

Sections 58 to 78 are effective in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 85. EFFECTIVE DATE.

Sections 1 to 45, 48 to 51, 56 to 72, and 78 to 84 are effective the day following final enactment. Sections 46, 47, and 73 to 77 are effective January 1, 1985, except that the fees imposed in sections 46, 47, and 73 shall be effective January 1, 1988, with respect to nonhazardous solid waste from metalcasting facilities. Prior to January 1, 1988, an operator of a facility that is located in the metropolitan area for the disposal of mixed municipal solid waste shall deduct from the disposal charge for nonhazardous solid waste from metalcasting facilities the fee imposed under sections 46, 47, and 73.

Section 52 is effective for taxable years after December 31, 1983. Section 55 is effective for sales after June 30, 1984. Sections 53 and 54 are effective for taxable years after December 31, 1984.

Approved May 2, 1984

CHAPTER 645 — H.F.No. 1532

An act relating to agriculture; designating milk as the official state drink; proposing new law coded in Minnesota Statutes, chapter 1.

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

Section 1. [1.1495] **STATE DRINK.**

Milk is adopted as the official drink of the state of Minnesota.

Approved May 2, 1984

CHAPTER 646 — H.F.No. 994

An act relating to mediation; providing for mediation of disputes; providing penalties; amending Minnesota Statutes 1982, section 595.02; proposing new law coded in Minnesota Statutes, chapter 572.

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

Section 1. [572.31] **MINNESOTA CIVIL MEDIATION ACT, CITATION.**

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

Sections 1 to 7 may be cited as the "Minnesota Civil Mediation Act."

Sec. 2. [572.33] DEFINITIONS.

Subdivision 1. SCOPE. When used in sections 1 to 7 the terms defined in this section have the meanings given them.

Subd. 2. MEDIATOR. "Mediator" means a third party with no formal coercive power whose function is to promote and facilitate a voluntary settlement of a controversy identified in an agreement to mediate.

Subd. 3. AGREEMENT TO MEDIATE. "Agreement to mediate" means a written agreement which identifies a controversy between the parties to the agreement, states that the parties will seek to resolve the controversy through mediation, provides for termination of mediation upon written notice from either party or the mediator delivered by certified mail or personally to the other people who signed the agreement, is signed by the parties and mediator and is dated.

Subd. 4. MEDIATED SETTLEMENT AGREEMENT. "Mediated settlement agreement" means a written agreement setting out the terms of a partial or complete settlement of a controversy identified in an agreement to mediate, signed by the parties, and dated.

Sec. 3. [572.35] EFFECT OF MEDIATED SETTLEMENT AGREEMENT.

The effect of a mediated settlement agreement shall be determined under principles of law applicable to contract. A mediated settlement agreement is not binding unless it contains a provision stating that it is binding and a provision stating substantially that the parties were advised in writing that (a) the mediator has no duty to protect their interests or provide them with information about their legal rights; (b) signing a mediated settlement agreement may adversely affect their legal rights; and (c) they should consult an attorney before signing a mediated settlement agreement if they are uncertain of their rights.

Sec. 4. [572.36] SETTING ASIDE OR REFORMING A MEDIATED SETTLEMENT AGREEMENT.

In any action, a court of competent jurisdiction shall set aside or reform a mediated settlement agreement if appropriate under the principles of law applicable to contracts, or if there was evident partiality, corruption, or misconduct by a mediator prejudicing the rights of a party. That the relief could not or would not be granted by a court of law or equity is not ground for setting aside or reforming the mediated settlement agreement unless it violates public policy.

Sec. 5. [527.37] PRESENTATION OF MEDIATOR TO PUBLIC.

No individual may act as a mediator pursuant to the Minnesota Civil Mediation Act for compensation without providing the individuals to the conflict with a written statement of his qualifications prior to beginning mediation. The

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statement shall describe his educational background and relevant training and experience in the field.

Nothing in this section shall limit the pursuits of professionals consistent with their training and code of ethics; nor shall this section apply to service provided through a governmental agency. The requirement of this section may be satisfied by a nonprofit corporation on behalf of its service providers by providing a statement of the education, training, and experience requirements for eligibility on its mediation panel.

A person who violates this section is guilty of a petty misdemeanor.

Sec. 6. [572.39] STATUTES OF LIMITATION.

The running of the limitation of time within which an action may be brought is suspended from the date of the agreement to mediate until 20 days after notice of termination of mediation is delivered by certified mail or personally delivered as provided in the agreement to mediate.

Sec. 7. [572.40] SCOPE.

Sections 1 to 4 do not apply to proceedings relating to the determination of criminal liability or proceedings brought under chapters 518, 518A, 518B, and 518C, or proceedings relating to guardianship, conservatorship, or civil commitment.

Sec. 8. Minnesota Statutes 1982, section 595.02, is amended to read:

595.02 **COMPETENCY OF WITNESSES.**

Every person of sufficient understanding, including a party, may testify in any action or proceeding, civil or criminal, in court or before any person who has authority to receive evidence, except as follows:

(1) A husband cannot be examined for or against his wife without her consent, nor a wife for or against her husband without his consent, nor can either, during the marriage or afterwards, without the consent of the other, be examined as to any communication made by one to the other during the marriage. This exception does not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other or against a child of either, nor to a criminal action or proceeding in which one is charged with homicide or an attempt to commit homicide and the date of the marriage of the defendant is subsequent to the date of the offense, nor to an action or proceeding for non-support, neglect, dependency, or termination of parental rights;

(2) An attorney cannot, without the consent of his client, be examined as to any communication made by the client to him or his advice given thereon in the course of professional duty; nor can any employee of the attorney be examined as to the communication or advice, without the client's consent;

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(3) A clergyman or other minister of any religion shall not, without the consent of the party making the confession, be allowed to disclose a confession made to him in his professional character, in the course of discipline enjoined by the rules or practice of the religious body to which he belongs; nor shall a clergyman or other minister of any religion be examined as to any communication made to him by any person seeking religious or spiritual advice, aid, or comfort or his advice given thereon in the course of his professional character, without the consent of the person;

(4) A licensed physician or surgeon, dentist, or chiropractor shall not, without the consent of his patient, be allowed to disclose any information or any opinion based thereon which he acquired in attending the patient in a professional capacity, and which was necessary to enable him to act in that capacity; after the decease of the patient, in an action to recover insurance benefits, where the insurance has been in existence two years or more, the beneficiaries shall be deemed to be the personal representatives of the deceased person for the purpose of waiving this privilege, and no oral or written waiver of the privilege shall have any binding force or effect except when made upon the trial or examination where the evidence is offered or received;

(5) A public officer shall not be allowed to disclose communications made to him in official confidence when the public interest would suffer by the disclosure;

(6) Persons of unsound mind; persons intoxicated at the time of their production for examination, and children under ten years of age, who appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly, are not competent witnesses. This exception does not apply to a child under ten years of age, in a criminal proceeding for intrafamilial sexual abuse as defined in section 609.364, subdivision 10, or in a criminal proceeding under sections 609.342 clause (a), 609.343 clause (a), 609.344 clause (a), or 609.345 clause (a), who is able to describe or relate in language appropriate for a child of that age the events or facts respecting which the child is examined;

(7) A registered nurse, psychologist or consulting psychologist shall not, without the consent of his client, be allowed to disclose any information or opinion based thereon which he acquired in attending the client in a professional capacity, and which was necessary to enable him to act in that capacity;

(8) An interpreter for a person handicapped in communication shall not, without the consent of the person, be allowed to disclose any communication if the communication would, if the interpreter were not present, be privileged. For purposes of this section, a "person handicapped in communication" means a person who, because of a hearing, speech or other communication disorder, or because of the inability to speak or comprehend the English language, is unable to understand the proceedings in which he is required to participate. The presence

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of an interpreter as an aid to communication does not destroy an otherwise existing privilege;

(9) A parent or his minor child may not be examined as to any communication made in confidence by the minor to his parent. A communication is confidential if made out of the presence of persons not members of the child's immediate family living in the same household. This exception may be waived by express consent to disclosure by a parent entitled to claim the privilege or by the child who made the communication, or by failure of the child or parent to object when the contents of a communication are demanded. This exception does not apply to a civil action or proceeding by one spouse against the other or by a parent or child against the other, nor to a proceeding to commit either the child or parent to whom the communication was made or to place the person or property or either under the control of another because of his alleged mental or physical condition, nor to a criminal action or proceeding in which the parent is charged with a crime committed against the person or property of the communicating child, the parent's spouse, or a child of either the parent or the parent's spouse, or in which a child is charged with a crime or act of delinquency committed against the person or property of a parent or a child of a parent, nor to an action or proceeding for termination of parental rights, nor any other action or proceeding on a petition alleging child abuse, child neglect, abandonment or nonsupport by a parent;

(10) Sexual assault counselors may not be compelled to testify about any opinion or information received from or about the victim without the consent of the victim. However, a counselor may be compelled to identify or disclose information in investigations or proceedings related to neglect or termination of parental rights if the court determines good cause exists. In determining whether to compel disclosure, the court shall weigh the public interest and need for disclosure against the effect on the victim, the treatment relationship, and the treatment services if disclosure occurs. Nothing in this clause exempts sexual assault counselors from compliance with the provisions of sections 626.556 and 626.557.

"Sexual assault counselor" for the purpose of this section means a person who has undergone at least 40 hours of crisis counseling training and works under the direction of a supervisor in a crisis center, whose primary purpose is to render advice, counseling or assistance to victims of sexual assault.

(11) A person cannot be examined as to any communication or document, including worknotes, made or used in the course of or because of mediation pursuant to an agreement to mediate. This does not apply to the parties in the dispute in an application to a court by a party to have a mediated settlement agreement set aside or reformed. A communication or document otherwise not privileged does not become privileged because of this paragraph. This paragraph

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is not intended to limit the privilege accorded to communication during mediation by the common law.

Approved May 2, 1984

CHAPTER 647 — H.F.No. 820

An act relating to recreational vehicles; requiring a three-year registration fee for three-wheel off-road vehicles; requiring safety certificates of youthful operators; prescribing penalties; creating a three-wheel off-road vehicle safety account in the state treasury; appropriating funds; appropriating money; proposing new law coded in Minnesota Statutes, chapter 84.

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

Section 1. [84.92] DEFINITIONS.

Subdivision 1. The definitions in this section apply to sections 1 to 9.

Subd. 2. "Commissioner" means the commissioner of natural resources.

Subd. 3. "Dealer" means a person engaged in the business of selling three-wheel off-road vehicles at wholesale or retail.

Subd. 4. "Manufacturer" means a person engaged in the business of manufacturing three-wheel off-road vehicles.

Subd. 5. "Owner" means a person, other than a person with a security interest, having a property interest in or title to a three-wheel off-road vehicle and entitled to the use and possession of the vehicle.

Subd. 6. "Person" means an individual or an organization as defined in section 336.1-201, paragraph (30).

Subd. 7. "Register" means the act of assigning a registration number to a three-wheel off-road vehicle.

Subd. 8. "Three-wheel off-road vehicle" or "vehicle" means a motorized flotation-tired vehicle of not less than three low pressure tires, but not more than six tires, that is limited in engine displacement of less than 800 cubic centimeters and total dry weight less than 600 pounds.

Sec. 2. [84.922] REGISTRATION.

Subdivision 1. GENERAL REQUIREMENTS. Unless exempted in subdivision 8, after January 1, 1985, a person may not operate a three-wheel off-road vehicle within the state unless the vehicle has been registered. After

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