

(f) The furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state, or local exchange telephone service and intrastate toll service except such service provided by means of coin operated telephones; the tax imposed on amounts paid for telephone services is the liability of and shall be paid by the person paying for the services. Sales by municipal corporations in a proprietary capacity are included in the provisions of this clause.

Sec. 2. **EFFECTIVE DATE.** This act shall be effective for tax charged on telephone services rendered after December 31, 1977.

Approved June 2, 1977.

CHAPTER 364—H.F.No.242

An act relating to the department of public service; providing for its proper operation; prescribing certain powers, functions and duties; making certain corrections and improvements; revising procedures for regulation of certain activities; reducing certain fees; increasing certain penalties; amending Minnesota Statutes 1976, Sections 216A.02; 216A.03, Subdivision 5; 216A.05, Subdivision 1; 216A.07; 216B.16, Subdivision 2; 216B.53; 231.16; 232.04; 232.06, Subdivision 4; 237.22; 237.29, Subdivision 1; 239.02; 239.07; 239.08; 239.10; 239.12; 239.23; 239.24; and 239.44; repealing Minnesota Statutes 1976, Section 239.20; and Laws 1975, Chapter 87, Section 5.

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

Section 1. Minnesota Statutes 1976, Section 216A.02, is amended to read:

216A.02 PUBLIC SERVICE DEPARTMENT; OPERATION; DEFINITIONS.
 Subdivision 1. For the purposes of chapter 216A, the terms defined in this section have the meanings given them.

Subd. 2. The term "Legislative function"; as used in sections 216A.04 to 216A.09, shall include means the establishment and promulgation of all rules, ~~regulations~~, orders and directives of general or particular applicability, governing the conduct of the regulated persons or businesses, together with such investigative procedures as are incident thereto and all other valid acts and procedures which are historically or functionally legislative in character.

Subd. 2 3. The term "Administrative function"; as used in sections 216A.04 to 216A.09, shall include means all duties and procedures concerning the execution and enforcement of the laws, rules, ~~regulations~~, orders, directives, duties and obligations imposed for the control and government of the persons or businesses regulated, together with investigative activities incident thereto and procedures inherently administrative or executive in character.

Subd. 4. "Quasi-judicial function" means the promulgation of all orders and
 Changes or additions indicated by underline deletions by ~~strikeout~~

directives of particular applicability governing the conduct of the regulated persons or businesses, together with procedures inherently judicial.

Sec. 2. Minnesota Statutes 1976, Section 216A.03, Subdivision 5, is amended to read:

Subd. 5. **QUORUM.** A majority of the commission shall constitute a quorum, and the act or decision of a majority of commissioners present, if at least a quorum is present, shall be the act or decision of the commission; ~~provided that, If a vacancy exists on the commission shall not impair the authority of a majority of the remaining commissioners or a remaining commissioner to exercise all of the powers of the commission constitutes a quorum.~~

Sec. 3. Minnesota Statutes 1976, Section 216A.05, Subdivision 1, is amended to read:

216A.05 FUNCTIONS AND POWERS. Subdivision 1. **LEGISLATIVE AND QUASI-JUDICIAL NATURE OF FUNCTIONS.** The functions of the commission shall be legislative and quasi-judicial in nature. It may make such investigations and determinations, hold such hearings, prescribe such rules and regulations and issue such orders with respect to the control and conduct of the businesses coming within its jurisdiction as the legislature itself might make but only as it shall from time to time authorize. It may adjudicate all proceedings brought before it in which the violation of any law or rule administered by the department is alleged.

Sec. 4. Minnesota Statutes 1976, Section 216A.07, is amended to read:

216A.07 POWERS AND DUTIES OF DIRECTOR. The director shall be the executive and administrative head of the public service department. He shall have and possess all the rights and powers and perform all the duties relating to the administrative function of the department as set forth in this chapter. The director may:

(1) Prepare all forms or blanks for the purpose of obtaining information which he may deem necessary or useful in the proper exercise of his authority and duties in connection with regulated businesses;

(2) Prescribe the time and manner within which forms or blanks shall be filed with the department;

(3) Inspect at all reasonable times, and copy the books, records, memoranda and correspondence or other documents and records of any person relating to any regulated business; and

(4) Cause the deposition to be taken of any person concerning the business and affairs of any business regulated by the department, information sought through said deposition shall be for a lawfully authorized purpose and shall be relevant and material to the investigation or hearing before the commission, information obtained from said deposition shall be used by the department only for a lawfully authorized purpose and

Changes or additions indicated by underline deletions by ~~strikeout~~

pursuant to powers and responsibilities conferred upon the department. Said deposition is to be taken in the manner prescribed by law for taking depositions in civil actions in the district court.

Sec. 5. Minnesota Statutes 1976, Section 216B.16, Subdivision 2, is amended to read:

Subd. 2. Whenever there is filed with the commission any schedule modifying or resulting in a change in any rates then in force, together with the filed statements of facts, expert opinions, substantiating documents, and exhibits, supporting the changes requested, the commission shall upon complaint or may upon its own motion, upon reasonable notice to the governing bodies of municipalities affected, conduct a hearing to determine whether the rates are unjust or unreasonable; ~~and~~. Pending the hearing and the decision thereon, the commission, upon may suspend the operation of the schedule by filing with the schedule of rates and delivering to the affected utility a statement in writing of its reasons ~~therefor~~ for the suspension, at any time before ~~they the rates~~ become effective; ~~may suspend the operation of the schedule but~~. The suspension shall not be for a longer period than 90 days beyond the time when the schedule of rates would otherwise go into effect unless the commission ~~shall find~~ finds that a longer time will be required; ~~in which case~~. If a longer time is required the commission may further extend the period for not to exceed a total of nine months. If the commission does not make a final determination concerning any schedule of rates within a period of nine months beyond the time when the schedule of rates would otherwise go into effect; under subdivision 1, the schedule shall be deemed to have been approved by the commission. For the purposes of this subdivision "final determination" means the initial decision of the commission and not any order which may be entered by the commission in response to a petition for rehearing or other further relief. The commission may further suspend rates until it determines all such petitions.

Sec. 6. Minnesota Statutes 1976, Section 216B.53, is amended to read:

216B.53 SUSPENSION OF COMMISSION ORDERS. The pendency of proceedings on appeal shall not of itself stay or suspend the operation of the order of the commission unless the commission so orders, but during the pendency of the proceedings the court in its discretion may stay or suspend, in whole or in part, the operation of the commission's order on terms it deems just, and in accordance with the practice of courts exercising equity jurisdiction; ~~but~~. No stay shall be granted by the court without notice to the parties and opportunity to be heard ~~by the court~~. Any party shall have the right to secure from the court in which an appeal of an order of the commission is sought an order suspending or staying the operation of an order of the commission, pending an appeal of the order, but no commission order relating to rates or rules ~~and regulations~~ shall be stayed or suspended absent a finding that great or irreparable damage would otherwise result to the party seeking the stay or suspension, and any order staying or suspending a commission order shall specify the nature of the damage.

In case the order of the commission is stayed or suspended, the court shall require a bond with good and sufficient surety, conditioned that the public utility petitioning for review shall answer for all damages caused by the delay in enforcing the order of the

Changes or additions indicated by underline deletions by ~~strikeout~~

commission, and for all compensation for whatever sums for transmission or service any person shall be compelled to pay pending review proceedings in excess of the sum the person or corporation would have been compelled to pay had the commission's order not been stayed or suspended. The court, may, in addition or in lieu of the bond require other further security for the payment of such excess damages or charges it deems proper.

Sec. 7. Minnesota Statutes 1976, Section 231.16, is amended to read:

231.16 WAREHOUSEMAN TO OBTAIN LICENSE. Every person desiring to engage in the business of warehouseman, before engaging therein, shall be licensed annually by, and shall be under the supervision and subject to the inspection of, the department. Written application ~~under oath~~ in such form as shall be prescribed by the department shall be made to the department for license, specifying the city in which it is proposed to carry on the business of warehousing, the location, size, character, and equipment of the buildings or premises to be used by the warehouseman, the kind of goods, wares, and merchandise intended to be stored therein, the name of the person or corporation operating the same, and of each member of the firm or officer of the corporation, and any other facts necessary to satisfy the department that the property proposed to be used is suitable for warehouse purposes and that the warehouseman making the application is qualified to carry on the business of warehousing. Should the department decide that the building or other property proposed to be used as a warehouse is suitable for the proposed purpose and that the applicants are entitled to a license, notice of such decision shall be given the interested parties and, upon the applicants filing with the department the necessary bond, as provided for in this chapter, the department shall issue the license provided for, upon payment of the license fee, as in this section provided. A warehouseman to whom a license is issued shall pay for such license a fee based on the storage capacity of the warehouse as follows:

| Storage capacity <u>in square feet</u> : | | |
|--|--|--------|
| (1) | <u>5,000 or less</u> | \$ 50 |
| (2) | <u>Over 5,000 to 10,000</u> | \$100 |
| (3) | <u>Over 10,000 to</u> 20,000 square feet or less | \$150 |
| (2) | (4) <u>Over 20,000 square feet to and</u> including 100,000 square feet | \$200 |
| (3) | (5) <u>Over 100,000 square feet to and</u> including 200,000 square feet | \$250 |
| (4) | (6) <u>Over 200,000 square feet</u> | \$300. |

Such license may be renewed from year to year but shall never be valid for a period of more than one year, and always upon payment of the full license fee, as provided for in this section for such renewal; and no license shall be issued for any portion of a year for less than the full amount of the license fee, as provided for in this section. Each license obtained under this chapter shall be publicly displayed in the main office of the place of business of the warehouseman to whom it is issued. Such license shall authorize the warehouseman to carry on the business of warehousing only in the one city or town named in the application and in the buildings therein described. The department, without requiring an additional bond and license, may issue permits from time to time to any warehouseman already duly licensed under the provisions of this

Changes or additions indicated by underline deletions by ~~strikeout~~

chapter to operate an additional warehouse in the same city or town for which his original license was issued during the term thereof, upon his filing an application for such permit in such form as shall be prescribed by the department.

License may be refused for good cause shown and revoked by the department for violation of law or of any rule or regulation by it prescribed, upon notice and after hearing.

Sec. 8. Minnesota Statutes 1976, Section 232.04, is amended to read:

232.04 CLOSING OR DESTRUCTION OF WAREHOUSE. Any person, firm, or corporation operating a public local grain warehouse who shall fail to keep the same open for the transaction of the business for which license has been issued, without first having received written permission from the department to close, shall be guilty of a misdemeanor and the license issued may be revoked by the department and no reissue of license will be made to such warehouseman; or anyone associated or connected with him or them for a period not exceeding two years.

In case of loss or destruction by fire or other cause of any licensed public local grain warehouse, it shall be the duty of the licensee thereof to shall immediately notify the department in writing of any loss arising therefrom; forthwith.

Upon the sale or lease of a public local grain warehouse, when the person, firm, or corporation operating the same is licensed only to buy grain such transfer of license will be had free of charge by applying to the department for the same; provided, that the party selling or leasing the same shall first file with the department a report of the business done from the preceding first day of June, up to the time of such sale or lease, and where the public local grain warehouseman is licensed to buy and store grain and such warehouseman shall satisfy the department that proper provision has been made for the purchase, redelivery, or continuation of the storage of such grain as may be outstanding on storage receipts; and shall file the report above mentioned; the license of such person, firm, or corporation to buy grain will be transferred free of charge.

Whenever a warehouse is closed for more than 48 consecutive hours, not including Sundays and legal holidays, the warehouseman shall advise all patrons of the closing by posting conspicuously at each entrance a notice showing the date of re-opening and giving the name and telephone number of a person authorized to act as agent for the purpose of making re-deliveries, purchases or conducting other warehouse business.

Sec. 9. Minnesota Statutes 1976, Section 232.06, Subdivision 4, is amended to read:

Subd. 4. **LIABILITY.** The person, firm, or corporation issuing such a receipt shall be held liable to the owner for the delivery of the kind, grade and net quantity of grain called for by said receipts. ~~The term "grain" shall include, but not be limited to, the following products: Wheat, corn, oats, rye, barley, flaxseed, speltz and soybeans the receipt. For the purposes of this subdivision, "grain" means any commodity for which standards have been established by the Minnesota board of grain standards or the secretary of agriculture of the United States.~~

Changes or additions indicated by underline deletions by ~~strikeout~~

Sec. 10. Minnesota Statutes 1976, Section 237.22, is amended to read:

237.22 DEPRECIATION; AMORTIZATION. ~~The department may fix and from time to time change the annual depreciation charge which shall be made by each telephone company which charge shall be sufficient to provide the amounts required over and above the expense of current maintenance, to keep its property in a state of efficiency corresponding to the needs and progress of the industry. Such depreciation fund shall be carried in a separate account and moneys in this fund may be invested and the income thereof returned to such depreciation fund or said moneys may be expended in renewals or in new construction~~ The department shall fix proper and adequate rates and methods of depreciation and amortization with respect to telephone company property and every telephone company shall conform its depreciation accounts to the rates and methods fixed by the department.

Sec. 11. Minnesota Statutes 1976, Section 237.29, Subdivision 1, is amended to read:

237.29 COMPANIES TO PAY EXPENSE OF INVESTIGATIONS AND HEARINGS. Subdivision 1. **COSTS OF INVESTIGATIONS.** When the commission, upon its own motion, complaint, or application to it, and after a public hearing, in which a majority of the commissioners agree it is necessary through hearing or other action to investigate: (a) the value of any telephone property subject to its jurisdiction; (b) the adequacy or reasonableness of any telephone service or rate; (c) the cost of a proposed upgrading of service; or (d) telephone company revenues and expenses for rate making or other purposes, such telephone company which is the subject of the investigation shall be charged with and pay such portion of the compensation and expense of the commission, its officers, legal counsel, agents, and staff of the department of public service, including legal counsel and employees temporarily employed, and all reasonable expenses and costs occasioned in sustaining in any court the determination or action of the department in such investigations, as is reasonably attributable to such investigations, pending or hereafter brought; ~~provided an opportunity to be heard thereon shall first have been granted to such telephone company. Within 30 days after the date of the mailing of any bill to it under this section, the telephone company against which the bill has been rendered may file with the commission objections setting out the grounds upon which it is claimed the bill is excessive, erroneous, unlawful or invalid. The commission shall within 60 days after the objections are filed, hold a hearing and issue an order in accordance with its findings. The order shall be appealable in the same manner as other final orders of the commission.~~

Sec. 12. Minnesota Statutes 1976, Section 239.02, is amended to read:

239.02 SUPERVISOR; DEPUTIES, EMPLOYEES. The department shall appoint in accordance with chapter 43, a supervisor of weights and measures and such deputies and other employees as may be necessary to carry out the provisions of this chapter.

~~The supervisor of weights and measures and the deputies shall give a bond in a sum to be fixed and approved by the department:~~

Changes or additions indicated by underline deletions by ~~strikeout~~

Sec. 13. Minnesota Statutes 1976, Section 239.07, is amended to read:

239.07 DUTIES AND POWERS; STANDARD OF WEIGHTS AND MEASURES. The division shall take charge of, keep, and maintain in good order the standard of weights and measures of the state and submit them to the bureau of standards at Washington, D.C., for certification when it is deemed necessary; and keep a seal so formed as to impress the letters "MINN" and the date of sealing upon the weights and measures that are sealed; it shall test, correct, and seal, when found to be accurate, at least once every year and as much oftener as may be necessary, all the copies of the standards used throughout the state for the purpose of testing the weighing or measuring apparatus used in the state and keep a record thereof; it shall have general supervision of the weights, measures, and weighing or measuring devices offered for sale, sold, or in use in the state; and upon the ~~written~~ request of any person test or calibrate weights, measures, weighing or measuring devices and instruments or apparatus used as standards in the state; it shall keep a complete record of the standards, balances, and all testing and sealing apparatus owned by the state; and ~~annually, during the first 15 days of January, make a report of its actions to the governor of the state.~~

Sec. 14. Minnesota Statutes 1976, Section 239.08, is amended to read:

239.08 INSPECTING, TESTING, SEALING; INCORRECT WEIGHTS, MEASURES. The division or any of its employees shall have power to inspect and test all weights, scales, beams, and measures of every kind, instruments and mechanical devices for measurement, and tools, appliances, or accessories connected with any or all such instruments for measurement that are kept, offered, or exposed for sale, or sold, or used, or employed within this state by any person in determining the size, quantity, extent, area, or measurement of quantities, things, produce, articles for distribution or consumption, offered or submitted by any person for sale, hire, or reward; and it shall; ~~at least once in each year, and as much oftener as may be deemed~~ as often as necessary, see that the weights, measures, and all apparatus used in the state are correct. In the general performance of this duty the division, or any of its employees, may enter or go into and upon any stand, place, building, or premises to stop any vendor; ~~peddler, junk dealer, coal wagon, ice wagon, delivery wagon,~~ or any dealer and require him, if necessary, to proceed to some place which the scaler may specify for the purpose of making proper tests. Scales, weights, measures, or weighing or measuring instruments that are found, upon inspection, to correspond with the standards in the possession of the division shall be sealed with proper devices to be approved by the department. Any employee shall condemn, seize, and destroy incorrect weights, measures, or weighing or measuring devices which, in the judgment of the division cannot be satisfactorily repaired, and such as are incorrect and yet may be repaired, shall be marked as "condemned for repair," in the manner to be prescribed by the division. The owners or users of any scales, weights, measures, or weighing or measuring instruments which have been so disposed of shall have the same repaired or corrected within 30 days, and the same shall not be used or disposed of in any way without the consent of the division.

Sec. 15. Minnesota Statutes 1976, Section 239.10, is amended to read:

239.10 INSPECTIONS. No fee, unless specially scheduled by the department, shall

Changes or additions indicated by underline deletions by ~~strikeout~~

be charged for the regular annual inspection of scales, weights, measures, and weighing or measuring devices. At all other times, The cost of the any other inspection shall be paid by the owner ~~when the same if the inspection is performed at his request; and when, and if the inspection is~~ made at the request of some other person the cost shall be paid by the owner; if the scale, weight, measure, ~~and or~~ weighing or measuring device is found to be incorrect; ~~otherwise by the person making the request.~~ The department shall have power to may fix the fees and expenses for all special services. All moneys collected by the division for special services, fees, and penalties shall be paid into the state treasury, and credited to the state general fund.

Sec. 16. Minnesota Statutes 1976, Section 239.12, is amended to read:

239.12 TEST METERS. The department shall have power to may inspect and test all meters, mechanical devices, and measures of every kind, and tools, appliances, and accessories connected therewith, used, employed, kept, sold, or offered or exposed for sale within this state for the purpose of measuring the amount, quantity or extent of electricity, gas, or water furnished, sold, or distributed to the public by any person, association, corporation, or municipality except cities of the first class having; ~~or which may hereafter have,~~ meter inspection departments. Upon petition of at least ten consumers of electricity, gas, or water within the territorial limits of any municipality and upon the deposit with the clerk of such municipality by each of such consumers of a fee of 25 cents for each such meter, mechanical device, and measure installed or used upon the premises of each such petitioning consumer, the governing body of such municipality may request the department to make an inspection and test of all such meters, mechanical devices, and measures upon the premises of such petitioning consumers. Thereupon the department, within a reasonable time after the receipt by it of such request, shall proceed to make an inspection and test of all of such meters, mechanical devices, and measures upon the premises of all such petitioning consumers and upon the premises of all other consumers within such municipality who, at the time of such inspection and test, shall have deposited with the clerk of such municipality the fee of 25 cents for each such meter, mechanical device, and measure upon the premises of such consumers. All such fees collected by the clerk of any such municipality shall be remitted by such municipality to the department within 30 days of the completion of such inspection and test, and deposited to the credit of the ~~weights and measures~~ general fund. All such meters, mechanical devices, and measures found, upon inspection, to be correct and accurate, shall be sealed with proper devices to be approved by the department. The department, or any of its employees, shall condemn, seize and destroy all incorrect and inaccurate meters, mechanical devices, and measures which, in the judgment of the department, cannot be satisfactorily repaired; and such as are incorrect and inaccurate and yet may be repaired shall be marked as "Condemned for Repair," in the manner to be prescribed by the department. The owner of such meters, mechanical devices, and measures which have been so "Condemned for Repair" shall have the same repaired and corrected within 30 days; and such meters, mechanical devices, and measures shall not be disposed of without the consent of the department. In the general performance of its duty, the department, or any of its employees, may enter or go into or upon any premises, building, stand, or place at all reasonable times.

Sec. 17. Minnesota Statutes 1976, Section 239.23, is amended to read:

Changes or additions indicated by underline deletions by ~~strikeout~~

239.23 OFFENSES; PENALTIES. Any person who shall offer or expose for sale, sell or use, or have in his possession a false scale, weight or measure, or weighing or measuring device, or any weight or measure or weighing or measuring device which has not been sealed ~~within one year~~, as provided by sections 239.01 to ~~239.14~~ 239.10, or use the same in the buying or selling of any commodity or thing; or who shall dispose of any condemned weight, measure, or weighing or measuring device, or remove any tag placed thereon by any authorized employee of the division, or sell or offer or expose for sale less than the quantity he represents; or sell or offer or expose for sale any such commodities in the manner contrary to law; or sell or offer for sale or have in his possession for the purpose of selling, any device or instrument to be used to, or calculated to, falsify any weight or measure, or refuse to pay any fee charged for testing and sealing or condemning any scale, weight, or measure, or weighing or measuring device, shall be guilty of a misdemeanor; ~~and upon conviction fined a sum not less than \$20 nor more than \$100 or by imprisonment for not less than ten days nor more than 90 days and the costs of such proceeding. No scale, weight, measure, or weighing or measuring device that has been sealed by the division shall be used, sold, or exposed for sale until the fee charged for the service has been paid.~~

Sec. 18. Minnesota Statutes 1976, Section 239.24, is amended to read:

239.24 HINDERING OFFICIAL. Any person hindering, impeding, or restricting in any way any employee of the division while in the performance of his official duty shall be guilty of a misdemeanor; ~~and upon conviction punished by a fine of not less than \$20 nor more than \$100 or by imprisonment for not less than ten nor more than 90 days for each offense.~~

Sec. 19. Minnesota Statutes 1976, Section 239.44, is amended to read:

239.44 PENALTY FOR VIOLATION. Whoever in buying shall take any greater number of pounds or cubic feet to the bushel, barrel, ton, or cord, as the case may be, than is allowed and provided in sections 239.28 to 239.37, or in selling, shall give any less number, shall be guilty of a misdemeanor; ~~and upon conviction thereof punished by a fine of not less than \$10 nor more than \$100 or by imprisonment for not less than ten nor more than 90 days in the county jail and the cost of such proceeding.~~

Sec. 20. Minnesota Statutes 1976, Section 239.20 and Laws 1975, Chapter 87, Section 5, are repealed.

Approved June 2, 1977.

CHAPTER 365—H.F.No.256

An act relating to insurance; providing for regulation of aircraft and inland marine insurance; providing an exception from the requirement of passenger liability coverage on aircraft; amending Minnesota Statutes 1976, Sections 70A.02, Subdivision 2; 70A.06, Subdivision 3; and 360.59, Subdivision 10.

Changes or additions indicated by underline deletions by ~~strikeout~~