

Section 1. [622.26] **Definitions.** Subdivision 1. For the purposes of this act the terms defined in this section have the meanings ascribed to them.

Subd. 2. "Merchant" means any person who owns or has in his possession or subject to his control personal property with authority to sell the same in the regular course of business at retail or wholesale.

Subd. 3. "Person" includes an individual, a partnership, corporation, or association.

Sec. 2. [622.27] **Detention of persons believed to have taken property from merchant without payment therefor.** Subdivision 1. A merchant or merchant's employee who has reasonable cause for believing that a person has taken, or is in the act of taking, any article of value without paying therefor, from the possession of the merchant in his place of business or from any vehicle or premises under his control, with the intent wrongfully to deprive the merchant of his property or the use and benefit thereof or to appropriate the same to the use of the taker or any other person, may detain such person for the sole purpose of delivering him to a peace officer without unnecessary delay and then and there making a charge against such person to the peace officer. The person detained shall be informed promptly of the purpose of the detention and shall not be subjected to unnecessary or unreasonable force, nor to interrogation against his will.

Subd. 2. Upon a charge being made, a peace officer may, without a warrant, arrest any person, whom he has reasonable cause for believing has committed or attempted to commit the offense described in subdivision 1.

Subd. 3. No merchant, merchant's employee, or peace officer shall be criminally or civilly liable for false arrest or false imprisonment or wrongful detention under subdivision 1 or subdivision 2 if his action was based upon reasonable cause.

Approved April 27, 1957.

CHAPTER 806—H. F. No. 114

[Coded in Part]

An act concerning procedure of state administrative agencies; and repealing Minnesota Statutes 1953, Sections 15.041 to 15.044.

Be it enacted by the Legislature of the State of Minnesota :

Section 1. [15.46] **Definitions.** Subdivision 1. For the purposes of this act the terms defined in this section have the meanings ascribed to them.

Subd. 2. "Agency" means any state officer, board, commission, bureau, division, department, or tribunal, other than a court, having a statewide jurisdiction and authorized by law to make rules or to adjudicate contested cases. This act does not apply to (a) agencies directly in the legislative or judicial branches, (b) professional and regulatory examining and licensing boards enumerated in Minnesota Statutes 1953, Chapters 146 to 156, (c) Laws 1945, Chapter 242, (d) emergency powers in Laws 1951, Chapter 694, Title III, Sections 301 to 307, (e) the Parole and Pardon Boards, (f) the Youth Conservation Commission, (g) the Department of Employment Security, (h) the Labor Conciliator, (i) the Industrial Commission, (j) Commissioner of Insurance.

Subd. 3. "Rule" includes every regulation, including the amendment, suspension, or repeal thereof, adopted by an agency, whether with or without prior hearing, to implement or make specific the law enforced or administered by it or to govern its organization or procedure, but does not include (a) regulations concerning only the internal management of the agency or other agencies, and which do not directly affect the rights of or procedure available to the public; or (b) rules and regulations relating to the management, discipline, or release of any person committed to any state penal institution; or (c) rules of the division of game and fish published in accordance with Minnesota Statutes 1953, Section 97.53; or (d) regulations relating to weight limitations on the use of highways when the substance of such regulations is indicated to the public by means of signs.

Subd. 4. "Contested Case" means a proceeding before an agency in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after an agency hearing.

Sec. 2. [15.47] **Rules, procedures.** Subdivision 1. In addition to other rule-making powers or requirements provided by law each agency may adopt rules governing the formal or informal procedures prescribed or authorized by this act. Such rules shall include rules of practice before the agency and may include forms and instructions. For the purpose of carrying out the duties and powers imposed upon and granted to it, an agency may promulgate reasonable substantive rules and regulations and may amend, suspend or repeal the same,

but such action shall not exceed the powers vested in the agency by statute.

Subd. 2. To assist interested persons dealing with it, each agency shall, so far as deemed practicable, supplement its rules with descriptive statements of its procedures, which shall be kept current.

Subd. 3. Prior to the adoption of any rule authorized by law, or the suspension, amendment or repeal thereof, unless the agency follows the procedure of subdivision 4, the adopting agency shall, as far as practicable, publish or otherwise circulate notice of its intended action and afford interested persons opportunity to submit data or views orally or in writing.

Subd. 4. No rule shall be adopted by any agency subsequent to the effective date of this act unless the agency first holds a public hearing thereon, following the giving of at least 30 days prior to the hearing of notice of the intention to hold such hearing, by United States mail, to representatives of associations or other interested groups or persons who have registered their names with the secretary of state for that purpose. Every rule hereafter proposed by an administrative agency, before being adopted, must be based upon a showing of need for the rule, and shall be submitted as to form and legality, with reasons therefor, to the attorney general, who, within 20 days, shall either approve or disapprove the rule. If he approves the rule, he shall promptly file it in the office of the secretary of state. If he disapproves the rule, he shall state in writing his reasons therefor, and the rule shall not be filed in the office of the secretary, nor published. If he fails to approve or disapprove any rule within the 20-day period, the agency may file the rule in the office of the secretary of state and publish the same.

Subd. 5. Where statutes governing the agency permit the agency to exercise emergency powers, emergency rules and regulations may be established without compliance with the provisions of subdivision 4. These rules are to be effective for not longer than 60 days and may not immediately be reissued or continued in effect thereafter without following the procedure of subdivision 4.

Sec. 3. [15.48] **Effect of adoption of rules.** Subdivision 1. Every rule or regulation filed in the office of the secretary of state as provided in section 2, shall have the force and effect of law. Standards or statements of policy or interpretations of general application and future effect shall not have the effect of law unless they are adopted as a rule

in the manner prescribed in section 2. This section does not apply to opinions of the attorney general. All rules and regulations in effect and filed in the office of the secretary of state on the date of the passage of this Act shall continue in effect. The secretary of state shall keep a permanent register of rules filed with that office open to public inspection.

Subd. 2. Each rule hereafter adopted, amended, or repealed shall become effective or be repealed upon filing the new or amended rule or notice of repeal in the office of the secretary of state unless a later date is required by statute or specified in the rule. The secretary of state shall endorse on each rule the time and date of filing and of first publication of each rule or amendment or repeal thereof.

Sec. 4. [15.49] **Publication of rules.** Subdivision 1. As soon as practicable after the effective date of this act, the publication board, or its successor, shall publish all rules adopted by each agency and remaining in effect, in accordance with Minnesota Statutes 1953, Section 15.046 to 15.049 as amended. Compilations shall be supplemented or revised as often as necessary, and at least once every year.

Subd. 2. The publication board, or its successor, may in its discretion omit from the compilation such rules, the publication of which would be unduly cumbersome, expensive or otherwise inexpedient if such rules are made available in printed or processed form on application to the adopting agency, and if the compilation and supplements or revisions contain a notice stating the general subject matter of the rules so omitted and stating how copies thereof may be obtained.

Sec. 5. [15.50] **Petition for adoption of rule.** Any interested person may petition an agency requesting the adoption, suspension, amendment or repeal of any rule. Each agency may prescribe by rule the form for such petitions and the procedure for their submission, consideration, and disposition.

Sec. 6. [15.51] **Determination of validity of rule.** The validity of any rule may be determined upon the petition for a declaratory judgment thereon, addressed to the district court where the principal office of the agency is located, when it appears that the rule, or its threatened application, interferes with or impairs, or threatens to interfere with or impair the legal rights or privileges of the petitioner. The agency shall be made a party to the proceeding. The declaratory judgment may be rendered whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question.

Sec. 7. [15.52] Rule declared invalid. In proceedings under Section 6 of this act the court shall declare the rule invalid if it finds that it violates constitutional provisions or exceeds the statutory authority of the agency or was adopted without compliance with statutory rule-making procedures.

Sec. 8. [15.53] Contested case; hearing, notice. In any contested case all parties shall be afforded an opportunity for hearing after reasonable notice. The notice shall state the time, place and issues involved, but if, by reason of the nature of the proceeding, the issues cannot be fully stated in advance of the hearing, or if subsequent amendment of the issues is necessary, they shall be fully stated as soon as practicable, and opportunity shall be afforded all parties to present evidence and argument with respect thereto. The agency shall prepare an official record, which shall include testimony and exhibits, in each contested case, but it shall not be necessary to transcribe shorthand notes unless requested for purposes of rehearing or court review. If a transcript is requested, the agency may, unless otherwise provided by law, require the party requesting to pay the reasonable costs of preparing the transcript. Informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order or default. Each agency may adopt appropriate rules of procedure for notice and hearing in contested cases.

Sec. 9. [15.54] Evidence in contested cases. Subdivision 1. In contested cases agencies may admit and give probative effect to evidence which possesses probative value commonly accepted by reasonable prudent men in the conduct of their affairs. They shall give effect to the rules of privilege recognized by law. They may exclude incompetent, irrelevant, immaterial and repetitious evidence.

Subd. 2. All evidence, including records and documents (except tax returns and tax reports) in the possession of the agency of which it desires to avail itself, shall be offered and made a part of the record in the case, and no other factual information or evidence (except tax returns and tax reports) shall be considered in the determination of the case. Documentary evidence may be received in the form of copies or excerpts, or by incorporation by reference.

Subd. 3. Every party or agency shall have the right of cross-examination of witnesses who testify, and shall have the right to submit rebuttal evidence.

Subd. 4. Agencies may take notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within their specialized knowledge.

Parties shall be notified in writing either before or during hearing, or by reference in preliminary reports or otherwise, or by oral statement in the record, of the material so noticed, and they shall be afforded an opportunity to contest the facts so noticed. Agencies may utilize their experience, technical competence, and specialized knowledge in the evaluation of the evidence presented to them.

Sec. 10. [15.55] Proposal for decision in contested case. Whenever in a contested case a majority of the officials of the agency who are to render the final decision have not heard or read the evidence, the decision, if adverse to a party to the proceeding other than the agency itself, shall not be made until a proposal for decision, including the statement of reasons therefor, has been served on the parties, and an opportunity has been afforded to each party adversely affected to file exceptions and present argument to a majority of the officials who are to render the decision.

Sec. 11. [15.56] Decisions, orders. Every decision and order adverse to a party of the proceeding, rendered by an agency in a contested case, shall be in writing or stated in the record and shall be accompanied by a statement of the reasons therefor. The statement of reasons shall consist of a concise statement of the conclusions upon each contested issue of fact necessary to the decision. Parties to the proceeding shall be notified of the decision and order in person or by mail. A copy of the decision and order and accompanying statement of reasons together with a certificate of service shall be delivered or mailed upon request to each party or to his attorney of record.

Sec. 12. Severability. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end, the provisions of this act are declared to be severable.

Sec. 13. Repealer. Minnesota Statutes 1953, Section 15.041 to Section 15.044, are repealed on the effective date of this act.

Sec. 14. This act shall take effect January 1, 1958.

Approved April 27, 1957.
