

Sec. 2. SALE OF INTOXICATING LIQUOR ON LAKE LE HOMME DIEU.

Notwithstanding any law, charter provision, or ordinance to the contrary, the county board of Douglas county may issue an additional liquor license to a business establishment located on Lake Le Homme Dieu in Douglas county.

Authority to dispense intoxicating liquor under this section is in addition to any license authorized by law or ordinance. All provisions of law, charter, or ordinance governing the sale and serving of intoxicating liquor not inconsistent with this section shall govern the dispensing of intoxicating liquor under this section.

Sec. 3. RED WING LIQUOR LICENSE.

Subdivision 1. AUDITORIUM LICENSE. Notwithstanding any law, charter provision or ordinance to the contrary the city of Red Wing may issue an on-sale intoxicating liquor license for the T. B. Sheldon Memorial Auditorium. The license shall be in addition to any on-sale licenses authorized by law. The fee for the license shall be set by the city council. The license shall authorize the sale of intoxicating liquor only to those persons present on the premises as members or guests of a person or organization leasing space in the auditorium for a convention, banquet, conference, meeting or social event. No sale may be made during any elementary, high school or college athletic event held in the auditorium. All provisions of law, charter or ordinance governing the sale and serving of intoxicating liquor consistent with this section shall govern the license.

Subd. 2. LOCAL APPROVAL. This section is effective the day after approval by the Red Wing city council and compliance with Minnesota Statutes, section 645.021.

Sec. 4. LOCAL APPROVAL.

Section 1 is effective on approval by the St. Cloud city council and compliance with Minnesota Statutes, section 645.021.

Section 2 is effective on approval by county board of Douglas county and compliance with Minnesota Statutes, section 645.021.

Approved April 18, 1988

CHAPTER 553—S.F.No. 1674

An act relating to environment; prescribing criminal penalties for violation of certain statutes, rules, or permits relating to pollution control; amending Minnesota Statutes 1987 Supplement, section 115.071, subdivision 2; and 609.671.

New language is indicated by underline, deletions by ~~strikeout~~.

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

Section 1. Minnesota Statutes 1987 Supplement, section 115.071, subdivision 2, is amended to read:

Subd. 2. **CRIMINAL PENALTIES.** (a) **VIOLATIONS OF LAWS; ORDERS; PERMITS.** (1) Except as provided in section 609.671, any person who willfully or negligently violates any provision of this chapter or chapter 116, or any standard, rule, variance, order, stipulation agreement, schedule of compliance or permit issued or adopted by the agency thereunder; ~~which violation is not included in clause (2);~~ shall upon conviction be guilty of a misdemeanor.

(2) Any person who willfully or negligently violates any effluent standard and limitation or water quality standard adopted by the agency; any National Pollutant Discharge Elimination System permit or any term or condition thereof; any duty to permit or carry out any recording, reporting, monitoring, sampling, information entry, access, copying, or other inspection or investigation requirement as provided under applicable provisions of this chapter and; with respect to the pollution of waters of the state; chapter 116; or any National Pollutant Discharge Elimination System filing requirement; shall upon conviction be punished by a fine of not less than \$2,500 in the event of a willful violation or not less than \$300 in the event of a negligent violation. In any case the penalty shall not be more than \$40,000 per day of violation or by imprisonment for not more than one year, or both. If the conviction is for conduct committed after a first conviction of such person under this subdivision; punishment shall be by fine of not more than \$50,000 per day of violation; or by imprisonment for not more than two years; or both.

(b) **INFORMATION AND MONITORING.** Any person who knowingly makes any false statement; representation; or certification in any application; record; report; plan; or other document filed or required to be maintained under this chapter and; with respect to the pollution of the waters of the state; chapter 116; or standards; rules; orders; stipulation agreements; schedule of compliance or permits pursuant hereto; or who falsifies; tampers with; or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter and; with respect to the pollution of waters of the state; chapter 116; or standards; rules; variances; orders; stipulation agreements; schedules of compliance; or permits pursuant thereto; shall upon conviction; be punished by a fine of not more than \$20,000 per day of violation; or by imprisonment for not more than six months; or both.

(c) **DUTY OF LAW ENFORCEMENT OFFICIALS.** It shall be the duty of all county attorneys, sheriffs and other peace officers, and other officers having authority in the enforcement of the general criminal laws to take all action to the extent of their authority, respectively, that may be necessary or proper for the enforcement of said provisions, rules, standards, orders, stipulation agreements, variances, schedule of compliance, or permits.

Sec. 2. Minnesota Statutes 1987 Supplement, section 609.671, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

609.671 ~~HAZARDOUS WASTE~~ ENVIRONMENT; CRIMINAL PENALTIES.

Subdivision 1. **DEFINITIONS.** The definitions in this subdivision apply to this section.

(a) "Agency" means the pollution control agency.

(b) "Deliver" or "delivery" means the transfer of possession of hazardous waste, with or without consideration.

(c) "Dispose" or "disposal" has the meaning given it in section 115A.03, subdivision 9.

(d) "Hazardous waste" means any waste identified as hazardous under the authority of section 116.07, subdivision 4, except for those wastes exempted under Minnesota Rules, part 7045.0120, wastes generated under Minnesota Rules, part 7045.0213 or 7045.0304, and household appliances.

(e) "Permit" means a permit issued by the pollution control agency or interim status for a treatment, storage, or disposal facility for hazardous waste that qualifies under the agency rules.

Subd. 2. **PROOF OF KNOWING STATE OF MIND.** (a) Knowledge possessed by a person other than the defendant but not by the defendant may not be attributed to the defendant. In proving a defendant's actual knowledge, circumstantial evidence may be used, including evidence that the defendant took affirmative steps to shield the defendant from relevant information.

(b) Proof of a defendant's reason to know may not consist solely of the fact that the defendant held a certain job or position of management responsibility. If evidence of the defendant's job or position is offered, it must be corroborated by evidence of defendant's reason to know. Corroborating evidence must include evidence that the defendant had information regarding the offense for which the defendant is charged, that the information pertained to hazardous waste management practices directly under the defendant's control or within the defendant's supervisory responsibilities, and that the information would cause a reasonable and prudent person in the defendant's position to learn the actual facts.

Subd. 3. ~~FELONY PENALTY FOR HAZARDOUS WASTE~~; KNOWING ENDANGERMENT. (a) A person is guilty of a felony if the person:

(1) knowingly, or with reason to know, transports, treats, stores, or disposes of hazardous waste in violation of subdivision 4 or 5; and

(2) at the time of the violation knowingly places, or has reason to know that the person's conduct places, another person in imminent danger of death, great bodily harm, or substantial bodily harm.

(b) A person convicted under this subdivision may be sentenced to impris-

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onment for not more than ten years, or to pay a fine of not more than \$100,000, or both, except that a defendant that is an organization may be sentenced to pay a fine of not more than \$1,000,000.

Subd. 4. **FELONY PENALTY FOR HAZARDOUS WASTE; UNLAWFUL DISPOSAL.** A person who knowingly, or with reason to know, disposes of hazardous waste or arranges for the disposal of hazardous waste at a location other than one authorized by the pollution control agency or the United States Environmental Protection Agency, or in violation of any material term or condition of a hazardous waste facility permit, is guilty of a felony and may be sentenced to imprisonment for not more than five years or to pay a fine of not more than \$50,000, or both.

Subd. 5. **FELONY PENALTY FOR HAZARDOUS WASTE; UNLAWFUL TREATMENT, STORAGE, TRANSPORTATION, OR DELIVERY; FALSE STATEMENTS.** (a) A person is guilty of a felony who knowingly, or with reason to know, does any of the following:

(1) delivers hazardous waste to any person other than a person who is authorized to receive the waste under rules adopted under section 116.07, subdivision 4, or under United States Code, title 42, sections 9601 to 9675;

(2) treats or stores hazardous waste without a permit if a permit is required, or in violation of a material term or condition of a permit held by the person, unless:

(i) the person notifies the agency prior to the time a permit would be required that the person will be treating or storing waste without a permit; or

(ii) for a violation of a material term or condition of a permit, the person immediately notifies the agency issuing the permit of the circumstances of the violation as soon as the person becomes aware of the violation;

(3) transports hazardous waste to any location other than a facility that is authorized to receive, treat, store, or dispose of the hazardous waste under rules adopted under section 116.07, subdivision 4, or under United States Code, title 42, sections 9601 to 9675;

(4) transports hazardous waste without a manifest as required by the rules under sections 116.07, subdivision 4, and 221.172;

(5) transports hazardous waste without a license required for the transportation of hazardous waste by chapter 221;

(6) makes a false material statement or representation, or a material omission, in an application for a permit or license required by chapter 116 or 221 to treat, transport, store, or dispose of hazardous waste; or

(7) makes a false material statement or representation, or a material omission, in or on a label, manifest, record, report, or other document filed, main-

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tained, or used for the purpose of compliance with chapter 116 or 221 in connection with the generation, transportation, disposal, treatment, or storage of hazardous waste.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than three years, or to pay a fine of not more than \$25,000, or both. A person convicted for a second or subsequent offense may be sentenced to imprisonment for not more than five years, or to pay a fine of not more than \$50,000, or both.

Subd. 6. NEGLIGENCE VIOLATION AS GROSS MISDEMEANOR. A person who commits any of the acts set forth in subdivision 4 or 5 as a result of the person's gross negligence is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year, or to pay a fine of not more than \$15,000, or both.

Subd. 7. AGGREGATION. When two or more offenses in violation of subdivision 4 are committed by the same person in two or more counties within a two-year period, the offenses may be aggregated and the accused may be prosecuted in any county in which one of the offenses was committed.

Subd. 8. WATER POLLUTION. (a) A person is guilty of a gross misdemeanor who willfully commits any of the following acts:

(1) violates any effluent standard or limitation, or any water quality standard adopted by the agency;

(2) violates any National Pollutant Discharge Elimination System permit or any term or condition of the permit;

(3) fails to permit or carry out any recording, reporting, monitoring, sampling, information entry, access, copying, or other inspection or investigation requirement provided for under chapter 115 or, with respect to pollution of the waters of the state, chapter 116; or

(4) fails to comply with any National Pollutant Discharge Elimination System filing requirement.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than one year, or to pay a fine of not less than \$2,500 and not more than \$40,000 per day of violation, or both. A person convicted for a second or subsequent offense may be sentenced to imprisonment for not more than two years, or to pay a fine of not more than \$50,000 per day of violation, or both.

Subd. 9. INFORMATION AND MONITORING. (a) Except as provided in subdivision 5, paragraph (a), clauses (6) and (7), a person is guilty of a gross misdemeanor who knowingly:

(1) makes any material false statement, representation, or certification in any application, record, report, plan, or other document filed, maintained, or

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used for the purpose of compliance with chapter 115 or, with respect to pollution of the waters of the state, chapter 116; or

(2) falsifies, tampers with, or renders inaccurate any monitoring device or method maintained or used for the purpose of compliance with chapter 115 or, with respect to pollution of the waters of the state, chapter 116.

(b) A person convicted under this subdivision may be sentenced to imprisonment for not more than six months, or to pay a fine of not more than \$20,000 per day of violation, or both.

Approved April 18, 1988

CHAPTER 554—S.F.No. 1695

An act relating to education; requiring the state board of education to adopt rules regulating aversive and deprivation procedures; proposing coding for new law in Minnesota Statutes, chapter 127.

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

Section 1. [127.43] DEFINITIONS.

Subdivision 1. APPLICATION. For the purposes of sections 1 and 2, the following terms have the meanings given them.

Subd. 2. AVERSIVE PROCEDURE. "Aversive procedure" means the planned application of an aversive stimulus.

Subd. 3. AVERSIVE STIMULUS. "Aversive stimulus" means an object that is used, or an event or situation that occurs immediately after a specified behavior in order to suppress that behavior.

Subd. 4. DEPRIVATION PROCEDURE. "Deprivation procedure" means the planned delay or withdrawal of goods, services, or activities that the person would otherwise receive.

Subd. 5. EMERGENCY. "Emergency" means a situation in which immediate intervention is necessary to protect a pupil or other individual from physical injury or to prevent property damage.

Sec. 2. [127.44] AVERSIVE AND DEPRIVATION PROCEDURES.

The state board of education shall adopt rules governing the use of aversive and deprivation procedures by school district employees or persons under contract with a school district. The rules must:

(1) promote the use of positive approaches and must not encourage or require the use of aversive or deprivation procedures;

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