

**CHAPTER 192 — H.F.No. 849**

*An act relating to state lands; authorizing the sale of a certain lakeshore lot in Douglas county.*

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

**Section 1. SALE OF LAKE OSCAR LOT; DOUGLAS COUNTY.**

Notwithstanding Minnesota Statutes, section 92.45 or any other law to the contrary, the commissioner of natural resources may declare surplus and the commissioner of administration may sell and convey to an adjoining property owner for a consideration not less than the appraised value the following lakeshore lot:

Lot Ten, Block One, First Addition to Oscar Lake Beach, Douglas County.

Conveyance shall be in a form approved by the attorney general. The property shall be appraised in the manner provided in Minnesota Statutes, section 94.10.

**Sec. 2. EFFECTIVE DATE.**

This act is effective the day following final enactment.

Approved May 19, 1983

**CHAPTER 193 — H.F.No. 859**

*An act relating to the military; redefining categories of service; restricting state liability for workers' compensation claims, tort claims, and special compensation payments; clarifying applicability of state's uniform code of military justice; reenacting the authority of the adjutant general to repair regimental battle flags; amending Minnesota Statutes 1982, sections 3.732, subdivision 1; 176.011, subdivision 9; 190.05, subdivision 5, and by adding subdivisions; 192.38; 192A.015; and 192A.02, subdivision 1; proposing new law coded in Minnesota Statutes, chapter 190.*

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

Section 1. Minnesota Statutes 1982, section 3.732, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** As used in this section and section 3.736 the terms defined in this section have the meanings given them.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(1) "State" includes each of the departments, boards, agencies, commissions and officers in the executive branch of the state of Minnesota and includes but is not limited to the Minnesota Housing Finance Agency, the Minnesota Higher Education Coordinating Board, the Minnesota Higher Education Facilities Authority, the Armory Building Commission, the State Zoological Board, the University of Minnesota, state universities, community colleges, state hospitals, and state penal institutions. It does not include a city, town, county, school district, or other local governmental body corporate and politic.

(2) "Employee of the state" means all present or former officers, members, directors or employees of the state, members of the Minnesota national guard, or persons acting on behalf of the state in an official capacity, temporarily or permanently, with or without compensation, but does not include either an independent contractor or members of the Minnesota national guard while engaged in training or duty under United States Code, title 10, or United States Code, title 32, section 316, 502, 503, 504, or 505, as amended through December 31, 1983.

(3) "Scope of his office or employment" means that the employee was acting on behalf of the state in the performance of duties or tasks lawfully assigned to him by competent authority.

Sec. 2. Minnesota Statutes 1982, section 176.011, subdivision 9, is amended to read:

Subd. 9. **EMPLOYEE.** "Employee" means any person who performs services for another for hire; ~~and includes~~ including the following:

- (1) an alien;
- (2) a minor;
- (3) a sheriff, deputy sheriff, constable, marshal, policeman, firefighter, a county highway engineer, and a peace officer while engaged in the enforcement of peace or in ~~and about~~ the pursuit or capture of any person charged with or suspected of crime and any person requested or commanded to aid an officer in arresting any person, or in retaking any person who has escaped from lawful custody, or in executing any legal process in which case, for purposes of calculating compensation payable under this chapter, the daily wage of the person requested or commanded to assist an officer or to execute a legal process shall be the prevailing wage for similar services where the services are performed by paid employees;
- (4) a county assessor;
- (5) an elected or appointed official of the state, or of any county, city, town, school district or governmental subdivision ~~therein but~~ in it. An officer of a political subdivision elected or appointed for a regular term of office, or to complete the unexpired portion of ~~any such~~ a regular term, shall be included only

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after the governing body of the political subdivision has adopted an ordinance or resolution to that effect;

(6) an executive officer of a corporation, except an officer of a family farm corporation as defined in section 500.24, subdivision 1, clause (c), ~~nor shall it include or~~ an executive officer of a closely held corporation who is referred to in section 176.012;

(7) a voluntary uncompensated worker, other than an inmate, rendering services in state institutions under the commissioner of public welfare and state institutions under the commissioner of corrections similar to those of officers and employees of these institutions, and whose services have been accepted or contracted for by the commissioner of public welfare or the commissioner of corrections as authorized by law, shall be employees ~~within the meaning of this subdivision~~. In the event of injury or death of the voluntary uncompensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(8) a voluntary uncompensated worker engaged in peace time in the civil defense program when ordered to training or other duty by the state or any political subdivision ~~thereof or it~~, shall be an employee. The daily wage of the worker for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services where the services are performed by paid employees;

(9) a voluntary uncompensated worker participating in a program established by a county welfare board shall be an employee ~~within the meaning of this subdivision~~. In the event of injury or death of the voluntary uncompensated worker, the wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid in the county at the time of the injury or death for similar services where the services are performed by paid employees working a normal day and week;

(10) a voluntary uncompensated worker accepted by the commissioner of natural resources who is rendering services as a volunteer pursuant to section 84.089 shall be an employee. The daily wage of the worker for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of injury or death for similar services where the services are performed by paid employees;

(11) a member of the military forces, as defined in section 190.05, while in ~~"state active service" or "on duty"~~, as defined in section 190.05, ~~when the service or duty is ordered by state authority~~ 4. The daily wage of the member for the purpose of calculating compensation payable under this chapter shall be based on the member's usual earnings in civil life. If there is no evidence of previous

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occupation or earning, the trier of fact shall consider the member's earnings as a member of the military forces;

(12) a voluntary uncompensated worker, accepted by the director of the Minnesota historical society, rendering services as a volunteer, pursuant to chapter 138, shall be an employee. The daily wage of the worker, for the purposes of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of injury or death for similar services where the services are performed by paid employees;

(13) a voluntary uncompensated worker, other than a student, who renders services at the Minnesota school for the deaf or the Minnesota braille and sight-saving school, and whose services have been accepted or contracted for by the state board of education, as authorized by law, shall be an employee ~~within the meaning of this subdivision~~. In the event of injury or death of the voluntary uncompensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(14) a voluntary uncompensated worker, other than a resident of the veterans home, who renders services at a Minnesota veterans home, and whose services have been accepted or contracted for by the commissioner of veterans affairs, as authorized by law, is an employee ~~within the meaning of this subdivision~~. In the event of injury or death of the voluntary uncompensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(15) a worker who renders in-home attendant care services to a physically handicapped person, and who is paid directly by the commissioner of public welfare for these services, shall be an employee of the state within the meaning of this subdivision, but for no other purpose.

In the event it is difficult to determine the daily wage as provided in this subdivision, then the trier of fact may determine the wage upon which the compensation is payable.

Sec. 3. Minnesota Statutes 1982, section 190.05, subdivision 5, is amended to read:

Subd. 5. **ACTIVE SERVICE.** "~~Active service~~" shall be understood and construed to be service on behalf of the state, in case of public disaster, war, riot, tumult, breach of the peace, resistance of process, or whenever the same is threatened, whenever called upon in aid of civil authorities, at encampments whether ordered by state or federal authority, or upon any other duty requiring the entire time of the organization or person, including travel to and from any

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duty. "On duty" shall include periods of drill and such other training and service as may be required under state or federal law, regulations or orders and travel to and from duty means either state active service or federal active service.

Sec. 4. Minnesota Statutes 1982, section 190.05, is amended by adding a subdivision to read:

<sup>c</sup> Subd. 5a. **STATE ACTIVE SERVICE.** "State active service" excludes federal active service and includes service or duty:

(1) on behalf of the state in case of actual or threatened public disaster, war, riot, tumult, breach of the peace, resistance of process, or whenever called upon in aid of state civil authority;

(2) at encampments ordered by state authority;

(3) otherwise ordered or requested by state authority and requiring the time of the organization or person; or

(4) travel to or from service or duty under clause (1), (2), or (3).

Sec. 5. Minnesota Statutes 1982, section 190.05, is amended by adding a subdivision to read:

Subd. 5b. **FEDERAL ACTIVE SERVICE.** "Federal active service" means service or duty under United States Code, title 10 or 32, as amended through December 31, 1983, other service or duty as may be required by the law, regulation, or order of the United States government, and travel to or from that service or duty.

Sec. 6. **[190.096] BATTLE FLAGS; REPAIR.**

Subdivision 1. **AUTHORITY TO REPAIR.** Notwithstanding the provisions of Minnesota Statutes 1961, chapters 16 and 43, the adjutant general may contract for the repair, restoration, and preservation of regimental battle flags, standards, and guidons with persons or corporations skilled in such repair, restoration, and preservation, upon terms or conditions he deems proper, subject to the approval of the commissioner of administration.

Subd. 2. Notwithstanding the provisions of section 190.09, the adjutant general may, for the purposes of this section, surrender the immediate custody and control of regimental battle flags, standards, and guidons under conditions and safeguards he deems necessary and proper, for such time as is reasonably necessary for their restoration, after which they shall at once be again properly stored or displayed. The adjutant general shall provide adequate storage and display space for flags, standards, and guidons which have been repaired and restored.

Sec. 7. Minnesota Statutes 1982, section 192.38, is amended to read:

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**192.38 ILLNESS, INJURY, OR DEATH OF MEMBER OF MILITARY FORCES; COMPENSATION.**

Subdivision 1. **TEMPORARY EMERGENCY RELIEF.** If any officer or enlisted man of the military forces is wounded or otherwise disabled, dies from disease contracted or injuries received, or is killed while in "state active service" or "on duty" as defined in Minnesota Statutes 1961, Section 190.05, and acts amendatory thereof, when such service or duty is ordered by state authority section 4, he, or in the case of his death his dependent widow spouse, child, or parent, may be provided with such immediate temporary relief as may be necessary in cases of severe hardship, in an amount to be determined by the adjutant general and approved by the governor. All such payments under this subdivision shall be made from appropriations for the maintenance of the state military forces. The adjutant general shall notify the workers' compensation commission of any payments made pursuant to this subdivision and the amount thereof of it shall be subtracted from any award made by the commission.

Subd. 2. **ASSISTANCE TO CLAIMANTS.** To the extent information is available to him, the adjutant general shall provide information to a person seeking a benefit from the state or federal government or instituting a claim before a legislative commission on claims or federal claims commission arising from loss, damage, or destruction of property or for injury or death incurred or sustained by a member of the military forces. ~~The adjutant general shall notify the workers' compensation commission of any payments made pursuant to federal law, other than the federal social security act or the federal government life insurance program for members of the armed forces, for the same personal injury as the claimant is seeking workers' compensation for, and the amount thereof shall be subtracted from any award made by the commission.~~

Sec. 8. Minnesota Statutes 1982, section 192A.015, is amended to read:

**192A.015 DEFINITIONS.**

In this chapter, unless the context otherwise requires:

(1) "Accuser" means a person who signs and swears to charges, any person who directs that charges nominally be signed and sworn to by another, and any person who has an interest other than an official interest in the prosecution of the accused;

(2) "Active state duty" means full time duty in the active military service of the state under an order of the governor issued under authority vested in him by law, including travel to and from such duty and "Active Service" as defined in Minnesota Statutes, Section 190.05, including travel to and from such duty the same as state active service defined in section 4;

(3) "Code" means this chapter;

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(4) "Commanding officer" means a commissioned officer who is in command of any unit;

(5) "Commissioned officer" includes a commissioned warrant officer;

(6) "Convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding for the time being, or a successor in command;

(7) "~~Duty status other than active state duty~~" means any one of the types of duty described in Minnesota Statutes, section 190.05, as "on duty" and includes travel to and from such duty;

(8) "Enlisted member" means a person in an enlisted grade;

(9) (8) "Grade" means a step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or regulation;

(10) (9) "In federal service" and "not in federal service" mean the same as those terms are used and construed in federal laws and regulations;

(11) (10) "May" is used in a permissive sense. The words "no person may" mean that no person is required, authorized, or permitted to do the act prescribed;

(12) (11) "Military" refers to any or all of the armed forces of the United States or any state;

(13) (12) "Military court" means a court-martial, a court of inquiry;

(14) (13) "Officer" means commissioned or warrant officer;

(15) (14) "Rank" means the order of precedence among members of the state military forces;

(16) (15) "Shall" is used in a mandatory sense;

(17) (16) "State judge advocate" means the commissioned officer responsible for supervising the administration of the military justice in the state military forces and appointed pursuant to Minnesota Statutes, section 192A.04;

(18) (17) "State military forces" means the national guard of the state, as defined in section 101 (3) of title 32, United States Code, and any other military force organized under the laws of the state;

(19) (18) "Superior commissioned officer" means a commissioned officer superior in rank and command.

Sec. 9. Minnesota Statutes 1982, section 192A.02, subdivision 1, is amended to read:

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Subdivision 1. **APPLICABILITY.** This code applies to all members of the state military forces ~~who are not in federal service when they are on active state duty or duty status other than active state duty in active service as defined by section 3.~~

Approved May 19, 1983

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## CHAPTER 194 — H.F.No. 1006

*An act relating to intoxicating liquor; authorizing a city to authorize an on-sale licensee to dispense liquor at events held in facilities of the metropolitan sports facilities commission; amending Minnesota Statutes 1982, section 340.11, subdivision 11c.*

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

Section 1. Minnesota Statutes 1982, section 340.11, subdivision 11c, is amended to read:

Subd. 11c. **SALE OF LIQUOR AT SPORTS OR CONVENTION FACILITIES.** The governing body of any municipality as defined in section 340.07, subdivision 11, may by ordinance authorize any holder of an on-sale intoxicating liquor license issued by the municipality or by an adjacent municipality to dispense intoxicating liquor at any convention, banquet, conference, meeting or social affair conducted on the premises of a sports or convention facility owned by the municipality or instrumentality thereof having independent policymaking and appropriating authority, and located within the municipality or owned by the metropolitan sports facilities commission and located within the municipality. The licensee must be engaged to dispense intoxicating liquor at such an event held by a person or organization permitted to use the premises, and may dispense intoxicating liquor only to persons attending the event. The licensee shall not dispense intoxicating liquor to any person attending or participating in any amateur athletic event held on the premises. The dispensing of intoxicating liquor shall be subject to all laws and ordinances governing the dispensing of intoxicating liquor as are not inconsistent herewith. All dispensing of intoxicating liquor shall be in accordance with terms and conditions prescribed by the municipality, and such terms and conditions may limit the dispensing of intoxicating liquor to designated areas of the facility. The municipality may fix and assess a fee to be paid to the municipality by an on-sale licensee for each occasion where the licensee is engaged to dispense intoxicating liquor. The authority granted by this subdivision shall not be construed as counting as an additional on-sale intoxicating liquor license for purposes of determining the number of liquor licenses permitted to be issued under the provisions of section 340.11.

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