



Minnesota House of Representatives

New Laws Effective July 1, 2004

Editor's Note: The following is a listing of selected new laws that take effect July 1, 2004. These are laws passed during the 2004 Legislative Session. A complete summary of all laws passed by the 2004 Legislature is expected to be available online in August from the House Public Information Services Office (Follow the 2004 New Laws link at <http://www.house.mn>).

AGRICULTURE

Focusing on farming

A new omnibus agriculture policy law aims to make farm loan programs more accessible, protect the state's livestock industry, boost dairy farmers' abilities to upgrade facilities, and bring grain transactions into the 21st century.

Though effective dates vary, electronic documents and signatures will be an approved part of grain transactions. Effective July 1, 2004, the definition for electronic signatures on grain purchase contracts and voluntary extension of credit contracts "means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record."

Rep. Howard Swenson (R-Nicollet) and Sen. Jim Vickerman (DFL-Tracy) sponsored the legislation.
HF2461/SF2428*/CH254

BUSINESS

Business filings modernized

A new law makes a number of changes to the way the business services division in the Office of the Secretary of State records limited partnership filings and other types of corporate and nonprofit entities, and it directs \$75,000 from the state's general fund to the office to pay for the reforms. Proponents described the changes as a way to modernize state laws governing corporations and nonprofits. Changes include provisions governing the certificates of limited partnership, general partners, contributions and distributions in regard to partners, rights of transferees, and creditors. Special rules governing foreign limited partnerships are also changed, under the new law.

Sponsored by Rep. Eric Lipman (R-Lake Elmo) and Sen. John Hottinger (DFL-St. Peter), the law has various effective dates. Effective July 1, 2004, a number of filing fees are increased, including:

- Limited partnership filing fee: from \$100 to \$200;
- Amended certificate of limited partnership filing fee: from \$50 to \$100; and
- Certificate requesting authority to transact business in Minnesota as a foreign limited partnership: from \$85 to \$200.

The fee increases expire June 30, 2005.

HF1824/SF1803*/CH199

CONSUMERS

Foreclosure consultant penalties

Scam artists convicted of preying on people threatened with home foreclosure will face stiff fines and a prison sentence, under a new law.

The law regulates foreclosure consultants and foreclosure purchasers, as well as provides remedies for homeowners. Most provisions are effective Aug. 1, 2004, but effective July 1, 2004, the law permits money in the Affordable Rental Investment Fund to be used "to finance the acquisition, rehabilitation, and debt restructuring of existing supportive housing properties." Supportive housing, according to the law, "means affordable rental housing

with linkages to services necessary for individuals, youth, and families with children to maintain housing stability.”

Rep. Andrew Westerberg (R-Blaine) and Sen. Ellen Anderson (DFL-St. Paul) sponsored the law.

HF2095*/SF2412/CH263

Managing Ma Bell and company

A new law bundles consumer protection initiatives and industry regulatory reforms into what the House sponsor, Rep. Torrey Westrom (R-Elbow Lake), has described as a sign of things to come in the area of telecommunications regulation.

Though effective dates vary, a consumer protection provision effective July 1, 2004, will require wireless telecommunications service providers to notify customers 30 days in advance of any substantive changes to their contract that would increase charges. This provision applies to any contracts entered into on or after May 1, 2004, and it has a sunset date of Aug. 1, 2007, in order to give regulators and the industry an opportunity to examine whether the requirements are effective or cumbersome.

Sen. Steve Kelley (DFL-Hopkins) also sponsored the legislation.

HF2151*/SF2774/CH261

Utility subsidies, wind generators

A new law aims to direct low-income electric rate discounts toward the neediest households and lighten reporting requirements for smaller utilities.

The new law specifies that utility affordability programs “must be designed to target participating customers with the lowest incomes and highest energy costs in order to lower the percentage of income they devote to energy bills, increase their payments, and lower costs associated with collection activities on their accounts.”

“Low income” describes a customer who is receiving assistance from the federal low-income home energy assistance program.

Under this provision, effective July 1, 2004, the program must include a 50 percent electric rate discount on the first 300 kilowatt hours consumed in a billing period for low-income customers who are age 62 or older or disabled.

Rep. Torrey Westrom (R-Elbow Lake) and Sen. Ellen Anderson (DFL-St. Paul) sponsored the legislation.

HF1830/SF1753*/CH216

EDUCATION

K-12 provisions

A new law contains a number of K-12 education policy stipulations effective July 1, 2004.

Students will be permitted to use prescription non-syringe injectors of epinephrine with parental permission, proper labeling of the injectors, and a health professional’s assessment that the student can safely possess and use the injector. Epinephrine is a form of adrenaline that relieves temporary shortness of breath, chest tightness, and wheezing due to bronchial asthma. It reverses the symptoms of an anaphylactic reaction, which can be caused by food, insect stings, medication, or latex.

School board members who also are employed by the district may earn a maximum \$8,000 per fiscal year, up from \$5,000. The provision is aimed at helping rural areas where, for example, a retired teacher could be a school board member and still be employed by the district as a substitute teacher, substitute bus driver, part-time library aide, or part-time coach.

State law is amended so that school safety patrol members are authorized to wear fluorescent yellow, fluorescent yellow-green, or blaze orange vests, sashes or ponchos. School safety patrol flags can be either blaze orange with a yellow octagon saying “STOP” in black letters or fluorescent yellow or yellow-green with an octagon of sharply contrasting color saying “STOP” in black letters. The color change has been going on for a few years to match roadside school zone signs, and national safety studies have said the bright yellow-green is easier for drivers to see.

Rep. Alice Seagren (R-Bloomington) and Sen. Steve Kelley (DFL-Hopkins) sponsored the measure.

HF1793*/SF1774/CH294

ELECTIONS

Campaign concerns

Complaints filed regarding violations of the state’s Fair Campaign Practices Act and of campaign finance reporting requirements in local elections will be handled by a different entity, under a new law effective July 1, 2004. The new law aims to speed up the process and give county attorneys more time to respond to the most urgent concerns, according to proponents.

Sponsored by Rep. Doug Meslow (R-White Bear Lake) and Sen. Linda Higgins (DFL-Mpls), the law repeals

the mandate that county attorneys investigate every complaint filed, and instead turns over duties to the Office of Administrative Hearings.

Upon review of a complaint, an administrative law judge must make one of the following determinations: the complaint is frivolous, or there is no probable cause to believe that the violation of law alleged in the complaint has occurred and dismiss the complaint, or there is probable cause to believe the violation of law alleged in the complaint has occurred and the judge must schedule a hearing.

The new law requires the administrative law judge panel to dispose of a complaint within 14 days upon a hearing.

HF2058/SF1907*/CH277

ENVIRONMENT

DNR provisions potpourri

A new law that started its legislative lifecycle as a Department of Natural Resources housekeeping bill ended up carrying one of the more high profile environmental issues of the legislative session: an easing of restrictions on wetlands travel for off-highway vehicles. Most provisions are effective July 1, 2004.

The new law removes restrictions put in place by the 2003 Legislature against riding on types 3, 4, 5, and 8 wetlands, with certain caveats. Under the new law, a person may not operate the vehicles in a manner to: "indicate a willful, wanton, or reckless disregard for the safety of persons or property" or "carelessly upset the natural and ecological balance of a wetland or public waters wetland."

The restrictions against all-terrain vehicle use in state parks, scientific and natural areas, and wildlife management areas remain, with the addition of calcareous fens to the forbidden areas, but the new law grants the department authority to issue up to a 10-year permit to exempt private landowners or leaseholders from the restrictions when the only reasonable access to their property is across state land.

The new law specifies a number of changes to department accounting procedures.

It also will provide free public parking for a rest area at Tettegouche State Park along the North Shore's Highway 61 and a part of the Red River State Recreation Area in East Grand Forks.

Another provision grants the department authority to refund license fees to the families of hunters and anglers who die or to those who get called to active military service before they can enjoy the open season.

Among the other department activities covered in the new law are electronic licensing, snowmobile safety training, and youth snowmobile rider supervision.

Rep. Dennis Ozment (R-Rosemount) and Sen. John Marty (DFL-Roseville) sponsored the law.

HF2212*/SF2216/CH255

Land swaps and sales

A new law provides for a number of publicly owned land transactions and modifies some of the guidelines governing those deals.

Though effective dates vary, as of July 1, 2004, legislative approval of land deals is granted in the following designated areas.

Additions to state-managed areas:

- Beltrami Island State Forest, Lee Wildlife Management Area, Red Lake Wildlife Management Area, and Saw-Whet Wildlife Management Area, all in Beltrami County;
- Crow Wing State Park in Cass, Crow Wing, and Morrison counties;
- George H. Crosby Manitou State Park in Lake County;
- Itasca State Park in Becker, Clearwater, and Hubbard counties;
- Maplewood State Park in Otter Tail County; and
- Monson Lake State Park in Swift County

Deletions from state forests:

- Foot Hills State Forest in Cass County;
- George Washington State Forest in Itasca County;
- Paul Bunyan State Forest in Hubbard County; and
- Mississippi Recreational River Land Use District in Wright County.

Another provision will require county approval before the department creates a scientific and natural area.

Rep. Larry Howes (R-Walker) and Sen. Tom Saxhaug (DFL-Grand Rapids) sponsored the legislation.

HF2334*/SF2204/CH262

Selling state timber

A new law, effective July 1, 2004, will modify state timber sales in order to fulfill some recommendations from the governor's task force on Minnesota's forest industry competitiveness.

Sponsored by Rep. Doug Lindgren (R-Bagley) and Sen. Tom Saxhaug (DFL-Grand Rapids), the new law will create a forest management investment fund in the state treasury. Timber sale receipts from certain lands administered by the Department of Natural Resources Division of Forestry will be earmarked for the fund and rededicated to forestry efforts.

Proponents said the fund would provide a minimal level of stability for funding basic forest management and allow the department to carry balances between legislative funding cycles, which are helpful due to the seasonal nature of the activities.

HF2383*/SF2583/CH241

FAMILY

Educating parents

Divorcing parents will be required to participate in a minimum number of parent education programs, under a new law.

Effective July 1, 2004, divorcing couples who are disputing child custody will be required to attend at least eight hours of parenting classes within 30 days after the first filing of any plea in their divorce. Under previous practice, divorcing parents contesting child custody matters were required to attend between four and eight hours of classes.

The goal is to get parents involved in parenting education as soon as possible during divorce proceedings. The classes are designed to help couples learn skills, such as communication, cooperation, and conflict resolution, that had they known earlier might have saved their marriage. Additionally, it is hoped that this will spare children as much anguish and emotional trauma as possible and not drag them into the dispute. Judges will still be permitted to excuse individuals from taking the classes.

The law also provides for the creation of the Minnesota Healthy Marriage and Responsible Fatherhood Initiative. According to the law, it is designed to "develop a community-based collaborative project that will test and evaluate a comprehensive strategy for promoting marriage and responsible fatherhood among unmarried urban parents who are expecting or have recently had a child."

The law appropriates \$100,000 from the general fund to the Department of Human Services for the initiative. The money will be repaid from a \$5 increase in the marriage license fee.

Rep. Elaine Harder (R-Jackson) and Sen. Steve Dille (R-Dassel) sponsored the law.

HF2642*/SF1846/CH273

GAMBLING

Charitable provisions

A new law makes several changes to charitable gambling. Most provisions took effect May 1, 2004, but a modification to cash shortages reporting takes effect July 1, 2004.

Under the new law, gambling organizations may not report to the Gambling Control Board as an allowable expense cash shortages in any fiscal year that exceed three-tenths of 1 percent of the gross receipts from lawful gambling. Previous law allowed for four-tenths of 1 percent.

According to the board, cash shortages are the difference between net receipts for a bingo occasion, raffle, or deal of tip boards, pull-tabs, or paddlewheels and the actual cash on hand deposited by an organization for that game.

Rep. Carl Jacobson (R-Vadnais Heights) and Sen. Jim Vickerman (DFL-Tracy) sponsored the law.

HF2521*/SF2435/CH172

GOVERNMENT

Department of Commerce duties

Effective July 1, 2004, a new law transfers duties of the statewide auto theft prevention program currently in the Department of Public Safety to the Department of Commerce. It also transfers the regulation of cosmetology to the Board of Barber Examiners, renames it the Board of Barber and Cosmetologist Examiners, and directs \$572,000 from the general fund to the board for the fiscal year ending June 30, 2005.

Sponsored by Rep. Gregory Davids (R-Preston) and Sen. Linda Scheid (DFL-Brooklyn Park), the provisions are contained in a package that establishes the funding mechanisms for a Division of Insurance Fraud Prevention in the Commerce Department.

HF2640*/SF2607/CH269

Claims against the state

A new law effective July 1, 2004, authorizes payment of \$107,297 to settle 10 claims against the state.

Each year, a joint House-Senate Subcommittee on Claims meets to determine which petitions will be funded. All state agencies are eligible to receive funding to cover the claims.

Sponsored by Rep. Bruce Anderson (R-Buffalo Township) and Sen. Wesley Skoglund (DFL-Mpls), the new law directs \$67,825 to the corrections commissioner for the payment or reimbursement for eight claims of prisoner injuries that occurred while performing community service or sentencing-to-service work. Another \$39,472 would be paid by the Department of Natural Resources for two claims, including revenue loss from a moratorium on raising sunken logs from lake bottoms and reimbursement of fines paid during the settlement of a land dispute.

As he did last year, Gov. Tim Pawlenty line-item vetoed a \$27,000 appropriation to the Bode family in Nicollet. The family and the Natural Resources Department have been at odds for more than 20 years, and the department has twice removed a drain tiling system in a dispute over a wetlands designation on the family farm.

The family installed the tile to drain the wetland after a local panel heard the case and ruled that the land did not qualify as a wetland. The department contested that the owners didn't have the right to tile. Ultimately, the Minnesota Supreme Court ruled that the area in dispute is a wetland.

"The legal claims regarding the designation of the Bode's land as a public wetland are final court orders," the governor's veto message states. "Allowing one claimant a special privilege to circumvent the results of final court decisions sets a dangerous precedent."

HF2255*/SF2038/CH271

HEALTH

Drug rebates, kickbacks

The 2003 Legislature passed a law that permitted individuals to access prescription drug assistance programs offered by pharmaceutical companies, which has resulted in many people being able to better obtain prescription drugs. However, one or two pharmaceutical companies have blocked access to discounts or other reductions in price, such as rebates, claiming something in state law prevents access.

Current law grants the Health Department rulemaking authority to restrict financial relationships involving health care providers under which a person benefits financially by furnishing a service or item.

Effective July 1, 2004, a new law says there is nothing in state law that would prevent access to a pharmaceutical company drug assistance program, provided the discount or price reduction is provided in connection with the purchase of the drug or equipment prescribed; it complies with state and federal requirements applicable to state and federal public health care plan enrollees; the discount does not exceed the amount paid directly by the individual; and the supply or samples are provided by a physician or pharmacist, as provided by the federal Prescription Drug Marketing Act.

The new law also deals with kickbacks for prescription drugs. Under the new language, "No benefit, reward, remuneration, or incentive for continued product use may be provided to an individual or an individual's family by a pharmaceutical manufacturer, medical supply or device manufacturer, or pharmacy benefit manager." Exceptions include ancillary products necessary for the treatment of the medical condition, for which the drug or equipment was supplied, and "a trinket or memento of insignificant value."

Rep. Fran Bradley (R-Rochester) and Sen. Sheila Kiscaden (IP-Rochester) sponsored the law.

HF2207*/SF2150/CH280

Provider contracting

A new law, some of which is effective July 1, 2004, will set requirements for contracting between health plan companies and health care providers, modify prior authorization procedures, and expand the provision regulating shadow contracting.

Under the new law, if prior authorization for a health care service is required, health plan companies and claims administrators must allow providers to submit requests for prior authorization without unreasonable delay 24 hours a day, seven days a week.

Rep. Steve Smith (R-Mound) and Sen. Dallas Sams (DFL-Staples) sponsored the legislation.

HF606*/SF394/CH246

Hospital construction

A new law adds to the list of hospital construction moratorium exceptions.

Rep. Loren Solberg (DFL-Grand Rapids), who sponsored the law with Sen. Tom Saxhaug (DFL-Grand Rapids), said the Itasca County Hospital requested an exception to the moratorium to add 14 beds that would be used for rehabilitation services.

A construction moratorium was imposed by the state several years ago to help control health care costs, but 16 other exemptions had previously been enacted in law.

As modified by a separate new law (HF2970/SF2869*/CH236), the effective date of the exceptions is July 1, 2004. HF1896/SF1716*/CH187

HUMAN SERVICES

Licensing, other provisions

A new law makes a variety of technical and substantive changes to Department of Human Services licensing and policy provisions, and provides for modifications in the areas of corrections, child care, long-term care, and health care costs.

The law includes more than two dozen other bills that were introduced in the House.

Among the topics addressed are: adult foster care licensure, disease management, nursing facility rate adjustment, electronic record keeping, fetal alcohol syndrome, at-home infant care, military child care, foster adoptive care, lead paint study, cleft palate language, ovarian cancer screening, creation of a birth defects information system, and pool depths.

Provisions effective July 1, 2004, include the following:

Child care

- The law allows families in which a parent provides care for the family's infant under age 1 to receive a subsidy in lieu of assistance if the family is eligible for or is receiving assistance under the Basic Sliding Fee program. A family is limited to a lifetime total of 12 months under the program, and a maximum rate of assistance is provided.

Long-term care

- For rate years beginning on or after July 1, 2004, nursing facilities located in areas designated to be metropolitan areas by the federal Office of Management and Budget will be considered metro in order to determine rate increases and to establish facility reimbursement rates for the nursing facility reimbursement system that was updated by the 2002 Legislature. This section applies only if the new designation results in a higher level of facility reimbursement.

Health care

- On July 1 each fiscal year, beginning in 2004, a portion of general fund dollars allocated to the health commissioner for fetal alcohol spectrum disorder administration and grants must be transferred to a statewide organization that focuses on prevention of, and intervention with, the disorder. The amounts are \$340,000 in 2004, \$990,049 in 2005, and \$1.19 million annually thereafter. The organization must report to the commissioner by Jan. 15 of each year on the services and programs funded by the appropriation.

Miscellaneous

- Case management services may continue to be provided for someone with a serious emotional disturbance who is over the age of 18, effective July 1, 2004. By law, a county shall provide case management services for children with a severe emotional disturbance upon request or consent of the family. Rep. Jim Abeler (R-Anoka) and Sen. Sheila Kiscaden (IP-Rochester) sponsored the law. HF2277*/SF2179/CH288

HUMANITIES

Meeting electronically

Beginning July 1, 2004, the Minnesota State Council on Disability can meet by telephone or other electronic means under specific conditions.

Sponsored by Rep. Fran Bradley (R-Rochester) and Sen. Linda Higgins (DFL-Mpls), the law is in response to

a logistics issue. There have been times where it has been hard for the sufficient number of members to attend the meeting in order to achieve a quorum. Under the law, there are still many rules that must be followed to ensure public access.

HF2691*/SF2639/CH195

MILITARY

Schooling changes

A new law transfers from the Education Department to the Department of Veterans Affairs the authority for certifying higher education programs for federal funding eligibility and administering the veterans training program.

Though the new law has various effective dates, the following provisions are effective July 1, 2004.

- Tuition and textbook reimbursement for soldiers is raised from 50 percent and 75 percent depending upon the institution attended, to up to 100 percent;
- Counties must reserve a family's position under the child care assistance fund if a family has been receiving child care assistance but is temporarily ineligible for assistance due to increased income from active military service;
- Employers are prohibited from asking applicants if they are members of the National Guard or reserves or requiring them to make an oral or written statement concerning their military status. The provision does not apply to public employers asking a question or requesting a statement for the purpose of determining whether a veterans preference applies;
- By Jan. 15, 2005, the veterans affairs commissioner is to provide to legislative committees with jurisdiction over veterans affairs the information needed to implement a Global War on Terrorism bonus; and
- School districts are required to pay a salary differential subject to certain limits to deployed military members and maintain health and dental benefits until the employee is covered by armed forces coverage.

Rep. Dean Urdahl (R-Grove City) and Sen. Jim Vickerman (DFL-Tracy) sponsored the law.

HF2166*/SF2260/CH256

TOURISM

Promoting Minnesota

A new office within the executive branch called Explore Minnesota Tourism is created, under a new law.

Tourism functions are currently administered within the Department of Employment and Economic Development, but the transfer of duties is designed to increase the awareness of tourism in Minnesota.

The move is projected to have no net fiscal impact to the state.

Rep. Gregory Davids (R-Preston), who sponsored the law with Sen. Thomas Bakk (DFL-Cook), said the current configuration no longer meets the needs of the industry.

Under the law, the governor will continue to appoint the director, as well as a 28-member council to oversee the tourism office.

Effective July 1, 2004, the law also permits the director to sell reports, publications, or related publicity or promotional material of the office.

HF2044/SF2009*/CH171