

## CHAPTER 184—H.F.No. 909

*An act relating to waters; changing the posting and publication of notice requirements for aeration operations by a permittee of the commissioner of natural resources; providing an exclusion from government tort liability; amending Minnesota Statutes 1986, sections 3.736, subdivision 3; and 378.22, subdivisions 2 and 3, and by adding a subdivision.*

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

Section 1. Minnesota Statutes 1986, section 3.736, subdivision 3, is amended to read:

Subd. 3. **EXCLUSIONS.** Without intent to preclude the courts from finding additional cases where the state and its employees should not, in equity and good conscience, pay compensation for personal injuries or property losses, the legislature declares that the state and its employees are not liable for the following losses:

(a) Any loss caused by an act or omission of a state employee exercising due care in the execution of a valid or invalid statute or rule;

(b) Any loss caused by the performance or failure to perform a discretionary duty, whether or not the discretion is abused;

(c) Any loss in connection with the assessment and collection of taxes;

(d) Any loss caused by snow or ice conditions on any highway or public sidewalk that does not abut a publicly-owned building or a publicly-owned parking lot, except when the condition is affirmatively caused by the negligent acts of a state employee;

(e) Any loss caused by wild animals in their natural state;

(f) Any loss other than injury to or loss of property or personal injury or death;

(g) Any loss caused by the condition of unimproved real property owned by the state, which means land that the state has not improved, and appurtenances, fixtures and attachments to land that the state has neither affixed nor improved;

(h) Any loss incurred by a user within the boundaries of the outdoor recreation system and arising from the construction, operation, or maintenance of the system, as defined in section 86A.04, or from the clearing of land, removal of refuse, and creation of trails or paths without artificial surfaces, or from the construction, operation, or maintenance of a water access site created by the iron range resources and rehabilitation board, except that the state is liable for conduct that would entitle a trespasser to damages against a private person;

(i) Any loss of benefits or compensation due under a program of public assistance or public welfare, except where state compensation for loss is expressly required by federal law in order for the state to receive federal grants-in-aid;

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(j) Any loss based on the failure of any person to meet the standards needed for a license, permit, or other authorization issued by the state or its agents;

(k) Any loss based on the usual care and treatment, or lack of care and treatment, of any person at a state hospital or state corrections facility where reasonable use of available appropriations has been made to provide care;

(l) Any loss, damage, or destruction of property of a patient or inmate of a state institution;

(m) Any loss for which recovery is prohibited by section 169.121, subdivision 9; and

(n) Any loss caused by an aeration, bubbler, water circulation, or similar system used to increase dissolved oxygen or maintain open water on the ice of public waters, that is operated under a permit issued by the commissioner of natural resources.

The state will not pay punitive damages.

Sec. 2. Minnesota Statutes 1986, section 378.22, subdivision 2, is amended to read:

Subd. 2. **POSTING REQUIREMENTS.** Where an aeration system is used on the ice of public waters, signs shall be posted by the permittee at a height of from four to six feet in a rectangular pattern at each corner of the open water, ~~with at least two~~ and additional signs between the corner signs ~~on any side exceeding so that a sign is posted at least every 100 feet in length.~~

Additional signs shall be posted by the permittee on the shoreline of the public waters at each public access point and other areas commonly used by the public for access to the lake. The signs shall comply with the applicable order of the commissioner of natural resources.

Sec. 3. Minnesota Statutes 1986, section 378.22, subdivision 3, is amended to read:

Subd. 3. **PUBLICATION OF NOTICE.** Advance public notice of the commencement of any aeration system, authorized by a permit from the commissioner of natural resources during periods of ice cover on public waters, shall be given by the permittee. Minimum notice shall consist of publication of the location and date of commencement of the system in a newspaper of general circulation in the area where the system is proposed to be operated at least two times between five and ~~20~~ 60 days prior to commencement.

Sec. 4. Minnesota Statutes 1986, section 378.22, is amended by adding a subdivision to read:

Subd. 5: WATER AERATION RULES. The commissioner of natural resources shall, by September 1, 1988, adopt rules relating to the issuance of permits for

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eration, bubbler, water circulation, and similar systems used to increase dissolved oxygen or to maintain open water on the ice of public waters.

Approved May 20, 1987

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CHAPTER 185—H.F.No. 931

*An act relating to public guardianship; modifying standards and procedures for the appointment of public guardians for mentally retarded persons; providing for powers and duties of public guardians; amending Minnesota Statutes 1986, sections 252.291, subdivision 3; 252A.01; 252A.02, subdivisions 2, 4, 6, 7, 8, 11, 12, and by adding subdivisions; 252A.03, subdivisions 2 and 3; 252A.04, subdivisions 1 and 3; 252A.05; 252A.06; 252A.07, subdivisions 1 and 3; 252A.14; 252A.16; 252A.17; 252A.19, subdivisions 1, 2, and 3, and by adding a subdivision; 252A.20, subdivision 1; 252A.21, subdivision 2; 253B.03, subdivisions 1 and 6; and 525.56, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 252A; repealing Minnesota Statutes 1986, sections 252A.08; 252A.10; 252A.11; 252A.13; 252A.15; and 252A.18.*

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

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ARTICLE 1

PUBLIC GUARDIANSHIP

Section 1. Minnesota Statutes 1986, section 252A.01, is amended to read:

252A.01 **POLICY AND CITATION.**

Subdivision 1. **POLICY.** (a) It is the policy of the state of Minnesota to provide a coordinated approach to the supervision, protection and habilitation of its adult mentally retarded citizens. In furtherance of this policy, sections 252A.01 to 252A.21 are enacted to authorize the commissioner of human services to:

(1) supervise those adult mentally retarded citizens who are unable to fully provide for their own needs and for whom no qualified person is willing and able to seek private guardianship or conservatorship under sections 525.539 to 525.705; and

(2) to protect ~~such~~ adult mentally retarded persons from violation of their human and civil rights by assuring that ~~such individuals~~ they receive the full range of needed social, financial, residential and habilitative services to which they are lawfully entitled.

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