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# Minnesota House of Representatives

Kurt Daudt, Speaker

FOR IMMEDIATE RELEASE  
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## New Laws Effective Aug. 1, 2016

*The following are selected new laws passed during the 2016 legislative session that take effect Aug. 1, 2016. The asterisk following the bill number denotes the language that became law. Summaries of all laws passed by the 2016 Legislature are available from nonpartisan House Public Information Services at <http://www.house.mn/newlaws/#/search/2016>.*

### AGRICULTURE

#### **Farm safety, elk management focus of agriculture policy law**

Policy changes ranging from farm safety to elk management are implemented in a law sponsored by Rep. Paul Anderson (R-Starbuck) and Sen. Dan Sparks (DFL-Austin).

The Department of Agriculture is directed to analyze farm safety issues, including common causes of farm accidents, and compile a list of farm safety programs in Minnesota by Oct. 1, 2016. As part of the Farm Safety Initiative, the department is directed to make available the inventory and promote to farm operators in Minnesota the noted farm safety programs and resources. A report on farm operation safety challenges is due the Legislature by Feb. 1, 2017.

Under the new law, elk management plans must not increase the size of the herd unless the agriculture commissioner verifies the herd has not caused an increase in the amount the state has paid farmers for crop and fence damages for at least two years. The commissioner will also be required to submit an annual report to the Legislature detailing the total amount of damages paid per elk herd, during the previous two fiscal years.

The law also includes voluntary guidelines regarding vegetation and habitats surrounding renewable energy sites.

An owner of a ground-mounted solar site with a generating capacity of more than 40 kilowatts may follow site management practices that provide native vegetation and foraging habitats beneficial to gamebirds, songbirds and pollinators, as well as reduce storm water runoff and erosion at the solar energy generation site.

Other law provisions will:

- establish a task force under the agriculture commissioner regarding the state's Farmer-Lender Mediation Act, to report back to the Legislature by Feb. 1, 2017;
- extend the Minnesota Organic Advisory Task Force by three years through June 30, 2019; and
- remove a requirement that licensed commercial or noncommercial applicators must have an appropriate use certification before they can apply pesticide to a golf course.

HF3231/SF3018\*/CH184

## CIVIL LAW

### **Marriage wait period eliminated**

Sponsored by Rep. Dennis Smith (R-Maple Grove) and Sen. Kari Dziedzic (DFL-Mpls), a new law will remove the five-day waiting period required between the application for a marriage license and its issuance by a local registrar.

The new law will permit a license to be issued immediately after an application has been received, pending other legal requirements, such as age.

HF2294\*/SF1753/CH137

## COMMERCE

### **Hometown dealers protected from customers who export vehicles to sell**

U.S.-made luxury vehicles are prized commodities in some foreign countries. However, the cost of the vehicle may be several times more overseas, thus creating a black market where people are making purchases here and reselling them for export.

A new law will prohibit manufacturers from taking adverse action against a dealer when a new vehicle is sold and exported to a foreign country, unless it can be proven that, at the time of sale, the dealer knew or reasonably should have known of the purchaser's intent to export or resell the vehicle.

The law is sponsored by Rep. Jenifer Loon (R-Eden Prairie) and Sen. Bobby Joe Champion (DFL-Mpls).  
HF2954\*/SF2769/CH107

## CONSUMERS

### **Loophole in 2009 debt settlement law to be closed**

A 2009 law set rules for organizations that provide debt settlement services, specifically credit card and medical debts. But services used to settle back tax debt were not addressed, and there has been an uptick in complaints from people who have been scammed by these providers.

Sponsored by Rep. Dennis Smith (R-Maple Grove) and Sen. Kevin Dahle (DFL-Northfield), a new law will expand regulation on debt settlement services on settling delinquent federal and state taxes.

The law will:

- clarify that the federal government is not a debt services provider;
- provide that any legal action taken by a creditor or a debtor has to take place in Minnesota; and
- add to the definition of creditor to include a government entity and adding to the definition settlement services to include settling a tax debt.

HF2641/SF2869\*/CH100

## HEALTH

### **Health care waiting room TVs must provide closed captioning**

Those who are deaf or hard of hearing often rely on closed captioning to follow television programming, but the feature isn't always activated on televisions in public places.

This will change in health care facility waiting rooms under a new law sponsored by Rep. Brian Daniels (R-Faribault) and Sen. Alice Johnson (DFL-Blaine).

Licensed health care facilities will be required to have the closed captioning feature activated on any television in a waiting room provided for patients or the general public.

The law also requires health care facility staff to make "reasonable efforts" to prevent members of the public or patients from deactivating the captioning feature on waiting room televisions, and to reactivate it as soon as possible if it is deactivated.

HF2742/SF2603\*/CH150

### **90-day supply of prescription drugs allowed in certain situations**

Sponsored by Rep. Roz Peterson (R-Lakeville) and Sen. Julie Rosen (R-Vernon Center), a new law will allow a pharmacist to issue up to a 90-day supply of a prescription drug to a patient who already completed an initial 30-day supply. Previously, the pharmacist was only allowed to have the supply extended subject to authorization by the physician who issued the prescription.

The additional supply will be based on the pharmacist's best judgment and cannot exceed the total quantity of remaining refills nor the limit on the number of dosages specified in the prescription.

The option will not be applicable to any prescription that is a controlled substance.

HF2512/SF2548\*/CH122

### **Patient allowed to designate caregiver for recovery**

Patients will be given an opportunity to designate a caregiver of their choice for recovery after a hospital stay.

Sponsored by Rep. Nick Zerwas (R-Elk River) and Sen. Kent Eken (DFL-Twin Valley), the law will require hospitals to provide a patient, or an agent for an incapacitated patient, the option to designate a caregiver to provide aftercare assistance at the patient's residence following their hospital discharge.

The hospital will be required to provide the option within 24 hours of patient admittance, but before the patient is discharged or referred to another hospital. The hospital must inform the caregiver of the patient's discharge or transfer.

Patients will be able to revoke or change their designation or initially waive the option, and the caregiver will not be obligated to provide care and could choose to decline the designation.

HF210/SF107\*/CH103

## **LOCAL GOVERNMENT**

### **Donations of surplus equipment to be aided by new law**

Sponsored by Rep. Carolyn Laine (DFL-Columbia Heights) and Sen. Barb Goodwin (DFL-Columbia Heights), a new law adds surplus equipment donations to the list of exceptions to municipal tort liability.

The law will permit local units of government to donate to nonprofit organizations equipment used by their public works department, cell phones or emergency medical and firefighting equipment that is no longer needed because it doesn't meet industry standards or has little resale value.

HF1003\*/SF1416/CH87

## **PUBLIC SAFETY**

### **Drug sentencing guidelines will increase some penalties, lessen others**

The first major changes to the state's drug sentencing guidelines in nearly 30 years are expected to ensure that drug dealers motivated by profit will spend significant time in prison, while addicts who may be more amenable to treatment or probation are not sentenced to serve time.

Sponsored by Rep. Tony Cornish (R-Vernon Center) and Sen. Ron Latz (DFL-St. Louis Park), the law is an agreement between various groups involved in the criminal justice system. First-degree controlled substance crimes will be changed in the following ways:

- a new aggravated first-degree crime aimed at drug kingpins means a non-waivable mandatory minimum 86-month prison sentence for specified violations of first-degree sales or possession laws involving a large amount of drugs, defined as 100 grams or 500 dosage units, if the offense involves a firearm or has two aggravating factors;
- offenders violating the new aggravated first-degree crime, but whose activity did not involve two aggravating factors or a firearm, would be subject to a mandatory minimum prison sentence of 65 months; however, that could be waived if the offender has not previously been convicted of a first-, second- or third-degree controlled substance crime;

- increasing the threshold for cocaine and methamphetamine from 10 to 17 grams for a first-degree controlled substance sales crime, except for offenses involving firearms or two aggravating factors, while lowering the marijuana threshold from 50 to 25 kilograms and eliminating language that provides for a lower threshold for marijuana offenses in certain locations; and
- for possession crimes, the law increases the threshold for cocaine and methamphetamine from 25 to 50 grams, except for offenses involving firearms or two aggravating factors, lowers the marijuana threshold from 100 to 50 kilograms and creates a new crime for possession of at least 500 marijuana plants.

For second-degree controlled substance crimes, the law:

- increases the cocaine or methamphetamine threshold from 3 to 10 grams for sales crimes, except for offenses with a firearm or three aggravating factors, and lowers the marijuana threshold from 25 to 10 kilograms; and
- increases the cocaine or methamphetamine threshold from 6 to 25 grams for possession crimes while providing a 10-gram threshold for offenses with a firearm or three aggravating factors, lowers the marijuana threshold from 50 to 25 kilograms and adds a crime for possession of 100 or more plants.

The law also:

- amends the definition of “subsequent controlled substance conviction” in controlled substance laws to limit the term to past violations of first- or second-degree controlled substance crimes, rather than all felony-level violations;
- adds a definition of “aggravating factor” to the state’s controlled substances laws;
- expands the state’s stay of adjudication law to make third-degree controlled substance crime possession offenders eligible, and makes the provision mandatory for fifth-degree possession offenders not previously convicted of a felony or fifth-degree gross misdemeanor controlled substance crime;
- makes violation of the state’s drug paraphernalia law a misdemeanor if an offender has violated it at least twice before (current law makes it a petty misdemeanor no matter the number of violations); and,
- county attorneys, except those in Hennepin and Ramsey counties, are given exclusive jurisdiction to prosecute new fifth-degree controlled substance gross misdemeanor trace amount crimes.

HF3983/SF3481\*/CH160

### **Bodily fluids crime against peace officer clarified by new law**

Sponsored by Rep. Tony Cornish (R-Vernon Center) and Sen. Ron Latz (DFL-St. Louis Park), current law will be expanded so that the transfer of bodily fluids onto an officer will result in a felony.

The updated law also removes limitations on when a peace officer is protected under the provisions of the statute. No longer will a peace officer need to be “effecting a lawful arrest or executing any other duty imposed by law” for the enhanced penalties to apply.

HF2652/SF2227\*/CH93

### **Data classification established for police ‘bodycams’**

A new law establishes data practices regulations governing portable recording devices that some police departments are using. It also establishes public access policies, data retention and destruction requirements, and provides violations and internal audit guidelines.

Sponsored by Rep. Tony Cornish (R-Vernon Center) and Sen. Ron Latz (DFL-St. Louis Park), the law clarifies what portable recording device data is available to the public, and what is considered private or nonpublic.

Most data will be considered private, except that related to an inactive criminal investigation which “documents a peace officer’s use of force that results in substantial bodily harm,” or “document the discharge of a firearm by a peace officer in the course of duty.” The data would be public if the subject of the data requests that it be made public, adhering to restrictions that allow other viewable subjects to be redacted if requested and practicable. A law enforcement agency can also redact portions of data if it

is deemed “clearly offensive to common sensibilities.” The identities and activities of off-duty officers engaged in an investigation or emergency may not be redacted.

Data will be retained according to the law enforcement agency’s retention schedule, provided that certain types of criminal investigative data must be kept for at least one year, and non-investigative data must be kept for at least 90 days.

Written procedures detailing public policy and inter-agency sharing must be established by each law enforcement agency using a body camera system.

HF430/SF498\*/CH171

### **Enhanced penalty for repeat drunken drivers who kill someone**

Drake Bigler was just 5 months old when he was killed in July 2012 after his family’s vehicle was hit by a drunken driver whose blood-alcohol level registered 0.351, more than four times the state’s legal limit.

Dana Schoen had two previous DWI convictions. He was sentenced to four years in prison.

Sponsored by Rep. Chris Swedzinski (R-Ghent) and Sen. Gary Dahms (R-Redwood Falls), the so-called “Drake’s Law” will increase the statutory maximum penalty from 10 years to 15 years imprisonment for any criminal vehicular homicide involving impairment or criminal vehicular operation if the offense is committed within 10 years of a qualified prior driving offense.

A prior offense is defined in the law as first- or second-degree DWI and criminal vehicular homicide or injury involving impairment.

HF71\*/SF82/CH109

### **Statute of limitations of certain identity theft crimes will increase**

For identity theft victims, it can take years to find out you’ve been targeted. By the time someone reports the criminal activity and a case is put together, the time to charge a perpetrator may have expired.

Sponsored by Rep. Nick Zerwas (R-Elk River) and Sen. Warren Limmer (R-Maple Grove), a new law will increase the statute of limitations for identity theft crimes from three years to five, if the illegal activity involves eight or more direct victims or a combined loss to all victims of at least \$35,000.

The law applies to crimes committed on or after Aug. 1, 2016; however, crimes committed before that date will be affected by the new law if the limitation period for the crime did not expire before that date.

HF3482\*/SF3122/CH121

### **Criminalizing private sexual image dissemination**

A new law will prohibit the unauthorized distribution of sexual images, including a photo, film, recording or video if both parties did not consent to dissemination and the image was obtained or created when a person had reasonable expectations of privacy. The law, which includes so-called “revenge porn,” will be primarily prosecuted as a gross misdemeanor; however, more serious action could result in felony charges.

The law is sponsored by Rep. John Lesch (DFL-St. Paul) and Sen. Barb Goodwin (DFL-Columbia Heights).

A cause of action is created in the law against someone who distributes a sexual images on behalf of someone else without their permission knowing it will cause the person whose personal information is used “to feel harassed, frightened, threatened, oppressed, persecuted, or intimidated.”

Damage awards can be awarded to a prevailing plaintiff, including for all financial losses due to dissemination of the material and mental anguish, an amount equal to any profit made by the disseminator, a civil penalty up to \$10,000 and court and attorney fees.

The law provides instances when a person may not be found liable for disseminating such images, including: for the purpose of a criminal investigation or prosecution; in the course of seeking or receiving medical or mental health treatment; the image refers to a matter of public interest; when it is

for legitimate scientific research or educational purposes; or the material was obtained in a commercial setting for the purpose of the legal sale of goods and services.

HF2741/SF2713\*/CH126

### **Penalty to increase for scene of death, body tampering**

Helping bring closure to families when they are grieving the most is a goal of a new law.

Sponsored by Rep. Paul Anderson (R-Starbuck) and Sen. Bill Ingebrigtsen (R-Alexandria), it will expand criminal penalties for interfering with a body or scene of death with intent to conceal the body, conceal evidence or otherwise mislead the coroner or medical examiner. A new three-year felony penalty will apply if the crime involves concealing a body.

An October 2015 incident was the impetus for the law change.

Laura Schwendemann and Nickolas McArdell were injecting methamphetamine before she died in his vehicle. Telling police later that he was scared of what would happen, McArdell dumped Schwendemann's body 18 rows into a cornfield where it was found nearly two weeks later by a farmer running a combine.

After dumping the body, McArdell returned to his dealer for more methamphetamine and took Schwendemann's belongings to her family, saying he did not know where she was.

HF3469\*/SF3213/CH175

## **TRANSPORTATION**

### **Driving instructor background checks to be streamlined**

A new law will streamline the process of conducting background checks on potential driving instructors.

Provisions in the law include:

- directing the superintendent of the Bureau of Criminal Apprehension to perform the checks, including sharing fingerprint information with the FBI;
- permitting the issuance of a temporary 180-day license if the applicant provides an affidavit that attests they have no past convictions along with background checks from all states in which they have resided;
- permitting the reissuance of a temporary license if there is a delay in receiving national background check results; and permitting subsequent background checks of existing license holders.

Rep. Chad Anderson (R-Bloomington) and Sen. Susan Kent (DFL-Woodbury) sponsor the law.

HF3175\*/SF3140/CH113