

## CHAPTER 193—S.F.No. 950

*An act relating to public safety; requiring tenants to covenant not to allow any controlled substances on rental property; allowing the closing of an alleged disorderly house during pretrial release of owner; lowering the threshold amount of seized controlled substance necessary to warrant unlawful detainer action; providing that certain weapons offenses and controlled substance seizures and arrests may form the basis for a nuisance action; amending Minnesota Statutes 1990, sections 504.181, subdivision 1; 566.09; 609.33, by adding a subdivision; 609.5317, subdivision 4; 617.80, subdivision 8; and 617.81, subdivisions 2 and 3, and by adding a subdivision.*

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

Section 1, Minnesota Statutes 1990, section 504.181, subdivision 1, is amended to read:

Subdivision 1. **COVENANT NOT TO ~~SELL DRUGS OR ALLOW DRUG SALES DRUGS~~**. In every lease or license of residential premises, whether in writing or parol, the lessee or licensee covenants that:

(1) the lessee or licensee will not unlawfully allow controlled substances in the those premises; and

(2) the common area; and curtilage will not be used by the lessee or licensee or others acting under his or her control to manufacture, sell, give away, barter, deliver, exchange, distribute, or possess with intent to manufacture, sell, give away, barter, deliver, exchange, or distribute a controlled substance in violation of any criminal provision of chapter 152.

The covenant is not violated when a person other than the lessee or licensee possesses or allows controlled substances in the premises, common area, or curtilage, unless the lessee or licensee knew or had reason to know of that activity.

Sec. 2, Minnesota Statutes 1990, section 566.09, is amended to read:

566.09 **JUDGMENT; FINE; EXECUTION.**

Subdivision 1. GENERAL. If the court or jury finds for the plaintiff, the court shall immediately enter judgment that the plaintiff have restitution of the premises and tax the costs for the plaintiff. The court shall issue execution in favor of the plaintiff for the costs and also immediately issue a writ of restitution. Except in actions brought under section 566.02 as required by section 609.5317, subdivision 1, upon a showing by the defendant that immediate restitution of the premises would work a substantial hardship upon the defendant or the defendant's family, the court shall stay the writ of restitution for a reasonable period, not to exceed seven days. If the court or jury finds for the defendant, the court shall enter judgment for the defendant, tax the costs against the plaintiff, and issue execution therefor.

Subd. 2. REAL PROPERTY; SEIZURES. If the court enters judgment for the plaintiff in an action brought under section 566.02 as required by section

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609.5317, subdivision 1, the court may not stay issuance of the writ of restitution unless the court makes written findings specifying the extraordinary and exigent circumstances that warrant staying the writ for a reasonable period, not to exceed seven days.

Sec. 3. Minnesota Statutes 1990, section 609.33, is amended by adding a subdivision to read:

Subd. 6. PRETRIAL RELEASE. When a person is charged under this section with owning or leasing a disorderly house, the court may require as a condition of pretrial release that the defendant bring an unlawful detainer action against a lessee who has violated the covenant not to allow drugs established by section 504.181.

Sec. 4. Minnesota Statutes 1990, section 609.5317, subdivision 4, is amended to read:

Subd. 4. LIMITATIONS. This section shall not apply if the retail value of the contraband or controlled substance is less than the amount specified in section 609.5311, subdivision 2, paragraph (b) \$100, but this section does not subject real property to forfeiture under section 609.5311 unless the retail value of the controlled substance is: (1) \$1,000 or more; or (2) there have been two previous controlled substance seizures involving the same tenant.

Sec. 5. Minnesota Statutes 1990, section 617.80, subdivision 8, is amended to read:

Subd. 8. INTERESTED PARTY. "Interested party" for purposes of sections 617.80 to 617.87 means any known lessee; or tenant; or occupant of a building or affected portion of a building and any known agent of an owner, lessee; or tenant; or occupant.

Sec. 6. Minnesota Statutes 1990, section 617.81, subdivision 2, is amended to read:

Subd. 2. ACTS CONSTITUTING A NUISANCE. (a) For purposes of sections 617.80 to 617.87 a public nuisance exists upon proof of three or more misdemeanor convictions or two or more convictions, of which at least one is a gross misdemeanor or felony, within the previous two years for:

- (1) acts of prostitution or prostitution-related offenses committed within the building;
- (2) acts of gambling or gambling-related offenses committed within the building;
- (3) keeping or permitting a disorderly house within the building;
- (4) unlawful sale or possession of controlled substances committed within the building;

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

(6) 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); or

(7) unlawful use or possession of a firearm in violation of section 609.66, subdivision 1a, 609.67, or 624.713, committed within the building.

(b) A second or subsequent conviction under paragraph (a) may be used to prove the existence of a nuisance if the conduct on which the second or subsequent conviction is based occurred within two years following the first conviction, regardless of the date of the conviction for the second or subsequent offense.

Sec. 7. Minnesota Statutes 1990, section 617.81, is amended by adding a subdivision to read:

Subd. 2a. SEIZURES AND ARRESTS CONSTITUTING A NUISANCE. For purposes of sections 617.80 to 617.87, a public nuisance exists upon proof of three qualifying events that occurred on different days within the previous two months. For purposes of this section, "qualifying event" means a lawful seizure of controlled substances within the building or a lawful arrest within the building for the possession or sale of controlled substances within the building or on the building's curtilage.

Sec. 8. Minnesota Statutes 1990, section 617.81, subdivision 3, is amended to read:

Subd. 3. **NOTICE.** Notice of a conviction described in subdivision 2, or of a qualifying event described in subdivision 2a, must be mailed by the court administrator to the owner of the building where the offense was committed and all other interested parties and must be filed with the county recorder's office. This notice is considered sufficient to inform all interested parties that the building or a portion of it is being used for purposes constituting a public nuisance.

Presented to the governor May 23, 1991

Signed by the governor May 27, 1991, 10:20 p.m.

#### CHAPTER 194—S.F.No. 962

*An act relating to natural resources; revising certain provisions regarding the leasing of state-owned iron ore and related minerals; amending Minnesota Statutes 1990, sections 93.16; 93.17, subdivisions 1 and 3; and 93.20, by adding a subdivision; repealing Minnesota Statutes 1990, section 93.20, subdivision 9.*

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