

pose of striking a name, it shall be decided by the flip of a coin. Each party shall be responsible for compensating the arbitrator of their choice, and the parties shall share equally the compensation paid to the third arbitrator. The board of arbitrators shall serve as a temporary arbitration tribunal and shall have the powers provided for commissioners under section 179.08. The board of arbitrators shall make its determination with all due diligence and shall file a copy of its report with the commissioner.

Presented to the governor March 25, 1996

Signed by the governor March 27, 1996, 11:27 a.m.

CHAPTER 383—S.F.No. 2194

VETOED

CHAPTER 384—S.F.No. 1981

An act relating to commerce; regulating the enforcement powers of the commissioner of commerce; providing for the study and consideration of certain insurance benefits; modifying reporting and enforcement provisions for charitable solicitations; regulating the repair of certain consumer goods; modifying the definition of "nonconformity" for purposes of assistive listening device regulation; amending Minnesota Statutes 1994, sections 45.027, subdivision 5, and by adding a subdivision; 325F.56, subdivision 2; and 325F.62, subdivision 3; Minnesota Statutes 1995 Supplement, sections 309.53, subdivision 3; and 325G.203, subdivision 11.

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

Section 1. Minnesota Statutes 1994, section 45.027, subdivision 5, is amended to read:

Subd. 5. **LEGAL ACTIONS; INJUNCTIONS; CEASE AND DESIST ORDERS.** Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of any law, rule, or order related to the duties and responsibilities entrusted to the commissioner, ~~the commissioner has the following powers:~~ (1) the commissioner may bring an action in the name of the state in Ramsey county district court or the district court of the an appropriate county to enjoin the acts or practices and to enforce compliance, or the commissioner may refer the matter to the attorney general or the county attorney of the appropriate county. Upon a proper showing, A permanent or temporary injunction, restraining order, or other appropriate relief must be granted; (2) based solely upon a showing that the person has engaged or is about to engage in an act or practice constituting a violation of a law, rule, cease and desist order, or other order related to the duties and responsibilities entrusted to the commissioner. The terms of this subdivision govern an action brought under this subdivision, in-

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cluding an action against a person who, for whatever reason, claims that the subject law, rule, cease and desist order or other order does not apply to the person.

Subd. 5a. **CEASE AND DESIST ORDERS.** (a) Whenever it appears to the commissioner that a person has engaged or is about to engage in an act or practice constituting a violation of a law, rule, or order related to the duties and responsibilities entrusted to the commissioner, the commissioner may issue and cause to be served upon the person an order requiring the person to cease and desist from violations.

(b) The cease and desist order must be calculated to give reasonable notice of the rights of the person to request a hearing and must state the reasons for the entry of the order. A hearing must be held not later than seven ten days after the request for the hearing is received by the commissioner, unless the person requesting the hearing and the department of commerce agree the hearing be scheduled after the seven-day period. After the completion of the hearing and, the administrative law judge shall issue a report within ten days. Within 20 15 days after receiving the administrative law judge's report, the commissioner shall issue a further order vacating or making permanent the cease and desist order or making it permanent as the facts require. If no hearing is requested within 30 days of service of the order, the order will become final and will remain in effect until it is modified or vacated by the commissioner. Unless otherwise provided, all hearings must be conducted in accordance with chapter 14. The time periods provided in this provision may be waived by agreement of the person requesting the hearing and the department of commerce and the person against whom the cease and desist order is issued. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person is in default, and the proceeding may be determined against that person upon consideration of the cease and desist order, the allegations of which may be considered to be true. Unless otherwise provided, all hearings must be conducted according to chapter 14. The commissioner may adopt rules of procedure concerning all proceedings conducted under this subdivision.

(c) If no hearing is requested within 30 days of service of the order, the cease and desist order will become permanent.

(d) A cease and desist order issued under this subdivision remains in effect until it is modified or vacated by the commissioner. The administrative proceeding provided by this subdivision, and subsequent appellate judicial review of that administrative proceeding, constitutes the exclusive remedy for determining whether the commissioner properly issued the cease and desist order and whether the cease and desist order should be vacated or made permanent.

Sec. 2. Minnesota Statutes 1994, section 45.027, is amended by adding a subdivision to read:

Subd. 5b. **ENFORCEMENT OF VIOLATIONS OF CEASE AND DESIST ORDERS.** (a) Whenever the commissioner under subdivision 5 seeks to enforce compliance with a cease and desist order that has been made permanent, the allegations in the cease and desist order are considered conclusively established for purposes of a proceeding under subdivision 5 for permanent or temporary relief to enforce the cease and desist order. Whenever the commissioner under subdivision 5 seeks to enforce compliance with a cease and desist order when a hearing or hearing request on the cease and desist order is pending, or the time has not yet expired to request a hearing on whether a cease and desist

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order should be vacated or made permanent, the allegations in the cease and desist order are considered conclusively established for purposes of a proceeding under subdivision 5 for temporary relief to enforce the cease and desist order.

(b) Notwithstanding this subdivision or subdivision 5 or 5a to the contrary, the person against whom the cease and desist order is issued and who has requested a hearing under subdivision 5a may within 15 days after service of cease and desist order bring an action in Ramsey county district court for issuance of an injunction to suspend enforcement of the cease and desist order pending a final decision of the commissioner under subdivision 5a to vacate or make permanent the cease and desist order. The court shall determine whether to issue such an injunction based on traditional principles of temporary relief.

Sec. 3. Minnesota Statutes 1995 Supplement, section 309.53, subdivision 3, is amended to read:

Subd. 3. The financial statement shall include a balance sheet, statement of income and expense, and statement of functional expenses, shall be consistent with forms furnished by the attorney general, and shall be prepared in accordance with generally accepted accounting principles so as to make a full disclosure of the following, including necessary allocations between each item and the basis of such allocations:

- (a) total receipts and total income from all sources;
- (b) cost of management and general;
- (c) program services;
- (d) cost of fund raising;
- (~~d~~) (e) cost of public education;
- (e) (f) funds or properties transferred out of state, with explanation as to recipient and purpose;
- (~~f~~) (g) total net amount disbursed or dedicated within this state, broken down into total amounts disbursed or dedicated for each major purpose, charitable or otherwise;
- (g) (h) names of professional fund raisers used during the accounting year and the financial compensation or and profit resulting to each professional fund raiser; and
- (h) (i) a list of the five highest paid directors, officers, and employees of the organization and its related organizations, as that term is defined by section 317A.011, subdivision 18, that receive total compensation of more than \$50,000, together with the total compensation paid to each. Total compensation shall include salaries, fees, bonuses, fringe benefits, severance payments, and deferred compensation paid by the charitable organization and all related organizations as that term is defined by section 317A.011, subdivision 18. On July 1, 1997, and thereafter, the charitable organization shall begin disclosure of the total compensation of the five highest paid directors, officers, and employees of any related organization if the related organization receives funds from the charitable organization.

Unless otherwise required by this subdivision, the financial statement need not be certified.

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A financial statement of a charitable organization which has received total revenue in excess of \$350,000 for the 12 months of operation covered by the statement shall be accompanied by an audited financial statement prepared in accordance with generally accepted accounting principles that has been examined by an independent certified public accountant for the purpose of expressing an opinion. In preparing the audit the certified public accountant shall take into consideration capital, endowment or other reserve funds, if any, controlled by the charitable organization.

Sec. 4. Minnesota Statutes 1994, section 325F.56, subdivision 2, is amended to read:

Subd. 2. "Repairs" means work performed for a total price of more than \$100 and less than ~~\$2,000~~ \$7,500, including the price of parts and materials, to restore a malfunctioning, defective, or worn motor vehicle, appliance, or dwelling place used primarily for personal, family, or household purposes and not primarily for business or agricultural purposes. "Repairs" do not include service calls or estimates.

Sec. 5. Minnesota Statutes 1994, section 325F.62, subdivision 3, is amended to read:

Subd. 3. Each shop shall conspicuously display a sign that states the following: "Upon a customer's request, this shop is required to provide a written estimate for repairs costing \$100 to ~~\$2,000~~ \$7,500 if the shop agrees to perform the repairs. The shop's final price cannot exceed its written estimate by more than ten percent without the prior authorization of the customer. You must request that the estimate be in writing. An oral estimate is not subject to the above repair cost limitations. If the shop charges a fee for the storage or care of repaired motor vehicles or appliances, the shop shall conspicuously display a sign that states the amount assessed for storage or care, when the charge begins to accrue, and the interval of time between assessments."

Sec. 6. Minnesota Statutes 1995 Supplement, section 325G.203, subdivision 11, is amended to read:

Subd. 11. **NONCONFORMITY.** "Nonconformity" means a specific condition or generic defect or malfunction, or a defect or condition that substantially impairs the use, value, or safety of an assistive device, but does not include a condition or defect that is the result of abuse or unauthorized modification or alteration of the assistive device by the consumer.

For those assistive devices regulated under section 153A.19, "nonconformity" does not include a condition of the device that is the result of normal use which could be resolved through fitting adjustments, cleaning, or proper care.

Sec. 7. **PILOT PROJECT.**

The commissioner of employee relations shall develop a proposal for a pilot project to determine the feasibility of coordinating workers' compensation and insurance benefits. This proposal may include a pilot project for employees of local units of government as well as state employees. In developing this project, the commissioner shall consult with the joint labor management committee on health plans; the public employees insurance program advisory board; the departments of labor and industry, health, and commerce; and health plans serving state employees and other public employees.

The commissioner shall report on the implementation of the pilot project, and any recommendations, to the legislature by January 15, 1997.

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Sec. 8. LONG-TERM CARE COVERAGE.

The commissioner of employee relations, with the assistance of the labor-management committee, shall consider an optional long-term care insurance benefit that may be offered to retiring state employees. The benefit would provide nursing home and/or home care benefits. Premiums for the benefit would be paid for by retiring employees who choose to elect this coverage. The commissioner shall report to the legislature by January 15, 1997.

Sec. 9. EFFECTIVE DATE.

Sections 3 to 6 and 8 are effective on the day following final enactment.

Presented to the governor March 25, 1996

Signed by the governor March 27, 1996, 11:30 a.m.

CHAPTER 385—S.F.No. 2503

An act relating to exotic species; recodifying, modifying, and expanding provisions relating to regulation and management of harmful exotic species; authorizing rulemaking; providing penalties; amending Minnesota Statutes 1994, sections 97A.105, subdivision 1; 97A.211, subdivisions 1 and 2; Minnesota Statutes 1995 Supplement, sections 84.027, subdivision 13; 97A.205; and 97A.221, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 84D; repealing Minnesota Statutes 1994, sections 84.966; 84.967; 84.968, subdivision 2; 84.969; 84.9692, subdivisions 3, 4, 5, and 6; and 103G.617; Minnesota Statutes 1995 Supplement, sections 18.316; 18.317; 84.968, subdivision 1; 84.9691; 84.9692, subdivisions 1, 1a, and 2; and 86B.401, subdivision 11.

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

ARTICLE 1

HARMFUL EXOTIC SPECIES

Section 1. [84D.01] DEFINITIONS.

Subdivision 1. TERMS. For the purposes of this chapter, the following terms have the meanings given them.

Subd. 2. AQUATIC MACROPHYTE. "Aquatic macrophyte" means a nonwoody plant, either a submerged, floating leafed, floating, or emergent plant that naturally grows in water or hydric soils.

Subd. 3. COMMISSIONER. "Commissioner" means the commissioner of the department of natural resources.

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