CHAPTER 325F

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POWDERED ASBESTOS

325F.01 BAN; PENALTY.

Subdivision 1. No person, corporation, partnership, joint venture, firm or association shall use, sell, deliver or receive, or contract to use, sell, deliver or receive powdered asbestos, whether in its powdered form or mixed with any other substance, and to be applied with a pressure sprayer, or in its molded form if asbestos dust will emanate from it due to handling, mixing or cutting, for purposes of constructing, remodeling or improving any building structure in this state.

Subd. 2. Any violation of the provisions of subdivision 1 shall constitute a misdemeanor.

History: *1973 c 742 s 1*

MATCHES

325F.02 MANUFACTURE, STORAGE, OR SALE OF MATCHES.

Subdivision 1. **Safety matches.** No person, association, or corporation shall manufacture, store, offer for sale, sell, or otherwise dispose of, or distribute, white phosphorus, single-dipped, strike-anywhere matches of the type popularly known as "parlor matches", or any type of double-dipped matches, unless the bulb or first dip of such match is composed of a so-called safety or inert composition, nonignitable on an abrasive surface. No person, association, or corporation shall manufacture, store, sell, offer for sale, or otherwise dispose of, or distribute, matches which will ignite in a laboratory oven at a temperature of less than 200 degrees Fahrenheit when subjected in such laboratory oven to a gradually increasing heat and maintained at the before stated continuous temperature for a period of not less than eight hours, or blazer or so-called wind matches, whether of the so-called safety or strike-anywhere type.

Subd. 2. **Brands and trademarks.** No person, association, or corporation shall offer for sale, sell or otherwise dispose of, or distribute, any matches, unless the package or

container in which such matches are packed bears, plainly marked on the outside thereof, the name of the manufacturer and the brand or trademark under which such matches are sold, disposed of, or distributed.

Subd. 3. **How kept in retail stores.** Not more than one case of each brand of matches of any type or manufacture shall be opened at any one time in any retail store where matches are sold or otherwise disposed of; nor shall loose boxes, or paper-wrapped packages, of matches be kept on shelves or stored in retail stores at a height exceeding five feet from the floor.

Subd. 4. **Storage in warehouses.** All matches stored in warehouses, excepting manufacturer's warehouse at place of manufacture, which contain automatic sprinkler equipment, must be kept only in properly secured cases, and not piled to a height exceeding ten feet from the floor; nor be stored within a horizontal distance of ten feet from any boiler, furnace, stove, or other like heating apparatus, nor within a horizontal distance of 25 feet from any explosive material kept or stored on the same floor.

Subd. 5. **Boxes, how made.** All matches shall be packed in boxes or suitable packages, containing not more than 700 matches in any one box or package; provided, that when more than 300 matches are packed in any one box or package, the matches shall be arranged in two nearly equal portions, the heads of the matches in the two portions shall be placed in opposite directions; and all boxes containing 350 or more matches shall have placed over the matches a center holding or protecting strip, made of chipboard, not less than 1-1/4 inches wide, which shall be flanged down to hold the matches in position when the box is nested into the shuck or withdrawn from it.

Subd. 6. **Containers or cases; number of boxes or packages; how marked.** All match boxes or packages shall be packed in strong shipping containers or cases; maximum number of match boxes or packages contained in any one shipping container or case shall not exceed the following number:

Number of boxes	Numerical number of matches per box
1/2 gross	700
1 gross	500
2 gross	400
3 gross	300
5 gross	200
12 gross	100
20 gross	Over 50 and under 100
25 gross	Under 50

No shipping container or case constructed of fiberboard, corrugated fiberboard, or wood, nailed or wire-bound, containing matches, shall have a weight, including its contents, exceeding 75 pounds; and no lock-cornered wood case containing matches shall have a weight, including its contents, exceeding 85 pounds; nor shall any other article or commodity be packed with matches in any container or case; and all shipping containers or cases containing strike-anywhere matches shall have plainly marked on the outside thereof the words "strike-anywhere matches," and all shipping containers or cases containing "strike on box" matches shall have plainly marked on the outside thereof the words "strike on box matches."

Subd. 7. **Violations; penalties.** Any person, association, or corporation violating any of the provisions of this section shall be fined, for the first offense, not less than $5 nor more than $25 and for each subsequent violation, not less than $25.

History: *(6019-6022) 1913 c 99 s 1-4*

FLAME RESISTANT TENTS AND SLEEPING BAGS

325F.03 FLAME RESISTANT PUBLIC ASSEMBLY TENTS.

No person, firm or corporation shall establish, maintain or operate any circus, side show, carnival, tent show, theater, skating rink, dance hall, or a similar exhibition, production, engagement or offering or other place of assemblage in or under which ten or more persons may gather for any lawful purpose in any tent, awning or other fabric enclosure unless such tent, awning or other fabric enclosure, and all auxiliary tents, curtains, drops, awnings and all decorative materials, are made from a nonflammable material or are treated and maintained in a flame resistant condition. This section shall not apply to tents used to conduct committal services on the grounds of a cemetery, nor to tents, awnings or other fabric enclosures erected and used within a sound stage, or other similar structural enclosure which is equipped with an overhead automatic sprinkler system.

History: *1975 c 341 s 1*

325F.04 FLAME RESISTANT TENTS AND SLEEPING BAGS.

No person, firm or corporation may sell or offer for sale or manufacture for sale in this state any tent unless all fabrics or pliable materials in the tent are durably flame resistant. No person, firm or corporation may sell or offer for sale or manufacture for sale in this state any sleeping bag unless it meets the standards of the commissioner of public safety for flame resistancy. Tents and sleeping bags shall be conspicuously labeled as being durably flame resistant.

History: *1975 c 341 s 2*

325F.05 RULES.

The commissioner of public safety shall act so as to have effective rules concerning standards for nonflammable, flame resistant and durably resistant materials and for labeling requirements by January 1, 1976. In order to comply with sections 325F.03 and 325F.04 all materials and labels must comply with the rules adopted by the commissioner. The commissioner has general rulemaking power to otherwise implement sections 325F.03 to 325F.07.

History: *1975 c 341 s 3; 1985 c 248 s 70*

325F.06 CIVIL PENALTIES.

Any firm or corporation who violates sections 325F.03 to 325F.05 shall be strictly liable for any damage which occurs to any person as a result of such violation. In addition, any seller shall refund the full purchase price of any item sold in violation of section 325F.04 upon return of the item by the buyer.

History: *1975 c 341 s 4*

325F.07 CRIMINAL PENALTY.

Any person, firm or corporation which violates sections 325F.03 to 325F.05 is guilty of a misdemeanor.

History: *1975 c 341 s 5*

HAZARDOUS TOYS

325F.08 IMPORTATION, MANUFACTURE, SALE OR DISTRIBUTION OF HAZARDOUS ARTICLES.

No person, firm, corporation, association or agent or employee thereof shall import, manufacture, sell, hold for sale or distribute a toy or other article intended for use by a child which presents an electrical, mechanical or thermal hazard or presents

a hazard due to toxic, or flammable properties or properties able to produce asphyxiation or suffocation.

History: *1973 c 467 s 1*

325F.09 DEFINITIONS.

(a) "Child" means any person less than 14 years of age;

(b) A toy presents an electrical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture may cause personal injury or illness by electrical shock or electrocution;

(c) A toy presents a mechanical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness:

(1) from fracture, fragmentation, or disassembly of the article;

(2) from propulsion of the article or any part or accessory thereof;

(3) from points or other protrusions, surfaces, edges, openings, or closures;

(4) from moving parts;

(5) from lack or insufficiency of controls to reduce or stop motion;

(6) as a result of self-adhering characteristics of the article;

(7) because the article or any part or accessory thereof may be aspirated or ingested;

(8) because of instability;

(9) from stuffing material which is not free of dangerous or harmful substances; or

(10) because of any other aspect of the article's design or manufacture.

(d) A toy presents a thermal hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness because of heat as from heated parts, substances, or surfaces.

(e) "Toxic" means able to produce personal injury or illness to a person through ingestion, inhalation, or absorption through any body surface and can apply to any substance other than a radioactive substance.

(f) "Flammable" means having a flash point up to 80 degrees Fahrenheit as determined by the Tagliabue Open Cup Tester. The flammability of solids and of the contents of self-pressurized containers shall be determined by methods generally recognized as applicable to the materials or containers and established by rules issued by the commissioner.

(g) A toy presents a hazard of asphyxiation or suffocation if, in normal use or when subject to reasonably foreseeable damage or abuse, its design, manufacture or storage presents a risk of personal injury or illness from interference with normal breathing.

(h) "Commissioner" means commissioner of commerce.

(i) "Inspector" means an inspector of the department of commerce.

History: *1973 c 467 s 2; 1983 c 289 s 109; 1984 c 655 art 1 s 57*

325F.10 BANNING OF HAZARDOUS ARTICLES; RULES.

The commissioner shall ban from sale or distribution any toy or other article intended for use by children that presents any of the hazards set out in section 325F.08.

The commissioner shall adopt the rules necessary to carry out the intent of sections 325F.08 to 325F.18. Rules shall insofar as practicable conform to the rules relating to this subject found as part 191 in the Code of Federal Regulations, title 21.

History: *1973 c 467 s 3; 1983 c 289 s 114; 1985 c 248 s 70*

325F.11 TESTING OF ARTICLES TO DETERMINE AND INSURE COMPLIANCE.

The commissioner or an authorized and qualified employee or inspector, may undertake or provide for testing of toys and other articles as the commissioner, employee, or inspector deems necessary to determine their safety and fitness for commerce in this state in compliance with sections 325F.08 to 325F.18. The commissioner may contract or otherwise arrange with any testing facility, public or private, for testing and reporting the results. The commissioner may, by rule, require that any toy or other article within the provisions of sections 325F.08 to 325F.18 be adequately tested by a reputable testing facility, or the manufacturer or distributor of the article, and that the certified results of the test be filed with the commissioner before the sale, distribution, or other movement in commerce within this state of the toys or articles. The commissioner may by rule provide for penalties for the failure to provide test results.

History: *1973 c 467 s 4; 1983 c 289 s 110; 1986 c 444*

325F.12 REPURCHASE OF BANNED ARTICLES.

In the case of any article sold by its manufacturer, distributor, or dealer which has been banned, whether or not it was banned at the time of its sale, the article shall, in accordance with rules of the commissioner, be repurchased as follows:

(a) The manufacturer of the article shall repurchase it from the person to whom the manufacturer sold it, and shall refund that person the purchase price paid for the article. If the manufacturer requires the return of the article in connection with the repurchase of it, the manufacturer shall also reimburse the person for any reasonable and necessary expenses incurred in returning it to the manufacturer.

(b) The distributor of any banned article shall repurchase it from the person to whom the distributor sold it, and shall refund that person the purchase price paid for the article. If the distributor requires the return of the article in connection with the repurchase of it in accordance with this clause, the distributor shall reimburse that person for any reasonable and necessary expenses incurred in returning it to the distributor.

(c) In the case of any banned article sold at retail by a dealer, if the person who purchased it from the dealer returns it to the dealer, the dealer shall refund the purchase price paid for it and reimburse the purchaser for any reasonable and necessary transportation charges incurred in its return.

History: *1973 c 467 s 5; 1983 c 289 s 114; 1985 c 248 s 70; 1986 c 444*

325F.13 BANNED HAZARDOUS TOYS; PROHIBITIONS.

No person shall sell, expose for sale, deliver, give away, possess, or introduce or deliver for introduction into commerce any hazardous toy or article intended to be used by a child or banned hazardous toy or article intended to be used by a child.

History: *1973 c 467 s 6; 1986 c 444*

325F.14 SEIZURES.

The commissioner shall apply to the district court to seize toys presenting hazards when no other practical method to control the hazard exists. The attorney general shall represent the commissioner in the district court.

History: *1973 c 467 s 7; 1983 c 289 s 114*

325F.15 COMMISSIONER'S RIGHT OF ACCESS TO PREMISES, RECORDS.

For the purpose of administering the provisions of sections 325F.08 to 325F.18, the commissioner and inspectors shall have access and entry at reasonable times to any premises in which toys or other articles within the provisions of sections 325F.08 to 325F.18 are held and shall have access to all records pertinent to the enforcement of sections 325F.08 to 325F.18.

History: *1973 c 467 s 8; 1983 c 289 s 114*

325F.16 PENALTIES.

Any person who violates any of the provisions of sections 325F.08 to 325F.18 shall be guilty of a misdemeanor.

History: *1973 c 467 s 9*

325F.17 CITATION.

Sections 325F.08 to 325F.16 may be cited as the "safe toys act."

History: *1973 c 467 s 10*

FORMALDEHYDE GASES IN BUILDING MATERIALS

325F.18 DUTY OF MANUFACTURER.

Subdivision 1. (a) No manufacturer shall sell any building materials and no builder shall sell or lease to the initial occupant a housing unit, other than a unit of manufactured housing, containing urea formaldehyde unless the manufacturer or builder has made the following written disclosure to any purchaser of the materials or housing unit or lessee of the housing unit:

"IMPORTANT HEALTH NOTICE.

SOME OF THE BUILDING MATERIALS USED IN THIS HOME (OR THESE BUILDING MATERIALS) EMIT FORMALDEHYDE. EYE, NOSE, AND THROAT IRRITATION, HEADACHE, NAUSEA AND A VARIETY OF ASTHMA-LIKE SYMPTOMS, INCLUDING SHORTNESS OF BREATH, HAVE BEEN REPORTED AS A RESULT OF FORMALDEHYDE EXPOSURE. ELDERLY PERSONS AND YOUNG CHILDREN, AS WELL AS ANYONE WITH A HISTORY OF ASTHMA, ALLERGIES, OR LUNG PROBLEMS, MAY BE AT GREATER RISK. RESEARCH IS CONTINUING ON THE POSSIBLE LONG-TERM EFFECTS OF EXPOSURE TO FORMALDEHYDE.

REDUCED VENTILATION MAY ALLOW FORMALDEHYDE AND OTHER CONTAMINANTS TO ACCUMULATE IN THE INDOOR AIR. HIGH INDOOR TEMPERATURES AND HUMIDITY RAISE FORMALDEHYDE LEVELS. WHEN A HOME IS TO BE LOCATED IN AREAS SUBJECT TO EXTREME SUMMER TEMPERATURES, AN AIR-CONDITIONING SYSTEM CAN BE USED TO CONTROL INDOOR TEMPERATURE LEVELS. OTHER MEANS OF CONTROLLED MECHANICAL VENTILATION CAN BE USED TO REDUCE LEVELS OF FORMALDEHYDE AND OTHER INDOOR AIR CONTAMINANTS.

IF YOU HAVE ANY QUESTIONS REGARDING THE HEALTH EFFECTS OF FORMALDEHYDE, CONSULT YOUR DOCTOR OR LOCAL HEALTH DEPARTMENT."

(b) No manufacturer shall sell or lease a manufactured home containing urea formaldehyde unless the manufacturer has made the written disclosure prescribed in Code of Federal Regulations, title 24, section 3280.309 (1984).

Subd. 1a. For the purposes of this section "building materials" means any urea formaldehyde-containing material used in the construction, insulation, or renovation of a housing unit or a nonresidential building, but does not include:

(1) draperies, carpeting, furniture and furnishings not normally permanently affixed to a housing unit; and

(2) noncellular insulation.

Subd. 2. The disclosure required by subdivision 1 shall be made clearly and conspicuously on the label or written warranty of the materials in a manner designed to attract the attention of a prospective buyer or user. If the product or housing unit has neither a label nor a written warranty the disclosure shall be made in a separate writing included with the product or housing unit.

Subd. 3. No person shall sell for use in a dwelling place building materials subject to the written disclosure requirement of subdivision 1 unless the seller has provided to the purchaser a copy of the written disclosure provided by the manufacturer. No person shall for gain install or use in a dwelling place building materials subject to the written disclosure requirement of subdivision 1 unless the installer or user has provided to the person on whose behalf the materials are installed or used a copy of the written disclosure provided by the manufacturer.

Subd. 4. The manufacturer of a product that contains urea formaldehyde shall pay the reasonable cost of repair or relocation if the consumer can document that the product used in constructing the consumer's residence did not, at the time of manufacture, meet the product standard established in section 325F.181. The builder of a housing unit shall pay the reasonable cost of repair or relocation if the consumer can document that the builder used products in the construction of the housing unit that were subject to the product standard adopted under section 325F.181 but were not certified and labeled under section 325F.181. A manufacturer or builder is not liable under this subdivision unless the consumer has documented medical records of illness related to formaldehyde and a statement from a physician that the consumer must vacate the premises. The party who has received the claim has the right to test the housing unit or products at reasonable times.

If within 30 days after the presentation of the items set forth above the manufacturer or builder and the consumer do not agree on a remedy the consumer may bring suit to recover the reasonable cost of repair or relocation plus reasonable attorneys' fees. Notwithstanding the remedy under this subdivision, the consumer may bring an action for personal injury, if any, if the action is commenced within one year from the consumer's receipt of the order of a physician to vacate the premises due to an illness related to formaldehyde.

Subd. 5. [Repealed, 1985 c 216 s 7]

Subd. 6. Any person who is found in violation of subdivisions 1 to 3 shall be deemed in violation of section 325F.69, subdivision 1, and the provisions of section 8.31 shall apply.

History: *1980 c 594 s 2; 1981 c 245 s 1; 1985 c 216 s 2-4*

325F.181 FORMALDEHYDE PRODUCT STANDARD.

All plywood and particleboard used in newly constructed housing units, including manufactured homes, or sold to the public for use as building materials, shall comply with the product standards, certification and labeling requirements, and other provisions in Code of Federal Regulations, title 24, sections 3280.308 and 3280.406 (1984). After February 1, 1986, all medium density fiberboard used in newly constructed housing units, including manufactured homes, or sold to the public for use as building materials, shall comply with the product standard, certification and labeling requirements, and other provisions for particleboard in Code of Federal Regulations, title 24, section 3280.308 (1984), notwithstanding the fact that medium density fiberboard is not specifically covered by that regulation. The product standards prescribed in this section may be modified by rule by the commissioner of health only as provided in section 144.495.

History: *1985 c 216 s 5*

BUILDING INSULATION

325F.19 HOME INSULATION; CONSUMER PROTECTION; DEFINITIONS.

Subdivision 1. For the purposes of sections 325F.19 to 325F.24, the following terms shall have the meanings here given them.

Subd. 2. "Advertisement" means any written or verbal statement, illustration or depiction which appears in the mass media, in brochures, leaflets, or circulars, outdoor advertising, retail displays, or on vehicles, which is designed to cause the sale of or interest in the purchase of insulation.

Subd. 3. "Commissioner" means the commissioner of energy and economic development.

Subd. 4. "Industry members" means producers and suppliers of materials from which insulation is made who promote the sale or distribution of insulation; manufacturers of insulation; jobbers, wholesalers and retailers of insulation; contractors and applicators who sell and install residential insulation; and those engaged in the marketing of insulation who are, or who purport to act as, agents of manufacturers or suppliers of insulation.

Subd. 5. "Insulation" means any material or assembly of materials used primarily to provide resistance to heat flow in building structures, including but not limited to mineral fibrous, mineral cellular, organic fibrous, organic cellular or reflective materials, whether in loose fill, flexible, semirigid or rigid form.

Subd. 6. "Laboratory qualified to test thermal insulation" means an approved laboratory classified by the commissioner in consultation with industry members as passing an appropriate examination of ability to perform tests and continuing inspection or follow-up service according to specifications for manufacture and installation, also referred to as "testing laboratory".

Subd. 7. "Presenting a clear and present danger" means known to cause physical damage to structure or health hazards to occupants through continuing direct contact or release of hazardous substances as defined in section 24.33.

Subd. 8. "R value" means the measure of resistance to heat flow through a material or the reciprocal of the heat flow through a material expressed in British thermal units per hour per square foot per degree Fahrenheit at 75 degrees Fahrenheit mean temperature.

Subd. 9. "Specifications for manufacture and installation" means those specifications in section 325F.20.

History: *1978 c 786 s 4; 1981 c 356 s 201,202; 1983 c 289 s 115 subd 1*

325F.20 SPECIFICATIONS FOR THE MANUFACTURE, LABELING, AND INSTALLATION OF INSULATION.

Subdivision 1. The commissioner shall adopt rules pursuant to chapter 14 regarding quality, information, and product safety specifications for the manufacture, labeling, installation, and thermographing of insulation. The specifications and any amendments to them shall conform as far as is practical to federal standards or other standards generally accepted and in use throughout the United States. The standards, with modifications as may be deemed necessary, may be adopted by reference. The specifications adopted and any amendments shall be based on the application of scientific principles, approved tests, and professional judgment. For purposes of this subdivision, the commissioner may adopt emergency rules, which may remain in effect for 360 days.

Subd. 2. In addition to the specifications promulgated pursuant to subdivision 1, no insulation presenting a clear and present danger by the nature of its composition at the time of installation shall be used or offered for sale in Minnesota.

Subd. 3. The manufacturer's written instructions describing the proper methods of application of the insulation and required or recommended safety measures shall be provided to each intermediate and ultimate consumer of all insulation sold for use in Minnesota within ten days of when the insulation is sold.

History: *1978 c 786 s 5; 1981 c 356 s 203; 1982 c 424 s 130; 1984 c 640 s 32; 1984 c 654 art 2 s 122*

325F.21 TESTING OF INSULATION.

Subdivision 1. Upon the adoption of specifications under section 325F.20, subdivision 1, all insulation used or offered for sale in Minnesota shall be tested in accordance with testing procedures required under those specifications by a laboratory qualified to test thermal insulation.

Subd. 2. The commissioner shall purchase from time to time unopened insulation packages which shall be sent to an approved testing laboratory to test for compliance with the specifications established under section 325F.20, subdivision 1.

History: *1978 c 786 s 6; 1981 c 356 s 204*

325F.22 UNFAIR AND DECEPTIVE ADVERTISING PRACTICES.

Subdivision 1. It shall be considered an unfair and deceptive practice to violate any of the provisions of this section.

Subd. 2. No advertisement for insulation to be used or offered for sale in Minnesota shall state that a percentage of fuel costs or a certain dollar amount of fuel costs will be saved unless the statement is accompanied by the following or substantially similar disclaimer in letters the same size as the claim of savings: "Stated savings are estimates only. Actual savings may vary depending on type of home, weather conditions, occupant lifestyle, energy prices and other factors."

Subd. 3. No advertisement for insulation to be used or offered for sale in Minnesota shall contain any claim which is false or misleading, or for which there exists no reasonable substantiation at the time the claim is made. Prohibited claims include, but are not limited to, the following: does not burn, noncombustible, self-extinguishing, nonpoisonous, nonirritating, vermin-proof, rodent-proof, resists mildewing, will not shrink, will not crack, permanent, no deterioration, complete coverage, fills all voids, never needs replacing, will not settle. This prohibition shall not apply if the claim is substantiated by tests identified in the specifications established under section 325F.20, subdivision 1, or by appropriate testing procedures of the American Society for Testing and Materials where no test required under section 325F.20, subdivision 1, applies. Such tests shall be made by a laboratory qualified to test thermal insulation. When tests are not designed to duplicate actual conditions, substantiated claims must so state.

Subd. 4. No representation about the thermal resistance value of insulation shall be made unless the R value is given and has been determined by the tests required in the specification established under section 325F.20, subdivision 1, or by appropriate testing procedures of the American Society for Testing and Materials where no test required under section 325F.20, subdivision 1, applies. Such tests shall be made by an approved laboratory qualified to test thermal insulation.

History: *1978 c 786 s 7*

325F.23 MARKING, LABELING, AND CONSUMER INFORMATION.

Subdivision 1. The outside of all containers and wrappings of insulation used or offered for sale in Minnesota shall have the following information printed legibly thereon in bold type not less than one-eighth inch high:

(a) Type (pneumatic or blown, pouring, batt, roll, blanket, board, cellular, or reflective);

(b) R value (to the nearest tenth) per inch at the recommended installation density;

(c) Required thickness in inches to obtain four or more commonly used R values and the corresponding coverage areas in square feet of the insulation in the container or wrapping;

(d) Expiration date and expected shelf life of all resins, catalysts, and foaming agents for all foam insulations, whether in powder, diluted or partially diluted state, on canister, drum, container, or package. For purposes of this section, "foam insulation" means products having an organic base or composed of vinyl or plastic material or both, which are manufactured or installed using a process involving a foaming agent, a resin, a catalyst and an air compressor, including but not limited to urea-formaldehyde, other urea-based foams, urethane foam, polyurethane foam, polystyrene foam, and isocyanurate foam.

(e) Name and address of the manufacturer of the insulation;

(f) A notation of those current specifications of the United States General Services

Administration, the United States Department of Energy, the United States Department of Housing and Urban Development, the United States Consumer Product Safety Commission, the Federal Trade Commission and the commissioner with which the insulation complies;

(g) The net weight of the contents of the bag, package, or container.

Subd. 2. Where insulation is used or offered for sale without the manufacturer's container, the information required in subdivision 1 shall be provided in a separate printed statement to the intermediate and ultimate consumers.

History: *1978 c 786 s 8; 1981 c 356 s 205*

325F.24 ENFORCEMENT; PENALTIES.

Subdivision 1. Violation of section 325F.20, subdivision 2, or 325F.21, subdivision 2 or 3, shall constitute a misdemeanor, provided that the sole liability for such violation on insulation sold under the manufacturer's brand or trademark shall be the manufacturer's, and that an industry member who is not a manufacturer shall be liable under this subdivision only by having actual knowledge or knowledge fairly implied on the basis of the objective circumstances that the insulation presents a clear and present danger or has not been subject to the required testing procedures.

Subd. 2. Violation of section 325F.20, subdivision 3, 325F.22, or 325F.23 shall constitute a misdemeanor.

Subd. 3. The provisions of section 325F.22 may be enforced by the attorney general pursuant to section 8.31. The attorney general may recover costs and disbursements, including costs of investigation and reasonable attorney's fees. In addition to the remedies otherwise provided by law, any person injured by a violation of section 325F.20, 325F.22, or 325F.23 may bring a civil action and recover damages together with costs of investigation and reasonable attorney's fees, and receive other equitable relief as determined by the court. The court may as appropriate enter a consent judgment or decree without the finding of illegality.

Subd. 3a. Rules promulgated by the commissioner pursuant to sections 325F.20, subdivision 1, and 325F.21, subdivision 1 may be enforced by the commissioner pursuant to section 216C.30.

Subd. 4. Remedies taken under this section shall not exclude other civil or criminal actions under Minnesota Statutes.

History: *1978 c 786 s 9; Ex1979 c 2 s 38; 1981 c 356 s 206,248; 1986 c 444; 1987 c 312 art 1 s 10*

LANDSCAPE APPLICATION CONTRACTS

325F.245 LANDSCAPE APPLICATION CONTRACTS.

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given them:

(a) "Landscape application" means pesticide applications, fertilizer applications, and other chemical applications of any kind for grass, turf, shrubs, or ornamental plants.

(b) "Commercial application company" means a person or business that provides landscape application for hire.

Subd. 2. **Written contract required.** (a) A contract for landscape application must be in writing, and must be signed by both the commercial application company and the property owner or the owner's agent. The contract must, at a minimum, contain the following information:

(1) the name, address, and phone number of the commercial application company;

(2) the total number of the regularly scheduled landscape applications to be performed each year;

(3) the cost of each regularly scheduled application and the yearly cost for all landscape applications; and

(4) the ending date of the contract.

(b) The commercial application company shall provide the property owner with a copy of the written contract.

Subd. 3. **Ending date.** (a) Every contract must contain a stated ending date.

(b) To extend service beyond the stated ending date, the commercial application company and property owner must enter into a separate written contract. The contract must conform in all respects to the requirements of this section.

Subd. 4. **Annual notice to property owner.** If a contract is for more than one year, then the commercial application company shall each year provide written notice to the property owner that the contract remains in effect and that landscape applications will resume according to the terms of the contract. The written notice must be provided to the property owner at least 15 days prior to the first landscape application of the year.

Subd. 5. **Cancellation of contract.** (a) A contract shall be canceled by the property owner upon the sale of the property that is the subject of the contract. To cancel the contract, the property owner shall notify the commercial application company that the property owner is canceling the contract.

(b) The commercial application company shall provide written notice to the property owner, in the contract or in another manner, that the contract must be canceled upon the sale of the property.

(c) A contract between a commercial application company and a property owner may not be enforced by the commercial application company against any subsequent owner of the property.

Subd. 6. **Exclusions.** This section does not apply to:

(1) pesticide, fertilizer, or chemical applications for the purpose of producing agricultural commodities or any commodity for sale;

(2) pesticide applications around or near the foundation of a building for the purpose of structural or indoor pest control; or

(3) any single or isolated landscape application where the property owner or its agent verbally consents to the single or isolated application.

Subd. 7. **Penalties and remedies.** A person who violates this section is subject to the penalties and remedies, including a private right of action, as provided in section 8.31.

History: *1989 c 42 s 1*

BEDDING

325F.25 DEFINITIONS.

Subdivision 1. **Words, terms and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the words, terms and phrases defined in this section, for the purposes of sections 325F.25 to 325F.32, shall be given the meanings subjoined to them.

Subd. 2. **Bedding.** "Bedding" means any mattress, upholstered spring, comforter, pad, cushion, or pillow designed and made for use in sleeping or reclining purposes.

Subd. 3. **Person.** "Person" includes individuals, corporations, partnerships, joint stock companies, or other business associations who are manufacturers or dealers in bedding.

Subd. 4. **New.** "New" means any material or article that has not previously been used in the manufacture of bedding articles, or for any other purpose.

Subd. 5. **Secondhand.** The term "secondhand" means any material or article that has been previously used in the manufacture of bedding or for any other purpose.

Subd. 6. **Shoddy.** "Shoddy" means any material that has been spun into yarn, knit or woven into fabric and subsequently cut up, broken up, or ground up.

History: *(3976-1) 1929 c 358 s 1; 1980 c 509 s 124; 1987 c 384 art 2 s 1*

325F.26 USE OF SECONDHAND MATERIAL FORBIDDEN IN CERTAIN CASES.

No person shall use, in the making or remaking of any article of bedding, any material that has been used in any private or public hospital, or any material of any kind that has been used by or about any person having an infectious or contagious disease, or has formed a part of any article of bedding which has so been used. This section shall not prevent the renovating of bedding used in any private or public hospital.

History: *(3976-2) 1929 c 358 s 2*

325F.27 SALE OF BEDDING.

No person shall sell, offer for sale, consign for sale, or possess with intent to sell, or consign for sale any bedding used in a private or public hospital or any article of bedding that has been used by or about any person having an infectious or contagious disease.

History: *(3976-3) 1929 c 358 s 3; 1986 c 444*

325F.28 MATERIAL MUST BE RENOVATED.

No person shall remake or renovate any article of bedding unless all the material to be used in such remade or renovated bedding shall first be thoroughly sterilized and disinfected by the methods set out herein, or by any other approved sterilization method:

(1) Dry heat of a temperature of not less than 160 degrees centigrade temperature for not less than one hour. (A thermometer for registering the temperature visible from the outside of the room shall be provided where dry heat is used);

(2) Live steam, with subsequent drying of the material over steam coils with a pressure of not less than 20 pounds of steam for 20 minutes. (A gauge for registering steam pressure visible from the outside of the room shall be provided where steam under pressure is used and valved outlets shall be provided near the bottom and also the top of the room in cases where streaming steam is used);

(3) Formaldehyde and sulphur concurrently in a moist atmosphere for a period of not less than ten hours. Formaldehyde gas shall be generated from the use of one pint of formaldehyde solution, 37 percent to each 1,000 cubic feet of air space, or through the use of any of the high class commercial fumigators which generate an equivalent quantity of gas. Sulphur shall be from the burning of three pounds of sulphur for each 1,000 cubic feet of air space. The moist atmosphere shall be produced by thorough sprinkling of the floor of the room with warm water just prior to the process of disinfection.

The room shall be provided with a separate air inlet and also an exhaust connection, and shall be equipped with tight dampers or closure gates which can be operated from the outside of the room. Rooms for disinfection of bedding materials shall be made gas or steam tight. Shelving for loose bedding materials shall be of lattice or other open construction.

Solid shelves of a type to prevent passage of gas through the materials shall not be permitted.

History: *(3976-4) 1929 c 358 s 4*

325F.29 SALES FORBIDDEN; EXCEPTIONS; PENALTIES.

No person shall sell, lease, offer to sell or lease, or deliver or consign for sale or lease, or possess with intent to sell, lease, deliver, or consign for sale or lease, any bedding made, remade, or renovated in violation of sections 325F.25 to 325F.32 or any second-hand bedding unless since last used it has been thoroughly sterilized and disinfected as provided under section 325F.28. A violation of sections 325F.25 to 325F.32 is a misdemeanor. The penalty provisions of section 8.31 shall apply when any person is found to have violated sections 325F.25 to 325F.32.

History: *(3976-7) 1929 c 358 s 7; 1975 c 350 s 1; 1986 c 444*

325F.30 SHODDY MATERIAL TO BE LABELED.

No person, as principal or by agents, servants, or employees, shall make or sell, or offer to sell, deliver, or consign for sale, or possess with intent to sell, deliver, or consign for sale any bedding made of material that has theretofore been used as a container for or in contact with any animal or vegetable matter or any material defined as shoddy, unless the bedding shall be labeled as such, or any material that has theretofore been used unless the same shall have been cleaned and sterilized.

History: *(3976-8) 1929 c 358 s 8; 1986 c 444*

325F.31 BEDDING TO BE LABELED.

No person shall make or remake, or sell, offer for sale, consign for sale, or possess with intent to sell, offer for sale, or consign for sale any article of bedding unless the same is labeled as follows:

On each article of bedding a label of durable material not less than three by 4-1/2 inches in size shall be displayed, upon which shall be in plain print, in the English language, a description of the material used as filling of such article of bedding; and, if such material, or any portion thereof, shall not have been previously used, the words "manufactured of new material" shall appear upon the label, together with the name and address of the maker or vendor thereof. If any of the material used in the making or remaking of such article of bedding shall have been previously used, the words "manufactured of secondhand material" or "remade of second-hand material", as the case may be, shall appear upon the label, together with the name and address of the maker or vendor thereof, and also a description of the material used in the filling of such article of bedding. On any article of bedding, not remade, but which has been previously used, the words "secondhand materials used in filling not known" shall appear upon the label, together with the name and address of the vendor thereof.

The statement required under this section shall be in form as follows:

"OFFICIAL STATEMENT

Materials used in filling .....

Made by .....

Vendor .....

Address .....

This article is made in compliance with Minnesota Statutes, sections 325F.25 to 325F.32."

The statement of compliance required in the foregoing official statement shall not be construed to imply that it is prohibited to state also that the article of bedding is made in compliance with any act or acts of other states.

The words "manufactured of new material", or "manufactured of secondhand material," or any article of bedding not remade, "secondhand materials used in filling not known," together with the description of the material used as filling of an article of bedding, shall be in letters not less than one-eighth of an inch in height. No term or description likely to mislead shall be used on any label to describe material used in the filling of any article of bedding. The label shall be attached to each mattress, pad, or upholstered spring by sewing all four edges of the label.

History: *(3976-9) 1929 c 358 s 9; Ex1967 c 1 s 6; 1969 c 421 s 1; 1975 c 350 s 2; 1986 c 444; 1987 c 384 art 2 s 1*

325F.32 FEATHERS TO BE RENOVATED.

Feathers used in making, remaking, or renovating new or secondhand bedding shall be thoroughly cured, sterilized, or disinfected.

History: *(3976-10) 1929 c 358 s 10*

325F.33 [Repealed, 1Sp1981 c 4 art 1 s 158]

325F.34 TESTIMONY; PRODUCTION OF BOOKS AND DOCUMENTS.

No person shall be excused from attending and testifying or from producing books, papers, contracts, agreements, and documents in any case or proceedings instituted or brought under the provisions of sections 325F.25 to 325F.32, or in obedience to a subpoena, in any such case or proceedings, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of the person may tend to criminate or subject the person to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person may testify, or produce evidence, documentary or otherwise, in any such case or proceedings, or in obedience to a subpoena, in any such case or proceedings.

History: *(3976-47) 1939 c 403 s 5; 1941 c 326 s 5; 1Sp1981 c 4 art 1 s 159; 1986 c 444*

CANVAS

325F.35 DEFINITIONS.

Subdivision 1. **Words, terms and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the words, terms and phrases defined in this section, for the purposes of sections 325F.35 to 325F.39, shall be given the meanings subjoined to them.

Subd. 2. **Cotton duck or canvas.** "Cotton duck" or "canvas" includes all cotton duck or canvas, whether single filling, double filling, army roll, or wide duck.

Subd. 3. **Yard.** The equivalent of 36 inches in length by 29 inches in width, or 7-1/4 square feet, of cotton duck or canvas shall constitute a yard.

Subd. 4. **Ounce.** An "ounce" shall be 1/16 of a pound avoirdupois.

History: *(3966, 3967) 1913 c 169 s 1,2; 1980 c 509 s 24*

325F.36 MANUFACTURE AND SALE OF COTTON DUCK OR CANVAS; STAMPS, BRANDS, AND MARKS.

Any person, company, or corporation who shall manufacture for sale, or who may offer or expose for sale, any cotton duck or canvas or any article, other than clothing and wearing apparel, composed or made, in whole or in part, of cotton duck or canvas, shall distinctly and durably stamp, brand, or mark thereon the true and correct weight of such cotton duck or canvas, by ounces per yard, together with a description by name of any filler or other preparation placed in or on the cotton duck or canvas since its manufacture.

History: *(3968) 1913 c 167 s 3*

325F.37 CERTAIN SALES UNLAWFUL; MISSTATEMENTS FORBIDDEN.

It shall be unlawful for any person or corporation, either individually or in any representative capacity, to carry for sale, sell, or endeavor to sell any cotton duck or canvas or any articles other than clothing and wearing apparel, composed or made, in whole or in part, of any cotton duck or canvas without having marked thereon the true and correct weight of the canvas or cotton duck, by ounces per yard, together with a description by name of any filler or other preparation placed in or on the cotton duck or canvas since its manufacture, or to misstate, misrepresent, or conceal the true weight of the canvas or cotton duck, by ounces per yard, or to misstate, misrepresent, or conceal the existence of any filler or other preparation placed in or on the cotton duck or canvas since its manufacture.

History: *(3969) 1913 c 167 s 4*

325F.38 CONCEALING OR MISSTATING SIZE UNLAWFUL.

It shall be unlawful for any person or corporation, either individually or in repre-

sentative capacity, selling, carrying for sale, or endeavoring to sell any awnings, paulins, wagon covers, tent, grain and hay covers, stable or tent tops, to misstate or misrepresent or conceal the true and correct size and dimensions thereof.

History: *(3970) 1913 c 167 s 5*

325F.39 UNLAWFUL TO DEFACE MARK.

It shall be unlawful for any person to deface, mutilate, obscure, conceal, efface, cancel, or remove any mark provided for by sections 325F.35 to 325F.39, or cause or permit the same to be done with intent to mislead, deceive, or to violate any of the provisions of sections 325F.35 to 325F.39.

History: *(3971) 1913 c 167 s 6*

325F.40 VIOLATIONS; PENALTIES.

Any person, company, or corporation violating any of the provisions of sections 325F.35 to 325F.39 shall be deemed guilty of a misdemeanor; and, upon conviction thereof, for the first offense, punished by a fine of not less than $25 nor more than $50 and for each subsequent offense by a fine of not less than $50 nor more than $200.

History: *(3972) 1913 c 167 s 7; 1961 c 561 s 10; 1973 c 151 s 3; 1987 c 329 s 21*

325F.41 TESTIMONY; PRODUCTION OF BOOKS AND DOCUMENTS.

No person shall be excused from attending and testifying or from producing books, papers, contracts, agreements, and documents in any case or proceedings instituted or brought under the provisions of section 325F.40, or in obedience to a subpoena, in any such case or proceedings, on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of the person may tend to criminate or subject the person to a penalty or forfeiture; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which the person may testify, or produce evidence, documentary or otherwise, in any such case or proceedings, or in obedience to a subpoena, in any such case or proceedings.

History: *(3976-47) 1939 c 403 s 5; 1941 c 326 s 5; 1986 c 444*

WEARING APPAREL

325F.42 FRAUD IN THE SALE OF WEARING APPAREL.

Subdivision 1. **Fur constituent part.** Articles of wearing apparel of which fur is a constituent part shall not be sold or offered for sale at retail in the state under any false or deceptive name.

Subd. 2. **False and deceptive name.** For the purposes of this section, "false or deceptive name" means a name which implies that the fur which is a constituent part of the article is of substantially greater value than the fur which is actually used.

Subd. 3. **Identifying tag attached to garment.** The fur which is a constituent part of any article of wearing apparel sold or offered for sale at retail shall be identified by its true name, and its trade name, if any, upon a tag or ticket prominently attached or displayed on the garment and shall be identified further by its true name, and its tradename, if any contained on a sales slip or invoice delivered to the purchaser at the time of sale.

Subd. 4. **Violations and penalty.** Any person who violates any of the provisions of this section shall be guilty of a gross misdemeanor.

History: *1949 c 203 s 1-4*

IMITATION INDIAN-MADE GOODS

325F.43 IMITATION INDIAN-MADE GOODS TO BE BRANDED.

All goods, wares, and merchandise known as moccasins, bead work, birchbark baskets, deerskin work, grass rugs, sweet grass baskets, and other goods which are manufactured or produced in imitation of genuine American Indian-made goods, wares, or merchandise shall be branded, labeled, or marked, as hereinafter provided, before being exposed for sale and shall not be exposed or sold without such brand, label, or mark thereon. For purposes of this section, Indian-made goods are those made exclusively by persons who are of at least one-quarter Indian blood or who are listed on the rolls of the United States Bureau of Indian Affairs as Indians.

History: *(3976-61) 1937 c 196 s 1; 1973 c 151 s 1*

325F.44 BRAND.

The brand, label, or mark required by section 325F.43 shall be the words "not Indian-made" and shall be placed or attached outside of and on a conspicuous part of the finished article so as to be plainly visible to the purchasing public, and shall be the size and style known as great primer Roman capitals. Such brand or mark, if the article will permit, shall be placed upon it, but when such branding or marking is impossible a label shall be used and attached thereto.

History: *(3976-62) 1937 c 196 s 2; 1973 c 151 s 2*

325F.45 GOODS NOT TO BE SOLD WITHOUT BRAND.

No person shall sell, offer for sale, or have in possession for the purpose of sale, imitation goods, wares, or merchandise described in section 325F.43 without the brand, label, or mark required by sections 325F.43 and 325F.44 being placed thereon or attached thereto, or remove, conceal, or deface such brand, label, or mark.

History: *(3976-63) 1937 c 196 s 3*

325F.46 REMEDIES.

Subdivision 1. **Civil remedy.** Any person injured by a violation of sections 325F.43 to 325F.45 may bring a civil action and recover damages, together with costs and disbursements, including reasonable attorney's fees, and receive other equitable relief as determined by the court.

Subd. 2. **Criminal penalty.** Any person who knowingly violates the provisions of sections 325F.43 to 325F.45 shall be guilty of a misdemeanor.

Subd. 3. **Provisions.** The provisions of this section shall not be construed as restricting or precluding other remedies at law.

History: *1973 c 151 s 4; 1981 c 267 s 1*

SALES OF BLIND-MADE ARTICLES OR PRODUCTS

325F.47 MISREPRESENTATION OF BLIND-MADE ARTICLES OR PRODUCTS FORBIDDEN.

Subdivision 1. No person shall sell or offer for sale on either wholesale or retail levels within the state of Minnesota, any article or product which is said or represented to have been "blind-made" or with a connotation or an association with blindness unless such article or product shall have been made, processed, or repaired within the limits of the following specifications:

(a) Blind labor shall mean such work which has been expended by individuals whose central visual acuity does not exceed 20/200 in the better eye, with correcting lenses, or whose visual acuity is greater than 20/200 but with a limitation in the field

of vision, such that the widest diameter of the visual field subtends an angle no greater than 20 degrees as determined by an eye specialist.

(b) A "blind-made" article or product shall mean that at least 75 percent of the hours of direct labor expended in the preparation, processing, packaging, or improvement of an article or product, excluding the supervision, inspection, administration, or shipping, shall have been performed by a person or persons whose visual acuity falls within the definition of blindness described above.

Subd. 2. Any article or product which is sold or offered for sale in this state as a blind-made product shall include in its labeling the name of its manufacturer.

Subd. 3. Any person, firm, or agency that willfully violates any provision of this section shall be guilty of a misdemeanor.

History: *1957 c 544 s 1-3*

PRISON-MADE GOODS

325F.48 PRISON-MADE GOODS ARE SUBJECT TO LAWS OF STATE.

All goods, wares, and merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners (except convicts or prisoners on parole or probation), or in any penal or reformatory institutions, transported into the state and remaining therein for use, consumption, sale, or storage, shall, upon arrival and delivery in the state, be subject to the operation and effect of the laws of the state, to the same extent and in the same manner as though such goods, wares, and merchandise had been manufactured, produced, or mined in the state, and shall not be exempt therefrom by reason of being introduced in the original package or otherwise.

History: *(3976-21) 1935 c 267 s 1*

325F.49 [Repealed, 1Sp1981 c 4 art 1 s 191]

325F.50 [Repealed, 1Sp1981 c 4 art 1 s 191]

AIRPORT FOREIGN CURRENCY EXCHANGES

325F.51 POSTED INFORMATION; VIOLATIONS.

Subdivision 1. No foreign currency exchange shall be operated at an airport in this state unless a conspicuously posted and easily legible sign on the premises discloses

(1) the corporate or business name of the operator of the facility; and

(2) the facility's current rates for buying and selling all foreign currencies traded.

Subd. 2. A violation of this section is subject to the remedies provided in section 8.31.

History: *1978 c 590 s 1*

325F.52 MS 1980 [Renumbered, 325F.73]

GROCERIES; PRICE LABELS; STORES USING ELECTRONIC OR MAGNETIC SCANNERS

325F.53 RETAIL MERCHANDISE; PRICE MARKING.

Subdivision 1. In any store primarily engaged in the sale of grocery products at retail using an electronic or magnetic scanner to read the price of grocery products presented for checkout, every canned, bottled, boxed or bagged item of merchandise sold or offered for sale at retail shall have the selling price in arabic numerals clearly affixed

to each item by a stamp, tag, label or other conspicuous marking device when electronically or magnetically scanned for checkout unless the price of the item is conspicuously displayed where the item is shelved and the store provides a means by which the customer may mark individual items. If a grocery product is canned, bottled, boxed or bagged, but sold in quantities of more than one in the containers in which the product came from the manufacturer or distributor, the price may be marked on the outer containers rather than on each individual item.

Subd. 2. Subdivision 1 does not apply to:

(a) Food items intended to be consumed on or about the retail premises;

(b) Grocery products sold by a store primarily engaged in the sale of grocery products at retail which are under three cubic inches in size, weigh less than three ounces, and are priced under 30 cents;

(c) Grocery products sold by a store primarily engaged in the sale of grocery products offered for a period of seven days or less on sale in good faith at a price below the price such merchandise is usually sold for in the store, provided that the sale price is clearly indicated to the consumer by conspicuous sign or otherwise, located at or near the point of sale of such merchandise;

(d) Cigarettes, cigars, tobacco and tobacco products with a retail price of $1 or less;

(e) Items actually sold through vending machines; and

(f) Any type of grocery product sold by a store primarily engaged in the sale of grocery products which is not marked in accordance with the uniform products code or any similar marking system designed to be scanned by electronic or magnetic checkout equipment.

Subd. 3. In addition to the exemptions allowed in subdivision 2, a retailer may choose to not individually price mark not more than 25 classes of items or individual items which classes or items shall be set forth on a list posted in a conspicuous place in the retail store, and may choose to not individually price mark not more than 25 additional classes of items or individual items which are advertised or featured at a reduced price.

History: *1978 c 737 s 1*

325F.54 PENALTIES.

(a) Knowingly and willfully failing to have a clearly readable price indicated on more than six individual items of the same commodity shall constitute a petty misdemeanor and each commodity not priced in compliance with sections 325F.53 to 325F.55 shall constitute a separate violation. Each day that a violation continues shall also constitute a separate violation;

(b) Notwithstanding any other provision of law, any person may bring an action to enjoin a violation of sections 325F.53 to 325F.55.

History: *1978 c 737 s 2*

325F.55 LOCAL ORDINANCE PREEMPTED.

No subordinate unit of government may adopt or enforce any rule or ordinance requiring individually marked prices on retail merchandise other than that contained in sections 325F.53 to 325F.55.

History: *1978 c 737 s 3*

REPAIRS; SERVICES

325F.56 DEFINITIONS.

Subdivision 1. For the purposes of sections 325F.56 to 325F.66, the following terms have the meanings given them.

Subd. 2. "Repairs" means work performed for a total price of more than $100 and

less than $2,000, 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.

Subd. 3. "Motor vehicle" means a vehicle which is self-propelled.

Subd. 4. "Appliance" means any electrical, mechanical, or thermal device or machine.

Subd. 5. "Dwelling place" means a room, apartment, or structure in which one or more persons live or any fixture thereof.

Subd. 6. "Shop" means an individual, corporation, partnership, or any other form of business organization which derives income, in whole or part, by engaging in the business of repairs.

Subd. 7. "Customer" means a customer of a shop and the agents of a customer.

Subd. 8. "Written estimate" means a writing which includes:

(a) The name and address of the shop;

(b) A description of the problem to be repaired as described by the customer and any specific repair requested by the customer;

(c) The charges for parts or materials listed with reasonable particularity and indicating whether the parts are new, used, rebuilt, reconditioned, or replated if this information is known by the shop. If parts, other than window glass, used in the repair are new parts, the estimate must indicate whether or not those parts are original equipment parts;

(d) A reasonable storage fee, if the shop imposes a fee for storage;

(e) Labor charges;

(f) Tax;

(g) Any delivery charge;

(h) Any other charges; and

(i) The total estimated price.

History: *1978 c 710 s 1; 1987 c 64 s 3; 1988 c 444 s 1*

325F.57 SERVICE CALLS.

A shop may impose a towing, minimum, or other service charge for making a call at a place other than the shop. The service charge may be imposed in addition to any charges for making an estimate or performing repairs, and it may be imposed even though no estimate is made or repairs performed. Upon the request of the customer, the shop shall inform the customer before making a service call that a service charge will be imposed and the basis on which the charge will be calculated.

History: *1978 c 710 s 2*

325F.58 ESTIMATES.

Subdivision 1. Upon the request of a customer for a written estimate and prior to the commencement of repairs, a shop shall provide the customer with a written estimate. The shop shall include in the estimate all the parts and materials and labor which in the standard practice of the trade or industry would normally be included in the repairs for which the estimate was requested.

Subd. 2. A shop may impose an additional charge for making a written estimate, and the charge may include charges for disassembly, diagnosis, and reassembly necessary to make the estimate. However, a shop shall not impose a charge for making an estimate unless the shop informs the customer that there will be a charge and the basis on which the charge will be calculated before making the estimate and receives authorization to make the estimate.

Subd. 3. At the time a shop provides a customer with a written estimate, the shop shall inform the customer that any charge for storage or care, a service call or a charge for making an estimate shall be in addition to the estimated price for the repairs.

Subd. 4. At the option of the customer and upon the customer's authorization a shop which provides a written estimate shall:

(a) If the customer elects and the shop undertakes the repairs, perform the repairs described in the estimate; or

(b) Return the unrepaired motor vehicle, appliance, or dwelling place as close as possible to its former condition and release the motor vehicle or appliance to the customer upon payment of any charges for making the estimate or a service call.

Subd. 5. A shop is not required to provide a written estimate for repairs or service calls it does not agree to perform.

Subd. 6. If a shop provides a written estimate of the price of repairs, it shall not charge more than 110 percent of the total price stated in its estimate for the repairs; except if a shop after commencing repairs determines that additional work is necessary to accomplish repairs that are the subject of a written estimate and if the shop did not unreasonably fail to disclose the possible need for the additional work when the estimate was made, the shop may charge more than 110 percent of the estimate for the repairs if the shop immediately provides the customer a revised written estimate pursuant to this section and receives authorization to continue with the repairs. If continuation of the repairs is not authorized, the shop shall return the motor vehicle, appliance, or dwelling place as close as possible to its former condition or place it in a mutually agreed upon condition and shall release the item to the customer upon payment of charges for repairs actually performed and not in excess of 110 percent of the original estimate. Nothing in this subdivision shall be construed to authorize repair charges in excess of reasonable charges for parts and materials and labor.

Subd. 7. The requirement of a written estimate in sections 325F.56 to 325F.66 is fulfilled if a shop orally communicates the contents of a required writing to the customer prior to commencing repairs and provides the writing to the customer upon completion of the repairs. If the contents are orally communicated, the shop shall make a notation on the writing of the date, time, and telephone number called, if any, and the name of the person who receives the information and orally authorizes the making of the estimated repairs.

Subd. 8. If a shop after commencing repairs determines that additional repairs not previously authorized are necessary, the shop may perform the additional repairs if it complies with this section. A customer shall have a right to request a written estimate before any additional repairs are commenced on the motor vehicle, appliance, or dwelling place regardless of whether the customer requested a written estimate of the price of the original repairs.

History: *1978 c 710 s 3; 1986 c 444; 1988 c 444 s 2*

325F.59 REPAIRS.

No shop shall charge for unauthorized repairs. No shop shall perform repairs it knows or has reason to know are unnecessary to the restoration of a motor vehicle, appliance, or dwelling place unless the customer authorizes the repairs after the shop informs the customer that they are unnecessary.

History: *1978 c 710 s 4*

325F.60 INVOICE.

Subdivision 1. **Definition; requirements.** Notwithstanding the provisions of section 325F.56, subdivision 2, for the purpose of this section "repair" means work of any value performed under a manufacturer's warranty, a service contract, or an insurance policy; or any repair work performed for a total value of more than $50, 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. Upon completion of repairs, a shop shall provide the customer with a copy of a dated invoice for the repairs performed. If the customer receives

a repaired motor vehicle or appliance without face to face contact with the shop, the shop shall mail the invoice to the customer within two business days after the shop has knowledge of removal of the item. The invoice shall contain the following information:

(a) The date of repair;

(b) The name and address of the shop;

(c) A description of all repairs performed;

(d) An itemization of the charges for parts, materials, labor, tax, delivery, storage or care, and any other charges assessed against the customer;

(e) A notation specifying which parts, if any, are new, used, rebuilt, reconditioned, or replated if that information is known by the shop. If parts, other than window glass, used in the repair are new parts, the invoice must indicate whether or not those parts are original equipment parts;

(f) A statement of any charge for storage or care, a service call or for making an estimate;

(g) A statement of the odometer reading at the time a motor vehicle is presented for repairs; and

(h) A statement of the symptoms, as described by the customer, for which the repairs were sought.

Subd. 2. **Estimate as invoice.** A written estimate may be used as an invoice if the required invoice information is written on the face of the estimate.

History: *1978 c 710 s 5; 1981 c 134 s 1; 1987 c 64 s 4; 1988 c 444 s 3*

325F.61 RETURN OF PROPERTY.

A shop shall return to a customer, upon reasonable demand, the customer's repaired motor vehicle or appliance if the customer pays the shop's bill except the proportion of the bill which represents:

(a) Repairs, service calls, or estimates which were performed but not authorized;

(b) Charges for service calls or for making estimates which exceed the charges disclosed to the customer prior to the service call or estimate; or

(c) Charges for repairs which exceed 110 percent of charges authorized for repairs by the customer pursuant to section 325F.58, subdivision 6, plus 110 percent of the sum of the total prices in written estimates given in connection with repairs. Nothing in this section shall be construed to authorize repair charges in excess of reasonable charges for parts and materials and labor.

History: *1978 c 710 s 6*

325F.62 REQUIRED SHOP PRACTICES.

Subdivision 1. If a customer makes a request before repairs are commenced, the shop shall return replaced parts to the customer, except parts which the shop is required to return to the manufacturer, distributor, or other person under a warranty or exchange arrangement, is required to retain pursuant to law, or is necessary for pending litigation. The customer shall be given an opportunity to examine warranty or exchange parts for a period of five business days after completion of repairs.

Subd. 2. When repairs are performed, a shop shall retain for at least one year the name and address of the customer, any written estimates and the repair invoice. The records shall be available for reasonable inspection and copying by law enforcement officials upon reasonable prior notice and during regular business hours. Upon payment to a shop of any reasonable costs of reproduction, a customer shall have the right to a copy of documents retained by the shop reflecting any repair transaction to which the customer was a party.

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 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."

History: *1978 c 710 s 7; 1988 c 444 s 4*

325F.63 REMEDIES; PENALTIES.

Subdivision 1. A violation of section 325F.61 shall entitle the customer to the return of the repaired motor vehicle or appliance without payment of the unauthorized or excess charges, or to consequential damages, reasonable attorney's fees as determined by the court, and punitive damages not to exceed three times the total charges. Acceptance by the shop of the amount offered by the customer shall not be an admission that the amount offered is the true and correct amount owing and payable.

Subd. 2. If a shop refuses return of a customer's replaced parts in violation of section 325F.62, subdivision 1 despite a timely request, the shop shall be liable for the reasonable value of the parts.

Subd. 3. Any violation of sections 325F.56 to 325F.66 shall be deemed a violation of section 325F.69, subdivision 1, and the provisions of section 8.31, shall apply.

Subd. 4. The remedies of this section are to be construed as cumulative in addition to those provided by the common law and other statutes of this state.

History: *1978 c 710 s 8*

325F.64 EXEMPTIONS.

Subdivision 1. **Insurance or service contracts.** Sections 325F.57 to 325F.59 and 325F.61 to 325F.66 shall not apply if an insurer or service contract company pays up to 90 percent of the charge for repairs or pays a charge for repairs above a deductible amount specified in an insurance agreement or service contract.

Subd. 2. **Free repairs.** Sections 325F.57 to 325F.59 and 325F.61 to 325F.66 shall not apply when repairs are performed free of charge to the customer under warranty.

History: *1978 c 710 s 9; 1981 c 134 s 2*

325F.65 PREEMPTION BY STATE.

The provisions of sections 325F.56 to 325F.66 shall be construed to supersede local ordinances regulating repairs, service calls, and estimates except for more restrictive regulation.

History: *1978 c 710 s 10*

325F.66 TITLE.

Sections 325F.56 to 325F.65 may be cited as the truth in repairs act.

History: *1978 c 710 s 11*

SALE OF USED MOTOR VEHICLES

325F.662 SALE OF USED MOTOR VEHICLES.

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given to them.

(a) "Consumer" means the purchaser, other than for purposes of resale, of a used motor vehicle used primarily for personal, family, or household purposes.

(b) "Dealer" means a motor vehicle dealer or lessor, as defined in section 168.27, subdivisions 2, 3, and 4, whether licensed or unlicensed, or the dealer's or lessor's agent, who is engaged in the business of selling or arranging the sale of used motor vehicles

in this state; except that, the term does not include a bank or financial institution, a business selling a used motor vehicle to an employee of that business, a lessor selling, either directly or indirectly, a leased used motor vehicle to that vehicle's lessee or a family member or employee of the lessee, or a licensed auctioneer selling motor vehicles at an auction if, in the ordinary course of the auctioneer's business, the sale of motor vehicles is incidental to the sale of other real or personal property.

(c) "Motor vehicle" means a passenger automobile, as defined in section 168.011, subdivision 7, including pickup trucks and vans.

(d) "Used motor vehicle" means any motor vehicle which has been driven more than the limited use necessary in moving or road testing a new motor vehicle prior to delivery to a consumer. The term does not include a new motor vehicle sold by a dealer franchised to sell the vehicle if the vehicle was driven for demonstration purposes using dealer plates and if, when the vehicle was sold, it carried a manufacturer's express warranty which provides coverage at least as broad with respect to covered components and duration as that required by this section.

(e) "Express warranty" means a dealer's written statement, as defined in section 325G.17, subdivision 5, provided to a consumer in connection with the sale of a used motor vehicle.

(f) "Buyer's Guide" means the window form required by the Federal Trade Commission's "Used Motor Vehicle Trade Regulation Rule," Code of Federal Regulations, title 16, section 455.2.

Subd. 2. **Written warranty required.** (a) Every used motor vehicle sold by a dealer is covered by an express warranty which the dealer shall provide to the consumer. At a minimum, the express warranty applies for the following terms:

(1) if the used motor vehicle has less than 36,000 miles, the warranty must remain in effect for at least 60 days or 2,500 miles, whichever comes first;

(2) if the used motor vehicle has 36,000 miles or more, but less than 75,000 miles, the warranty must remain in effect for at least 30 days or 1,000 miles, whichever comes first.

(b) The express warranty must require the dealer, in the event of a malfunction, defect, or failure in a covered part, to repair or replace the covered part, or at the dealer's election, to accept return of the used motor vehicle from the consumer and provide a refund to the consumer.

(c) For used motor vehicles with less than 36,000 miles, the dealer's express warranty shall cover, at minimum, the following parts:

(1) with respect to the engine, all lubricated parts, intake manifolds, engine block, cylinder head, rotary engine housings, and ring gear;

(2) with respect to the transmission, the automatic transmission case, internal parts, and the torque converter; or, the manual transmission case, and the internal parts;

(3) with respect to the drive axle, the axle housings and internal parts, axle shafts, drive shafts and output shafts, and universal joints; but excluding the secondary drive axle on vehicles, other than passenger vans, mounted on a truck chassis;

(4) with respect to the brakes, the master cylinder, vacuum assist booster, wheel cylinders, hydraulic lines and fittings, and disc brakes calipers;

(5) with respect to the steering, the steering gear housing and all internal parts, power steering pump, valve body, piston, and rack;

(6) the water pump;

(7) the externally-mounted mechanical fuel pump;

(8) the radiator;

(9) the alternator, generator, and starter.

(d) For used motor vehicles with 36,000 miles or more, but less than 75,000 miles, the dealer's express warranty shall cover, at minimum, the following parts:

(1) with respect to the engine, all lubricated parts, intake manifolds, engine block, cylinder head, rotary engine housings, and ring gear;

(2) with respect to the transmission, the automatic transmission case, internal parts, and the torque converter; or, the manual transmission case, and internal parts;

(3) with respect to the drive axle, the axle housings and internal parts, axle shafts, drive shafts and output shafts, and universal joints; but excluding the secondary drive axle on vehicles, other than passenger vans, mounted on a truck chassis;

(4) with respect to the brakes, the master cylinder, vacuum assist booster, wheel cylinders, hydraulic lines and fittings, and disc brake calipers;

(5) with respect to the steering, the steering gear housing and all internal parts, power steering pump, valve body, and piston;

(6) the water pump;

(7) the externally-mounted mechanical fuel pump.

(e)(1) A dealer's obligations under the express warranty remain in effect notwithstanding the fact that the warranty period has expired, if the consumer promptly notified the dealer of the malfunction, defect, or failure in the covered part within the specified warranty period and, within a reasonable time after notification, brings the vehicle or arranges with the dealer to have the vehicle brought to the dealer for inspection and repair.

(2) If a dealer does not have a repair facility, the dealer shall designate where the vehicle must be taken for inspection and repair.

(3) In the event the malfunction, defect, or failure in the covered part occurs at a location which makes it impossible or unreasonable to return the vehicle to the selling dealer, the consumer may have the repairs completed elsewhere with the consent of the selling dealer, which consent may not be unreasonably withheld.

(4) Notwithstanding the provisions of this paragraph, a consumer may have nonwarranty maintenance and nonwarranty repairs performed other than by the selling dealer and without the selling dealer's consent.

(f) Nothing in this section diminishes the obligations of a manufacturer under an express warranty issued by the manufacturer. The express warranties created by this section do not require a dealer to repair or replace a covered part if the repair or replacement is covered by a manufacturer's new car warranty, or the manufacturer otherwise agrees to repair or replace the part.

(g) The express warranties created by this section do not cover defects or repair problems which result from collision, abuse, negligence, or lack of adequate maintenance following sale to the consumer.

(h) The terms of the express warranty, including the duration of the warranty and the parts covered, must be fully, accurately, and conspicuously disclosed by the dealer on the front of the Buyers Guide.

Subd. 3. **Exclusions.** Notwithstanding the provisions of subdivision 2, a dealer is not required to provide an express warranty for the following used motor vehicles:

(1) vehicles sold for a total cash sale price of less than $3,000, including the trade-in value of any vehicle traded in by the consumer, but excluding tax, license fees, registration fees, and finance charges;

(2) vehicles with engines designed to use diesel fuel;

(3) vehicles with gross weight, as defined in section 168.011, subdivision 16, in excess of 9,000 pounds;

(4) vehicles that have been custom-built or modified for show or for racing;

(5) vehicles that are eight years of age or older, as calculated from the first day in January of the designated model year of the vehicle;

(6) vehicles that have been produced by a manufacturer which has never manufactured more than 10,000 motor vehicles in any one year;

(7) vehicles having 75,000 miles or more at time of sale;

(8) vehicles that are not manufactured in compliance with applicable federal emission standards in force at the time of manufacture as provided by the Clean Air Act, United States Code, title 42, sections 7401 through 7642, and regulations adopted pursuant thereto, and safety standards as provided by the National Traffic and Motor Safety Act, United States Code, title 15, sections 1381 through 1431, and regulations adopted pursuant thereto; and

(9) a vehicle which, when it is sold, is unrepaired and would be classified as a class C total loss vehicle under section 168A.151, or has unrepaired damage in excess of $5,000.

Subd. 4. **Waiver.** When purchasing a used motor vehicle, a consumer may waive the express warranty for a covered part if:

(1) the dealer discloses in a clear and conspicuous typed or printed statement on the front of the Buyers Guide that the waived part contains a malfunction, defect, or repair problem; and

(2) the consumer circles this typed or printed statement and signs the Buyers Guide next to the circled statement.

Subd. 5. **Warranty automatic.** If a dealer fails to give the express warranty required by this section, the dealer nevertheless is considered to have given the express warranty as a matter of law.

Subd. 6. **Buyers guide requirements.** In selling or offering to sell any used motor vehicle, and in providing the express warranty required by this section, a dealer shall comply in all respects with the Federal Trade Commission's "Used Motor Vehicle Trade Regulation Rule," Code of Federal Regulations, title 16, part 455.

Subd. 7. **Honoring of express warranties.** (a) In accordance with section 325G.19, subdivision 2, every express warranty in connection with the sale of a used motor vehicle must be honored by the dealer according to the terms of the express warranty.

(b) Following repair or replacement of a covered part, the dealer remains responsible under the express warranty for that covered part for one additional warranty period.

(c) By honoring the terms of the express warranty by repairing or replacing a covered part, the dealer does not create an additional implied warranty on any portion of the used motor vehicle.

(d) A dealer may limit the duration of implied warranties to the duration of the express warranty.

Subd. 8. **Refunds.** (a) A refund, as provided under subdivision 2, must consist of the full purchase price of the used motor vehicle and all other charges, including but not limited to excise tax, registration tax, license fees, and reimbursement for towing expenses incurred by the consumer as a result of the vehicle being out of service for warranty repair, less a reasonable allowance for the consumer's use of the vehicle not exceeding ten cents per mile driven or ten percent of the purchase price, whichever is less. Refunds must include the amount stated by the dealer as the trade-in value of any vehicle traded in and applied to the purchase price of the used motor vehicle. Refunds must be made to the consumer and lienholder, if any, as their interests appear on the records of the registrar of motor vehicles.

(b) The amount of the excise tax to be paid by the dealer to the consumer under paragraph (a) is the tax paid by the consumer when the vehicle was purchased less an amount equal to the tax paid multiplied by a fraction, the denominator of which is the purchase price of the vehicle and the numerator of which is the allowance deducted from the refund for the consumer's use of the vehicle.

(c) A dealer must give the consumer an itemized statement listing each of the amounts refunded under this subdivision. If the amount of excise tax refunded is not separately stated, or if the dealer does not apply for a refund of the tax within one year of the return of the motor vehicle, the department of public safety may refund the excise tax, as determined under paragraph (b), directly to the consumer and lienholder, if any, as their interests appear on the records of the registrar of motor vehicles.

Subd. 9. **Civil remedies.** Any dealer who is found to have violated this section is subject to the penalties and remedies, including a private right of action, as provided in section 8.31. In addition, a violation of subdivision 7 is also a violation of section 325F.69.

Subd. 10. **Limitation on actions.** A private civil action brought by a consumer under this section must be commenced within one year of the expiration of the express warranty.

Subd. 11. **Remedy nonexclusive.** Nothing in this section limits the rights or remedies which are otherwise available to a consumer under any other law.

History: *1988 c 634 s 12; 1989 c 34 s 1,2; 1990 c 408 s 1*

NEW MOTOR VEHICLE DAMAGE DISCLOSURES AND TITLE BRANDING

325F.664 NEW MOTOR VEHICLE DAMAGE DISCLOSURES.

Subdivision 1. **Definition.** For the purposes of this section, the term "new motor vehicle" means a motor vehicle as defined in section 80E.03, subdivision 7, including vehicles driven for demonstration purposes.

Subd. 2. **Disclosure of damage exceeding four percent of retail price.** (a) Before the sale of a new motor vehicle, a dealer must disclose and describe to the buyer, in a clear and conspicuous written statement and orally in the course of the sales presentation, any damage to the vehicle of which the dealer had actual knowledge, if the dealer's cost of repairs exceeded four percent of the manufacturer's suggested retail price, or $500, whichever is greater.

(b) A manufacturer, distributor, or importer must disclose and describe to its franchised dealers, in a clear and conspicuous written statement, any repaired damage exceeding four percent of the manufacturer's suggested retail price, or $500, whichever is greater.

(c) Damaged or stolen glass, tires, wheels, bumpers, radios, and in-dash audio components are excluded from the disclosure requirements of this subdivision if the damaged or stolen parts are replaced with identical manufacturer's original equipment.

History: *1989 c 188 s 5*

325F.6641 DISCLOSURE OF MOTOR VEHICLE DAMAGE.

Subdivision 1. **Damage.** (a) If a motor vehicle has sustained damage by collision or other occurrence which exceeds 70 percent of its actual cash value so that the vehicle becomes a class C total loss vehicle, the seller must disclose that fact to the buyer, if the seller has actual knowledge of the damage.

(b) The disclosure required under this subdivision must be made in writing on the application for title and registration or other transfer document, in a manner prescribed by the registrar of motor vehicles. The registrar shall revise the certificate of title form, including the assignment by seller (transferor) and reassignment by licensed dealer sections of the form, the separate application for title forms, and other transfer documents to accommodate this disclosure. If the seller is a motor vehicle dealer licensed pursuant to section 168.27, the disclosure required by this section must be made orally by the dealer to the prospective buyer in the course of the sales presentation.

Subd. 2. **Form of disclosure.** The disclosure required in this section must be made in substantially the following form: "To the best of my knowledge, this vehicle has ..... has not ..... sustained damage in excess of 70 percent actual cash value."

History: *1989 c 188 s 6*

325F.6642 TITLE BRANDING.

Subdivision 1. **Flood damage.** If the application for title and registration indicates that the vehicle has been classified as a class B or C total loss vehicle because of water or flood damage, the registrar of motor vehicles shall record the term "flood damaged" on the certificate of title and all subsequent certificates of title issued for that vehicle.

Subd. 2. **Class C vehicles.** Upon transfer and application for title to all class C total loss vehicles, the registrar of motor vehicles shall record the term "rebuilt" on the first Minnesota certificate of title and all subsequent Minnesota certificates of title used for that vehicle.

Subd. 3. **Out-of-state vehicles.** (a) Upon transfer and application for title of all repaired vehicles with out-of-state titles that bear the term "damaged," "salvage," "rebuilt," "reconditioned," or any similar term, the registrar of motor vehicles shall record the term "rebuilt" on the first Minnesota certificate of title and all subsequent Minnesota certificates of title used for that vehicle.

(b) The registrar shall mark "rebuilt" on the first Minnesota certificate of title and all subsequent certificates of title issued for any vehicle which came into the state unrepaired and for which a salvage certificate of title was issued unless the person applying for the Minnesota title offers proof satisfactory to the registrar that the vehicle did not sustain damage equivalent to the 70 percent standard set forth in this section. The proof shall include photographs of the vehicle and either an insurance adjuster's written report or a written repair estimate which details the parts and labor required to repair the vehicle. The photographs and other documents submitted as proof under this subdivision must be filed and retained by the registrar so as to permit verification of the proof offered.

(c) For vehicles with out-of-state titles which bear the term "flood damaged," the registrar of motor vehicles shall record the term "flood damaged" on the first Minnesota certificate of title and all subsequent Minnesota certificates of title issued for that vehicle.

Subd. 4. **Reconstructed vehicles.** For vehicles that are reconstructed within the meaning of section 168A.15, the registrar shall record the term "reconstructed" on the certificate of title and all subsequent certificates of title.

Subd. 5. **Manner of branding.** The designation of "flood damaged," "rebuilt," or "reconstructed" on a certificate of title shall be made by the registrar of motor vehicles in a clear and conspicuous manner, in a color different from all other writing on the certificate of title.

Subd. 6. **Class C total loss vehicle; definition.** For the purposes of this section, a class C total loss vehicle means a vehicle, damaged by collision or other occurrence, for which a salvage certificate of title has been issued and vehicles with damage of at least 70 percent of the vehicle's actual cash value immediately prior to sustaining the damage based on a written retail repair estimate or invoice, as determined by an insurer or dealer pursuant to section 168A.151 or by comparing an insurer's written retail repair estimate of damage or actual loss payout to the average trade-in value of the vehicle according to the National Automobile Dealers Association's Official Used Car Guide or other similar publication approved by the registrar.

Subd. 7. **Dealer disclosure.** If a licensed motor vehicle dealer offers for sale a vehicle with a branded title, the dealer shall orally disclose the existence of the brand in the course of the sales presentation.

Subd. 8. **Flood damage; dealer lots.** If a motor vehicle, which is part of a licensed motor vehicle dealer's inventory, has been submerged or flooded above the bottom of the dashboard while parked on the dealer's lot, the dealer must disclose that fact in writing to any buyer and must orally disclose that fact in the course of a sales presentation to any prospective buyer. The buyer must also disclose the existence of the flood damage in writing to any subsequent buyer.

History: *1989 c 188 s 7*

325F.6643 REMEDIES; PENALTIES.

(a) A person who violates sections 325F.664 to 325F.6642 is subject to the remedies and penalties, including a private right of action, provided in section 8.31.

(b) A person injured by a violation of sections 325F.664 to 325F.6642 shall recover the actual damages sustained, together with costs and disbursements, including

reasonable attorney fees. In its discretion, the court may increase the award of damages to an amount not to exceed three times the actual damages sustained, or $2,500, whichever is greater.

(c) The relief provided in this section is in addition to any remedies otherwise available under the common law or other statutes of this state.

History: *1989 c 188 s 8*

325F.6644 APPLICATION.

Sections 325F.6641 and 325F.6642 do not apply to vehicles that are six years old or older as calculated from the first day of January of the designated model year or to commercial motor vehicles with a gross vehicle rating of 26,000 pounds or more.

History: *1989 c 188 s 9*

PURCHASE OF NEW MOTOR VEHICLES

325F.665 NEW MOTOR VEHICLE WARRANTIES; MANUFACTURER'S DUTY TO REPAIR, REFUND, OR REPLACE.

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given them:

(a) "consumer" means the purchaser or lessee, other than for purposes of resale or sublease, of a new motor vehicle used for personal, family, or household purposes at least 40 percent of the time, a person to whom the new motor vehicle is transferred for the same purposes during the duration of an express warranty applicable to the motor vehicle;

(b) "manufacturer" means a person engaged in the business of manufacturing, assembling or distributing motor vehicles, who will, under normal business conditions during the year, manufacture, assemble or distribute to dealers at least ten new motor vehicles;

(c) "manufacturer's express warranty" and "warranty" mean the written warranty of the manufacturer of a new motor vehicle of its condition and fitness for use, including any terms or conditions precedent to the enforcement of obligations under that warranty;

(d) "lease" means a contract in the form of a lease or bailment for the use of personal property by a natural person for a period of time exceeding four months, used for personal, family, or household purposes at least 40 percent of the time, whether or not the lessee has the option to purchase or otherwise become the owner of the property at the expiration of the lease;

(e) "motor vehicle" means (1) a passenger automobile as defined in section 168.011, subdivision 7, including pickup trucks and vans, and (2) the self-propelled motor vehicle chassis or van portion of recreational equipment as defined in section 168.011, subdivision 25, which is sold or leased to a consumer in this state;

(f) "informal dispute settlement mechanism" means an arbitration process or procedure by which the manufacturer attempts to resolve disputes with consumers regarding motor vehicle nonconformities and repairs that arise during the vehicle's warranty period;

(g) "motor vehicle lessor" means a person who holds title to a motor vehicle leased to a lessee under a written lease agreement or who holds the lessor's rights under such agreement; and

(h) "early termination costs" means expenses and obligations incurred by a motor vehicle lessor as a result of an early termination of a written lease agreement and surrender of a motor vehicle to a manufacturer under subdivision 4, including penalties for prepayment of finance arrangements.

Subd. 2. **Manufacturer's duty to repair.** If a new motor vehicle does not conform to all applicable express warranties, and the consumer reports the nonconformity to the

manufacturer, its agent, or its authorized dealer during the term of the applicable express warranties or during the period of two years following the date of original delivery of the new motor vehicle to a consumer, whichever is the earlier date, the manufacturer, its agent, or its authorized dealer shall make the repairs necessary to conform the vehicle to the applicable express warranties, notwithstanding the fact that the repairs are made after the expiration of the warranty term or the two-year period.

Subd. 3. **Manufacturer's duty to refund or replace.** (a) If the manufacturer, its agents, or its authorized dealers are unable to conform the new motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use or market value of the motor vehicle to the consumer after a reasonable number of attempts, the manufacturer shall either replace the new motor vehicle with a comparable motor vehicle or accept return of the vehicle from the consumer and refund to the consumer the full purchase price, including the cost of any options or other modifications arranged, installed, or made by the manufacturer, its agent, or its authorized dealer within 30 days after the date of original delivery, and all other charges including, but not limited to, sales or excise tax, license fees and registration fees, reimbursement for towing and rental vehicle expenses incurred by the consumer as a result of the vehicle being out of service for warranty repair, less a reasonable allowance for the consumer's use of the vehicle not exceeding ten cents per mile driven or ten percent of the purchase price, whichever is less. If the manufacturer offers a replacement vehicle under this section, the consumer has the option of rejecting the replacement vehicle and requiring the manufacturer to provide a refund. Refunds must be made to the consumer, and lienholder, if any, as their interests appear on the records of the registrar of motor vehicles. Refunds shall include the amount stated by the dealer as the trade-in value of a consumer's used motor vehicle, plus any additional amount paid by the consumer for the new motor vehicle. A manufacturer must give to the consumer an itemized statement listing each of the amounts refunded under this section. If the amount of sales or excise tax refunded is not separately stated, or if the manufacturer does not apply for a refund of the tax within one year of the return of the motor vehicle, the department of public safety may refund the tax, as determined under paragraph (h), directly to the consumer and lienholder, if any, as their interests appear on the records of the registrar of motor vehicles. A reasonable allowance for use is that amount directly attributable to use by the consumer and any previous consumer during any period in which the use and market value of the motor vehicle are not substantially impaired. It is an affirmative defense to any claim under this section (1) that an alleged nonconformity does not substantially impair the use or market value, or (2) that a nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by anyone other than the manufacturer, its agent or its authorized dealer.

(b) It is presumed that a reasonable number of attempts have been undertaken to conform a new motor vehicle to the applicable express warranties, if (1) the same nonconformity has been subject to repair four or more times by the manufacturer, its agents, or its authorized dealers within the applicable express warranty term or during the period of two years following the date of original delivery of the new motor vehicle to a consumer, whichever is the earlier date, but the nonconformity continues to exist, or (2) the vehicle is out of service by reason of repair for a cumulative total of 30 or more business days during the term or during the period, whichever is the earlier date.

(c) If the nonconformity results in a complete failure of the braking or steering system of the new motor vehicle and is likely to cause death or serious bodily injury if the vehicle is driven, it is presumed that a reasonable number of attempts have been undertaken to conform the vehicle to the applicable express warranties if the nonconformity has been subject to repair at least once by the manufacturer, its agents, or its authorized dealers within the applicable express warranty term or during the period of two years following the date of original delivery of the new motor vehicle to a consumer, whichever is the earlier date, and the nonconformity continues to exist.

(d) The term of an applicable express warranty, the two-year period and the 30-day

period shall be extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike, or fire, flood, or other natural disaster.

(e) The presumption contained in paragraph (b) applies against a manufacturer only if the manufacturer, its agent, or its authorized dealer has received prior written notification from or on behalf of the consumer at least once and an opportunity to cure the defect alleged. If the notification is received by the manufacturer's agent or authorized dealer, the agent or dealer must forward it to the manufacturer by certified mail, return receipt requested.

(f) The expiration of the time periods set forth in paragraph (b) does not bar a consumer from receiving a refund or replacement vehicle under paragraph (a) if the reasonable number of attempts to correct the nonconformity causing the substantial impairment occur within three years following the date of original delivery of the new motor vehicle to a consumer, provided the consumer first reported the nonconformity to the manufacturer, its agent, or its authorized dealer during the term of the applicable express warranty.

(g) At the time of purchase or lease, the manufacturer must provide directly to the consumer a written statement on a separate piece of paper, in 10-point all capital type, in substantially the following form: "IMPORTANT: IF THIS VEHICLE IS DEFECTIVE, YOU MAY BE ENTITLED UNDER THE STATE'S LEMON LAW TO REPLACEMENT OF IT OR A REFUND OF ITS PURCHASE PRICE OR YOUR LEASE PAYMENTS. HOWEVER, TO BE ENTITLED TO REFUND OR REPLACEMENT, YOU MUST FIRST NOTIFY THE MANUFACTURER, ITS AGENT, OR ITS AUTHORIZED DEALER OF THE PROBLEM IN WRITING AND GIVE THEM AN OPPORTUNITY TO REPAIR THE VEHICLE. YOU ALSO HAVE A RIGHT TO SUBMIT YOUR CASE TO THE CONSUMER ARBITRATION PROGRAM WHICH THE MANUFACTURER MUST OFFER IN MINNESOTA."

(h) The amount of the sales or excise tax to be paid by the manufacturer to the consumer under paragraph (a) shall be the tax paid by the consumer when the vehicle was purchased less an amount equal to the tax paid multiplied by a fraction, the denominator of which is the purchase price of the vehicle and the numerator of which is the allowance deducted from the refund for the consumer's use of the vehicle.

Subd. 4. **Manufacturer's duty to consumers with leased vehicles.** A consumer who leases a new motor vehicle has the same rights against the manufacturer under this section as a consumer who purchases a new motor vehicle, except that, if it is determined that the manufacturer must accept return of the consumer's leased vehicle pursuant to subdivision 3, then the consumer lessee is not entitled to a replacement vehicle, but is entitled only to a refund as provided in this subdivision. In such a case, the consumer's leased vehicle shall be returned to the manufacturer and the consumer's written lease with the motor vehicle lessor must be terminated. The manufacturer shall then provide the consumer with a full refund of the amount actually paid by the consumer on the written lease, including all additional charges set forth in subdivision 3, if actually paid by the consumer, less a reasonable allowance for use by the consumer as set forth in subdivision 3. The manufacturer shall provide the motor vehicle lessor with a full refund of the vehicle's original purchase price plus any early termination costs, not to exceed 15 percent of the vehicle's original purchase price, less the amount actually paid by the consumer on the written lease.

Subd. 5. **Resale or re-lease of returned motor vehicle.** (a) If a motor vehicle has been returned under the provisions of subdivision 3 or a similar statute of another state, whether as the result of a legal action or as the result of an informal dispute settlement proceeding, it may not be resold or re-leased in this state unless:

(1) the manufacturer provides the same express warranty it provided to the original purchaser, except that the term of the warranty need only last for 12,000 miles or 12 months after the date of resale, whichever is earlier; and

(2) the manufacturer provides the consumer with a written statement on a separate piece of paper, in 10-point all capital type, in substantially the following form: "IM-

PORTANT: THIS VEHICLE WAS RETURNED TO THE MANUFACTURER BECAUSE IT DID NOT CONFORM TO THE MANUFACTURER'S EXPRESS WARRANTY AND THE NONCONFORMITY WAS NOT CURED WITHIN A REASONABLE TIME AS PROVIDED BY MINNESOTA LAW."

The provisions of this section apply to the resold or re-leased motor vehicle for full term of the warranty required under this subdivision.

(b) Notwithstanding the provisions of paragraph (a), if a new motor vehicle has been returned under the provisions of subdivision 3 or a similar statute of another state because of a nonconformity resulting in a complete failure of the braking or steering system of the motor vehicle likely to cause death or serious bodily injury if the vehicle was driven, the motor vehicle may not be resold in this state.

Subd. 6. **Alternative dispute settlement mechanism.** (a) Any manufacturer doing business in this state, entering into franchise agreements for the sale of its motor vehicles in this state, or offering express warranties on its motor vehicles sold or distributed for sale in this state shall operate, or participate in, an informal dispute settlement mechanism located in the state of Minnesota which complies with the provisions of the Code of Federal Regulations, title 16, part 703, and the requirements of this section. The provisions of subdivision 3 concerning refunds or replacement do not apply to a consumer who has not first used this mechanism before commencing a civil action, unless the manufacturer allows a consumer to commence an action without first using this mechanism.

(b) An informal dispute settlement mechanism provided for by this section shall, at the time a request for arbitration is made, provide to the consumer and to each person who will arbitrate the consumer's dispute, information about this section as approved and directed by the attorney general, in consultation with interested parties. The informal dispute settlement mechanism shall permit the parties to present or submit any arguments based on this section and shall not prohibit or discourage the consideration of any such arguments. In developing and approving information about this section as provided herein, the attorney general is not subject to the rulemaking provisions of chapter 14.

(c) If, in an informal dispute settlement mechanism, it is decided that a consumer is entitled to a replacement vehicle or refund under subdivision 3, then any refund or replacement offered by the manufacturer or selected by a consumer shall include and itemize all amounts authorized by subdivision 3. If the amount of excise tax refunded is not separately stated, or if the manufacturer does not apply for a refund of the tax within one year of the return of the motor vehicle, the department of public safety may refund the excise tax, as determined under subdivision 3, paragraph (h), directly to the consumer and lienholder, if any, as their interests appear on the records of the registrar of motor vehicles.

(d) No documents shall be received by any informal dispute settlement mechanism unless those documents have been provided to each of the parties in the dispute at or prior to the mechanism's meeting, with an opportunity for the parties to comment on the documents either in writing or orally. If a consumer is present during the informal dispute settlement mechanism's meeting, the consumer may request postponement of the mechanism's meeting to allow sufficient time to review any documents presented at the time of the meeting which had not been presented to the consumer prior to the meeting.

(e) The informal dispute settlement mechanism shall allow each party to appear and make an oral presentation in the state of Minnesota unless the consumer agrees to submit the dispute for decision on the basis of documents alone or by telephone, or unless the party fails to appear for an oral presentation after reasonable prior written notice. If the consumer agrees to submit the dispute for decision on the basis of documents alone, then manufacturer or dealer representatives may not participate in the discussion or decision of the dispute.

(f) Consumers shall be given an adequate opportunity to contest a manufacturer's assertion that a nonconformity falls within intended specifications for the vehicle by

having the basis of the manufacturer's claim appraised by a technical expert selected and paid for by the consumer prior to the informal dispute settlement hearing.

(g) Where there has been a recent attempt by the manufacturer to repair a consumer's vehicle, but no response has yet been received by the informal dispute mechanism from the consumer as to whether the repairs were successfully completed, the parties must be given the opportunity to present any additional information regarding the manufacturer's recent repair attempt before any final decision is rendered by the informal dispute settlement mechanism. This provision shall not prejudice a consumer's rights under this section.

(h) If the manufacturer knows that a technical service bulletin directly applies to the specific mechanical problem being disputed by the consumer, then the manufacturer shall provide the technical service bulletin to the consumer at reasonable cost. The mechanism shall review any such technical service bulletins submitted by either party.

(i) A consumer may be charged a fee to participate in an informal dispute settlement mechanism required by this section, but the fee may not exceed the conciliation court filing fee in the county where the arbitration is conducted.

(j) Any party to the dispute has the right to be represented by an attorney in an informal dispute settlement mechanism.

(k) The informal dispute settlement mechanism has all the evidence-gathering powers granted an arbitrator under section 572.14.

(l) A decision issued in an informal dispute settlement mechanism required by this section may be in writing and signed.

Subd. 7. **Effect and admissibility of decision by informal dispute settlement mechanism.** The decision issued in an informal dispute settlement mechanism required by this section is nonbinding on the parties involved, unless otherwise agreed by the parties. Any party, upon application, may remove the decision to district court for a trial de novo. If an application to remove a decision is not filed in the district court within 30 days after the date the decision is received by the parties, then the district court shall, upon application of a party, issue an order confirming the decision. A written decision issued by an informal dispute settlement mechanism, and any written findings upon which the decision is based, are admissible as nonbinding evidence in any subsequent legal action and are not subject to further foundation requirements.

Subd. 8. **Treble damages for bad faith appeal of decision.** If the district court finds that a party has removed a decision of an informal dispute settlement mechanism in bad faith, by asserting a claim or defense that is frivolous and costly to the other party, or by asserting an unfounded position solely to delay recovery by the other party, then the court shall award to the prevailing party three times the actual damages sustained, together with costs and disbursements, including reasonable attorney's fees.

Subd. 9. **Civil remedy.** Any consumer injured by a violation of this section may bring a civil action to enforce this section and recover costs and disbursements, including reasonable attorney's fees incurred in the civil action. In addition to the remedies provided herein, the attorney general may bring an action pursuant to section 8.31 against any manufacturer for violation of this section.

Subd. 10. **Limitation on actions.** A civil action brought under this section must be commenced within three years of the date of original delivery of the new motor vehicle to a consumer; except that, if the consumer applies to an informal dispute settlement mechanism within three years of the date of original delivery of a new motor vehicle to a consumer, then any civil action brought under this section must be commenced within six months after the date of the final decision by the mechanism.

Subd. 11. **Remedy nonexclusive.** Nothing in this section limits the rights or remedies which are otherwise available to a consumer under any other law.

Subd. 12. **Disclosure requirement.** In addition to any investigative powers authorized by law, the attorney general may inspect the records of the informal dispute settlement mechanism upon reasonable notice, during regular business hours, and may make available to the public information about the operation of the mechanism, but data on an individual may not be disclosed without the prior consent of the individual.

Subd. 13. **Dealer liability.** Nothing in this section imposes liability on a dealer or creates an additional cause of action by a consumer against a dealer, except for written express warranties made by the dealer apart from the manufacturer's warranties. The manufacturer shall not charge back or require reimbursement by the dealer for any costs, including, but not limited to, any refunds or vehicle replacements, incurred by the manufacturer arising out of this section, unless there is evidence that the related repairs had not been carried out by the dealer in a timely manner or in a manner substantially consistent with the manufacturer's published instructions.

History: *1983 c 108 s 1; 1985 c 284 s 1; 1986 c 422 art 1 s 1; 1986 c 444; 1987 c 52 s 1; 1987 c 268 art 4 s 23; 1989 c 43 s 1; 1990 c 408 s 2,3*

FARM EQUIPMENT WARRANTY COMPLIANCE

325F.6651 DEFINITIONS.

Subdivision 1. **Application.** For the purpose of sections 325F.6651 to 325F.6658, the following terms have the meanings given them.

Subd. 2. **Farm tractor.** "Farm tractor" means any self-propelled vehicle which is designed primarily for pulling or propelling agricultural machinery and implements and is used principally in the occupation or business of farming, including an implement of husbandry, as defined in section 169.01, subdivision 55, that is self-propelled.

Subd. 3. **Consumer.** "Consumer" means a purchaser, other than for purposes of resale, of a new farm tractor, a person to whom the new farm tractor is transferred for the same purposes during the duration of an express warranty applicable to the farm tractor and any other person entitled by the terms of the warranty to enforce the terms of the warranty. In the case of an agricultural vehicle within the warranty period, the sale must be made through an authorized farm equipment dealer.

Subd. 4. **Manufacturer.** "Manufacturer" means a person engaged in the business of manufacturing, assembling, or distributing farm tractors, who under normal business conditions during the year, manufactures, assembles, or distributes to dealers at least ten new farm tractors.

Subd. 5. **Manufacturer's express warranty; warranty.** "Manufacturer's express warranty" and "warranty" mean the written warranty of the manufacturer of a new farm tractor of its condition and fitness for use, including any terms or conditions precedent to the enforcement of obligations under that warranty.

Subd. 6. **Fair rental value.** "Fair rental value" means the rental value calculated in accordance with the "Tractor and Farm Equipment Trade-In Guide" published by the national farm and power equipment dealers association.

Subd. 7. **Nonconformity.** "Nonconformity" means any condition of the farm tractor that makes it impossible to use for the purpose for which it was intended.

Subd. 8. **Reasonable allowance for prior use.** "Reasonable allowance for prior use" shall mean no less than the fair rental value of the farm tractor and shall be the sum of:

(1) that amount attributable to use by the consumer prior to the consumer's first report of the nonconformity to the manufacturer or its authorized dealers;

(2) that amount attributable to use by the consumer during any period subsequent to such report of the reported nonconformity; and

(3) that amount attributable to use by the consumer of the farm tractor provided by the manufacturer or its authorized dealers while the farm tractor is out of service by reason of repair of the reported nonconformity.

History: *1986 c 422 art 2 s 1*

325F.6652 NOTICE TO CONSUMER.

At the time of purchase the manufacturer must provide directly to the consumer a written statement on a separate piece of paper, in 10-point all capital type, in substan-

tially the following form: "IMPORTANT: IF THIS VEHICLE IS DEFECTIVE, YOU MAY BE ENTITLED UNDER STATE LAW TO REPLACEMENT OF IT OR A REFUND OF ITS PURCHASE PRICE. HOWEVER, TO BE ENTITLED TO REFUND OR REPLACEMENT, YOU MUST FIRST NOTIFY THE MANUFACTURER, ITS AGENT, OR ITS AUTHORIZED DEALER OF THE PROBLEM IN WRITING AND GIVE THEM AN OPPORTUNITY TO REPAIR THE VEHICLE."

History: *1986 c 422 art 2 s 2*

325F.6653 MANUFACTURER'S DUTY TO REPAIR.

If a farm tractor does not conform to applicable express written warranties and the consumer reports the nonconformity to the manufacturer and its authorized dealer during the term of the express written warranties or during the period of one year following the date of the original delivery of the farm tractor to the consumer, whichever is earlier, the manufacturer or its authorized dealers shall make the repairs necessary to make the farm tractor conform to the express written warranties, notwithstanding that the repairs are made after the expiration of the warranty term or the one-year period. For a self-propelled vehicle this section is limited to warranties on the engine and power train.

History: *1986 c 422 art 2 s 3*

325F.6654 MANUFACTURER'S DUTY TO REFUND OR REPLACE.

Subdivision 1. **Duty.** (a) If the manufacturer or its authorized dealers are unable to make the farm tractor conform to any applicable express written warranty by repairing or correcting any condition which substantially impairs the use or market value of the farm tractor to the consumer within the time periods and after the number of attempts specified in subdivision 2, the manufacturer, through its authorized dealer who sold the farm tractor, shall, at the option of the consumer, replace the farm tractor with a comparable one, charging the consumer only a reasonable allowance for the consumer's use of the farm tractor, or accept the return of the farm tractor from the consumer and refund to the consumer the cash purchase price, including sales tax, license fees, registration fees, and any similar governmental charges, less a reasonable allowance for prior use. Refunds shall be made to the consumer and lienholder, if any, as their interests may appear in the county recorder's office. If no replacement or refund is made, the consumer may bring a civil action to enforce the obligation. No action may be brought unless the manufacturer has received prior direct written notification from or on behalf of the consumer and has been offered an opportunity to cure the condition alleged within a reasonable time that is not to exceed 60 business days.

(b) For a self-propelled vehicle, this section is limited to warranties on the engine and power train.

Subd. 2. **When duty arises.** The replacement or refund obligation specified in subdivision 1 shall arise if the manufacturer or its authorized dealers are unable to make the farm tractor conform to applicable express written warranties within the express written warranty term or during the period of one year following the date of the original physical delivery of the farm tractor to the consumer, whichever is the earlier date, and (1) the same nonconformity has been subject to repair four or more times by the manufacturer or its authorized dealers, but such nonconformity continues to exist; or (2) the farm tractor is out of service by reason of repair of the same nonconformity for a cumulative total of 60 or more business days when the service department of the authorized dealer in possession of the farm tractor is open for purposes of repair, provided that days when the consumer has been provided by the manufacturer or its authorized dealers with the use of another farm tractor which performs the same function shall not be counted.

History: *1986 c 422 art 2 s 4*

325F.6655 EXTENSION OF WARRANTY.

The terms of any express written warranty, the one-year period, and the 60-day repair period shall be extended by any period of time during which repair services or replacement parts are not available to the consumer because of a war, invasion, or strike, or fire, flood, or other natural disaster.

History: *1986 c 422 art 2 s 5*

325F.6656 ALTERNATIVE DISPUTE SETTLEMENT.

Subdivision 1. **Procedure.** If a manufacturer has established, or participates in, an informal dispute settlement procedure which substantially complies with the provisions of the Code of Federal Regulations, title 16, part 703, as amended, and the requirements of this section, the provisions of section 325F.6654 concerning refunds or replacement do not apply to a consumer who has not first used this procedure.

Subd. 2. **Findings as evidence.** The findings and decisions in an informal dispute settlement procedure shall address and state in writing whether the consumer would be entitled to a refund or replacement under the presumptions and criteria set out in section 325F.6654, and are admissible as nonbinding evidence in any legal action and are not subject to further foundation requirements.

Subd. 3. **Replacement or refund.** If, in an informal dispute settlement procedure, it is decided that a consumer is entitled to a replacement vehicle under section 325F.6654, then the consumer has the option of selecting and receiving either a replacement vehicle or a full refund as authorized by section 325F.6654. Any refund selected by a consumer shall include all amounts authorized by section 325F.6654.

Subd. 4. **Requirements.** (a) In any informal dispute settlement procedure provided for by this section:

(1) no documents shall be received by any informal dispute settlement mechanism unless those documents have been provided to each of the parties in the dispute prior to the mechanism's meeting, with an opportunity for the parties to comment on the documents in writing, or with oral presentation at the request of the mechanism;

(2) "nonvoting" manufacturer or dealer representatives shall not attend or participate in the internal dispute settlement procedures unless the consumer is also present and given a chance to be heard, or unless the consumer previously consents to the manufacturer or dealer participation without the consumer's presence and participation;

(3) consumers shall be given an adequate opportunity to contest a manufacturer's assertion that a nonconformity falls within intended specifications for the vehicle by having the basis of the manufacturer's claim appraised by a technical expert selected and paid for by the consumer prior to the informal dispute settlement hearing;

(4) no disputes shall be heard where there has been a recent attempt by the manufacturer to repair a consumer's vehicle, but no response has yet been received by the informal dispute mechanism from the consumer as to whether the repairs were successfully completed. This provision shall not prejudice a consumer's rights under this section nor shall it extend the informal dispute mechanism's 40-day time limit for deciding disputes, as established by the Code of Federal Regulations, title 16, part 703; and

(5) the manufacturer shall provide and the informal dispute settlement mechanism shall consider all information relevant to resolving the dispute, such as the prior dispute records and information required by the Code of Federal Regulations, title 16, part 703.6, and any relevant technical service bulletins which may have been issued by the manufacturer or lessor regarding the motor vehicle being disputed.

(b) A settlement reached under this section is binding on all participating parties.

Subd. 5. **Exhaustion of settlement remedy.** No consumer shall be required to first participate in an informal dispute settlement procedure before filing an action in district court if the informal dispute settlement procedure does not comply with the requirements of this section, notwithstanding the procedure's compliance with the Code of Federal Regulations, title 16, part 703.

Subd. 6. **Civil remedy.** Any consumer injured by a violation of this section may bring a civil action to enforce this section and recover costs and disbursements, including reasonable attorney's fees.

History: *1986 c 422 art 2 s 6*

325F.6657 AFFIRMATIVE DEFENSES.

It shall be an affirmative defense to claim under sections 325F.6651 to 325F.6658 that (1) an alleged nonconformity does not substantially impair such use and market value, or (2) a nonconformity is the result of abuse or neglect, or of modifications or alterations of the farm tractor not authorized by the manufacturer.

History: *1986 c 422 art 2 s 7*

325F.6658 LIMITATION ON ACTIONS.

Any action brought under sections 325F.6651 to 325F.6658 shall be commenced within six months following (1) expiration of the express written warranty term, or (2) one year following the date of the original delivery of the farm tractor to the customer, whichever is later.

History: *1986 c 422 art 2 s 8*

325F.6659 REMEDY NONEXCLUSIVE.

Nothing in this section limits the rights or remedies which are otherwise available to a consumer under any other law.

History: *1986 c 422 art 2 s 9*

FALSE STATEMENT IN ADVERTISEMENT

325F.67 FALSE STATEMENT IN ADVERTISEMENT.

Any person, firm, corporation, or association who, with intent to sell or in anywise dispose of merchandise, securities, service, or anything offered by such person, firm, corporation, or association, directly or indirectly, to the public, for sale or distribution, or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto, or any interest therein, makes, publishes, disseminates, circulates, or places before the public, or causes, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, label, price tag, circular, pamphlet, program, or letter, or over any radio or television station, or in any other way, an advertisement of any sort regarding merchandise, securities, service, or anything so offered to the public, for use, consumption, purchase, or sale, which advertisement contains any material assertion, representation, or statement of fact which is untrue, deceptive, or misleading, shall, whether or not pecuniary or other specific damage to any person occurs as a direct result thereof, be guilty of a misdemeanor, and any such act is declared to be a public nuisance and may be enjoined as such.

The duty of a strict observance and enforcement of this law and prosecution for any violation thereof is hereby expressly imposed upon the attorney general, and it shall be the duty of the county attorney of any county wherein a violation of this section shall have occurred, upon complaint being made, to prosecute any person violating any of the provisions of this section.

History: *(10390, 10391) 1913 c 51 s 1; 1915 c 309 s 1,2; 1953 c 438 s 1; 1967 c 302 s 2; 1986 c 444*

PREVENTION OF CONSUMER FRAUD ACT

325F.68 DEFINITIONS.

Subdivision 1. The following words and terms where used in sections 325F.68 to 325F.70 shall have the meanings ascribed to them in this section.

Subd. 2. "Merchandise" means any objects, wares, goods, commodities, intangibles, real estate, or services.

Subd. 3. "Person" means any natural person or a legal representative, partnership, corporation (domestic and foreign), company, trust, business entity, or association, and any agent, employee, salesperson, partner, officer, director, member, stockholder, associate, trustee, or cestui que trust thereof.

Subd. 4. "Sale" means any sale, offer for sale, or attempt to sell any merchandise for any consideration.

Subd. 5. "Going out of business sale" means any sale advertised or held out to the public as a sale in anticipation of the imminent termination of a business, including any sale advertised or held out to the public as a "going out of business sale," a "close out sale," a "loss of lease sale," a "must vacate sale," a "bankruptcy sale," or in any similar terms.

History: *1963 c 842 s 1; 1985 c 148 s 2; 1986 c 444*

325F.69 UNLAWFUL PRACTICES.

Subdivision 1. **Fraud, misrepresentation, deceptive practices.** The act, use, or employment by any person of any fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely thereon in connection with the sale of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby, is enjoinable as provided herein.

Subd. 2. **Referral and chain referral selling prohibited.** (1) With respect to any sale or lease the seller or lessor may not give or offer a rebate or discount or otherwise pay or offer to pay value to the buyer or lessee as an inducement for a sale or lease in consideration of the buyer's or lessee's giving to the seller or lessor the names of prospective purchasers or lessees, or otherwise aiding the seller or lessor in making a sale or lease to another person, if the earning of the rebate, discount or other value is contingent upon the occurrence of an event subsequent to the time the buyer or lessee agrees to buy or lease.

(2) (a) With respect to any sale or lease, it shall be illegal for any seller or lessor to operate or attempt to operate any plans or operations for the disposal or distribution of property or franchise or both whereby a participant gives or agrees to give a valuable consideration for the chance to receive something of value for inducing one or more additional persons to give a valuable consideration in order to participate in the plan or operation, or for the chance to receive something of value when a person induced by the participant induces a new participant to give such valuable consideration including such plans known as chain referrals, pyramid sales, or multilevel sales distributorships.

(b) The phrase "something of value" as used in paragraph (a) above, does not mean or include payment based upon sales made to persons who are not purchasing in order to participate in the prohibited plan or operation.

(3) If a buyer or lessee is induced by a violation of this subdivision to enter into a sale or lease, the agreement is unenforceable and the buyer or lessee has the option to rescind the agreement with the seller or lessor and, upon tendering the property received, or what remains of it, obtain full or in the case of remains, a proportional restitution of all sums paid, or retain the goods delivered and the benefit of any services performed without any further obligation to pay for them.

(4) With respect to a sale or lease in violation of this section an assignee of the rights of the seller or lessor is subject to all claims and defenses of the buyer or lessee against the seller or lessor arising out of the sale or lease notwithstanding an agreement

to the contrary, but the assignee's liability under this section may not exceed the amount owing to the assignee at the time the claim or defense is asserted against the assignee. Rights of the buyer or lessee under this section can only be asserted as a matter of defense to or setoff against a claim by the assignee.

(5) In a sale or lease in violation of this section, the seller or lessor may not take a negotiable instrument other than a check as evidence of the obligation of the buyer or lessee. A holder is not in good faith if the holder takes a negotiable instrument with notice that it is issued in violation of this section.

(6) Any person who violates any provision of this subdivision shall be guilty of a gross misdemeanor.

Subd. 3. **Advertising media excluded.** Sections 325F.68 to 325F.70 shall apply to actions of the owner, publisher, agent or employee of newspapers, magazines, other printed matter or radio or television stations or other advertising media used for the publication or dissemination of an advertisement, only if the owner, publisher, agent, or employee has either knowledge of the false, misleading or deceptive character of the advertisement or a financial interest in the sale or distribution of the advertised merchandise.

Subd. 4. **Solicitation of money for merchandise not ordered or services not performed.** The act, use, or employment by any person of any solicitation for payment of money by another by any statement or invoice, or any writing that could reasonably be interpreted as a statement or invoice, for merchandise not yet ordered or for services not yet performed and not yet ordered, whether or not any person has in fact been misled, deceived, or damaged thereby, is enjoinable as provided herein.

Subd. 5. **Prohibited going out of business sales.** It is illegal for any person to represent falsely that a sale is a "going out of business sale." Any representation that a sale is a "going out of business sale" is presumed to be false and illegal under this subdivision, if at that location or within a relevant market area:

(1) the sale has been represented to be a "going out of business sale" for a period of more than 120 days;

(2) the business has increased its inventory for the sale by ordering or purchasing an unusual amount of merchandise during the sale or during the 90 days before the sale began;

(3) the business, or any of its officers or directors, has advertised any other sale as a "going out of business sale" during the 120 days before this sale began; or

(4) the sale has continued after a date on which the business has represented, expressly or by reasonable implication, that the business would terminate.

Any presumption arising under clauses (1) to (4) may be rebutted if the business shows, by clear and convincing evidence, that the sale was in fact conducted in anticipation of the imminent termination of the business. This subdivision does not apply to a sale in any statutory or home rule charter city that by ordinance requires the licensing of persons conducting a "going out of business sale," nor to public officers acting in the course of their official duties.

History: *1963 c 842 s 2; 1969 c 739 s 1; 1969 c 1100 s 1; 1971 c 391 s 1; 1973 c 454 s 1; 1975 c 364 s 3; 1985 c 148 s 3; 1986 c 444*

325F.70 REMEDIES.

Subdivision 1. **Injunction.** The attorney general or any county attorney may institute a civil action in the name of the state in the district court for an injunction prohibiting any violation of sections 325F.68 to 325F.70. The court, upon proper proof that defendant has engaged in a practice made enjoinable by section 325F.69, may enjoin the future commission of such practice. It shall be no defense to such an action that the state may have adequate remedies at law.

Subd. 2. **Service of process.** Service of process shall be as in any other civil suit, except that where a defendant in such action is a natural person or firm residing outside

the state, or is a foreign corporation, service of process may also be made by personal service outside the state, or in the manner provided by section 303.13, subdivision 1(3), or in such manner as the court may direct. Process is valid if it satisfies the requirements of due process of law, whether or not defendant is doing business in Minnesota regularly or habitually.

History: *1963 c 842 s 3; 1967 c 302 s 2*

NOTE: As to section of consumer services in the department of commerce, see section 8.32.

DECEPTIVE ACTS PERPETRATED AGAINST SENIOR CITIZENS OR HANDICAPPED PERSONS

325F.71 SENIOR CITIZENS AND HANDICAPPED PERSONS; ADDITIONAL CIVIL PENALTY FOR DECEPTIVE ACTS.

Subdivision 1. **Definitions.** For the purposes of this section, the following words have the meanings given them:

(a) "Senior citizen" means a person who is 62 years of age or older.

(b) "Handicapped person" means a person who has an impairment of physical or mental function or emotional status that substantially limits one or more major life activities.

(c) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Subd. 2. **Supplemental civil penalty.** (a) In addition to any liability for a civil penalty pursuant to Minnesota Statutes, sections 325D.43 to 325D.48, regarding deceptive trade practices; 325F.67, regarding false advertising; and 325F.68 to 325F.70, regarding consumer fraud; a person who engages in any conduct prohibited by those statutes, and whose conduct is perpetrated against one or more senior citizens or handicapped persons, is liable for an additional civil penalty not to exceed $10,000 for each violation, if one or more of the factors in paragraph (b) are present.

(b) In determining whether to impose a civil penalty pursuant to paragraph (a), and the amount of the penalty, the court shall consider, in addition to other appropriate factors, the extent to which one or more of the following factors are present:

(1) whether the defendant knew or should have known that the defendant's conduct was directed to one or more senior citizens or handicapped persons;

(2) whether the defendant's conduct caused senior citizens or handicapped persons to suffer: loss or encumbrance of a primary residence, principal employment, or source of income; substantial loss of property set aside for retirement or for personal or family care and maintenance; substantial loss of payments received under a pension or retirement plan or a government benefits program; or assets essential to the health or welfare of the senior citizen or handicapped person;

(3) whether one or more senior citizens or handicapped persons are more vulnerable to the defendant's conduct than other members of the public because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and actually suffered physical, emotional, or economic damage resulting from the defendant's conduct.

Subd. 3. **Restitution to be given priority.** Restitution ordered pursuant to the statutes listed in subdivision 2 shall be given priority over imposition of civil penalties designated by the court under this section.

Subd. 4. **Private remedies.** A person injured by a violation of this section may bring a civil action and recover damages, together with costs and disbursements, including costs of investigation and reasonable attorney's fees, and receive other equitable relief as determined by the court.

History: *1989 c 294 s 2*

PRECIOUS METALS

325F.73 FRAUDULENT SALE OF GOLD AND SILVER; PENALTY.

Subdivision 1. **False stamping of articles of gold or silver.** Any person, firm, corporation, or association, who or which make for sale any article of merchandise made, in whole or in part, of gold or any alloy of gold, having stamped, branded, engraved or printed thereon, or upon any card, tag, or label attached thereto, or upon any box, package, or wrapper, in which such article is encased or enclosed any mark, indicating or designed or intended to indicate, that the gold or alloy of gold of such article is of a greater degree of fineness than the actual fineness or quality of such gold or alloy, unless the actual fineness of such gold or alloy, in the case of flatware and watch cases be not less by more than 3/1000 parts, and, in the case of all other articles, be not less by more than one-half karat than the fineness indicated by the marks stamped, branded, engraved, or imprinted upon any part of such article or upon any cards, tags, or labels attached thereto, or upon any box, package, or wrapper in which such article is encased or enclosed according to the standards and subject to the qualifications hereinafter set forth, is guilty of a misdemeanor; provided, that in any test for the ascertainment of the fineness of the gold or its alloy in any such article, according to the foregoing standards, the part of the gold or its alloy taken for the test analysis or assay shall be such part or portion as does not contain or have attached thereto any solder or alloy of inferior fineness used for brazing or uniting the parts of the article; provided, further, and in addition to the foregoing tests and standards, that the actual fineness of the entire quantity of gold and of its alloys contained in any article mentioned in this section, except watch cases and flatware, including all solder or alloy of inferior metal used for brazing or uniting the parts of the article (all such gold, alloy, and solders being assayed as one piece) shall not be less by more than one karat than the fineness indicated by the mark stamped, branded, engraved, or imprinted upon such article, or upon any tag, card, or label attached thereto, or upon any box, package, cover, or wrapper in which the article is encased or enclosed.

Subd. 2. **Standards; improper stamping; penalties.** Any person, firm, corporation, or association, who or which makes for sale any article of merchandise made, in whole or in part, of silver or any alloy of silver, and having marked, stamped, branded, engraved, or printed thereon, or upon any card, tag, or label attached thereto, or upon any box, package, cover, or wrapper in which the article is encased or enclosed, the words "sterling silver" or "sterling", or any colorable imitation thereof, unless 925/1,000 of the component parts of the metal appearing or purporting to be silver, of which such article is manufactured are pure silver, subject to the qualifications hereinafter set forth, is guilty of a misdemeanor; provided, that in case of all such articles there shall be allowed divergence of fineness of 4/1,000 parts from this standard.

Any person, firm, corporation, or association, who or which makes for sale any article of merchandise made, in whole or in part, of silver, or of any alloy of silver, and having marked, stamped, branded, engraved, or imprinted thereon or upon any card, tag, or label attached thereto, or upon any box, package, cover, or wrapper in which the article is encased or enclosed, the words "coin" or "coin silver", or any colorable imitation thereof, unless 900/1,000 of the component parts of the metal appearing or purporting to be silver, of which such article is manufactured are pure silver, subject to the qualifications hereinafter set forth, is guilty of a misdemeanor; provided, that in the case of all such articles there shall be allowed a divergence in fineness of 4/1,000 parts from this standard.

Any person, firm, corporation, or association, who or which makes for sale any article of merchandise made, in whole or in part, of silver, or of any alloy of silver, and having stamped, branded, engraved, or imprinted thereon or upon any tag, card, or label attached thereto, or upon any box, package, cover, or wrapper, in which the article is encased or enclosed, any mark or word, other than the word "sterling" or the word "coin", indicating or designed or intended to indicate that the silver or alloy of silver, in the article, is of greater degree of fineness or quality of such silver or alloy, unless

the actual fineness of silver or alloy of silver of which the article is composed be not less than 4/1,000 parts than the actual fineness indicated by the mark or word, other than the word "sterling" or "coin", stamped, branded, engraved, or imprinted upon any part of the article, or upon any tag, card, or label attached thereto, or upon any box, package, cover, or wrapper in which the article is encased or enclosed, subject to the qualifications hereinafter set forth, is guilty of a misdemeanor.

In any test for the ascertainment of the fineness of any such article mentioned in this section, according to the foregoing standards, the part of the article taken for the test, analysis, or assay, shall be such part or portion as does not contain or have attached thereto any solder or alloy of inferior metal used for brazing or uniting the parts of such article. In addition to the foregoing test and standards that the actual fineness of the entire quantity of metal purporting to be silver contained in any article mentioned in this section, including all solder or alloy of inferior fineness used for brazing or uniting the parts of any such article (all such silver alloy or solder being assayed as one piece) shall not be less by more than 10/1,000 parts than the fineness indicated according to the foregoing standards by the mark stamped, branded, engraved, or imprinted upon the article, or upon any card, tag, or label attached thereto, or upon any box, package, cover, or wrapper in which the article is encased or enclosed.

Subd. 3. **Gold plate; false stamping; penalty.** Any person, firm, corporation, or association, who or which makes for sale any article of merchandise made, in whole or in part, of inferior metal having deposited or plated thereon or brazed or otherwise affixed thereto a plate, plating, covering, or sheet of gold or of any alloy of gold, and which article is known in the market as "rolled gold plate," "gold plate," "gold filled," or "gold electro plate," or by any similar designation, and having stamped, branded, engraved, or printed thereon, or upon any tag, card, or label attached thereto, or upon any box, package, cover, or wrapper in which the article is encased or enclosed, any word or mark usually employed to indicate the fineness of gold, unless the word be accompanied by other words plainly indicating that the article, or some part thereof, is made of rolled gold plate, or gold plate, or gold electro plate, or is gold filled, as the case may be, is guilty of a misdemeanor.

Subd. 4. **Silver plate; false stamping; penalty.** Any person, firm, corporation, or association, who or which makes for sale any article of merchandise made, in whole or in part, of inferior metal having deposited or plated thereon or brazed or otherwise affixed thereto, a plate, plating, covering, or sheet of silver, or of any alloy of silver, and which article is known in the market as "silver plate" or "silver electro plate," or by any similar designation, and having stamped, branded, engraved, or imprinted thereon, or upon any tag, card, or label attached thereto, or upon any box, package, cover, or wrapper in which the article is encased or enclosed, the word "sterling," or the word "coin," either alone or in conjunction with any other words or marks, is guilty of a misdemeanor.

Subd. 5. **Violations; punishment.** Every person, firm, corporation, or association guilty of a violation of subdivisions 1 to 4, and every officer, manager, director, or managing agent of any such person, firm, corporation, or association directly participating in such violation or consenting thereto, shall be punished by a fine of not more than $700, or by imprisonment for not more than three months, or by both, at the discretion of the court; provided, that if the person charged with violation of subdivisions 1 to 4 shall prove that the article concerning which the charge is made was manufactured prior to the first day of July, 1907, then the charge shall be dismissed.

Subd. 6. **Selling falsely stamped articles; penalty.** Every person, firm, corporation, or association who, with intent to deceive, shall sell any article, falsely branded or marked, contrary to the provisions of subdivisions 1 to 5, knowing the same to be so falsely marked or branded, shall be guilty of a misdemeanor.

History: *(10352-10357) 1907 c 467 s 1-6; 1984 c 628 art 3 s 11*

325F.731 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of Laws 1981, chapter 333, sections 1 to 17, the following terms have the meanings given them.

Subd. 2. **Precious metal dealer.** "Precious metal dealer" means any natural person, partnership, or corporation, either as principal or agent, engaging in the business of buying secondhand items containing precious metal, including, but not limited to, jewelry, watches, eating utensils, candlesticks, and religious and decorative objects.

Subd. 3. **Precious metals.** "Precious metals" means silver, gold, and platinum.

Subd. 4. **Item containing precious metal.** "Item containing precious metal" means an item made in whole or in part of metal and containing more than one percent by weight of silver, gold or platinum.

History: *1981 c 333 s 1*

325F.732 LICENSE.

Subdivision 1. **Requirement.** Except as provided for in subdivision 2, it is unlawful for a precious metal dealer to engage in or transact any business as such without having a valid license as provided in section 325F.733.

Subd. 2. **Scope.** The requirements of Laws 1981, chapter 333, sections 1 to 17 do not apply to the following:

(1) Transactions at occasional "garage" or "yard" sales, or estate sales or farm auctions held at the decedent's residence, except that precious metal dealers must comply with the requirements of sections 325F.734 to 325F.742 for these transactions.

(2) Transactions regulated by chapter 80A.

(3) Transactions regulated by the Federal Commodity Futures Commission Act.

(4) Transactions involving the purchase of precious metal grindings, filings, slag, sweeps, scraps, or dust from an industrial manufacturer, dental lab, dentist, or agent thereof.

(5) Transactions involving the purchase of photographic film, such as lithographic and X-ray film, or silver residue or flake recovered in lithographic and X-ray film processing.

(6) Transactions involving coins, bullion, or ingots.

(7) Transactions in which the second hand item containing precious metal is exchanged for a new item containing precious metal and the value of the new item exceeds the value of the secondhand item, except that a natural person, partnership or corporation who is a precious metal dealer by engaging in a transaction which is not exempted by this section must comply with the requirements of sections 325F.734 to 325F.742.

(8) Transactions between precious metal dealers if both dealers are licensed under section 325F.733 or if the seller's business is located outside of the state and the item is shipped from outside the state to a dealer licensed under section 325F.733.

(9) Transactions in which the buyer of the secondhand item containing precious metal is engaged primarily in the business of buying and selling antiques, and the items are resold in an unaltered condition except for repair, and the items are resold at retail, and the buyer paid less than $2,500 for secondhand items containing precious metals purchased within any period of 12 consecutive months.

History: *1981 c 333 s 2*

325F.733 LICENSE; APPLICATION; TERMS AND CONDITIONS.

Subdivision 1. **Application.** Any precious metal dealer desiring to engage in or transact business as such in any county of this state shall file an application for a license for that purpose with the auditor of the county in which the dealer desires to do business. The application shall include the applicant's name, date of birth, resident address, and locations of the proposed principal place of business and branch offices within the county, and other locations within the county where the applicant intends to hold secondhand precious metals. If the person in charge of the business or a branch office is someone other than the applicant, the name, date of birth, and resident address of the person in charge shall be stated with the location or branches indicated. If the applicant

is a corporation or partnership the name, date of birth and resident address of each officer and general partner shall be stated. Each application shall be kept by the auditor for a period of no less than three years and shall be available for inspection only by employees of the county auditor, the county attorney, the attorney general, or by a peace officer.

Subd. 2. **Fee.** Each applicant shall pay to the treasurer of the county a license fee in an amount determined by the board of county commissioners of the county to be necessary to cover the expenses of administering this licensing function.

Subd. 3. **Business locations.** A precious metal dealer license shall authorize the precious metal dealer to transact business only at the location or locations designated in the license.

Subd. 4. **Term.** A precious metal dealer license shall be valid for a period of one year from the date of its issuance.

Subd. 5. **Branch offices.** Each branch office shall be operated under the same name as the principal office.

Subd. 6. **Posting of license.** Every precious metal dealer shall prominently post the dealer's license in a conspicuous location at the dealer's principal place of business and a copy of the license in a conspicuous location at each branch office.

Subd. 7. **Posting of prices; weighing.** Every precious metal dealer shall prominently post in a conspicuous place and in letters exceeding one inch in height the minimum prices per ounce or pennyweight that are currently being paid by the dealer for precious metals and a warning notice that unless otherwise informed, the prices offered are based on the meltdown value of the precious metal, rather than the value of the item in its existing form. Precious metal items shall be weighed in plain sight of the prospective seller on scales approved by the division of weights and measures of the department of public service in accordance with section 239.08.

Subd. 8. **Public record of licenses.** The county auditor shall keep a record of the licenses in a book provided for that purpose. The book shall contain the same information as required on the application for the license; provided, that the applicant's resident address and date of birth shall not be recorded. The book shall be open for public inspection.

History: *1981 c 333 s 3; 1986 c 444*

325F.734 IDENTIFICATION OF SELLERS.

Every precious metal dealer shall require a seller of secondhand items containing precious metals to present to the dealer at the time of the transaction an identification card of the seller containing a picture of the seller and the seller's address.

History: *1981 c 333 s 4; 1986 c 444*

325F.735 RECORDS REQUIRED.

Every precious metal dealer shall keep a book at the dealer's business location in which shall be clearly written in ink, in the English language, at the time of each transaction, or as close thereto as possible, the following information:

(1) An accurate description of every secondhand item containing precious metals bought, including the type of item, number of items, brand name of item, if any, engraving or other identifying features of the item, if any, and a description of any gems attached;

(2) The amount of money paid;

(3) The date of the transaction; and

(4) From the identification card containing a picture of the seller, the type of card presented and the serial number of the card, if any, and the name and address of the person selling the item. The book, as well as the item in the possession of the dealer, shall at all reasonable times be open to inspection by any police officer of the city wherein the business is located or the sheriff or any deputy sheriff of the county wherein the business is located.

History: *1981 c 333 s 5; 1986 c 444*

325F.736 REQUIRED HOLDING PERIOD.

Every precious metal dealer shall keep in possession at the dealer's business location or other location within the licensing county from the time of the transaction or as close thereto as possible, for a period of no less than 14 days, every secondhand item containing precious metal purchased by the dealer unless the item is purchased or consigned from another dealer licensed under section 325F.733. The item shall not be altered at the time of sale and shall remain unaltered during the required holding period.

History: *1981 c 333 s 6; 1986 c 444*

325F.737 ADDITIONAL HOLDING PERIOD.

The sheriff or a designee may by written notification require a precious metal dealer licensed in the sheriff's county not to sell or alter a secondhand item containing precious metal if the sheriff or designee has probable cause that the item is stolen. The item shall not be sold, altered, or removed from the licensed premises until authorized to be released in writing by the sheriff or a designee.

The chief of police or a designee may also exercise this same authority for licensed businesses, within the chief's jurisdiction.

History: *1981 c 333 s 7; 1986 c 444*

325F.738 TRADING.

It is unlawful to trade or barter in a manner intended to avoid identification and recording of transactions under sections 325F.734 and 325F.735 and payment under section 325F.741.

History: *1981 c 333 s 8*

325F.739 CERTAIN PURCHASES PROHIBITED.

It is unlawful for a precious metal dealer to purchase a secondhand item containing precious metals from a person under 18 years of age unless the person is accompanied by the person's parent or guardian who is identified and whose identity is recorded in accordance with sections 325F.734 and 325F.735.

History: *1981 c 333 s 9; 1986 c 444*

325F.741 PAYMENT BY CHECK.

Payment by a precious metal dealer for the purchase of a secondhand item containing precious metal shall be made only by a check, draft, or other negotiable or nonnegotiable instrument or order of withdrawal which is drawn against funds held by a financial institution.

History: *1981 c 333 s 10*

325F.742 GOVERNMENTAL SUBDIVISIONS MAY REGULATE.

The provisions of Laws 1981, chapter 333, sections 1 to 17 shall not be construed as prohibiting, or in any way limiting, or interfering with the right of any governmental subdivision of the state to regulate or license precious metal dealers within its jurisdiction in a manner more restrictive than Laws 1981, chapter 333, sections 1 to 17; provided, that transactions described in section 325F.732, subdivision 2, shall not be regulated in a manner inconsistent with Laws 1981, chapter 333, sections 1 to 17.

History: *1981 c 333 s 11*

325F.743 CRIMINAL PENALTY.

Any person who violates any provision of Laws 1981, chapter 333, sections 1 to 17 is guilty of a felony and may be sentenced to imprisonment for not more than three years or to payment of a fine of not more than $40,000, or both.

History: *1981 c 333 s 12; 1984 c 628 art 3 s 11*

325F.744 CIVIL PENALTY.

The attorney general or any county attorney may institute a civil action in the name of the state in the district court to revoke, deny or suspend for a period of time the license on the ground that the licensee has violated a provision of Laws 1981, chapter 333, sections 1 to 17. For this purpose, the attorney general or county attorney shall be invested with the additional powers contained in section 8.31. It is no defense to the action that the state has adequate remedies at law.

History: *1981 c 333 s 13*

PLUMBERS

325F.75 ADVERTISING RESTRICTIONS; SCOPE; PENALTIES.

Subdivision 1. **Restrictions.** Except as provided in this section, where a plumbing license is required under section 326.40, no person offering plumbing services may do any of the following unless the person employs a licensed master plumber or the person is a licensed master or journeyman plumber:

(1) advertise as a plumbing contractor, master plumber, journeyman plumber, or plumber;

(2) append the person's name to, or in connection with, the title "plumbing contractor," "master plumber," "journeyman plumber," or "plumber";

(3) append the person's name to any other words that tend to represent the person as a plumbing contractor, master plumber, journeyman plumber, or plumber.

A person who advertises as a master plumber shall include in the advertisement the number of the person's license as a master plumber. A person who advertises as a journeyman plumber must include in the advertisement the person's master or journeyman plumber license number. A person who advertises as a plumbing contractor shall include in the advertisement the license number of the master plumber employed by the plumbing contractor.

A vehicle used to conduct plumbing business must prominently display on its exterior the license number of the master plumber or journeyman plumber performing plumbing services.

Subd. 2. **Scope.** (a) This section applies to a person advertising plumbing services if that person engages in or works at the business of plumbing or offers plumbing services in a city of 5,000 or more population.

(b) This section also applies to a person advertising plumbing services who engages in or works at the business of plumbing or offers plumbing services in a city of less than 5,000 in population that by ordinance requires licensing to do business as a master or journeyman plumber.

Subd. 3. **Penalties.** (a) A person who is found guilty of violating subdivision 1 is subject to a fine not to exceed $200 for the first offense.

(b) A person who is found guilty of violating subdivision 1 is subject to a fine not to exceed $1,000 for the second offense.

(c) A person who is found guilty of violating subdivision 1 is subject to a fine not to exceed $1,000 or imprisonment not to exceed 30 days, or both, for the third and subsequent offenses.

History: *1985 c 142 s 1; 1986 c 444; 1987 c 279 s 1; 1987 c 329 s 21*

DISTRIBUTION OF TOBACCO PRODUCTS

325F.76 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of sections 325F.76 to 325F.78, the terms defined in this section have the meanings given them.

Subd. 2. **Chewing tobacco.** "Chewing tobacco" means loose tobacco or a flat compressed cake of tobacco that is inserted into the mouth.

Subd. 3. **Distribute.** "Distribute" means to give products to the general public at no cost or at nominal cost for product promotional purposes.

Subd. 4. **Package.** "Package" means a pack, box, or container of any kind in which a smokeless tobacco product is offered for sale, sold, or otherwise distributed.

Subd. 5. **Person.** "Person" means any individual, partnership, corporation, or other business or legal entity.

Subd. 6. **Smokeless tobacco.** "Smokeless tobacco" means chewing tobacco or tobacco snuff.

Subd. 7. **Tobacco snuff.** "Tobacco snuff" means a small amount of shredded, powdered, or pulverized tobacco that may be inhaled through the nostrils, chewed, or held in the mouth of an individual user.

History: *1986 c 352 s 1*

325F.77 PROMOTIONAL DISTRIBUTION.

Subdivision 1. [Repealed, 1987 c 399 s 5]

Subd. 2. [Repealed, 1987 c 399 s 5]

Subd. 3. **Legislative intent.** Because the state prohibits both the use of tobacco products by minors and the furnishing of tobacco products to minors, and because the enforcement of an age-related restriction on the promotional distribution of tobacco products is impractical and ineffective, it is the intent of the legislature to control the distribution of these products and discourage illegal activity by prohibiting all promotional distribution, except as allowed in this section.

Subd. 4. **Prohibition.** No person shall distribute smokeless tobacco products or cigarettes, cigars, pipe tobacco, or other tobacco products suitable for smoking, except that single serving samples of tobacco may be distributed in tobacco stores.

History: *1986 c 352 s 2; 1987 c 399 s 3,4*

325F.78 REMEDIES.

The attorney general may institute a civil action in the name of the state of Minnesota in the district court for an injunction prohibiting any violation of section 325F.77. The court, upon notice to the defendant of not less than five days, and upon proof that defendant has engaged in the practice prohibited by section 325F.77, may enjoin the future commission of the practice. The court may impose a civil penalty in an amount not to exceed $5,000 for each violation. The attorney general may recover costs and disbursements, including costs of investigation and reasonable attorneys fees.

History: *1986 c 352 s 3*

RETAIL SALES REFUNDS

325F.80 RETAIL SALES OF CONSUMER GOODS; REFUNDS.

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them under this subdivision:

(1) "consumer" means a natural person who buys goods for personal, family, or household purposes and not for commercial, agricultural, or business purposes;

(2) "seller" means a person who regularly sells goods at retail to consumers;

(3) "acceptable" means that the goods returned are in a condition acceptable to the seller using reasonable and objective standards, the goods are returned within a reasonable time from the date of purchase, and proof of purchase is presented by the consumer at time of return;

(4) "cash refund" means the seller provides the consumer cash at the time of the return; or the seller mails a check to the consumer within a reasonable time following return; or, for sales involving financial transaction cards, as defined in section 325G.02, subdivision 2, or sales in which the seller extends credit to the consumer, the seller credits the account that was charged.

Subd. 2. **Cash refunds required.** A seller may not refuse to give a cash refund to a consumer for goods that are acceptable for return unless the seller complies with subdivision 3.

Subd. 3. **Notice of refund policy.** If a seller wishes to alter the cash refund policy required by this section, written notice of the seller's cash refund policy must be clearly and conspicuously displayed on the premises. The notice must be written in boldface type of a minimum size of 14 points.

Subd. 4. **Nonapplication.** This section does not apply to home solicitation sales, as defined in section 325G.06, goods custom ordered or special ordered by the consumer, sellers licensed under section 168.27, or sales that are subject to a written agreement or contract under the uniform commercial code.

Subd. 5. **Violation.** A seller who violates this section is subject to the remedies under section 8.31, except that a civil penalty imposed under that section may not exceed $500 per violation.

History: *1987 c 205 s 1*

REPLICA FIREARMS

325F.81 REPLICA FIREARMS; WARNING LABEL.

Subdivision 1. **Definition.** For purposes of this section, "replica firearm" means a device or object that is not defined as a dangerous weapon, and that is a facsimile or toy version of, and reasonably appears to be a pistol, revolver, shotgun, sawed-off shotgun, rifle, machine gun, rocket launcher, or any other firearm.

Subd. 2. **Warning label required.** A person may not in the regular course of business offer for sale or sell a replica firearm unless it bears a warning label complying with this section. The warning label must be affixed at the time of packaging to the replica firearm, or to the package or box containing the replica firearm, so that it is clearly visible to the buyer.

Subd. 3. **Label requirements.** The word "warning" must be printed clearly on the label in upper case letters that measure at least one-half inch in size centered over the body copy of the actual warning. The warning label copy must be printed in letters that measure at least 3/32 of an inch in size. The warning label must be printed in ink that strongly contrasts with the background. The warning label must state the criminal penalties under state law that may arise from use of the replica firearm, and describe the prohibited activities.

Subd. 4. **Enforcement.** This section may be enforced by the attorney general under section 8.31, but a court may not impose a civil penalty of more than $500 for a violation of this section.

History: *1988 c 712 s 4*

AUTOMATIC GARAGE DOOR OPENING SYSTEMS

325F.82 DEFINITIONS.

Subdivision 1. **Scope.** For the purposes of section 325F.83, the terms defined in this section have the meanings given them.

Subd. 2. **Automatic garage door opening system.** "Automatic garage door opening system" means a system of devices and equipment that automatically opens and closes a garage door.

Subd. 3. **Garage.** "Garage" means a building, or a portion of a building, designed or used for the storage, repair, or keeping of a motor vehicle.

Subd. 4. **Residential building.** "Residential building" means a building such as a home or apartment for one or more families or persons that includes an attached or unattached garage.

History: *1990 c 414 s 2*

325F.83 REGULATION OF AUTOMATIC GARAGE DOOR OPENING SYSTEMS.

Subdivision 1. **Manufacturing, sales, purchases, repairs, or installations of systems.** (a) No person shall manufacture, sell, offer for sale, purchase, or install in this state an automatic garage door opening system for residential buildings that does not comply with subdivision 3.

(b) No person shall service or repair an automatic garage door opening system for residential buildings that does not comply with subdivision 3, paragraph (a). This paragraph does not prevent the servicing or repair of an automatic garage door opening system if the system will be in compliance with subdivision 3, paragraph (a), after the repair or service.

Subd. 2. **Design and construction of residential buildings.** No residential building shall be designed or built in this state unless all automatic garage door opening systems comply with subdivision 3.

Subd. 3. **Minimum standards.** (a) No later than January 1, 1991, all automatic garage door opening systems subject to subdivision 1 or 2 must conform to the applicable requirements of Underwriters Laboratories, Inc., Standards for Safety-UL 325, third edition, as revised May 4, 1988.

(b) No later than January 1, 1993, all automatic garage door opening systems subject to subdivision 1 or 2 must include an attached edge sensor, safety beam, or similar device that when activated causes a closing door to open and prevents an open door from closing. This device is to be designed and built so that a failure of the device prevents the door from closing.

Subd. 4. **Manufacturer's labeling requirements.** On and after January 1, 1991, a manufacturer selling or offering for sale automatic garage door opening systems in this state shall clearly identify on the container and on the system, the month and year the system was manufactured, and its conformance with UL 325, as required under subdivision 3, paragraph (a).

Subd. 5. **Occupant to inform owner.** For all residential buildings where the occupant is not the owner, the occupant has a duty to inform the owner of a nonfunctioning or malfunctioning reversing device or mechanism in an automatic garage door opening system within 24 hours of discovery of the problem.

Subd. 6. **Remedies and penalties.** A person who is found to have violated this section is subject to the penalties and remedies, including a private right of action, as provided in section 8.31.

Subd. 7. **Local regulation.** The governing body of a local unit of government may adopt, by ordinance, rules for the installation and maintenance of automatic garage door opening systems that are more restrictive than the standards imposed by this section. Rules adopted pursuant to this subdivision may be enforced through a truth-in-housing inspection.

Subd. 8. **Application of other law.** For the purposes of section 541.051, an automatic garage door opening device is not an improvement to real property.

History: *1990 c 414 s 3*

RENTAL PURCHASE AGREEMENTS

325F.84 DEFINITIONS.

Subdivision 1. **Applicability.** As used in sections 1 to 14, the following terms have the meanings given them.

Subd. 2. **Advertisement.** "Advertisement" means a commercial message in any medium, including signs, window displays, and price tags, that promotes, directly or indirectly, a rental-purchase agreement.

Subd. 3. **Cash price.** "Cash price" means an amount equal to the equivalent fair market value for goods offered under a consumer credit sale as provided under section 325G.15.

Subd. 4. **Consummation.** "Consummation" means the time at which the lessee enters into a rental-purchase agreement.

Subd. 5. **Lessee.** "Lessee" means a natural person who rents personal property under a rental-purchase agreement for personal, family, or household use.

Subd. 6. **Lessor.** "Lessor" means a person who, in the ordinary course of business, regularly leases, offers to lease, or arranges for the leasing of property under a rental-purchase agreement.

Subd. 7. **Personal property.** "Personal property" means property that is not real property under the laws of this state when it is made available for a rental-purchase agreement.

Subd. 8. **Rental-purchase agreement.** "Rental-purchase agreement" means an agreement for the use of personal property in which all of the following apply:

(1) the lessor is regularly engaged in the rental-purchase business;

(2) the agreement is for an initial period of four months or less, whether or not there is any obligation beyond the initial period, that is automatically renewable with each payment and that permits the lessee to become the owner of the property;

(3) the lessee is a person other than an organization; and

(4) the lessee takes under the rental-purchase agreement primarily for a personal, family, or household purpose.

History: *1990 c 527 s 1*

325F.85 APPLICATION OF OTHER LAW.

If the consumer protection provisions of sections 325F.84 to 325F.97 conflict with sections 325G.15 and 325G.16, sections 325F.84 to 325F.97 apply to a rental-purchase agreement and supersede sections 325G.15 and 325G.16.

History: *1990 c 527 s 2*

325F.86 DISCLOSURES.

In a rental-purchase agreement, the lessor shall disclose the following items, as applicable:

(a) The total of payments necessary to acquire ownership of the property accompanied by an explanation that this term means the "total dollar amount of payments you will have to make to acquire ownership."

(b) The total number, amounts, and timing of all payments and other charges including taxes or official fees paid to or through the lessor that are necessary to acquire ownership of the property.

(c) The difference between the amount disclosed under paragraph (a) and the cash price of the leased property, using the term "cost of lease services" to mean the difference between these amounts.

(d) Any initial or advance payment such as a delivery charge or trade-in allowance.

(e) A statement that the lessee will not own the property until the lessee has made the total of payments necessary to acquire ownership of the property.

(f) A statement that the total of payments does not include additional charges such as late payment charges, and a separate listing and explanation of these charges, as applicable.

(g) A statement that the lessee is liable for loss or damage to the property and the maximum amount for which the lessee is liable, which in the case of loss shall in no event be greater than the price the lessee would have paid to exercise an early purchase option. In the case of damage to the property other than normal wear and tear, the lessee shall be liable for the lesser of the price the lessee would have paid to exercise an early purchase option or the cost of repair as reasonably determined by the lessor.

(h) A statement that the lessee is not required to purchase a liability damage waiver from the lessor.

(i) A description of the goods or merchandise including model numbers as applicable and a statement indicating whether the property is new or used. It is not a violation of this subdivision to indicate that the property is used if it is actually new.

(j) A statement that the lessee has the option to purchase the leased property during the terms of the rental-purchase agreement and at what price, formula, or by what method the price is to be determined.

(k) The cash price of the merchandise.

(l) A statement of the following lessee rights: reinstatement rights under section 325F.90, default notice under section 325F.89, and consumer warranties under sections 325G.17 to 325G.20.

The commissioner of commerce may prescribe the disclosure form by rule.

History: *1990 c 527 s 3*

325F.87 FORM REQUIREMENTS.

Subdivision 1. **Generally.** The disclosure information required by section 325F.86 must be disclosed in a rental-purchase agreement and:

(1) must be made clearly and conspicuously with items appearing in logical order and segregated as appropriate for readability and clarity;

(2) must be made in writing;

(3) need not be contained in a single writing or made in the order set forth in section 325F.86; and

(4) may be supplemented by additional information or explanations supplied by the lessor, but none shall be stated, used, or placed so as to mislead or confuse the lessee or to contradict, obscure, or detract attention from the information required by section 325F.86, and so long as the additional information or explanations do not have the effect of circumventing, evading, or unduly complicating the information required to be disclosed by section 325F.86.

Subd. 2. **Timing.** The lessor shall disclose all information required by section 325F.86 before the rental-purchase agreement is executed. These disclosures must be made on the face of the writing evidencing the rental-purchase agreement.

Subd. 3. **Copy to lessee.** Before any payment is due, the lessor shall furnish the lessee with an exact copy of each rental-purchase agreement. The agreement shall be signed by the lessee and is evidence of the lessee's agreement. If there is more than one lessee in a rental-purchase agreement, delivery of a copy of the rental-purchase agreement to one of the lessees constitutes compliance with this subdivision; however, a lessee not signing the agreement is not liable under it.

Subd. 4. **Type size.** The terms of the rental-purchase agreement, except as otherwise provided in this section, must be set forth in not less than eight-point standard type.

Subd. 5. **Blank spaces.** All blank spaces on the rental-purchase agreement form must be filled in before the rental-purchase agreement is executed. Blank spaces that are provided for items or terms not applicable to the agreement must be crossed out.

History: *1990 c 527 s 4*

325F.88 ADVERTISING.

Subdivision 1. **Prohibition.** An advertisement for a rental-purchase agreement shall not state or imply that a specific item is available at specific amounts or terms unless the lessor usually and customarily offers or will offer that item at those amounts or terms.

Subd. 2. **Disclosures.** (a) If an advertisement for a rental-purchase agreement refers to or states the amount of any payment or the right to acquire ownership for a specific item, the advertisement must also clearly and conspicuously state the following terms, as applicable:

(1) that the transaction advertised is a rental-purchase agreement;

(2) the total of payments necessary to acquire ownership; and

(3) that the lessee will not own the property until the total amount necessary to acquire ownership is paid in full or by prepayment as provided for by law.

(b) Every item displayed or offered under a rental-purchase agreement shall have clearly and conspicuously indicated in Arabic numerals, so as to be readable and understandable by visual inspection, each of the following affixed to the item:

(1) the cash price of the item; and

(2) the amount of the lease payment and the total of lease payments required for ownership.

Subd. 3. **Nonapplication.** This section does not apply to the owner or personnel, as such, of any medium in which an advertisement appears or through which it is disseminated.

History: *1990 c 527 s 5*

325F.89 DEFAULT.

Subdivision 1. **Enforceability.** An agreement of the parties to a rental-purchase agreement with respect to default is enforceable only to the extent that one of the following apply:

(1) the lessee both fails to renew an agreement and also fails to return the property or make arrangements for its return as provided in the agreement; or

(2) the prospect of payment, performance, or return of the property is materially impaired due to a breach of the rental-purchase agreement, with the burden of establishing the prospect of material impairment on the lessor.

Subd. 2. **Authorization.** If a lessee has been in default for three business days, the lessor may give the lessee a default notice and request surrender of the property as provided under subdivision 3. Mailing written notice to the last known address of the lessee meets the requirement of giving written notice under subdivision 3.

Subd. 3. **Default notice.** The first default notice and a subsequent default notice that is sent more than 12 months after sending the last written notice must be in writing and conspicuously state the following:

(1) the name, address, and telephone number of the lessor to whom payment is to be made;

(2) a brief identification of the transaction;

(3) the lessee's right to cure the default;

(4) the amount of payment and date by which payment must be made to cure the default;

(5) a statement of the lessee's reinstatement rights as provided under section 325F.90; and

(6) a request to voluntarily surrender the property if the payment is not made.

A subsequent default notice given within the 12 months after a written default notice may be given orally and constitutes proper notice under this section.

Subd. 4. **Property recovery.** A lessor may not bring a court action to recover the property until seven days after a proper default notice has been given.

Subd. 5. **Voluntary surrender of property.** This section does not prohibit a lessee from voluntarily surrendering possession of the property or the lessor from enforcing a past due obligation which the lessee may have at any time after default.

Subd. 6. **Compliance.** If the lessee cures the default by taking the action required in the default notice, a breach of the agreement is considered as not having occurred.

History: *1990 c 527 s 6*

325F.90 LESSEE'S REINSTATEMENT RIGHTS.

Subdivision 1. **Generally.** A lessee who fails to make timely lease payments may reinstate the original rental-purchase agreement without losing any rights or options previously acquired under the rental-purchase agreement if both of the following apply:

(1) after having failed to make a timely payment, the lessee has surrendered the property to the lessor within seven days of a request to surrender the property made by the lessor as provided in section 325F.89; and

(2) in the case of a lessee that has paid less than 60 percent of the total of payments necessary to acquire ownership of the property, not more than 60 days have passed since the lessee returned the property. If the lessee has paid more than 60 percent of the total of payments necessary to acquire ownership of the property, the lessee's rights to reinstate shall be extended for a period of not less than 180 days after the lessee has returned the property.

Subd. 2. **Charges.** As a condition to reinstating a rental-purchase agreement, a lessor may charge the outstanding balance of any accrued payments; a reinstatement fee not to exceed $5 for each reinstatement; and a delivery charge not to exceed $15 for five items or less or $30 for more than five items, if redelivery of the item is necessary.

Subd. 3. **Substitute items.** If reinstatement occurs as provided in this section, the lessor shall provide the lessee with the same item, if available, leased by the lessee before reinstatement. If the same item is not available, a substitute item of comparable worth, quality, and condition may be used. If a substitute item is provided, the lessor shall provide the lessee with all the information required by section 325F.86.

History: *1990 c 527 s 7*

325F.91 PROHIBITED PRACTICES.

Subdivision 1. **Prohibited rental agreement provisions.** A rental-purchase agreement may not contain a provision:

(1) requiring a confession of judgment;

(2) authorizing a lessor or an agent of the lessor to commit a breach of the peace in the repossession of property;

(3) waiving a defense, counterclaim, or right the lessee may have against the lessor or an agent of the lessor;

(4) requiring the payment of a late charge unless a lease payment is delinquent for more than two business days for a weekly lease or three business days for a monthly lease, and the charge or fee shall not be in an amount more than the greater of five percent of the delinquent lease payment or $3;

(5) requiring a separate payment in addition to lease payments in order to acquire ownership of the property, other than by exercising an early purchase option pursuant to section 325F.93; and

(6) authorizing a lessor to charge a penalty for early termination of a rental-purchase agreement.

Subd. 2. **Cash price limits rules.** The commissioner of commerce shall adopt rules governing cash price limits for rental-purchase agreements. Notwithstanding section 14.18, the rules are effective 45 working days after the notice of adoption is published in the State Register.

Subd. 3. **Delivery charges; security deposits; collection fees.** A lessor may not charge a delivery charge that is greater than $15 for five items or less or $30 for more than five items. A lessor may not charge a security deposit. A lessor may contract for and receive a charge for picking up payments from the lessee if the lessor is required or requested to visit the lessee's dwelling to pick up a payment. In a consumer rental-purchase agreement with payment or renewal dates which are more frequent than monthly, this charge shall not be assessed more than three times in any three-month period. In consumer rental-purchase agreements with payments or renewal options which are at least monthly, this charge shall not be assessed more than three times in

any six-month period. A charge assessed pursuant to this subdivision shall not exceed $7. This charge is in lieu of a late charge assessed for the applicable payment period.

History: *1990 c 527 s 8*

325F.92 LESSOR'S COMMUNICATIONS CONCERNING LESSEE.

Subdivision 1. **Location information.** A lessor in communication with any person other than the lessee for the purpose of acquiring information as to the location of a lessee shall:

(1) identify the lessor and state that the lessor is confirming or correcting location information concerning the lessee;

(2) not communicate with any person more than once unless requested to do so by the person or unless the lessor reasonably believes that the earlier response is erroneous or incomplete and that the person now had correct or complete location information;

(3) not communicate by postcard;

(4) not use any language or symbol on any envelope or in the contents of any communication that indicates that the communication relates to the recovery or repossession of property; and

(5) not communicate with any person other than the lessee's attorney, after the lessor knows the lessee is represented by an attorney with regard to the rental-purchase agreement and has knowledge of, or can readily ascertain, the attorney's name and address, unless the attorney fails to respond within a reasonable period of time to communication from the lessor or unless the attorney consents to direct communication with the lessee.

Subd. 2. **Time and place.** Without the prior consent of the lessee given directly to the lessor or the express permission of a court of competent jurisdiction, a lessor may not communicate with a lessee in connection with the recovery or repossession of property:

(1) at the lessee's place of employment; or

(2) at any unusual time or place or a time or place known or which should be known to be inconvenient to the lessee. In the absence of knowledge of circumstances to the contrary, a lessor shall assume that the convenient time for communicating with a lessee is after 8:00 a.m. and before 9:00 p.m., local time, at the lessee's location.

Subd. 3. **Authorized communications.** A lessor may not communicate, in connection with the rental-purchase agreement, with any person other than the lessee, the lessee's attorney, or the lessor's attorney, except as reasonably necessary to acquire location information concerning the lessee as provided under subdivision 1, or upon prior consent of the lessee given directly to the lessor, or upon express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a postjudgment judicial remedy.

Subd. 4. **Ceasing communication.** If a lessee notifies the lessor in writing that the lessee wishes the lessor to cease further communication with the lessee, the lessor shall not communicate further with the lessee with respect to the rental-purchase agreement, except:

(1) to advise the lessee that the lessor's further efforts are being terminated;

(2) to notify the lessee that the lessor may invoke specified remedies allowable by law which are ordinarily invoked by the lessor; or

(3) where necessary to effectuate any postjudgment remedy.

Subd. 5. **Harassment or abuse.** A lessor may not harass, oppress, or abuse any person in connection with a rental-purchase agreement. The following conduct is a violation of this subdivision:

(1) the use or threat of use of violence or the criminal means to harm the physical person, reputation, or property of any person;

(2) the use of obscene, profane, or abusive language;

(3) causing a telephone to ring, or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person; and

(4) the placement of telephone calls without disclosure of the caller's identity.

History: *1990 c 527 s 9*

325F.93 EARLY PURCHASE OPTION.

At any time after the first periodic payment is made, the lessee may acquire ownership of the property by tendering 55 percent of the difference between the total of scheduled payments and the total amount paid on the account.

History: *1990 c 527 s 10*

325F.94 CLAIMS AND DEFENSES.

An assignee of the contract or obligation relating to the rental-purchase lease transaction is subject to all claims and defenses of the lessee against the lessor arising from the rental-purchase lease transaction, notwithstanding any agreement to the contrary.

History: *1990 c 527 s 11*

325F.95 LIABILITY; LIABILITY DAMAGE WAIVER.

Subdivision 1. **Liability of lessee.** The lessee is liable for loss, destruction, or damage of the rental property during the term of the rental agreement. The amount for which the lessee may be held liable in the case of loss or destruction of the property may not exceed the price that the lessee would have paid to exercise an early purchase option. In the case of damage to the property other than normal wear and tear, the lessee is liable for the price that the lessee would have paid to exercise an early purchase option or the cost of repair as reasonably determined by the lessor, whichever is less.

Subd. 2. **Liability damage waiver.** (a) The lessor must offer a liability damage waiver to the lessee to cover the lessee's liability for any loss, destruction, or damage of the rental property. The cost of the liability damage waiver may not exceed ten percent of the lessee's lease payment.

(b) The lessor must inform the lessee of the following options available to the lessee regarding the property subject to a rental-purchase agreement:

(1) furnish insurance coverage on the property through an existing insurance policy that is owned by the lessee;

(2) purchase insurance coverage on the property through any insurer authorized to transact business in this state;

(3) purchase liability damage waiver coverage from the lessor; or

(4) decline to furnish or purchase insurance coverage or liability damage waiver coverage.

History: *1990 c 527 s 12*

325F.96 EXEMPTED TRANSACTION.

Sections 325F.84 to 325F.97 do not apply to agreements for the rental of property in which the person who rents the property has no legal right to become the owner of the rented property at the end of the rental period.

History: *1990 c 527 s 13*

325F.97 PENALTIES AND REMEDIES.

Subdivision 1. **Disclosure penalties and remedies.** A lessor who is found to have violated sections 325F.86 to 325F.88 is subject to the penalties and remedies provided in section 8.31.

Subd. 2. **Application of other law.** A violation of section 325F.90, 325F.91, or 325F.93 shall be treated as a violation of section 325F.69. The remedies provided by section 325F.90, 325F.91, or 325F.93 are cumulative and shall not be construed as restricting any remedy that is otherwise available.

Subd. 3. **Offsets limited.** A lessee may not take any action to offset any amount for which a lessor is potentially liable under this section against any amount owed by the lessee, unless the amount of the liability of the lessor has been determined by a judgment of a court of competent jurisdiction in an action in which the lessor was a party. This section does not bar a lessee in default on an obligation arising from the rental-purchase agreement from asserting a violation of this chapter in an original action, or as defense or counterclaim to an action brought by the lessor to collect amounts owed by the lessee pursuant to the rental-purchase agreement.

Subd. 4. **Lessor's right to correct error.** A lessor is not liable under this section for a violation of sections 325F.84 to 325F.96 if, within 60 days after discovering an error and before an action for damages is filed against the lessor pursuant to this section or written notice of the error is received from the lessee, the lessor notifies the lessee of the error and makes adjustments to the account of the lessee that are necessary to assure that the lessee is not required to pay an amount in excess of the amounts actually disclosed. This subdivision applies whether the error was discovered through the lessor's own procedures or by any other means.

Subd. 5. **Limitation of liability.** A lessor is not liable under this section for damages in excess of the actual damage sustained by the lessee if the lessor shows by a preponderance of the evidence that the violation of sections 325F.84 to 325F.96 resulted from a bona fide error notwithstanding the maintenance by the lessor of procedures reasonably adopted to avoid the error. As used in this subdivision, "bona fide error" includes, but is not limited to: clerical, calculation, computer malfunction and programming, and printing errors.

History: *1990 c 527 s 14*

325F.98 LEGISLATIVE RECOMMENDATIONS.

The commissioner of commerce shall review and may make recommendations concerning the cost of liability damage waivers required under section 325F.95, subdivision 2, to the legislature.

History: *1990 c 527 s 15*