturer or distributor. In determining at the evidentiary hearing whether a manufacturer, distributor, or factory branch has assigned or changed the dealer's area of sales effectiveness or is proposing to assign or change the dealer's area of sales effectiveness arbitrarily or without due regard to the present pattern of motor vehicle sales and registrations within the dealer's market, the court may take into consideration the relevant circumstances, including, but not limited to:

(1) the traffic patterns between consumers and the same line-make franchised dealers of the affected manufacturer, distributor, or factory branch who are located within the market;

(2) the pattern of new vehicle sales and registrations of the affected manufacturer, distributor, or factory branch within various portions of the area of sales effectiveness and within the market as a whole;

(3) the growth or decline in population, density of population, and new car registrations in the market;

(4) the presence or absence of natural geographical obstacles or boundaries, such as rivers;

(5) the proximity of census tracts or other geographic units used by the affected manufacturer, factory branch, distributor, or distributor branch in determining the same line-make dealers' respective areas of sales effectiveness; and

(6) the reasonableness of the change or proposed change to the dealer's area of sales effectiveness, considering the benefits and harm to the petitioning dealer, other same line-make dealers, and the manufacturer, distributor, or factory branch;

(q) to charge back, withhold payment, deny vehicle allocation, or take any other adverse action against a dealer when a new vehicle sold by the dealer has been exported to a foreign country, unless the manufacturer,

distributor, or factory branch can show that at the time of sale, the customer's information was listed on a known or suspected exporter list made available to the dealer, or the dealer knew or reasonably should have known of the purchaser's intention to export or resell the motor vehicle in violation of the manufacturer's export policy. There is a rebuttable presumption that the dealer did not know or should not have reasonably known that the vehicle would be exported or resold in violation of the manufacturer's export policy if the vehicle is titled and registered in any state of the United States;

(r) to implement a charge back or withhold payment to a dealer that is solely due to an unreasonable delay by the registrar, as defined in section 168.002, subdivision 29, in the transfer or registration of a new motor vehicle. The dealer must give the manufacturer notice of the state's delay in writing. Within 30 days of any notice of a charge back, withholding of payments, or denial of a claim, the dealer must transmit to the manufacturer: (1) documentation to demonstrate the vehicle sale and delivery as reported; and (2) a written attestation signed by the dealer operator or general manager stating that the delay is attributable to the state. This clause expires on June 30, 2022; or

(s) to require a dealer or prospective dealer by program, incentive provision, or otherwise to construct improvements to its or a predecessor's facilities or to install new signs or other franchisor image elements that replace or substantially alter improvements, signs, or franchisor image elements completed within the preceding ten years that were required and approved by the manufacturer, distributor, or factory branch, including any such improvements, signs, or franchisor image elements that were required as a condition of the dealer or predecessor dealer receiving an incentive or other compensation from the manufacturer, distributor, or factory branch.

This paragraph shall not apply to a program or agreement that provides lump sum payments to assist dealers in making facility improvements or to pay for signs or franchisor image elements when such payments are not dependent on the dealer selling or purchasing specific numbers of new vehicles and shall not apply to a program that is in effect with more than one Minnesota dealer on August 1, 2018, nor to any renewal of such program, nor to a modification that is not a substantial modification of a material term or condition of such program.

**Sec. 37. [214.035] LICENSING DISQUALIFICATIONS; PRELIMINARY APPLICATIONS; REPORTS.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Conviction" has the meaning given in section 609.02, subdivision 5.

(c) "Criminal record" means a record of an arrest, prosecution, criminal proceeding, or conviction.

(d) "State licensor" or "licensor" means a state agency or examining and licensing board that issues an occupational or professional license, registration, or certificate and considers before issuing the license, registration, or certificate any criminal record or conviction of an applicant that may make an applicant ineligible to receive the license, registration, or certificate.

Subd. 2. **Scope.** (a) This section does not apply to a license, registration, or certificate issued by a state licensor if the license, registration, or certificate does not require an applicant to report to the state licensor as part of the application process the applicant's criminal record or does not require an applicant to obtain a criminal background check or study as part of the application process to obtain the license, registration, or certificate.

(b) This section does not apply to a license, registration, or certificate issued by the Professional Educator Licensing and Standards Board, the Department of Health, Department of Human Services, or any health-related licensing board, as defined in section 214.01, subdivision 2.

(c) The preliminary application process described under this section may only be utilized by an individual who has a criminal record.

**Subd. 3. Preliminary applications.** (a) Notwithstanding any law to the contrary, all state licensors shall permit an individual to submit a preliminary application for a determination pursuant to this section as to whether a criminal record or conviction that may be considered by the state licensor under state law would make the individual ineligible to receive an occupational or professional license, registration, or certificate issued by the state licensor.

(b) An applicant shall submit a preliminary application and any other supporting documents to the appropriate state licensor in a form and manner approved by the licensor. The state licensor may require that the applicant provide information about the applicant's criminal record in the form and manner approved by the licensor.

(c) A state licensor may charge a fee to cover any expenses incurred in connection with processing a preliminary application, provided the fee does not exceed the actual cost to the state licensor of processing the application or the initial fee for the applicable license, registration, or certificate. If the applicant subsequently applies for the license, registration, or certificate, the amount of the preliminary application fee paid by the applicant must be credited toward the applicant's initial fee for the license, registration, or certificate. An applicant may request a waiver of this fee. A fee collected under this paragraph for the expenses incurred by the state licensor shall be deposited in the fund in the state treasury in which the state licensor deposits fees collected for issuing occupational or professional licenses, registrations, or certificates. If the state licensor does not collect a fee for issuing occupational or professional licenses, registrations, or certificates, any fee collected under this paragraph shall be deposited pursuant to section 214.06, subdivision 1.

(d) Upon receipt of a completed preliminary application and any necessary supporting documents, the state licensor must determine under state law whether a criminal record or conviction that may be considered under state law would make the applicant ineligible to receive a professional or occupational license, registration, or certificate from the licensor. The state licensor must issue a written decision within 60 days of receiving a completed preliminary application. If the state licensor determines that a criminal record or conviction would make the applicant ineligible to receive a professional or occupational license, registration, or certificate, the written decision must:

(1) state all reasons the professional or occupational license, registration, or certificate would be denied, including the standard used to make the decision; and

(2) inform the applicant of any action or additional steps the applicant could take to qualify for a professional or occupational license, registration, or certificate.

(e) If a state licensor determines that no criminal records or convictions would make the applicant ineligible to receive a professional or occupational license, registration, or certificate, that decision is binding on the licensor unless the decision is clearly erroneous under state law or:

(1) the applicant is convicted of a crime or commits any other disqualifying act that may be considered by the state licensor under state law after submission of the preliminary application;

(2) the applicant provided incomplete information in the preliminary application;



(3) the applicant provided inaccurate or fraudulent information in the preliminary application; or

(4) changes to state law were enacted after the date the decision was issued, making the applicant ineligible under state law to receive a license, registration, or certificate.

(f) Nothing in this section precludes a licensor from issuing a license, registration, or certificate to an applicant that includes limitations or conditions on the license, registration, or certificate based on a criminal conviction or alleged misconduct of the applicant.

(g) By August 1 of each year, each state licensor shall submit to the commissioner of management and budget the number of applicants who submitted preliminary applications to the licensor in accordance with this section and the number of applicants who subsequently applied for a license, registration, or certificate for the previous fiscal year. The state licensor shall also submit the total amount of initial application fees that were not paid by these applicants pursuant to paragraph (c), or, if the licensor does not collect a fee for issuing a license, registration, or certificate, the cost of processing the preliminary application fee that was not covered pursuant to paragraph (c). Each fiscal year, an amount necessary to pay each state licensor the rest of each initial application fee or the rest of the cost of processing each preliminary application if an initial application fee was not collected by the licensor is appropriated from the general fund to the appropriate state licensor.

Subd. 4. **Reports.** (a) By January 15 of each year, every state licensor shall report to the Department of Employment and Economic Development on:

(1) the number of individuals who applied for a professional or occupational license, registration, or certificate from the licensor;

(2) the number of individuals described in clause (1) who were found to be ineligible due to a criminal record or conviction;

(3) the number of individuals who submitted a preliminary application under this section; and

(4) the number of individuals described in clause (3) who were found to be ineligible due to a criminal record or conviction.

(b) On or before February 15 of each year, the commissioner of employment and economic development shall compile the reports received under paragraph (a) and provide the compiled reports to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over employment. The commissioner of employment and economic development must make the report readily available on the department's public website.

**EFFECTIVE DATE.** This section is effective July 1, 2023.

Sec. 38. Minnesota Statutes 2020, section 239.761, subdivision 3, is amended to read:

Subd. 3. **Gasoline.** (a) Gasoline that is not blended with biofuel must not be contaminated with water or other impurities and must comply with ASTM specification D4814-11b. Gasoline that is not blended with biofuel must also comply with the volatility requirements in Code of Federal Regulations, title 40, part 80.1090.

(b) After gasoline is sold, transferred, or otherwise removed from a refinery or terminal, a person responsible for the product:

(1) may blend the gasoline with agriculturally derived ethanol as provided in subdivision 4;

(2) shall not blend the gasoline with any oxygenate other than biofuel;

(3) shall not blend the gasoline with other petroleum products that are not gasoline or biofuel;

(4) shall not blend the gasoline with products commonly and commercially known as casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline; and

(5) may blend the gasoline with a detergent additive, an antiknock additive, or an additive designed to replace tetra-ethyl lead, that is registered by the EPA.

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

Sec. 39. Minnesota Statutes 2020, section 239.761, subdivision 4, is amended to read:

Subd. 4. **Gasoline blended with ethanol; general.** (a) Gasoline may be blended with agriculturally derived, denatured ethanol that complies with the requirements of subdivision 5.

(b) A gasoline-ethanol blend must:

(1) comply with the volatility requirements in Code of Federal Regulations, title 40, part ~~80~~ 1090;

(2) comply with ASTM specification D4814-11b, or the gasoline base stock from which a gasoline-ethanol blend was produced must comply with ASTM specification D4814-11b; and

(3) not be blended with casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline after the gasoline-ethanol blend has been sold, transferred, or otherwise removed from a refinery or terminal.

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

Sec. 40. Minnesota Statutes 2020, section 239.791, subdivision 2a, is amended to read:

Subd. 2a. **Federal Clean Air Act waivers; conditions.** (a) Before a waiver granted by the United States Environmental Protection Agency under United States Code, title 42, section 7545, may alter the minimum content level required by subdivision 1, paragraph (a), clause (1), item (ii), the waiver must:

(1) apply to all gasoline-powered motor vehicles irrespective of model year; and

(2) allow for special regulatory treatment of Reid vapor pressure under Code of Federal Regulations, title 40, ~~section 80.27~~ part 1090.215, paragraph ~~(d)~~ (b), for blends of gasoline and ethanol up to the maximum percent of denatured ethanol by volume authorized under the waiver.

(b) The minimum biofuel requirement in subdivision 1, paragraph (a), clause (1), item (ii), shall, upon the grant of the federal waiver, be effective the day after the commissioner of commerce publishes notice in the State Register. In making this determination, the commissioner shall consider the amount of time required by refiners, retailers, pipeline and distribution terminal companies, and other fuel suppliers, acting expeditiously, to make the operational and logistical changes required to supply fuel in compliance with the minimum biofuel requirement.

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

Sec. 41. Minnesota Statutes 2020, section 296A.01, subdivision 23, is amended to read:

Subd. 23. **Gasoline.** (a) "Gasoline" means:

(1) all products commonly or commercially known or sold as gasoline regardless of their classification or uses, except casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline that under the requirements of section 239.761, subdivision 3, must not be blended with gasoline that has been sold, transferred, or otherwise removed from a refinery or terminal; and

(2) any liquid prepared, advertised, offered for sale or sold for use as, or commonly and commercially used as, a fuel in spark-ignition, internal combustion engines, and that when tested by the Weights and Measures Division meets the specifications in ASTM specification D4814-11b.

(b) Gasoline that is not blended with ethanol must not be contaminated with water or other impurities and must comply with both ASTM specification D4814-11b and the volatility requirements in Code of Federal Regulations, title 40, part ~~80~~ 1090.

(c) After gasoline is sold, transferred, or otherwise removed from a refinery or terminal, a person responsible for the product:

(1) may blend the gasoline with agriculturally derived ethanol, as provided in subdivision 24;

(2) must not blend the gasoline with any oxygenate other than denatured, agriculturally derived ethanol;

(3) must not blend the gasoline with other petroleum products that are not gasoline or denatured, agriculturally derived ethanol;

(4) must not blend the gasoline with products commonly and commercially known as casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline; and

(5) may blend the gasoline with a detergent additive, an antiknock additive, or an additive designed to replace tetra-ethyl lead, that is registered by the EPA.

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

Sec. 42. Minnesota Statutes 2020, section 325E.21, subdivision 4, is amended to read:

Subd. 4. **Registration required.** (a) Every scrap metal dealer shall register annually with the commissioner of public safety.

(b) The scrap metal dealer shall pay to the commissioner of public safety a \$50 annual fee.

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

Sec. 43. **REPEALER.**

(a) Minnesota Statutes 2020, sections 72A.08; and 72A.20, subdivisions 10 and 15, are repealed effective January 1, 2023.

(b) Minnesota Statutes 2020, section 60A.033, subdivision 3, is repealed.

Presented to the governor May 24, 2022

Signed by the governor June 2, 2022, 2:08 p.m.