

Sec. 7. Minnesota Statutes 1986, section 184.38, subdivision 3, is amended to read:

Subd. 3. No fee shall be solicited or accepted as an application of registration fee by any employment agent for the purpose of being registered as an applicant for employment, nor shall any other moneys be solicited or accepted for any reason prior to the ~~acceptance of a position~~ actual start date, other than fees earned through concurrent fee arrangements in which the fee charged is not contingent upon actual placement of an applicant.

Sec. 8. Minnesota Statutes 1986, section 184.38, subdivision 5, is amended to read:

Subd. 5. Every employment agent shall keep a record of all services rendered employers and employees. This record shall contain the name and address of the employer by whom the services were solicited, the name and address of the employee, kind of position offered by the employer, ~~kind of position accepted by the employee~~, probable duration of the employment, rate of wage or salary to be paid the employee, amount of the employment agent's service charge, dates and amounts of payments, date and amount of refund if any, and for what, and a space for remarks under which shall be recorded anything of an individual nature to amplify the foregoing report and as information in the event of any question arising concerning the transaction. Every employment agent engaged in the placement of applicants shall also keep a record of kind of position accepted by the employee. In the event the department has reason to question the detailed report so submitted by the employment agent, the department shall have authority to demand of the employment agent the production of these records for examination by it, or its agent, at such place as the department may designate.

Sec. 9. **EFFECTIVE DATE.**

Section 1 is effective the day following final enactment.

Approved April 26, 1988

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#### CHAPTER 660—S.F.No. 1769

*An act relating to human rights; clarifying marital status discrimination and housing discrimination; enforcing affirmative action requirements; making procedural and administrative changes; amending Minnesota Statutes 1986, sections 363.01, by adding a subdivision; 363.02, subdivision 2a, and by adding a subdivision; 363.03, subdivision 2; 363.06, subdivision 3; 363.073, subdivisions 1 and 3; 363.091; 363.121; and 363.14, subdivisions 1 and 3; Minnesota Statutes 1987 Supplement, sections 363.06, subdivision 1; and 363.071, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 363.*

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

Section 1. Minnesota Statutes 1986, section 363.01, is amended by adding a subdivision to read:

Subd. 40. MARITAL STATUS. "Marital status" means whether a person is single, married, remarried, divorced, separated, or a surviving spouse and, in employment cases, includes protection against discrimination on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.

Sec. 2. Minnesota Statutes 1986, section 363.02, subdivision 2a, is amended to read:

Subd. 2a. **MANUFACTURED HOME PARKS.** The provisions of subdivision 2, prohibiting discrimination because of familial status:

(1) do not apply to a manufactured home park the majority of whose lots are reserved by park rule to households containing at least one elderly person; and

(2) do not apply to a section or sections of a manufactured home park which are identified by park rule and do not comprise more than one-third of the lots in the park. In order to qualify for exemption under this subdivision does not allow, a park owner to avoid complying must comply with section 327C.02, subdivision 2, 327C.05 or 327C.07, subdivision 4 when adopting or amending a rule concerning the permitted familial status of residents or of buyers of homes offered for in park sale.

Sec. 3. Minnesota Statutes 1986, section 363.02, is amended by adding a subdivision to read:

Subd. 2b. EVICTION DUE TO FAMILIAL STATUS. The provisions of section 363.03, subdivision 2, prohibiting discrimination because of familial status, do not apply to eviction from, or denial of continuing tenancy in, dwelling units exempt through certification under this section, provided that (1) one year has elapsed from the commencement of the familial status and (2) six months prior written notice has been given to the tenant, unless the eviction or denial of continuing tenancy is for nonpayment of rent, damage to the premises, disturbance of other tenants, or other breach of the lease.

Sec. 4. Minnesota Statutes 1986, section 363.03, subdivision 2, is amended to read:

Subd. 2. **REAL PROPERTY.** It is an unfair discriminatory practice:

(1) For an owner, lessee, sublessee, assignee, or managing agent of, or other person having the right to sell, rent or lease any real property, or any agent of any of these:

(a) to refuse to sell, rent, or lease or otherwise deny to or withhold from any

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person or group of persons any real property because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or familial status; or

(b) to discriminate against any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or familial status in the terms, conditions or privileges of the sale, rental or lease of any real property or in the furnishing of facilities or services in connection therewith, except that nothing in this clause shall be construed to prohibit the adoption of reasonable rules intended to protect the safety of minors in their use of the real property or any facilities or services furnished in connection therewith; or

(c) in any transaction involving real property, to print, circulate or post or cause to be printed, circulated, or posted any advertisement or sign, or use any form of application for the purchase, rental or lease of real property, or make any record or inquiry in connection with the prospective purchase, rental, or lease of real property which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or familial status, or any intent to make any such limitation, specification, or discrimination except that nothing in this clause shall be construed to prohibit the advertisement of a dwelling unit as available to adults-only if the person placing the advertisement reasonably believes that the provisions of this subdivision prohibiting discrimination because of familial status do not apply to the dwelling unit.

(2) For a real estate broker, real estate salesperson, or employee, or agent thereof:

(a) to refuse to sell, rent, or lease or to offer for sale, rental, or lease any real property to any person or group of persons or to negotiate for the sale, rental, or lease of any real property to any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or familial status or represent that real property is not available for inspection, sale, rental, or lease when in fact it is so available, or otherwise deny or withhold any real property or any facilities of real property to or from any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or familial status; or

(b) to discriminate against any person because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or familial status in the terms, conditions or privileges of the sale, rental or lease of real property or in the furnishing of facilities or services in connection therewith; or

(c) to print, circulate, or post or cause to be printed, circulated, or posted any advertisement or sign, or use any form of application for the purchase, rental, or lease of any real property or make any record or inquiry in connection

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with the prospective purchase, rental or lease of any real property, which expresses directly or indirectly, any limitation, specification or discrimination as to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or familial status or any intent to make any such limitation, specification or discrimination except that nothing in this clause shall be construed to prohibit the advertisement of a dwelling unit as available to adults-only if the person placing the advertisement reasonably believes that the provisions of this subdivision prohibiting discrimination because of familial status do not apply to the dwelling unit.

(3) For a person, bank, banking organization, mortgage company, insurance company, or other financial institution or lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair or maintenance of any real property or any agent or employee thereof:

(a) to discriminate against any person or group of persons because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or familial status of the person or group of persons or of the prospective occupants or tenants of the real property in the granting, withholding, extending, modifying or renewing, or in the rates, terms, conditions, or privileges of the financial assistance or in the extension of services in connection therewith; or

(b) to use any form of application for the financial assistance or make any record or inquiry in connection with applications for the financial assistance which expresses, directly or indirectly, any limitation, specification, or discrimination as to race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or familial status or any intent to make any such limitation, specification, or discrimination; or

(c) to discriminate against any person or group of persons who desire to purchase, lease, acquire, construct, rehabilitate, repair or maintain real property in a specific urban or rural area or any part thereof solely because of the social, economic or environmental conditions of the area in the granting, withholding, extending, modifying, or renewing, or in the rates, terms, conditions, or privileges of the financial assistance or in the extension of services in connection therewith.

(4) For any real estate broker or real estate salesperson, for the purpose of inducing a real property transaction from which the person, the person's firm, or any of its members may benefit financially, to represent that a change has occurred or will or may occur in the composition with respect to race, creed, color, national origin, sex, marital status, status with regard to public assistance, or disability of the owners or occupants in the block, neighborhood, or area in which the real property is located, and to represent, directly or indirectly, that this change will or may result in undesirable consequences in the block, neighborhood, or area in which the real property is located, including but not limited

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to the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other public facilities.

(5) For a person to deny a totally or partially blind, physically handicapped, or deaf person with a service dog full and equal access to real property provided for in this section. The person may not be required to pay extra compensation for the service dog but is liable for damage done to the premises by the service dog.

~~(5)~~ Notwithstanding the provisions of any law, ordinance, or home rule charter to the contrary, no person shall be deemed to have committed an unfair discriminatory practice based upon age if the unfair discriminatory practice alleged is attempted or accomplished for the purpose of obtaining or maintaining one of the exemptions provided for a dwelling unit provided for in section 363.02, subdivision 2.

Sec. 5. Minnesota Statutes 1987 Supplement, section 363.06, subdivision 1, is amended to read:

Subdivision 1. **ACTIONS.** Any person aggrieved by a violation of this chapter may bring a civil action as provided in section 363.14, subdivision 1, clause (a), or may file a verified charge with the commissioner or the commissioner's designated agent. A charge filed with the commissioner must be in writing on a form provided by the commissioner and signed by the charging party. The charge must state the name of the person alleged to have committed an unfair discriminatory practice, and set out a summary of the details of the practice complained of. The commissioner may require a charging party to provide the address of the person alleged to have committed the unfair discriminatory practice, names of witnesses, documents, and any other information necessary to process the charge. The commissioner may dismiss a charge when the charging party fails to provide required information. The commissioner within ten days of the filing shall serve a copy of the charge and a form for use in responding to the charge upon the respondent personally or by mail. The respondent shall file with the department a written response to the charge within 20 days of receipt of the charge. If the respondent fails to respond within 30 days after service of the charge, and service was consistent with rule 4 of the rules of civil procedure, the commissioner, on behalf of the complaining party, may bring an action for default in district court pursuant to rule 55.01 of the rules of civil procedure.

Sec. 6. Minnesota Statutes 1986, section 363.06, subdivision 3, is amended to read:

Subd. 3. **TIME FOR FILING CLAIM.** A claim of an unfair discriminatory practice must be brought as a civil action pursuant to section 363.14, subdivision 1, clause (a), filed in a charge with a local commission pursuant to section 363.116, or filed in a charge with the commissioner within ~~300 days~~ one year after the occurrence of the practice. The running of the ~~300 day~~ one-year limitation period is suspended during the time a potential charging party and

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respondent are voluntarily engaged in a dispute resolution process involving a claim of unlawful discrimination under chapter 363, including arbitration, conciliation, mediation or grievance procedures pursuant to a collective bargaining agreement or statutory, charter, or ordinance provisions for a civil service or other employment system. A potential respondent who participates in such a process with a potential charging party before a charge is filed or a civil action is brought shall notify the department and the charging party in writing of the participation in the process and the date the process commenced, and shall also notify the department and the charging party of the ending date of the process. A respondent who fails to provide this notification is barred from raising the defense that the statute of limitations has run unless ~~the 300 days~~ one year plus a period of time equal to the suspension period has passed.

Sec. 7. Minnesota Statutes 1987 Supplement, section 363.071, subdivision 2, is amended to read:

Subd. 2. **DETERMINATION OF DISCRIMINATORY PRACTICE.** The administrative law judge shall make findings of fact and conclusions of law, and if the administrative law judge finds that the respondent has engaged in an unfair discriminatory practice, the administrative law judge shall issue an order directing the respondent to cease and desist from the unfair discriminatory practice found to exist and to take such affirmative action as in the judgment of the administrative law judge will effectuate the purposes of this chapter. The order shall be a final decision of the department. The administrative law judge shall order any respondent found to be in violation of any provision of section 363.03 to pay a civil penalty to the state. This penalty is in addition to compensatory and punitive damages to be paid to an aggrieved party. The administrative law judge shall determine the amount of the civil penalty to be paid, taking into account the seriousness and extent of the violation, the public harm occasioned by the violation, whether the violation was intentional, and the financial resources of the respondent. Any penalties imposed under this provision shall be paid into the general fund of the state. In all cases where the administrative law judge finds that the respondent has engaged in an unfair discriminatory practice the administrative law judge shall order the respondent to pay an aggrieved party, who has suffered discrimination, compensatory damages in an amount up to three times the actual damages sustained. In all cases, the administrative law judge may also order the respondent to pay an aggrieved party, who has suffered discrimination, damages for mental anguish or suffering and reasonable attorney's fees, in addition to punitive damages in an amount not more than ~~\$6,000~~ \$8,500. Punitive damages shall be awarded pursuant to section 549.20. In ~~any~~ case where a political subdivision is a respondent the total of punitive damages awarded an aggrieved party may not exceed ~~\$6,000~~ \$8,500 and in that case if there are two or more respondents the punitive damages may be apportioned among them. Punitive damages may only be assessed against a political subdivision in its capacity as a corporate entity and no regular or ex officio member of a governing body of a political subdivision shall be personally liable for payment of punitive damages pursuant to this subdivision. In addition to the aforesaid remedies, in a case involving discrimination in

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(a) employment, the administrative law judge may order the hiring, reinstatement or upgrading of an aggrieved party, who has suffered discrimination, with or without back pay, admission or restoration to membership in a labor organization, or admission to or participation in an apprenticeship training program, on-the-job training program, or other retraining program, or any other relief the administrative law judge deems just and equitable.

(b) housing, the administrative law judge may order the sale, lease, or rental of the housing accommodation or other real property to an aggrieved party, who has suffered discrimination, or the sale, lease or rental of a like accommodation or other real property owned by or under the control of the person against whom the complaint was filed, according to terms as listed with a real estate broker, or if no such listing has been made, as otherwise advertised or offered by the vendor or lessor, or any other relief the administrative law judge deems just and equitable.

The administrative law judge shall cause the findings of fact, conclusions of law, and order to be served on the respondent personally, on the charging party by registered or certified mail, and shall furnish copies to the attorney general and the commissioner.

Sec. 8. Minnesota Statutes 1986, section 363.073, subdivision 1, is amended to read:

Subdivision 1. **SCOPE OF APPLICATION.** No department or agency of the state shall receive, enter into, or accept any bid or proposal for a contract ~~or~~ nor execute any contract for goods ~~or~~ services, or the performance of any function, or any agreement to transfer funds for any reason in excess of \$50,000 with any business person having more than 20 full-time employees in Minnesota at any time during the previous 12 months, unless the ~~firm or business person~~ business person has an affirmative action plan for the employment of minority persons, women, and the disabled that has been approved by the commissioner of human rights. Receipt of a certificate of compliance issued by the commissioner shall signify that a ~~firm or business person~~ business person has an affirmative action plan that has been approved by the commissioner. A certificate shall be valid for a period of two years.

Sec. 9. Minnesota Statutes 1986, section 363.073, subdivision 3, is amended to read:

Subd. 3. **REVOCATION OF CONTRACT.** A contract awarded by a department or agency of the state may be terminated or abridged by the department or agency because of suspension or revocation of a certificate based upon a contractor's failure to implement or make a good faith effort to implement an affirmative action plan approved by the commissioner under this section. If a contract is awarded to a person who does not have a contract compliance certificate required under subdivision 1, the commissioner may void the contract on behalf of the state.

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Sec. 10. Minnesota Statutes 1986, section 363.091, is amended to read:

**363.091 ENFORCEMENT.**

When a respondent fails or refuses to comply with a final decision of the department, the commissioner may file with the court administrator of district court in the judicial district in which the hearing was held a petition requesting the court to order the respondent to comply with the order of the department. Thereupon the court shall issue an order to show cause directed to the respondent why an order directing compliance should not be issued. ~~Notwithstanding the provisions of any law or rule of civil procedure to the contrary, the court shall examine at the hearing on the order to show cause all the evidence in the record and may amend the order of the department in any way the court deems just and equitable.~~ If the panel or examiner has ordered an award of damages pursuant to section 363.071 ~~and if the court sustains or modifies the award, it~~ the court shall enter judgment on the order or modified order in the same manner as in the case of an order of the district court, as provided in section 546.27.

Sec. 11. Minnesota Statutes 1986, section 363.121, is amended to read:

**363.121 DEPARTMENT ATTORNEY.**

The attorney general shall be the attorney for the department. When a matter has been referred to the attorney general by the commissioner after a finding of probable cause or for the purpose of interim relief, communications between members of the attorney general's office and charging parties or members of a class formed pursuant to section 363.06, subdivision 4, clause (6), are privileged as would be a communication between an attorney and a client.

Sec. 12. Minnesota Statutes 1986, section 363.14, subdivision 1, is amended to read:

Subdivision 1. **COURT ACTIONS, SUITS BY PRIVATE PARTIES, INTERVENTION.** (a) The commissioner or a person may bring a civil action seeking redress for an unfair discriminatory practice directly to district court. In addition, a person may bring a civil action:

(a) ~~Directly to district court; or~~

(b) ~~Notwithstanding the provisions of any law to the contrary,~~

(1) within 45 days after the commissioner has dismissed a charge because it is frivolous or without merit, because the charging party has failed to provide required information, because the commissioner has determined that further use of department resources is not warranted, or because the commissioner has determined that there is no probable cause to credit the allegations contained in a charge filed with the commissioner;

(2) within 45 days after the commissioner has reaffirmed a determination of

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no probable cause if the charging party requested a reconsideration of the probable cause determination; or

(3) after 45 days from the filing of a charge pursuant to section 363.06, subdivision 1 if a hearing has not been held pursuant to section 363.071 or if the commissioner has not entered into a conciliation agreement to which the charging party is a signator. The charging party shall notify the commissioner of an intention to bring a civil action, which shall be commenced within 90 days of giving the notice;

(b) If the commissioner has issued both probable cause and no probable cause determinations on separate issues in the same charge, the charging party may, if a hearing is held, require that all matters be heard at the hearing or may bring a civil action for the no probable cause charges at the same time as the probable cause charges under the rules and time frames that govern the probable cause charges.

~~(c) The commissioner may dismiss, without prejudice to the charging party, any case filed with the department on or before June 30, 1978. The commissioner shall notify a charging party by regular mail sent before August 1, 1981, of the right to bring a civil action pursuant to this section. Upon giving this notice the commissioner shall end all proceedings in the department relating to the charge. Notwithstanding any statutory period of limitation to the contrary, an individual notified pursuant to this clause may bring a civil action relating to the charge; provided that the action is filed on or before February 1, 1982.~~

A charging party bringing a civil action shall mail by registered or certified mail a copy of the summons and complaint to the commissioner, and upon their receipt the commissioner shall terminate all proceedings in the department relating to the charge. No charge shall be filed or reinstated with the commissioner after a civil action relating to the same unfair discriminatory practice has been brought unless the civil action has been dismissed without prejudice.

(d) Upon application by the complaining party to the district court at a special term and under circumstances the court deems just, the court may appoint an attorney for the person and may authorize the commencement of the action without payment of fees, costs, or security.

(e) Upon timely application, the court may permit the department to intervene in a civil action brought pursuant to this section upon certification that the case is of general public importance.

Sec. 13. Minnesota Statutes 1986, section 363.14, subdivision 3, is amended to read:

Subd. 3. **ATTORNEY'S FEES AND COSTS.** In any action or proceeding brought pursuant to this section the court, in its discretion, may allow the prevailing party; ~~other than the department;~~ a reasonable attorney's fee as part of the costs.

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## Sec. 14. [363.15] NOTICE OF APPEAL TO THE COMMISSIONER.

In any case that is appealed to the supreme court or the court of appeals in which an issue is raised under this chapter, the party raising the issue shall serve a copy of the notice of appeal on the commissioner. The clerk of the appellate courts may not accept a notice of appeal or other papers, documents, or briefs from any party in an action involving this chapter without proof of service of the papers, documents, or briefs upon the commissioner.

Approved April 26, 1988

## CHAPTER 661—S.F.No. 1783

*An act relating to motor vehicles; requiring mandatory annual inspection of motor vehicle emission control equipment on vehicles registered in the metropolitan area; prescribing powers and duties of the pollution control agency and the department of public safety; imposing fees for inspection; prescribing penalties; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 116.*

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

## Section 1. [116.60] DEFINITIONS.

Subdivision 1. APPLICABILITY. The definitions in this section apply to sections 1 to 6.

Subd. 2. AGENCY. "Agency" means the pollution control agency.

Subd. 3. CERTIFICATE OF COMPLIANCE. "Certificate of compliance" means a serially numbered written instrument or device indicating that a motor vehicle complies with the standards and criteria adopted by the agency under section 3.

Subd. 4. CERTIFICATE OF WAIVER. "Certificate of waiver" means a serially numbered written instrument or device indicating that the requirement of compliance with the standards and criteria of the agency has been waived for a motor vehicle under section 3.

Subd. 5. DEPARTMENT. "Department" means the department of public safety.

Subd. 6. METROPOLITAN AREA. "Metropolitan area" has the meaning given in section 473.121.

Subd. 7. MOTOR VEHICLE. "Motor vehicle" means a passenger automobile, station wagon, pickup truck, or van, as defined in section 168.011, licensed for use on the public streets and highways.

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