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Minnesota House of Representatives

Steve Sviggum, Speaker

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New Laws Effective Aug. 1, 2005

Editor's note: The following is a listing of selected new laws passed during the 2005 regular and special legislative sessions that take effect Aug. 1, 2005.

Sixty-one new laws in whole take effect on this date, together with provisions from a number of laws with various effective dates and omnibus finance and policy packages.

Beginning Aug. 1, 2005, the approximately 50,000 Minnesotans who earn minimum wage will receive a pay raise, smokers will be paying a so-called "health impact fee" on cigarettes and sex offenders and methamphetamine manufacturers will face stiffer sentences.

The state's new law (passed in 2004) lowering the blood-alcohol content threshold for which someone will be considered too drunk to drive takes effect Aug. 1, 2005. The law changes the level from 0.10 to 0.08. The 2004 provision allowing for the purging of qualifying DWI violations from the driving record has been superseded by a 2005 enactment that requires that all DWI revocations and convictions be kept on record "permanently" (in conformity to a federal licensing requirement). (See Omnibus Transportation Act, Laws 2005 1st Sp. Chap. 6, Art 3, Sec 68.)

Here, House Public Information Services presents highlights from select categories of those new laws.

For a complete summary of new laws, vetoed bills and proposals in limbo, House Information presents New Laws 2005 on the Web at www.house.mn/hinfo/NewLaws/NewLawsmain.asp

Children

Child welfare law changes made

A number of technical changes will be made in child welfare laws, under a new law effective Aug. 1, 2005.

The legislation, sponsored by Rep. Tim Wilkin (R-Eagan) and Sen. Becky Lourey (DFL-Kerrick), includes the governor's policy recommendations and changes requested by advocates.

Under alternative response for maltreatment of children, the law defines "family assessment" as a thorough assessment of child safety; it defines "investigation" as a way to gather facts about the child's safety and determine if protective services are needed; and it defines "substantial child endangerment" as an act that substantially endangers a child's well-being by a person responsible for a child's care.

The local welfare agency will decide whether to conduct an assessment or an investigation after receiving a report; it is compelled to do an investigation if there is "substantial risk" to the child's safety. Family assessments must be completed in 45 days, and tribal social services agencies are added to the definition of "local agency."

Under adoptions and custody issues, the law requires the human services commissioner to maintain a permanent record of all adoptions granted in district court; social service agencies must make "reasonable" efforts to develop a permanency plan for a child in their care; and if a parent flagrantly abuses or abandons a child, or has had rights to another child terminated, a termination of parental rights petition must be filed by the Department of Human Services.

In addition, the responsible social services agency or the court must assume immediate custody of a child

when it is “contrary to the interest of the child to remain in the care of a parent or guardian.”
HF1889*/SF1710/CH159

Crime

Fighting sex offenders and methamphetamine

An omnibus public safety law contains life sentences with no possibility of release for the “worst of the worst” sex offenders and efforts to curtail the state’s methamphetamine epidemic.

Rep. Steve Smith (R-Mound) and Sen. Jane B. Ranum (DFL-Mpls) sponsored the law, the following provisions of which take effect Aug. 1, 2005.

HF1*/SF609/CH136

Focus on sex offenders

Legislators want dangerous sex offenders, like the one who allegedly abducted and killed college student Dru Sjodin, in prison forever.

First- and second-degree criminal sexual offenders will face life in prison without the possibility of release when their crimes involve force, violence or a dangerous weapon, and either two or more heinous elements exists or the offender has a previous sex offense conviction and one heinous element exists. (Art. 2, Sec. 21)

Also, the law creates a new crime known as “criminal sexual predatory conduct” that applies when an offender commits a predatory crime motivated by sexual impulses or as part of a predatory pattern of behavior with criminal sexual conduct as its goal. The statutory maximum sentence for this offense is 25 percent longer than for the underlying predatory crime. (Art. 2, Sec. 20)

Other sex offenders could be given indeterminate sentences with the possibility of being on supervised release after serving the minimum sentence. Several factors must be considered when placing an offender on supervised release, including the possible risk to the community, progress in treatment, behavior while in prison, psychological evaluations, past criminal history and other relevant conduct of the offender. (Art. 2, Sec. 4)

Combating meth makers

A felony crime is established for stealing, purchasing or possessing anhydrous ammonia to be used in the manufacturing of methamphetamine. (Art. 7, Sec. 11)

Meth is added to the definition of narcotic drug, which gives law enforcement more options for charging defendants. (Art. 7, Sec. 2)

The law criminalizes meth-related activities that impact children and vulnerable adults and establishes a penalty of up to five years in prison and a \$10,000 fine. (Art. 7, Sec. 12)

New crimes

The law creates several new crimes and establishes their penalties.

For example, a crime of domestic assault by strangulation is added to the list of qualified domestic violence-related offenses. Enhanced penalties will apply to those who commit more than one qualified domestic assault within a certain time frame. (Art. 17, Sec. 8)

It will be a crime to knowingly provide false information to a police officer. The law also establishes a crime for falsely reporting police misconduct when a person knows the allegations are not true. (Art. 17, Sec. 30)

Anyone who interferes with ambulance service personnel providing emergency care will face the same penalties as those who obstruct peace officers and firefighters performing their duties. (Art. 17, Sec. 29)

People convicted of gasoline theft will face a 30-day suspension of their driver’s license. (Art. 17, Sec. 3)

It’s already a crime to flee from a police officer in a motor vehicle, it will also be a crime to flee in other ways to avoid arrest, detention, investigation, or to conceal or destroy potential evidence. (Art. 17, Sec. 28)

Identity theft is a growing concern and one way the Legislature responded was by establishing new crime of “phishing,” which is the electronic use of false pretense to obtain identifies through e-mail, Web sites or any other Internet communication. The crime carries a penalty of up to five years in prison and a \$10,000 fine. (Art. 17, Sec. 35)

The harassment and stalking crime is expanded to include monitoring with the use of technology. (Art. 17, Sec. 46)

Education

Contracts for coaches

Within the new omnibus education law, sponsored by Rep. Barb Sykora (R-Excelsior) and Sen. LeRoy A. Stumpf (DFL-Plummer), is a provision that takes effect Aug. 1, 2005. As of that date, a varsity head coach whose contract is not renewed can request that the school board provide, in writing, reasons for the non-renewal. Upon request, the board must also give the coach an opportunity to respond to the reasoning at a board meeting. (Art. 2, Sec. 35)

2005 Special Session: HF141*/SF104/CH5

Employment

Pay increase on the way

The approximately 50,000 Minnesotans who earn minimum wage are going to receive a pay raise.

Effective Aug. 1, 2005, a new law requires employers with annual gross sales of at least \$625,000 to increase the minimum wage from \$5.15 an hour to \$6.15 an hour. Employers with annual gross sales less than \$625,000 will need to increase the minimum wage from \$4.90 an hour to \$5.25 an hour. Employers will be able to pay employees under 20 years of age \$4.90 an hour for the first 90 consecutive days of employment.

According to the U.S. Department of Labor, the federal minimum wage for covered, nonexempt employees is \$5.15 an hour.

The state's last minimum wage increase for employees of larger companies was Sept. 1, 1997, and Jan. 1, 1998, for employees of smaller companies.

Rep. Tom Rukavina (DFL-Virginia) and Sen. Ellen R. Anderson (DFL-St. Paul) sponsored the law.
HF48/SF3*/CH44

Migrant worker violations increased

Failure to pay migrant workers their required wages and benefits will cost employers more in penalties, under a new law.

The law will increase from \$250 to \$500 the penalty for employers who fail to comply with the terms of an employment statement provided to a migrant worker and with statutory requirements for the payment of migrant workers. The penalty will also apply to employers who fail to pay wages to migrant workers within the time period required by law, such as paychecks every two weeks.

Employers who fail to pay wages on time after employment is terminated will also face increased penalties. Current law requires a discharged employee who lives away from home to be paid within 24 hours, and makes employers who do not comply with this requirement liable for the employee's reasonable expenses for remaining away from home.

Under new law, if wages are not paid within two days of employment termination, the employer will have to pay the employee two times the average amount of his or her daily wage from the time of termination until payment has been made in full.

The timeframe for employers to provide benefits or wage supplements due to employees will be reduced. Formerly, employers would face a gross misdemeanor if they failed to provide the benefits within 60 days after they were due. The new law shortens the time period to 30 days.

Sponsored by Rep. Karen Clark (DFL-Mpls) and Sen. Ellen R. Anderson (DFL-St. Paul), the legislation is effective Aug. 1, 2005.

HF1914/SF1984*/CH127

Environment

Great horned owl protection clarified

A new law clarifies the protected status of great horned owls in Minnesota.

Currently, great horned owls appear on Minnesota's unprotected birds list, along with such avian cousins as sparrows, blackbirds and pigeons.

Great horned owls are, however, protected under the federal Migratory Bird Treaty Act.

Effective Aug. 1, 2005, the new law will remove the great horned owl from the state's unprotected bird list in an attempt to alleviate the confusion some conservation officers and others have had over the classification.

The new law also clarifies that a person who is authorized to take a great horned owl under a federal permit does not need a state permit, as well.

Rep. Ray Cox (R-Northfield) and Sen. Thomas M. Neuville (R-Northfield) sponsored the legislation. HF419*/SF628/CH104

Omnibus provisions

A new omnibus agriculture, environment and jobs and economic development law, sponsored by Rep. Dennis Ozment (R-Rosemount) and Sen. Thomas M. Bakk (DFL-Cook), has some Aug. 1, 2005, provisions.

Livestock siting provisions under the new law will place counties and townships on the same timeline for notifying the Pollution Control Agency and Agriculture Department of new or amended feedlot ordinances. (Art. 1, Sec. 90)

A township or county looking to adopt or revise feedlot ordinances would be required to prepare an economic impact statement at the request of its governing board.

The new law allows, under a Natural Resources Department forest classification process, state forest land north of U.S. Highway 2 to remain classified as managed for the purposes of off-highway vehicle use. Legislation in 2003 required the department to take an inventory of all state forests and by 2007 change their designation from managed, meaning trails are open unless posted closed, to limited, meaning trails are closed unless posted open. (Art. 2, Sec. 152)

And it directs the department to establish an off-highway vehicle safety and conservation grant program to encourage vehicle clubs to participate in safety and environmental training. (Art. 2, Sec. 28)

The law specifies that boat trailers could be subject to seizure and forfeiture by the department because of a DWI arrest. (Art. 2, Sec. 139)

Also, the Pollution Control Agency and Office of Environmental Assistance is merged into one department. The Pollution Control Agency name will be retained. (Art. 2, Sec. 160)

2005 Special Session: HF78/SF69*/CH1

Family

Birth certificates available for stillborns

Parents of stillborn children will be able to receive a birth certificate, under a new law.

Under former law, parents of stillborns in Minnesota could only receive a death certificate.

The law, effective Aug. 1, 2005, is intended to help families deal with the grief of losing an infant.

Sponsored by Rep. Karen Klinzing (R-Woodbury) and Sen. Ellen R. Anderson (DFL-St. Paul), it requires those responsible for filing a fetal death report to advise parents that they can request a record of birth, inform them the record is optional and explain how to obtain a record if they want one.

The state registrar is required to prepare and file, within 30 days, a record of birth if one is requested.

The law makes birth certificates for stillborns retroactive. A stillbirth that occurred in Minnesota at any time is eligible for a birth certificate by the parents submitting a written request to the state registrar on or after Aug. 1, 2005.

HF947*/SF1029/CH60

Health

Two high profile provisions take effect

An omnibus health and human services law (2005 Special Session: HF139*/SF107/CH3), sponsored by Rep. Fran Bradley (R-Rochester) and Sen. Linda Berglin (DFL-Mpls), contains a couple of high profile provisions that take effect Aug. 1, 2005:

- A controversial 75-cent per pack “health impact fee” on cigarettes will be imposed on tobacco distributors. The fee is expected to garner \$401 million in revenues that will be credited to a newly created health impact fund. According to the law, the purpose of the fee is to recover costs related to or caused by tobacco use and to reduce the use of tobacco, especially by youths. A stamp on the cigarette packs will show that the fee has been paid. (Art. 4, Secs. 1-6)

- The so-called “Unborn Child Pain Prevention Act” will require a physician or physician’s agent to inform a woman if an anesthetic would eliminate or alleviate pain to an unborn child caused by an abortion. The law would apply to abortions performed after 20 weeks gestational.

The physician will be required to administer or arrange to have the anesthetic or analgesic administered, if the woman consents. (Art. 6, Sec. 35)

Students can possess some medications

When headaches, menstrual cramps or other pains strike, secondary students will be able to take pills like Tylenol® or Motrin® on their own.

A new law, effective Aug. 1, 2005, allows older students to possess nonprescription pain relief drugs and use them according to label instructions without having to go to the nurse's office, as was previously required.

Parents or guardians will have to provide annual written authorization before their children will be able to take over-the-counter drugs on their own. The school district can revoke this privilege if a student abuses it.

Cold and allergy medications that contain ephedrine or pseudoephedrine, ingredients commonly used in the production of methamphetamine, are excluded from the provision.

Rep. Karen Klinzing (R-Woodbury) and Sen. Mady Reiter (R-Shoreview) sponsored the law.
HF615/SF232*/CH126

Death certificate request expanded

A new law will permit siblings to request a death certificate for a brother or sister.

Under previous law, the state or local registrar could only issue a certified birth or death record or a statement of no vital record found to a person who has a "tangible interest in the requested record," which was limited to the person of the vital record and their children, spouse, parent, grandparent or grandchild. The law does not address birth certificates.

Sponsored by Rep. Neva Walker (DFL-Mpls) and Sen. Linda Berglin (DFL-Mpls), the law is effective Aug 1, 2005.

HF1268/SF271*/CH23

Human Services

Law changes disabled terminology

A new law changes terms in state statute like "mental retardation," "mentally retarded" and "handicapped persons" to terminology more desirable to those with disabilities, such as "disabled persons."

The law, sponsored by Rep. Joe Opatz (DFL-St. Cloud) and Sen. Sheila M. Kiscaden (IP-Rochester), is effective Aug. 1, 2005.

The changes, of which there are nearly 400 in state law, would fall in line with a national campaign called "The People First," that advocates for changes in descriptions of disabled persons.

HF487*/SF525/CH56

Local Government

No rules against flag flying

People wanting to fly the American or state flag outside their common interest property, such as a town home, can do so without fear of violating homeowner association's covenants.

A new law, effective Aug. 1, 2005, makes unenforceable "any provision of any deed restriction, subdivision regulation, restrictive covenant, local ordinance, contract, rental agreement, or homeowners association document" that restricts the flying of the American or state flag.

The law, sponsored by Rep. Joe Mullery (DFL-Mpls) and Sen. Don Betzold (DFL-Fridley), does not prohibit an association from placing a size limitation on the flag to be flown, regulating where on the person's property it can be displayed and whether it can be illuminated.

A residential property owner or tenant who is denied the right to install a flag in compliance with association regulations and has to bring a lawsuit, may be entitled to recover reasonable attorney fees and expenses. However, if the flag is installed in violation of association restrictions or limitations, the party enforcing the restrictions is entitled to recover, from the party displaying the flag, reasonable attorney fees and expenses.

HF1473/SF1231*/CH168

Recreation

Camping allowed on state fairgrounds

Camping on the state fairgrounds will be preserved, under a new law.

Effective Aug. 1, 2005, the new law cements a compromise between the Department of Health and fair officials regarding space between campsites and public safety vehicle access.

Under the new law, the fair must operate a camping area on the fairgrounds. Camping will be allowed under the following conditions:

- RVs and tents must be separated from each other and from other structures by at least 7 feet,
- a minimum area of 300 square feet per site must be provided and the total number of sites must not exceed one site for every 300 square feet of usable land, and
- each site must face a driveway at least 16 feet in width with unobstructed access to a public roadway.

Furthermore, the new law clarifies that livestock and Midway exhibitors, who need to stay close to their operation, will be able to catch a few winks in their cars. During the state fair, a person may sleep in a vehicle in a designated fairground parking lot if they have a valid exhibitor parking permit.

Rep. Marty Seifert (R-Marshall) and Sen. Paul E. Koering (R-Fort Ripley) sponsored the legislation.
HF1104/SF1031*/CH15

Cave explorer responsibility

People that go rock-climbing or cave exploring on private property, even with the landowner's permission, will be held more responsible if there is an accident, under a new law.

Effective Aug. 1, 2005, the law adds rock climbing and cave exploration to the list of activities where a landowner making property available for recreational activities, without charge, has less responsibility to prevent individuals from harming themselves.

Rep. Gregory M. Davids (R-Preston) and Sen. Mady Reiter (R-Shoreview) are the sponsors.

Davids sponsored a similar law one year prior, but Gov. Tim Pawlenty vetoed the measure in the wake of the April 27, 2004, deaths of three teenagers from carbon monoxide poisoning in St. Paul caves near the Mississippi River. Pawlenty said at the time, "We've seen, first-hand, the dangers involved in cave exploration. This bill could decrease precautions to avoid tragedy in the future."

HF221*/SF196/CH148

Safety

Vehicle inspection quotas prohibited

Quotas for issuing traffic and vehicle inspection citations will further be prohibited, under a new law.

Effective Aug. 1, 2005, the new law expands current statute, which applies only to the Minnesota State Patrol. It prohibits law enforcement agencies, in addition to the state patrol, from requiring troopers, commercial vehicle inspectors or law enforcement representatives to issue a certain number of citations over any given period of time.

Rep. Tom Rukavina (DFL-Virginia) and Sen. David J. Tomassoni (DFL-Chisholm) sponsored the law.
HF998/SF1486*/CH46

Transportation

Notable provisions within the new omnibus transportation law that take effect Aug. 1, 2005, include:

- Fines for driving 20 mph or more over the posted speed limit will result in an additional surcharge of at least \$25;
- A person's driver's license will be immediately revoked for six months if the person drives in excess of 100 mph; and
- Motor vehicle registration and transfer fees are increased from \$4 to \$10.

Rep. Mary Liz Holberg (R-Lakeville) and Sen. Steve Murphy (DFL-Red Wing) sponsored the legislation.

2005 Special Session: HF140*/SF105/CH6