

After June 1, 1993, the commissioner may not allow the use of additional state forest lands within the boundaries of the Richard J. Dorer Memorial Hardwood State Forest for development or operation of a motor sports area for use by all-terrain vehicles, motorcycles, or four-wheel drive trucks without legislative approval. This restriction does not apply to recreational trails.

**Sec. 3. EFFECTIVE DATE.**

This act is effective the day following final enactment.

Presented to the governor May 12, 1993

Signed by the governor May 14, 1993, 10:02 p.m.

**CHAPTER 204—H.F.No. 643**

*An act relating to commerce; making technical changes in the department's enforcement powers; regulating cosmetology; prescribing powers and duties; setting fees; amending Minnesota Statutes 1992, sections 45.011, subdivision 1, and by adding a subdivision; 45.027, subdivisions 1, 2, 5, 6, and 8; 155A.03, subdivision 1; 155A.05; 155A.06; 155A.07, subdivisions 2, 4, 7, and 8; 155A.08, subdivisions 2 and 5; 155A.09, subdivisions 2, 5, 6, and 9; 155A.10; 155A.14; 155A.15; and 155A.16; proposing coding for new law in Minnesota Statutes, chapter 155A; repealing Minnesota Statutes 1992, sections 155A.11; 155A.12; 155A.13; and 155A.18; Minnesota Rules, parts 2642.0310, subparts 3, 4, and 5; 2642.0330, subparts 3 and 4; 2642.0800; 2642.0810; 2644.0310, subparts 2, 3, and 4; 2644.0800; and 2644.0810.*

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

Section 1. Minnesota Statutes 1992, section 45.011, subdivision 1, is amended to read:

Subdivision 1. **SCOPE.** As used in chapters 45 to 83, 155A, 309, 332, and 359, and sections 326.83 to 326.98, unless the context indicates otherwise, the terms defined in this section have the meanings given them.

Sec. 2. Minnesota Statutes 1992, section 45.011, is amended by adding a subdivision to read:

**Subd. 4. DUTIES AND RESPONSIBILITIES ENTRUSTED TO THE COMMISSIONER.** "Duties and responsibilities entrusted to the commissioner" includes the administration of those chapters referred to in subdivision 1, as well as rules adopted or orders issued under those chapters.

Sec. 3. Minnesota Statutes 1992, section 45.027, subdivision 1, is amended to read:

Subdivision 1. **GENERAL POWERS.** In connection with the ~~administration of chapters 45 to 83, 309, and 332, and sections 326.83 to 326.98~~ duties

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and responsibilities entrusted to the commissioner, the commissioner of commerce may:

(1) make public or private investigations within or without this state as the commissioner considers necessary to determine whether any person has violated or is about to violate ~~chapters 45 to 83, 309, and 332, sections 326.83 to 326.98, or any rule adopted or order issued under those chapters; or to aid in the enforcement of chapters 45 to 83, 309, and 332, sections 326.83 to 326.98, or in the prescribing of rules or forms under those chapters~~ any law, rule, or order related to the duties and responsibilities entrusted to the commissioner;

(2) require or permit any person to file a statement in writing, under oath or otherwise as the commissioner determines, as to all the facts and circumstances concerning the matter being investigated;

(3) hold hearings, upon reasonable notice, in respect to any matter arising out of the ~~administration of chapters 45 to 83, 309, and 332, and sections 326.83 to 326.98~~ duties and responsibilities entrusted to the commissioner;

(4) conduct investigations and hold hearings for the purpose of compiling information with a view to recommending changes in ~~chapters 45 to 83, 309, and 332, and sections 326.83 to 326.98~~, to the legislature in the laws related to the duties and responsibilities entrusted to the commissioner;

(5) examine the books, accounts, records, and files of every licensee ~~under chapters 45 to 83, 309, and 332, and sections 326.83 to 326.98~~, and of every person who is engaged in any activity regulated ~~under chapters 45 to 83, 309, and 332, and sections 326.83 to 326.98~~; the commissioner or a designated representative shall have free access during normal business hours to the offices and places of business of the person, and to all books, accounts, papers, records, files, safes, and vaults maintained in the place of business;

(6) publish information which is contained in any order issued by the commissioner; and

(7) require any person subject to ~~chapters 45 to 83, 309, and 332, and sections 326.83 to 326.98~~ duties and responsibilities entrusted to the commissioner, to report all sales or transactions that are regulated ~~under chapters 45 to 83, 309, and 332, and sections 326.83 to 326.98~~. The reports must be made within ten days after the commissioner has ordered the report. The report is accessible only to the respondent and other governmental agencies unless otherwise ordered by a court of competent jurisdiction.

Sec. 4. Minnesota Statutes 1992, section 45.027, subdivision 2, is amended to read:

Subd. 2. **POWER TO COMPEL PRODUCTION OF EVIDENCE.** For the purpose of any investigation, hearing, proceeding, or inquiry ~~under chapters 45 to 83, 309, and 332, and sections 326.83 to 326.98~~ related to the duties and

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responsibilities entrusted to the commissioner, the commissioner or a designated representative may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records that the commissioner considers relevant or material to the inquiry.

Sec. 5. Minnesota Statutes 1992, section 45.027, subdivision 5, is amended to read:

Subd. 5. **LEGAL ACTIONS; INJUNCTIONS; CEASE AND DESIST ORDERS.** Whenever it appears to the commissioner that any person has engaged or is about to engage in any act or practice constituting a violation of ~~chapters 45 to 83, 309, and 332, sections 326.83 to 326.98, or any rule adopted or order issued under those chapters~~ any law, rule, or order related to the duties and responsibilities entrusted to the commissioner, the commissioner has the following powers: (1) the commissioner may bring an action in the name of the state in the district court of the appropriate county to enjoin the acts or practices and to enforce compliance with ~~chapters 45 to 83, 309, and 332, sections 326.83 to 326.98, or any rule or order adopted or issued under those chapters~~, or the commissioner may refer the matter to the attorney general or the county attorney of the appropriate county. Upon a proper showing, a permanent or temporary injunction, restraining order, or other appropriate relief must be granted; (2) the commissioner may issue and cause to be served upon the person an order requiring the person to cease and desist from violations of ~~chapters 45 to 83, 309, and 332, sections 326.83 to 326.98, or any rule or order adopted or issued under those chapters~~. The order must be calculated to give reasonable notice of the rights of the person to request a hearing and must state the reasons for the entry of the order. A hearing must be held not later than seven days after the request for the hearing is received by the commissioner, unless the person requesting the hearing and the department of commerce agree the hearing be scheduled after the seven-day period. After the hearing and within 20 days after receiving the administrative law judge's report, the commissioner shall issue a further order vacating the cease and desist order or making it permanent as the facts require. If no hearing is requested within 30 days of service of the order, the order will become final and will remain in effect until it is modified or vacated by the commissioner. Unless otherwise provided, all hearings must be conducted in accordance with chapter 14. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person is in default, and the proceeding may be determined against that person upon consideration of the cease and desist order, the allegations of which may be considered to be true. The commissioner may adopt rules of procedure concerning all proceedings conducted under this subdivision.

Sec. 6. Minnesota Statutes 1992, section 45.027, subdivision 6, is amended to read:

Subd. 6. **VIOLATIONS AND PENALTIES.** The commissioner may impose a civil penalty not to exceed \$2,000 per violation upon a person who

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violates ~~chapters 45 to 83, 309, and 332, and sections 326.83 to 326.98, or any rule adopted or order issued under those chapters~~ any law, rule, or order related to the duties and responsibilities entrusted to the commissioner unless a different penalty is specified.

Sec. 7. Minnesota Statutes 1992, section 45.027, subdivision 8, is amended to read:

Subd. 8. **STOP ORDER.** In addition to any other actions authorized by this section, the commissioner may issue a stop order denying effectiveness to or suspending or revoking any registration ~~subject to chapters 45 to 83, 309, or 332, or sections 326.83 to 326.98.~~

Sec. 8. Minnesota Statutes 1992, section 155A.03, subdivision 1, is amended to read:

Subdivision 1. **TERMS.** For purposes of ~~sections 155A.01 to 155A.18~~ this chapter, and unless the context clearly requires otherwise, the words defined in this section have the meanings given them.

Sec. 9. **[155A.045] FEES.**

Subdivision 1. SCHEDULE. The fee schedule for licensees is as follows:

(a) Three-year license fees:

(1) cosmetologist, manicurist, esthetician, \$30;

(2) instructor, manager, \$45;

(3) salon, \$50; and

(4) school, \$750.

(b) Penalties:

(1) reinspection fee, variable; and

(2) manager with lapsed practitioner, \$25.

(c) Administrative fees:

(1) duplicate license (includes individual name or address change), \$5;

(2) certificate of identification, \$20;

(3) processing fee (covers licensing history or certification of licensure, restoration of lapsed license, salon name change, school name change, late renewals, applications for new licenses), \$15; and

(4) school original application, \$150.

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Subd. 2. REFUNDS. Refunds shall be given in the following situations: overpayment; death or permanent disability before the effective date of a license; or an individual's ineligibility for licensure. Applicants determined ineligible to receive a license will be refunded the license fee minus any processing fee this section requires.

Subd. 3. OTHER LICENSES. A licensee who applies for licensing in a second category shall pay the full license fee for the second category of license.

Sec. 10. Minnesota Statutes 1992, section 155A.05, is amended to read:

#### 155A.05 RULES.

The commissioner ~~shall~~ may develop and adopt rules to carry out sections ~~155A.01 to 155A.18~~ according to chapter 14 ~~that the commissioner considers necessary to carry out this chapter.~~ For purposes of sections ~~155A.01 to 155A.18~~, the commissioner may adopt emergency rules; according to sections ~~14.29 to 14.36~~. These rules may provide that for a renewal license issued by the commissioner within one year after July 1, 1981, the term of renewal shall be either one, two, or three years. The fee for a one-year renewal license shall be one-third of the fee for a three-year renewal license, and the fee for a two-year renewal shall be two-thirds of the three-year fee.

Sec. 11. Minnesota Statutes 1992, section 155A.06, is amended to read:

#### 155A.06 ADVISORY COUNCIL.

Subdivision 1. **CREATION.** The Minnesota cosmetology advisory council ~~is created; consisting~~ consists of 11 members, as follows: Three members representative of consumers; four cosmetologists or shop managers; three cosmetology school representatives, at least one of whom shall represent public cosmetology schools and one represent private cosmetology schools; and one representative of manufacturers of cosmetology products. The chair shall be selected at the first meeting of each year by the council from among its members by majority vote and shall serve until a successor is elected.

Subd. 2. **APPOINTMENTS.** Appointments to the council shall be made by the commissioner in accordance with section ~~15.0597~~ 15.059.

Subd. 3. **MEMBERSHIP TERMS.** Each member of the council shall be appointed for a four-year term, except that in making the appointments ~~for the first term,~~ the governor shall appoint members ~~for one, two, three, or four year duration by September 1, 1981~~ so that appointments do not expire concurrently.

Subd. 4. **DUTIES.** The council shall meet at least annually, at the call of the commissioner. The council shall advise the commissioner of the availability of cosmetology services and their ethical and safe operation and on other matters as the commissioner considers appropriate. The commissioner ~~shall~~ may consult with the council ~~prior to the promulgation of~~ before adopting any rules, ~~adoption of~~ testing instruments, criteria for inspections, and other matters as the commissioner ~~deems~~ considers appropriate.

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Subd. 5. **COMPENSATION.** Members of the council shall be compensated for expenses ~~and the council shall expire~~ as provided in section 15.059 and the council shall expire on June 30, 1997.

Sec. 12. Minnesota Statutes 1992, section 155A.07, subdivision 2, is amended to read:

Subd. 2. **QUALIFICATIONS.** Qualifications for licensing in each classification shall be determined by the commissioner ~~in consultation with the council,~~ and established by rule, and shall include educational and experiential prerequisites. The rules shall require a demonstrated knowledge of procedures necessary to protect the health of the practitioner and the consumer of cosmetology services, including but not limited to chemical applications.

Sec. 13. Minnesota Statutes 1992, section 155A.07, subdivision 4, is amended to read:

Subd. 4. **LICENSING WITHOUT TEST.** Licensing of persons without testing may be allowed as determined by ~~rules~~ rule.

Sec. 14. Minnesota Statutes 1992, section 155A.07, subdivision 7, is amended to read:

Subd. 7. **FEES.** Examination and licensing fees shall be ~~established and adjusted, by rule, so that the total amount of fee income at least meets the anticipated costs; as provided in section 16A.128~~ in the amounts specified in section 155A.045.

Sec. 15. Minnesota Statutes 1992, section 155A.07, subdivision 8, is amended to read:

Subd. 8. **EXEMPTIONS.** Persons licensed to provide cosmetology services in other states visiting this state for cosmetology demonstrations shall be exempted from the licensing provisions of ~~sections 155A.01 to 155A.18~~ provided that this chapter if services to consumers are in the physical presence of a licensed cosmetologist.

Sec. 16. Minnesota Statutes 1992, section 155A.08, subdivision 2, is amended to read:

Subd. 2. **REQUIREMENTS.** The conditions and process by which a salon is licensed shall be established by the commissioner by rule ~~after consultation with the council. The rule shall include the following requirements. In addition to those requirements, no license shall be issued unless the commissioner first determines that paragraphs (a) to (e) have been satisfied:~~

(a) compliance with all local and state laws, particularly relating to matters of sanitation, health, and safety;

(b) the employment of a manager, as defined in section 155A.03, subdivision 6;

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- (c) inspection and licensing prior to the commencing of business; ~~and~~
- (d) if applicable, evidence of compliance with section 176.182; and
- (e) evidence of continued professional liability insurance coverage ~~in an amount by of at least \$25,000 for each claim and \$50,000 total coverage as established by rule for each policy year for each operator.~~

The rule shall authorize A licensed esthetician or manicurist who complies with the health, safety, sanitation, inspection, and insurance rules promulgated by the commissioner to operate a salon solely for the performance of those personal services defined in section 155A.03, subdivision 4, in the case of an esthetician, or subdivision 5, in the case of a manicurist.

Sec. 17. Minnesota Statutes 1992, section 155A.08, subdivision 5, is amended to read:

Subd. 5. **FEES.** ~~The licensing and inspection fees shall be established and adjusted, by rule, so that the total amount of fee income at least meets the anticipated costs, as provided in section 16A.128 are as specified in section 155A.045.~~

Sec. 18. Minnesota Statutes 1992, section 155A.09, subdivision 2, is amended to read:

Subd. 2. **STANDARDS.** The commissioner, ~~after consultation with the council,~~ shall by rule establish minimum standards of course content and length specific to the educational preparation prerequisite to testing and licensing as cosmetologist, esthetician, and manicurist.

Sec. 19. Minnesota Statutes 1992, section 155A.09, subdivision 5, is amended to read:

Subd. 5. **CONDITIONS PRECEDENT TO ISSUANCE.** No license shall be issued unless the commissioner first determines:

- (a) That the applicant has a sound financial condition with sufficient resources available to meet the school's financial obligations; to refund all tuition and other charges, within a reasonable period of time, in the event of dissolution of the school or in the event of any justifiable claims for refund against the school; to provide adequate service to its students and prospective students; and for the proper use and support of the school to be maintained;
- (b) That the applicant has satisfactory training facilities with sufficient tools and equipment and the necessary number of work stations to adequately train the students currently enrolled, and those proposed to be enrolled;
- (c) That the applicant employs a sufficient number of qualified instructors trained by experience and education to give the training contemplated;
- (d) That the premises and conditions under which the students work and study are sanitary, healthful, and safe according to modern standards;

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(e) That each occupational course or program of instruction or study shall be of such quality and content as to provide education and training which will adequately prepare enrolled students for testing, licensing, and entry level positions as a cosmetologist, esthetician, or manicurist; ~~and~~

(f) Evidence of the school's coverage by professional liability insurance coverage in an amount by claim and total coverage as established by rule, of at least \$25,000 per incident and an accumulation of \$150,000 for each premium year;

(g) The applicant shall provide evidence of the school's compliance with section 176.182; and

(h) The applicant, except the state and its political subdivisions as described in section 471.617, subdivision 1, shall file with the commissioner a continuous corporate surety bond in the amount of \$10,000, conditioned upon the faithful performance of all contracts and agreements with students made by the applicant. The bond shall run to the state of Minnesota and to any person who may have a cause of action against the applicant arising at any time after the bond is filed and before it is canceled for breach of any contract or agreement made by the applicant with any student. The aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed \$10,000. The surety of the bond may cancel it upon giving 60 days notice in writing to the commissioner and shall be relieved of liability for any breach of condition occurring after the effective date of cancellation.

Sec. 20. Minnesota Statutes 1992, section 155A.09, subdivision 6, is amended to read:

Subd. 6. **FEES; RENEWALS.** (a) Applications for initial license under this chapter shall be accompanied by a nonrefundable application fee ~~established by rule set forth in section 155A.045.~~

(b) License duration shall be three years. Each renewal application shall be accompanied by a nonrefundable renewal fee ~~established by rule set forth in section 155A.045.~~

(c) Application for renewal of license shall be made as ~~stipulated~~ provided in rules ~~promulgated~~ adopted by the commissioner and on forms supplied by the commissioner.

Sec. 21. Minnesota Statutes 1992, section 155A.09, subdivision 9, is amended to read:

Subd. 9. **SEPARATION OF SCHOOL AND PROFESSIONAL DEPARTMENTS.** A school shall display in the entrance reception room of its student section a sign prominently and conspicuously indicating that all work therein is done exclusively by students. Professional departments of a school shall be run as entirely separate and distinct businesses and shall have separate entrances.

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Nothing contained in ~~sections 155A.01 to 155A.18~~ this chapter shall prevent a school from charging for student work done in the school to cover the cost of materials used and expenses incurred in and for the operation of the school. All of the student work shall be prominently and conspicuously advertised and held forth as being student work and not otherwise.

**Sec. 22. [155A.095] INSPECTIONS.**

The commissioner is responsible for inspecting salons and schools licensed pursuant to this chapter to assure compliance with the requirements of this chapter. The commissioner shall direct department resources first to the inspection of those licensees who fail to meet the requirements of law, have indicated that they present a greater risk to the public, or have otherwise, in the opinion of the commissioner, demonstrated that they require a greater degree of regulatory attention. In no event shall a salon or school be inspected less often than once each year.

Sec. 23. Minnesota Statutes 1992, section 155A.10, is amended to read:

**155A.10 DISPLAY OF LICENSE.**

(a) Every holder of a license granted by the commissioner, shall display it in a conspicuous place in the place of business.

(b) Notwithstanding the provisions of paragraph (a), nothing contained in ~~sections 155A.01 to 155A.18~~ this chapter shall be construed to prohibit a person licensed to provide cosmetology services from engaging in any practices defined in ~~sections 155A.01 to 155A.18~~ this chapter in the homes of customers or patrons, under the sanitary and health rules promulgated by the commissioner.

**Sec. 24. [155A.135] ENFORCEMENT.**

The provisions of section 45.027 apply to the administration of this chapter.

Sec. 25. Minnesota Statutes 1992, section 155A.14, is amended to read:

**155A.14 SERVICES EXCEPTED; EMERGENCY.**

Nothing in ~~sections 155A.01 to 155A.18~~ shall ~~prohibit~~ this chapter prohibits services in cases of emergency where compensation or other reward is not received, nor in domestic service, nor in the practice of medicine, surgery, dentistry, podiatry, osteopathy, chiropractic, or barbering. This section shall not be construed to authorize any of the persons so exempted to wave the hair, or to color, tint, or bleach the hair, in any manner.

Sec. 26. Minnesota Statutes 1992, section 155A.15, is amended to read:

**155A.15 APPOINTMENT OF AGENT FOR SERVICE OF PROCESS.**

Any person, firm, partnership, or corporation, not a resident of Minnesota, who engages in Minnesota in the practices regulated in ~~sections 155A.01 to~~

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~~155A.18~~ this chapter shall file with the commissioner the name and address of a duly authorized agent for service of legal process, which agent for service shall be a resident of the state of Minnesota.

Sec. 27. Minnesota Statutes 1992, section 155A.16, is amended to read:

**155A.16 VIOLATIONS; PENALTIES.**

Any person who violates any of the provisions of ~~sections 155A.01 to 155A.18~~ shall be this chapter is guilty of a misdemeanor and upon conviction may be sentenced to imprisonment for not more than 90 days or fined not more than \$700, or both, per violation.

Sec. 28. **REPEALER.**

(a) Minnesota Statutes 1992, sections 155A.11; 155A.12; 155A.13; and 155A.18, are repealed.

(b) Minnesota Rules, parts 2642.0310, subparts 3, 4, and 5; 2642.0330, subparts 3 and 4; 2642.0800; 2642.0810; 2644.0310, subparts 2, 3, and 4; 2644.0800; and 2644.0810, are repealed.

Sec. 29. **EFFECTIVE DATE.**

Section 11 is effective the day following final enactment.

Presented to the governor May 12, 1993

Signed by the governor May 14, 1993, 10:03 p.m.

**CHAPTER 205—H.F.No. 1021**

*An act relating to state lands; exempting certain lakeshore lots from sale requirements; authorizing the commissioner of natural resources to acquire personal property; amending Minnesota Statutes 1992, section 92.67, by adding a subdivision.*

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

Section 1. Minnesota Statutes 1992, section 92.67, is amended by adding a subdivision to read:

Subd. 1a. HORSESHOE BAY LAND SALE POSTPONED UNTIL JULY 1, 1998. The sale date of December 31, 1993, listed in subdivision 1 shall be postponed until July 1, 1998, for all state lands located in section 16, township 62N, range 4E, Cook county. The commissioner shall continue the existing leases until that time. The commissioner, in conjunction with the Cook county board of commissioners shall prepare an integrated resource management plan and make recommendations to the legislature on the future use of the lands in section 16, township 62N, range 4E, Cook county, by July 1, 1997.

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