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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 2204

03/15/2021 Authored by Mortensen, Munson, Poston, Miller and Drazkowski
The bill was read for the first time and referred to the Committee on Rules and Legislative Administration

1.1 A bill for an act
1.2 relating to emergency management; repealing governor's power to declare
1.3 emergency; establishing a legislative emergency declaration and extension process;
1.4 repealing governor's authority to adopt orders and expedited rules that have the
1.5 effect of law during an emergency; protecting citizen rights; making technical
1.6 corrections; amending Minnesota Statutes 2020, sections 12.03, subdivision 1e;
1.7 12.21, subdivisions 1, 3; 12.25, subdivision 3; 12.36; 12.45; 12.61, subdivision 2;
1.8 13D.02, subdivision 1; 14.03, subdivision 1; 34A.11, subdivision 6; 35.0661,
1.9 subdivision 1; 41B.047, subdivision 1; 144.4197; 144E.266; 151.441, subdivisions
1.10 12, 13; 270C.34, subdivision 1; 295.50, subdivision 2b; proposing coding for new
1.11 law in Minnesota Statutes, chapter 12; repealing Minnesota Statutes 2020, sections
1.12 4.035, subdivision 2; 12.31; 12.32.

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

1.14 Section 1. TITLE.

1.15 This act may be cited as the "Unilateral Emergency Powers Repeal Act."

1.16 Sec. 2. [12.025] PROTECTION OF CITIZENS' RIGHTS.

1.17 Nothing in this chapter authorizes the governor or the state director to:

1.18 (1) infringe on the rights of the people in the state, including but not limited to:

1.19 (i) the right of free speech;

1.20 (ii) the right to exercise religious beliefs;

1.21 (iii) the right to assemble;

1.22 (iv) the right to keep and bear arms;

1.23 (v) the freedom of travel; and

- 2.1 (vi) the right to operate a business or earn income; or
 2.2 (2) make orders that carry the full force and effect of law, which is a power only granted
 2.3 to the legislative department under article IV of the Minnesota Constitution.

2.4 Sec. 3. Minnesota Statutes 2020, section 12.03, subdivision 1e, is amended to read:

2.5 Subd. 1e. **Declared emergency.** "Declared emergency" means a national security or
 2.6 peacetime emergency declared by the ~~governor~~ legislature under section ~~12.31~~ 12.315.

2.7 Sec. 4. Minnesota Statutes 2020, section 12.21, subdivision 1, is amended to read:

2.8 Subdivision 1. **General authority.** The governor (1) has general direction and control
 2.9 of emergency management, (2) may carry out the provisions of this chapter, and (3) during
 2.10 ~~a national security~~ an emergency declared as existing under section ~~12.31~~ 12.315, during
 2.11 the existence of an energy supply emergency as declared under section 216C.15, or during
 2.12 the existence of an emergency resulting from an incident at a nuclear power plant that poses
 2.13 a radiological or other health hazard, may assume direct operational control over all or any
 2.14 part of the emergency management functions within this state.

2.15 Sec. 5. Minnesota Statutes 2020, section 12.21, subdivision 3, is amended to read:

2.16 Subd. 3. **Specific authority.** In performing duties under this chapter and to effect its
 2.17 policy and purpose, the governor may:

2.18 (1) make, amend, and rescind the necessary orders and rules to carry out the provisions
 2.19 of this chapter and section 216C.15 within the limits of the authority conferred by this
 2.20 section, with due consideration of the plans of the federal government and without complying
 2.21 with sections 14.001 to 14.69, ~~but no order or rule has the effect of law except as provided~~
 2.22 ~~by section 12.32;~~

2.23 (2) ensure that a comprehensive emergency operations plan and emergency management
 2.24 program for this state are developed and maintained, and are integrated into and coordinated
 2.25 with the emergency plans of the federal government and of other states to the fullest possible
 2.26 extent;

2.27 (3) in accordance with the emergency operations plan and the emergency management
 2.28 program of this state, procure supplies, equipment, and facilities; institute training programs
 2.29 and public information programs; and take all other preparatory steps, including the partial
 2.30 or full activation of emergency management organizations in advance of actual disaster to

3.1 ensure the furnishing of adequately trained and equipped forces of emergency management
3.2 personnel in time of need;

3.3 (4) make studies and surveys of the industries, resources, and facilities in this state as
3.4 may be necessary to ascertain the capabilities of the state for emergency management and
3.5 to plan for the most efficient emergency use of those industries, resources, and facilities;

3.6 (5) on behalf of this state, enter into mutual aid arrangements or cooperative agreements
3.7 with other states, tribal authorities, and Canadian provinces, and coordinate mutual aid plans
3.8 between political subdivisions of this state;

3.9 (6) delegate administrative authority vested in the governor under this chapter, except
3.10 the power to make rules, and provide for the subdelegation of that authority;

3.11 (7) cooperate with the president and the heads of the armed forces, the Emergency
3.12 Management Agency of the United States and other appropriate federal officers and agencies,
3.13 and with the officers and agencies of other states in matters pertaining to the emergency
3.14 management of the state and nation, including the direction or control of:

3.15 (i) emergency preparedness drills and exercises;

3.16 (ii) warnings and signals for drills or actual emergencies and the mechanical devices to
3.17 be used in connection with them;

3.18 (iii) shutting off water mains, gas mains, electric power connections and the suspension
3.19 of all other utility services;

3.20 (iv) the conduct of persons in the state, including entrance or exit from any stricken or
3.21 threatened public place, occupancy of facilities, and the movement and cessation of
3.22 movement of pedestrians, vehicular traffic, and all forms of private and public transportation
3.23 during, prior, and subsequent to drills or actual emergencies;

3.24 (v) public meetings or gatherings; and

3.25 (vi) the evacuation, reception, and sheltering of persons;

3.26 (8) contribute to a political subdivision, within the limits of the appropriation for that
3.27 purpose, not more than 25 percent of the cost of acquiring organizational equipment that
3.28 meets standards established by the governor;

3.29 (9) formulate and execute, with the approval of the Executive Council, plans and rules
3.30 for the control of traffic in order to provide for the rapid and safe movement over public
3.31 highways and streets of troops, vehicles of a military nature, and materials for national
3.32 defense and war or for use in any war industry, for the conservation of critical materials, or

4.1 for emergency management purposes; and coordinate the activities of the departments or
 4.2 agencies of the state and its political subdivisions concerned directly or indirectly with
 4.3 public highways and streets, in a manner that will best effectuate those plans;

4.4 (10) alter or adjust by executive order, without complying with sections 14.01 to 14.69,
 4.5 the working hours, workdays and work week of, and annual and sick leave provisions and
 4.6 payroll laws regarding all state employees in the executive branch as the governor deems
 4.7 necessary to minimize the impact of the disaster or emergency, conforming the alterations
 4.8 or adjustments to existing state laws, rules, and collective bargaining agreements to the
 4.9 extent practicable;

4.10 (11) authorize the commissioner of education to alter school schedules, curtail school
 4.11 activities, or order schools closed as defined in section 120A.05, subdivisions 9, 11, 13, and
 4.12 17, and including charter schools under chapter 124E, and elementary schools enrolling
 4.13 prekindergarten pupils in district programs; and

4.14 (12) transfer the direction, personnel, or functions of state agencies to perform or facilitate
 4.15 response and recovery programs.

4.16 Sec. 6. Minnesota Statutes 2020, section 12.25, subdivision 3, is amended to read:

4.17 Subd. 3. **Territorial limits.** Each local and county organization for emergency
 4.18 management shall perform emergency management functions within the territorial limits
 4.19 of the political subdivision within which it is organized and, in addition, shall conduct these
 4.20 functions outside of its territorial limits as may be required pursuant to sections 12.23, and
 4.21 12.27, ~~and 12.32~~ or any other applicable law.

4.22 Sec. 7. **[12.315] LEGISLATIVE EMERGENCY DECLARATION.**

4.23 Subdivision 1. Declaration of emergency. (a) The legislature may, by a vote of at least
 4.24 two-thirds of each house, declare that an emergency exists in all or any part of the state
 4.25 when:

4.26 (1) information from the President of the United States, the Federal Emergency
 4.27 Management Agency, the Department of Defense, or the National Warning System indicates
 4.28 the imminence of a national security emergency within the United States, which means the
 4.29 several states, the District of Columbia, and the Commonwealth of Puerto Rico, or the
 4.30 occurrence within the state of Minnesota of a major disaster from enemy sabotage or other
 4.31 hostile action; or

5.1 (2) a disaster caused by an act of nature, a technological failure or malfunction, a terrorist
 5.2 incident, an industrial accident, a hazardous materials accident, or a civil disturbance
 5.3 endangers life and property and local government resources are inadequate to handle the
 5.4 situation.

5.5 (b) If the legislature is not in session, the governor may convene the legislature and
 5.6 request the declaration of an emergency. Only after an emergency is declared by an
 5.7 affirmative two-thirds vote of each house may the governor exercise the powers conferred
 5.8 under this chapter for a declared emergency. An emergency terminates after five days unless
 5.9 extended by a two-thirds vote of each body for up to 30 days.

5.10 (c) The termination of an emergency and lapse of emergency powers does not deprive
 5.11 any person, political subdivision, municipal corporation, or body politic of any right to
 5.12 compensation or reimbursement that it may have under this chapter.

5.13 Subd. 2. **Effect of declared emergency.** A declaration of emergency in accordance with
 5.14 this section authorizes the governor to exercise for a period not to exceed the time specified
 5.15 in this section the powers and duties conferred and imposed by this chapter for a declared
 5.16 emergency and invokes the necessary portions of the state emergency operations plan
 5.17 developed pursuant to section 12.21, subdivision 3, relating to response and recovery aspects
 5.18 and may authorize aid and assistance under the plan.

5.19 Sec. 8. Minnesota Statutes 2020, section 12.36, is amended to read:

5.20 **12.36 GOVERNOR'S POWERS TO FAST PROVIDE EMERGENCY AID.**

5.21 (a) The governor, during an emergency or disaster ~~and notwithstanding any other law,~~
 5.22 may:

5.23 (1) enter into contracts and incur obligations necessary to combat the disaster by
 5.24 protecting the health and safety of persons and the safety of property and by providing
 5.25 emergency assistance to the victims of the disaster; and

5.26 (2) exercise the powers vested by this subdivision in the light of the exigencies of the
 5.27 disaster without compliance with time-consuming procedures and formalities prescribed
 5.28 by law pertaining to:

5.29 (i) the performance of public work;

5.30 (ii) entering into contract;

5.31 (iii) incurring of obligations;

5.32 (iv) employment of temporary workers;

6.1 (v) rental of equipment;

6.2 (vi) purchase of supplies and materials, for example, but not limited to, publication of
6.3 calls for bids;

6.4 (vii) provisions of the Civil Service Act and rules;

6.5 (viii) provisions relating to low bids; and

6.6 (ix) requirements for the budgeting and allotment of funds.

6.7 (b) All contracts must be in writing, executed on behalf of the state by the governor or
6.8 a person delegated by the governor in writing so to do, and must be promptly filed with the
6.9 commissioner of management and budget, who shall forthwith encumber funds appropriated
6.10 for the purposes of the contract for the full contract liability and certify thereon that the
6.11 encumbrance has been made.

6.12 Sec. 9. Minnesota Statutes 2020, section 12.45, is amended to read:

6.13 **12.45 VIOLATIONS, PENALTIES.**

6.14 Unless a different penalty or punishment is specifically prescribed by law, ~~a person the~~
6.15 governor or a government agent who willfully violates a provision of this chapter ~~or a rule~~
6.16 ~~or order having the force and effect of law issued under authority of this chapter~~ is guilty
6.17 of a misdemeanor and upon conviction must be punished by a fine not to exceed \$1,000,
6.18 or by imprisonment for not more than 90 days.

6.19 Sec. 10. Minnesota Statutes 2020, section 12.61, subdivision 2, is amended to read:

6.20 Subd. 2. **Emergency executive order.** (a) During a ~~national security~~ declared emergency
6.21 ~~or a peacetime emergency declared under section 12.31~~, the governor may issue an
6.22 emergency executive order upon finding that the number of seriously ill or injured persons
6.23 exceeds the emergency hospital or medical transport capacity of one or more regional
6.24 hospital systems and that care for those persons has to be given in temporary care facilities.

6.25 (b) During the effective period of the emergency executive order, a responder in any
6.26 impacted region acting consistent with emergency plans is not liable for any civil damages
6.27 or administrative sanctions as a result of good-faith acts or omissions by that responder in
6.28 rendering emergency care, advice, or assistance. This section does not apply in case of
6.29 malfeasance in office or willful or wanton actions.

7.1 Sec. 11. Minnesota Statutes 2020, section 13D.02, subdivision 1, is amended to read:

7.2 Subdivision 1. **Conditions.** (a) A meeting governed by section 13D.01, subdivisions 1,
7.3 2, 4, and 5, and this section may be conducted by interactive television so long as:

7.4 (1) all members of the body participating in the meeting, wherever their physical location,
7.5 can hear and see one another and can hear and see all discussion and testimony presented
7.6 at any location at which at least one member is present;

7.7 (2) members of the public present at the regular meeting location of the body can hear
7.8 and see all discussion and testimony and all votes of members of the body;

7.9 (3) at least one member of the body is physically present at the regular meeting location;

7.10 (4) all votes are conducted by roll call so each member's vote on each issue can be
7.11 identified and recorded; and

7.12 (5) each location at which a member of the body is present is open and accessible to the
7.13 public.

7.14 (b) A meeting satisfies the requirements of paragraph (a), although a member of the
7.15 public body participates from a location that is not open or accessible to the public, if the
7.16 member has not participated more than three times in a calendar year from a location that
7.17 is not open or accessible to the public, and:

7.18 (1) the member is serving in the military and is at a required drill, deployed, or on active
7.19 duty; or

7.20 (2) the member has been advised by a health care professional against being in a public
7.21 place for personal or family medical reasons. This clause only applies when a state of
7.22 emergency has been declared under section ~~12.31~~ 12.315, and expires 60 days after the
7.23 removal of the state of emergency.

7.24 Sec. 12. Minnesota Statutes 2020, section 14.03, subdivision 1, is amended to read:

7.25 Subdivision 1. **Generally.** The Administrative Procedure Act in sections 14.001 to 14.69
7.26 does not apply to (a) agencies directly in the legislative or judicial branches, (b) emergency
7.27 powers in sections ~~12.31~~ 12.315 to 12.37, (c) the Department of Military Affairs, (d) the
7.28 Comprehensive Health Association provided in section 62E.10, or (e) the regents of the
7.29 University of Minnesota.

8.1 Sec. 13. Minnesota Statutes 2020, section 34A.11, subdivision 6, is amended to read:

8.2 Subd. 6. **Emergency response.** If the ~~governor~~ legislature declares an emergency ~~order~~
8.3 under section ~~12.31~~ 12.315 and if the commissioner finds or has probable cause to believe
8.4 that livestock, food, or a consumer commodity within a specific area is likely to be adulterated
8.5 because of the emergency or so misbranded as to be dangerous or fraudulent, or is in violation
8.6 of section 31.131, subdivision 1, the commissioner may embargo a geographic area that is
8.7 included in the declared emergency. The commissioner shall provide notice to the public
8.8 and to those with custody of the product in as thorough a manner as is practicable under the
8.9 emergency circumstances.

8.10 Sec. 14. Minnesota Statutes 2020, section 35.0661, subdivision 1, is amended to read:

8.11 Subdivision 1. **Disastrous animal disease outbreaks; declaration of emergency.** (a)
8.12 If the board determines that a confirmed case of a disease in this state presents a substantial
8.13 and imminent threat to the state's domestic animal population, it shall certify the case to the
8.14 governor. After receiving certification from the board, the governor may declare an
8.15 emergency under this section for purposes of allowing the board to establish quarantine
8.16 zones of control to protect the health of domestic animals from animal diseases of potentially
8.17 disastrous proportions. The governor may declare an emergency under this section without
8.18 the legislature declaring a peacetime emergency under section ~~12.31~~ 12.315. A declaration
8.19 under this section may specify that it applies to all or certain units of state or local
8.20 government, must specify the time period for which it applies, and must be filed with the
8.21 secretary of state. This section is in addition to and does not limit authority granted to the
8.22 governor or local government officials by chapter 12 or other law.

8.23 (b) The board may meet by electronic means without violating state open meeting laws
8.24 for the purpose of declaring that a confirmed case of a disease in this state presents a
8.25 substantial and imminent threat to the state's domestic animal population. If the board meets
8.26 by electronic means for this purpose, it shall comply with the emergency meeting notice
8.27 provisions of section 13D.04, subdivision 3, and, to the fullest extent possible, provide
8.28 public and media access to the meeting.

8.29 Sec. 15. Minnesota Statutes 2020, section 41B.047, subdivision 1, is amended to read:

8.30 Subdivision 1. **Establishment.** The authority shall establish and implement a disaster
8.31 recovery loan program to help farmers:

8.32 (1) clean up, repair, or replace farm structures and septic and water systems, as well as
8.33 replace seed, other crop inputs, feed, and livestock;

9.1 (2) purchase watering systems, irrigation systems, and other drought mitigation systems
 9.2 and practices when drought is the cause of the purchase;

9.3 (3) restore farmland;

9.4 (4) replace flocks or livestock, make building improvements, or cover the loss of revenue
 9.5 when the replacement, improvements, or loss of revenue is due to the confirmed presence
 9.6 of a highly contagious animal disease in a commercial poultry or game flock, or a commercial
 9.7 livestock operation, located in Minnesota; or

9.8 (5) cover the loss of revenue when the revenue loss is due to an infectious human disease
 9.9 for which the ~~governor~~ legislature has declared a peacetime emergency under section ~~12.31~~
 9.10 12.315.

9.11 Sec. 16. Minnesota Statutes 2020, section 144.4197, is amended to read:

9.12 **144.4197 EMERGENCY VACCINE ADMINISTRATION; LEGEND DRUG.**

9.13 When a mayor, county board chair, or legal successor to such official has declared a
 9.14 local emergency under section 12.29 or the ~~governor~~ legislature has declared an emergency
 9.15 under section ~~12.31, subdivision 1 or 2~~ 12.315, or a community health board or its appointed
 9.16 agent under chapter 145A has requested the commissioner's assistance in response to an
 9.17 event threatening public health in its jurisdiction, the commissioner of health may authorize
 9.18 any person, including, but not limited to, any person licensed or otherwise credentialed
 9.19 under chapters 144E, 147 to 148, 150A, 151, 153, or 156, to administer vaccinations or
 9.20 dispense legend drugs if the commissioner determines that such action is necessary to protect
 9.21 the health and safety of the public. The authorization shall be in writing and shall contain
 9.22 the categories of persons included in the authorization, any additional training required
 9.23 before performance of the vaccination or drug dispensing by such persons, any supervision
 9.24 required for performance of the vaccination or drug dispensing, and the duration of the
 9.25 authorization. The commissioner may, in writing, extend the scope and duration of the
 9.26 authorization as the emergency warrants. Any person authorized by the commissioner under
 9.27 this section shall not be subject to criminal liability, administrative penalty, professional
 9.28 discipline, or other administrative sanction for good faith performance of the vaccination
 9.29 or drug dispensing duties assigned according to this section.

10.1 Sec. 17. Minnesota Statutes 2020, section 144E.266, is amended to read:

10.2 **144E.266 EMERGENCY SUSPENSION OF AMBULANCE SERVICE**
 10.3 **REQUIREMENT.**

10.4 (a) The requirements of sections 144E.10; 144E.101, subdivisions 1, 2, 3, 6, 7, 8, 9, 10,
 10.5 11, and 13; 144E.103; 144E.12; 144E.121; 144E.123; 144E.127; and 144E.15, are suspended:

10.6 (1) throughout the state during a national security emergency declared under section
 10.7 ~~12.31~~ 12.315;

10.8 (2) in the geographic areas of the state affected during a peacetime emergency declared
 10.9 under section ~~12.31~~ 12.315; and

10.10 (3) in the geographic areas of the state affected during a local emergency declared under
 10.11 section 12.29.

10.12 (b) For purposes of this section, the geographic areas of the state affected shall include
 10.13 geographic areas where one or more ambulance services are providing requested mutual
 10.14 aid to the site of the emergency.

10.15 Sec. 18. Minnesota Statutes 2020, section 151.441, subdivision 12, is amended to read:

10.16 Subd. 12. **Transaction.** (a) "Transaction" means the transfer of a product between
 10.17 persons in which a change of ownership occurs.

10.18 (b) The term "transaction" does not include:

10.19 (1) intracompany distribution of any product between members of an affiliate or within
 10.20 a manufacturer;

10.21 (2) the distribution of a product among hospitals or other health care entities that are
 10.22 under common control;

10.23 (3) the distribution of a drug or an offer to distribute a drug for emergency medical
 10.24 reasons, including:

10.25 (i) a public health emergency declaration pursuant to United States Code, title 42, section
 10.26 247d;

10.27 (ii) a national security or peacetime emergency declared by the ~~governor~~ legislature
 10.28 pursuant to section ~~12.31~~ 12.315; or

10.29 (iii) a situation involving an action taken by the commissioner of health pursuant to
 10.30 section 144.4197, 144.4198, or 151.37, subdivisions 2, paragraph (b), and 10, except that,

11.1 for purposes of this paragraph, a drug shortage not caused by a public health emergency
11.2 shall not constitute an emergency medical reason;

11.3 (4) the dispensing of a drug pursuant to a valid prescription issued by a licensed
11.4 practitioner;

11.5 (5) the distribution of product samples by a manufacturer or a licensed wholesale
11.6 distributor in accordance with United States Code, title 21, section 353(d);

11.7 (6) the distribution of blood or blood components intended for transfusion;

11.8 (7) the distribution of minimal quantities of product by a licensed retail pharmacy to a
11.9 licensed practitioner for office use;

11.10 (8) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by
11.11 a charitable organization described in United States Code, title 26, section 501(c)(3), to a
11.12 nonprofit affiliate of the organization to the extent otherwise permitted by law;

11.13 (9) the distribution of a product pursuant to the sale or merger of a pharmacy or
11.14 pharmacies or a wholesale distributor or wholesale distributors, except that any records
11.15 required to be maintained for the product shall be transferred to the new owner of the
11.16 pharmacy or pharmacies or wholesale distributor or wholesale distributors;

11.17 (10) the dispensing of a product approved under United States Code, title 21, section
11.18 360b(c);

11.19 (11) transfer of products to or from any facility that is licensed by the Nuclear Regulatory
11.20 Commission or by a state pursuant to an agreement with such commission under United
11.21 States Code, title 42, section 2021;

11.22 (12) transfer of a combination product that is not subject to approval under United States
11.23 Code, title 21, section 355, or licensure under United States Code, title 42, section 262, and
11.24 that is:

11.25 (i) a product comprised of a device and one or more other regulated components (such
11.26 as a drug/device, biologic/device, or drug/device/biologic) that are physically, chemically,
11.27 or otherwise combined or mixed and produced as a single entity;

11.28 (ii) two or more separate products packaged together in a single package or as a unit
11.29 and comprised of a drug and device or device and biological product; or

11.30 (iii) two or more finished medical devices plus one or more drug or biological products
11.31 that are packaged together in a medical convenience kit;

11.32 (13) the distribution of a medical convenience kit if:

12.1 (i) the medical convenience kit is assembled in an establishment that is registered with
12.2 the United States Food and Drug Administration as a device manufacturer in accordance
12.3 with United States Code, title 21, section 360(b)(2);

12.4 (ii) the medical convenience kit does not contain a controlled substance that appears in
12.5 a schedule contained in the Comprehensive Drug Abuse Prevention and Control Act of
12.6 1970, United States Code, title 21, section 801, et seq.;

12.7 (iii) in the case of a medical convenience kit that includes a product, the person who
12.8 manufactures the kit:

12.9 (A) purchased the product directly from the pharmaceutical manufacturer or from a
12.10 wholesale distributor that purchased the product directly from the pharmaceutical
12.11 manufacturer; and

12.12 (B) does not alter the primary container or label of the product as purchased from the
12.13 manufacturer or wholesale distributor; and

12.14 (iv) in the case of a medical convenience kit that includes a product, the product is:

12.15 (A) an intravenous solution intended for the replenishment of fluids and electrolytes;

12.16 (B) a product intended to maintain the equilibrium of water and minerals in the body;

12.17 (C) a product intended for irrigation or reconstitution;

12.18 (D) an anesthetic;

12.19 (E) an anticoagulant;

12.20 (F) a vasopressor; or

12.21 (G) a sympathomimetic;

12.22 (14) the distribution of an intravenous product that, by its formulation, is intended for
12.23 the replenishment of fluids and electrolytes, such as sodium, chloride, and potassium; or
12.24 calories, such as dextrose and amino acids;

12.25 (15) the distribution of an intravenous product used to maintain the equilibrium of water
12.26 and minerals in the body, such as dialysis solutions;

12.27 (16) the distribution of a product that is intended for irrigation, or sterile water, whether
12.28 intended for such purposes or for injection;

12.29 (17) the distribution of a medical gas as defined in United States Code, title 21, section
12.30 360ddd; or

13.1 (18) the distribution or sale of any licensed product under United States Code, title 42,
13.2 section 262, that meets the definition of a device under United States Code, title 21, section
13.3 321(h).

13.4 Sec. 19. Minnesota Statutes 2020, section 151.441, subdivision 13, is amended to read:

13.5 Subd. 13. **Wholesale distribution.** "Wholesale distribution" means the distribution of
13.6 a drug to a person other than a consumer or patient, or receipt of a drug by a person other
13.7 than the consumer or patient, but does not include:

13.8 (1) intracompany distribution of any drug between members of an affiliate or within a
13.9 manufacturer;

13.10 (2) the distribution of a drug or an offer to distribute a drug among hospitals or other
13.11 health care entities that are under common control;

13.12 (3) the distribution of a drug or an offer to distribute a drug for emergency medical
13.13 reasons, including:

13.14 (i) a public health emergency declaration pursuant to United States Code, title 42, section
13.15 247d;

13.16 (ii) a national security or peacetime emergency declared by the ~~governor~~ legislature
13.17 pursuant to section ~~12.31~~ 12.315; or

13.18 (iii) a situation involving an action taken by the commissioner of health pursuant to
13.19 section 144.4197, 144.4198, or 151.37, subdivisions 2, paragraph (b), and 10, except that,
13.20 for purposes of this paragraph, a drug shortage not caused by a public health emergency
13.21 shall not constitute an emergency medical reason;

13.22 (4) the dispensing of a drug pursuant to a valid prescription issued by a licensed
13.23 practitioner;

13.24 (5) the distribution of minimal quantities of a drug by a licensed retail pharmacy to a
13.25 licensed practitioner for office use;

13.26 (6) the distribution of a drug or an offer to distribute a drug by a charitable organization
13.27 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

13.28 (7) the purchase or other acquisition by a dispenser, hospital, or other health care entity
13.29 of a drug for use by such dispenser, hospital, or other health care entity;

13.30 (8) the distribution of a drug by the manufacturer of such drug;

14.1 (9) the receipt or transfer of a drug by an authorized third-party logistics provider provided
14.2 that such third-party logistics provider does not take ownership of the drug;

14.3 (10) a common carrier that transports a drug, provided that the common carrier does not
14.4 take ownership of the drug;

14.5 (11) the distribution of a drug or an offer to distribute a drug by an authorized repackager
14.6 that has taken ownership or possession of the drug and repacks it in accordance with United
14.7 States Code, title 21, section 360eee-1(e);

14.8 (12) salable drug returns when conducted by a dispenser;

14.9 (13) the distribution of a collection of finished medical devices, which may include a
14.10 product or biological product, assembled in kit form strictly for the convenience of the
14.11 purchaser or user, referred to in this section as a medical convenience kit, if:

14.12 (i) the medical convenience kit is assembled in an establishment that is registered with
14.13 the United States Food and Drug Administration as a device manufacturer in accordance
14.14 with United States Code, title 21, section 360(b)(2);

14.15 (ii) the medical convenience kit does not contain a controlled substance that appears in
14.16 a schedule contained in the Comprehensive Drug Abuse Prevention and Control Act of
14.17 1970, United States Code, title 21, section 801, et seq.;

14.18 (iii) in the case of a medical convenience kit that includes a product, the person that
14.19 manufactures the kit:

14.20 (A) purchased such product directly from the pharmaceutical manufacturer or from a
14.21 wholesale distributor that purchased the product directly from the pharmaceutical
14.22 manufacturer; and

14.23 (B) does not alter the primary container or label of the product as purchased from the
14.24 manufacturer or wholesale distributor; and

14.25 (iv) in the case of a medical convenience kit that includes a product, the product is:

14.26 (A) an intravenous solution intended for the replenishment of fluids and electrolytes;

14.27 (B) a product intended to maintain the equilibrium of water and minerals in the body;

14.28 (C) a product intended for irrigation or reconstitution;

14.29 (D) an anesthetic;

14.30 (E) an anticoagulant;

14.31 (F) a vasopressor; or

15.1 (G) a sympathomimetic;

15.2 (14) the distribution of an intravenous drug that, by its formulation, is intended for the
15.3 replenishment of fluids and electrolytes, such as sodium, chloride, and potassium; or calories,
15.4 such as dextrose and amino acids;

15.5 (15) the distribution of an intravenous drug used to maintain the equilibrium of water
15.6 and minerals in the body, such as dialysis solutions;

15.7 (16) the distribution of a drug that is intended for irrigation, or sterile water, whether
15.8 intended for such purposes or for injection;

15.9 (17) the distribution of medical gas, as defined in United States Code, title 21, section
15.10 360ddd;

15.11 (18) facilitating the distribution of a product by providing solely administrative services,
15.12 including processing of orders and payments; or

15.13 (19) the transfer of a product by a hospital or other health care entity, or by a wholesale
15.14 distributor or manufacturer operating at the direction of the hospital or other health care
15.15 entity, to a repackager described in United States Code, title 21, section 360eee(16)(B), and
15.16 registered under United States Code, title 21, section 360, for the purpose of repackaging
15.17 the drug for use by that hospital, or other health care entity and other health care entities
15.18 that are under common control, if ownership of the drug remains with the hospital or other
15.19 health care entity at all times.

15.20 Sec. 20. Minnesota Statutes 2020, section 270C.34, subdivision 1, is amended to read:

15.21 Subdivision 1. **Authority.** (a) The commissioner may abate, reduce, or refund any penalty
15.22 or interest that is imposed by a law administered by the commissioner, or imposed by section
15.23 270.0725, subdivision 1 or 2, or 270.075, subdivision 2, as a result of the late payment of
15.24 tax or late filing of a return, or any part of an additional tax charge under section 289A.25,
15.25 subdivision 2, or 289A.26, subdivision 4, if the failure to timely pay the tax or failure to
15.26 timely file the return is due to reasonable cause, or if the taxpayer is located in a presidentially
15.27 declared disaster or in a presidentially declared state of emergency area or in an area declared
15.28 to be in a state of emergency by the ~~governor~~ legislature under section ~~12.31~~ 12.315.

15.29 (b) The commissioner shall abate any part of a penalty or additional tax charge under
15.30 section 289A.25, subdivision 2, or 289A.26, subdivision 4, attributable to erroneous advice
15.31 given to the taxpayer in writing by an employee of the department acting in an official
15.32 capacity, if the advice:

16.1 (1) was reasonably relied on and was in response to a specific written request of the
16.2 taxpayer; and

16.3 (2) was not the result of failure by the taxpayer to provide adequate or accurate
16.4 information.

16.5 Sec. 21. Minnesota Statutes 2020, section 295.50, subdivision 2b, is amended to read:

16.6 Subd. 2b. **Emergency medical reasons.** "Emergency medical reasons" means a public
16.7 health emergency declaration pursuant to United States Code, title 42, section 247d; a
16.8 national security or peacetime emergency declared by the ~~governor~~ legislature pursuant to
16.9 section ~~12.31~~ 12.315; or a situation involving an action by the commissioner of health
16.10 pursuant to section 144.4197, 144.4198, or 151.37, subdivisions 2, paragraph (b), and 10,
16.11 except that, for purposes of this subdivision, a drug shortage not caused by a public health
16.12 emergency shall not constitute an emergency medical reason.

16.13 Sec. 22. **REPEALER.**

16.14 Minnesota Statutes 2020, sections 4.035, subdivision 2; 12.31; and 12.32, are repealed.

4.035 EXECUTIVE ORDERS.

Subd. 2. **Effective date.** An executive order issued pursuant to sections 12.31 to 12.32 or any other emergency executive order issued to protect a person from an imminent threat to health and safety shall be effective immediately and shall be filed with the secretary of state and published in the state register as soon as possible after its issuance. Emergency executive orders shall be identified as such in the order. Any other executive order shall be effective upon 15 days after its publication in the state register and filing with the secretary of state. The governor shall submit a copy of the executive order to the commissioner of administration to facilitate publication in the State Register.

12.31 NATIONAL SECURITY OR PEACETIME EMERGENCY; DECLARATION.

Subdivision 1. **Declaration of national security emergency.** When information from the President of the United States, the Federal Emergency Management Agency, the Department of Defense, or the National Warning System indicates the imminence of a national security emergency within the United States, which means the several states, the District of Columbia, and the Commonwealth of Puerto Rico, or the occurrence within the state of Minnesota of a major disaster from enemy sabotage or other hostile action, the governor may, by proclamation, declare that a national security emergency exists in all or any part of the state. If the legislature is then in regular session or, if it is not, if the governor concurrently with the proclamation declaring the emergency issues a call convening immediately both houses of the legislature, the governor may exercise for a period not to exceed 30 days the powers and duties conferred and imposed by sections 12.31 to 12.37 and 12.381. The lapse of these emergency powers does not, as regards any act occurring or committed within the 30-day period, deprive any person, political subdivision, municipal corporation, or body politic of any right to compensation or reimbursement that it may have under this chapter.

Subd. 2. **Declaration of peacetime emergency.** (a) The governor may declare a peacetime emergency. A peacetime declaration of emergency may be declared only when an act of nature, a technological failure or malfunction, a terrorist incident, an industrial accident, a hazardous materials accident, or a civil disturbance endangers life and property and local government resources are inadequate to handle the situation. If the peacetime emergency occurs on Indian lands, the governor or state director of emergency management shall consult with tribal authorities before the governor makes such a declaration. Nothing in this section shall be construed to limit the governor's authority to act without such consultation when the situation calls for prompt and timely action. When the governor declares a peacetime emergency, the governor must immediately notify the majority and minority leaders of the senate and the speaker and majority and minority leaders of the house of representatives. A peacetime emergency must not be continued for more than five days unless extended by resolution of the Executive Council up to 30 days. An order, or proclamation declaring, continuing, or terminating an emergency must be given prompt and general publicity and filed with the secretary of state.

(b) By majority vote of each house of the legislature, the legislature may terminate a peacetime emergency extending beyond 30 days. If the governor determines a need to extend the peacetime emergency declaration beyond 30 days and the legislature is not sitting in session, the governor must issue a call immediately convening both houses of the legislature. Nothing in this section limits the governor's authority over or command of the National Guard as described in the Military Code, chapters 190 to 192A, and required by the Minnesota Constitution, article V, section 3.

Subd. 3. **Effect of declaration of peacetime emergency.** A declaration of a peacetime emergency in accordance with this section authorizes the governor to exercise for a period not to exceed the time specified in this section the powers and duties conferred and imposed by this chapter for a peacetime emergency and invokes the necessary portions of the state emergency operations plan developed pursuant to section 12.21, subdivision 3, relating to response and recovery aspects and may authorize aid and assistance under the plan.

12.32 GOVERNOR'S ORDERS AND RULES, EFFECT.

Orders and rules promulgated by the governor under authority of section 12.21, subdivision 3, clause (1), when approved by the Executive Council and filed in the Office of the Secretary of State, have, during a national security emergency, peacetime emergency, or energy supply emergency, the full force and effect of law. Rules and ordinances of any agency or political subdivision of the state inconsistent with the provisions of this chapter or with any order or rule having the force and effect of law issued under the authority of this chapter, is suspended during the period of time and to the extent that the emergency exists.