

Sec. 21. CITY OF EVANSVILLE; SUNDAY LIQUOR LICENSE.

Notwithstanding Minnesota Statutes, section 340A.504, subdivision 3, paragraph (d), the city of Evansville may issue a license authorizing on-sales of intoxicating liquor on Sunday to a restaurant in the city without authorization by the voters of the city. All other provisions of Minnesota Statutes, chapter 340A, apply to a license issued under this section.

Sec. 22. REPEALER.

Minnesota Statutes 1988, section 340A.405, subdivision 5, is repealed.

Sec. 23. EFFECTIVE DATE.

Sections 1 to 3, 7, 9 to 13, 15, 16, and 18 to 21 are effective the day following final enactment. Sections 4 to 6 are effective January 1, 1991.

Presented to the governor April 26, 1990

Signed by the governor May 4, 1990, 11:52 p.m.

CHAPTER 555—S.F.No. 1827

An act relating to civil actions; providing for immunity from liability for unpaid members of county agricultural society boards; addressing reduction of damages in an action under no-fault automobile insurance; preserving common law tort law claims against adults who knowingly provide alcoholic beverages to minors; increasing the amount of claims that may be settled without court approval under the municipal compromise of claims statute; changing the standard for awarding punitive damages; addressing when a principal may be held liable for punitive damages for an act of the principal's agent; requiring a separate trial to address punitive damages; requiring the court to review a punitive damages award; making the contributory negligence rule apply to damages resulting from economic loss; redefining fault; abolishing the doctrine of last clear chance; providing immunity from liability for volunteer ski patrollers; limiting the liability of food donors; providing a defense for the use of reasonable force by teachers; providing vehicle and watercraft lighting exemptions for law enforcement; repealing the limit on intangible loss damages and the requirement that a jury specify amounts for past, future, and intangible loss damages; amending Minnesota Statutes 1988, sections 31.50, subdivisions 1, 2, 3, and by adding a subdivision; 38.013; 65B.51, subdivision 1; 127.03, by adding a subdivision; 169.48; 340A.801, by adding a subdivision; 361.15; 466.08; 541.051, subdivision 1; 548.36, subdivision 3; 549.20, subdivisions 1, 2, and by adding subdivisions; 604.01, subdivisions 1, 1a, and 3; 604.05, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 169; repealing Minnesota Statutes 1988, sections 549.23 and 549.24.

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

New language is indicated by underline, deletions by ~~strikeout~~.

Section 1. Minnesota Statutes 1988, section 31.50, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** (a) For the purposes of this section, "distressed food" means, in addition to the definition in section 31.495, certain perishable foods, as defined in section 28A.03, which may not be readily marketable due to appearance, freshness, grade, surplus or other considerations and are not suspect of having been rendered unsafe or unsuitable for food use and are adequately labeled.

(b) For the purposes of this section, "food bank" means a surplus food collection and distribution system operated and established to assist in bringing donated food to nonprofit charitable organizations and individuals for the purpose of reducing hunger and meeting nutritional needs.

(c) For the purposes of this section, "food facility" means:

(1) a restaurant, food establishment, vehicle, vending machine, produce stand, temporary food facility, satellite food distribution facility, stationary mobile food preparation unit, and mobile food preparation unit;

(2) a place used in conjunction with the operations described in clause (1), including, but not limited to, storage facilities for food-related utensils, equipment, and materials; or

(3) a farmers' market.

(d) "Nonprofit charitable organization" means an organization that was organized under the Minnesota nonprofit corporation act and is operating for charitable purposes.

Sec. 2. Minnesota Statutes 1988, section 31.50, subdivision 2, is amended to read:

Subd. 2. **DONATION; DISTRESSED FOOD.** A food manufacturer, distributor, processor or a person who donates or collects distressed food to or for a nonprofit charitable organization as defined in section 309.50, subdivision 4, for distribution at no charge to the elderly or needy, or who directly distributes distressed food to the elderly or needy at no charge, shall not be liable for any injury, including but not limited to injury resulting from the ingesting of the distressed food, unless the injury is caused by the gross negligence, recklessness or intentional misconduct of the food manufacturer, processor, distributor or person.

Sec. 3. Minnesota Statutes 1988, section 31.50, subdivision 3, is amended to read:

Subd. 3. **DISTRIBUTION.** A food bank or nonprofit charitable organization as defined in section 309.50, subdivision 4, which in good faith collects or

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receives ~~distressed food~~ and distributes it at no charge to the elderly or needy, at no charge, food which is fit for human consumption at the time it is distributed, shall not be liable for any injury, including but not limited to injury resulting from the ingesting of the ~~distressed food~~, unless the injury is caused by the gross negligence, recklessness or intentional misconduct of the food bank or nonprofit charitable organization.

Sec. 4. Minnesota Statutes 1988, section 31.50, is amended by adding a subdivision to read:

Subd. 5. OTHER FOOD DONATION. A food facility that donates, to a food bank or other nonprofit charitable organization, food which is:

(1) fit for human consumption at the time of donation; and

(2) distributed by the food bank or nonprofit charitable organization to the elderly or needy at no charge;

shall not be liable for any injury, including, but not limited to, liability resulting from ingestion of the food, unless the injury is caused by the gross negligence, recklessness, or intentional misconduct of the food facility.

Sec. 5. Minnesota Statutes 1988, section 38.013, is amended to read:

38.013 TORT LIABILITY.

Subdivision 1. GENERAL. Except as provided in subdivision 2, the provisions of chapter 466, regarding tort liability, apply to county agricultural societies organized under this chapter.

Subd. 2. UNPAID BOARD MEMBERS; LIABILITY. A person who serves without compensation as a member of the board of a county agricultural society created or organized under this chapter is not civilly liable for an act or omission by that person if the act or omission was in good faith, was within the scope of the person's responsibilities as a member of the board, and did not constitute willful or reckless misconduct.

This subdivision does not apply to:

(1) an action or proceeding brought by the attorney general for a breach of a fiduciary duty by a board member;

(2) a cause of action to the extent it is based on federal law; or

(3) a cause of action based on a board member's express contractual obligation.

This subdivision does not limit the liability of a member of the board for physical injury to the person of another or for wrongful death that is personally and directly caused by the board member.

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For purposes of this subdivision the term "compensation" means any thing of value received for services rendered, except:

- (1) reimbursement for expenses actually incurred;
- (2) a per diem in an amount not to exceed the per diem authorized for state advisory councils and committees under section 15.059, subdivision 3; or
- (3) payment by the county agricultural society of insurance premiums on behalf of a member of the board.

Sec. 6. Minnesota Statutes 1988, section 65B.51, subdivision 1, is amended to read:

Subdivision 1. **DEDUCTION OF BASIC ECONOMIC LOSS BENEFITS.** With respect to a cause of action in negligence accruing as a result of injury arising out of the operation, ownership, maintenance or use of a motor vehicle with respect to which security has been provided as required by sections 65B.41 to 65B.71, ~~there shall be deducted the court shall deduct~~ from any recovery the value of basic or optional economic loss benefits paid or payable, or which would be payable but for any applicable deductible. In any case where the claimant is found to be at fault under section 604.01, the deduction for basic economic loss benefits must be made before the claimant's damages are reduced under section 604.01, subdivision 1.

Sec. 7. Minnesota Statutes 1988, section 127.03, is amended by adding a subdivision to read:

Subd. 3. IMMUNITY FROM CIVIL LIABILITY. It is a defense to a civil action for damages against a teacher to prove that the force used by the teacher was reasonable, was in the exercise of lawful authority, and was necessary under the circumstances to restrain the pupil.

Sec. 8. Minnesota Statutes 1988, section 169.48, is amended to read:

169.48 VEHICLE LIGHTING.

Every vehicle upon a highway within this state, at any time from sunset to sunrise and at any other time when visibility is impaired by weather, smoke, fog or other conditions or there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead, shall display lighted lamps and illuminating devices, as hereinafter, respectively, required for different classes of vehicles, subject to exceptions with respect to parked vehicles and law enforcement vehicles, as hereinafter stated. In addition to the other requirements of this paragraph, every school bus transporting children upon a highway within this state, at any time from a half hour before sunrise to a half hour after sunset, shall display lighted lamps and illuminating devices as required by this paragraph, except that the operator shall use the lower most distribution of light specified in section 169.60 unless conditions warrant otherwise.

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When requirement is hereinafter declared as to the distance from which certain lamps and devices shall render objects visible or within which such lamps or devices shall be visible, these provisions shall apply during the time stated in this section upon a straight level unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated and unless otherwise specified the location of lamps and devices shall refer to the center of such lamps or devices. Parking lamps shall not be used in lieu of head lamps to satisfy the requirements of this section.

Sec. 9. [169.541] LIGHTING EXEMPTIONS; LAW ENFORCEMENT VEHICLES; STANDARDS.

Subdivision 1. EXEMPTION. Sections 84.87, 84.928, 169.48 to 169.65, and 361.15, relating to lighting of vehicles and watercraft, do not apply to a licensed peace officer, as defined in section 626.84, subdivision 1, paragraph (c), while operating a motor vehicle or watercraft owned, leased, or otherwise the property of the state or a political subdivision, in the performance of the officer's law enforcement duties if the officer's conduct is reasonable and is consistent with the standards adopted under subdivision 2, and if the officer reasonably believes that operating the vehicle without lights is necessary under the circumstances to investigate a criminal violation or suspected criminal violation of state laws, rules, or orders or local laws, ordinances, or regulations.

Subd. 2. POST BOARD STANDARDS. The peace officers standards and training board shall adopt standards governing situations in which licensed peace officers as defined in section 626.84, subdivision 1, paragraph (c), may operate a vehicle or watercraft without lights as provided in subdivision 1. The board shall report to the legislature on the standards by January 1, 1991.

Sec. 10. Minnesota Statutes 1988, section 340A.801, is amended by adding a subdivision to read:

Subd. 6. COMMON LAW CLAIMS. Nothing in this chapter precludes common law tort claims against any person 21 years old or older who knowingly provides or furnishes alcoholic beverages to a person under the age of 21 years.

Sec. 11. Minnesota Statutes 1988, section 361.15, is amended to read:

361.15 LIGHTS.

Subdivision 1. Except as provided in section 9, each watercraft using the waters of this state, when underway or in use at any time between sunset and sunrise, shall carry and display the lights specified by the commissioner for such watercraft.

Sec. 12. Minnesota Statutes 1988, section 466.08, is amended to read:

466.08 COMPROMISE OF CLAIMS.

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Notwithstanding sections 466.03 and 466.06, the governing body of any municipality, the administrator of a self-insurance pool, or the authorized representative of a private insurance carrier may compromise, adjust and settle tort claims against the municipality for damages under section 466.02 and may, subject to procedural requirements imposed by law or charter, appropriate money for the payment of amounts agreed upon. When the amount of a settlement exceeds ~~\$2,500~~ \$10,000, the settlement shall not be effective until approved by the district court.

Sec. 13. Minnesota Statutes 1988, section 541.051, subdivision 1, is amended to read:

Subdivision 1. (a) Except where fraud is involved, no action by any person in contract, tort, or otherwise to recover damages for any injury to property, real or personal, or for bodily injury or wrongful death, arising out of the defective and unsafe condition of an improvement to real property, nor any action for contribution or indemnity for damages sustained on account of the injury, shall be brought against any person performing or furnishing the design, planning, supervision, materials, or observation of construction^{or} construction of the improvement to real property or against the owner of the real property more than two years after discovery of the injury or, in the case of an action for contribution or indemnity, accrual of the cause of action, nor, in any event shall such a cause of action accrue more than ten years after substantial completion of the construction. Date of substantial completion shall be determined by the date when construction is sufficiently completed so that the owner or the owner's representative can occupy or use the improvement for the intended purpose.

(b) For purposes of paragraph (a), a cause of action accrues upon discovery of the injury or, in the case of an action for contribution or indemnity, upon payment of a final judgment, arbitration award, or settlement arising out of the defective and unsafe condition.

(c) Nothing in this section shall apply to actions for damages resulting from negligence in the maintenance, operation or inspection of the real property improvement against the owner or other person in possession.

(d) The limitations prescribed in this section do not apply to the manufacturer or supplier of any equipment or machinery installed upon real property.

Sec. 14. Minnesota Statutes 1988, section 548.36, subdivision 3, is amended to read:

Subd. 3. **DUTIES OF THE COURT.** (a) The court shall reduce the award by the amounts determined under subdivision 2, clause (1), and offset any reduction in the award by the amounts determined under subdivision 2, clause (2).

(b) If the court cannot determine the amounts specified in paragraph (a)

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from the written evidence submitted, the court may within ten days request additional written evidence or schedule a conference with the parties to obtain further evidence.

(c) In any case where the claimant is found to be at fault under section 604.01, the reduction required under paragraph (a) must be made before the claimant's damages are reduced under section 604.01, subdivision 1.

Sec. 15. Minnesota Statutes 1988, section 549.20, subdivision 1, is amended to read:

Subdivision 1. (a) Punitive damages shall be allowed in civil actions only upon clear and convincing evidence that the acts of the defendant show a ~~willful indifference to~~ deliberate disregard for the rights or safety of others.

(b) A defendant has acted with deliberate disregard for the rights or safety of others if the defendant has knowledge of facts or intentionally disregards facts that create a high probability of injury to the rights or safety of others and:

(1) deliberately proceeds to act in conscious or intentional disregard of the high degree of probability of injury to the rights or safety of others; or

(2) deliberately proceeds to act with indifference to the high probability of injury to the rights or safety of others.

Sec. 16. Minnesota Statutes 1988, section 549.20, subdivision 2, is amended to read:

Subd. 2. Punitive damages can properly be awarded against a master or principal because of an act done by an agent only if:

(a) the principal authorized the doing and the manner of the act, or

(b) the agent was unfit and the principal ~~was reckless in employing the agent~~ deliberately disregarded a high probability that the agent was unfit, or

(c) the agent was employed in a managerial capacity with authority to establish policy and make planning level decisions for the principal and was acting in the scope of that employment, or

(d) the principal or a managerial agent of the principal, described in clause (c), ratified or approved the act while knowing of its character and probable consequences.

Sec. 17. Minnesota Statutes 1988, section 549.20, is amended by adding a subdivision to read:

Subd. 4. SEPARATE PROCEEDING. In a civil action in which punitive damages are sought, the trier of fact shall, if requested by any of the parties, first determine whether compensatory damages are to be awarded. Evidence of the

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financial condition of the defendant and other evidence relevant only to punitive damages is not admissible in that proceeding. After a determination has been made, the trier of fact shall, in a separate proceeding, determine whether and in what amount punitive damages will be awarded.

Sec. 18. Minnesota Statutes 1988, section 549.20, is amended by adding a subdivision to read:

Subd. 5. JUDICIAL REVIEW. The court shall specifically review the punitive damages award in light of the factors set forth in subdivision 3 and shall make specific findings with respect to them. The appellate court, if any, also shall review the award in light of the factors set forth in that subdivision. Nothing in this section may be construed to restrict either court's authority to limit punitive damages.

Sec. 19. Minnesota Statutes 1988, section 604.01, subdivision 1, is amended to read:

Subdivision 1. **SCOPE OF APPLICATION.** Contributory fault ~~shall~~ does not bar recovery in an action by any person or the person's legal representative to recover damages for fault resulting in death ~~or~~, in injury to person or property, or in economic loss, if the contributory fault was not greater than the fault of the person against whom recovery is sought, but any damages allowed ~~shall~~ must be diminished in proportion to the amount of fault attributable to the person recovering. The court may, and when requested by any party shall, direct the jury to find separate special verdicts determining the amount of damages and the percentage of fault attributable to each party; and the court shall then reduce the amount of damages in proportion to the amount of fault attributable to the person recovering.

Sec. 20. Minnesota Statutes 1988, section 604.01, subdivision 1a, is amended to read:

Subd. 1a. **FAULT.** "Fault" includes acts or omissions that are in any measure negligent or reckless toward the person or property of the actor or others, or that subject a person to strict tort liability. The term also includes breach of warranty, unreasonable assumption of risk not constituting an express consent or primary assumption of risk, misuse of a product and unreasonable failure to avoid an injury or to mitigate damages, and the defense of complicity under section 340A.801. Legal requirements of causal relation apply both to fault as the basis for liability and to contributory fault. The doctrine of last clear chance is abolished.

Evidence of unreasonable failure to avoid aggravating an injury or to mitigate damages may be considered only in determining the damages to which the claimant is entitled. It may not be considered in determining the cause of an accident.

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Sec. 21. Minnesota Statutes 1988, section 604.01, subdivision 3, is amended to read:

Subd. 3. **PROPERTY DAMAGE OR ECONOMIC LOSS; SETTLEMENT OR PAYMENT.** Settlement with or any payment made to a person or on the person's behalf to others for damage to or destruction of property ~~shall~~ or for economic loss does not constitute an admission of liability by the person making the payment or on whose behalf the payment was made.

Sec. 22. Minnesota Statutes 1988, section 604.05, subdivision 2, is amended to read:

Subd. 2. **GENERAL IMMUNITY FROM LIABILITY.** Any person who, without compensation or the expectation of compensation renders emergency care, advice, or assistance at the scene of an emergency or during transit to a location where professional medical care can be rendered, is not liable for any civil damages as a result of acts or omissions by that person in rendering the emergency care, advice, or assistance unless that person acts in a willful and wanton or reckless manner in providing the care, advice, or assistance. Any person rendering emergency care, advice, or assistance during the course of regular employment, and receiving compensation or expecting to receive compensation for rendering such care, advice, or assistance, shall be excluded from the protection of this section.

For the purposes of this section, the scene of an emergency shall be those areas not within the confines of a hospital or other institution which has hospital facilities, or an office of a person licensed to practice one or more of the healing arts pursuant to chapter 147, 148, 150A, or 153. The scene of an emergency includes areas threatened by or exposed to spillage, seepage, fire, explosion, or other release of hazardous materials, and includes ski areas and trails.

For the purposes of this section, "person" includes a public or private nonprofit volunteer firefighter, volunteer police officer, volunteer ambulance attendant, volunteer first provider of emergency medical services, volunteer ski patrol-er, and any partnership, corporation, association, or other entity.

For the purposes of this section, compensation does not include payments, reimbursement for expenses, or pension benefits paid to members of volunteer organizations.

Sec. 23. **REPEALER.**

Minnesota Statutes 1988, sections 549.23 and 549.24, are repealed.

Sec. 24. **EFFECTIVE DATE; APPLICATION.**

Sections 1 to 4, 6, 13 to 21, and 23 are effective the day following final enactment and apply to all causes of action arising on or after that date. Section 10 is effective August 1, 1990, and applies to causes of action arising on or after that date.

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Presented to the governor April 26, 1990

Signed by the governor May 3, 1990, 10:48 a.m.

CHAPTER 556—S.F.No. 1896

An act relating to health; exempting ambulances from certain fees and excise taxes; regulating the provision of special transportation services; clarifying the definition of employee for workers' compensation; allowing certain newly organized hospital districts to elect not to participate in the public employees retirement plan; amending Minnesota Statutes 1988, sections 176.011, subdivision 9; 297A.25, by adding a subdivision; and 353.01, subdivision 6; Minnesota Statutes 1989 Supplement, sections 168.012, subdivision 1; 168.013, subdivision 1a; and 297B.03; proposing coding for new law in Minnesota Statutes, chapter 174.

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

Section 1. Minnesota Statutes 1989 Supplement, section 168.012, subdivision 1, is amended to read:

Subdivision 1. (a) The following vehicles are exempt from the provisions of this chapter requiring payment of tax and registration fees, except as provided in subdivision 1c:

(1) vehicles owned and used solely in the transaction of official business by representatives of foreign powers, by the federal government, the state, or any political subdivision;

(2) vehicles owned and used exclusively by educational institutions and used solely in the transportation of pupils to and from such institutions;

(3) vehicles owned by nonprofit charities and used exclusively to transport handicapped persons for educational purposes;

(4) vehicles owned and used by honorary consul or consul general of foreign governments; and

(5) ambulances owned by ambulance services licensed under section 144.802, the general appearance of which is unmistakable.

(b) Vehicles owned by the federal government, municipal fire apparatus, police patrols and ambulances, the general appearance of which is unmistakable, shall not be required to register or display number plates.

(c) Unmarked vehicles used in general police work and arson investigations, and passenger automobiles, pickup trucks, and buses owned or operated by the department of corrections shall be registered and shall display appropriate license

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