

ance of the appropriations in Laws 1997, chapter 202, article 1, section 12, subdivision 7, and Laws 1998, chapter 366, article 1, section 6, to the secretary of state to modify business systems to address the year 2000 problem. The secretary of state shall appoint a project manager to oversee the modifications of business systems. The secretary of state shall provide each month to the year 2000 project office in the department of administration a project work plan and schedule. The secretary of state shall develop contingency plans, including plans for funding and staff, to be implemented if the year 2000 modification project does not meet the project schedule agreed to with the commissioner of administration.

Sec. 9. EFFECTIVE DATE.

This act is effective the day after its final enactment.

Presented to the governor May 7, 1999

Signed by the governor May 11, 1999, 1:40 p.m.

CHAPTER 142—S.F.No. 411

An act relating to crime; imposing criminal penalties for manufacturing, distributing, selling, or possessing with intent to sell or distribute counterfeited intellectual property; providing for forfeiture of these items; amending Minnesota Statutes 1998, sections 609.531, subdivision 1; and 609.902, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 609.

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

Section 1. Minnesota Statutes 1998, section 609.531, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For the purpose of sections 609.531 to 609.5318, the following terms have the meanings given them.

(a) "Conveyance device" means a device used for transportation and includes, but is not limited to, a motor vehicle, trailer, snowmobile, airplane, and vessel and any equipment attached to it. The term "conveyance device" does not include property which is, in fact, itself stolen or taken in violation of the law.

(b) "Weapon used" means a dangerous weapon as defined under section 609.02, subdivision 6, that the actor used or had in possession in furtherance of a crime.

(c) "Property" means property as defined in section 609.52, subdivision 1, clause (1).

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

(d) "Contraband" means property which is illegal to possess under Minnesota law.

(e) "Appropriate agency" means the bureau of criminal apprehension, the Minnesota state patrol, a county sheriff's department, the suburban Hennepin regional park district park rangers, the department of natural resources division of enforcement, the University of Minnesota police department, or a city or airport police department.

(f) "Designated offense" includes:

(1) for weapons used: any violation of this chapter, chapter 152, or chapter 624;

(2) for all other purposes: a felony violation of, or a felony-level attempt or conspiracy to violate, section 325E.17; 325E.18; 609.185; 609.19; 609.195; 609.21; 609.221; 609.222; 609.223; 609.2231; 609.24; 609.245; 609.25; 609.255; 609.322; 609.342, subdivision 1, clauses (a) to (f); 609.343, subdivision 1, clauses (a) to (f); 609.344, subdivision 1, clauses (a) to (e), and (h) to (j); 609.345, subdivision 1, clauses (a) to (e), and (h) to (j); 609.42; 609.425; 609.466; 609.485; 609.487; 609.52; 609.525; 609.53; 609.54; 609.551; 609.561; 609.562; 609.563; 609.582; 609.59; 609.595; 609.631; 609.66, subdivision 1e; 609.671, subdivisions 3, 4, 5, 8, and 12; 609.687; 609.821; 609.825; 609.86; 609.88; 609.89; 609.893; 609.895; 617.246; or a gross misdemeanor or felony violation of section 609.891 or 624.7181; or any violation of section 609.324.

(g) "Controlled substance" has the meaning given in section 152.01, subdivision 4.

Sec. 2. [609.895] COUNTERFEITED INTELLECTUAL PROPERTY; PENALTIES.

Subdivision 1. DEFINITIONS. (a) As used in this section, the following terms have the meanings given them.

(b) "Counterfeit mark" means:

(1) any unauthorized reproduction or copy of intellectual property; or

(2) intellectual property affixed to any item without the authority of the owner of the intellectual property.

(c) "Counterfeited item or service" means an item or service bearing or identified by a counterfeit mark.

(d) "Intellectual property" means any trademark, service mark, or trade name.

(e) "Retail value" means:

(1) the usual selling price of the article or service bearing or identified by the counterfeit mark; or

(2) the usual selling price of a finished product on or in which components bearing or identified by a counterfeit mark are used.

(f) "Service mark" means a mark used by a person to identify services and to distinguish them from the services of others.

(g) "Trademark" means a mark used by a person to identify goods and to distinguish them from the goods of others.

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

(h) "Trade name" means a word, name, symbol, device, or any combination of the foregoing in any form or arrangement, used by a person to identify the person's business, vocation, or occupation and to distinguish it from the business, vocation, or occupation of others.

Subd. 2. **CRIME.** A person who intentionally manufactures, produces, distributes, offers for sale, sells, or possesses with intent to sell or distribute any counterfeited item or service, knowing or having reason to know that the item or service is counterfeit, is guilty of counterfeiting intellectual property and may be punished as provided in subdivision 3.

Subd. 3. **PENALTIES.** (a) A person who is convicted of violating subdivision 2 may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$100,000, or both, if:

(1) the violation involves the manufacture or production of a counterfeited item or items;

(2) the violation involves the distribution, offer for sale, sale, or possession with intent to sell or distribute 1,000 or more counterfeited items;

(3) the violation involves the distribution, offer for sale, sale, or possession with intent to sell or distribute counterfeited items or services having a retail value of more than \$10,000; or

(4) the defendant has two or more prior convictions for violating this section or a law of another state or the United States that provides criminal penalties for counterfeiting intellectual property.

(b) Except as otherwise provided in paragraph (a), a person who is convicted of violating subdivision 2 may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than \$50,000, or both, if:

(1) the violation involves more than 100 but fewer than 1,000 counterfeited items;

(2) the violation involves counterfeited items or services having a retail value of more than \$1,000 but not more than \$10,000; or

(3) the defendant has one prior conviction for violating this section or a law of another state or the United States that provides criminal penalties for counterfeiting intellectual property.

(c) A person may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the person is convicted of violating subdivision 2, under circumstances not described in paragraph (a) or (b).

(d) If the defendant distributes, sells, offers for sale, or possesses with intent to sell or distribute more than one item or service bearing or identified by more than one counterfeit mark, the quantity or retail value of these items and services may be aggregated for purposes of determining penalties under this subdivision.

Subd. 4. **ALTERNATIVE FINE.** In lieu of the fine authorized by subdivision 3, a person convicted of violating this section who received economic gain from the act or caused economic loss during the act may be sentenced to pay a fine calculated in the manner provided in section 609.904, subdivision 2.

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

Subd. 5. FORFEITURE. Property used to commit or facilitate the commission of a violation of this section, and all money and property representing proceeds of a violation of this section, shall be forfeited in accordance with sections 609.531 to 609.5316. Notwithstanding any provision of section 609.5315 to the contrary, forfeited items bearing or identified by a counterfeit mark must be destroyed unless the intellectual property owner consents to another disposition.

Subd. 6. PRIMA FACIE EVIDENCE. A Minnesota or federal certificate of registration of an intellectual property is prima facie evidence of the registrant's ownership and exclusive right to use the intellectual property in connection with the goods or services described in the certificate.

Sec. 3. Minnesota Statutes 1998, section 609.902, subdivision 4, is amended to read:

Subd. 4. CRIMINAL ACT. "Criminal act" means conduct constituting, or a conspiracy or attempt to commit, a felony violation of chapter 152, or a felony violation of section 297D.09; 299F.79; 299F.80; 299F.82; 609.185; 609.19; 609.195; 609.20; 609.205; 609.221; 609.222; 609.223; 609.2231; 609.228; 609.235; 609.245; 609.25; 609.27; 609.322; 609.342; 609.343; 609.344; 609.345; 609.42; 609.48; 609.485; 609.495; 609.496; 609.497; 609.498; 609.52, subdivision 2, if the offense is punishable under subdivision 3, clause (3)(b) or clause 3(d)(v) or (vi); section 609.52, subdivision 2, clause (4); 609.53; 609.561; 609.562; 609.582, subdivision 1 or 2; 609.668, subdivision 6, paragraph (a); 609.67; 609.687; 609.713; 609.86; 609.894, subdivision 3 or 4; 609.895; 624.713; 624.74; or 626A.02, subdivision 1, if the offense is punishable under section 626A.02, subdivision 4, paragraph (a). "Criminal act" also includes conduct constituting, or a conspiracy or attempt to commit, a felony violation of section 609.52, subdivision 2, clause (3), (4), (15), or (16), if the violation involves an insurance company as defined in section 60A.02, subdivision 4, a nonprofit health service plan corporation regulated under chapter 62C, a health maintenance organization regulated under chapter 62D, or a fraternal benefit society regulated under chapter 64B.

Sec. 4. EFFECTIVE DATE.

Sections 1 to 3 are effective August 1, 1999, and apply to violations occurring on or after that date.

Presented to the governor May 7, 1999

Signed by the governor May 11, 1999, 1:42 p.m.

CHAPTER 143—S.F.No. 1115

An act relating to courts; revising the process for action for payment or collection of taxes; amending Minnesota Statutes 1998, section 270.68, subdivision 1.

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

Section 1. Minnesota Statutes 1998, section 270.68, subdivision 1, is amended to read:

Subdivision 1. **LEGAL ACTION.** (a) In addition to all other methods authorized by law for the collection of tax, if any tax payable to the commissioner of revenue or to the

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