

CHAPTER 617

ABORTION; OBSCENITY; NUISANCE

617.202 SALE OF ARTICLES RELATING TO PREVENTION OF CONCEPTION OR DISEASE.

617.80 DEFINITIONS.
617.81 NUISANCE; ACTS CONSTITUTING; INJUNCTION; NOTICE.

617.202 SALE OF ARTICLES RELATING TO PREVENTION OF CONCEPTION OR DISEASE.

Instruments, articles, drugs or medicines for the prevention of conception or disease may be sold, offered for sale, distributed or dispensed only by persons or organizations recognized as dealing primarily with health or welfare. Anyone convicted of violation of this section shall be guilty of a gross misdemeanor and punished by imprisonment not to exceed one year or by a fine of not more than \$3,000 or both.

History: 1965 c 395 s 2; 1984 c 628 art 3 s 11

617.251 MS 2006 [Renumbered 617.202]

617.80 DEFINITIONS.

[For text of subs 1 to 5, see M.S.2008]

Subd. 7. **Owner.** "Owner," for purposes of sections 617.80 to 617.87, means a person having legal title to the premises, a mortgagee or vendee in possession, a trustee in bankruptcy, a receiver, or any other person having legal ownership or control of the premises.

Subd. 7a. **Occupant.** "Occupant" means a person who occupies or resides in a building or rental unit with the permission of the owner or a tenant or lessee.

[For text of subs 8 and 9, see M.S.2008]

History: 2009 c 123 s 15,16

617.81 NUISANCE; ACTS CONSTITUTING; INJUNCTION; NOTICE.

[For text of subd 1, see M.S.2008]

Subd. 2. **Acts constituting a nuisance.** (a) For purposes of sections 617.80 to 617.87, a public nuisance exists (1) upon proof of one or more separate behavioral incidents described in item (i), (v), (viii), or (ix), or (2) upon proof of two or more separate behavioral incidents described in item (ii), (iii), (iv), (vi), (vii), or (x), committed within the previous 12 months within the building:

- (i) prostitution or prostitution-related activity committed within the building;
- (ii) gambling or gambling-related activity committed within the building;
- (iii) maintaining a public nuisance in violation of section 609.74, clause (1) or (3);
- (iv) permitting a public nuisance in violation of section 609.745;

(v) unlawful sale, possession, storage, delivery, giving, manufacture, cultivation, or use of controlled substances committed within the building;

(vi) unlicensed sales of alcoholic beverages committed within the building in violation of section 340A.401;

(vii) unlawful sales or gifts of alcoholic beverages by an unlicensed person committed within the building in violation of section 340A.503, subdivision 2, clause (1);

(viii) unlawful sales or gifts of alcoholic beverages committed within the building in violation of section 340A.401 or 340A.503, subdivision 2, clause (1), if multiple violations

occur during the same behavioral incident when the building is not occupied by the owner or a tenant, lessee, or occupant;

(ix) unlawful use or possession of a dangerous weapon as defined in section 609.02, subdivision 6, committed within the building; or

(x) violation by a commercial enterprise of local or state business licensing regulations, ordinances, or statutes prohibiting the maintenance of a public nuisance as defined in section 609.74 or the control of a public nuisance as defined in section 609.745.

(b) If the building contains more than one rental unit, two or more behavioral incidents must consist of conduct:

(1) anywhere in the building by the same tenant, lessee, occupant, or persons acting in conjunction with or under the control of the same tenant, lessee, or occupant;

(2) by any persons within the same rental unit while occupied by the same tenant, lessee, or occupant, or within two or more rental units while occupied by the same tenant, lessee, or occupant; or

(3) by the owner of the building or persons acting in conjunction with or under the control of the owner.

(c) Proof of a nuisance exists if each of the elements of the conduct constituting the nuisance is established by clear and convincing evidence.

Subd. 4. **Notice.** (a) If a prosecuting attorney has reason to believe that a nuisance is maintained or permitted in the jurisdiction the prosecuting attorney serves, and intends to seek abatement of the nuisance, the prosecuting attorney shall provide the written notice described in paragraph (b), by personal service or certified mail, return receipt requested, to all owners and interested parties known to the prosecuting attorney.

(b) The written notice must:

(1) state that a nuisance as defined in subdivision 2 is maintained or permitted in the building and must specify the kind or kinds of nuisance being maintained or permitted;

(2) summarize the evidence that a nuisance is maintained or permitted in the building, including the date or dates on which nuisance-related activity or activities are alleged to have occurred;

(3) inform the recipient that failure to abate the conduct constituting the nuisance or to otherwise resolve the matter with the prosecuting attorney within 30 days of service of the notice may result in the filing of a complaint for relief in district court that could, among other remedies, result in enjoining the use of the building for any purpose for one year or, in the case of a tenant, lessee, or occupant, could result in cancellation of the lease; and

(4) inform the owner of the options available under section 617.85.

History: 2009 c 123 s 17,18