A bill for an act

relating to agriculture; providing for regulated production of medical marijuana for export; authorizing rulemaking; amending Minnesota Statutes 2008, sections 18J.01; 18J.02; 18J.03; 18J.04, subdivisions 1, 2, 3, 4; 18J.05, subdivisions 1, 2, 6; 18J.06; 18J.07, subdivisions 3, 4, 5; 18J.09; 18J.11, subdivision 1, by adding a subdivision; proposing coding for new law as Minnesota Statutes, chapter 18K.

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

Section 1. Minnesota Statutes 2008, section 18J.01, is amended to read:

18J.01 DEFINITIONS.

(a) The definitions in sections 18G.02 ~~and~~, 18H.02, and 18K.03 apply to this chapter.

(b) For purposes of this chapter, "associated rules" means rules adopted under this chapter, chapter 18G ~~or~~, 18H, or 18K, or sections 21.80 to 21.92.

Sec. 2. Minnesota Statutes 2008, section 18J.02, is amended to read:

18J.02 DUTIES OF COMMISSIONER.

The commissioner shall administer and enforce this chapter, chapters 18G ~~and~~, 18H, and 18K, sections 21.80 to 21.92, and associated rules.

Sec. 3. Minnesota Statutes 2008, section 18J.03, is amended to read:

18J.03 CIVIL LIABILITY.

A person regulated by this chapter, chapter 18G ~~or~~, 18H, or 18K, or sections 21.80 to 21.92, is civilly liable for any violation of one of those statutes or associated rules by the person's employee or agent.

Sec. 4. Minnesota Statutes 2008, section 18J.04, subdivision 1, is amended to read:

Subdivision 1. **Access and entry.** The commissioner, upon presentation of official department credentials, must be granted immediate access at reasonable times to sites where a person manufactures, distributes, uses, handles, disposes of, stores, or transports seeds, plants, or other living or nonliving products or other objects regulated under chapter 18G ~~or~~, 18H, or 18K, sections 21.80 to 21.92, or associated rules.

Sec. 5. Minnesota Statutes 2008, section 18J.04, subdivision 2, is amended to read:

Subd. 2. **Purpose of entry.** (a) The commissioner may enter sites for:

(1) inspection of inventory and equipment for the manufacture, storage, handling, distribution, disposal, or any other process regulated under chapter 18G ~~or~~, 18H, or 18K, sections 21.80 to 21.92, or associated rules;

(2) sampling of sites, seeds, plants, products, or other living or nonliving objects that are manufactured, stored, distributed, handled, or disposed of at those sites and regulated under chapter 18G ~~or~~, 18H, or 18K, sections 21.80 to 21.92, or associated rules;

(3) inspection of records related to the manufacture, distribution, storage, handling, or disposal of seeds, plants, products, or other living or nonliving objects regulated under chapter 18G ~~or~~, 18H, or 18K, sections 21.80 to 21.92, or associated rules;

(4) investigating compliance with chapter 18G ~~or~~, 18H, or 18K, sections 21.80 to 21.92, or associated rules; or

(5) other purposes necessary to implement chapter 18G ~~or~~, 18H, or 18K, sections 21.80 to 21.92, or associated rules.

(b) The commissioner may enter any public or private premises during or after regular business hours without notice of inspection when a suspected violation of chapter 18G ~~or~~, 18H, or 18K, sections 21.80 to 21.92, or associated rules may threaten public health or the environment.

Sec. 6. Minnesota Statutes 2008, section 18J.04, subdivision 3, is amended to read:

Subd. 3. **Notice of inspection samples and analyses.** (a) The commissioner shall provide the owner, operator, or agent in charge with a receipt describing any samples obtained. If requested, the commissioner shall split any samples obtained and provide them to the owner, operator, or agent in charge. If an analysis is made of the samples, a copy of the results of the analysis must be furnished to the owner, operator, or agent in charge within 30 days after an analysis has been performed. If an analysis is not performed, the commissioner must notify the owner, operator, or agent in charge within 30 days of the decision not to perform the analysis.

(b) The sampling and analysis must be done according to methods provided for under applicable provisions of chapter 18G ~~or,~~ 18H, or 18K, sections 21.80 to 21.92, or associated rules. In cases not covered by those sections and methods or in cases where methods are available in which improved applicability has been demonstrated the commissioner may adopt appropriate methods from other sources.

Sec. 7. Minnesota Statutes 2008, section 18J.04, subdivision 4, is amended to read:

Subd. 4. **Inspection requests by others.** (a) A person who believes that a violation of chapter 18G ~~or,~~ 18H, or 18K, sections 21.80 to 21.92, or associated rules has occurred may request an inspection by giving notice to the commissioner of the violation. The notice must be in writing, state with reasonable particularity the grounds for the notice, and be signed by the person making the request.

(b) If after receiving a notice of violation the commissioner reasonably believes that a violation has occurred, the commissioner shall make a special inspection in accordance with the provisions of this section as soon as practicable, to determine if a violation has occurred.

(c) An inspection conducted pursuant to a notice under this subdivision may cover an entire site and is not limited to the portion of the site specified in the notice. If the commissioner determines that reasonable grounds to believe that a violation occurred do not exist, the commissioner must notify the person making the request in writing of the determination.

Sec. 8. Minnesota Statutes 2008, section 18J.05, subdivision 1, is amended to read:

Subdivision 1. **Enforcement required.** (a) A violation of chapter 18G ~~or,~~ 18H, or 18K, sections 21.80 to 21.92, or an associated rule is a violation of this chapter.

(b) Upon the request of the commissioner, county attorneys, sheriffs, and other officers having authority in the enforcement of the general criminal laws must take action to the extent of their authority necessary or proper for the enforcement of chapter 18G ~~or,~~ 18H, or 18K, sections 21.80 to 21.92, or associated rules or valid orders, standards, stipulations, and agreements of the commissioner.

Sec. 9. Minnesota Statutes 2008, section 18J.05, subdivision 2, is amended to read:

Subd. 2. **Commissioner's discretion.** If minor violations of chapter 18G ~~or,~~ 18H, or 18K, sections 21.80 to 21.92, or associated rules occur or the commissioner believes the public interest will be best served by a suitable notice of warning in writing, this section does not require the commissioner to:

(1) report the violation for prosecution;

(2) institute seizure proceedings; or

(3) issue a withdrawal from distribution, stop-sale, or other order.

Sec. 10. Minnesota Statutes 2008, section 18J.05, subdivision 6, is amended to read:

Subd. 6. **Agent for service of process.** All persons licensed, permitted, registered, or certified under chapter 18G ~~or,~~ 18H, or 18K, sections 21.80 to 21.92, or associated rules must appoint the commissioner as the agent upon whom all legal process may be served and service upon the commissioner is deemed to be service on the licensee, permittee, registrant, or certified person.

Sec. 11. Minnesota Statutes 2008, section 18J.06, is amended to read:

18J.06 FALSE STATEMENT OR RECORD.

A person must not knowingly make or offer a false statement, record, or other information as part of:

(1) an application for registration, license, certification, or permit under chapter 18G ~~or,~~ 18H, or 18K, sections 21.80 to 21.92, or associated rules;

(2) records or reports required under chapter 18G ~~or,~~ 18H, or 18K, sections 21.80 to 21.92, or associated rules; or

(3) an investigation of a violation of chapter 18G ~~or,~~ 18H, or 18K, sections 21.80 to 21.92, or associated rules.

Sec. 12. Minnesota Statutes 2008, section 18J.07, subdivision 3, is amended to read:

Subd. 3. **Cancellation of registration, permit, license, certification.** The commissioner may cancel or revoke a registration, permit, license, or certification provided for under chapter 18G ~~or,~~ 18H, or 18K, sections 21.80 to 21.92, or associated rules or refuse to register, permit, license, or certify under provisions of chapter 18G ~~or,~~ 18H, or 18K, sections 21.80 to 21.92, or associated rules if the registrant, permittee, licensee, or certified person has used fraudulent or deceptive practices in the evasion or attempted evasion of a provision of chapter 18G ~~or,~~ 18H, or 18K, sections 21.80 to 21.92, or associated rules.

Sec. 13. Minnesota Statutes 2008, section 18J.07, subdivision 4, is amended to read:

Subd. 4. **Service of order or notice.** (a) If a person is not available for service of an order, the commissioner may attach the order to the facility, site, seed or seed container, plant or other living or nonliving object regulated under chapter 18G ~~or,~~ 18H, or

18K, sections 21.80 to 21.92, or associated rules and notify the owner, custodian, other responsible party, or registrant.

(b) The seed, seed container, plant, or other living or nonliving object regulated under chapter 18G ~~or~~, 18H, or 18K, sections 21.80 to 21.92, or associated rules may not be sold, used, tampered with, or removed until released under conditions specified by the commissioner, by an administrative law judge, or by a court.

Sec. 14. Minnesota Statutes 2008, section 18J.07, subdivision 5, is amended to read:

Subd. 5. **Unsatisfied judgments.** (a) An applicant for a license, permit, registration, or certification under provisions of this chapter, chapter 18G ~~or~~, 18H, or 18K, sections 21.80 to 21.92, or associated rules may not allow a final judgment against the applicant for damages arising from a violation of those statutes or rules to remain unsatisfied for a period of more than 30 days.

(b) Failure to satisfy, within 30 days, a final judgment resulting from a violation of this chapter results in automatic suspension of the license, permit, registration, or certification.

Sec. 15. Minnesota Statutes 2008, section 18J.09, is amended to read:

18J.09 CREDITING OF PENALTIES, FEES, AND COSTS.

Penalties, cost reimbursements, fees, and other money collected under this chapter must be deposited into the state treasury and credited to the appropriate nursery and phytosanitary, medical marijuana, or seed account.

Sec. 16. Minnesota Statutes 2008, section 18J.11, subdivision 1, is amended to read:

Subdivision 1. **General violation.** Except as provided in subdivisions 2 ~~and~~, 3, and 4, a person is guilty of a misdemeanor if the person violates this chapter or an order, standard, stipulation, agreement, or schedule of compliance of the commissioner.

Sec. 17. Minnesota Statutes 2008, section 18J.11, is amended by adding a subdivision to read:

Subd. 4. **Controlled substance offenses.** Prosecution under this section does not preclude prosecution under chapter 152.

Sec. 18. **[18K.01] SHORT TITLE.**

This chapter may be referred to as the "Medical Marijuana Production and Export Act."

Sec. 19. **[18K.02] PURPOSE.**

The legislature finds that the production and export of medical marijuana can contribute to the state's economy and agricultural vitality and can be regulated so as not to interfere with the strict regulation of controlled substances in this state. The purpose of the Medical Marijuana Production and Export Act is to strengthen the state economy and its agricultural sectors by authorizing the development of a regulated medical marijuana production and export industry while maintaining strict control of marijuana.

Sec. 20. **[18K.03] DEFINITIONS.**

Subdivision 1. **Scope.** The definitions in this section apply to this chapter.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subd. 3. **Medical marijuana.** "Medical marijuana" means marijuana, as defined in section 152.01, subdivision 9, that is produced, processed, and transported exclusively for export and legal consumption by a person domiciled in a state or country where it is lawful to use marijuana to treat a medical condition.

Sec. 21. **[18K.04] MEDICAL MARIJUANA AUTHORIZED AS AGRICULTURAL CROP.**

Medical marijuana is considered an agricultural crop in this state if produced, processed, and transported in compliance with this chapter.

Sec. 22. **[18K.05] LICENSING.**

(a) A person involved with the production or processing of medical marijuana must be licensed and must apply to the commissioner annually on a form prescribed by the commissioner.

(b) The application for a license must include the name and address of the applicant and the legal description of the land area the applicant will use to produce or process medical marijuana.

(c) The person must submit an affidavit on a form provided by the commissioner certifying that:

(1) the person will produce, process, and possess marijuana only for export and in full compliance with this chapter and any corresponding rules promulgated by the commissioner; and

(2) any consumption or unauthorized possession of marijuana will be prosecuted to the fullest extent provided by law.

(d) The commissioner must require each first-time applicant for a license to submit to a background investigation conducted by the Bureau of Criminal Apprehension as a condition of licensure. As part of the background investigation, the Bureau of Criminal Apprehension must conduct criminal history checks of Minnesota records and is authorized to exchange fingerprints with the Federal Bureau of Investigation for the purpose of a criminal background check of the national files. The cost of the investigation must be paid by the applicant. Criminal history records provided to the department under this section must be treated as private data on individuals, as defined in section 13.02, subdivision 12.

(e) If the applicant has completed the application process to the satisfaction of the commissioner, the commissioner must issue a license which is valid until December 31 of the year of application. An individual licensed under this section is presumed to be producing or processing medical marijuana for export.

Sec. 23. **[18K.06] MEDICAL MARIJUANA PRODUCTION; NOTIFICATION.**

(a) Annually, a licensee must file with the commissioner a complete accounting of the origin and final disposition of any medical marijuana produced, processed, or otherwise possessed by the licensee during the reporting year, including but not limited to inventory records and shipping records that demonstrate to the satisfaction of the commissioner that any sale or distribution of medical marijuana was made to a person domiciled in a state or country where it is lawful to use marijuana to treat a medical condition.

(b) A licensee must notify the commissioner in advance of any pending sale or distribution of medical marijuana. The notice must include, but need not be limited to, the name and address of the person or entity that will transport or receive the medical marijuana and the amount of medical marijuana sold.

Sec. 24. **[18K.07] RULEMAKING.**

The commissioner may promulgate rules governing, but not limited to:

(1) supervising and inspecting medical marijuana during its growth, harvest, processing, and transport;

(2) assessing a fee commensurate with the costs incurred by the commissioner to fulfill obligations under this chapter and any associated rules;

(3) using the results of the background checks authorized in section 18K.05 as criteria for approving or denying an application for medical marijuana licensure; and

(4) any other rule or procedure necessary to carry out the purposes of this chapter.

Sec. 25. **[18K.08] FEES.**

Any fee collected under this chapter must be credited to the medical marijuana account, which is hereby established in the agricultural fund in the state treasury. Interest earned in the account accrues to the account. Funds in the medical marijuana account are continuously appropriated to the commissioner to implement and enforce this chapter.

Sec. 26. **[18K.09] DEFENSE FOR POSSESSION OF MARIJUANA.**

It is an affirmative defense to a prosecution for the possession of marijuana under chapter 152 if:

(1) the defendant was growing, possessing, or transporting medical marijuana in full compliance with the provisions of this chapter and any associated rules; and

(2) the substance in possession is medical marijuana, as defined in section 18K.03.