

dure act, chapter 14, if it concludes that the repository no longer satisfies the conditions for recognition listed in this section or in rules adopted by the secretary.

Sec. 27. [325K.26] RULEMAKING.

The secretary may adopt rules effective July 1, 1998, to implement this chapter.

Sec. 28. EFFECTIVE DATE.

Section 27 is effective July 1, 1997. Sections 1 to 26 are effective the day after the secretary of state causes to be published in the State Register a certification by the secretary of state that the secretary of state has adopted rules necessary for the use of sections 1 to 27, except that any provision of sections 1 to 27 authorizing or requiring rules to be adopted is effective the day following final enactment.

Presented to the governor May 17, 1997

Signed by the governor May 19, 1997, 7:20 p.m.

CHAPTER 179—S.F.No. 378

An act relating to taxation; recodifying taxes on liquor; providing civil and criminal penalties; appropriating money; amending Minnesota Statutes 1996, sections 16A.26; 340A.301, subdivision 8; 340A.302, subdivision 1; 340A.414, subdivision 7; 340A.417; and 340A.7035; proposing coding for new law as Minnesota Statutes, chapter 297G; repealing Minnesota Statutes 1996, sections 297C.01; 297C.02; 297C.03; 297C.04; 297C.045; 297C.05; 297C.06; 297C.07; 297C.08; 297C.09; 297C.10; 297C.11; 297C.12; 297C.13; 297C.14; 297C.16; and 297C.17.

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

ARTICLE 1

RECODIFICATION

Section 1. [297G.01] DEFINITIONS.

Subdivision 1. TERMS. For purposes of this chapter, the following terms have the meaning given them unless the language or context clearly indicates that a different meaning is intended.

Subd. 2. ALCOHOLIC BEVERAGE. "Alcoholic beverage" is any beverage containing more than one-half of one percent alcohol by volume.

Subd. 3. BREWER. "Brewer" is a person who manufactures malt liquor for sale.

Subd. 4. COLLECTOR. "Collector" is a person who collects commemorative bottles for their use and enjoyment as collector's items and not for the consumption of the

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beverage contained in them. The term does not include licensed wholesalers or retailers of alcoholic beverages.

Subd. 5. **COMMEMORATIVE BOTTLES.** “Commemorative bottles” are ceramic commemorative bottles or other specially designed decanters which have value as collector’s items and which contain an alcoholic beverage.

Subd. 6. **COMMISSIONER.** “Commissioner” is the commissioner of revenue.

Subd. 7. **DISTILLED SPIRITS.** “Distilled spirits” is intoxicating liquors, including ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures, for nonindustrial use.

Subd. 8. **FERMENTED MALT BEVERAGES.** “Fermented malt beverages” is any beer, ale, or other beverage made from malt by fermentation and containing not less than one-half of one percent alcohol by volume.

Subd. 9. **INTERNAL REVENUE CODE.** Unless specifically defined otherwise, “Internal Revenue Code” means the Internal Revenue Code of 1986, as amended through December 31, 1996.

Subd. 10. **INTOXICATING LIQUOR.** “Intoxicating liquor” is ethyl alcohol, distilled spirits, fermented, spirituous, vinous, and fermented malt beverages containing more than 3.2 percent of alcohol by weight.

Subd. 11. **LIQUEUR-FILLED CANDY.** “Liqueur-filled candy” is any confectionery containing more than one-half of one percent alcohol by volume in liquid form that is intended for or capable of beverage use.

Subd. 12. **LIQUOR ACT.** For purposes of this chapter, the terms defined in section 340A.101, have the meanings given them in that section except as provided in this section.

Subd. 13. **MANUFACTURER.** “Manufacturer” is a person who, by a process of manufacturing, fermenting, brewing, distilling, refining, rectifying, blending, or by the combination of different materials, prepares or produces intoxicating liquor for sale.

Subd. 14. **MINIATURES.** “Miniatures” are containers of distilled spirits of two fluid ounces or less or 50 milliliters or less.

Subd. 15. **PERSON.** “Person” means an individual or any entity engaged in the sale of distilled spirits, wine, or fermented malt beverages.

Subd. 16. **RETAILER.** “Retailer” means a person engaged in this state in the business of selling, or offering to sell, distilled spirits, wine, or fermented malt beverages.

Subd. 17. **TABLE OR SPARKLING WINE.** “Table or sparkling wine” is a beverage made without rectification or fortification and containing not more than 25 percent alcohol by volume and made by the fermentation of grapes, grape juice, other fruits, or honey.

Subd. 18. **3.2 PERCENT MALT LIQUOR.** “3.2 percent malt liquor” is a fermented malt beverage containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight.

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Subd. 19. **WHOLESALE**R. "Wholesaler" is a person who sells alcoholic beverages to persons to whom sale is permitted under section 340A.310, from a stock maintained in a warehouse in the state.

Subd. 20. **WINE**. "Wine" is the product made from the normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than sound ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry, and sake, in each instance containing not less than one-half of one percent nor more than 24 percent alcohol by volume for nonindustrial use. Wine does not include distilled spirits as defined in subdivision 7.

Sec. 2. [297G.02] ADMINISTRATION.

Subdivision 1. **ENFORCEMENT RESPONSIBILITY**. The commissioners of public safety and revenue shall enforce and administer the provisions of this chapter.

Subd. 2. **NONAPPLICABILITY**. This chapter does not apply to:

- (1) medicines intended for therapeutic purposes and not intended as a beverage;
- (2) industrial alcohol designed for mechanical, chemical, scientific, pharmaceutical, or industrial purposes; or
- (3) nonpotable compounds or preparations containing alcohol.

Subd. 3. **POWERS OF COMMISSIONER OF REVENUE**. The commissioner, or duly authorized agents, may conduct investigations, inquiries, and hearings under this chapter and, in connection with such investigations, inquiries, and hearings, the commissioner and the duly authorized agents shall have all the powers conferred upon the commissioner and the commissioner's examiners by section 270.06, and the provisions of that section shall apply to all such investigations, inquiries, and hearings.

Subd. 4. **EXPENSES OF ADMINISTRATION**. Expenses for the administration of this chapter shall be paid out of appropriations to the commissioner for the administration of this chapter and shall include fees and expenses incurred by the attorney general and any county attorney in litigation in connection with the enforcement of this chapter. Expenses also include all court costs and expenses.

Sec. 3. [297G.03] DISTILLED SPIRITS AND WINE; RATE OF TAX.

Subdivision 1. **GENERAL RATE; DISTILLED SPIRITS AND WINE**. The following excise tax is imposed on all distilled spirits and wine manufactured, imported, sold, or possessed in this state:

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

	<u>Standard</u>	<u>Metric</u>
<u>(a) Distilled spirits, liqueurs, cordials, and specialties regardless of alcohol content (excluding ethyl alcohol)</u>	<u>\$5.03 per gallon</u>	<u>\$1.33 per liter</u>
<u>(b) Wine containing 14 percent or less alcohol by volume</u>	<u>\$.30 per gallon</u>	<u>\$.08 per liter</u>
<u>(c) Wine containing more than 14 percent but not more than 21 percent alcohol by volume</u>	<u>\$.95 per gallon</u>	<u>\$.25 per liter</u>
<u>(d) Wine containing more than 21 percent but not more than 24 percent alcohol by volume</u>	<u>\$1.82 per gallon</u>	<u>\$.48 per liter</u>
<u>(e) Wine containing more than 24 percent alcohol by volume</u>	<u>\$3.52 per gallon</u>	<u>\$.93 per liter</u>
<u>(f) Natural and artificial sparkling wines containing alcohol</u>	<u>\$1.82 per gallon</u>	<u>\$.48 per liter</u>

In computing the tax on a package of distilled spirits or wine, a proportional tax at a like rate on all fractional parts of a gallon or liter must be paid, except that the tax on a fractional part of a gallon less than 1/16 of a gallon is the same as for 1/16 of a gallon.

Subd. 2. TAX ON MINIATURES; DISTILLED SPIRITS. The tax on miniatures is 14 cents per bottle.

Subd. 3. TAX IS METRIC. The metric tax is imposed on all products taxable under this section when the net contents are stated in metric units of measure. The commissioner may establish by rule a date and procedure for the conversion of excise tax computation and reporting from rates expressed in gallons to rates expressed in metric volumes. The official conversion factor is one liter equals 0.264172 United States gallons.

Subd. 4. BOTTLE TAX. A tax of one cent is imposed on each bottle or container of distilled spirits and wine except as provided in 297G.07, subdivision 3. The wholesaler is responsible for the payment of this tax when the bottles of distilled spirits and wine are removed from inventory for sale, delivery, or shipment.

Sec. 4. [297G.04] FERMENTED MALT BEVERAGES; RATE OF TAX.

Subdivision 1. TAX IMPOSED. The following excise tax is imposed on all fermented malt beverages that are imported, directly or indirectly sold, or possessed in this state:

(1) on fermented malt beverages containing not more than 3.2 percent alcohol by weight, \$2.40 per 31-gallon barrel;

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(2) on fermented malt beverages containing more than 3.2 percent alcohol by weight, \$4.60 per 31-gallon barrel.

For fractions of a 31-gallon barrel, the tax rate is calculated proportionally.

Subd. 2. TAX CREDIT. A qualified brewer producing fermented malt beverages is entitled to a tax credit of \$4.60 per barrel on 25,000 barrels sold in any fiscal year beginning July 1, regardless of the alcohol content of the product. Qualified brewers may take the credit on the 18th day of each month, but the total credit allowed may not exceed in any fiscal year the lesser of:

(1) the liability for tax; or

(2) \$115,000.

For purposes of this subdivision, a "qualified brewer" means a brewer, whether or not located in this state, manufacturing less than 100,000 barrels of fermented malt beverages in the calendar year immediately preceding the calendar year for which the credit under this subdivision is claimed. In determining the number of barrels, all brands or labels of a brewer must be combined. All facilities for the manufacture of fermented malt beverages owned or controlled by the same person, corporation, or other entity must be treated as a single brewer.

Sec. 5. [297G.05] USE TAX; RATE OF TAX.

Subdivision 1. WINE AND DISTILLED SPIRITS. A tax is imposed on the use or storage by consumers of wine and distilled spirits in this state, and on such consumers, at the rates specified in section 297G.03, subdivision 1.

Subd. 2. FERMENTED MALT BEVERAGES. A tax is imposed on the use or storage by consumers of fermented malt beverages in this state, and on such consumers, at the rates specified in section 297G.04, subdivision 1.

Subd. 3. TAX PROVISIONS APPLICABLE TO CONSUMERS. All of the provisions of this chapter relating to the correction of returns, deficiency assessments, protests, hearings, interest and penalties, and collection of taxes, apply to consumers.

Sec. 6. [297G.06] TAX AS PERSONAL DEBT.

The tax imposed by this chapter, and interest and penalties imposed with respect to it, is a personal debt of the person required to file a return from the time the liability for it arises, regardless of when the time for payment of the liability occurs. In the case of the executor or administrator of the estate of a decedent and in the case of any fiduciary, the debt is that of the person in the person's official or fiduciary capacity only, unless the person has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties. In that case, the person is personally liable for the deficiency.

Sec. 7. [297G.07] EXEMPTIONS FROM TAX.

Subdivision 1. EXEMPTIONS. The following are not subject to the excise tax:

(1) Sales by a manufacturer, brewer, or wholesaler for shipment outside the state in interstate commerce.

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- (2) Alcoholic beverages sold or transferred between Minnesota wholesalers.
- (3) Sales to common carriers engaged in interstate transportation of passengers, except as provided in this chapter.
- (4) Malt beverages served by a brewery for on-premise consumption at no charge, or distributed to brewery employees for on-premise consumption under a labor contract.
- (5) Shipments of wine to Minnesota residents under section 340A.417.
- (6) Fruit juices naturally fermented or beer naturally brewed in the home for family use.
- (7) Sales of wine for sacramental purposes under section 340A.316.
- (8) Alcoholic beverages sold to authorized manufacturers of food products or pharmaceutical firms. The alcoholic beverage must be used exclusively in the manufacture of food products or medicines. For purposes of this clause, "manufacturer" means a person who manufactures food products intended for sale to wholesalers or retailers for ultimate sale to the consumer.
- (9) Liqueur-filled candy.
- (10) Sales to a federal agency, that the state of Minnesota is prohibited from taxing under the constitution or laws of the United States or under the constitution of Minnesota.
- (11) Sales to Indian tribes as defined in section 297G.08.

Subd. 2. IMPORTATION BY INDIVIDUALS. (a) A person, other than a person under the age of 21 years, entering Minnesota from another state may have in possession one liter of intoxicating liquor or 288 ounces of fermented malt beverages without the required payment of the Minnesota excise tax, provided the alcoholic beverages accompany the person into this state and will not be offered for sale or used for any commercial purposes.

(b) A person, other than a person under the age of 21 years, entering Minnesota from a foreign country may have in possession four liters of intoxicating liquor or ten quarts (320 ounces) of fermented malt beverages without the required payment of the Minnesota excise tax, provided the alcoholic beverages accompany the person into this state and will not be offered for sale or used for any commercial purposes.

(c) A collector of commemorative bottles, other than a person under the age of 21 years, entering Minnesota from another state may have in possession 12 or fewer commemorative bottles without the required payment of the Minnesota excise tax.

(d) This subdivision does not apply to consignments of alcoholic beverages shipped into this state by holders of Minnesota import licenses or Minnesota manufacturers and wholesalers when licensed by the commissioner of public safety or to common carriers with licenses to sell intoxicating liquor in more than one state.

Subd. 3. EXEMPTIONS FROM BOTTLE TAX. The following are exempt from the bottle tax:

- (1) miniatures of distilled spirits and wines;
- (2) containers of fermented malt beverage;

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- (3) containers of intoxicating liquor or wine holding less than 200 milliliters;
- (4) containers of alcoholic beverages sold and shipped to dealers, wineries, or distillers in other states;
- (5) containers of alcoholic beverages sold to other Minnesota wholesalers;
- (6) containers of alcoholic beverages sold to common carriers engaged in interstate commerce;
- (7) containers of wine intended exclusively for sacramental purposes;
- (8) containers of alcoholic beverages sold to authorized food processors or pharmaceutical firms for use exclusively in the manufacturing of food products or medicines; and
- (9) sales to a federal agency, that the state of Minnesota is prohibited from taxing under the constitution or laws of the United States or under the constitution of Minnesota.

Sec. 8. [297G.08] SALES TO INDIAN TRIBES.

Subdivision 1. WHOLESALEERS. A wholesaler may set aside the part of the wholesaler's stock necessary to make sales to the established governing body of an Indian tribe recognized by the United States Department of the Interior, without paying the tax required by this chapter. The amount of untaxed stock that wholesalers may deliver to an Indian reservation is limited to amounts necessary to meet the personal consumption needs of qualified purchasers. When shipping or delivering untaxed stock to an Indian tribal organization, the wholesaler shall make a true duplicate invoice. The invoice must show the complete details of the sale or delivery. The wholesaler shall send the duplicate to the commissioner not later than the 18th day of the following calendar month. If a wholesaler fails to comply with the requirements of this section, the commissioner shall revoke the permission granted to the wholesaler to keep a stock of untaxed goods.

Subd. 2. RETAILERS. Retailers who are Indian tribal organizations may keep untaxed stock intended for sale to qualified purchasers.

Subd. 3. QUALIFIED PURCHASERS. A qualified purchaser of untaxed liquor means only an enrolled member of the Indian tribe that is offering the liquor for sale.

Subd. 4. SALES TO NONQUALIFIED BUYERS. A retailer who sells or otherwise disposes of untaxed liquor other than to a qualified purchaser shall collect from the buyer or transferee the tax imposed by this chapter and remit the tax to the department of revenue at the same time and manner as required by this chapter. If the retailer fails to collect the tax from the buyer or transferee, or fails to remit the tax, the retailer is personally responsible for the tax and the commissioner may seize any liquor destined to be delivered to the retailer. The procedures outlined in section 297G.20 apply to the seized liquor. The proceeds of the sale of the liquor may be applied to any tax liability owed by the retailer after deducting all costs and expenses.

This section does not relieve the buyer or possessor of untaxed liquor from personal liability for the tax.

Sec. 9. [297G.09] RETURNS; PAYMENT OF TAX.

Subdivision 1. MONTHLY RETURNS; MANUFACTURERS, WHOLESALEERS, BREWERS, OR IMPORTERS. On or before the 18th day of each calendar

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month following the month in which a licensed manufacturer or wholesaler first sells wine and distilled spirits within the state, or a brewer or importer first sells or imports fermented malt beverages, or a wholesaler knowingly acquires title to or possession of untaxed fermented malt beverages, the licensed manufacturer, wholesaler, brewer, or importer liable for the excise tax must file a return with the commissioner, and in addition must keep records and render reports as required by the commissioner. Returns must be made in a form and manner prescribed by the commissioner, and must contain any other information required by the commissioner. Returns must be accompanied by a remittance for the full unpaid tax liability. Returns must be filed regardless of whether a tax is due.

Subd. 2. MONTHLY USE TAX RETURNS; CONSUMERS. On or before the 18th day of each calendar month, a consumer who has acquired title to or possession of wine, distilled spirits, or fermented malt beverages for use or storage in this state, upon which wine, distilled spirits, or fermented malt beverages the tax imposed by this chapter has not been paid, shall file a return with the commissioner in the month following the month in which the consumer obtains title to or possession of the wine, distilled spirits, or fermented malt beverages. Returns must be made in a form and manner prescribed by the commissioner and must contain any other information required by the commissioner. Returns must be accompanied by a remittance for the full unpaid tax liability.

Subd. 3. COMMON CARRIER RETURNS. A common carrier engaged in interstate transportation of passengers must file monthly reports together with the tax payment on the sale of alcoholic beverages sold in Minnesota. The report and payment must be filed by the 18th day of the month following the month in which the sale took place. A common carrier is permitted to use a formula for the allocation of the total sales of alcoholic beverages among states on the basis of passenger miles in each state or some other method of allocation if written approval is received from the commissioner.

Subd. 4. EXTENSIONS. When in the commissioner's judgment, good cause exists, the commissioner may extend the time for filing liquor tax returns for not more than six months. The commissioner may require the taxpayer to file a tentative return when the regularly required return is due, and pay a tax on the basis of the tentative return at the times required for the payment of taxes on the basis of the regularly required return.

Subd. 5. ACCELERATED TAX PAYMENT; PENALTY. A person liable for tax under this chapter having a liability of \$120,000 or more during a fiscal year ending June 30, shall remit the June liability for the next year in the following manner:

(a) Two business days before June 30 of the year, the taxpayer shall remit the actual May liability and 75 percent of the estimated June liability to the commissioner and file the return in the form and manner prescribed by the commissioner.

(b) On or before August 18 of the year, the taxpayer shall submit a return showing the actual June liability and pay any additional amount of tax not remitted in June. A penalty is imposed equal to ten percent of the amount of June liability required to be paid in June less the amount remitted in June. However, the penalty is not imposed if the amount remitted in June equals the lesser of:

- (1) 70 percent of the actual June liability; or
- (2) 75 percent of the preceding May liability.

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Subd. 6. **ELECTRONIC FUNDS TRANSFER.** A licensed brewer, importer, or wholesaler having an excise tax liability of \$120,000 or more during a fiscal year ending June 30 must remit all excise tax liabilities in the subsequent calendar year by means of a funds transfer as defined in section 336.4A-104, paragraph (a). The funds transfer payment date, as defined in section 336.4A-401, must be on or before the date the excise tax is due. If the date the excise tax is due is not a funds transfer business day, as defined in section 336.4A-105, paragraph (a), clause (4), the payment date must be on or before the funds transfer business day next following the date the excise tax is due.

Subd. 7. **ORDER PAYMENTS CREDITED.** All payments received may, in the discretion of the commissioner, be credited first to the oldest liability not secured by a judgment or lien, but in all cases must be credited first to penalties, next to interest, and then to the tax due.

Subd. 8. **INTEREST.** The amount of tax not timely paid, together with any penalty imposed by this chapter, bears interest at the rate specified in section 270.75 from the time the tax should have been paid until paid. Any interest and penalty is added to the tax and collected as a part of it.

Sec. 10. [297G.10] DEPOSIT OF PROCEEDS.

All tax revenues and other receipts payable to the state under this chapter must be paid into the state treasury and credited to the general fund.

Sec. 11. [297G.11] INFORMATIONAL REPORTS.

The following persons shall file with the commissioner a monthly informational report in the form and manner prescribed by the commissioner:

(1) a manufacturer, wholesaler, and importer licensed to ship distilled spirits or wine into Minnesota;

(2) a person who manufactures distilled spirits or wine in Minnesota;

(3) any other person who imports distilled spirits or wine into Minnesota;

(4) a person who possesses, receives, stores, or warehouses distilled spirits or wine in Minnesota, upon which the tax imposed by this chapter has not been paid; and

(5) a person who possesses, receives, stores, or warehouses distilled spirits or wine in Minnesota, which are required to give bond as required by the Internal Revenue Code, subtitle E, chapter 51.

No payment of any tax is required to be remitted with this report. The report must be filed on or before the tenth day following the end of each calendar month, regardless of whether or not the person shipped, manufactured, possessed, received, stored, or warehoused any distilled spirits or wine into or within Minnesota during the previous month, unless the commissioner determines that a longer filing period is appropriate for a particular person. A person failing to file this report is subject to the civil or criminal penalties imposed by this chapter.

This section does not apply to the lawful importation of wine and distilled spirits under section 297G.07, subdivision 2, nor to any lawful manufacture of wine or distilled spirits within the state for personal consumption.

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Sec. 12. [297G.12] REFUNDS.

Subdivision 1. OVERPAYMENT OF TAX. An overpayment of the tax imposed under this chapter may be refunded to the taxpayer, provided that the claim for refund is filed within the time prescribed under section 297G.16.

Subd. 2. PRODUCTS DESTROYED. The commissioner may refund to a taxpayer the amount of tax paid under this chapter on intoxicating liquor or fermented malt beverages which become unfit for human consumption and are destroyed under an order by a federal, state, or local agency while being held for sale by a licensed retailer. The destruction must meet the requirements of the environmental laws of this state.

Subd. 3. WHOLESALE REFUND FOR BREAKAGE OF INVENTORY. The commissioner may refund to a wholesaler the amount of tax paid under this chapter for the breakage of inventory not subject to reimbursement from any insurance proceeds. The commissioner may prescribe the method of proof for obtaining the refund.

Subd. 4. RETAILER REFUND FOR BREAKAGE OF INVENTORY. Refunds for breakage of inventory may be made to retailers only if satisfactory proof is presented to the commissioner by the wholesaler and the licensed retailer that the retailer was not indemnified by insurance for the tax. The commissioner may prescribe the method of proof required for obtaining the refund.

Subd. 5. BAD DEBTS. The commissioner may adopt rules providing a refund of the tax paid under this chapter on intoxicating liquor or wine if the tax paid qualifies as a bad debt under section 166(a) of the Internal Revenue Code.

Subd. 6. CREDIT AGAINST TAX. The commissioner may credit the amount determined under this section against taxes otherwise payable under this chapter by the taxpayer.

Subd. 7. SOURCE OF REFUND. There is appropriated annually from the general fund to the commissioner the sums necessary to make the refunds provided by this section.

Sec. 13. [297G.13] INSPECTION RIGHTS.

The commissioner of public safety or the commissioner of revenue, or their duly authorized employees, may, at any reasonable time, without notice and without a search warrant, enter in and upon a licensed premises, and examine the books, papers, and records of a brewer, manufacturer, wholesaler, or retailer for the purpose of determining whether the excise tax has been paid, and may in addition inspect any premises where fermented malt beverages are manufactured, sold, offered for sale, possessed, or stored for the purpose of determining whether the party is in full compliance with the provisions of this chapter.

Sec. 14. [297G.14] EXAMINATIONS AND AUDITS.

Subdivision 1. EXAMINATION OF THE TAXPAYER. To determine the accuracy of a return or report, or for the purpose of collection, or in fixing liability or verifying information regarding any tax under this chapter, the commissioner may make reasonable examinations or investigations of a taxpayer's place of business, tangible personal property, equipment, computer systems and facilities, pertinent books, records, papers, vouchers, computer printouts, accounts, and documents.

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

Subd. 2. ACCESS TO RECORDS OF OTHER PERSONS IN CONNECTION WITH THE EXAMINATION OF TAXPAYER. When conducting an investigation or an audit of a taxpayer, or for the purpose of collection, or in fixing liability or verifying information regarding any tax under this chapter, the commissioner may examine, except where privileged by law, the relevant records and files of a person, business, institution, financial institution, state agency, agency of the United States government, or agency of any other state where permitted by statute, agreement, or reciprocity. The commissioner may compel production of these records by subpoena. A subpoena may be served directly by the commissioner.

Subd. 3. POWER TO COMPEL TESTIMONY. In the administration of any tax under this chapter, the commissioner may:

(1) administer oaths or affirmations and compel by subpoena the attendance of witnesses, testimony, and the production of a person's pertinent books, records, papers, and other data for inspection and copying;

(2) examine under oath or affirmation any person regarding the business of a taxpayer concerning any relevant matter incident to the administration of any tax under this chapter. The fees of witnesses required by the commissioner to attend a hearing are equal to those allowed to witnesses appearing before courts of this state. The fees must be paid in the manner provided for the payment of other expenses incident to the administration of any tax under this chapter; and

(3) in addition to other remedies that may be available, bring an action in equity by the state against a taxpayer for an injunction ordering the taxpayer to file a complete and proper return or amended return. The district courts of this state have jurisdiction over the action and disobedience of an injunction issued under this clause may be punished as a contempt of district court.

Subd. 4. THIRD-PARTY SUBPOENA WHERE TAXPAYER'S IDENTITY IS KNOWN. An investigation may extend to a person that the commissioner determines has access to information that may be relevant to the examination or investigation. When a subpoena requiring the production of records as described in subdivision 4 is served on a third-party recordkeeper, written notice of the subpoena must be mailed to the taxpayer and to any other person who is identified in the subpoena. The notices must be given within three days of the day on which the subpoena is served. Notice to the taxpayer required by this section is sufficient if it is mailed to the last address on record with the commissioner.

The provisions of this subdivision relating to notice to the taxpayer or other parties identified in the subpoena do not apply if there is reasonable cause to believe that the giving of notice may lead to attempts to conceal, destroy, or alter records relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records.

Subd. 5. THIRD-PARTY SUBPOENA WHERE TAXPAYER'S IDENTITY IS NOT KNOWN. A subpoena that does not identify the person or persons whose tax liability is investigated may be served only if:

(1) the subpoena relates to the investigation of a particular person or an ascertainable group or class of persons;

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(2) there is reasonable basis for believing that the person or group or class of persons may fail or may have failed to comply with the tax laws administered by the commissioner;

(3) the information sought to be obtained from the examination of the records, and the identity of the person or persons with respect to whose liability the subpoena is issued, is not readily available from other sources;

(4) the subpoena is clear and specific concerning the information sought to be obtained; and

(5) the information sought to be obtained is limited solely to the scope of the investigation.

The party served with a subpoena that does not identify the person or persons with respect to whose tax liability the subpoena is issued may, within 20 days after service of the subpoena, petition the district court in the judicial district in which that party is located for a determination concerning whether the commissioner has complied with all the requirements in clauses (1) to (5), and thus, whether the subpoena is enforceable. If no petition is made by the party served within the time prescribed, the subpoena has the effect of a court order.

Subd. 6. **REQUEST BY TAXPAYER FOR SUBPOENA.** When the commissioner has the power to issue a subpoena for investigative or auditing purposes, the commissioner shall honor a reasonable request by the taxpayer to issue a subpoena on the taxpayer's behalf, if in connection with the investigation or audit.

Subd. 7. **APPLICATION TO COURT FOR ENFORCEMENT OF SUBPOENA.** Disobedience of subpoenas issued under this section shall be punished by the district court of the district in which the party served with the subpoena is located, in the same manner as contempt of the district court.

Subd. 8. **COST OF PRODUCTION OF RECORDS.** The cost of producing records of a third party required by a subpoena must be paid by the taxpayer, if the taxpayer requests the subpoena to be issued, or if the taxpayer has the records available but has refused to provide them to the commissioner. In other cases when the taxpayer cannot produce records and the commissioner then initiates a subpoena for third-party records, the commissioner shall pay the reasonable cost of producing the records. The commissioner may later assess the reasonable costs against the taxpayer if the records contribute to the determination of an assessment of tax against the taxpayer.

Subd. 9. **PHYSICAL INVENTORY.** The commissioner or the commissioner's authorized agents may, as considered necessary, require a manufacturer, wholesaler, or retailer to furnish a physical inventory of all wine and distilled spirits in stock. The inventory must contain the information that the commissioner requests and must be certified by an officer of the corporation.

Sec. 15. [297G.15] ASSESSMENTS.

Subdivision 1. **GENERAL RULE.** The commissioner shall make determinations, corrections, and assessments with respect to any tax under this chapter, including interest, additions to taxes, and assessable penalties. The commissioner may use statistical or other sampling techniques consistent with generally accepted auditing standards in examining returns or records and making assessments.

New language is indicated by underline, deletions by strikeout.

Subd. 2. COMMISSIONER FILED RETURNS. If a taxpayer fails to file a required return, the commissioner, from information in the commissioner's possession or obtainable by the commissioner, may make a return for the taxpayer. The return is prima facie correct and valid.

Subd. 3. ORDER OF ASSESSMENT; NOTICE AND DEMAND TO TAXPAYER. (a) When a return has been filed and the commissioner determines that the tax disclosed by the return is different than the tax determined by the examination, the commissioner shall send an order of assessment to the taxpayer. When no return has been filed, the commissioner may make a return for the taxpayer under subdivision 2 or may send an order of assessment under this subdivision. The order must explain the basis for the assessment and must explain the taxpayer's appeal rights. An order of assessment is final when made but may be reconsidered by the commissioner under this chapter.

(b) The taxes are considered assessed when the commissioner has prepared a notice of tax assessment and mailed it to the person required to file a return to the post office address given in the return. The notice of tax assessment must be sent by mail to the post office address given in the return and the record of the mailing is presumptive evidence of the giving of notice, and such records must be preserved by the commissioner.

(c) No collection action can be taken, including the filing of liens under section 270.69, and no late payment penalty under this chapter is imposed when a return has been filed for the taxable period upon which the order is based, if the amount shown on the order is paid to the commissioner:

(1) within 60 days after the order has been mailed to the taxpayer by the commissioner; or

(2) if an administrative appeal is filed under this chapter, or a tax court appeal is filed under chapter 271, within 60 days following final determination of the appeal if the appeal is based upon a constitutional challenge to the tax, and if not, when the decision of the tax court is made.

Subd. 4. ERRONEOUS REFUNDS OR CREDITS. An erroneous refund or credit is considered an underpayment of tax on the date made. An assessment of a deficiency arising out of an erroneous refund or credit must be made within 3-1/2 years from the date prescribed for filing the return, plus any extension of time granted for filing the return, but only if filed within the extended time, or two years from the time the tax is paid in full, whichever period expires later.

Subd. 5. ASSESSMENT PRESUMED VALID. A return or assessment of tax made by the commissioner is prima facie correct and valid. The taxpayer has the burden of establishing its incorrectness or invalidity in any related action or proceeding.

Subd. 6. AGGREGATE REFUND OR ASSESSMENT. The commissioner, on examining returns of a taxpayer for more than one year or period, may issue one order covering the period under examination that reflects the aggregate refund or additional tax due.

Subd. 7. SUFFICIENCY OF NOTICE. An order of assessment, sent postage prepaid by United States mail to the taxpayer at the taxpayer's last known address, is sufficient even if the taxpayer is deceased or is under a legal disability, or, in the case of a corporation, has terminated its existence, unless the department has been provided with a new address by a party authorized to receive notices of assessment.

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

Sec. 16. [297G.16] STATUTES OF LIMITATIONS.

Subdivision 1. GENERAL RULE. Except as otherwise provided in this chapter, the amount of any tax due must be assessed within 3-1/2 years after a return is filed.

Subd. 2. DATE OF FILING. For the purposes of this section, a return filed before the last day prescribed by law for filing is considered filed on the last day.

Subd. 3. FALSE OR FRAUDULENT RETURN OR CLAIM FOR REFUND; NO RETURN. When a person required to file a return under this chapter files a false or fraudulent return or claim for refund, or fails to file a return, the tax may be assessed, and a proceeding in court for the collection of such tax may be begun at any time.

Subd. 4. OMISSION IN EXCESS OF 25 PERCENT. If a person required to file a return omits from the return an amount properly includable in it that is in excess of 25 percent of the amount of tax reported in the return, the tax may be assessed, or a proceeding in court for the collection of the tax may be begun, at any time within 6-1/2 years after the return was filed.

Subd. 5. TIME LIMIT FOR REFUNDS. Unless otherwise provided in this chapter, a claim for a refund of an overpayment of tax must be filed within 3-1/2 years from the date prescribed for filing the return, plus any extension of time granted for filing the return, but only if filed within the extended time, or two years from the time the tax is paid in full, whichever period expires later. Claimants under this section are subject to the notice requirements of section 289A.38, subdivision 7.

Subd. 6. TIME LIMIT FOR A DESTRUCTION ORDER REFUND. Claims for refund under section 297G.12, subdivision 2, must be filed with the commissioner within one year from the date of the breakage or destruction order.

Subd. 7. TIME LIMIT FOR A BAD DEBT DEDUCTION. Claims for refund must be filed with the commissioner within one year of the filing of the taxpayer's income tax return containing the bad debt deduction that is being claimed.

Subd. 8. CONSENT TO EXTEND TIME. If, before the expiration of the time prescribed in this chapter for the assessment of the tax, the commissioner and the person filing the return consent in writing to an extension of time for the assessment of the tax, the tax may be assessed at any time before the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Subd. 9. BANKRUPTCY; SUSPENSION OF TIME. The running of the period during which a tax must be assessed or collection proceedings commenced is suspended during the period from the date of a filing of a petition in bankruptcy until 30 days after either notice to the commissioner that the bankruptcy proceedings have been closed or dismissed, or the automatic stay has been terminated or has expired, whichever occurs first.

The suspension of the statute of limitations under this section applies to the person the petition in bankruptcy is filed against and other persons who may also be wholly or partially liable for the tax.

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

Sec. 17. [297G.17] INTEREST.

Subdivision 1. INTEREST RATE. When interest is required under this section, interest is computed at the rate specified in section 270.75.

Subd. 2. LATE PAYMENT. If a tax under this chapter is not paid within the time named by law for payment, the unpaid tax bears interest from the date the tax should have been paid until the date the tax is paid.

Subd. 3. EXTENSIONS. When an extension of time for payment has been granted, interest must be paid from the date the payment should have been made, if no extension had been granted, until the date the tax is paid.

Subd. 4. ADDITIONAL ASSESSMENTS. When a taxpayer is liable for additional taxes because of a redetermination by the commissioner, or for any other reason, the additional taxes bear interest from the time the tax should have been paid, without regard to an extension allowed, until the date the tax is paid.

Subd. 5. ERRONEOUS REFUNDS OR CREDITS. In the case of an erroneous refund or credit, interest begins to accrue from the date the refund or credit was paid unless the erroneous refund or credit results from a mistake of the department, in which case no interest or penalty is imposed, unless the deficiency assessment is not satisfied within 60 days of the order.

Subd. 6. INTEREST ON JUDGMENTS. Notwithstanding section 549.09, if judgment is entered in favor of the commissioner with regard to any tax under this chapter, the judgment bears interest at the rate given in section 270.75 from the date the judgment is entered until the date of payment.

Subd. 7. INTEREST ON PENALTIES. (a) A penalty imposed under section 297G.18, subdivisions 2 to 7, bears interest from the date the return or payment was required to be filed or paid, including any extensions, to the date of payment of the penalty.

(b) A penalty not included in paragraph (a) bears interest only if it is not paid within ten days from the date of the notice. In that case interest is imposed from the date of notice to the date of payment.

Subd. 8. INTEREST ON OVERPAYMENTS. Interest must be paid on an overpayment refunded or credited to the taxpayer from the date of payment of the tax until the date the refund is paid or credited.

Sec. 18. [297G.18] CIVIL PENALTIES.

Subdivision 1. GENERAL RULE. The commissioner may recover the amount of any tax due under this chapter, as well as any interest and penalty in a civil action. The collection of a tax, interest, or penalty does not bar any prosecution under this chapter.

Subd. 2. PENALTY FOR FAILURE TO PAY TAX. If a tax imposed by this chapter is not paid within the time specified for payment, a penalty is added to the amount required to be shown as tax. The penalty is five percent of the tax not paid on or before the date specified for payment of the tax if the failure is for not more than 30 days, with an additional penalty of five percent of the amount of tax remaining unpaid during each additional 30 days or fraction of 30 days during which the failure continues, not exceeding 15 percent in the aggregate.

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

Subd. 3. PENALTY FOR FAILURE TO MAKE AND FILE RETURN. If a taxpayer fails to make and file a return within the time prescribed, including any extension, a penalty of five percent of the amount of tax not timely paid is added to the tax. If no tax is due, a penalty of \$25 is assessed for each unfiled return.

Subd. 4. COMBINED PENALTIES. When penalties are imposed under subdivisions 2 and 3, the penalties combined must not exceed 38 percent in the aggregate.

Subd. 5. PENALTY FOR INTENTIONAL DISREGARD OF LAW OR RULES. If part of an additional assessment is due to negligence or intentional disregard of the provisions of the applicable tax laws or rules of the commissioner, but without an intent to defraud, there must be added to the tax an amount equal to ten percent of the additional assessment.

Subd. 6. PENALTY FOR REPEATED FAILURES TO FILE OR PAY TAXES. If there is a pattern by a person of repeated failures to timely file returns or timely pay taxes, and written notice is given that a penalty will be imposed if such failures continue, a penalty of 25 percent of the amount of tax not timely paid as a result of each such subsequent failure is added to the tax. The penalty can be abated under the abatement authority in section 270.07, subdivisions 1, paragraph (e), and 6.

Subd. 7. PENALTY FOR FALSE OR FRAUDULENT RETURN; EVASION. If a person files a false or fraudulent return, or attempts in any manner to evade or defeat a tax or payment of tax, there is imposed on the person a penalty equal to 50 percent of the tax due for the period to which the return related, less amounts paid by the person on the basis of the false or fraudulent return.

Subd. 8. REVOCATION OR SUSPENSION OF LICENSE. The commissioner may certify to the commissioner of public safety any failure to pay taxes when due as a violation of the statute relating to the sale of intoxicating liquor for possible revocation or suspension of license.

Subd. 9. FAILURE TO FILE INFORMATIONAL RETURNS. A person required to file informational returns or reports that fails to do so as required by this chapter is assessed a \$25 penalty for each month the return remains unfiled.

Subd. 10. PAYMENT OF PENALTIES. The penalties imposed by this section are collected and paid in the same manner as taxes.

Subd. 11. PENALTIES ARE ADDITIONAL. The civil penalties imposed by this section are in addition to the criminal penalties imposed by this chapter.

Sec. 19. [297G.19] CRIMINAL PENALTIES.

Subdivision 1. PENALTIES FOR FAILURE TO FILE OR PAY. (a) A person required to file a return, report, or other document with the commissioner who fails to do so is guilty of a misdemeanor.

(b) A person required to pay or to collect and remit a tax under this chapter, who fails to do so when required, is guilty of a misdemeanor.

Subd. 2. PENALTIES FOR KNOWING FAILURE TO FILE OR PAY. (a) A person required to file a return, report, or other document with the commissioner, who knowingly, rather than accidentally, inadvertently, or negligently, fails to file it when required, is guilty of a gross misdemeanor.

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

(b) A person required to pay or to collect and remit a tax under this chapter, who knowingly, rather than accidentally, inadvertently, or negligently, fails to file it when required, is guilty of a gross misdemeanor.

Subd. 3. FALSE OR FRAUDULENT RETURNS; PENALTIES. (a) A person who files with the commissioner a return, report, or other document, known by the person to be fraudulent or false concerning a material matter, is guilty of a felony.

(b) A person who knowingly aids or assists in, or advises in the preparation or presentation of a return, report, or other document that is fraudulent or false concerning a material matter, whether or not the falsity or fraud is committed with the knowledge or consent of the person authorized or required to present the return, report, or other document, is guilty of a felony.

Subd. 4. IMPORTATION FROM ANOTHER STATE. (a) A person entering Minnesota from another state who imports or possesses more than one liter, but fewer than 25 liters of untaxed intoxicating liquor, or more than 288 ounces (nine quarts), but fewer than 6,800 ounces (225 quarts) of untaxed fermented malt beverages is guilty of a misdemeanor.

(b) A person entering Minnesota from another state who imports or possesses 25 liters or more, but fewer than 225 liters of untaxed intoxicating liquor, or 6,800 ounces (225 quarts) or more, but fewer than 34,000 ounces (1,225 quarts) of untaxed fermented malt beverages is guilty of a gross misdemeanor.

(c) A person entering Minnesota from another state who imports or possesses 225 liters or more of untaxed intoxicating liquor, or 34,000 ounces (1,225 quarts) or more of untaxed fermented malt beverages is guilty of a felony.

Subd. 5. IMPORTATION FROM A FOREIGN COUNTRY. (a) A person entering Minnesota from a foreign country who imports or possesses more than four liters, but fewer than 100 liters of untaxed intoxicating liquor, or more than 320 ounces (ten quarts), but fewer than 8,000 ounces (250 quarts) of untaxed fermented malt beverages is guilty of a misdemeanor.

(b) A person entering Minnesota from a foreign country who imports or possesses 100 liters or more, but fewer than 500 liters of untaxed intoxicating liquor, or 8,000 ounces (250 quarts) or more, but fewer than 40,000 ounces (1,250 quarts) of untaxed fermented malt beverages is guilty of a gross misdemeanor.

(c) A person entering Minnesota from a foreign country who imports or possesses 500 liters or more of untaxed intoxicating liquor, or 40,000 ounces (1,250 quarts) or more of untaxed fermented malt beverages is guilty of a felony.

Subd. 6. PENALTIES ARE ADDITIONAL. Criminal penalties imposed by this section are in addition to any civil penalties imposed by this chapter.

Subd. 7. OTHER PENALTIES. Any violation of this chapter unless otherwise specified is a misdemeanor.

Subd. 8. STATUTE OF LIMITATIONS. Notwithstanding section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon a criminal offense named in this section, in the proper court within six years after the offense is committed.

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

Sec. 20. [297G.20] CONTRABAND.

Subdivision 1. CONTRABAND DEFINED. The following are declared to be contraband and therefore subject to civil and criminal penalties and seizure under this chapter:

(1) All distilled spirits, wine, and fermented malt beverages possessed or held with intent to sell without payment of an excise tax.

(2) All distilled spirits, wine, and fermented malt beverages sold without payment of an excise tax.

(3) All distilled spirits, wine, and fermented malt beverages transported without payment of an excise tax.

(4) Devices including, but not limited to, motor vehicles, trailers, snowmobiles, airplanes, and boats used with the knowledge of the owner, or of a person operating with the consent of the owner, for the storage or transportation of distilled spirits, wine, and fermented malt beverages which are contraband under this subdivision.

Subd. 2. EXCEPTION. When distilled spirits, wine, and fermented malt beverages are being transported in the course of interstate commerce, or are in movement from either a public warehouse to a wholesaler upon orders from a manufacturer or wholesaler, or from one wholesaler to another, the distilled spirits, wine, and fermented malt beverages are not contraband, notwithstanding the provisions of subdivision 1.

Subd. 3. SEIZURE. Distilled spirits, wine, fermented malt beverages, or other property made contraband by subdivision 1 may be seized by the commissioner of revenue or public safety and their authorized agents or by any sheriff or other police officer, with or without process, and are subject to forfeiture as provided in subdivisions 4 and 5.

Subd. 4. INVENTORY; JUDICIAL DETERMINATION; APPEAL; DISPOSITION OF SEIZED PROPERTY. (a) Within ten days after the seizure of alleged contraband, the person making the seizure shall make available an inventory of the property seized to the person from whom the property was seized, if known, and file a copy with both the commissioners of revenue and public safety. Within ten days after the date of service of the inventory, the person from whom the property was seized or any person claiming an interest in the property may file with the seizing authority a demand for judicial determination of whether the property was lawfully subject to seizure and forfeiture. Within 60 days after the date of the filing of the demand, the seizing authority must bring an action in the district court of the county where seizure was made to determine the issue of forfeiture.

(b) The action must be brought in the name of the state and must be prosecuted by the county attorney or by the attorney general. The court shall hear the action without a jury and determine the issues of fact and law involved.

(c) If a judgment of forfeiture is entered, the seizing authority may, unless the judgment is stayed pending an appeal, either:

(1) cause the forfeited property to be destroyed; or

(2) cause it to be sold at a public auction as provided by law.

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

(d) If demand for judicial determination is made and no action is commenced by the seizing authority as provided in this subdivision, the property must be released by the seizing authority and delivered to the person entitled to it. If no demand is made, the property seized is considered forfeited to the seizing authority by operation of law and may be disposed of by the seizing authority as provided for a judgment of forfeiture. When the seizing authority is satisfied that a person from whom property is seized was acting in good faith and without intent to evade the tax imposed by this chapter, the seizing authority shall release the property seized without further legal proceedings.

Subd. 5. DISPOSAL. (a) The property described in subdivision 1, clause (4), must be confiscated after conviction of the person from whom it was seized, upon compliance with the following procedure: the seizing authority shall file with the court a separate complaint against the property, describing it and charging its use in the specific violation, and specifying substantially the time and place of the unlawful use. A copy of the complaint must be served upon the defendant or person in charge of the seizure, if any.

(b) If the person arrested is acquitted, the court shall dismiss the complaint against the property and order it returned to the persons legally entitled to it. Upon conviction of the person arrested, the court shall issue an order directed to any person known or believed to have any right, title, or interest in, or lien upon, any of the property, and to persons unknown claiming any right, title, interest, or lien in it, describing the property and (1) stating that it was seized and that a complaint against it, charging the specified violation, has been filed with the court, (2) requiring the persons to file with the court administrator their answer to the complaint, setting forth any claim they may have to any right or title to, interest in, or lien upon the property, within 30 days after the service of the order, and (3) notifying them in substance that if they fail to file their answer within the time, the property will be ordered sold by the seizing authority.

(c) The court shall cause the order to be served upon any person known or believed to have any right, title, interest, or lien as in the case of a summons in a civil action, and upon unknown persons by publication, as provided for service of summons in a civil action. If an answer is filed within the time provided, the court shall fix a time for hearing, which must not be less than ten nor more than 30 days after the time for filing the answer expires. If no answer is filed within the time prescribed, upon affidavit by the court administrator, setting forth the fact, the court shall order the property sold by the seizing authority. Seventy-five percent of the proceeds of the sale of forfeited property, after payment of seizure, storage, forfeiture, and sale expenses, must be forwarded to the seizing authority for deposit as a supplement to its operating fund or similar fund for official use, and 25 percent must be forwarded to the county attorney or other prosecuting agency that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes.

(d) At the time fixed for hearing, unless continued for cause, the matter must be heard and determined by the court, without a jury as in other civil actions. If the court finds that the property, or any part of it, was used in the violation specified in the complaint, it shall order the unlawfully used property sold as provided by law, unless the owner shows to the satisfaction of the court that the owner had no notice or knowledge or reason to believe that the property was used or intended to be used in the violation. The officer making a sale, after deducting the expense of keeping the property, the fee for seizure, and the costs of the sale, shall pay all liens according to their priority, which are estab-

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

lished at the hearing as being bona fide and as existing without the lienor having any notice or knowledge that the property was being used or was intended to be used for or in connection with the violation specified in the order of the court, and shall pay the balance of the proceeds to the seizing authority for official use and sharing in the manner provided in paragraph (a). A sale under this section frees the property from all liens on it. Appeal from the order of the district is available as in other civil cases.

(c) At any time after seizure of the articles specified in this subdivision, and before the hearing provided for, the property must be returned to the owner or person having a legal right to its possession, upon execution of a good and valid bond to the state, with corporate surety, in the sum of at least \$100 and not more than double of the value of the property seized, to be approved by the court in which the case is triable, or a judge of it, conditioned to abide any order and the judgment of the court, and to pay the full value of the property at the time of the seizure. The seizing authority may dismiss the proceedings outlined in this subdivision when the seizing authority considers it in the public interest to do so.

Sec. 21. [297G.21] ADMINISTRATIVE REVIEW.

Subdivision 1. TAXPAYER RIGHT TO RECONSIDERATION. A taxpayer may obtain reconsideration by the commissioner of an order assessing any tax imposed by this chapter, a denial of a request for abatement of penalty, or a denial of a claim for refund by filing an administrative appeal under subdivision 3. A taxpayer cannot obtain reconsideration under this section if the action taken by the commissioner is the outcome of an administrative appeal.

Subd. 2. NOTICE DATE. For purposes of this section, the term "notice date" means the date of the order adjusting the tax or order denying a request for abatement, or, in the case of a denied refund, the date of the notice of denial.

Subd. 3. TIME AND CONTENT FOR ADMINISTRATIVE APPEAL. Within 60 days after the notice date, the taxpayer must file a written appeal with the commissioner. The appeal need not be in any particular form but must contain the following information:

- (1) the name and address of the taxpayer;
- (2) if a corporation, the state of incorporation of the taxpayer, and the principal place of business of the corporation;
- (3) the Minnesota identification number or social security number of the taxpayer;
- (4) the type of tax involved;
- (5) the date;
- (6) the tax years or periods involved and the amount of tax involved for each year or period;
- (7) the findings in the notice that the taxpayer disputes;
- (8) a summary statement that the taxpayer relies on for each exception; and
- (9) the taxpayer's signature or signature of the taxpayer's duly authorized agent.

New language is indicated by underline, deletions by strikeout.

Subd. 4. EXTENSIONS. When requested in writing and within the time allowed for filing an administrative appeal, the commissioner may extend the time for filing an appeal for a period of not more than 30 days from the expiration of the 60 days from the notice date.

Subd. 5. DETERMINATION OF APPEAL. On the basis of applicable law and available information, the commissioner shall determine the validity, if any, in whole or part of the appeal and notify the taxpayer of the decision. This notice must be in writing and contain the basis for the determination.

Subd. 6. AGREEMENT DETERMINING TAX LIABILITY. When it appears to be in the best interests of the state, the commissioner may settle any taxes, penalties, or interest that the commissioner has under consideration by virtue of an appeal filed under this section. An agreement must be in writing and signed by the commissioner and the taxpayer, or the taxpayer's representative authorized by the taxpayer to enter into an agreement. The agreement must be filed in the office of the commissioner.

Subd. 7. APPEAL OF AN ADMINISTRATIVE DETERMINATION. Following the determination or settlement of an appeal and notwithstanding any period of limitations for making assessments or other determinations to the contrary, the commissioner shall issue an order reflecting that disposition. If the statute of limitations for making assessments or other determinations would have expired before the issuance of this order, except for this section, the order is limited to issues or matters contained in the appealed determination. Except in the case of an agreement determining tax under this section, the order is appealable to the Minnesota tax court under section 271.06.

Subd. 8. APPEAL WHERE NO DETERMINATION. If the commissioner does not make a determination within six months of the filing of an administrative appeal, the taxpayer may elect to appeal to tax court.

Subd. 9. INAPPLICABILITY OF ADMINISTRATIVE PROCEDURE ACT. An appeal under this section is not a contested case governed by chapter 14.

Sec. 22. [297G.22] JUDICIAL REVIEW.

In lieu of an administrative appeal under this chapter, a person aggrieved by an order of the commissioner fixing a tax, penalty, or interest under this chapter may, within 60 days from the date of the notice of the order, appeal to the tax court in the manner provided under section 271.06.

Sec. 23. PURPOSE.

It is the intent of the legislature to simplify Minnesota's liquor tax laws by consolidating and recodifying tax administration and compliance provisions now contained throughout Minnesota Statutes, chapter 297C. Due to the complexity of the recodification, prior provisions are repealed on the effective date of the new provisions. The repealed provisions, however, continue to remain in effect until superseded by the analogous provision in the new law.

Sec. 24. REPEALER.

Minnesota Statutes 1996, sections 297C.01; 297C.02; 297C.03; 297C.04; 297C.045; 297C.05; 297C.06; 297C.07; 297C.08; 297C.09; 297C.10; 297C.11; 297C.12; 297C.13; 297C.14; 297C.16; and 297C.17, are repealed.

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

Sec. 25. EFFECTIVE DATE.

Sections 1 and 23 are effective the day following final enactment. Sections 2 to 12, 18, 21, and 22 are effective for returns, reports, taxes, or other payments first becoming due on or after August 1, 1997. Sections 13, 20, and 24 are effective August 1, 1997. Sections 14 and 15 are effective for audits or investigations initiated on or after August 1, 1997. Section 16 is effective for returns becoming due on or after August 1, 1997. Section 17 is effective for interest on amounts first becoming due to the commissioner on or after August 1, 1997. Section 19 is effective for crimes committed on or after August 1, 1997.

ARTICLE 2**TECHNICAL CHANGES**

Section 1. Minnesota Statutes 1996, section 16A.26, is amended to read:

16A.26 ONE DEPOSITORY ACCOUNT FOR EACH TAX.

Notwithstanding sections 297.13, 298.17, 298.282, 298.39, 298.396, ~~297C.02 to 297C.08~~ 297G.10, and similar laws to the contrary relating to the depositing, disposition, or apportionment of tax receipts, the commissioner may use one depository account for each tax. To do so, there must be enough information to identify and dispose of or apportion the tax under law. The commissioner shall ask the appropriate officials for the transfers and necessary certifications. The commissioner may issue directives to carry out this section.

Sec. 2. Minnesota Statutes 1996, section 340A.301, subdivision 8, is amended to read:

Subd. 8. **SALES WITHOUT LICENSE.** A licensed brewer may without an additional license sell malt liquor to employees or retired former employees, in amounts of not more than 768 fluid ounces in a week for off-premise consumption only. A collector of commemorative bottles, those terms are as defined in section ~~297C.01~~ 297G.01, subdivisions 4 and 5, may sell them to another collector without a license. It is also lawful for a collector of beer cans to sell unopened cans of a brand which has not been sold commercially for at least two years to another collector without obtaining a license. The amount sold to any one collector in any one month shall not exceed 768 fluid ounces. A licensed manufacturer of wine containing not more than 25 percent alcohol by volume nor less than 51 percent wine made from Minnesota-grown agricultural products may sell at on-sale or off-sale wine made on the licensed premises without a further license.

Sec. 3. Minnesota Statutes 1996, section 340A.302, subdivision 1, is amended to read:

Subdivision 1. **LICENSES REQUIRED.** Except as provided in sections ~~297C.09~~ 297G.07, subdivision 2, and 340A.301, subdivision 1, no retailer or other person may ship or cause to be shipped alcoholic beverages or ethyl alcohol for personal use or to a licensed manufacturer or wholesaler without obtaining an importer's license from the commissioner.

New language is indicated by underline, deletions by strikeout.

Sec. 4. Minnesota Statutes 1996, section 340A.414, subdivision 7, is amended to read:

Subd. 7. **INSPECTION.** An establishment holding a permit under this section is open for inspection by the commissioner and the commissioner's representative and by peace officers, who may enter and inspect during reasonable hours. Intoxicating liquor sold, served, or displayed in violation of law may be seized and may be disposed of under section 297C.12 297G.20.

Sec. 5. Minnesota Statutes 1996, section 340A.417, is amended to read:

340A.417 SHIPMENTS INTO MINNESOTA.

(a) Notwithstanding section 297C.09 297G.07, subdivision 2, or any provision of this chapter, a winery licensed in a state which affords Minnesota wineries an equal reciprocal shipping privilege may ship, for personal use and not for resale, not more than two cases of wine, containing a maximum of nine liters per case, in any calendar year to any resident of Minnesota age 21 or over. Delivery of a shipment under this section may not be deemed a sale in this state.

(b) The shipping container of any wine sent into or out of Minnesota under this section must be clearly labeled to indicate that the package cannot be delivered to a person under the age of 21 years.

(c) No person may (1) advertise shipments authorized under this section, or (2) by advertisement or otherwise, solicit shipments authorized by this section. No shipper located outside Minnesota may advertise such interstate reciprocal wine shipments in Minnesota.

(d) It is not the intent of this section to impair the distribution of wine through distributors or importing distributors, but only to permit shipments of wine for personal use.

Sec. 6. Minnesota Statutes 1996, section 340A.7035, is amended to read:

340A.7035 CONSUMER IMPORTATION; ILLEGAL ACTS.

A person who enters Minnesota from another state and who imports or possesses alcoholic beverages in excess of the tax-exempt quantities provided for in section 297C.07, paragraphs (10), (11), and (12), 297G.07, subdivision 2, paragraphs (a), (b), and (c), is guilty of a misdemeanor. A person who enters Minnesota from a foreign country who imports or possesses alcoholic beverages on which the excise tax imposed by sections 297C.02 and 297C.09 chapter 297G has not been paid, other than the tax-exempt quantities provided for in section 297C.07, paragraphs (10), (11), and (12), 297G.07, subdivision 2, paragraphs (a), (b), and (c), is guilty of a misdemeanor. A peace officer, the commissioner of public safety, and employees designated by the commissioner of public safety may seize alcoholic beverages imported or possessed in violation of this section. This section does not apply to the consignments of alcoholic beverages shipped into this state by holders of Minnesota import licenses or Minnesota manufacturers and wholesalers when licensed by the commissioner of public safety or to common carriers with licenses to sell alcoholic beverages in more than one state when licensed by the commissioner of public safety to sell alcoholic beverages in this state.

New language is indicated by underline, deletions by strikeout.

Sec. 7. EFFECTIVE DATE.

Sections 1 to 6 are effective August 1, 1997.

Presented to the governor May 17, 1997

Signed by the governor May 19, 1997, 7:22 p.m.

CHAPTER 180—S.F.No. 575

An act relating to employment; modifying wage payment provisions; modifying requirements for drug and alcohol testing; clarifying provisions governing review of personnel records by employees; setting a limit for penalties on unpaid OSHA fines; providing the criminal penalty of gross misdemeanor for an assault on an occupational safety and health investigation; amending Minnesota Statutes 1996, sections 181.14, subdivision 1, as amended; 181.953, subdivision 6; 181.961, subdivision 2; 182.666, subdivision 7; and 609.2231, subdivision 6.

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

Section 1. Minnesota Statutes 1996, section 181.14, subdivision 1, as amended by Laws 1997, chapter 83, section 6, is amended to read:

Subdivision 1. **PROMPT PAYMENT REQUIRED.** (a) When any such employee quits or resigns employment, the wages or commissions earned and unpaid at the time the employee quits or resigns shall be paid in full not later than the first regularly scheduled payday following the employee's final day of employment, unless an employee is subject to a collective bargaining agreement with a different provision. If the first regularly scheduled payday is less than five calendar days following the employee's final day of employment, full payment may be delayed until the second regularly scheduled payday but shall not exceed a total of 20 calendar days following the employee's final day of employment.

(b) Notwithstanding the provisions of paragraph (a), in the case of migrant workers, as defined in section 181.85, the wages or commissions earned and unpaid at the time the employee quits or resigns shall become due and payable within five days thereafter.

Sec. 2. Minnesota Statutes 1996, section 181.953, subdivision 6, is amended to read:

Subd. 6. **RIGHTS OF EMPLOYEES AND JOB APPLICANTS.** (a) Before requesting an employee or job applicant to undergo drug or alcohol testing, an employer shall provide the employee or job applicant with a form, developed by the employer, on which to (1) acknowledge that the employee or job applicant has seen the employer's drug and alcohol testing policy, and (2) ~~indicate any over-the-counter or prescription medications that the individual is currently taking or has recently taken and any other information relevant to the reliability of, or explanation for, a positive test result.~~

(b) If an employee or job applicant tests positive for drug use, the employee must be given written notice of the right to explain the positive test and the employer may request that the employee or job applicant indicate any over-the-counter or prescription medica-

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