

Upon completion of the conveyances authorized by this section, the balance of the land remaining in the state wayside shall be designated, operated, and maintained as a state wildlife management area by the commissioner of natural resources. The commissioner shall allow nonmotorized trails on the lands designated as a wildlife management area in conjunction with trails on adjoining county land. Effective upon designation of the balance of the land as a wildlife management area by the commissioner, Old Crossing Treaty State Wayside is abolished, and sections 85.013, subdivision 19, and 138.55, subdivision 6, are repealed.

Sec. 5. [85.013] [Subd. 21a] RICE LAKE STATE WAYSIDE, SCOTT COUNTY; EXCHANGE OF LAND; ABOLISHMENT. The commissioner of natural resources may exchange state lands within Rice Lake State Wayside for land of the United States located within Glacial Lakes State Park for inclusion in Glacial Lakes State Park. Upon completion of the exchange, Rice Lake State Wayside is abolished, and Minnesota Statutes 1986, section 85.013, subdivision 21a, is repealed.

Sec. 6. [85.0505] SALE OF WINE AT DOUGLAS LODGE IN ITASCA STATE PARK.

Wine may be sold and consumed by the drink at the restaurant in Douglas Lodge in Itasca state park, subject to other laws relating to the sale of intoxicating liquor.

Sec. 7. INSTRUCTIONS TO THE REVISOR.

The revisor of statutes shall change the name of Tower Soudan state park to Soudan Underground Mine state park wherever it appears in Minnesota Statutes and renumber subdivision 57 of section 85.012 to the appropriate alphabetical location. Effective upon the repeal of sections 85.013, subdivision 19, and 138.55, subdivision 6, the revisor of statutes shall insert the following in section 138.56: "Subd. Old Crossing Treaty Site, owned by Red Lake County, located in Section 33, Township 151 North, Range 45 West."

Sec. 8. EFFECTIVE DATE.

This act is effective the day following final enactment.

Approved May 14, 1987

CHAPTER 129—H.F.No. 580

An act relating to human rights; changing certain requirements relating to disabled persons; amending Minnesota Statutes 1986, sections 363.02, subdivisions 1 and 5; 363.03, subdivision 1; and 363.116.

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

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

Section 1. Minnesota Statutes 1986, section 363.02, subdivision 1, is amended to read:

Subdivision 1. **EMPLOYMENT.** The provisions of section 363.03, subdivision 1, shall not apply to:

(1) The employment of any individual

(a) by the individual's parent, grandparent, spouse, child, or grandchild, or

(b) in the domestic service of any person;

(2) A religious or fraternal corporation, association, or society, with respect to qualifications based on religion, when religion shall be a bona fide occupational qualification for employment;

(3) The employment of one person in place of another, standing by itself, shall not be evidence of an unfair discriminatory practice;

(4) The operation of a bona fide seniority system which mandates differences in such things as wages, hiring priorities, layoff priorities, vacation credit, and job assignments based on seniority, so long as the operation of the system is not a subterfuge to evade the provisions of chapter 363;

(5) With respect to age discrimination, a practice by which a labor organization or employer offers or supplies varying insurance benefits or other fringe benefits to members or employees of differing ages, so long as the cost to the labor organization or employer for the benefits is reasonably equivalent for all members or employees;

(6) A restriction imposed by state statute, home rule charter, ordinance, or civil service rule, and applied uniformly and without exception to all individuals, which establishes a maximum age for entry into employment as a peace officer or firefighter.

(7) Nothing in this chapter concerning age discrimination shall be construed to validate or permit age requirements which have a disproportionate impact on persons of any class otherwise protected by section 363.03, subdivision 1 or 5.

It is not an unfair employment practice for an employer, employment agency or labor organization:

(i) to require or request a person to undergo physical examination, which may include a medical history, for the purpose of determining the person's capability to perform available employment, provided (a) that an offer of employment has been made on condition that the person meets the physical or mental requirements of the job; (b) that the examination tests only for essential job-related abilities; and (c) that the examination, ~~unless limited to determining~~

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whether the person's disability would prevent performance of the job, except for examinations authorized under chapter 176 is required of all persons conditionally offered employment for the same position regardless of disability; or

(ii) with the consent of the employee, to obtain additional medical information for the purposes of establishing an employee health record;

(iii) to administer preemployment tests, provided that the tests (a) measure only essential job-related abilities, (b) are required of all applicants for the same position regardless of disability ~~unless limited to determining whether the person's disability would prevent performance of the job~~ except for tests authorized under chapter 176, and (c) accurately measure the applicant's aptitude, achievement level, or whatever factors they purport to measure rather than reflecting the applicant's impaired sensory, manual, or speaking skills, except when those skills are the factors that the tests purport to measure; or

(iv) to limit receipt of benefits payable under a fringe benefit plan for disabilities to that period of time which a licensed physician reasonably determines a person is unable to work; or

(v) to provide special safety considerations for pregnant women involved in tasks which are potentially hazardous to the health of the unborn child, as determined by medical criteria.

Sec. 2. Minnesota Statutes 1986, section 363.02, subdivision 5, is amended to read:

Subd. 5. **DISABILITY.** Nothing in this chapter shall be construed to prohibit any program, service, facility or privilege afforded to a person with a disability which is intended to habilitate, rehabilitate or accommodate that person. It is a defense to a complaint or action brought under the employment provisions of this chapter that the person bringing the complaint or action has a disability which in the circumstances and even with reasonable accommodation, as defined in section 363.03; subdivision 1, clause (6), poses a serious threat to the health or safety of the disabled person or others. The burden of proving this defense is upon the respondent.

Sec. 3. Minnesota Statutes 1986, section 363.03, subdivision 1, is amended to read:

Subdivision 1. **EMPLOYMENT.** Except when based on a bona fide occupational qualification, it is an unfair employment practice:

(1) For a labor organization, because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or age,

(a) to deny full and equal membership rights to a person seeking membership or to a member;

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(b) to expel a member from membership;

(c) to discriminate against a person seeking membership or a member with respect to hiring, apprenticeship, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment; or

(d) to fail to classify properly, or refer for employment or otherwise to discriminate against a person or member.

(2) For an employer, because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, membership or activity in a local commission, disability, or age,

(a) to refuse to hire or to maintain a system of employment which unreasonably excludes a person seeking employment; or

(b) to discharge an employee; or

(c) to discriminate against a person with respect to hiring, tenure, compensation, terms, upgrading, conditions, facilities, or privileges of employment.

(3) For an employment agency, because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or age,

(a) to refuse or fail to accept, register, classify properly, or refer for employment or otherwise to discriminate against a person; or

(b) to comply with a request from an employer for referral of applicants for employment if the request indicates directly or indirectly that the employer fails to comply with the provisions of this chapter.

(4) For an employer, employment agency, or labor organization, before a person is employed by an employer or admitted to membership in a labor organization, to

(a) require the person to furnish information that pertains to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability, unless, for the purpose of national security, information pertaining to national origin is required by the United States, this state or a political subdivision or agency of the United States or this state, or for the purpose of compliance with the public contracts act or any rule, regulation or laws of the United States or of this state requiring information pertaining to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance or disability is required by the United States or a political subdivision or agency of the United States; or

(b) cause to be printed or published a notice or advertisement that relates to employment or membership and discloses a preference, limitation, specification, or discrimination based on race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability or age.

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(5) For an employer, an employment agency or a labor organization, with respect to all employment related purposes, including receipt of benefits under fringe benefit programs, not to treat women affected by pregnancy, childbirth, or disabilities related to pregnancy or childbirth, the same as other persons who are not so affected but who are similar in their ability or inability to work.

(6) For an employer with 50 or more permanent, full-time employees, an employment agency or a labor organization, not to make reasonable accommodation to the known disability of a qualified disabled person or job applicant unless the employer, agency, or organization can demonstrate that the accommodation would impose an undue hardship on the business, agency, or organization. "Reasonable accommodation" means steps which must be taken to accommodate the known physical or mental limitations of a qualified disabled person. "Reasonable accommodation" may include but is not limited to: (a) making facilities readily accessible to and usable by disabled persons; and (b) job restructuring, modified work schedules that do not reduce the total number of hours normally worked, acquisition or modification of equipment or devices, and the provision of aides on a temporary or periodic basis.

In determining whether an accommodation would impose an undue hardship on the operation of a business or organization, factors to be considered include:

(a) the overall size of the business or organization with respect to number of employees or members and the number and type of facilities;

(b) the type of the operation, including the composition and structure of the work force, and the number of employees at the location where the employment would occur;

(c) the nature and cost of the needed accommodation;

(d) the reasonable ability to finance the accommodation at each site of business; and

(e) documented good faith efforts to explore less restrictive or less expensive alternatives, including consultation with the disabled person or with knowledgeable disabled persons or organizations.

~~In the case of an accommodation for a job applicant, any cost in excess of \$50 imposed on the prospective employer shall be deemed an undue hardship if no alternative costing \$50 or less exists. A prospective employer need not pay for an accommodation for a job applicant which costs \$50 or less if it is available from an alternative source without cost to the employer or applicant.~~

Sec. 4. Minnesota Statutes 1986, section 363.116, is amended to read:

363.116 TRANSFER TO COMMISSIONER.

A local commission may refer a matter under its jurisdiction to the commissioner.

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The charging party has the option of filing a charge either with a local commission or the department. Notwithstanding the provisions of any ordinance or resolution to the contrary, a charge may be filed with a local commission within 300 days after the occurrence of the practice. The exercise of such choice in filing a charge with one agency shall preclude the option of filing the same charge with the other agency. At the time a charge comes to the attention of a local agency, the agency or its representative shall inform the charging party of this option, and of the party's rights under Laws 1967, chapter 897.

Where this chapter provides additional protections and remedies not provided for under a local antidiscrimination ordinance, the local commission shall advise a party bringing a charge under a local ordinance of those additional protections and remedies and of the option to file a charge under this chapter.

The term "local commission" as used in this section has the same meaning given the term in section 363.115.

Approved May 14, 1987

CHAPTER 130—H.F.No. 630

An act relating to health; allowing health maintenance organizations to adjust premiums based on actual health services utilization; amending Minnesota Statutes 1986, sections 62D.04, subdivision 1; 62D.08, subdivision 3; and 62D.10, by adding a subdivision.

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

Section 1. Minnesota Statutes 1986, section 62D.04, subdivision 1, is amended to read:

Subdivision 1. Upon receipt of an application for a certificate of authority, the commissioner of health shall determine whether the applicant for a certificate of authority has:

(a) demonstrated the willingness and potential ability to assure that health care services will be provided in such a manner as to enhance and assure both the availability and accessibility of adequate personnel and facilities;

(b) arrangements for an ongoing evaluation of the quality of health care;

(c) a procedure to develop, compile, evaluate, and report statistics relating to the cost of its operations, the pattern of utilization of its services, the quality, availability and accessibility of its services, and such other matters as may be reasonably required by regulation of the commissioner of health;

(d) reasonable provisions for emergency and out of area health care services;

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