

lawful gambling as defined in section 349.12, if licensed by the charitable gambling control board and conducted under sections 349.11 to 349.22 authorized under chapter 349, and a person may manufacture, sell, or offer for sale a gambling device to the an organization authorized under chapter 349 to conduct lawful gambling, and pari-mutuel betting on horse racing may be conducted under chapter 240.

Sec. 31. TAX AMNESTY; NONPROFIT ORGANIZATIONS.

For an organization that has an unpaid liability for sales tax due under Minnesota Statutes, chapter 297A, arising out of lawful gambling conducted under Minnesota Statutes, chapter 349, between March 1, 1982, and June 30, 1985, the commissioner of revenue shall accept as full payment of the liability, a certified check, cashier's check, or money order in the amount of 50 percent of the liability incurred, plus interest. Payment must be received by the commissioner of revenue before January 1, 1987. For delinquent returns filed under this section, the civil and criminal penalties imposed by law are waived.

Sec. 32. SALES TAX EXEMPTION.

The gross receipts from the conduct of lawful gambling conducted under Minnesota Statutes, chapter 349, received prior to March 1, 1982, shall be exempt from taxation under Minnesota Statutes, chapter 297A. No refunds shall be paid pursuant to this section unless the organization can demonstrate to the commissioner of revenue that the refunds will be paid to those who paid the tax.

Sec. 33. EFFECTIVE DATE.

Sections 1 to 3 are effective the day following final enactment. Section 8 is effective the day following final enactment and applies to persons appointed to the charitable gambling control board after that date. Sections 4 to 7, 9 to 14, 16 to 21, and 25 to 32 are effective June 1, 1986. Section 15 is effective July 1, 1986. Sections 22 to 24 are effective January 1, 1987.

Approved March 25, 1986

CHAPTER 468—H.F.No. 2364

An act relating to transportation; railroads; clarifying procedures in certain contested matters brought before the transportation regulation board; permitting the transportation regulation board to grant clearance variances without evidentiary hearings in certain cases; permitting transportation regulation board to approve certain rate changes and applications for track abandonment or discontinuance of service in certain cases without a public hearing; providing a maximum fine for motor carrier violations involving transportation of hazardous materials; amending Minnesota Statutes 1984, sections 174A.02, subdivision 4; 216A.05,

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subdivision 5; 221.041, subdivision 1; 221.291, subdivision 3; Minnesota Statutes 1985 Supplement, sections 219.47, subdivision 1; 219.741; and 219.85.

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

Section 1. Minnesota Statutes 1984, section 174A.02, subdivision 4, is amended to read:

Subd. 4. **HEARING UPON PETITIONS HEARINGS; NOTICE.** With respect to those matters within its jurisdiction the board shall receive, hear and determine ~~within six months~~ all petitions filed with it in accordance with the procedures established by law and may hold hearings and make determinations upon its own motion to the same extent, and in every instance, in which it may do so upon petition. Upon receiving petitions filed pursuant to sections 221.061, 221.081, 221.121, subdivision 1, 221.151, 221.296, and 221.55, the board shall give notice of the filing of the petition to representatives of associations or other interested groups or persons who have registered their names with the board for that purpose and to whomever the board deems to be interested in the petition. The board may grant or deny the request of the petition 30 days after notice of the filing has been fully given. If the board receives a written objection and notice of intent to appear at a hearing to object to the petition from any person within 20 days of the notice having been fully given, the request of the petition shall be granted or denied only after a contested case hearing has been conducted on the petition, unless the objection is withdrawn prior to the hearing. The board may elect to hold a contested case hearing if no objections to the petition are received. If a timely objection is not received, or if received and withdrawn, and the request of the petition is denied without hearing, the petitioner may request within 30 days of receiving the notice of denial, and shall be granted, a contested case hearing on the petition.

Sec. 2. Minnesota Statutes 1984, section 216A.05, subdivision 5, is amended to read:

Subd. 5. **HEARINGS UPON PETITIONS.** With respect to those matters within its jurisdiction the commission shall receive, hear and determine all petitions filed with it in accordance with the rules of practice and procedure promulgated by the commission, and may investigate, hold hearings and make determinations upon its own motion to the same extent, and in every instance, in which it may do so upon petition. Upon receiving petitions filed pursuant to sections 221.061, 221.081, 221.121, subdivision 1, 221.151, 221.296, and 221.55, the commission shall give notice of the filing of the petition to representatives of associations or other interested groups or persons who have registered their names with the executive secretary for that purpose and to whomever he deems to be interested in the petition. The commission may grant or deny the request of the petition 30 days after notice of the filing has been fully given. If the commission receives a written objection and a notice of intent to appear at a hearing to object to the petition from any person within 20 days of the notice having been fully given, the request of the petition shall be granted or denied only after a contested case hearing has been conducted on the petition, unless the objection is withdrawn prior to the hearing. The commission may elect to

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hold a contested case hearing if no objections to the petition are received. If a timely objection is not received, or if received and withdrawn, and the request of the petition is denied without hearing, the petitioner may request within 30 days of receiving the notice of denial, and shall be granted, a contested case hearing on the petition.

Sec. 3. Minnesota Statutes 1985 Supplement, section 219.47, subdivision 1, is amended to read:

Subdivision 1. **PERMANENT.** The board, upon application made, after a thorough investigation ~~and hearing in any particular case~~, may permit a common carrier, person, or corporation to which sections 219.45 to 219.53 apply, to erect an overhead or side obstruction closer to the track than provided for in section 219.46, to construct track at less clearance than provided for in section 219.46, and to reconstruct and maintain them when in the judgment of the commissioner compliance with the clearance prescribed in section 219.46 is unreasonable or unnecessary or the erection or construction of the overhead or side obstruction or tracks or the reconstruction and maintenance of them at less clearance than provided in section 219.46 will not create a condition unduly hazardous to the employees of that common carrier, person, or corporation. Before taking final action on the application, the board need conduct only those hearings or other proceedings as it finds necessary for the resolution of the material issues raised by the application.

Sec. 4. Minnesota Statutes 1985 Supplement, section 219.741, is amended to read:

219.741 APPLICATION FOR REMOVAL.

A railroad company desiring to abandon, close for traffic, or remove tracks described in section 219.681 shall first apply to the board in writing. Before passing upon the application the board shall provide ~~the opportunity for a hearing after public notice and, if it so determines, shall fix a time and place for hearing and serve notice of the hearing upon interested persons known to the board~~ of the application and that interested persons may object to the application within 30 days after publication of the notice. On determining that a public hearing is unnecessary for resolution of the material issues relating to the application, the board, no sooner than 30 days after publishing the notice, may enter an order finally disposing of the application. On determining otherwise, the board may not act on the application until a contested case hearing has been conducted under chapter 14.

Sec. 5. Minnesota Statutes 1985 Supplement, section 219.85, is amended to read:

219.85 RAILROAD STATIONS, AGENCY SERVICE.

Agency service at common carrier railroad stations must be that required by the public convenience and necessity. No station may be abandoned nor agency

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service reduced or, discontinued, established, reestablished, or expanded without the consent of the board after public notice and opportunity for hearing is afforded. The board, on its own motion or upon the petition of an interested party, may order station agency service at a station established, reestablished, or expanded after notice and an opportunity for hearing. When an application has been filed to close or abandon a station or to change station agency service, the board shall provide public notice of the application and that interested persons may object to the application within 30 days after publication of the notice. On determining that a public hearing is unnecessary for resolution of the material issues relating to the application, the board, no sooner than 30 days after publishing the notice, may enter an order finally disposing of the application. On determining otherwise, the board may not act on the application until a contested case hearing has been conducted under chapter 14.

Sec. 6. Minnesota Statutes 1984, section 221.041, subdivision 1, is amended to read:

Subdivision 1. **CONSIDERATIONS; PROCEDURES.** The board shall fix and establish just, reasonable, and nondiscriminatory rates, fares, charges, and the rules and classifications incident to tariffs for regular route common carriers and petroleum carriers. In prescribing rates, fares, charges, classifications, and rules for the carrying of freight, persons, or property, the board shall take into consideration the effect of the proposed rates or fares upon the users of the service and upon competitive carriers by motor vehicle and rail and, insofar as possible, avoid rates and fares which will result in unreasonable and destructive competition. In making its determination, the board shall consider, among other things, the cost of the service rendered by the carrier, including an adequate sum for maintenance and depreciation, and an adequate operating ratio under honest, economical, and efficient management. No rate or fares may be put into effect or changed or altered except upon hearing duly had and an order therefor by the board, or except as herein otherwise provided. The board may authorize the rate changes ex parte which, in its opinion, are not of sufficient import to require a hearing. In an emergency, the board may order a change in existing rates or fares without a hearing. In instances of ex parte or emergency orders, the board shall, within five days, serve a copy of its order granting the change in rates upon parties which the board deems interested in the matter, including competing carriers. An interested party shall have 30 days from the date of the issuance of the order to object to the order. If objection is made, the matter must be set down for hearing with notice to competing carriers board shall determine whether a hearing is necessary for resolution of the material issues relating to the proposed change in rates. On finding that a hearing is unnecessary for this purpose, the board, no sooner than 30 days after issuing its initial order granting the change in rates, may enter an order finally disposing of the rate change application. On determining otherwise, the board may take final action on the rate change application and the objections to it only after a contested case hearing has been conducted under chapter 14.

Sec. 7. Minnesota Statutes 1984, section 221.291, subdivision 3, is amended to read:

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Subd. 3. **TRANSPORTATION OF HAZARDOUS MATERIALS.** A person who ships, transports, or offers for transportation hazardous waste or hazardous material in violation of a provision of this chapter or a rule or order of the commissioner or board adopted or issued under this chapter which specifically applies to the transportation of hazardous material or hazardous waste is guilty of a misdemeanor and upon conviction ~~shall~~ may be fined ~~not less than~~ up to the maximum fine which may be imposed for a misdemeanor for each violation.

Approved March 25, 1986

CHAPTER 469—S.F.No. 2102

An act relating to marriage dissolution and legal separation; requiring appointment of guardians ad litem in certain child custody proceedings; amending Minnesota Statutes 1984, section 518.165; and Minnesota Statutes 1985 Supplement, section 626.556, subdivision 2.

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

Section 1. Minnesota Statutes 1984, section 518.165, is amended to read:

518.165 GUARDIANS FOR MINOR CHILDREN.

Subdivision 1. **PERMISSIVE APPOINTMENT OF GUARDIAN AD LITEM.** In all proceedings for child custody or for dissolution or legal separation where custody or visitation of a minor child is in issue, the court may appoint a guardian ad litem from a panel established by the court to represent the interests of the child. The guardian ad litem shall advise the court with respect to custody, support and visitation. ~~The court may enter an order for costs, fees and disbursements in favor of the child's guardian ad litem. The order may be made against either or both parties, except that any part of the costs, fees, and disbursements which the court finds the parties are incapable of paying shall be borne by the county.~~

Subd. 2. **REQUIRED APPOINTMENT OF GUARDIAN AD LITEM.** In all proceedings for child custody or for marriage dissolution or legal separation in which custody or visitation of a minor child is an issue, if the court has reason to believe that the minor child is a victim of domestic child abuse or neglect, as those terms are defined in sections 260.015 and 626.556, respectively, the court shall appoint a guardian ad litem. The guardian ad litem shall represent the interests of the child and advise the court with respect to custody, support, and visitation. If the child is represented by a guardian ad litem in any other pending proceeding, the court may appoint that guardian to represent the child in the custody or visitation proceeding. No guardian ad litem need be appointed if the alleged domestic child abuse or neglect is before the court on a juvenile dependency and neglect petition. Nothing in this subdivision requires the court to appoint a guardian ad litem in any proceeding for child custody.

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