

CHAPTER 299A

DEPARTMENT OF PUBLIC SAFETY

299A.015	Duties transferred from other agency.	299A.49	Definitions.
299A.293	Chemical Abuse and Violence Prevention Council.	299A.51	Liability and workers' compensation.
299A.2994	Asian-American juvenile crime prevention.	299A.68	Minnesota Financial Crimes Task Force.
299A.331	DARE Advisory Council.	299A.77	Alcohol enforcement account; appropriation.
299A.42	Public safety officer's benefit account.	299A.80	Administrative powers and penalties; general.
299A.44	Death benefit.	299A.801	Corrective orders and injunctions.
299A.45	Education benefit.	299A.802	Administrative penalty order.
299A.465	Continued health insurance coverage.		

299A.015 DUTIES TRANSFERRED FROM OTHER AGENCY.

The powers and duties of the Department of Children, Families, and Learning with respect to the Office of Drug Policy and Violence Prevention and Community Advisory Violence Prevention Council under Minnesota Statutes 1998, sections 119A.25, 119A.26, 119A.27, 119A.28, 119A.29, 119A.31, 119A.32, 119A.33, and 119A.34, are transferred to the Department of Public Safety under section 15.039.

History: 2003 c 130 s 12

299A.293 CHEMICAL ABUSE AND VIOLENCE PREVENTION COUNCIL.

Subdivision 1. **Establishment; membership.** A Chemical Abuse and Violence Prevention Council consisting of 19 members is established. The commissioners of public safety, education, health, corrections, and human services, the director of the Office of Strategic and Long-Range Planning, and the attorney general shall each appoint one member from among their employees. The speaker of the house of representatives and the Subcommittee on Committees of the senate shall each appoint a legislative member. The governor shall appoint an additional ten members who shall represent the demographic and geographic composition of the state and, to the extent possible, shall represent the following: public health; education including preschool, elementary, and higher education; social services; financial aid services; chemical dependency treatment; law enforcement; prosecution; defense; the judiciary; corrections; treatment research professionals; drug abuse prevention professionals; the business sector; religious leaders; representatives of racial and ethnic minority communities; and other community representatives. The members shall designate one of the governor's appointees as chair of the council. Compensation and removal of members are governed by section 15.059.

[For text of subd 2, see M.S.2002]

History: 2003 c 130 s 12

299A.2994 ASIAN-AMERICAN JUVENILE CRIME PREVENTION.

Subdivision 1. **Grant program.** The commissioner of public safety shall establish a grant program for coordinated, family-based crime intervention and prevention services for Asian-American youth. The commissioners of human services, education, and public safety shall work together to coordinate grant activities.

[For text of subs 2 to 5, see M.S.2002]

History: 2003 c 130 s 12

299A.331 DARE ADVISORY COUNCIL.

Subdivision 1. **Membership.** The Advisory Council on Drug Abuse Resistance Education consists of:

- (1) the attorney general who shall serve as chair;
- (2) the commissioner of public safety;

- (3) the commissioner of education;
- (4) three representatives of law enforcement appointed by the commissioner of public safety;
- (5) three representatives of education appointed by the commissioner of education;
- (6) a representative of the DARE Officers Association appointed by the Peace Officer Standards and Training Board from among recommendations of the association; and
- (7) seven citizens appointed by the attorney general.

[For text of subd 2, see M.S.2002]

History: 2003 c 130 s 12

299A.42 PUBLIC SAFETY OFFICER'S BENEFIT ACCOUNT.

The public safety officer's benefit account is created in the state treasury. Money in the account consists of money transferred and appropriated to that account. Money in the account that is not expended in the fiscal year in which it is transferred or appropriated does not revert to the general fund until claims for reimbursement under section 299A.465 that are submitted in that fiscal year are either paid or denied.

History: 1Sp2003 c 2 art 4 s 2

299A.44 DEATH BENEFIT.

Subdivision 1. **Payment required.** (a) On certification to the governor by the commissioner of public safety that a public safety officer employed within this state has been killed in the line of duty, the commissioner of finance shall pay \$100,000 from the public safety officer's benefit account, as follows:

- (1) if there is no dependent child, to the spouse;
- (2) if there is no spouse, to the dependent child or children in equal shares;
- (3) if there are both a spouse and one or more dependent children, one-half to the spouse and one-half to the child or children, in equal shares;
- (4) if there is no surviving spouse or dependent child or children, to the parent or parents dependent for support on the decedent, in equal shares; or
- (5) if there is no surviving spouse, dependent child, or dependent parent; to the public safety officer's estate.

(b) If there are both a spouse and one or more dependent children under age 18, the spouse, at the spouse's discretion, may spend a maximum of one-third of a child's share on medical or dental treatment for the child or the child's education. Expenditures under this paragraph on behalf of a child do not diminish the shares of any other children. In addition, a spouse, at the spouse's discretion, may expend money from a child's share to pay state and federal taxes on any interest accrued on the share.

[For text of subd 2, see M.S.2002]

History: 1Sp2003 c 2 art 4 s 3

299A.45 EDUCATION BENEFIT.

[For text of subd 1, see M.S.2002]

Subd. 2. **Award amount.** (a) The amount of the award is the lesser of:

- (1) the average tuition and fees charged by the institution; or
- (2) the tuition maximums established by law for the state grant program under section 136A.121.

(b) An award under this subdivision must not affect a recipient's eligibility for a state grant under section 136A.121.

(c) For the purposes of this subdivision, “fees” include only those fees that are mandatory and charged to all students attending the institution.

[For text of subs 3 and 4, see M.S.2002]

History: 2003 c 133 art 3 s 26

299A.465 CONTINUED HEALTH INSURANCE COVERAGE.

[For text of subs 1 to 3, see M.S.2002]

Subd. 4. Public employer reimbursement. A public employer subject to this section may annually apply by August 1 for the preceding fiscal year to the commissioner of public safety for reimbursement to help defray a portion of its costs of complying with this section. The commissioner shall provide an equal pro rata share to the public employer out of the public safety officer’s benefit account based on the availability of funds for each eligible officer, firefighter, and qualifying dependents. Individual shares must not exceed the actual costs of providing coverage under this section by a public employer.

[For text of subd 5, see M.S.2002]

History: 1Sp2003 c 2 art 4 s 4; 1Sp2003 c 19 art 2 s 49

299A.49 DEFINITIONS.

[For text of subd 1, see M.S.2002]

Subd. 2. Chemical assessment team. “Chemical assessment team” means a team (1) trained, equipped, and authorized to evaluate and, when possible, provide simple mitigation to a hazardous materials incident and (2) required to recommend to the local incident manager the best means of controlling the hazard after consideration of life safety concerns, environmental effects, exposure hazards, quantity and type of hazardous material, availability of resources, or other relevant factors.

[For text of subd 3, see M.S.2002]

Subd. 4. Hazardous materials. “Hazardous materials” means substances or materials that, because of their chemical, physical, or biological nature, pose a potential risk to life, health, or property if they are released. “Hazardous materials” includes any substance or material in a particular form or quantity that may pose an unreasonable risk to health, safety, and property, or any substance or material in a quantity or form that may be harmful to humans, animals, crops, water systems, or other elements of the environment if accidentally or intentionally released. Hazardous substances so designated may include explosives, radioactive materials, etiologic agents, flammable liquids or solids, combustible liquids or solids, poisons, oxidizing or corrosive materials, chemical and biological substances, and toxic or flammable gases.

[For text of subs 5 to 7, see M.S.2002]

History: 2003 c 39 s 1,2

299A.51 LIABILITY AND WORKERS’ COMPENSATION.

Subdivision 1. Liability. During operations authorized under section 299A.50, members of a regional hazardous materials team operating outside their geographic jurisdiction are “employees of the state” as defined in section 3.736.

Subd. 2. Workers’ compensation. During operations authorized under section 299A.50, members of a regional hazardous materials team operating outside their geographic jurisdiction are considered employees of the Department of Public Safety for purposes of chapter 176.

[For text of subd 3, see M.S.2002]

History: 2003 c 39 s 3,4

299A.68 MINNESOTA FINANCIAL CRIMES TASK FORCE.

Subdivision 1. **Task force established.** The Minnesota Financial Crimes Task Force is established to investigate major financial crimes. Local law enforcement agencies, federal law enforcement agencies, and state and federal prosecutor's offices may join the Minnesota Financial Crimes Task Force, subject to the provisions of this section.

Subd. 2. **Task force's duties.** (a) The task force shall investigate consumer identity theft cases and reported financial crimes from individuals and businesses that are victims of such crimes.

(b) The task force shall focus on financial crimes including, but not limited to, statewide crimes such as: theft, fraud, and forgery crimes, including identity theft, check forgery, fraud in obtaining credit, financial transaction card fraud, theft from merchants, possession or sale of stolen or counterfeit checks, issuance of dishonored checks, creation or use of counterfeit state identification, obtaining counterfeit state identification, fraudulent Internet transactions, fraudulent merchandise returns, investment fraud, insurance fraud, vehicle insurance fraud, financial institution fraud, fraud related to state or federal programs, tax fraud, mail and wire fraud, and other related financial crimes.

(c) In particular, the task force shall investigate individuals and organizations, based on their criminal activity, that:

- (1) commit multiple, cross-jurisdictional, financial crimes;
- (2) employ computers and other sophisticated technology to counterfeit documents or commit fraud; or
- (3) illegally obtain consumer information for identity theft.

Subd. 3. **Role of participating agencies.** (a) The agencies that participate in the statewide Financial Crimes Task Force shall oversee the task force's operation by establishing procedures and guidelines in an agreement. The agreement must be addressed in a memorandum of understanding and signed by the person in charge of each participating agency of government. The memorandum of understanding must address the following:

- (1) the command structure of the task force;
- (2) acquisition and liquidation of equipment, office space, and transportation;
- (3) procedures for contracting for necessary administrative support;
- (4) selection and assignment of members;
- (5) transfer of task force members;
- (6) resolution of disputes between participating agencies;
- (7) requirements and procedures for all workers' compensation and other liability to remain the responsibility of each member's employing agency;
- (8) disposition of assets and debts if the task force is disbanded; and
- (9) all other issues deemed pertinent by the participating agencies.

(b) Federal law enforcement agencies participating in the task force must be signatories to the memorandum of understanding. Federal law enforcement agencies and officers participating in the task force may not participate in the selection of the statewide commander or receive any funding for agents' salaries, benefits, or overtime.

Subd. 4. **Statewide commander.** The participating local agencies shall select a commander to direct the task force. The commander shall make tactical decisions regarding the commencement, continuation, and conclusion of investigations of crimes in consultation with agencies participating in the task force. The commander shall also report annually to the commissioner of public safety as required in subdivision 10.

Subd. 5. **Members; employment status.** All law enforcement officers selected to join the task force must be licensed peace officers under section 626.84, subdivision 1, or qualified federal law enforcement officers as defined in section 626.8453. Members remain employees of the same entity that employed them before joining the task force. Compensation, personnel evaluations, grievances, merit increases, and liability insurance coverage, such as general, personal, vehicle, and professional liability insurance,

must be covered by each member's employing agency. Members of the Financial Crimes Task Force are not employees of the state.

Subd. 6. **Jurisdiction and powers.** Law enforcement officers who are members of the task force have statewide jurisdiction to conduct criminal investigations into financial crimes as described in subdivision 2.

Officers assigned to the Financial Crimes Task Force shall follow their county arrest procedures, booking processes, reporting processes, county attorney charging requirements, and appropriate notification protocols to local and county sheriff agencies where arrests are made and search warrants executed. The commander of the task force is responsible for ensuring compliance with applicable local practices and procedures.

Subd. 6a. **Regional offices.** The commander, as funding permits, may establish seven regional offices of the task force to investigate financial crimes throughout the state and the regional areas. The regional offices must originally be established based on current state judicial districts, with one regional office covering the First, Second, Fourth, and Tenth Judicial Districts. The commander must establish a separate regional office in each of the Third, Fifth, Sixth, Seventh, Eighth, and Ninth Judicial Districts. The regional offices must be composed of participating agencies from each of the designated geographic areas. In consultation with the commander, the participating agencies of each regional office must select a supervisor to direct the office. The regional office supervisors must report to the commander. If necessary, the advisory committee established in subdivision 8 may modify the geographic boundary of a regional office.

Subd. 7. **Collaboration with other prosecutorial and law enforcement offices.** To the greatest degree possible, the task force shall cooperate and collaborate with existing prosecutorial offices and law enforcement agencies.

Subd. 8. **Budget; advisory committee; fund allocation and use.** (a) The statewide commander shall establish an operational budget and present it to an advisory committee for approval. Grants awarded to participating local agencies must be approved by the advisory committee. The advisory committee must be composed of the statewide commander, a county attorney from the metro area, a county attorney from greater Minnesota, and the three chiefs of police or sheriffs from the local law enforcement agencies that have the longest continuous participation in the task force. The committee shall appoint a chair from among its members. The statewide commander must not be the chair of the committee. The committee may adopt procedures to govern its conduct if necessary. A committee member may appoint a designee to take the member's place. The advisory committee shall oversee and select a fiscal agent qualified to handle financial accounting of task force funding. The task force shall be assigned an originating reporting number for case tracking and reporting purposes.

(b) A participating local agency may seek a grant for reimbursement for the time and resources that a peace officer, investigator, detective, prosecutor, and administrative staff dedicate to the task force, or for any other task force-related purposes as described in paragraph (d). In order to receive a grant under this subdivision, a participating local agency must provide a 20 percent match in nonstate funds or in-kind contributions either directly from its budget or from businesses directly donating support. A participating employee shall remain an employee of the contributing agency.

(c) For purposes of this subdivision, an "in-kind contribution" means any asset contribution or personnel costs not funded by this section, including office supplies, furniture, office space, computers, software, equipment, surveillance tools, and personnel benefits. It also includes contributions from federal agencies, businesses, nonprofit organizations, individuals, or legal entities used for general operations support and not directed toward the case of a particular victim or business.

(d) Task force funds may be used for any task force-related purpose including salaries, overtime, administration, office costs, law enforcement equipment, computers, software, vehicle expenses, travel, and training.

(e) The commissioner shall transfer all funds to the task force from financial contributions and grants designated to the task force for the purposes described in this section.

Subd. 9. **Forfeiture.** Property seized by the task force is subject to forfeiture pursuant to sections 609.531, 609.5312, 609.5313, and 609.5315 if ownership cannot be established. The task force shall receive the proceeds from the sale of all property that it properly seizes and that is forfeited.

Subd. 10. **Required reports.** Beginning July 1, 2003, the commander of the task force shall report annually to the commissioner on the activities of the task force.

Subd. 11. **Task force is permanent.** Notwithstanding section 15.059, this section does not expire.

Subd. 12. **Matching federal dollars.** The task force may accept grants or contributions from any federal source or legal business or entity.

History: 2003 c 36 s 1

299A.77 ALCOHOL ENFORCEMENT ACCOUNT; APPROPRIATION.

(a) An alcohol enforcement account is created in the special revenue fund, consisting of money credited to the account by law. Money in the account may be appropriated by law for (1) costs of the Alcohol and Gambling Division related to administration and enforcement of sections 340A.403, subdivision 4; 340A.414, subdivision 1a; and 340A.504, subdivision 7; and (2) costs of the State Patrol.

(b) The commissioner shall transfer from the account to the trunk highway fund \$3,500,000 in fiscal year 2004 and \$3,700,000 in fiscal year 2005, or so much thereof as is necessary to pay costs of adding State Patrol positions.

History: 1Sp2003 c 19 art 2 s 50

NOTE: This section as added by Laws 2003, First Special Session chapter 19, article 2, section 50, is repealed July 1, 2005, provided that the commissioner of revenue has made the report to the secretary of state of the determination described in Laws 2003, First Special Session chapter 19, article 2, section 76, paragraph (b), by that date. If no such determination has been made by that date, this section remains in effect. Laws 2003, First Special Session chapter 19, article 2, section 79, subdivision 3.

299A.80 ADMINISTRATIVE POWERS AND PENALTIES; GENERAL.

Subdivision 1. **Definitions.** (a) For purposes of sections 299A.80 to 299A.802, the terms defined in this subdivision have the meanings given them.

(b) "Administrative agent" means a person or entity licensed by or granted authority by the commissioner of public safety under:

- (1) section 168.33 as a deputy registrar;
- (2) section 168C.11 as a deputy registrar of bicycles; or
- (3) section 171.061 as a driver's license agent.

(c) "Other authority" means licenses, orders, stipulation agreements, settlements, or compliance agreements adopted or issued by the commissioner of public safety.

(d) "Commissioner" means the commissioner of public safety.

(e) "License" means a license, permit, registration, appointment, or certificate issued or granted to an administrative agent by the commissioner of public safety.

Subd. 2. **Applicability.** Sections 299A.80 to 299A.802 apply to administrative agents licensed by or subject to other authority of the commissioner.

Subd. 3. **Cumulative remedy.** The authority of the commissioner to issue a corrective order or assess an administrative penalty under sections 299A.80 to 299A.802 is in addition to other remedies available under statutory or common law, except that the state may not seek a civil penalty under any other law for a violation covered by an administrative penalty order. The payment of a penalty does not preclude the use of other enforcement provisions, under which civil fines are not assessed, in connection with the violation for which the penalty was assessed.

Subd. 4. **Access to information and property.** The commissioner, an employee, or an agent authorized by the commissioner, upon presentation of credentials, may:

(1) examine and copy any books, papers, records, memoranda, or data of an administrative agent; and

(2) enter upon any property where an administrative agent conducts its place of business to take actions authorized under statute, rule, or other authority, including (i) obtaining information from an administrative agent who has a duty to provide information under statute, rule, or other authority, (ii) taking steps to remedy violations, or (iii) conducting surveys or investigations.

Subd. 5. False information. (a) An administrative agent may not:

(1) make a false material statement, representation, or certification in a required document;

(2) omit material information from a required document; or

(3) alter, conceal, or fail to file or maintain a required document.

(b) In this section, "required document" means a notice, application, record, report, plan, or other document required under statute, rule, or other authority.

Subd. 6. Enforcement. (a) The attorney general may proceed on behalf of the state to enforce administrative penalties that are due and payable under section 299A.802 in any manner provided by law for the collection of debts.

(b) The attorney general may petition the district court to file a final administrative penalty order as an order of the court. At any court hearing to enforce a final administrative penalty order, the only issues the parties may contest are procedural and notice issues. Once entered, the administrative penalty order may be enforced in the same manner as a final judgment of the district court. This paragraph does not preclude district court review of the merits of an administrative penalty order if the order is appealed by the administrative agent under section 299A.802, subdivision 5.

(c) If an administrative agent fails to pay an administrative penalty, the attorney general may bring a civil action in district court seeking payment of the penalty, injunctive relief, or other appropriate relief including monetary damages, attorney fees, costs, and interest.

Subd. 7. Recovery of reasonable costs and attorney fees. (a) In any judicial action brought by the attorney general for civil penalties, injunctive relief, or an action to compel performance pursuant to this section, if the state finally prevails, and if the proven violation was willful, the state, in addition to other penalties provided by law, may be allowed an amount determined by the court to be the reasonable value of all or part of the costs and attorney fees incurred by the state or the prevailing party. In determining the amount of the reasonable costs and attorney fees to be allowed, the court must give consideration to the economic circumstances of the defendant.

(b) However, if a defendant prevails, the court may award the reasonable value of all or part of the reasonable costs and attorney fees incurred by the defendant.

Subd. 8. Education and compliance account; money allocated. An education and compliance account is created for the deposit of administrative penalty order receipts. Of the funds deposited in this account, \$5,000 each year is appropriated to the commissioner for education and compliance activities related to the regulated parties affected by this chapter. At the end of each biennium, all money not expended lapses to the general fund.

Subd. 9. Plan for using penalty order or cease and desist authority. The commissioner shall prepare a plan for using the administrative penalty order and cease and desist authority in this section. The commissioner shall provide a 30-day period for public comment on the plan. The plan must be finalized by July 1, 2004, and may be modified as necessary upon subsequent notice and opportunity for comment.

History: *1Sp2003 c 19 art 2 s 51*

299A.801 CORRECTIVE ORDERS AND INJUNCTIONS.

Subdivision 1. Corrective order. (a) Before seeking an administrative penalty order under section 299A.802, the commissioner must issue a corrective order that requires the administrative agent to correct the violation of statute, rule, or other authority. The

corrective order must state the deficiencies that constitute the violation of the specific statute, rule, or other authority, and the time by which the violation must be corrected. In addition to service by certified mail on the administrative agent, a copy of the corrective order must be given to the county auditor in the county where the administrative agent is located.

(b) The administrative agent to whom the corrective order was issued shall provide information to the commissioner, by the due date stated in the corrective order, demonstrating that the violation has been corrected or that the administrative agent has developed a corrective plan acceptable to the commissioner. The commissioner must determine whether the violation has been corrected and notify the administrative agent subject to the order of the commissioner's determination.

(c) If the administrative agent believes that the information contained in the commissioner's corrective order is in error, the administrative agent may ask the commissioner to reconsider the parts of the corrective order that are alleged to be in error. The request must:

- (1) be in writing;
- (2) be delivered to the commissioner by certified mail within seven calendar days after receipt of the corrective order;
- (3) specify which parts of the corrective order are alleged to be in error and explain why they are in error; and
- (4) provide documentation to support the allegation of error.

(d) The commissioner shall respond to requests made under paragraph (c) within 15 calendar days after receiving a request. A request for reconsideration does not stay the corrective order; however, after reviewing the request for reconsideration, the commissioner may provide additional time to comply with the order if necessary. The commissioner's disposition of a request for reconsideration of a corrective order is final.

Subd. 2. Cease and desist order. The commissioner, or an employee of the department designated by the commissioner, may issue an order to cease an activity otherwise authorized by statute, rule, or other authority if continuation of the activity would result in an immediate risk to public safety. A cease and desist order issued under this subdivision is effective for a maximum of 72 hours. In conjunction with issuing the cease and desist order, the commissioner may post a sign to cease an activity until the cease and desist order is lifted and the sign is removed by the commissioner. To restrain activities for a period beyond 72 hours, the commissioner must seek an injunction or take other administrative action authorized by law. The issuance of a cease and desist order does not preclude the commissioner from pursuing any other enforcement action available to the commissioner.

Subd. 3. Action for injunctive relief. In addition to any other remedy provided by law, the commissioner may bring an action for injunctive relief in the District Court in Ramsey County or, at the commissioner's discretion, in the district court in the county in which a violation of a statute, rule, or other authority has occurred to enjoin the violation.

History: *1Sp2003 c 19 art 2 s 52*

299A.802 ADMINISTRATIVE PENALTY ORDER.

Subdivision 1. Authority; maximum penalty amount; notice. The commissioner may issue an administrative penalty order for a violation of statute, rule, or other authority if an administrative agent has failed to comply with a corrective order issued under section 299A.801 related to that violation. The maximum amount of an administrative penalty order is \$10,000 for each administrative agent for all violations identified in an inspection or review of compliance. In addition to service by certified mail on the administrative agent, a copy of the administrative penalty order must be given to the county auditor in the county where the administrative agent is located.

Subd. 2. **Amount of penalty; considerations.** (a) In determining the amount of a penalty to be assessed under this section, the commissioner may consider:

- (1) the willfulness of the violation;
 - (2) the gravity of the violation, including damage to consumers or the state;
 - (3) the history of past violations;
 - (4) the number of violations;
 - (5) the economic benefit gained by the administrative agent by allowing or committing the violation; and
- (6) other factors as justice may require, if the commissioner specifically identifies the additional factors in the commissioner's order.

(b) If an administrative agent violates a corrective order after a violation of a previous corrective order, the commissioner, in determining the amount of a penalty, must consider the factors in paragraph (a) and the following factors:

- (1) similarity of the most recent previous violation of a corrective order and the violation to be penalized;
- (2) time elapsed since the last violation of a corrective order;
- (3) number of previous violations; and
- (4) response of the administrative agent to the most recent previous violation identified.

Subd. 3. **Contents of order.** An administrative penalty order under this section must include:

- (1) a concise statement of the facts alleged to constitute a violation;
- (2) a reference to the portion of the statute, rule, variance, order, or stipulation agreement or the term or condition of a permit that has been violated;
- (3) a description of the violation of the corrective order that forms the basis for issuance of the administrative penalty order;
- (4) a statement of the amount of the administrative penalty to be imposed and the factors upon which the penalty is based; and
- (5) a statement of the administrative agent's right to review and appeal of the administrative penalty order.

Subd. 4. **Due date.** (a) Unless the administrative agent requests review of the administrative penalty order under subdivision 5 before the penalty is due, the penalty in the order is due and payable on the 31st day after the administrative penalty order was received, if the administrative agent subject to the order fails to provide information to the commissioner showing that the violation has been corrected or that appropriate steps have been taken toward correcting the violation. These requirements may be waived or extended by the commissioner.

(b) Interest at the rate established in section 549.09 begins to accrue on penalties under this subdivision on the 31st day after the order with the penalty was received, unless waived by the commissioner.

Subd. 5. **Expedited administrative hearing.** (a) Within 30 days after receiving an administrative penalty order, the administrative agent subject to an order under this section may request an expedited hearing, using the procedures of Minnesota Rules, parts 1400.8510 to 1400.8612, or their successor rules, to review the commissioner's action. The hearing request must specifically state the reasons for seeking review of the administrative penalty order. The administrative agent to whom the administrative penalty order is directed and the commissioner are the parties to the expedited hearing. At least 15 days before the hearing, the commissioner shall notify the administrative agent to whom the administrative penalty order is directed of the time and place of the hearing. The expedited hearing must be held within 30 days after a request for hearing has been filed with the commissioner unless the parties agree to a later date.

(b) All written arguments must be submitted within ten days following the close of the hearing. The hearing must be conducted under Minnesota Rules, parts 1400.8510 to 1400.8612, or their successor rules, as modified by this subdivision. The Office of

Administrative Hearings, in consultation with the agency, may adopt rules specifically applicable to cases under this section.

(c) Within 30 days following the close of the record, the administrative law judge shall issue a report making recommendations about the commissioner's action to the commissioner. The administrative law judge may not recommend a change in the amount of the proposed administrative penalty unless the administrative law judge determines that, based on the factors in subdivision 1, the amount of the administrative penalty is unreasonable.

(d) If the administrative law judge makes a finding that the hearing was requested solely for purposes of delay or that the hearing request was frivolous, the commissioner may add to the amount of the administrative penalty the costs charged to the agency by the Office of Administrative Hearings for the hearing.

(e) If a hearing has been held, the commissioner may not issue a final order until at least five days after receipt of the report of the administrative law judge. Within those five days, the administrative agent to whom an administrative penalty order is issued may comment to the commissioner on the recommendations and the commissioner shall consider the comments. The final administrative penalty order may be appealed to the district court for a de novo review of the order.

(f) If a hearing has been held and a final administrative penalty order issued by the commissioner, the administrative penalty must be paid by 30 days after the date the final order is received unless it is appealed to the district court. If an appeal is not taken or the administrative penalty order is upheld on appeal, the amount due is the administrative penalty, together with interest accruing from 31 days after the original order was received, at the rate established in section 549.09.

Subd. 6. Mediation. In addition to review under subdivision 5, the commissioner may enter into mediation concerning an order issued under this section if the commissioner and the administrative agent to whom the order is issued both agree to mediation.

History: *1Sp2003 c 19 art 2 s 53*