

the scope of his employment. Except for elected employees, an employee of the state shall be conclusively presumed to have been acting within the scope of his employment if the employee's appointing authority issues a certificate to that effect. This determination may be overruled by the attorney general. The determination of whether an employee of the state was acting within the scope of his employment shall be a question of fact to be determined by the trier of fact based upon the circumstances of each case (i) in the absence of a certification, (ii) if a certification is overruled by the attorney general, (iii) if an unfavorable certification is made, or (iv) with respect to an elected official. The absence of the certification or an unfavorable certification shall not be evidence relevant to such a determination. It is the express intent of this provision to defend, save harmless, and indemnify any employee of the state against the full amount of any final judgment rendered by a court of competent jurisdiction arising from a claim or demand described herein, regardless of whether the limitations on liability specified in subdivision 4 or 4a hereof are, for any reason, found to be inapplicable. This subdivision does not apply in case of malfeasance in office or willful or wanton actions or neglect of duty, nor does it apply to expenses, attorneys' fees, judgments, fines, and amounts paid in settlement of claims for proceedings brought by or before responsibility or ethics boards or committees.

Approved May 20, 1985

CHAPTER 167 — H.F.No. 274

An act relating to crimes; defining "dangerous weapon" to include flammable liquids; amending Minnesota Statutes 1984, section 609.02, subdivision 6.

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

Section 1. Minnesota Statutes 1984, section 609.02, subdivision 6, is amended to read:

Subd. 6. **DANGEROUS WEAPON.** "Dangerous weapon" means any firearm, whether loaded or unloaded, or any device designed as a weapon and capable of producing death or great bodily harm, or any flammable liquid or ~~any~~ other device or instrumentality ~~which that~~, in the manner it is used or intended to be used, is calculated or likely to produce death or great bodily harm.

As used in this subdivision, "flammable liquid" means Class I flammable liquids as defined in section 9.108 of the Uniform Fire Code, but does not include intoxicating liquor as defined in section 340.07.

Approved May 21, 1985

Changes or additions are indicated by underline, deletions by ~~strikeout~~.