

CHAPTER 538—S.F.No. 2336

An act relating to employment; prohibiting certain actions by an employer because of a job applicants' or employees' use of certain products; proposing coding for new law in Minnesota Statutes, chapter 181.

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

Section 1. [181.938] NONWORK ACTIVITIES; PROHIBITED EMPLOYER CONDUCT.

Subdivision 1. DEFINITION. For the purpose of this section, "employer" has the meaning given it in section 179.01, subdivision 3.

Subd. 2. PROHIBITED PRACTICE. An employer may not refuse to hire a job applicant or discipline or discharge an employee because the applicant or employee engages in or has engaged in the use or enjoyment of lawful consumable products, if the use or enjoyment takes place off the premises of the employer during nonworking hours. For purposes of this section, "lawful consumable products" means products whose use or enjoyment is lawful and which are consumed during use or enjoyment, and includes food, alcoholic or nonalcoholic beverages, and tobacco.

Subd. 3. EXCEPTIONS. (a) It is not a violation of subdivision 2, for an employer to restrict the use of lawful consumable products by employees during nonworking hours if the employer's restriction:

(1) relates to a bona fide occupational requirement and is reasonably related to employment activities or responsibilities of a particular employee or group of employees; or

(2) is necessary to avoid a conflict of interest or the appearance of a conflict of interest with any responsibilities owed by the employee to the employer.

(b) It is not a violation of subdivision 2, for an employer to refuse to hire an applicant or discipline or discharge an employee who refuses or fails to comply with the conditions established by a chemical dependency treatment or aftercare program.

(c) It is not a violation of subdivision 2, for an employer to offer, impose, or have in effect a health or life insurance plan that makes distinctions between employees for the type of coverage or the cost of coverage based upon the employee's use of lawful consumable products, provided that, to the extent that different premium rates are charged to the employees, those rates must reflect the actual differential cost to the employer.

(d) It is not a violation of subdivision 2, for an employer to refuse to hire an applicant or discipline or discharge an employee on the basis of the applicant's or employee's past or present job performance.

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

Subd. 4. REMEDY. The sole remedy for a violation of subdivision 2 is a civil action for damages. Damages are limited to wages and benefits lost by the individual because of the violation. A court shall award the prevailing party in the action, whether plaintiff or defendant, court costs and a reasonable attorney fee.

Presented to the governor April 17, 1992

Signed by the governor April 29, 1992, 8:02 a.m.

CHAPTER 539—S.F.No. 1917

An act relating to the state board of investment; management of funds under board control; authorizing certain investments by the board; amending Minnesota Statutes 1990, sections 11A.14, subdivision 2; 11A.16, subdivision 5; 11A.17, subdivisions 1, 4, 9, 14, and by adding a subdivision; 11A.18, subdivision 11; 116P.11; 352D.04, subdivision 1; 352D.09, subdivision 7; and 354B.05, subdivision 3; Minnesota Statutes 1991 Supplement, sections 11A.24, subdivision 4; 353D.05, subdivisions 2 and 3; and 354B.07, subdivision 2.

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

Section 1. Minnesota Statutes 1990, section 11A.14, subdivision 2, is amended to read:

Subd. 2. **ASSETS.** The assets of the combined investment funds shall consist of the money certified to and received by the state board from participating retirement plans and funds which shall be used to purchase investment shares in the appropriate investment accounts. Each participating fund shall own an undivided participation in all the assets of the particular accounts of the combined funds in which it participates. As of any date, the total claim of a participating fund on the assets in each account shall be equal to the ratio of units owned by a fund in each account to the total issued units then outstanding.

Sec. 2. Minnesota Statutes 1990, section 11A.16, subdivision 5, is amended to read:

Subd. 5. **CALCULATION OF INCOME.** As of the end of each fiscal year, the state board shall calculate the investment income earned by the permanent school fund. The investment income earned by the fund shall equal the amount of interest on debt securities and dividends on equity securities. Gains and losses arising from the sale of securities shall be apportioned as follows:

(a) If the sale of securities results in a net gain during a fiscal year, the gain shall be apportioned in equal installments over the next ten fiscal years to offset net losses in those years. If any portion of an installment is not needed to recover subsequent losses identified in paragraph (b) it shall be added to the principal of the fund.

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