

Sec. 17. Minnesota Statutes 1990, section 253B.02, subdivision 7, is amended to read:

Subd. 7. **EXAMINER.** "Examiner" means a person who is knowledgeable, trained, and practicing in the diagnosis and treatment of the alleged impairment and who is:

(1) a licensed physician; or

(2) a licensed ~~consulting~~ psychologist; ~~knowledgeable, trained and practicing in the diagnosis and treatment of the alleged impairment who has a doctoral degree in psychology or who became licensed as a licensed consulting psychologist before July 2, 1975.~~

Sec. 18. **LEGISLATIVE INTENT.**

In passing sections 1 to 17, the legislature does not intend to expand the jurisdiction of the board of psychology to include occupations and professions not traditionally regulated by the board, including, but not limited to, chemical dependency counselors, occupational therapists, and employment rehabilitation workers.

Sec. 19. **INSTRUCTION TO REVISOR.**

In the next edition of Minnesota Statutes and Minnesota Rules, the revisor of statutes shall: (1) substitute the term "psychological practitioner" for the term "licensed psychologist" wherever the latter term appears; (2) substitute the term "licensed psychologist" for the term "licensed consulting psychologist" wherever the latter term appears; and (3) substitute the citation "sections 148.88 to 148.97" for the citation "Laws 1973, chapter 685" wherever the latter citation appears in Minnesota Statutes, sections 148.89, 148.90, 148.93, 148.96, and 148.97. This instruction does not apply to the language in this act.

Sec. 20. **REPEALER.**

Minnesota Statutes 1990, sections 148.92 and 148.97, subdivision 4, are repealed.

Presented to the governor May 28, 1991

Became law without the governor's signature June 1, 1991

[Revisor's Note: While the governor attempted to veto this chapter, the Ramsey County District Court found the attempted veto to be invalid.]

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## CHAPTER 256—S.F.No. 880

*An act relating to checks; increasing bank verification requirements for opening checking accounts; limiting service charges for dishonored checks on persons other than the issuer; regulating check numbering procedures; giving the commissioner of commerce enforcement*

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*powers regarding verification procedure requirements; modifying procedures and liability for civil restitution for holders of worthless checks; authorizing service charges for use of law enforcement agencies; regulating fees; authorizing checks for gambling under the Indian Gaming Regulatory Act; clarifying criminal penalties; increasing information that banks must provide to holders of worthless checks; imposing penalties; amending Minnesota Statutes 1990, sections 48.512, subdivisions 3, 4, 5, 7, and by adding subdivisions; 332.50, subdivisions 1 and 2; 349.2127, subdivision 7; and 609.535, subdivisions 2a, 6, and 7; proposing coding for new law in Minnesota Statutes, chapter 48.*

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

Section 1. Minnesota Statutes 1990, section 48.512, subdivision 3, is amended to read:

Subd. 3. **CONFIRM NO INVOLUNTARY CLOSING.** Before opening or authorizing signatory power over a transaction account, the financial intermediary shall attempt to verify the information disclosed for subdivision 2, clause (i). Inquiries made to verify this information through persons in the business of providing such information must include an inquiry based on the applicant's identification number provided under subdivision 2, clause (g). The financial intermediary may not open or authorize signatory power over a transaction account if (i) the applicant had a transaction account closed by a financial intermediary without consent because of issuance by the applicant of dishonored checks within 12 months immediately preceding the application, or (ii) the applicant has been convicted of a criminal offense because of the use of a check or other similar item within 24 months immediately preceding the application.

If the transaction account is refused pursuant to this subdivision, the reasons for the refusal shall be given to the applicant in writing and the applicant shall be allowed to provide additional information.

Sec. 2. Minnesota Statutes 1990, section 48.512, subdivision 4, is amended to read:

Subd. 4. **IDENTIFICATION IS REQUIRED.** A financial intermediary shall not open or authorize signatory power over a transaction account if none of the applicants provides a driver's license, identification card, or identification document as required by subdivision 2. If the applicant provides a driver's license or identification card issued under section 171.07, the financial intermediary must confirm the identification number and name on that card through the records of the department of public safety. The financial intermediary need not confirm this information if an employee of the financial intermediary has known the identity of the applicant for at least one year prior to the time of the application, and the employee provides a signed statement confirming that fact. When a minor is the applicant and the minor does not have a driver's license or identification card issued pursuant to section 171.07, the identification requirements of subdivision 2, clause (g), and this subdivision are satisfied if the minor's parent or guardian provides identification of that person's own that meets the identification requirement. The financial intermediary may waive the identification

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requirement if the applicant has had another type of account with the financial intermediary for at least one year immediately preceding the time of application.

Sec. 3. Minnesota Statutes 1990, section 48.512, subdivision 5, is amended to read:

Subd. 5. **NO LIABILITY.** The requirements of this section do not impose any liability on financial intermediaries offering transaction accounts or, except as provided in subdivisions 3 and 4, limit a financial intermediary's discretion as to whether to grant or deny an application subject to this section. This subdivision does not exempt a financial intermediary from civil penalties imposed under section 45.027.

Sec. 4. Minnesota Statutes 1990, section 48.512, subdivision 7, is amended to read:

Subd. 7. **TRANSACTION ACCOUNT SERVICE CHARGES AND CHARGES RELATING TO DISHONORED CHECKS.** (a) The establishment of transaction account service charges and the amounts of the charges not otherwise limited or prescribed by law or rule is a business decision to be made by each financial intermediary according to sound business judgment and safe, sound financial institution operational standards. In establishing transaction account service charges, the financial intermediary may consider, but is not limited to considering:

(1) costs incurred by the institution, plus a profit margin, in providing the service;

(2) the deterrence of misuse by customers of financial institution services;

(3) the establishment of the competitive position of the financial institution in accordance with the institution's marketing strategy; and

(4) maintenance of the safety and soundness of the institution.

(b) Transaction account service charges must be reasonable in relation to these considerations and should be arrived at by each financial intermediary on a competitive basis and not on the basis of any agreement, arrangement, undertaking, or discussion with other financial intermediaries or their officers.

(c) A financial intermediary may not impose a service charge in excess of \$4 for a dishonored check on any person other than the issuer of the check.

Sec. 5. Minnesota Statutes 1990, section 48.512, is amended by adding a subdivision to read:

Subd. 8. **CHECK LABELING.** A person providing printed checks for a transaction account shall print the month and year that the original order was received or the month and year that appears on the facsimile of the check from which the new checks are produced, unless the applicant has an existing account in good standing or a previous account in good standing within the past five years that was voluntarily closed. This subdivision no longer applies after the account has been open and in good standing for one year.

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Sec. 6. Minnesota Statutes 1990, section 48.512, is amended by adding a subdivision to read:

Subd. 9. POWERS AFFECTING CHECKING ACCOUNTS; OTHER FINANCIAL INFORMATION. The commissioner of commerce may exercise the powers authorized under section 45.027 if the commissioner has reason to believe that a financial intermediary or drawer has failed to:

- (1) comply with the verification requirements of subdivision 2, 3, or 4; or
- (2) release information as required under section 609.535, subdivision 7.

Sec. 7. **[48.513] FINANCIAL INTERMEDIARY FEES.**

A financial intermediary may charge a fee for the assembly, production, and copying of records requested under chapter 13A, not to exceed the schedule established from time to time by the Federal Reserve System under Regulation S, Code of Federal Regulations, title 12, part 219, except that a fee may not be imposed if the records are requested by a law enforcement agency or prosecuting authority. This section does not apply to requests made under section 609.535. For purposes of this section, "financial intermediary" has the meaning given in section 48.512, subdivision 1.

Sec. 8. Minnesota Statutes 1990, section 332.50, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** "Check" means a check, draft, order of withdrawal, or similar negotiable or nonnegotiable instrument.

"Credit" means an arrangement or understanding with the drawee for the payment of the check.

"Dishonor" has the meaning given in section 336.3-507, but does not include dishonor due to a stop payment order requested by an issuer who has a good faith defense to payment on the check.

Sec. 9. Minnesota Statutes 1990, section 332.50, subdivision 2, is amended to read:

Subd. 2. **ACTS CONSTITUTING.** (a) Whoever issues any check that is dishonored and is not paid within 30 days after mailing a notice of dishonor that includes a citation to this section and section 609.535, and a description of the penalties contained in these sections, in compliance with subdivision 3, is liable to the holder for: (1) the amount of the check plus a civil penalty of up to \$100; or up to 100 percent of the value of the check, whichever is greater; (2) interest at the rate payable on judgments pursuant to section 549.09 on the face amount of the check from the date of dishonor; and (3) reasonable attorney fees if the aggregate amount of the check dishonored checks issued by the issuer to all payees within a six-month period is over \$1,250.

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(b) If the amount of the dishonored check plus any service charges that have been incurred under paragraph (d) or (e) have not been paid within 30 days after having mailed a notice of dishonor in compliance with subdivision 3 but before bringing an action, a payee may make a written demand for payment for the liability imposed by paragraph (a) by sending a copy of this section and a description of the liability contained in this section to the issuer's last known address.

(c) After notice has been sent but before an action under this section is heard by the court, the plaintiff shall settle the claim if the defendant gives the plaintiff the amount of the check plus court costs, any service charge owed under paragraph (d), and reasonable attorney fees if provided for under paragraph (a), clause (3).

(d) A service charge not exceeding \$15 may be imposed immediately on any dishonored check, regardless of mailing a notice of dishonor, if written notice of the service charge was conspicuously displayed on the premises when the check was issued. The service charge may not exceed \$20, except that if the payee uses the services of a law enforcement agency to obtain payment of a dishonored check, a service charge of up to \$25 may be imposed if the service charge is used to reimburse the law enforcement agency for its expenses. A payee may impose only one service charge under this paragraph for each dishonored check.

(e) This subdivision prevails over any provision of law limiting, prohibiting, or otherwise regulating service charges authorized by this subdivision, but does not nullify charges for dishonored checks, which do not exceed \$15 the charges in paragraph (d) or the actual cost of collection, but in no case more than \$30, or terms or conditions for imposing the charges which have been agreed to by the parties to an express contract.

Sec. 10. Minnesota Statutes 1990, section 349.2127, subdivision 7, is amended to read:

Subd. 7. **CHECKS FOR GAMBLING PURCHASES.** An organization may not accept checks in payment for the purchase of any gambling equipment or for the chance to participate in any form of lawful gambling. This subdivision does not apply to gaming activities conducted pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq.

Sec. 11. Minnesota Statutes 1990, section 609.535, subdivision 2a, is amended to read:

Subd. 2a. **PENALTIES.** (a) A person who is convicted of issuing a dishonored check under subdivision 2 may be sentenced as follows:

(1) to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the value of the dishonored check, or checks aggregated under paragraph (b), is more than \$250; or

(2) to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both, if the value of the dishonored check, or checks aggregated under paragraph (b), is not more than \$250.

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(b) In a prosecution under this subdivision, the value of dishonored checks issued by the defendant in violation of this subdivision within any six-month period may be aggregated and the defendant charged accordingly in applying this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the dishonored checks was issued for all of the offenses aggregated under this paragraph.

Sec. 12. Minnesota Statutes 1990, section 609.535, subdivision 6, is amended to read:

Subd. 6. **RELEASE OF ACCOUNT INFORMATION TO LAW ENFORCEMENT AUTHORITIES.** A drawee shall release the information specified below to any state, county, or local law enforcement or prosecuting authority which certifies in writing that it is investigating or prosecuting a complaint against the drawer under this section or section 609.52, subdivision 2, clause (3)(a), and that 15 days have elapsed since the mailing of the notice of dishonor required by subdivisions 3 and 8. This subdivision applies to the following information relating to the drawer's account:

- (1) Documents relating to the opening of the account by the drawer;
- (2) Notices regarding nonsufficient funds, overdrafts, and the dishonor of any check drawn on the account within a period of six months of the date of request;
- (3) Periodic statements mailed to the drawer by the drawee for the periods immediately prior to, during, and subsequent to the issuance of any check which is the subject of the investigation or prosecution; or
- (4) The last known home and business addresses and telephone numbers of the drawer.

The drawee shall release all of the information described in clauses (1) to (4) that it possesses within ten days after receipt of a request conforming to all of the provisions of this subdivision. The drawee may not impose a ~~reasonable~~ fee for ~~the cost for~~ furnishing this information to law enforcement or prosecuting authorities; ~~not to exceed 15 cents per page.~~

A drawee is not liable in a criminal or civil proceeding for releasing information in accordance with this subdivision.

Sec. 13. Minnesota Statutes 1990, section 609.535, subdivision 7, is amended to read:

Subd. 7. **RELEASE OF ACCOUNT INFORMATION TO PAYEE OR HOLDER.** (a) A drawee shall release the information specified in paragraph (b), clauses (1) ~~and (2)~~ to (3) to the payee or holder of a check that has been dishonored who makes a written request for this information and states in writing that the check has been dishonored and that 30 days have elapsed since the mailing

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of the notice described in subdivision 8 and who accompanies this request with a copy of the dishonored check and a copy of the notice of dishonor.

The requesting payee or holder shall notify the drawee immediately to cancel this request if payment is made before the drawee has released this information.

(b) This subdivision applies to the following information relating to the drawer's account:

(1) Whether at the time the check was issued or presented for payment the drawer had sufficient funds or credit with the drawee, and whether at that time the account was open, closed, or restricted for any reason and the date it was closed or restricted; ~~and~~

(2) The last known home address and telephone number of the drawer. The drawee may not release the address or telephone number of the place of employment of the drawer unless the drawer is a business entity or the place of employment is the home; and

(3) A statement as to whether the aggregated value of dishonored checks attributable to the drawer within six months before or after the date of the dishonored check exceeds \$250; for purposes of this clause, a check is not dishonored if payment was not made pursuant to a stop payment order.

The drawee shall release all of the information described in clauses (1) ~~and (2)~~ to (3) that it possesses within ten days after receipt of a request conforming to all of the provisions of this subdivision. The drawee may require the person requesting the information to pay the reasonable costs, not to exceed 15 cents per page, of reproducing and mailing the requested information.

(c) A drawee is not liable in a criminal or civil proceeding for releasing information in accordance with this subdivision.

Presented to the governor May 28, 1991

Signed by the governor May 31, 1991, 4:56 p.m.

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#### CHAPTER 257—S.F.No. 793

*An act relating to the environment; establishing maximum content levels of mercury in batteries; prohibiting certain batteries; prohibiting the disposal of rechargeable batteries in mixed municipal solid waste; requiring a notice to consumers; amending Minnesota Statutes 1990, sections 115A.9155, subdivision 2; 325E.125, subdivision 2, and by adding subdivisions; and 325E.1251; proposing coding for new law in Minnesota Statutes, chapter 115A.*

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

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