

Sec. 13. REPEALER.

Minnesota Statutes 1994, sections 177.27, subdivision 6; 177.33; and 181.17, are repealed.

Presented to the governor March 25, 1996

Signed by the governor March 27, 1996, 11:35 a.m.

CHAPTER 387—H.F.No. 2163

An act relating to motor carriers; prescribing conditions for granting medical waivers to truck drivers; exempting from federal hours of service regulation drivers transporting agricultural items during harvesting season; allowing electronic filing of financial responsibility forms; allowing protective agent to escort overweight vehicles; amending Minnesota Statutes 1994, sections 221.0314, by adding subdivisions; 221.033, subdivision 2a; 221.141, by adding a subdivision; and 326.338, subdivision 4; Minnesota Statutes 1995 Supplement, section 221.0314, subdivision 3.

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

Section 1. Minnesota Statutes 1995 Supplement, section 221.0314, subdivision 3, is amended to read:

Subd. 3. **WAIVER FOR PHYSICAL DEFECTS LIMB IMPAIRMENTS.** (a) A person who is not physically qualified to drive under subdivision 2, but who meets the other qualifications under subdivision 2, may drive a motor vehicle if the commissioner grants a waiver to that person. The commissioner may grant a waiver to a person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(1) or (b)(2), according to rules adopted under section 221.031.

(b) The commissioner may grant a waiver to a person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(3) to (b)(13) for medical conditions for which waiver programs have been established by the United States Department of Transportation. Except as required in paragraphs (c) to (f), the commissioner shall require the same information and follow the same procedure as the United States Department of Transportation in granting the waivers. The commissioner may continue to grant waivers under this paragraph and paragraphs (c) to (f) after the United States Department of Transportation has discontinued its waiver program for a specific medical condition if the commissioner determines that the waiver program is consistent with the safe operation of motor vehicles.

(c) Despite federal requirements, the commissioner may grant a waiver to a person who does not have three years' experience in operating a commercial motor vehicle.

(d) Despite federal requirements, a person who has been initially examined by a licensed physician and who has been granted a waiver for a diabetic condition may be regularly examined by the person's treating physician every six months from the date a waiver is granted.

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(e) Despite federal requirements, the commissioner may grant a waiver to a person who requires insulin for controlling diabetes but who has not been using insulin for the three years preceding a waiver application if the applicant, in addition to the information required by paragraph (b), submits a statement from a licensed physician that includes:

(1) the date and a description of each episode experienced by the person during the three years preceding a waiver application that involved a loss of consciousness or voluntary control due to hypoglycemia or hyperglycemia;

(2) the person's prognosis for control of the diabetes; and

(3) the physician's professional opinion about whether the person is medically qualified to exercise reasonable and ordinary control over a commercial motor vehicle on the public highways.

(f) A person who is granted a waiver after submitting the information required in paragraph (e) must, in addition, submit a statement from the person's treating physician every six months from the date a waiver is granted that includes the information described in paragraph (e), clauses (1) and (2), and gives the physician's professional opinion about whether the person continues to be medically qualified to exercise reasonable and ordinary control over a commercial motor vehicle on the public highways.

Sec. 2. Minnesota Statutes 1994, section 221.0314, is amended by adding a subdivision to read:

Subd. 3a. WAIVERS FOR OTHER MEDICAL CONDITIONS. (a) The commissioner may grant a waiver to a person who is not physically qualified to drive under Code of Federal Regulations, title 49, section 391.41, paragraph (b)(3) to (b)(13). A waiver granted under this subdivision applies to intrastate transportation only.

(b) A person who wishes to obtain a waiver under this subdivision must give the commissioner the following information:

(1) the applicant's name, address, and telephone number;

(2) the name, address, and telephone number of an employer coapplicant, if any;

(3) a description of the applicant's experience in driving the type of vehicle to be operated under the waiver;

(4) a description of the type of driving to be done under the waiver;

(5) a description of any modifications to the vehicle the applicant intends to drive under the waiver that are designed to accommodate the applicant's medical condition or disability;

(6) whether the applicant has been granted another waiver under this subdivision;

(7) a copy of the applicant's current driver's license;

(8) a copy of a medical examiner's certificate showing that the applicant is medically unqualified to drive unless a waiver is granted;

(9) a statement from the applicant's treating physician that includes:

(i) the extent to which the physician is familiar with the applicant's medical history;

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(ii) a description of the applicant's medical condition for which a waiver is necessary;

(iii) assurance that the applicant has the ability and willingness to follow any course of treatment prescribed by the physician, including the ability to self-monitor or manage the medical condition; and

(iv) the physician's professional opinion that the applicant's condition will not adversely affect the applicant's ability to operate a motor vehicle safely; and

(10) any other information considered necessary by the commissioner including requiring a physical examination or medical report from a physician who specializes in a particular field of medical practice.

(c) In granting a waiver under this subdivision, the commissioner may impose conditions the commissioner considers necessary to ensure that an applicant is able to operate a motor vehicle safely and that the safety of the general public is protected.

(d) A person who is granted a waiver under this subdivision must:

(1) at intervals specified in the waiver, give the commissioner periodic reports from the person's treating physician, or a medical specialist if the commissioner so requires in the waiver, that contain the information described in paragraph (b), clause (9), together with a description of any episode that involved the person's loss of consciousness or loss of ability to operate a motor vehicle safely; and

(2) immediately report the person's involvement in an accident for which a report is required under section 169.09, subdivision 7.

(e) The commissioner shall deny an application if, during the three years preceding the application, the applicant's driver's license has been suspended, canceled, or revoked or the applicant has been convicted of a disqualifying offense, as defined in Code of Federal Regulations, title 49, section 383.51, paragraph (b)(2), which is incorporated by reference.

(f) The commissioner may deny an application or may immediately revoke a waiver granted under this subdivision. Notice of the commissioner's reasons for denying an application or for revoking a waiver must be in writing and must be mailed to the applicant's or waiver holder's last known address by certified mail, return receipt requested. A person whose application is denied or whose waiver is revoked is entitled to a hearing under chapter 14.

(g) A waiver granted under this subdivision expires on the date of expiration shown on the medical examiner's certificate described in paragraph (b), clause (8).

Sec. 3. Minnesota Statutes 1994, section 221.0314, is amended by adding a subdivision to read:

Subd. 9a. HOURS OF SERVICE EXEMPTION. The federal regulations incorporated in subdivision 9 for maximum driving and on-duty time do not apply to drivers engaged in the interstate or intrastate transportation of agricultural commodities or farm supplies for agricultural purposes in Minnesota during the planting and harvesting seasons from March 15 to December 15 of each year if the transportation is limited to an area within a 100-air-mile radius from the source of the commodities or the distribution point for the farm supplies.

New language is indicated by underline, deletions by strikeout.

Sec. 4. Minnesota Statutes 1994, section 221.033, subdivision 2a, is amended to read:

Subd. 2a. **AGRICULTURALLY RELATED EXEMPTION.** (a) This subdivision applies to persons engaged in intrastate commerce.

(b) Fertilizer and agricultural chemical retailers or their employees are exempt from the rule in section 221.0314, subdivision 4, requiring that drivers must be at least 21 years of age when:

(1) the retailer or its employee is transporting fertilizer or agricultural chemicals directly to a farm for on-farm use within a radius of 50 miles of the retailer's business location; and

(2) the driver employed by the retailer is at least 18 years of age.

(c) ~~A fertilizer or agricultural chemical retailer, or a driver employed by a fertilizer or agricultural chemical retailer, is exempt from the rule in Code of Federal Regulations, title 49, section 395.3, paragraph (b), relating to hours of service of drivers, and section 395.8, requiring a driver's record of duty status, while exclusively engaged in the transportation of fertilizer or agricultural chemicals between April 1 and July 1 of each year when:~~

~~(1) the transportation is from the retailer's place of business directly to a farm within a 50-mile radius of the retailer's place of business;~~

~~(2) the fertilizer or agricultural chemicals are for use on the farm to which they are transported; and~~

~~(3) the employer maintains a daily record for each driver showing the time a driver reports for duty, the total number of hours a driver is on duty, and the time a driver is released from duty.~~

Sec. 5. Minnesota Statutes 1994, section 221.141, is amended by adding a subdivision to read:

Subd. 7. **ELECTRONIC FILING OF FORMS.** The commissioner may permit the electronic filing of insurance, bonds, endorsements, certificates, and other evidence of financial responsibility required in this section or rules adopted under this section. The electronic filing of a document imposes the same obligations on the person filing the document and has the same legal effect as if the document had been filed on a prescribed form.

Sec. 6. Minnesota Statutes 1994, section 326.338, subdivision 4, is amended to read:

Subd. 4. **PROTECTIVE AGENT.** A person who for a fee, reward, or other valuable consideration undertakes any of the following acts is considered to be engaged in the business of protective agent:

(1) providing guards, private patrol, or other security personnel to protect persons or their property or to prevent the theft, unlawful taking of goods, merchandise, or money, or to prevent the misappropriation or concealment of goods, merchandise, money, or other valuable things, or to procure the return of those things;

(2) physically responding to any alarm signal device, burglar alarm, television camera, still camera, or a mechanical or electronic device installed or used to prevent or detect burglary, theft, shoplifting, pilferage, losses, or other security measures;

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- (3) providing armored car services for the protection of persons or property;
- (4) controlling motor traffic on public streets, roads, and highways for the purpose of escorting a funeral procession and oversized loads; or
- (5) providing management and control of crowds for the purpose of safety and protection.

A person covered by this subdivision may perform the traffic control duties in clause (4) in place of a police officer when a special permit is required, provided that the protective agent is first-aid qualified.

Sec. 7. EFFECTIVE DATE.

Section 3 is effective the day following final enactment.

Presented to the governor March 25, 1996

Signed by the governor March 27, 1996, 11:35 a.m.

CHAPTER 388—H.F.No. 2385

An act relating to civil actions; establishing an evidentiary privilege for persons who preside at alternative dispute resolution; amending Minnesota Statutes 1994, section 595.02, by adding a subdivision.

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

Section 1. Minnesota Statutes 1994, section 595.02, is amended by adding a subdivision to read:

Subd. 1a. **ALTERNATIVE DISPUTE RESOLUTION PRIVILEGE.** No person presiding at any alternative dispute resolution proceeding established pursuant to law, court rule, or by an agreement to mediate, shall be competent to testify, in any subsequent civil proceeding or administrative hearing, as to any statement, conduct, decision, or ruling, occurring at or in conjunction with the prior proceeding, except as to any statement or conduct that could:

- (1) constitute a crime;
- (2) give rise to disqualification proceedings under the rules of professional conduct for attorneys; or
- (3) constitute professional misconduct.

Presented to the governor March 25, 1996

Signed by the governor March 27, 1996, 11:45 a.m.

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