

CHAPTER 227—H.F.No. 117

An act relating to commerce; requiring local units of government to license the retail sale of tobacco; providing for mandatory penalties against license holders for sales to minors; requiring compliance checks; restricting self-service sales; requiring disclosure of specified substances in tobacco products; prescribing penalties; amending Minnesota Statutes 1996, sections 171.171; 260.195, subdivisions 3 and 3a; and 461.12; proposing coding for new law in Minnesota Statutes, chapter 461; repealing Minnesota Statutes 1996, section 325E.075.

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

Section 1. Minnesota Statutes 1996, section 171.171, is amended to read:

171.171 SUSPENSION; ILLEGAL PURCHASE OF ALCOHOLIC BEVERAGES OR TOBACCO PRODUCTS.

The commissioner shall suspend for a period of 90 days the license of a person who:

(1) is under the age of 21 years and is convicted of purchasing or attempting to purchase an alcoholic beverage in violation of section 340A.503 if the person used a drivers license, permit or Minnesota identification card to purchase or attempt to purchase the alcoholic beverage; or

(2) is convicted under section 171.22, subdivision 1, clause (2), or 340A.503, subdivision 2, clause (3), of lending or knowingly permitting a person under the age of 21 years to use the person's driver's license, permit or Minnesota identification card to purchase or attempt to purchase an alcoholic beverage;

(3) is under the age of 18 years and is found by a court to have committed a petty misdemeanor under section 609.685, subdivision 3, if the person used a driver's license, permit, or Minnesota identification card to purchase or attempt to purchase the tobacco product; or

(4) is convicted under section 171.22, subdivision 1, clause (2), of lending or knowingly permitting a person under the age of 18 years to use the person's driver's license, permit, or Minnesota identification card to purchase or attempt to purchase a tobacco product.

Sec. 2. Minnesota Statutes 1996, section 260.195, subdivision 3, is amended to read:

Subd. 3. **DISPOSITIONS.** If the juvenile court finds that a child is a petty offender, the court may:

(a) require the child to pay a fine of up to \$100;

(b) require the child to participate in a community service project;

(c) require the child to participate in a drug awareness program;

(d) place the child on probation for up to six months;

(e) order the child to undergo a chemical dependency evaluation and if warranted by this evaluation, order participation by the child in an outpatient chemical dependency treatment program;

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(f) order the child to make restitution to the victim; or

(g) perform any other activities or participate in any other outpatient treatment programs deemed appropriate by the court.

In all cases where the juvenile court finds that a child has purchased or attempted to purchase an alcoholic beverage in violation of section 340A.503, if the child has a driver's license or permit to drive, and if the child used a driver's license, permit or Minnesota identification card to purchase or attempt to purchase the alcoholic beverage, the court shall forward its finding in the case and the child's driver's license or permit to the commissioner of public safety. Upon receipt, the commissioner shall suspend the child's license or permit for a period of 90 days.

In all cases where the juvenile court finds that a child has purchased or attempted to purchase tobacco in violation of section 609.685, subdivision 3, if the child has a driver's license or permit to drive, and if the child used a driver's license, permit, or Minnesota identification card to purchase or attempt to purchase tobacco, the court shall forward its finding in the case and the child's driver's license or permit to the commissioner of public safety. Upon receipt, the commissioner shall suspend the child's license or permit for a period of 90 days.

None of the dispositional alternatives described in clauses (a) to (f) shall be imposed by the court in a manner which would cause an undue hardship upon the child.

Sec. 3. Minnesota Statutes 1996, section 260.195, subdivision 3a, is amended to read:

Subd. 3a. **ENHANCED DISPOSITIONS.** If the juvenile court finds that a child has committed a second or subsequent juvenile alcohol or controlled substance offense, the court may impose any of the dispositional alternatives described in paragraphs (a) to (c). If the juvenile court finds that a child has committed a second or subsequent juvenile tobacco offense, the court may impose any of the dispositional alternatives described in paragraphs (a) to (c).

(a) The court may impose any of the dispositional alternatives described in subdivision 3, clauses (a) to (f).

(b) If the adjudicated petty offender has a driver's license or permit, the court may forward the license or permit to the commissioner of public safety. The commissioner shall revoke the petty offender's driver's license or permit until the offender reaches the age of 18 years or for a period of one year, whichever is longer.

(c) If the adjudicated petty offender has a driver's license or permit, the court may suspend the driver's license or permit for a period of up to 90 days, but may allow the offender driving privileges as necessary to travel to and from work.

(d) If the adjudicated petty offender does not have a driver's license or permit, the court may prepare an order of denial of driving privileges. The order must provide that the petty offender will not be granted driving privileges until the offender reaches the age of 18 years or for a period of one year, whichever is longer. The court shall forward the order to the commissioner of public safety. The commissioner shall deny the offender's eligibility for a driver's license under section 171.04, for the period stated in the court order.

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Sec. 4. Minnesota Statutes 1996, section 461.12, is amended to read:

461.12 MUNICIPAL CIGARETTE TOBACCO LICENSE.

Subdivision 1. AUTHORIZATION. The A town board or the governing body of each town and a home rule charter and or statutory city may license and regulate the retail sale at retail of cigarettes, cigarette paper, or cigarette wrappers tobacco as defined in section 609.685, subdivision 1, and fix the establish a license fee for sales to recover the estimated cost of enforcing this chapter. The town or city may charge a uniform annual fee for all sellers or different annual fees for different classes of sellers. It may provide for the punishment of any violation of the regulations, and make other provisions for the regulation of the sale of cigarettes within its jurisdiction as are permitted by law. The county board may make like provisions for licensing and regulating the sale of cigarettes in shall license and regulate the sale of tobacco in unorganized territory. The provisions of this section shall not apply to the licensing of sale of cigarettes in cars of common carriers of the county and in a town or a home rule charter or statutory city if the town or city does not license and regulate retail tobacco sales. Retail establishments licensed by a town or city to sell tobacco are not required to obtain a second license for the same location under the licensing ordinance of the county.

Subd. 2. ADMINISTRATIVE PENALTIES; LICENSEES. If a licensee or employee of a licensee sells tobacco to a person under the age of 18 years, or violates any other provision of this chapter, the licensee shall be charged an administrative penalty of \$75. An administrative penalty of \$200 must be imposed for a second violation at the same location within 24 months after the initial violation. For a third violation at the same location within 24 months after the initial violation, an administrative penalty of \$250 must be imposed, and the licensee's authority to sell tobacco at that location must be suspended for not less than seven days. No suspension or penalty may take effect until the licensee has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.

Subd. 3. ADMINISTRATIVE PENALTY; INDIVIDUALS. An individual who sells tobacco to a person under the age of 18 years must be charged an administrative penalty of \$50. No penalty may be imposed until the individual has received notice, served personally or by mail, of the alleged violation and an opportunity for a hearing before a person authorized by the licensing authority to conduct the hearing. A decision that a violation has occurred must be in writing.

Subd. 4. MINORS. The licensing authority shall consult with interested educators, parents, children, and representatives of the court system to develop alternative penalties for minors who purchase, possess, and consume tobacco. The licensing authority and the interested persons shall consider a variety of options, including, but not limited to, tobacco free education programs, notice to schools, parents, community service, and other court diversion programs.

Subd. 5. COMPLIANCE CHECKS. A licensing authority shall conduct unannounced compliance checks at least once each calendar year at each location where tobacco is sold to test compliance with section 609.685. Compliance checks must involve minors over the age of 15, but under the age of 18, who, with the prior written consent of a

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parent or guardian, attempt to purchase tobacco under the direct supervision of a law enforcement officer or an employee of the licensing authority.

Subd. 6. **DEFENSE.** It is an affirmative defense to the charge of selling tobacco to a person under the age of 18 years in violation of subdivision 2 or 3 that the licensee or individual making the sale relied in good faith upon proof of age as described in section 340A.503, subdivision 6.

Subd. 7. **JUDICIAL REVIEW.** Any person aggrieved by a decision under subdivision 2 or 3 may have the decision reviewed in the district court in the same manner and procedure as provided in section 462.361.

Sec. 5. [461.17] MANUFACTURERS TO REPORT CERTAIN SUBSTANCES TO ASSIST IN ENFORCEMENT OF LOCAL ORDINANCES.

Subdivision 1. ANNUAL REPORT REQUIRED. Each manufacturer of tobacco products sold in Minnesota shall provide the commissioner of health with an annual report, either on paper or by electronic means. The report shall be provided in a form and at a time specified by the commissioner, identifying, for each brand of such product, any of the following substances present in detectable levels in the product in its unburned state and if the product is typically burned when consumed, in its burned state:

- (1) ammonia or any compound of ammonia;
- (2) arsenic;
- (3) cadmium;
- (4) formaldehyde; and
- (5) lead.

The form for annual reports under this section is not a rule for purposes of chapter 14, including section 14.386.

Subd. 2. **ASSISTANCE TO LOCAL GOVERNMENTS.** Upon request, the commissioner shall provide a local government unit with a copy of reports filed under this section, to assist in the enforcement of local ordinances.

Subd. 3. **PUBLIC DATA.** Reports under this section are public data.

Sec. 6. [461.18] SELF-SERVICE SALES RESTRICTED.

Subdivision 1. **SELF-SERVICE SALES OF SINGLE PACKAGES RESTRICTED.** (a) No person shall offer for sale single packages of cigarettes or smokeless tobacco in open displays which are accessible to the public without the intervention of a store employee.

(b) Cartons and other multipack units may be offered and sold through open displays accessible to the public.

(c) Paragraph (b) expires on the effective date of subdivision 3.

(d) This subdivision shall not apply to retail stores which derive at least 90 percent of their revenue from tobacco and tobacco-related products and which cannot be entered at any time by persons younger than 18 years of age.

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Subd. 2. **VENDING MACHINE SALES PROHIBITED.** No person shall sell tobacco products from vending machines. This subdivision does not apply to vending machines in facilities that cannot be entered at any time by persons younger than 18 years of age.

Subd. 3. **FEDERAL REGULATIONS.** Code of Federal Regulations, title 21, part 897.16(c), is incorporated by reference with respect to cartons and other multipack units.

Sec. 7. [461.19] EFFECT ON LOCAL ORDINANCE; NOTICE.

Sections 461.12 to 461.18 do not preempt a local ordinance that provides for more restrictive regulation of tobacco sales. A governing body shall give notice of its intention to consider adoption or substantial amendment of any local ordinance required under section 4 or permitted under this section. The governing body shall take reasonable steps to send notice by mail at least 30 days prior to the meeting to the last known address of each licensee or person required to hold a license under section 4. The notice shall state the time, place, and date of the meeting and the subject matter of the proposed ordinance.

Sec. 8. REPEALER.

Minnesota Statutes 1996, section 325E.075, is repealed.

Sec. 9. EFFECTIVE DATE.

Section 6, subdivision 3, is effective upon the implementation of Code of Federal Regulations, title 21, part 897.16(c).

Presented to the governor May 27, 1997

Signed by the governor May 30, 1997, 1:40 p.m.

CHAPTER 228—H.F.No. 556

An act relating to health; modifying provisions for unique identifiers for health care providers, group purchasers, and patients; modifying birth data provisions; limiting access to certified copies of birth and death certificates; requiring standardized format for birth and death certificates; extending date of commissioner's access to fetal, infant, and maternal death data; modifying lead inspection and notice requirements; amending Minnesota Statutes 1996, sections 62J.451, subdivision 6c; 62J.54; 144.212, by adding subdivisions; 144.215, by adding subdivisions; 144.225, subdivision 2, and by adding subdivisions; 144.9504, subdivision 2; and 145.90, subdivision 2.

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

Section 1. Minnesota Statutes 1996, section 62J.451, subdivision 6c, is amended to read:

Subd. 6c. **PROVIDER ORGANIZATION PERFORMANCE MEASUREMENT.** (a) As part of the performance measurement plan specified in subdivision 6, the health data institute shall develop a mechanism to assess the performance of hospitals and other provider organizations, and to disseminate this information to consumers, pur-

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