

## Senate Counsel & Research

G-17 STATE CAPITOL  
75 REV. DR. MARTIN LUTHER KING JR. BLVD.  
ST. PAUL, MN 55155-1606  
(651) 296-4791  
FAX (651) 296-7747

JO ANNE ZOFF SELLNER  
DIRECTOR

# Senate

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## State of Minnesota

### COUNSEL

PETER S. WATTSON  
JOHN C. FULLER  
BONNIE L. BEREZOVSKY  
DANIEL P. MCGOWAN  
KATHLEEN E. PONTIUS  
PATRICIA A. LIEN  
KATHERINE T. CAVANOR  
CHRISTOPHER B. STANG  
KENNETH P. BACKHUS  
CAROL E. BAKER  
JOAN E. WHITE  
THOMAS S. BOTTERN  
ANN MARIE BUTLER

### LEGISLATIVE ANALYSTS

DAVID GIEL  
GREGORY C. KNOPFF  
MATTHEW GROSSER  
DANIEL L. MUELLER  
JACK PAULSON  
CHRISTOPHER L. TURNER  
ALAN J. VENNEWITZ  
MARCO VEIDMANN

## S.F. No. 215 - Department of Human Rights Technical Changes

**Author:** Senator Mee Moua  
**Prepared by:** Harry Walsh, Senate Counsel (651/296-6200)  
**Date:** January 18, 2005

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**S.F. No. 215** contains numerous changes to the law governing the Department of Human Rights.

**Article 1, sections 1 and 2,** make style changes in definitions.

**Article 1, section 3,** makes a verified complaint necessary for a person to be a charging party.

**Article 1, section 4,** changes the procedural position of the Commissioner as "complainant."

**Article 1, section 5,** extends the definition of "educational institution" to religious educational institutions.

**Article 1, section 6,** enlarges the definition of "investigative data" to include various electronic data.

**Article 1, section 7,** adds state councils to the definition of "public service."

**Article 1, section 8,** clarifies powers and duties of the Commissioner relating to use of state services, the development of policies, and the provision of services and programs. Subdivision 4 allows the disclosure of settlement negotiations after final resolution of a case.

**Article 1, section 9**, removes obsolete language.

**Article 1, section 10**, changes a reference to a definition of “direct threat.”

**Article 1, section 11**, makes it an unfair practice to make an application form for admission that elicits improper information.

**Article 1, section 12**, revises language relating to various classes of business discrimination and moves it to the beginning of the section.

**Article 1, section 13**, adds a reference to the general definition of “public accommodation” in the prohibition of discrimination against the disabled.

**Article 1, sections 14, 15, and 16**, make grammatical changes.

**Article 1, section 17**, repeats the word “verified” in the procedure for bringing actions.

**Article 1, section 18**, substitutes “memorandum” for “short, plain written statement” in the requirements for service of a Commissioner’s complaint.

**Article 1, sections 19 and 20**, clarify references.

**Article 2** removes an old schedule, a tolling provision, and two definitions.

**Article 3, section 1**, updates and reworks the state’s policy statement about discrimination.

**Article 3, section 2**, adds material to the definition of “civil right.”

**Article 3, section 3**, defines “direct threat.”

**Article 3, section 4**, adds redesign of facilities as a remedy for access for disabled persons.

**Article 3, section 5**, adds sexual harassment to the definition of “sex.”

**Article 3, section 6**, adds a definition of “verified charge.”

**Article 3, sections 7 to 11**, add employment by a human rights commission to the references to protected characteristics.

**Article 3, section 12**, adds religion and familial status to prohibited discrimination in property transactions.

**Article 3, section 13**, defines “reprisals” and extends the list of protected characteristics.

HW:cs

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CHRIS L. TURNER  
AMY M. VENNEWITZ  
MAJA WEIDMANN

TO: Senator Mee Moua

FROM: Harry Walsh, Senate Counsel (651/296-6200)

DATE: February 9, 2005

RE: S.F. No. 215 Amendment

For your consideration, I enclose an amendment to S.F. No. 215 that would clarify some grammar. The amendment is drawn to a committee engrossment of the bill that includes the committee amendments that have been adopted so far. I also attach a copy of the engrossment.

HW:cs

Attachments: SCS0215CE1  
SCS0215A-4



1 Senator ..... moves to amend the committee engrossment  
2 (SCS0215CE1) of S.F. No. 215 as follows:

3 Page 4, line 25, delete the period and insert "i  
4 (16)"

5 Page 4, line 30, strike "(16)" and insert "(17)"

6 Page 4, line 36, reinstate the stricken language and delete  
7 the new language

8 Page 5, line 4, reinstate the stricken language and delete  
9 the new language

1                                   A bill for an act  
2 relating to human rights; making agency technical  
3 changes; amending Minnesota Statutes 2004, sections  
4 363A.02, subdivisions 1, 2; 363A.03, subdivisions 1,  
5 2, 5, 8, 14, 21, 31, 35, 42, by adding subdivisions;  
6 363A.04; 363A.06; 363A.08, subdivisions 1, 2, 3, 4, 6;  
7 363A.11, subdivision 4; 363A.12, subdivision 1;  
8 363A.13, subdivision 4; 363A.15; 363A.17; 363A.19;  
9 363A.20, subdivision 4; 363A.21, subdivisions 1, 2;  
10 363A.28, subdivisions 1, 6, 7; 363A.29, subdivision 2;  
11 363A.40, subdivision 1; repealing Minnesota Statutes  
12 2004, section 363A.03, subdivisions 3, 29.

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

14                                   ARTICLE 1

15                                   CLARIFYING AMENDMENTS

16           Section 1. Minnesota Statutes 2004, section 363A.03,  
17 subdivision 1, is amended to read:

18           Subdivision 1. [~~TERMS~~ SCOPE.] For the purposes of this  
19 chapter, the words defined in this section have the meanings  
20 ~~ascribed to~~ given them.

21           Sec. 2. Minnesota Statutes 2004, section 363A.03,  
22 subdivision 2, is amended to read:

23           Subd. 2. [AGE.] The prohibition against unfair employment  
24 or education practices based on age prohibits using a person's  
25 age as a basis for a decision if the person is over the age  
26 of ~~majerity~~ 18 years, except for section 363A.13 which shall be  
27 deemed to protect any individual over the age of 25 years.

28           Sec. 3. Minnesota Statutes 2004, section 363A.03,  
29 subdivision 5, is amended to read:

1 Subd. 5. [CHARGING PARTY.] "Charging party" means a person  
2 filing a verified charge with the commissioner or the  
3 commissioner's designated agent pursuant to section 363A.28,  
4 subdivision 1.

5 Sec. 4. Minnesota Statutes 2004, section 363A.03,  
6 subdivision 8, is amended to read:

7 Subd. 8. [COMPLAINANT.] "Complainant" means the  
8 commissioner of human rights after issuing a finding of probable  
9 cause is made by the commissioner and the commissioner issues a  
10 complaint pursuant to sections 363A.06, subdivision 3, paragraph  
11 (8), and 363A.28, subdivisions 1 to 9.

12 Sec. 5. Minnesota Statutes 2004, section 363A.03,  
13 subdivision 14, is amended to read:

14 Subd. 14. [EDUCATIONAL INSTITUTION.] "Educational  
15 institution" means a public or private institution and includes  
16 an academy, college, elementary or secondary school, extension  
17 course, kindergarten, nursery, school system and a business,  
18 nursing, professional, secretarial, technical, vocational  
19 school; and includes an agent of an educational  
20 institution. "Educational institution" also includes "religious  
21 or denominational educational institution" as defined in section  
22 363A.03, subdivision 40.

23 Sec. 6. Minnesota Statutes 2004, section 363A.03,  
24 subdivision 21, is amended to read:

25 Subd. 21. [HUMAN RIGHTS INVESTIGATIVE DATA.] "Human rights  
26 investigative data" means written-documents government data as  
27 defined in section 13.02, subdivision 7, issued or gathered  
28 collected by the department for the purpose of investigating and  
29 prosecuting alleged or suspected discrimination.

30 Sec. 7. Minnesota Statutes 2004, section 363A.03,  
31 subdivision 35, is amended to read:

32 Subd. 35. [PUBLIC SERVICE.] "Public service" means any  
33 public facility, department, agency, council, board or  
34 commission, owned, operated or managed by or on behalf of the  
35 state of Minnesota, or any subdivision thereof, including any  
36 county, city, town, township, or independent district in the

1 state.

2 Sec. 8. Minnesota Statutes 2004, section 363A.06, is  
3 amended to read:

4 363A.06 [POWERS AND DUTIES OF COMMISSIONER.]

5 Subdivision 1. [FORMULATION OF POLICIES.] The commissioner  
6 shall formulate policies to effectuate the purposes of this  
7 chapter and shall:

8 (1) exercise leadership under the direction of the governor  
9 in the development of human rights policies, procedures, and  
10 programs, and make recommendations to the governor and the  
11 legislature for their consideration and implementation;

12 (2) establish and maintain a principal office in St. Paul,  
13 and any other necessary branch offices at any location within  
14 the state;

15 (3) meet and function at any place within the state;

16 (4) employ attorneys, clerks, and other employees and  
17 agents as the commissioner may deem necessary and prescribe  
18 their duties;

19 (5) to the extent permitted by federal and state law and  
20 regulation, utilize the records and services of ~~the-Department~~  
21 ~~of-Employment-and-Economic-Development-of-the-state~~ all state  
22 governmental departments and agencies when necessary to  
23 effectuate the purposes of this chapter;

24 ~~(6) obtain-upon-request-and-utilize-the-services-of-all~~  
25 ~~state-governmental-departments-and-agencies;~~

26 ~~{7}~~ adopt suitable rules for effectuating the purposes of  
27 this chapter;

28 ~~{8}~~ (7) issue complaints, receive and investigate charges  
29 alleging unfair discriminatory practices, and determine whether  
30 or not probable cause exists for hearing;

31 ~~{9}~~ (8) subpoena witnesses, administer oaths, take  
32 testimony, and require the production for examination of any  
33 books or papers relative to any matter under investigation or in  
34 question as the commissioner deems appropriate to carry out the  
35 purposes of this chapter;

36 ~~{10}~~ (9) attempt, by means of education, conference,

1 conciliation, and persuasion to eliminate unfair discriminatory  
2 practices as being contrary to the public policy of the state;

3 ~~{11}~~ (10) develop and conduct programs of formal and  
4 informal education designed to eliminate discrimination and  
5 intergroup conflict by use of educational techniques and  
6 programs the commissioner deems necessary;

7 ~~{12}~~ (11) make a written report of the activities of the  
8 commissioner to the governor each year;

9 ~~{13}~~ (12) accept gifts, bequests, grants or other payments  
10 public and private to help finance the activities of the  
11 department;

12 ~~{14}~~ (13) create such local and statewide advisory  
13 committees as will in the commissioner's judgment aid in  
14 effectuating the purposes of the Department of Human Rights;

15 (14) provide staff services to such advisory committees as  
16 may be created in aid of the functions of the Department of  
17 Human Rights;

18 (15) develop such programs as will aid in determining the  
19 compliance throughout the state with the provisions of this  
20 chapter, and in the furtherance of such duties, conduct research  
21 and study discriminatory practices based upon race, color,  
22 creed, religion, national origin, sex, age, disability, marital  
23 status, status with regard to public assistance, familial  
24 status, sexual orientation, membership or activity in a local  
25 human rights commission, or other factors and. Develop accurate  
26 data on the nature and extent of discrimination and other  
27 matters as they may affect housing, employment, public  
28 accommodations, ~~schools,--and-other-areas-of-public-life~~ public  
29 services, education, credit, and business;

30 (16) develop and disseminate technical assistance to  
31 persons subject to the provisions of this chapter, and to  
32 agencies and officers of governmental and private agencies;

33 ~~{17}-provide-staff-services-to-such-advisory-committees-as~~  
34 ~~may-be-created-in-aid-of-the-functions-of-the-Department-of~~  
35 ~~Human-Rights;~~

36 ~~{18}~~ (17) make grants in aid to the extent that

1 appropriations are made available for ~~that~~ the purpose ~~in-aid~~ of  
2 carrying out the duties and responsibilities of this chapter;  
3 and

4 ~~(19)~~ (18) cooperate and consult with the commissioner of  
5 labor and industry regarding the investigation of violations of,  
6 and resolution of complaints regarding section 363A.08,  
7 subdivision 7.

8 In performing these duties, the commissioner shall give  
9 priority to those duties in clauses (7), (8), and (9) ~~and~~ ~~(10)~~  
10 and to the duties in section 363A.36.

11 Subd. 2. [SERVICE, ENFORCEMENT, AND EFFECT OF SUBPOENA.]

12 (a) Disobedience of a subpoena issued by the commissioner  
13 pursuant to subdivision 1, clause (8), shall be punishable in  
14 like manner as a contempt of the district court in proceedings  
15 instituted upon application of the commissioner made to the  
16 district court of the county where the alleged unfair  
17 discriminatory practice in connection with a charge made by a  
18 charging party or a complaint filed by the commissioner has  
19 occurred or where the respondent resides or has a principal  
20 place of business.

21 (b) It is not a violation of rights conferred by chapter 13  
22 or any other statute related to the confidentiality of  
23 government data for a state agency, statewide system, or  
24 political subdivision, as defined in section 13.02, subdivision  
25 11, to provide data or information under a subpoena issued by  
26 the commissioner under this section.

27 (c) A subpoena issued under subdivision 1, clause (8), must  
28 be served personally or by mailing a copy of the subpoena, by  
29 first class mail, postage prepaid, to the person to be served.  
30 The subpoena must include two copies of a notice and  
31 acknowledgment of service on a form to be provided by the  
32 commissioner, and a return envelope, postage prepaid, addressed  
33 to the sender. If acknowledgment of service is not received by  
34 the commissioner within 20 days, service is not effective.  
35 Unless good cause is shown for not doing so, a court or  
36 administrative law judge shall order the payment of the costs of

1 personal service by the person served if the person does not  
2 complete and return the notice and acknowledgment of receipt of  
3 the subpoena within the time allowed.

4 Subd. 3. [MISSION; EFFICIENCY.] It is part of the  
5 department's mission that within the department's resources the  
6 commissioner shall endeavor to:

7 (1) prevent the waste or unnecessary spending of public  
8 money;

9 (2) use innovative fiscal and human resource practices to  
10 manage the state's resources and operate the department as  
11 efficiently as possible;

12 (3) coordinate the department's activities wherever  
13 appropriate with the activities of other governmental agencies;

14 (4) use technology where appropriate to increase agency  
15 productivity, improve customer service, increase public access  
16 to information about government, and increase public  
17 participation in the business of government;

18 (5) utilize constructive and cooperative labor-management  
19 practices ~~to the extent otherwise~~ as required by chapters 43A  
20 and 179A;

21 (6) report to the legislature on the performance of agency  
22 operations and the accomplishment of agency goals in the  
23 agency's biennial budget according to section 16A.10,  
24 subdivision 1; and

25 (7) recommend to the legislature appropriate changes in law  
26 necessary to carry out the mission and improve the performance  
27 of the department.

28 Subd. 4. [PUBLICATION OF CASE ACCOUNT.] The commissioner  
29 may publish an account of a case in which the complaint has been  
30 dismissed or the terms of settlement of a case that has been  
31 voluntarily adjusted. Except as provided in other sections of  
32 this chapter, the commissioner shall not disclose any  
33 information concerning efforts settlement negotiations in a  
34 particular case ~~to eliminate an unfair discriminatory practice~~  
35 ~~through education, conference, conciliation and persuasion~~ prior  
36 to final resolution.

1           Sec. 9. Minnesota Statutes 2004, section 363A.08,  
2 subdivision 6, is amended to read:

3           Subd. 6. [REASONABLE ACCOMMODATION.] Except when based on  
4 a bona fide occupational qualification, it is an unfair  
5 employment practice for an employer ~~with-a-number-of~~ who employs  
6 equal to or greater than 15 part-time or full-time employees for  
7 each working day in each of 20 or more calendar weeks in the  
8 current or preceding calendar year ~~equal-to-or-greater-than-25~~  
9 ~~effective-July-17-19927-and-equal-to-or-greater-than-15~~  
10 ~~effective-July-17-1994~~, an employment agency, or a labor  
11 organization, not to make reasonable accommodation to the known  
12 disability of a qualified disabled person or job applicant  
13 unless the employer, agency, or organization can demonstrate  
14 that the accommodation would impose an undue hardship on the  
15 business, agency, or organization. "Reasonable accommodation"  
16 means steps which must be taken to accommodate the known  
17 physical or mental limitations of a qualified disabled person.  
18 "Reasonable accommodation" may include but is not limited to,  
19 nor does it necessarily require: (a) making facilities readily  
20 accessible to and usable by disabled persons; and (b) job  
21 restructuring, modified work schedules, reassignment to a vacant  
22 position, acquisition or modification of equipment or devices,  
23 and the provision of aides on a temporary or periodic basis.

24           In determining whether an accommodation would impose an  
25 undue hardship on the operation of a business or organization,  
26 factors to be considered include:

27           (a) the overall size of the business or organization with  
28 respect to number of employees or members and the number and  
29 type of facilities;

30           (b) the type of the operation, including the composition  
31 and structure of the work force, and the number of employees at  
32 the location where the employment would occur;

33           (c) the nature and cost of the needed accommodation;

34           (d) the reasonable ability to finance the accommodation at  
35 each site of business; and

36           (e) documented good faith efforts to explore less

1 restrictive or less expensive alternatives, including  
2 consultation with the disabled person or with knowledgeable  
3 disabled persons or organizations.

4 A prospective employer need not pay for an accommodation  
5 for a job applicant if it is available from an alternative  
6 source without cost to the employer or applicant.

7 Sec. 10. Minnesota Statutes 2004, section 363A.11,  
8 subdivision 4, is amended to read:

9 Subd. 4. [DIRECT THREAT TO HEALTH AND SAFETY.] Nothing in  
10 this chapter requires an entity to permit an individual to  
11 participate in and benefit from the goods, services, facilities,  
12 privileges, advantages, and accommodations of the entity if the  
13 individual poses a direct threat, as defined in section 363A.03,  
14 subdivision 11a, to the health or safety of others. "Direct  
15 threat"-means-a-significant-risk-to-the-health-or-safety-of  
16 others-that-cannot-be-eliminated-by-a-modification-of-policies,  
17 practices,-or-procedures-or-by-the-provision-of-auxiliary-aids  
18 or-services-

19 Sec. 11. Minnesota Statutes 2004, section 363A.13,  
20 subdivision 4, is amended to read:

21 Subd. 4. [PURPOSE FOR INFORMATION AND RECORD.] It is an  
22 unfair discriminatory practice to make or use a written or oral  
23 inquiry or form of application for admission that elicits or  
24 attempts to elicit information, or to make or keep a record  
25 concerning the race, color, national origin, sex, age, or  
26 marital status of a person seeking admission, unless the  
27 information is collected for purposes of evaluating the  
28 effectiveness of recruitment, admissions, and other educational  
29 policies, and is maintained separately from the application.

30 Sec. 12. Minnesota Statutes 2004, section 363A.17, is  
31 amended to read:

32 363A.17 [BUSINESS DISCRIMINATION.]

33 It is an unfair discriminatory practice for a person  
34 engaged in a trade or business or in the provision of a service:

35 (a) to intentionally refuse to do business with, to refuse  
36 to contract with, to refuse to provide a service to or to

1 discriminate in the basic terms, conditions, or performance of  
2 the contract because of a person's race, national origin, color,  
3 sex, sexual orientation, or disability, unless the alleged  
4 refusal or discrimination is because of a legitimate business  
5 purpose;

6 (a) (b) to refuse to do business with or provide a service  
7 to a woman based on her use of her current or former surname; or

8 (b) (c) to impose, as a condition of doing business with or  
9 providing a service to a woman, that a woman use her current  
10 surname rather than a former surname; or

11 ~~(c) to intentionally refuse to do business with, to refuse~~  
12 ~~to contract with, or to discriminate in the basic terms,~~  
13 ~~conditions, or performance of the contract because of a person's~~  
14 ~~race, national origin, color, sex, sexual orientation, or~~  
15 ~~disability, unless the alleged refusal or discrimination is~~  
16 ~~because of a legitimate business purpose.~~

17 Nothing in this section shall prohibit positive action  
18 plans.

19 Sec. 13. Minnesota Statutes 2004, section 363A.19, is  
20 amended to read:

21 363A.19 [DISCRIMINATION AGAINST BLIND, DEAF, OR OTHER  
22 PERSONS WITH PHYSICAL OR SENSORY DISABILITIES PROHIBITED.]

23 (a) It is an unfair discriminatory practice for an owner,  
24 operator, or manager of a hotel, restaurant, public conveyance,  
25 or other place of public place accommodation as defined in  
26 section 363A.03, subdivision 34, to prohibit a blind or deaf  
27 person or a person with a physical or sensory disability from  
28 taking a service animal into the public place or conveyance if  
29 the service animal can be properly identified as being from a  
30 recognized program which trains service animals to aid blind or  
31 deaf persons or persons with physical or sensory disabilities,  
32 and if the animal is properly harnessed or leashed so that the  
33 blind or deaf person or a person with a physical or sensory  
34 disability may maintain control of the animal.

35 (b) No person shall require a blind, physically  
36 handicapped, or deaf person to make an extra payment or pay an

1 additional charge when taking a service animal into any of the  
2 public places referred to in paragraph (a).

3 Sec. 14. Minnesota Statutes 2004, section 363A.20,  
4 subdivision 4, is amended to read:

5 Subd. 4. [EMPLOYMENT SELECTION.] The provisions of section  
6 363A.08 do not apply to the employment of one person in place of  
7 another which, standing by itself, shall not be considered  
8 evidence of an unfair discriminatory practice.

9 Sec. 15. Minnesota Statutes 2004, section 363A.21,  
10 subdivision 1, is amended to read:

11 Subdivision 1. [HOUSING.] The provisions of section  
12 363A.09 shall not apply to:

13 (a) rooms in a temporary or permanent residence home run by  
14 a nonprofit organization, if the discrimination is by on the  
15 basis of sex;

16 (b) the rental by a resident owner or occupier of a  
17 one-family accommodation of a room or rooms in the accommodation  
18 to another person or persons if the discrimination is by on the  
19 basis of sex, marital status, status with regard to public  
20 assistance, sexual orientation, or disability. Except as  
21 provided elsewhere in this chapter or other state or federal  
22 law, no person or group of persons selling, renting, or leasing  
23 property is required to modify the property in any way, or  
24 exercise a higher degree of care for a person having a  
25 disability than for a person who does not have a disability; nor  
26 shall this chapter be construed to relieve any person or persons  
27 of any obligations generally imposed on all persons regardless  
28 of any disability in a written lease, rental agreement, or  
29 contract of purchase or sale, or to forbid distinctions based on  
30 the inability to fulfill the terms and conditions, including  
31 financial obligations of the lease, agreement, or contract; or

32 (c) the rental by a resident owner of a unit in a dwelling  
33 containing not more than two units, if the discrimination is on  
34 the basis of sexual orientation.

35 Sec. 16. Minnesota Statutes 2004, section 363A.21,  
36 subdivision 2, is amended to read:

1 Subd. 2. [FAMILIAL STATUS.] (a) The provisions of section  
2 363A.09 prohibiting discrimination because on the basis of  
3 familial status shall not be construed to defeat the  
4 applicability of any local, state, or federal restrictions  
5 regarding the maximum number of occupants permitted to occupy a  
6 dwelling unit and shall not apply to any owner occupied building  
7 containing four or fewer dwelling units or housing for elderly  
8 persons.

9 (b) "Housing for elderly persons" means housing:

10 (1) provided under any state or federal program that the  
11 commissioner determines is specifically designed and operated to  
12 assist elderly persons, as defined in the state or federal  
13 program;

14 (2) intended for, and solely occupied by, persons 62 years  
15 of age or older; or

16 (3) intended and operated for occupancy by at least one  
17 person 55 years of age or older per unit, provided that at least  
18 80 percent of the units are occupied by at least one person 55  
19 years of age or older per unit, and there is publication of, and  
20 adherence to, policies and procedures that demonstrate an intent  
21 by the owner or manager to provide housing for persons 55 years  
22 of age or older.

23 (c) Housing does not fail to meet the requirements for  
24 housing for elderly persons by reason of persons residing in the  
25 housing as of August 1, 1989, who do not meet the age  
26 requirements of paragraph (b), clauses (2) and (3), if new  
27 occupants of the housing meet the age requirements of paragraph  
28 (b), clause (2) or (3). In addition, housing does not fail to  
29 meet the requirements by reason of unoccupied units if  
30 unoccupied units are reserved for occupancy by persons who meet  
31 the age requirements of paragraph (b), clause (2) or (3).

32 Sec. 17. Minnesota Statutes 2004, section 363A.28,  
33 subdivision 1, is amended to read:

34 Subdivision 1. [ACTIONS.] Any person aggrieved by a  
35 violation of this chapter may bring a civil action as provided  
36 in section 363A.33, subdivision 1, or may file a verified charge

1 with the commissioner or the commissioner's designated agent. A  
2 verified charge filed with the commissioner must be in writing  
3 on a form provided by the commissioner and signed by the  
4 charging party. The charge must state the name of the person  
5 alleged to have committed an unfair discriminatory practice and  
6 set out a summary of the details of the practice complained of.  
7 The commissioner may require a charging party to provide the  
8 address of the person alleged to have committed the unfair  
9 discriminatory practice, names of witnesses, documents, and any  
10 other information necessary to process the charge. The  
11 commissioner may dismiss a charge when the charging party fails  
12 to provide required information. The commissioner within ten  
13 days of the filing shall serve a copy of the charge and a form  
14 for use in responding to the charge upon the respondent  
15 personally or by mail. The respondent shall file with the  
16 department a written response setting out a summary of the  
17 details of the respondent's position relative to the charge  
18 within 20 days of receipt of the charge. If the respondent  
19 fails to respond with a written summary of the details of the  
20 respondent's position within 30 days after service of the  
21 charge, and service was consistent with Rule 4 of the Rules of  
22 Civil Procedure, the commissioner, on behalf of the complaining  
23 party, may bring an action for default in district court  
24 pursuant to Rule 55.01 of the Rules of Civil Procedure.

25 Sec. 18. Minnesota Statutes 2004, section 363A.28,  
26 subdivision 6, is amended to read:

27 Subd. 6. [CHARGE PROCESSING.] (1) Consistent with clause  
28 (7), the commissioner shall promptly inquire into the truth of  
29 the allegations of the charge. The commissioner shall make an  
30 immediate inquiry when a charge alleges actual or threatened  
31 physical violence. The commissioner shall also make an  
32 immediate inquiry when it appears that a charge is frivolous or  
33 without merit and shall dismiss those charges.

34 The commissioner shall give priority to investigating and  
35 processing those charges, in the order below, which the  
36 commissioner determines have the following characteristics:

1 (a) there is evidence of irreparable harm if immediate  
2 action is not taken;

3 (b) there is evidence that the respondent has intentionally  
4 engaged in a reprisal;

5 (c) a significant number of recent charges have been filed  
6 against the respondent;

7 (d) the respondent is a government entity;

8 (e) there is potential for broadly promoting the policies  
9 of this chapter; or

10 (f) the charge is supported by substantial and credible  
11 documentation, witnesses, or other evidence.

12 The commissioner shall inform charging parties of these  
13 priorities and shall tell each party if their charge is a  
14 priority case or not.

15 On other charges the commissioner shall make a  
16 determination within 12 months after the charge was filed as to  
17 whether or not there is probable cause to credit the allegation  
18 of unfair discriminatory practices, ~~and~~.

19 (2) If the commissioner determines after investigation that  
20 no probable cause exists to credit the allegations of the unfair  
21 discriminatory practice, the commissioner shall, within ten days  
22 of the determination, serve upon the charging party and  
23 respondent written notice of the determination. Within ten days  
24 after receipt of notice, the charging party may request in  
25 writing, on forms prepared by the department, that the  
26 commissioner reconsider the determination. The request shall  
27 contain a brief statement of the reasons for and new evidence in  
28 support of the request for reconsideration. At the time of  
29 submission of the request to the commissioner, the charging  
30 party shall deliver or mail to the respondent a copy of the  
31 request for reconsideration. The commissioner shall reaffirm,  
32 reverse, or vacate and remand for further consideration the  
33 determination of no probable cause within 20 days after receipt  
34 of the request for reconsideration, and shall within ten days  
35 notify in writing the charging party and respondent of the  
36 decision to reaffirm, reverse, or vacate and remand for further

1 consideration.

2 A decision by the commissioner that no probable cause  
3 exists to credit the allegations of an unfair discriminatory  
4 practice shall not be appealed to the Court of Appeals pursuant  
5 to section 363A.36 or sections 14.63 to 14.68.

6 (3) If the commissioner determines after investigation that  
7 probable cause exists to credit the allegations of unfair  
8 discriminatory practices, the commissioner shall serve on the  
9 respondent and the respondent's attorney if the respondent is  
10 represented by counsel, by first class mail, a notice setting  
11 forth a ~~short-plain-written-statement~~ memorandum of the alleged  
12 facts which support the finding of probable cause and an  
13 enumeration of the provisions of law allegedly violated. If the  
14 commissioner determines that attempts to eliminate the alleged  
15 unfair practices through conciliation pursuant to subdivision 8  
16 have been or would be unsuccessful or unproductive, the  
17 commissioner shall issue a complaint and serve on the  
18 respondent, by registered or certified mail, a written notice of  
19 hearing together with a copy of the complaint, requiring the  
20 respondent to answer the allegations of the complaint at a  
21 hearing before an administrative law judge at a time and place  
22 specified in the notice, not less than ten days after service of  
23 said complaint. A copy of the notice shall be furnished to the  
24 charging party and the attorney general.

25 (4) If, at any time after the filing of a charge, the  
26 commissioner has reason to believe that a respondent has engaged  
27 in any unfair discriminatory practice, the commissioner may file  
28 a petition in the district court in a county in which the  
29 subject of the complaint occurs, or in a county in which a  
30 respondent resides or transacts business, seeking appropriate  
31 temporary relief against the respondent, pending final  
32 determination of proceedings under this chapter, including an  
33 order or decree restraining the respondent from doing or  
34 procuring an act tending to render ineffectual an order the  
35 commissioner may enter with respect to the complaint. The court  
36 shall have power to grant temporary relief or a restraining

1 order as it deems just and proper, but no relief or order  
2 extending beyond ten days shall be granted except by consent of  
3 the respondent or after hearing upon notice to the respondent  
4 and a finding by the court that there is reasonable cause to  
5 believe that the respondent has engaged in a discriminatory  
6 practice. Except as modified by subdivisions 1 to 9 and section  
7 363A.06, subdivision 4, the Minnesota Rules of Civil Procedure  
8 shall apply to an application, and the district court shall have  
9 authority to grant or deny the relief sought on conditions as it  
10 deems just and equitable. All hearings under subdivisions 1 to  
11 9 and section 363A.06, subdivision 4, shall be given precedence  
12 as nearly as practicable over all other pending civil actions.

13 (5) If a lessor, after engaging in a discriminatory  
14 practice defined in section 363A.09, subdivision 1, clause (a),  
15 leases or rents a dwelling unit to a person who has no knowledge  
16 of the practice or of the existence of a charge with respect to  
17 the practice, the lessor shall be liable for actual damages  
18 sustained by a person by reason of a final order as provided in  
19 subdivisions 1 to 9 and section 363A.06, subdivision 4,  
20 requiring the person to be evicted from the dwelling unit.

21 (6) In any complaint issued under subdivisions 1 to 9 and  
22 section 363A.06, subdivision 4, the commissioner may seek relief  
23 for a class of individuals affected by an unfair discriminatory  
24 practice occurring on or after a date one year prior to the  
25 filing of the charge from which the complaint originates.

26 (7) The commissioner may adopt policies to determine which  
27 charges are processed and the order in which charges are  
28 processed based on their particular social or legal  
29 significance, administrative convenience, difficulty of  
30 resolution, or other standard consistent with the provisions of  
31 this chapter.

32 (8) The chief administrative law judge shall adopt policies  
33 to provide sanctions for intentional and frivolous delay caused  
34 by any charging party or respondent in an investigation,  
35 hearing, or any other aspect of proceedings before the  
36 department under this chapter.



1 ~~months-of-June-7,1983,-except-for-needed-architectural~~  
2 ~~modifications,-which-must-be-made-within-two-years-of-June-7,~~  
3 ~~1983-~~

4 Sec. 2. Minnesota Statutes 2004, section 363A.29,  
5 subdivision 2, is amended to read:

6 Subd. 2. [HEARINGS 180 DAYS AFTER CHARGE.] At any time  
7 after 180 days from the filing of a charge, if there has been  
8 neither a finding of probable cause nor of no probable cause,  
9 the charging party may file a request with the commissioner to  
10 appear at a hearing on the party's own behalf or through a  
11 private attorney. The amount of time during which a case is  
12 involved in significant settlement negotiations, is being  
13 investigated by another enforcement agency under a work sharing  
14 agreement, or has been referred to mediation ~~or-to-a-local-human~~  
15 ~~rights-commission-for-no-fault-grievance-processing~~ is not  
16 counted in computing the 180 days. Tolling of the time during  
17 settlement negotiations requires written approval of the  
18 charging party or the party's attorney. The right of a charging  
19 party to file a request for hearing does not apply in cases that  
20 have been certified as complex by the commissioner within 60  
21 days of the filing of the charge. A case may not be certified  
22 as complex unless it involves multiple parties or issues,  
23 presents complex issues of law or fact, or presents  
24 substantially new issues of law in the discrimination area.  
25 Within five days of certifying a case as complex, the  
26 commissioner shall give notice of the certification to the  
27 charging party and the respondent. The commissioner shall make  
28 a determination of probable cause or no probable cause within  
29 one year of the filing of a case in which the time has not been  
30 counted or a case certified as complex. Upon receipt of the  
31 request, the commissioner shall review the documents and  
32 information held in the department's files concerning the charge  
33 and shall release to the charging party and respondent all  
34 documents and information that are accessible to the charging  
35 party and respondent under chapter 13. The commissioner shall  
36 forward the request for hearing to the Office of Administrative

1 Hearings, which shall promptly set the matter for hearing. If  
2 the charging party prevails at this hearing, the administrative  
3 law judge may require the respondent to reimburse the charging  
4 party for reasonable attorney's fees.

5 Sec. 3. [REPEALER.]

6 Minnesota Statutes 2004, section 363A.03, subdivisions 3  
7 and 29, are repealed.

8 ARTICLE 3

9 OMISSIONS AMENDMENTS

10 Section 1. Minnesota Statutes 2004, section 363A.02,  
11 subdivision 1, is amended to read:

12 Subdivision 1. [FREEDOM FROM DISCRIMINATION.] (a) It is  
13 the public policy of this state to secure for persons in this  
14 state, freedom from discrimination:

15 (1) in employment because of race, color, creed, religion,  
16 national origin, sex, marital status, disability, status with  
17 regard to public assistance, sexual orientation, and age, and  
18 membership or activity in a local human rights commission;

19 (2) in housing and real property because of race, color,  
20 creed, religion, national origin, sex, marital status,  
21 disability, status with regard to public assistance, sexual  
22 orientation, and familial status;

23 (3) in public accommodations because of race, color, creed,  
24 religion, national origin, sex, marital status, sexual  
25 orientation, and disability;

26 (4) in public services because of race, color, creed,  
27 religion, national origin, sex, marital status, disability,  
28 sexual orientation, and status with regard to public assistance;  
29 and

30 (5) in education because of race, color, creed, religion,  
31 national origin, sex, marital status, disability, status with  
32 regard to public assistance, sexual orientation, and age;

33 (6) in credit because of race, color, creed, religion,  
34 national origin, sex, marital status, disability, status with  
35 regard to public assistance, and sexual orientation;

36 (7) in business because of race, color, national origin,

1 sex, disability, and sexual orientation; and

2 (8) due to reprisal because of race, color, creed,  
3 religion, national origin, sex, marital status, disability,  
4 status with regard to public assistance, age, sexual  
5 orientation, familial status, or membership or activity in a  
6 local human rights commission.

7 (b) Such discrimination threatens the rights and privileges  
8 of the inhabitants of this state and menaces the institutions  
9 and foundations of democracy. It is also the public policy of  
10 this state to protect all persons from wholly unfounded charges  
11 of discrimination. Nothing in this chapter shall be interpreted  
12 as restricting the implementation of positive action programs to  
13 combat discrimination.

14 Sec. 2. Minnesota Statutes 2004, section 363A.02,  
15 subdivision 2, is amended to read:

16 Subd. 2. [CIVIL RIGHT.] The opportunity to obtain  
17 employment, housing, and other real estate, and credit; the  
18 opportunity to conduct business; and the opportunity to obtain  
19 full and equal utilization of public accommodations, public  
20 services, and educational institutions without such  
21 discrimination as is prohibited by this chapter ~~is~~ are hereby  
22 recognized as and declared to be a civil ~~right~~ rights.

23 Sec. 3. Minnesota Statutes 2004, section 363A.03, is  
24 amended by adding a subdivision to read:

25 Subd. 11a. [DIRECT THREAT.] "Direct threat" means a  
26 significant risk to the health or safety of others that cannot  
27 be eliminated by a modification of policies, practices, or  
28 procedures or by the provision of auxiliary aids or services.

29 Sec. 4. Minnesota Statutes 2004, section 363A.03,  
30 subdivision 31, is amended to read:

31 Subd. 31. [PHYSICAL ACCESS.] "Physical access" means (1)  
32 the absence of physical obstacles that limit a disabled person's  
33 opportunity for full and equal use of or benefit from goods,  
34 services, and privileges; or, when necessary, (2) the use of  
35 methods to overcome the discriminatory effect of physical  
36 obstacles. The methods may include redesign of equipment, or

1 facilities, assignment of aides, or use of alternate accessible  
2 locations.

3 Sec. 5. Minnesota Statutes 2004, section 363A.03,  
4 subdivision 42, is amended to read:

5 Subd. 42. [SEX.] "Sex" includes, but is not limited to,  
6 pregnancy, childbirth, and disabilities related to pregnancy or  
7 childbirth, and sexual harassment.

8 Sec. 6. Minnesota Statutes 2004, section 363A.03, is  
9 amended by adding a subdivision to read:

10 Subd. 50. [VERIFIED CHARGE.] "Verified charge" means a  
11 written statement signed under oath or affirmation, filed by any  
12 person including the commissioner, containing a statement of  
13 allegation that a person may have engaged or may be engaging in  
14 an unfair discriminatory practice.

15 Sec. 7. Minnesota Statutes 2004, section 363A.04, is  
16 amended to read:

17 363A.04 [CONSTRUCTION AND EXCLUSIVITY.]

18 The provisions of this chapter shall be construed liberally  
19 for the accomplishment of the purposes thereof. Nothing  
20 contained in this chapter shall be deemed to repeal any of the  
21 provisions of the civil rights law or of any other law of this  
22 state relating to discrimination because of race, creed, color,  
23 religion, sex, age, disability, marital status, status with  
24 regard to public assistance, national origin, sexual  
25 orientation, ~~or~~ familial status, or membership or activity in a  
26 local human rights commission; but, as to acts declared unfair  
27 by sections 363A.08 to 363A.19, and 363A.28, subdivision 10, the  
28 procedure herein provided shall, while pending, be exclusive.

29 Sec. 8. Minnesota Statutes 2004, section 363A.08,  
30 subdivision 1, is amended to read:

31 Subdivision 1. [LABOR ORGANIZATION.] Except when based on  
32 a bona fide occupational qualification, it is an unfair  
33 employment practice for a labor organization, because of race,  
34 color, creed, religion, national origin, sex, marital status,  
35 status with regard to public assistance, disability, sexual  
36 orientation, ~~or~~ age, or membership or activity in a local human

1 rights commission:

2 (a) to deny full and equal membership rights to a person  
3 seeking membership or to a member;

4 (b) to expel a member from membership;

5 (c) to discriminate against a person seeking membership or  
6 a member with respect to hiring, apprenticeship, tenure,  
7 compensation, terms, upgrading, conditions, facilities, or  
8 privileges of employment; or

9 (d) to fail to classify properly, or refer for employment  
10 or otherwise to discriminate against a person or member.

11 Sec. 9. Minnesota Statutes 2004, section 363A.08,  
12 subdivision 2, is amended to read:

13 Subd. 2. [EMPLOYER.] Except when based on a bona fide  
14 occupational qualification, it is an unfair employment practice  
15 for an employer, because of race, color, creed, religion,  
16 national origin, sex, marital status, status with regard to  
17 public assistance, membership or activity in a local human  
18 rights commission, disability, sexual orientation, or age to:

19 (a) refuse to hire or to maintain a system of employment  
20 which unreasonably excludes a person seeking employment; or

21 (b) discharge an employee; or

22 (c) discriminate against a person with respect to hiring,  
23 tenure, compensation, terms, upgrading, conditions, facilities,  
24 or privileges of employment.

25 Sec. 10. Minnesota Statutes 2004, section 363A.08,  
26 subdivision 3, is amended to read:

27 Subd. 3. [EMPLOYMENT AGENCY.] Except when based on a bona  
28 fide occupational qualification, it is an unfair employment  
29 practice for an employment agency, because of race, color,  
30 creed, religion, national origin, sex, marital status, status  
31 with regard to public assistance, disability, sexual  
32 orientation, or age, or membership or activity in a local human  
33 rights commission to:

34 (a) refuse or fail to accept, register, classify properly,  
35 or refer for employment or otherwise to discriminate against a  
36 person; or

1 (b) comply with a request from an employer for referral of  
2 applicants for employment if the request indicates directly or  
3 indirectly that the employer fails to comply with the provisions  
4 of this chapter.

5 Sec. 11. Minnesota Statutes 2004, section 363A.08,  
6 subdivision 4, is amended to read:

7 Subd. 4. [EMPLOYER, EMPLOYMENT AGENCY, OR LABOR  
8 ORGANIZATION.] (a) Except when based on a bona fide occupational  
9 qualification, it is an unfair employment practice for an  
10 employer, employment agency, or labor organization, before a  
11 person is employed by an employer or admitted to membership in a  
12 labor organization, to:

13 (1) require or request the person to furnish information  
14 that pertains to race, color, creed, religion, national origin,  
15 sex, marital status, status with regard to public assistance,  
16 disability, sexual orientation, or age, or membership or  
17 activity in a local human rights commission; or, subject to  
18 section 363A.20, subdivisions 1 to 7, and 8, paragraph (a),  
19 clauses (1) to (5), to require or request a person to undergo  
20 physical examination; unless for the sole and exclusive purpose  
21 of national security, information pertaining to national  
22 origin is as required by the United States, this state or a  
23 political subdivision or agency of the United States or of this  
24 state, or for the sole and exclusive purpose of compliance with  
25 the Public Contracts Act or any rule, regulation, or laws of the  
26 United States or of this state requiring the information or  
27 examination. A law enforcement agency may, after notifying an  
28 applicant for a peace officer or part-time peace officer  
29 position that the law enforcement agency is commencing the  
30 background investigation on the applicant, request the  
31 applicant's date of birth, gender, and race on a separate form  
32 for the sole and exclusive purpose of conducting a criminal  
33 history check, a driver's license check, and fingerprint  
34 criminal history inquiry. The form shall include a statement  
35 indicating why the data is being collected and what its limited  
36 use will be. No document which has date of birth, gender, or

1 race information will be included in the information given to or  
2 available to any person who is involved in selecting the person  
3 or persons employed other than the background investigator. No  
4 person may act both as background investigator and be involved  
5 in the selection of an employee except that the background  
6 investigator's report about background may be used in that  
7 selection as long as no direct or indirect references are made  
8 to the applicant's race, age, or gender; or

9 (2) seek and obtain for purposes of making a job decision,  
10 information from any source that pertains to the person's race,  
11 color, creed, religion, national origin, sex, marital status,  
12 status with regard to public assistance, disability, sexual  
13 orientation, membership or activity in a local human rights  
14 commission, or age, unless for the sole and exclusive purpose of  
15 compliance with the Public Contracts Act or any rule,  
16 regulation, or laws of the United States or of this state  
17 requiring the information; or

18 (3) cause to be printed or published a notice or  
19 advertisement that relates to employment or membership and  
20 discloses a preference, limitation, specification, or  
21 discrimination based on race, color, creed, religion, national  
22 origin, sex, marital status, status with regard to public  
23 assistance, membership or activity in a local human rights  
24 commission, disability, sexual orientation, or age.

25 (b) Any individual who is required to provide information  
26 that is prohibited by this subdivision is an aggrieved party  
27 person under section 363A.06, subdivision 4, and 363A.28,  
28 subdivisions 1 to 9.

29 Sec. 12. Minnesota Statutes 2004, section 363A.15, is  
30 amended to read:

31 363A.15 [REPRISALS.]

32 A reprisal includes, but is not limited to, any form of  
33 intimidation, retaliation, or harassment. It is an unfair  
34 discriminatory practice for any individual who participated in  
35 the alleged discrimination as a perpetrator, employer, labor  
36 organization, employment agency, public accommodation, public

1 service, educational institution, or owner, lessor, lessee,  
2 sublessee, assignee or managing agent of any real property, or  
3 any real estate broker, real estate salesperson, or employee or  
4 agent thereof to intentionally engage in any reprisal against  
5 any person because that person:

6 (1) Opposed a practice forbidden under this chapter or has  
7 filed a charge, testified, assisted, or participated in any  
8 manner in an investigation, proceeding, or hearing under this  
9 chapter; or

10 (2) Associated with a person or group of persons who are  
11 disabled or who are of different race, color, creed, religion,  
12 sexual orientation, or national origin.

13 ~~A reprisal includes, but is not limited to, any form of~~  
14 ~~intimidation, retaliation, or harassment.~~ It is a reprisal for  
15 an employer to do any of the following with respect to an  
16 individual because that individual has engaged in the activities  
17 listed in clause (1) or (2): refuse to hire the individual;  
18 depart from any customary employment practice; transfer or  
19 assign the individual to a lesser position in terms of wages,  
20 hours, job classification, job security, or other employment  
21 status; or inform another employer that the individual has  
22 engaged in the activities listed in clause (1) or (2).

Senate Counsel, Research,  
and Fiscal Analysis

G-17 STATE CAPITOL  
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.  
ST. PAUL, MN 55155-1606  
(651) 296-4791  
FAX (651) 296-7747  
JO ANNE ZOFF SELLNER  
DIRECTOR

# Senate

State of Minnesota

## S.F. No. 901 - Methamphetamine Provisions (First Engrossment)

**Author:** Senator Wes Skoglund

**Prepared by:** Kenneth P. Backhus, Senate Counsel (651/296-4396)

**Date:** February 18, 2005

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### Overview

**S.F. No. 901** addresses methamphetamine by: establishing a toll-free telephone number for citizen tips; making it a crime to improperly dispose of or abandon methamphetamine waste products; amending the nuisance law to make it easier to establish nuisances involving methamphetamine manufacturing; requesting a report from the Legislative Auditor on the efficacy of drug treatment programs; requiring the Board of Veterinary Medicine to report on animal products that may be used to manufacture methamphetamine; and establishing a methamphetamine awareness and educational account in the state treasury.

**Section 1** requires the Department of Health to maintain and publicize a toll-free telephone number to enable citizens to report suspected methamphetamine crimes.

**Section 2** creates a new crime for disposing or abandoning methamphetamine waste products or chemical substances. A knowing violation is a five year/\$50,000 felony, but if it places another person in imminent danger of death, great bodily harm, or substantial bodily harm, it is a ten-year/\$100,000 felony. Provides an exception for peace officers acting in the course of their employment and persons who lawfully dispose of any product or substance in a manner approved by the Pollution Control Agency. Defines key terms.

**Section 3** creates a methamphetamine awareness and educational account as a special revenue account in the State Treasury. The state is authorized to accept contributions, gifts, grants, and bequests for deposit into the fund. Appropriates money in the account to the Commissioner of Public Safety to support projects related to educating retailers and the public on the dangers of methamphetamine, including an educational initiative entitled Minnesota meth watch.

**Section 4** amends the nuisance law to allow a public nuisance involving the manufacture of methamphetamine to be established upon a showing of a single methamphetamine manufacturing incident within the building in the previous 12 months. The nuisance law generally requires two incidents to have occurred in a 12-month period.

**Sections 5 and 6** are technical changes related to **section 4**.

**Section 7** requests the Legislative Audit Commission to direct the legislative auditor to conduct a study related to the efficacy of controlled substance treatment programs for criminal offenders. If the commission directs the auditor to conduct the study, requires a report to the Legislature by February 1, 2006.

**Section 8** requires the Minnesota Board of Veterinary Medicine to study and issue a report to the Legislature by February 1, 2006, on animal products that may be used in the manufacture of methamphetamine.

KPB:ph

## 1 A bill for an act

2 relating to public safety; establishing a  
3 methamphetamine waste disposal crime; creating a  
4 methamphetamine awareness and educational account;  
5 providing for the establishment of civil nuisances  
6 involving methamphetamine manufacture; requiring a  
7 toll-free number for citizen reports of  
8 methamphetamine laboratories; providing for reports;  
9 imposing criminal penalties; amending Minnesota  
10 Statutes 2004, sections 617.81, subdivision 4, by  
11 adding a subdivision; 617.85; proposing coding for new  
12 law in Minnesota Statutes, chapters 144; 152.

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

14 Section 1. [144.4188] [CITIZEN REPORTS OF METHAMPHETAMINE  
15 VIOLATIONS.]

16 The Department of Health shall maintain and publicize a  
17 toll-free telephone number to enable citizens to report  
18 information about potential methamphetamine violations,  
19 including, but not limited to, illicit methamphetamine  
20 laboratories. The department shall take appropriate steps after  
21 receiving a citizen report after considering the nature and  
22 trustworthiness of the information reported, including, but not  
23 limited to, contacting the appropriate law enforcement agency.

24 [EFFECTIVE DATE.] This section is effective July 1, 2005.

25 Sec. 2. [152.139] [DISPOSING OF METHAMPHETAMINE WASTE  
26 PRODUCTS; CRIME.]

27 Subdivision 1. [DEFINITIONS.] As used in this section:

28 (1) "chemical substance" means a substance intended to be used  
29 as a precursor in the manufacture of methamphetamine or any

1 other chemical intended to be used in the manufacture of  
2 methamphetamine; and (2) "methamphetamine waste product" means a  
3 substance, chemical, or item of any kind used in the manufacture  
4 or attempted manufacture of methamphetamine or any part of the  
5 manufacturing process, or the by-product or degradate of  
6 manufacturing or attempting to manufacture methamphetamine.

7 Subd. 2. [CRIMES DESCRIBED; PENALTIES.] (a) Except as  
8 provided in paragraph (b), a person who knowingly disposes of or  
9 abandons any methamphetamine waste product or chemical substance  
10 is guilty of a felony and may be sentenced to imprisonment for  
11 not more than five years or to payment of a fine of not more  
12 than \$50,000, or both.

13 (b) A person who knowingly disposes of or abandons any  
14 methamphetamine waste product or chemical substance in a manner  
15 that places another person in imminent danger of death, great  
16 bodily harm, or substantial bodily harm, is guilty of a felony  
17 and may be sentenced to imprisonment for not more than ten years  
18 or to payment of a fine of not more than \$100,000, or both.

19 Subd. 3. [EXCEPTION.] This section does not apply to:

20 (1) a peace officer acting in the course of the officer's  
21 employment; or

22 (2) a person who lawfully disposes of any product or  
23 substance in a manner approved by the Pollution Control Agency.

24 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
25 and applies to crimes committed on or after that date.

26 Sec. 3. [152.185] [METHAMPHETAMINE AWARENESS AND  
27 EDUCATIONAL ACCOUNT; MINNESOTA METH WATCH.]

28 Subdivision 1. [ACCOUNT ESTABLISHED; EDUCATIONAL PROGRAM.]  
29 The methamphetamine awareness and educational account is a  
30 special revenue account in the state treasury. Money in the  
31 account is appropriated to the commissioner of public safety to  
32 be used to support projects relating to educating retailers and  
33 the public on the dangers of methamphetamine and methamphetamine  
34 precursor drugs and the laws and regulations governing their  
35 use, including an educational initiative entitled "Minnesota  
36 meth watch" addressing methamphetamine, its use and manufacture,

1 and the impact of methamphetamine-related activities on  
2 children, the environment, and the state's quality of life.

3 Subd. 2. [CONTRIBUTIONS.] The state may accept  
4 contributions, gifts, grants, and bequests for deposit into the  
5 fund.

6 [EFFECTIVE DATE.] This section is effective July 1, 2005.

7 Sec. 4. Minnesota Statutes 2004, section 617.81, is  
8 amended by adding a subdivision to read:

9 Subd. 2b. [EXCEPTION; NUISANCES INVOLVING METHAMPHETAMINE  
10 MANUFACTURE.] Notwithstanding subdivision 2, for purposes of  
11 sections 617.80 to 617.87, a public nuisance exists upon proof  
12 of one or more behavioral incidents involving the manufacturing  
13 or attempted manufacture of methamphetamine in the previous 12  
14 months within the building. The requirement of two or more  
15 behavioral incidents in subdivision 2, paragraph (b), does not  
16 apply to incidents involving the manufacturing or attempted  
17 manufacture of methamphetamine.

18 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
19 and applies to acts committed on or after that date.

20 Sec. 5. Minnesota Statutes 2004, section 617.81,  
21 subdivision 4, is amended to read:

22 Subd. 4. [NOTICE.] (a) If a prosecuting attorney has  
23 reason to believe that a nuisance is maintained or permitted in  
24 the jurisdiction the prosecuting attorney serves, and intends to  
25 seek abatement of the nuisance, the prosecuting attorney shall  
26 provide the written notice described in paragraph (b), by  
27 personal service or certified mail, return receipt requested, to  
28 the owner and all interested parties known to the prosecuting  
29 attorney.

30 (b) The written notice must:

31 (1) state that a nuisance as defined in subdivision 2 is  
32 maintained or permitted in the building and must specify the  
33 kind or kinds of nuisance being maintained or permitted;

34 (2) summarize the evidence that a nuisance is maintained or  
35 permitted in the building, including the date or dates on which  
36 nuisance-related activity or activities are alleged to have

1 occurred;

2 (3) inform the recipient that failure to abate the conduct  
3 constituting the nuisance or to otherwise resolve the matter  
4 with the prosecuting attorney within 30 days of service of the  
5 notice may result in the filing of a complaint for relief in  
6 district court that could, among other remedies, result in  
7 enjoining the use of the building for any purpose for one year  
8 or, in the case of a tenant, could result in cancellation of the  
9 lease; and

10 (4) inform the owner of the options available under section  
11 617.85.

12 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
13 and applies to acts committed on or after that date.

14 Sec. 6. Minnesota Statutes 2004, section 617.85, is  
15 amended to read:

16 617.85 [NUISANCE; MOTION TO CANCEL LEASE.]

17 Where notice is provided under section 617.81, subdivision  
18 4, that an abatement of a nuisance is sought and the  
19 circumstances that are the basis for the requested abatement  
20 involved the acts of a commercial or residential tenant or  
21 lessee of part or all of a building, the owner of the building  
22 that is subject to the abatement proceeding may file before the  
23 court that has jurisdiction over the abatement proceeding a  
24 motion to cancel the lease or otherwise secure restitution of  
25 the premises from the tenant or lessee who has maintained or  
26 conducted the nuisance. The owner may assign to the prosecuting  
27 attorney the right to file this motion. In addition to the  
28 grounds provided in chapter 566, the maintaining or conducting  
29 of a nuisance as defined in section 617.81, subdivision 2, by a  
30 tenant or lessee, is an additional ground authorized by law for  
31 seeking the cancellation of a lease or the restitution of the  
32 premises. Service of motion brought under this section must be  
33 served in a manner that is sufficient under the Rules of Civil  
34 Procedure and chapter 566.

35 It is no defense to a motion under this section by the  
36 owner or the prosecuting attorney that the lease or other

1 agreement controlling the tenancy or leasehold does not provide  
2 for eviction or cancellation of the lease upon the ground  
3 provided in this section.

4 Upon a finding by the court that the tenant or lessee has  
5 maintained or conducted a nuisance in any portion of the  
6 building, the court shall order cancellation of the lease or  
7 tenancy and grant restitution of the premises to the owner. The  
8 court must not order abatement of the premises if the court:

9 (a) cancels a lease or tenancy and grants restitution of  
10 that portion of the premises to the owner; and

11 (b) further finds that the act or acts constituting the  
12 nuisance as defined in section 617.81, subdivision 2, were  
13 committed by the tenant or lessee whose lease or tenancy has  
14 been canceled pursuant to this section and the tenant or lessee  
15 was not committing the act or acts in conjunction with or under  
16 the control of the owner.

17 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
18 and applies to acts committed on or after that date.

19 Sec. 7. [REQUESTED LEGISLATIVE AUDITOR'S REPORT; DRUG  
20 TREATMENT.]

21 (a) The Legislative Audit Commission is requested to direct  
22 the legislative auditor to study and issue a report on the  
23 efficacy of controlled substance treatment programs for criminal  
24 offenders in Minnesota. The report must include programs  
25 offered in state and local correctional facilities and  
26 community-based programs. The auditor shall study the programs  
27 offered for each type of controlled substance addiction. The  
28 report must compare the costs of the programs and their success  
29 rates. The report must also address funding sources for these  
30 programs, including, but not limited to, rule 25 funding. To  
31 the degree feasible, the auditor shall investigate treatment  
32 programs offered in other states for controlled substance  
33 offenders and compare the breadth and comprehensiveness of the  
34 treatment options available in Minnesota, their costs, and their  
35 success rates to those in other states.

36 (b) If the Legislative Audit Commission directs the

1 legislative auditor to conduct the study described in paragraph  
2 (a), the auditor shall report its findings to the legislature by  
3 February 1, 2006.

4 [EFFECTIVE DATE.] This section is effective July 1, 2005.

5 Sec. 8. [BOARD OF VETERINARY MEDICINE REPORT, PRECURSOR  
6 ANIMAL PRODUCTS.]

7 The Minnesota Board of Veterinary Medicine shall study and  
8 issue a report on animal products that may be used in the  
9 manufacture of methamphetamine. The report must include  
10 proposals for restricting access to such products only to  
11 legitimate users, specifically addressing the manufacturing,  
12 wholesaling, distributing, and retailing of precursor veterinary  
13 products. The board shall report its findings to the chairs and  
14 ranking minority members of the senate and house committees  
15 having jurisdiction over criminal justice and veterinary policy  
16 by February 1, 2006.

17 [EFFECTIVE DATE.] This section is effective the day  
18 following final enactment.

1 Senator ..... moves to amend S.F. No. 901 as follows:

2 Page 1, delete section 1

3 Page 3, after line 6, insert:

4 "Sec. 3. [299C.90] [CITIZEN REPORTS OF METHAMPHETAMINE  
5 VIOLATIONS.]

6 The superintendent of the Bureau of Criminal Investigation  
7 shall maintain and publicize a toll-free telephone number to  
8 enable citizens to report information about potential  
9 methamphetamine violations, including, but not limited to,  
10 illicit methamphetamine laboratories. The agency shall take  
11 appropriate steps after receiving a citizen report after  
12 considering the nature and trustworthiness of the information  
13 reported, including, but not limited to, contacting the  
14 appropriate law enforcement agency.

15 [EFFECTIVE DATE.] This section is effective July 1, 2005."

16 Renumber the sections in sequence and correct the internal  
17 references

18 Amend the title accordingly

1 Senator Betzold from the Committee on Judiciary, to which  
2 was re-referred

3 S.F. No. 901: A bill for an act relating to public safety;  
4 establishing a methamphetamine waste disposal crime; creating a  
5 methamphetamine awareness and educational account; providing for  
6 the establishment of civil nuisances involving methamphetamine  
7 manufacture; requiring a toll-free number for citizen reports of  
8 methamphetamine laboratories; providing for reports; imposing  
9 criminal penalties; amending Minnesota Statutes 2004, sections  
10 617.81, subdivision 4, by adding a subdivision; 617.85;  
11 proposing coding for new law in Minnesota Statutes, chapters  
12 144; 152.

13 Reports the same back with the recommendation that the bill  
14 be amended as follows:

15 Page 1, delete section 1

16 Page 3, after line 6, insert:

17 "Sec. 3. [299C.90] [CITIZEN REPORTS OF METHAMPHETAMINE  
18 VIOLATIONS.]

19 The superintendent of the Bureau of Criminal Apprehension  
20 shall maintain and publicize a toll-free telephone number to  
21 enable citizens to report information about potential  
22 methamphetamine violations, including, but not limited to,  
23 illicit methamphetamine laboratories. The agency shall take  
24 appropriate steps after receiving a citizen report after  
25 considering the nature and trustworthiness of the information  
26 reported, including, but not limited to, contacting the  
27 appropriate law enforcement agency.

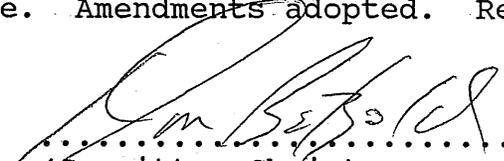
28 [EFFECTIVE DATE.] This section is effective July 1, 2005."

29 Renumber the sections in sequence

30 Amend the title as follows:

31 Page 1, line 12, delete "144;" and before the period,  
32 insert "; 299C"

33 And when so amended the bill do pass and be re-referred to  
34 the Committee on Finance. Amendments adopted. Report adopted.

35  
36   
37 .....  
38 (Committee Chair)

39 March 1, 2005.....  
40 (Date of Committee recommendation)

Senate Counsel, Research,  
and Fiscal Analysis

G-17 STATE CAPITOL  
75 RE. DR. MARTIN LUTHER KING, JR. BLDG.  
ST. PAUL, MN 55155-1608  
TEL: 651/296-4791  
FAX: 651/296-7747  
JO ANNE ZOFF SELLNER  
DIRECTOR

**Senate**  
State of Minnesota

**S.F. No. 423 (first engrossment) - Methamphetamine  
Judiciary Issues**

**Author:** Senator Julie A. Rosen

**Prepared by:** Harry Walsh, Senate Counsel (651/296-6200)

**Date:** February 25, 2005

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S.F. No. 423, article 1, section 4, subdivision 2, relates to the treatment of property that has been affected by the presence of a methamphetamine lab.

**Paragraph (a)** provides definitions.

**Paragraph (b)** requires the police to notify the Department of Health of the location of the lab.

**Paragraph (c)** prohibits the use of the affected property until it has been cleaned up.

**Paragraph (d)** makes general health and nuisance laws apply.

**Paragraph (e)** requires verification that a cleanup has been accomplished.

**Paragraph (f)** requires that contaminated motor vehicles be reported to the registrar.

**Paragraph (g)** requires that the location of the lab be recorded in the property records by the public authority.

**Paragraph (h)** requires the owner to record the lab location information if the public authority does not.

**Paragraph (i)** allows a record to be filed that the property has been remediated.

**Paragraph (j)** requires the property records offices to accept and file the lab affidavits.

**Paragraph (k)** requires the Commissioner of Health to post certain contact information on the Internet.

**Paragraph (l)** requires the local community health services administrator to maintain a file of information about affected properties.

**Article 1, section 6, subdivision 5**, provides for protective custody of endangered children.

**Article 1, section 6, subdivision 6**, provides for reports about possible maltreatment of vulnerable adults.

**Article 1, section 8**, requires notices to schools about children possibly endangered by meth activity.

HW:cs

A handwritten signature in black ink, appearing to be the initials 'HW' followed by a stylized flourish.

1 A bill for an act

2 relating to public safety; further regulating while  
3 recodifying activities involving anhydrous ammonia;  
4 requiring courts to order restitution in certain  
5 situations involving controlled substances; imposing  
6 property restrictions in certain situations involving  
7 controlled substances; increasing the criminal  
8 penalties for possessing certain substances with the  
9 intent to manufacture methamphetamine and recodifying  
10 this crime; establishing new methamphetamine-related  
11 crimes; clarifying the definition of "narcotic drug";  
12 expanding the definition of "violent crime" for  
13 mandatory sentencing purposes; requiring that vehicles  
14 and other property used to manufacture methamphetamine  
15 indicate this in the title or by an affidavit;  
16 requiring notice to schools when children are taken  
17 into protective custody after being found at a  
18 methamphetamine laboratory; establishing a  
19 methamphetamine laboratory cleanup revolving fund and  
20 authorizing loans to assist counties and cities in  
21 conducting methamphetamine cleanup; imposing criminal  
22 penalties; providing for ten new Bureau of Criminal  
23 Apprehension agents dedicated to methamphetamine  
24 enforcement; appropriating money; amending Minnesota  
25 Statutes 2004, sections 152.01, subdivision 10;  
26 152.021, subdivisions 2a, 3; 168A.05, subdivision 3;  
27 260C.171, by adding a subdivision; 609.1095,  
28 subdivision 1; proposing coding for new law in  
29 Minnesota Statutes, chapters 152; 446A; repealing  
30 Minnesota Statutes 2004, sections 18C.005,  
31 subdivisions 1a, 35a; 18C.201, subdivisions 6, 7;  
32 18D.331, subdivision 5.

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

34 ARTICLE 1

35 METHAMPHETAMINE PROVISIONS

36 Section 1. Minnesota Statutes 2004, section 152.01,  
37 subdivision 10, is amended to read:

38 Subd. 10. [NARCOTIC DRUG.] "Narcotic drug" means any of  
39 the following, whether produced directly or indirectly by

1 extraction from substances of vegetable origin, or independently  
2 by means of chemical synthesis, or by a combination of  
3 extraction and chemical synthesis:

4 (1) Opium, coca leaves, and opiates, and methamphetamine;

5 (2) A compound, manufacture, salt, derivative, or  
6 preparation of opium, coca leaves, or opiates, or  
7 methamphetamine;

8 (3) A substance, and any compound, manufacture, salt,  
9 derivative, or preparation thereof, which is chemically  
10 identical with any of the substances referred to in clauses (1)  
11 and (2), except that the words "narcotic drug" as used in this  
12 chapter shall not include decocainized coca leaves or extracts  
13 of coca leaves, which extracts do not contain cocaine or  
14 ecgonine.

15 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
16 and applies to crimes committed on or after that date.

17 Sec. 2. Minnesota Statutes 2004, section 152.021,  
18 subdivision 2a, is amended to read:

19 Subd. 2a. [METHAMPHETAMINE MANUFACTURE CRIMES CRIME;  
20 POSSESSION OF SUBSTANCES WITH INTENT TO MANUFACTURE

21 METHAMPHETAMINE CRIME.] (a) Notwithstanding subdivision 1,  
22 sections 152.022, subdivision 1, 152.023, subdivision 1, and  
23 152.024, subdivision 1, a person is guilty of controlled  
24 substance crime in the first degree if the person manufactures  
25 any amount of methamphetamine.

26 ~~(b) Notwithstanding paragraph (a) and section 609.17, A~~  
27 ~~person is guilty of attempted manufacture of methamphetamine a~~  
28 ~~crime~~ if the person possesses any chemical reagents or  
29 precursors with the intent to manufacture methamphetamine. As  
30 used in this section, "chemical reagents or precursors" ~~refers~~  
31 ~~to one or more~~ includes any of the following substances, or any  
32 similar substances that can be used to manufacture  
33 methamphetamine, or their the salts, isomers, and salts of  
34 isomers of a listed or similar substance:

35 (1) ephedrine;

36 (2) pseudoephedrine;

- 1 (3) phenyl-2-propanone;  
2 (4) phenylacetone;  
3 (5) anhydrous ammonia, ~~as defined in section 18C.005,~~  
4 ~~subdivision 1a;~~  
5 (6) organic solvents;  
6 (7) hydrochloric acid;  
7 (8) lithium metal;  
8 (9) sodium metal;  
9 (10) ether;  
10 (11) sulfuric acid;  
11 (12) red phosphorus;  
12 (13) iodine;  
13 (14) sodium hydroxide;  
14 (15) benzaldehyde;  
15 (16) benzyl methyl ketone;  
16 (17) benzyl cyanide;  
17 (18) nitroethane;  
18 (19) methylamine;  
19 (20) phenylacetic acid;  
20 (21) hydriodic acid; or  
21 (22) hydriotic acid.

22 **[EFFECTIVE DATE.]** This section is effective August 1, 2005,  
23 and applies to crimes committed on or after that date.

24 Sec. 3. Minnesota Statutes 2004, section 152.021,  
25 subdivision 3, is amended to read:

26 Subd. 3. **[PENALTY.]** (a) A person convicted under  
27 subdivisions 1 to 2a, paragraph (a), may be sentenced to  
28 imprisonment for not more than 30 years or to payment of a fine  
29 of not more than \$1,000,000, or both; a person convicted under  
30 subdivision 2a, paragraph (b), may be sentenced to imprisonment  
31 for not more than ~~three~~ ten years or to payment of a fine of not  
32 more than ~~\$5,000~~ \$20,000, or both.

33 (b) If the conviction is a subsequent controlled substance  
34 conviction, a person convicted under subdivisions 1 to 2a,  
35 paragraph (a), shall be committed to the commissioner of  
36 corrections for not less than four years nor more than 40 years

1 and, in addition, may be sentenced to payment of a fine of not  
2 more than \$1,000,000; a person convicted under subdivision 2a,  
3 paragraph (b), may be sentenced to imprisonment for not more  
4 than ~~four~~ 15 years or to payment of a fine of not more than  
5 ~~\$57,000~~ \$30,000, or both.

6 (c) In a prosecution under subdivision 1 involving sales by  
7 the same person in two or more counties within a 90-day period,  
8 the person may be prosecuted for all of the sales in any county  
9 in which one of the sales occurred.

10 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
11 and applies to crimes committed on or after that date.

12 Sec. 4. [152.0275] [CERTAIN CONTROLLED SUBSTANCE OFFENSES;  
13 RESTITUTION; PROHIBITIONS ON PROPERTY USE; NOTICE PROVISIONS.]

14 Subdivision 1. [RESTITUTION.] (a) As used in this  
15 subdivision:

16 (1) "clandestine lab site" means any structure or  
17 conveyance or outdoor location occupied or affected by  
18 conditions or chemicals typically associated with the  
19 manufacturing of methamphetamine;

20 (2) "emergency response" includes, but is not limited to,  
21 removing and collecting evidence, securing the site, removal,  
22 remediation, and hazardous chemical assessment or inspection of  
23 the site where the relevant offense or offenses took place,  
24 regardless of whether these actions are performed by the public  
25 entities themselves or by private contractors paid by the public  
26 entities, or the property owner;

27 (3) "remediation" means proper cleanup, treatment, or  
28 containment of hazardous substances or methamphetamine at or in  
29 a clandestine lab site, and may include demolition or disposal  
30 of structures or other property when an assessment so indicates;  
31 and

32 (4) "removal" means the removal from the clandestine lab  
33 site of precursor or waste chemicals, chemical containers, or  
34 equipment associated with the manufacture, packaging, or storage  
35 of illegal drugs.

36 (b) A court shall require a person convicted of

1 manufacturing or attempting to manufacture a controlled  
2 substance or of an illegal activity involving a precursor  
3 substance, where the response to the crime involved an emergency  
4 response, to pay restitution to all public entities that  
5 participated in the response. The restitution ordered must  
6 cover the reasonable costs of their participation in the  
7 response.

8 (c) In addition to the restitution required in paragraph  
9 (b), a court shall require a person convicted of manufacturing  
10 or attempting to manufacture a controlled substance or of  
11 illegal activity involving a precursor substance to pay  
12 restitution to a property owner who incurred removal or  
13 remediation costs because of the crime.

14 (d) Notwithstanding paragraphs (b) and (c), if the court  
15 finds that the convicted person is indigent or that payment of  
16 the restitution would create undue hardship for the convicted  
17 person's immediate family, the court may reduce the amount of  
18 restitution to an appropriate level.

19 Subd. 2. [PROPERTY-RELATED PROHIBITIONS; NOTICE; WEB  
20 SITE.] (a) As used in this subdivision:

21 (1) "clandestine lab site" has the meaning given in  
22 subdivision 1, paragraph (a);

23 (2) "property" includes buildings and other structures, and  
24 motor vehicles as defined in section 609.487, subdivision 2a.  
25 Property also includes real property whether publicly or  
26 privately owned and public waters and rights-of-way;

27 (3) "remediation" has the meaning given in subdivision 1,  
28 paragraph (a); and

29 (4) "removal" has the meaning given in subdivision 1,  
30 paragraph (a).

31 (b) A peace officer who arrests a person at a clandestine  
32 lab site shall notify the appropriate county or local health  
33 department, state duty officer, and child protection services of  
34 the arrest and the location of the site.

35 (c) A county or local health department or sheriff shall  
36 order that all property that has been found to be a clandestine

1 lab site and contaminated by substances, chemicals, or items of  
2 any kind used in the manufacture of methamphetamine or any part  
3 of the manufacturing process, or the by-products or degradates  
4 of manufacturing methamphetamine be prohibited from being  
5 occupied, rented, sold, or used until it has been assessed and  
6 remediated as provided in the Department of Health's clandestine  
7 drug labs general cleanup guidelines.

8 (d) Unless clearly inapplicable, the procedures specified  
9 in chapter 145A and any related rules adopted under that chapter  
10 addressing the enforcement of public health laws, the removal  
11 and abatement of public health nuisances, and the remedies  
12 available to property owners or occupants apply to this  
13 subdivision.

14 (e) Upon the proper removal and remediation of any property  
15 used as a clandestine lab site, the contractor shall verify to  
16 the applicable authority that issued the order under paragraph  
17 (c) that the work was completed according to the Department of  
18 Health's clandestine drug labs general cleanup guidelines and  
19 best practices and that levels of contamination have been  
20 reduced to levels set forth in the guidelines. Following this,  
21 the applicable authority shall vacate its order.

22 (f) If the applicable authority determines under paragraph  
23 (c) that a motor vehicle has been contaminated by substances,  
24 chemicals, or items of any kind used in the manufacture of  
25 methamphetamine or any part of the manufacturing process, or the  
26 by-products or degradates of manufacturing methamphetamine and  
27 if the authority is able to obtain the certificate of title for  
28 the motor vehicle, the authority shall notify the registrar of  
29 motor vehicles of this fact and in addition, forward the  
30 certificate of title to the registrar. The authority shall also  
31 notify the registrar when it vacates its order under paragraph  
32 (e).

33 (g) The applicable authority issuing an order under  
34 paragraph (c) shall record with the county recorder or registrar  
35 of titles of the county where the clandestine lab is located an  
36 affidavit containing a legal description of the property where

1 the clandestine lab was located that discloses to any potential  
2 transferee:

3 (1) that the land was the site of a clandestine lab;

4 (2) the location, condition, and circumstances of the  
5 clandestine lab, to the full extent known or reasonably  
6 ascertainable; and

7 (3) that the use of the property or some portion of it may  
8 be restricted as provided by paragraph (c).

9 If the authority vacates its order under paragraph (e), the  
10 authority shall record an affidavit noting this fact.

11 (h) Unless an affidavit has already been filed under  
12 paragraph (g), before any transfer of ownership of any property  
13 that the owner knew or should have known had been used as a  
14 clandestine lab site and contaminated by substances, chemicals,  
15 or items of any kind used in the manufacture of methamphetamine  
16 or any part of the manufacturing process, or the by-products or  
17 degradates of manufacturing methamphetamine, regardless of when  
18 this occurred or whether an order under paragraph (c) had been  
19 issued, the owner shall record with the county recorder or  
20 registrar of titles of the county in which the property is  
21 located an affidavit containing the information required under  
22 paragraph (g), clauses (1) and (2). Any person who violates  
23 this paragraph is guilty of a petty misdemeanor.

24 (i) If proper removal and remediation has occurred on the  
25 property, an interested party may record an affidavit indicating  
26 that this has occurred. Failure to record such an affidavit  
27 does not affect or prevent any transfer of ownership of the  
28 property.

29 (j) The county recorder or registrar of titles must record  
30 all affidavits presented under paragraph (g), (h), or (i) in a  
31 manner that assures their disclosure in the ordinary course of a  
32 title search of the subject property.

33 (k) The commissioner of health shall post on the Internet  
34 contact information for each local community health services  
35 administrator.

36 (l) Each local community health services administrator

1 shall maintain information related to property within the  
2 administrator's jurisdiction that is currently or was previously  
3 subject to an order issued under paragraph (c). The information  
4 maintained must include the location of the property, the extent  
5 of the contamination, the status of the removal and remediation  
6 work on the property, and whether the order has been vacated.  
7 The administrator shall make this information available to the  
8 public either upon request or by other means.

9 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
10 and applies to crimes committed on or after that date.

11 Sec. 5. [152.136] [ANHYDROUS AMMONIA; PROHIBITED CONDUCT;  
12 CRIMINAL PENALTIES; CIVIL LIABILITY.]

13 Subdivision 1. [DEFINITIONS.] As used in this section,  
14 "tamper" means action taken by a person not authorized to take  
15 that action by law or by the owner or authorized custodian of an  
16 anhydrous ammonia container or of equipment where anhydrous  
17 ammonia is used, stored, distributed, or transported.

18 Subd. 2. [PROHIBITED CONDUCT.] (a) A person may not:

19 (1) steal or unlawfully take or carry away any amount of  
20 anhydrous ammonia;

21 (2) purchase, possess, transfer, or distribute any amount  
22 of anhydrous ammonia, knowing, or having reason to know, that it  
23 will be used to unlawfully manufacture a controlled substance;

24 (3) place, have placed, or possess anhydrous ammonia in a  
25 container that is not designed, constructed, maintained, and  
26 authorized to contain or transport anhydrous ammonia;

27 (4) transport anhydrous ammonia in a container that is not  
28 designed, constructed, maintained, and authorized to transport  
29 anhydrous ammonia;

30 (5) use, deliver, receive, sell, or transport a container  
31 designed and constructed to contain anhydrous ammonia without  
32 the express consent of the owner or authorized custodian of the  
33 container; or

34 (6) tamper with any equipment or facility used to contain,  
35 store, or transport anhydrous ammonia.

36 (b) For the purposes of this subdivision, containers

1 designed and constructed for the storage and transport of  
2 anhydrous ammonia are described in rules adopted under section  
3 18C.121, subdivision 1, or in Code of Federal Regulations, title  
4 49.

5 Subd. 3. [NO CAUSE OF ACTION.] (a) Except as provided in  
6 paragraph (b), a person tampering with anhydrous ammonia  
7 containers or equipment under subdivision 2 shall have no cause  
8 of action for damages arising out of the tampering against:

9 (1) the owner or lawful custodian of the container or  
10 equipment;

11 (2) a person responsible for the installation or  
12 maintenance of the container or equipment; or

13 (3) a person lawfully selling or offering for sale the  
14 anhydrous ammonia.

15 (b) Paragraph (a) does not apply to a cause of action  
16 against a person who unlawfully obtained the anhydrous ammonia  
17 or anhydrous ammonia container or who possesses the anhydrous  
18 ammonia or anhydrous ammonia container for any unlawful purpose.

19 Subd. 4. [CRIMINAL PENALTY.] A person who knowingly  
20 violates subdivision 2 is guilty of a felony and may be  
21 sentenced to imprisonment for not more than five years or to  
22 payment of a fine of not more than \$50,000, or both.

23 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
24 and applies to crimes committed on or after that date.

25 Sec. 6. [152.137] [METHAMPHETAMINE-RELATED CRIMES  
26 INVOLVING CHILDREN AND VULNERABLE ADULTS.]

27 Subdivision 1. [DEFINITIONS.] (a) As used in this section,  
28 the following terms have the meanings given.

29 (b) "Chemical substance" means a substance intended to be  
30 used as a precursor in the manufacture of methamphetamine or any  
31 other chemical intended to be used in the manufacture of  
32 methamphetamine.

33 (c) "Child" means any person under the age of 18 years.

34 (d) "Methamphetamine paraphernalia" means all equipment,  
35 products, and materials of any kind that are used, intended for  
36 use, or designed for use in manufacturing, injecting, ingesting,

1 inhaling, or otherwise introducing methamphetamine into the  
2 human body.

3 (e) "Methamphetamine waste products" means substances,  
4 chemicals, or items of any kind used in the manufacture of  
5 methamphetamine or any part of the manufacturing process, or the  
6 by-products or degradates of manufacturing methamphetamine.

7 (f) "Vulnerable adult" has the meaning given in section  
8 609.232, subdivision 11.

9 Subd. 2. [PROHIBITED CONDUCT.] (a) No person may knowingly  
10 engage in any of the following activities in the presence of a  
11 child or vulnerable adult; in the residence of a child or a  
12 vulnerable adult; in a building, structure, conveyance, or  
13 outdoor location where a child or vulnerable adult might  
14 reasonably be expected to be present; in a room offered to the  
15 public for overnight accommodation; or in any multiple unit  
16 residential building:

17 (1) manufacturing or attempting to manufacture  
18 methamphetamine;

19 (2) storing any chemical substance;

20 (3) storing any methamphetamine waste products; or

21 (4) storing any methamphetamine paraphernalia.

22 (b) No person may knowingly cause or permit a child or  
23 vulnerable adult to inhale, be exposed to, have contact with, or  
24 ingest methamphetamine, a chemical substance, or methamphetamine  
25 paraphernalia.

26 Subd. 3. [CRIMINAL PENALTY.] A person who violates  
27 subdivision 2 is guilty of a felony and may be sentenced to  
28 imprisonment for not more than five years or to payment of a  
29 fine of not more than \$10,000, or both.

30 Subd. 4. [MULTIPLE SENTENCES.] Notwithstanding sections  
31 609.035 and 609.04, a prosecution for or conviction under this  
32 section is not a bar to conviction of or punishment for any  
33 other crime committed by the defendant as part of the same  
34 conduct.

35 Subd. 5. [PROTECTIVE CUSTODY.] A peace officer may take  
36 any child present in an area where any of the activities

1 described in subdivision 2, paragraph (a), clauses (1) to (4),  
2 are taking place into protective custody in accordance with  
3 section 260C.175, subdivision 1, paragraph (b), clause (2). A  
4 child taken into protective custody under this subdivision shall  
5 be provided health screening to assess potential health concerns  
6 related to methamphetamine as provided in section 260C.188. A  
7 child not taken into protective custody under this subdivision  
8 but who is known to have been exposed to methamphetamine shall  
9 be offered health screening for potential health concerns  
10 related to methamphetamine as provided in section 260C.188.

11 Subd. 6. [REPORTING MALTREATMENT OF VULNERABLE ADULT.] (a)  
12 A peace officer shall make a report of suspected maltreatment of  
13 a vulnerable adult if the vulnerable adult is present in an area  
14 where any of the activities described in subdivision 2,  
15 paragraph (a), clauses (1) to (4), are taking place, and the  
16 peace officer has reason to believe the vulnerable adult  
17 inhaled, was exposed to, had contact with, or ingested  
18 methamphetamine, a chemical substance, or methamphetamine  
19 paraphernalia. The peace officer shall immediately report to  
20 the county common entry point as described in section 626.557,  
21 subdivision 9b.

22 (b) As required in section 626.557, subdivision 9b, law  
23 enforcement is the primary agency to conduct investigations of  
24 any incident when there is reason to believe a crime has been  
25 committed. Law enforcement shall initiate a response  
26 immediately. If the common entry point notified a county agency  
27 for adult protective services, law enforcement shall cooperate  
28 with that county agency when both agencies are involved and  
29 shall exchange data to the extent authorized in section 626.557,  
30 subdivision 12b, paragraph (g). County adult protection shall  
31 initiate a response immediately.

32 (c) The county social services agency shall immediately  
33 respond as required in section 626.557, subdivision 10, upon  
34 receipt of a report from the common entry point staff.

35 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
36 and applies to crimes committed on or after that date.

1           Sec. 7. Minnesota Statutes 2004, section 168A.05,  
2 subdivision 3, is amended to read:

3           Subd. 3. [CONTENT OF CERTIFICATE.] Each certificate of  
4 title issued by the department shall contain:

5           (1) the date issued;

6           (2) the first, middle, and last names, the dates of birth,  
7 and addresses of all owners who are natural persons, the full  
8 names and addresses of all other owners;

9           (3) the names and addresses of any secured parties in the  
10 order of priority as shown on the application, or if the  
11 application is based on a certificate of title, as shown on the  
12 certificate, or as otherwise determined by the department;

13           (4) any liens filed pursuant to a court order or by a  
14 public agency responsible for child support enforcement against  
15 the owner;

16           (5) the title number assigned to the vehicle;

17           (6) a description of the vehicle including, so far as the  
18 following data exists, its make, model, year, identifying  
19 number, type of body, whether new or used, and if a new vehicle,  
20 the date of the first sale of the vehicle for use;

21           (7) with respect to motor vehicles subject to the  
22 provisions of section 325E.15, the true cumulative mileage  
23 registered on the odometer or that the actual mileage is unknown  
24 if the odometer reading is known by the owner to be different  
25 from the true mileage;

26           (8) with respect to vehicles subject to sections 325F.6641  
27 and 325F.6642, the appropriate term "flood damaged," "rebuilt,"  
28 "prior salvage," or "reconstructed"; and

29           (9) with respect to a vehicle contaminated by  
30 methamphetamine production, if the registrar has received the  
31 certificate of title and notice described in section 152.0275,  
32 subdivision 2, paragraph (f), the term "hazardous waste  
33 contaminated vehicle"; and

34           (10) any other data the department prescribes.

35           [EFFECTIVE DATE.] This section is effective August 1, 2005.

36           Sec. 8. Minnesota Statutes 2004, section 260C.171, is

1 amended by adding a subdivision to read:

2 Subd. 6. [NOTICE TO SCHOOL.] (a) As used in this  
3 subdivision, the following terms have the meanings given.  
4 "Chemical substance," "methamphetamine paraphernalia," and  
5 "methamphetamine waste products" have the meanings given in  
6 section 152.137, subdivision 1. "School" means a charter school  
7 or a school as defined in section 120A.22, subdivision 4, except  
8 a home school.

9 (b) If a child has been taken into protective custody after  
10 being found in an area where methamphetamine was being  
11 manufactured or attempted to be manufactured or where any  
12 chemical substances, methamphetamine paraphernalia, or  
13 methamphetamine waste products were stored, and the child is  
14 enrolled in school, the officer who took the child into custody  
15 shall notify the chief administrative officer of the child's  
16 school of this fact.

17 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
18 and applies to acts occurring on or after that date.

19 Sec. 9. [446A.083] [METHAMPHETAMINE LABORATORY CLEANUP  
20 REVOLVING FUND.]

21 Subdivision 1. [DEFINITIONS.] As used in this section:

22 (1) "clandestine lab site" has the meaning given in section  
23 152.0275, subdivision 1, paragraph (a);

24 (2) "property" has the meaning given in section 152.0275,  
25 subdivision 2, paragraph (a), but does not include motor  
26 vehicles; and

27 (3) "remediate" has the meaning given to remediation in  
28 section 152.0275, subdivision 1, paragraph (a).

29 Subd. 2. [FUND ESTABLISHED.] The authority shall establish  
30 a methamphetamine laboratory cleanup revolving fund to provide  
31 loans to counties and cities to remediate clandestine lab  
32 sites. The fund must be credited with repayments.

33 Subd. 3. [APPLICATIONS.] Applications by a county or city  
34 for a loan from the fund must be made to the authority on the  
35 forms prescribed by the authority. The application must  
36 include, but is not limited to:

1 (1) the amount of the loan requested and the proposed use  
2 of the loan proceeds;

3 (2) the source of revenues to repay the loan; and

4 (3) certification by the county or city that it meets the  
5 loan eligibility requirements of subdivision 4.

6 Subd. 4. [LOAN ELIGIBILITY.] A county or city is eligible  
7 for a loan under this section if the county or city:

8 (1) identifies a site or sites designated by a local public  
9 health department or law enforcement as a clandestine lab site;

10 (2) has required the site's property owner to remediate the  
11 site at cost, under chapter 145A or a local public health  
12 nuisance ordinance that addresses clandestine lab remediation;

13 (3) certifies that the property owner cannot pay for the  
14 remediation immediately;

15 (4) certifies that the property owner has not properly  
16 remediated the site; and

17 (5) issues a revenue bond payable to the authority to  
18 secure the loan.

19 Subd. 5. [USE OF LOAN PROCEEDS; REIMBURSEMENT BY PROPERTY  
20 OWNER.] (a) A loan recipient shall use the loan to remediate the  
21 clandestine lab site or if this has already been done to  
22 reimburse the applicable county or city fund for costs paid by  
23 the recipient to remediate the clandestine lab site.

24 (b) A loan recipient shall seek reimbursement from the  
25 owner of the property containing the clandestine lab site for  
26 the costs of the remediation. In addition to other lawful means  
27 of seeking reimbursement, the loan recipient may recover its  
28 costs through a property tax assessment by following the  
29 procedures specified in section 145A.08, subdivision 2,  
30 paragraph (c).

31 Subd. 6. [AWARD AND DISBURSEMENT OF FUNDS.] The authority  
32 shall award loans to recipients on a first-come, first-served  
33 basis, provided that the recipient is able to comply with the  
34 terms and conditions of the authority loan, which must be in  
35 conformance with this section. The authority shall make a  
36 single disbursement of the loan upon receipt of a payment

1 request that includes a list of remediation expenses and  
2 evidence that a second-party sampling was undertaken to ensure  
3 that the remediation work was successful or a guarantee that  
4 such a sampling will be undertaken.

5 Subd. 7. [LOAN CONDITIONS AND TERMS.] (a) When making  
6 loans from the revolving fund, the authority shall comply with  
7 the criteria in paragraphs (b) to (e).

8 (b) Loans must be made at a two percent per annum interest  
9 rate for terms not to exceed ten years unless the recipient  
10 requests a 20-year term due to financial hardship.

11 (c) The annual principal and interest payments must begin  
12 no later than one year after completion of the clean up. Loans  
13 must be amortized no later than 20 years after completion of the  
14 clean up.

15 (d) A loan recipient must identify and establish a source  
16 of revenue for repayment of the loan and must undertake whatever  
17 steps are necessary to collect payments within one year of  
18 receipt of funds from the authority.

19 (e) The fund must be credited with all payments of  
20 principal and interest on all loans, except the costs as  
21 permitted under section 446A.04, subdivision 5, paragraph (a).

22 (f) Loans must be made only to recipients with clandestine  
23 lab ordinances that address remediation.

24 Subd. 8. [AUTHORITY TO INCUR DEBT.] Counties and cities  
25 may incur debt under this section by resolution of the board or  
26 council authorizing issuance of a revenue bond to the authority.

27 [EFFECTIVE DATE.] This section is effective July 1, 2005.

28 Sec. 10. Minnesota Statutes 2004, section 609.1095,  
29 subdivision 1, is amended to read:

30 Subdivision 1. [DEFINITIONS.] (a) As used in this section,  
31 the following terms have the meanings given.

32 (b) "Conviction" means any of the following accepted and  
33 recorded by the court: a plea of guilty, a verdict of guilty by  
34 a jury, or a finding of guilty by the court. The term includes  
35 a conviction by any court in Minnesota or another jurisdiction.

36 (c) "Prior conviction" means a conviction that occurred

1 before the offender committed the next felony resulting in a  
2 conviction and before the offense for which the offender is  
3 being sentenced under this section.

4 (d) "Violent crime" means a violation of or an attempt or  
5 conspiracy to violate any of the following laws of this state or  
6 any similar laws of the United States or any other state:  
7 ~~section~~ sections 152.137; 609.165; 609.185; 609.19; 609.195;  
8 609.20; 609.205; 609.21; 609.221; 609.222; 609.223; 609.228;  
9 609.235; 609.24; 609.245; 609.25; 609.255; 609.2661; 609.2662;  
10 609.2663; 609.2664; 609.2665; 609.267; 609.2671; 609.268;  
11 609.342; 609.343; 609.344; 609.345; 609.498, subdivision 1;  
12 609.561; 609.562; 609.582, subdivision 1; 609.66, subdivision  
13 1e; 609.687; and 609.855, subdivision 5; any provision of  
14 sections 609.229; 609.377; 609.378; 609.749; and 624.713 that is  
15 punishable by a felony penalty; or any provision of chapter 152  
16 that is punishable by a maximum sentence of 15 years or more.

17 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
18 and applies to crimes committed on or after that date.

19 Sec. 11. [REVISOR'S INSTRUCTION.]

20 The revisor of statutes shall recodify the provisions of  
21 Minnesota Statutes, section 152.021, subdivision 2a, paragraph  
22 (b), and subdivision 3, as amended by this act, that relate to  
23 the possession of chemical reagents or precursors with the  
24 intent to manufacture methamphetamine and the penalties for  
25 doing this into a new section of law codified as Minnesota  
26 Statutes, section 152.0262. The revisor shall make any  
27 necessary technical changes, including, but not limited to,  
28 changes to statutory cross-references, to Minnesota Statutes,  
29 section 152.021, and any other statutory sections to accomplish  
30 this.

31 Sec. 12. [REPEALER.]

32 Minnesota Statutes 2004, sections 18C.005, subdivisions 1a  
33 and 35a; 18C.201, subdivisions 6 and 7; and 18D.331, subdivision  
34 5, are repealed.

35 [EFFECTIVE DATE.] This section is effective August 1, 2005,  
36 and applies to crimes committed on or after that date.

ARTICLE 2

METHAMPHETAMINE APPROPRIATIONS

Section 1. [TOTAL APPROPRIATIONS.]

The dollar amounts in the columns under "APPROPRIATIONS" are appropriated to the specified agencies for the purposes specified. The appropriations are from the general fund and are available for the fiscal years indicated for each purpose. The figures "2006" and "2007" used in this article mean that the addition to or subtraction from the appropriations listed under the figure is for the fiscal years ending June 30, 2006, and June 30, 2007, respectively.

SUMMARY

	2006	2007	TOTAL
GENERAL	\$.....	\$.....	\$.....

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006                      2007

Sec. 2. CORRECTIONS

For the increased prison population based on this act.	\$	.....	\$	.....
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Sec. 3. BOARD OF PUBLIC DEFENSE

For a methamphetamine trial team.	.....	.....
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Sec. 4. HUMAN SERVICES

For grants to counties to fund three pilot projects addressing methamphetamine.	.....	.....
---	-------	-------

A county seeking a grant under this section shall submit a detailed application to the commissioner that specifies how the money will be used. The application must demonstrate a comprehensive countywide plan to combat methamphetamine. At a minimum, this plan must address how the county will handle: (1) methamphetamine-related child endangerment cases; (2) methamphetamine-related cleanup and remediation; (3) enforcing methamphetamine-related criminal laws; and (4) methamphetamine-related treatment. To the extent possible, the commissioner shall ensure that one pilot project has an emphasis on adolescents and one has a maternal/early childhood emphasis.

Sec. 5. EMPLOYMENT AND ECONOMIC DEVELOPMENT

.....	.....
-------	-------

1 To carry out the public facilities  
 2 authority's duties involving the  
 3 methamphetamine laboratory cleanup  
 4 revolving fund under Minnesota  
 5 Statutes, section 446A.083.

6 Sec. 6. PUBLIC SAFETY ..... ..

7 For ten Bureau of Criminal Apprehension  
 8 agents to be assigned exclusively to  
 9 methamphetamine enforcement, including  
 10 the investigation of manufacturing and  
 11 distributing methamphetamine and  
 12 related violence. These appropriations  
 13 are intended to increase the current  
 14 allocation of Bureau of Criminal  
 15 Apprehension resources dedicated to  
 16 methamphetamine enforcement. Positions  
 17 funded by these appropriations may not  
 18 supplant existing agent assignments or  
 19 positions.

20 Sec. 7. HEALTH ..... ..

21 To provide technical assistance on  
 22 methamphetamine lab remediation.

23 Sec. 8. EDUCATION ..... ..

24 To develop and distribute to school  
 25 districts materials addressing the  
 26 dangers of methamphetamine.

APPENDIX  
Repealed Minnesota Statutes for S0423-1

**18C.005 DEFINITIONS.**

Subd. 1a. **Anhydrous ammonia.** "Anhydrous ammonia" means a compound formed by the chemical combination of the elements nitrogen and hydrogen in the molar proportion of one part nitrogen to three parts hydrogen. This relationship is shown by the chemical formula,  $NH_3$ . On a weight basis, the ratio is 14 parts nitrogen to three parts hydrogen or approximately 82 percent nitrogen to 18 percent hydrogen. Anhydrous ammonia may exist in either a gaseous or a liquid state.

Subd. 35a. **Tamper.** "Tamper" means action taken by a person not authorized to take that action by law or by the owner or authorized custodian of an anhydrous ammonia container or of equipment where anhydrous ammonia is used, stored, distributed, or transported.

**18C.201 PROHIBITED FERTILIZER ACTIVITIES.**

Subd. 6. **Anhydrous ammonia.** (a) A person may not:

(1) place, have placed, or possess anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to contain or transport anhydrous ammonia;

(2) transport anhydrous ammonia in a container that is not designed, constructed, maintained, and authorized to transport anhydrous ammonia;

(3) use, deliver, receive, sell, or transport a container designed and constructed to contain anhydrous ammonia without the express consent of the owner or authorized custodian of the container; or

(4) tamper with any equipment or facility used to contain, store, or transport anhydrous ammonia.

(b) For the purposes of this subdivision, containers designed and constructed for the storage and transport of anhydrous ammonia are described in rules adopted under section 18C.121, subdivision 1, or in Code of Federal Regulations, title 49.

Subd. 7. **No cause of action.** (a) Except as provided in paragraph (b), a person tampering with anhydrous ammonia containers or equipment under subdivision 6 shall have no cause of action for damages arising out of the tampering against (1) the owner or lawful custodian of the container or equipment; (2) a person responsible for the installation or maintenance of the container or equipment; or (3) a person lawfully selling or offering for sale the anhydrous ammonia.

(b) Paragraph (a) does not apply to a cause of action against a person who unlawfully obtained the anhydrous ammonia or anhydrous ammonia container or who possesses the anhydrous ammonia or anhydrous ammonia container for any unlawful purpose.

**18D.331 CRIMINAL PENALTIES.**

Subd. 5. **Anhydrous ammonia containment, tampering, theft, transport.** A person who knowingly violates section 18C.201, subdivision 6, is guilty of a felony and may be sentenced to imprisonment for not more than five years, or to payment of a fine of not more than \$50,000, or both.

1 Senator ..... moves to amend S.F. No. 423 as follows:

2 Page 5, delete lines 23 to 26, and insert:

3 "(2) "property" means publicly or privately owned real  
4 property including buildings and other structures, motor  
5 vehicles as defined in section 609.487, subdivision 2a, public  
6 waters, and public rights-of-way;"

7 Page 5, line 36, delete "all property" and insert "any  
8 property or portion of a property"

9 Page 6, line 5, delete ", rented, sold,"

10 Page 6, line 7, after the period, insert "The remediation  
11 shall be accomplished by a contractor who will make the  
12 verification required under paragraph (e)."

13 Page 6, line 20, after the period, insert "The contractor  
14 shall provide the verification to the property owner and the  
15 applicable authority within five days from the completion of the  
16 remediation."

17 Page 6, after line 21, insert:

18 "(f) If a contractor issues a verification and the property  
19 was not remediated according to the Department of Health's  
20 clandestine drug labs general cleanup guidelines or the levels  
21 of contamination were not reduced to levels set forth in the  
22 guidelines, the contractor is liable to the property owner for  
23 the additional costs relating to the proper remediation of the  
24 property according to the guidelines and reducing the levels of  
25 contamination to levels set in the guidelines and for reasonable  
26 attorney fees for collection of costs by the property owner. An  
27 action under this paragraph must be commenced within six years  
28 from the date on which the verification was issued by the  
29 contractor."

30 Page 6, line 22, delete "(f)" and insert "(g)"

31 Page 6, delete lines 33 to 36

32 Page 7, delete lines 1 to 10, and insert:

33 "(h) The applicable authority issuing an order under  
34 paragraph (c) shall record with the county recorder or registrar  
35 of titles of the county where the clandestine lab is located an  
36 affidavit containing the name of the owner and a legal

1 description of the property where the clandestine lab was  
2 located that discloses to any potential transferee:

3 (1) that the property, or a portion of the property, was  
4 the site of a clandestine lab;

5 (2) the location, condition, and circumstances of the  
6 clandestine lab, to the full extent known or reasonably  
7 ascertainable; and

8 (3) that the use of the property or some portion of it may  
9 be restricted as provided by paragraph (c).

10 If only a part of the described property is contaminated,  
11 the affidavit shall include a map showing the location of the  
12 contaminated area on the property. If only a dwelling is  
13 contaminated, the affidavit may include a statement to that  
14 effect instead of a map. The authority shall inform the owner  
15 that an affidavit has been filed.

16 If an inaccurate drawing or description is filed, the  
17 authority, on request of the owner or another interested person,  
18 shall file a supplemental affidavit with a corrected drawing or  
19 description.

20 If only a portion of the property may be restricted, the  
21 affidavit shall include a drawing or legal description that  
22 clearly identifies the restricted portion. If an inaccurate  
23 drawing or description is filed, the authority, on request of  
24 the owner or another interested person, shall file a corrected  
25 drawing or description."

26 Page 7, delete lines 11 to 23

27 Page 8, line 4, after "include" insert "the name of the  
28 owner,"

29 Page 8, after line 8, insert:

30 "(m) Before signing an agreement to sell or transfer real  
31 property, the seller or transferor must disclose in writing to  
32 the buyer or transferee if, to the seller's or transferor's  
33 knowledge, methamphetamine production has occurred on the  
34 property. If methamphetamine production has occurred on the  
35 property, the disclosure shall include a statement to the buyer  
36 or transferee informing the buyer or transferee:

1 (1) whether an order has been issued on the property as  
2 described in paragraph (c);

3 (2) whether any orders issued against the property under  
4 paragraph (c) have been vacated under paragraph (i); or

5 (3) if there was no order issued against the property and  
6 the seller or transferor is aware that methamphetamine  
7 production has occurred on the property, the status of removal  
8 and remediation on the property.

9 Unless the buyer or transferee and seller or transferor  
10 agree to the contrary in writing before the closing of the sale,  
11 a seller or transferor who fails to disclose, to the best of  
12 their knowledge, at the time of sale any of the facts required  
13 above, and who knew or had reason to know of methamphetamine  
14 production on the property, is liable to the buyer or transferee  
15 for:

16 (1) costs relating to remediation of the property according  
17 to the Department of Health's clandestine drug labs general  
18 cleanup guidelines and best practices so that contamination is  
19 reduced to levels set forth in the guidelines; and

20 (2) reasonable attorney fees for collection of costs from  
21 the seller or transferor.

22 An action under this paragraph must be commenced within six  
23 years after the date on which the buyer or transferee closed the  
24 purchase or transfer of the real property where the  
25 methamphetamine production occurred."

26 Page 8, line 9, delete "August 1, 2005" and insert "January  
27 1, 2006"

1 Senator ..... moves to amend S.F. No. 423 as follows:

2 Page 6, delete lines 33 to 36

3 Page 7, delete lines 1 to 10, and insert:

4 "(g) The applicable authority issuing an order under  
5 paragraph (c) shall record with the county recorder or registrar  
6 of titles of the county where the clandestine lab is located an  
7 affidavit containing the name of the owner, a legal description  
8 of the property where the clandestine lab was located, and a map  
9 drawn from available information showing the boundary of the  
10 property and the location of the contaminated area on the  
11 property that is prohibited from being occupied or used that  
12 discloses to any potential transferee:

13 (1) that the property, or a portion of the property, was  
14 the site of a clandestine lab;

15 (2) the location, condition, and circumstances of the  
16 clandestine lab, to the full extent known or reasonably  
17 ascertainable; and

18 (3) that the use of the property or some portion of it may  
19 be restricted as provided by paragraph (c).

20 If an inaccurate drawing or description is filed, the authority,  
21 on request of the owner or another interested person, shall file  
22 a supplemental affidavit with a corrected drawing or  
23 description."

1 Senator ..... moves to amend S.F. No. 423 as follows:

2 Page 7, delete lines 9 and 10, and insert:

3 "If the authority vacates its order under paragraph (e), the  
4 authority shall record an affidavit that contains the recording  
5 information of the above affidavit and states that the order is  
6 vacated. Upon filing the affidavit vacating the order, the  
7 affidavit and the affidavit filed under this paragraph, together  
8 with the information set forth in the affidavits, cease to  
9 constitute either actual or constructive notice."

10 Page 7, delete lines 24 to 28, and insert:

11 "(i) If proper removal and remediation has occurred on the  
12 property, an interested party may record an affidavit indicating  
13 that this has occurred. Upon filing the affidavit described in  
14 this paragraph, the affidavit and the affidavit filed under  
15 paragraph (g), together with the information set forth in the  
16 affidavits, cease to constitute either actual or constructive  
17 notice. Failure to record an affidavit under this section does  
18 not affect or prevent any transfer of ownership of the property."

Minnesota	Meth Lab Task Force
Name	Organization
Sub	Committee
Paul Stevens	BCA
Deborah Durkin	MN Dept of Health
Rebecca Kenow	MN Dept of Health
Steve Lee	MN Pollution Control Agency
Tom Rime	DFO Community Corrections Supervisor
Brad Gerhardt	Martin Co Sheriff
Ginger Peterson	MN River Valley Drug Task Force
Greg Broisma	Fairmont Police Dept Chief
Mark Harig	Freeborn Co Sheriff
Steve Borchardt	Olmsted Co Sheriff
Nancy Schroeder	Dept of Corrections
Jim Franklin	MN Sheriffs Assoc-Exec Director
Tracy Perzel	Assistant Attorney General
Scott Hersey	Dakota Co Attorney's Office & MCAA
Bob Nance	BCA
Paul Liemandt	MN Dept of Ag
Terese Amazi	Mower Co Sheriff
Tim Gallagher	Astrup Drug/MN Pharm Assn
Paul Philipp	Austin PD Chief
Kate Gaynor	MN Pollution Control Agency
Robert Walker	5th District Court Judge
Greg Herzog	Dept of Pub Safety Grants Specialist
Mary Ellison	DPS, Deputy Commissioner
Sue Perkins	Dept of Pub Safety
Nancy Schouweiler	Dakota Co Commissioner
Elizabeth Carpenter	MN Pharmacists Assn
Laura LaCroix	Local Pub Health Assn of MN c/o AMC
Dan Griffin	MN Supreme Court
Ruth Clinard	Dept of Human Services
Megan Helge	MN Dept of Health
Jay McLaren	Dept of Health
Abbie Laugtug	MN Pharmacists Assn
Jenn O'Rourke	League of MN Cities
Anne Finn	League of MN Cities
Ed Kaiser	MN Dept of Ag
Dr. Barbara Knox	Pediatric & Adolescent Medicine, Mayo
Clara James	Social Worker
Joanne Smith	Ramsey Co Judge
Scott Simmons	AMC
Terry Whitman	Jackson Co Human Services
Amy Rudolph	Dept of Education
Kevin Spading	MN Prevention Resource Center

1 Senator Betzold from the Committee on Judiciary, to which  
2 was re-referred

3 S.F. No. 423: A bill for an act relating to public safety;  
4 further regulating while recodifying activities involving  
5 anhydrous ammonia; requiring courts to order restitution in  
6 certain situations involving controlled substances; imposing  
7 property restrictions in certain situations involving controlled  
8 substances; increasing the criminal penalties for possessing  
9 certain substances with the intent to manufacture  
10 methamphetamine and recodifying this crime; establishing new  
11 methamphetamine-related crimes; clarifying the definition of  
12 "narcotic drug"; expanding the definition of "violent crime" for  
13 mandatory sentencing purposes; requiring that vehicles and other  
14 property used to manufacture methamphetamine indicate this in  
15 the title or by an affidavit; requiring notice to schools when  
16 children are taken into protective custody after being found at  
17 a methamphetamine laboratory; establishing a methamphetamine  
18 laboratory cleanup revolving fund and authorizing loans to  
19 assist counties and cities in conducting methamphetamine  
20 cleanup; imposing criminal penalties; providing for ten new  
21 Bureau of Criminal Apprehension agents dedicated to  
22 methamphetamine enforcement; appropriating money; amending  
23 Minnesota Statutes 2004, sections 152.01, subdivision 10;  
24 152.021, subdivisions 2a, 3; 168A.05, subdivision 3; 260C.171,  
25 by adding a subdivision; 609.1095, subdivision 1; proposing  
26 coding for new law in Minnesota Statutes, chapters 152; 446A;  
27 repealing Minnesota Statutes 2004, sections 18C.005,  
28 subdivisions 1a, 35a; 18C.201, subdivisions 6, 7; 18D.331,  
29 subdivision 5.

30 Reports the same back with the recommendation that the bill  
31 be amended as follows:

32 Page 5, delete lines 23 to 26 and insert:

33 "(2) "property" means publicly or privately owned real  
34 property including buildings and other structures, motor  
35 vehicles as defined in section 609.487, subdivision 2a, public  
36 waters, and public rights-of-way;"

37 Page 5, line 36, delete "all property" and insert "any  
38 property or portion of a property"

39 Page 6, line 5, delete ", rented, sold,"

40 Page 6, line 7, after the period, insert "The remediation  
41 shall be accomplished by a contractor who will make the  
42 verification required under paragraph (e)."

43 Page 6, line 20, after the period, insert "The contractor  
44 shall provide the verification to the property owner and the  
45 applicable authority within five days from the completion of the  
46 remediation."

47 Page 6, after line 21, insert:

48 "(f) If a contractor issues a verification and the property  
49 was not remediated according to the Department of Health's  
50 clandestine drug labs general cleanup guidelines or the levels

1 of contamination were not reduced to levels set forth in the  
2 guidelines, the contractor is liable to the property owner for  
3 the additional costs relating to the proper remediation of the  
4 property according to the guidelines and reducing the levels of  
5 contamination to levels set in the guidelines and for reasonable  
6 attorney fees for collection of costs by the property owner. An  
7 action under this paragraph must be commenced within six years  
8 from the date on which the verification was issued by the  
9 contractor."

10 Page 6, line 22, delete "(f)" and insert "(g)"

11 Page 6, delete lines 33 to 36

12 Page 7, delete lines 1 to 28 and insert:

13 "(h) The applicable authority issuing an order under  
14 paragraph (c) shall record with the county recorder or registrar  
15 of titles of the county where the clandestine lab is located an  
16 affidavit containing the name of the owner, a legal description  
17 of the property where the clandestine lab was located, and a map  
18 drawn from available information showing the boundary of the  
19 property and the location of the contaminated area on the  
20 property that is prohibited from being occupied or used that  
21 discloses to any potential transferee:

22 (1) that the property, or a portion of the property, was  
23 the site of a clandestine lab;

24 (2) the location, condition, and circumstances of the  
25 clandestine lab, to the full extent known or reasonably  
26 ascertainable; and

27 (3) that the use of the property or some portion of it may  
28 be restricted as provided by paragraph (c).

29 If an inaccurate drawing or description is filed, the authority,  
30 on request of the owner or another interested person, shall file  
31 a supplemental affidavit with a corrected drawing or description.

32 If the authority vacates its order under paragraph (e), the  
33 authority shall record an affidavit that contains the recording  
34 information of the above affidavit and states that the order is  
35 vacated. Upon filing the affidavit vacating the order, the  
36 affidavit and the affidavit filed under this paragraph, together

1 with the information set forth in the affidavits, cease to  
2 constitute either actual or constructive notice.

3 (i) If proper removal and remediation has occurred on the  
4 property, an interested party may record an affidavit indicating  
5 that this has occurred. Upon filing the affidavit described in  
6 this paragraph, the affidavit and the affidavit filed under  
7 paragraph (h), together with the information set forth in the  
8 affidavits, cease to constitute either actual or constructive  
9 notice. Failure to record an affidavit under this section does  
10 not affect or prevent any transfer of ownership of the property."

11 Page 7, line 30, delete "(g), (h)," and insert "(h)"

12 Page 8, line 4, after "include" insert "the name of the  
13 owner,"

14 Page 8, after line 8, insert:

15 "(m) Before signing an agreement to sell or transfer real  
16 property, the seller or transferor must disclose in writing to  
17 the buyer or transferee if, to the seller's or transferor's  
18 knowledge, methamphetamine production has occurred on the  
19 property. If methamphetamine production has occurred on the  
20 property, the disclosure shall include a statement to the buyer  
21 or transferee informing the buyer or transferee:

22 (1) whether an order has been issued on the property as  
23 described in paragraph (c);

24 (2) whether any orders issued against the property under  
25 paragraph (c) have been vacated under paragraph (i); or

26 (3) if there was no order issued against the property and  
27 the seller or transferor is aware that methamphetamine  
28 production has occurred on the property, the status of removal  
29 and remediation on the property.

30 Unless the buyer or transferee and seller or transferor  
31 agree to the contrary in writing before the closing of the sale,  
32 a seller or transferor who fails to disclose, to the best of  
33 their knowledge, at the time of sale any of the facts required  
34 above, and who knew or had reason to know of methamphetamine  
35 production on the property, is liable to the buyer or transferee  
36 for:

1 (1) costs relating to remediation of the property according  
2 to the Department of Health's clandestine drug labs general  
3 cleanup guidelines and best practices so that contamination is  
4 reduced to levels set forth in the guidelines; and

5 (2) reasonable attorney fees for collection of costs from  
6 the seller or transferor.

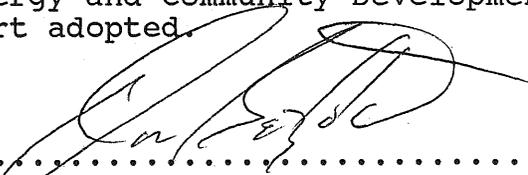
7 An action under this paragraph must be commenced within six  
8 years after the date on which the buyer or transferee closed the  
9 purchase or transfer of the real property where the  
10 methamphetamine production occurred."

11 Page 8, line 9, delete "August 1, 2005" and insert "January  
12 1, 2006"

13 Page 12, line 32, delete "(f)" and insert "(g)"

14 And when so amended the bill do pass and be re-referred to  
15 the Committee on Jobs, Energy and Community Development.  
16 Amendments adopted. Report adopted.

17  
18  
19  
20  
21  
22

  
.....  
(Committee Chair)

March 1, 2005.....  
(Date of Committee recommendation)

## Senate Counsel & Research

G-17 STATE CAPITOL  
75 REV. DR. MARTIN LUTHER KING JR. BLVD.  
ST. PAUL, MN 55155-1606  
(651) 296-4791  
FAX (651) 296-7747

JO ANNE ZOFF SELLNER  
DIRECTOR

# Senate

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## State of Minnesota

### COUNSEL

PETER S. WATTSON  
JOHN C. FULLER  
BONNIE L. BEREZOVSKY  
DANIEL P. MCGOWAN  
KATHLEEN E. PONTIUS  
PATRICIA A. LIEN  
KATHERINE T. CAVANOR  
CHRISTOPHER B. STANG  
KENNETH P. BACKHUS  
CAROL E. BAKER  
JOAN E. WHITE  
THOMAS S. BOTTERN  
ANN MARIE BUTLER

### LEGISLATIVE ANALYSTS

DAVID GIEL  
GREGORY C. KNOPFF  
MATTHEW GROSSER  
DANIEL L. MUELLER  
JACK PAULSON  
S L TURNER  
M. VENNEWITZ  
MAJA WEIDMANN

## S.F. No. 608 - Department of Commerce Law Enforcement Data

**Author:** Senator Don Betzold

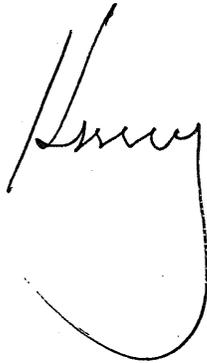
**Prepared by:** Harry Walsh, Senate Counsel (651/296-6200)

**Date:** February 8, 2005

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S.F. No. 608 subjects all law enforcement data generated by the state Commerce Department to the provisions of **Minnesota Statutes, section 13.82**, the comprehensive law enforcement data section.

HW:cs



Senators Betzold, Skoglund, Scheid and Limmer introduced--  
S.F. No. 608: Referred to the Committee on Judiciary.

1 A bill for an act

2 relating to government data; regulating comprehensive  
3 law enforcement data of the Department of Commerce;  
4 amending Minnesota Statutes 2004, section 13.82,  
5 subdivision 1.

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

7 Section 1. Minnesota Statutes 2004, section 13.82,  
8 subdivision 1, is amended to read:

9 Subdivision 1. [APPLICATION.] This section shall apply to  
10 agencies which carry on a law enforcement function, including  
11 but not limited to municipal police departments, county sheriff  
12 departments, fire departments, the Bureau of Criminal  
13 Apprehension, the Minnesota State Patrol, the Board of Peace  
14 Officer Standards and Training, ~~the-Division-of-Insurance-Fraud~~  
15 ~~Prevention-in~~ the Department of Commerce, and the program  
16 integrity section of, and county human service agency client and  
17 provider fraud prevention and control units operated or  
18 supervised by the Department of Human Services.

19 Sec. 2. [EFFECTIVE DATE.]

20 Section 1 is effective the day following final enactment.

1 Senator Betzold from the Committee on Judiciary, to which  
2 was referred

3 S.F. No. 608: A bill for an act relating to government  
4 data; regulating comprehensive law enforcement data of the  
5 Department of Commerce; amending Minnesota Statutes 2004,  
6 section 13.82, subdivision 1.

7 Reports the same back with the recommendation that the bill  
8 do pass. Report adopted.

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15

  
.....  
(Committee Chair)

March 1, 2005.....  
(Date of Committee recommendation)

**Senate Counsel & Research**

G-17 STATE CAPITOL  
75 REV. DR. MARTIN LUTHER KING JR. BLVD.  
ST. PAUL, MN 55155-1606  
(651) 296-4791  
FAX (651) 296-7747  
JO ANNE ZOFF SELLNER  
DIRECTOR

**Senate**  
**State of Minnesota**

COUNSEL

PETER S. WATTSON  
JOHN C. FULLER  
BONNIE L. BEREZOVSKY  
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JACK PAULSON  
HRIS L. TURNER  
MY M. VENNEWITZ  
MAJA WEIDMANN

**S.F. No. 647 - Allocation of Common Expenses of Certain Condominiums**

**Author:** Senator Richard J. Cohen

**Prepared by:** Harry Walsh, Senate Counsel (651/296-6200)

**Date:** February 10, 2005

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**S.F. No. 647** requires that a class of older condominiums allocate common expenses in proportion to the area of their units.

HW:cs



Senator Cohen introduced--

S.F. No. 647: Referred to the Committee on Judiciary.

1 A bill for an act

2 relating to real property; providing for the  
3 allocation of the common expenses of certain  
4 condominiums; amending Minnesota Statutes 2004,  
5 section 515A.2-108.

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

7 Section 1. Minnesota Statutes 2004, section 515A.2-108, is  
8 amended to read:

9 515A.2-108 [ALLOCATION OF COMMON ELEMENT INTERESTS, VOTES,  
10 AND COMMON EXPENSE LIABILITIES.]

11 (a) The declaration shall allocate a fraction or percentage  
12 of the undivided interests in the common elements, common  
13 expenses and votes in the association to each unit in such  
14 manner that each of the items is equally allocated or is  
15 allocated according to the proportion of the area or volume of  
16 each unit to the area or volume of all units, and the items need  
17 not be allocated the same for all purposes. The declaration may  
18 provide that a portion of each common expense assessment may be  
19 allocated on the basis of equality and the remainder on the  
20 basis of area or volume of each unit. The sum of the  
21 percentages or fractions shall equal 100 percent or 1.

22 (b) Except in the case of eminent domain (section  
23 515A.1-107), expansion of a flexible condominium (section  
24 515A.2-111), relocation of boundaries between adjoining units  
25 (section 515A.2-114), or subdivision of units (section

1 515A.2-115), the common element interest, votes and common  
2 expense liability allocated to any unit may not be altered,  
3 except as an amendment to the declaration which is signed by all  
4 unit owners and first mortgagees, and which complies with  
5 section 515A.2-119. The common elements are not subject to  
6 partition, and any purported conveyance, encumbrance, judicial  
7 sale or other voluntary or involuntary transfer of an undivided  
8 interest or involuntary transfer of an undivided interest in the  
9 common elements without the unit to which the interest is  
10 allocated is void.

11 (c) The association may assess certain common expenses  
12 against fewer than all units pursuant to section 515A.3-114.

13 (d) Notwithstanding any provision of chapter 515B or other  
14 law, for a condominium originally created under this chapter, in  
15 which the area of the largest unit is 2-1/2 times or more larger  
16 than the area of the smallest unit, the common expenses must be  
17 allocated according to the proportion of the area of each unit  
18 to the area of all units. If the declaration provides for a  
19 different allocation of common expenses, each unit sold after  
20 the effective date of this paragraph shall be allocated expenses  
21 in the proportion required by this paragraph, but the remaining  
22 units may continue to be allocated the balance of the common  
23 expenses in the proportion provided by the declaration.