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**CHAPTER 340—H.F.No.135****[Coded in Part]**

*An act relating to taxation; providing for confiscation of vehicles, trailers and airplanes used to transport illegally untaxed cigarettes; amending Minnesota Statutes 1974, Section 297.08, Subdivisions 1 and 2, and by adding a subdivision.*

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

Section 1. Minnesota Statutes 1974, Section 297.08, Subdivision 1, is amended to read:

**297.08 TAXATION; CIGARETTE TAX; CONFISCATION OF PROPERTY; CONTRABAND.** Subdivision 1. **CONTRABAND DEFINED.** The following are declared to be contraband:

(1) All packages which do not have stamps affixed to them as provided in sections 297.01 to 297.13 and all devices for the vending of cigarettes in which such unstamped packages are found.

(2) Any device for the vending of cigarettes and all packages of cigarettes contained therein, where the device does not afford at least partial visibility of contents. Where any package exposed to view does not carry the stamp or imprint required by sections 297.01 to 297.13, it shall be presumed that all packages contained in the device are unstamped and contraband.

(3) Any device for the vending of cigarettes to which the commissioner or his authorized agents have been denied access for the inspection of contents. In lieu of seizure, the commissioner or his agent may seal the device to prevent its use until inspection of contents is permitted.

(4) Any device for the vending of cigarettes which does not carry the name and address of the owner, plainly marked and visible from the front of the machine.

(5) Any device including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes and boats used with the knowledge of the owner or of a person operating with the consent of the owner for the storage or transportation of more than 5,000 cigarettes which are contraband under this subdivision. When cigarettes are being transported in the course of interstate commerce, or are in movement from either a public warehouse to a distributor upon orders from a manufacturer or distributor, or from one distributor to another, the cigarettes are not contraband, notwithstanding the provisions of clause (1).

Sec. 2. Minnesota Statutes 1974, Section 297.08, Subdivision 2, is

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amended to read:

Subd. 2. **SEIZURE.** Any cigarettes or other property made contraband by subdivision 1 may be seized by the commissioner or his authorized agents or by any sheriff or other police officer, with or without process, and shall be subject to forfeiture as provided in subdivision 3 and section 3 of this act.

Sec. 3. Minnesota Statutes 1974, Section 297.08, is amended by adding a subdivision to read:

Subd. 4. **DISPOSAL.** The property described in subdivision 1, clause 5 shall be confiscated after conviction of the person from whom it was seized, upon compliance with the following procedure: the commissioner or his agents, shall file with the court a separate complaint against the property, describing it and charging its use in the specified violation, and specifying substantially the time and place of the unlawful use. A copy of the complaint shall be served upon the defendant or person in charge of the property at the time of seizure, if any. If the person arrested is acquitted, the court shall dismiss the complaint against the property and order it returned to the persons legally entitled to it. Upon conviction of the person arrested, the court shall issue an order directed to any person known or believed to have any right or title or interest in, or lien upon, any of the property, and to persons unknown claiming any right, title, interest or lien in it, describing the property and stating that it was seized and that a complaint against it, charging the specified violation, has been filed with the court, and requiring the persons to file with the clerk of the court their answer to the complaint, setting forth any claim they may have to any right or title to, interest in, or lien upon the property, within thirty days after the service of the order as herein provided, and notifying them in substance that if they fail to file their answer within the time, the property will be ordered sold by the commissioner or his agents. The court shall cause the order to be served upon any person known or believed to have any right, title, interest or lien as in the case of a summons in a civil action, and upon unknown persons by publication, as provided for service of summons in a civil action. If no answer is filed as and within the time prescribed, the court shall, upon affidavit by the clerk of the court, setting forth the fact, order the property sold by the commissioner or his agents, and the proceeds of the sale, after deducting the expense of keeping the property and fees and costs of sale, paid into the state treasury, to the general fund. If answer is filed as and within the time provided, the court shall fix a time for hearing, which shall be not less than ten nor more than 30 days after the time for filing answer expires. At the time fixed for hearing, unless continued for cause, the matter shall be heard and determined by the court, without a jury, as in other civil actions. If the court shall find that the property, or any part thereof, was used in the violation specified in the complaint, he shall order the property unlawfully used, sold as herein provided, unless the owner shall show to the satisfaction of the court that he had no notice or knowledge or reason to believe that the property was used

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or intended to be used in the violation. The officer making a sale after deducting the expense of keeping the property, the fee for seizure, and the costs of the sale, shall pay all liens according to their priority, which are established at the hearing as being bona fide and as existing without the lienor having any notice or knowledge that the property was being used or was intended to be used for or in connection with the violation specified in the order of the court, and shall pay the balance of the proceeds into the state treasury to the general fund. Any sale under the provisions of section 297.08 shall operate to free the property sold from any and all liens thereon. Appeal from the order of the district court will lie to the supreme court as in other civil actions. At any time after seizure of the articles specified in this subdivision, and before the hearing herein provided for, the property shall be returned to the owner or person having a legal right to possession thereof, upon execution by him of a good and valid bond to the state of Minnesota, with corporate surety, in the sum of not less than \$100 and not more than double the value of the property seized, to be approved by the court in which the case is triable, or a judge thereof, conditioned to abide any order and the judgment of the court, and to pay the full value of the property at the time of seizure.

Sec. 4. This act is effective the day following final enactment.

Approved June 4, 1975.

#### CHAPTER 341—H.F.No.146

[Coded]

*An act relating to commerce; requiring that tents and sleeping bags be flame resistant; providing a penalty.*

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

Section 1. **[325.331] FLAME RESISTANT TENTS AND SLEEPING BAGS; PUBLIC ASSEMBLY TENTS.** No person, firm or corporation shall establish, maintain or operate any circus, side show, carnival, tent show, theater, skating rink, dance hall, or a similar exhibition, production, engagement or offering or other place of assemblage in or under which ten or more persons may gather for any lawful purpose in any tent, awning or other fabric enclosure unless such tent, awning or other fabric enclosure, and all auxiliary tents, curtains, drops, awnings and all decorative materials, are made from a non-flammable material or are treated and maintained in a flame resistant condition. This section shall not apply to tents used to conduct committal services on the grounds of a cemetery, nor to tents, awnings or other fabric enclosures erected and used within a sound stage, or other similar structural enclosure which is equipped with an overhead automatic sprinkler system.

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