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HOUSE FILE No. 3550

FIRST COMMITTEE ENGROSSMENT

February 28, 2008

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The bill was read for the first time and referred to the Committee on Environment and Natural Resources

Referred by Chair to Game, Fish and Forestry Division.

March 5, 2008

Returned to the Committee on Environment and Natural Resources as Amended.

1.1 A bill for an act
1.2 relating to natural resources; providing for viral hemorrhagic septicemia control;
1.3 authorizing rulemaking; amending Minnesota Statutes 2006, sections 17.4985,
1.4 subdivisions 2, 3, 5; 17.4986, subdivisions 1, 2, 4; 17.4987; 17.4992, subdivision
1.5 2; 17.4993; 84D.03, subdivision 4; 97C.203; 97C.205; 97C.341; 97C.391, by
1.6 adding a subdivision; 97C.505, subdivision 1; 97C.515, subdivisions 2, 4, 5;
1.7 97C.821; repealing Minnesota Statutes 2006, section 97C.515, subdivision 3.

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

1.9 Section 1. Minnesota Statutes 2006, section 17.4985, subdivision 2, is amended to read:

1.10 Subd. 2. **Bill of lading.** (a) A state-issued bill of lading is required for:

1.11 (1) intrastate transportation of aquatic life other than salmonids ~~and~~ catfish, or
1.12 species on the official list of viral hemorrhagic septicemia susceptible species published by
1.13 the United States Department of Agriculture, Animal and Plant Health Inspection Services,
1.14 between licensed private fish hatcheries, aquatic farms, or aquarium facilities licensed for
1.15 the species being transported if the aquatic life is being transported into a watershed where
1.16 it is not currently present, if walleyes whose original source is south of marked State
1.17 Highway 210 are being transported to a facility north of marked State Highway 210, or if
1.18 the original source of the aquatic life is outside Minnesota and contiguous states; and

1.19 (2) stocking of waters other than public waters with aquatic life other than salmonids
1.20 ~~and~~ catfish, or species on the official list of viral hemorrhagic septicemia susceptible
1.21 species published by the United States Department of Agriculture, Animal and Plant
1.22 Health Inspection Services.

1.23 (b) When aquatic life is transported under paragraph (a), a copy of the bill of
1.24 lading must be submitted to the regional fisheries manager at least 72 hours before the
1.25 transportation.

2.1 (c) For transportation and stocking of waters that are not public waters:

2.2 (1) a bill of lading must be submitted to the regional fisheries manager 72 hours
2.3 before transporting fish for stocking;

2.4 (2) a bill of lading must be submitted to the regional fisheries manager within five
2.5 days after stocking if the waters to be stocked are confirmed by telecopy or telephone prior
2.6 to stocking by the regional fisheries office not to be public waters; or

2.7 (3) a completed bill of lading may be submitted to the regional fisheries office
2.8 by telecopy prior to transporting fish for stocking. Confirmation that the waters to be
2.9 stocked are not public waters may be made by returning the bill of lading by telecopy or
2.10 in writing, in which cases additional copies need not be submitted to the Department of
2.11 Natural Resources.

2.12 (d) Bill of lading forms may only be issued by the Department of Natural Resources
2.13 in St. Paul, and new bill of lading forms may not be issued until all previously issued
2.14 forms have been returned.

2.15 Sec. 2. Minnesota Statutes 2006, section 17.4985, subdivision 3, is amended to read:

2.16 Subd. 3. **Exemptions for transportation permits and bills of lading.** (a) A
2.17 state-issued bill of lading or transportation permit is not required by an aquatic farm
2.18 licensee for importation; of animals not on the official list of viral hemorrhagic septicemia
2.19 susceptible species published by the United States Department of Agriculture, Animal and
2.20 Plant Health Inspection Services; transportation; of animals not on the official list of viral
2.21 hemorrhagic septicemia susceptible species published by the United States Department of
2.22 Agriculture, Animal and Plant Health Inspection Services; or export for the following:

2.23 (1) minnows taken under an aquatic farm license in this state and transported
2.24 intrastate;

2.25 (2) aquarium or ornamental fish including goldfish and tropical, subtropical, and
2.26 saltwater species that cannot survive in the waters of the state, which may be imported or
2.27 transported if accompanied by shipping documents;

2.28 (3) fish or fish eggs that have been processed for use as food, bait, or other purposes
2.29 unrelated to fish propagation;

2.30 (4) live fish from a licensed aquatic farm, which may be transported directly to an
2.31 outlet for processing or for other food purposes if accompanied by shipping documents;

2.32 (5) fish being exported if accompanied by shipping documents;

2.33 (6) sucker eggs, sucker fry, or fathead minnows transported intrastate for bait
2.34 propagation or feeding of cultural aquatic life, except that if either species becomes listed
2.35 on the official list of viral hemorrhagic septicemia susceptible species published by the

3.1 United States Department of Agriculture, Animal and Plant Health Inspection Services,
3.2 then a transportation permit is required;

3.3 (7) species of fish that are found within the state used in connection with public
3.4 shows, exhibits, demonstrations, or fishing pools for periods not exceeding 14 days;

3.5 (8) fish being transported through the state if accompanied by shipping documents; or

3.6 (9) intrastate transportation of aquatic life between or within licensed private fish
3.7 hatcheries, aquatic farms, or aquarium facilities licensed for the species being transported,
3.8 except where required in subdivision 2 and except that salmonids ~~and~~, catfish, or species
3.9 on the official list of viral hemorrhagic septicemia susceptible species published by the
3.10 United States Department of Agriculture, Animal and Plant Health Inspection Services,
3.11 may only be transferred or transported intrastate without a transportation permit if they
3.12 had no record of bacterial kidney disease or viral hemorrhagic septicemia at the time
3.13 they were imported into the state and if they have had a fish health inspection within the
3.14 preceding year that has shown no certifiable diseases to be present.

3.15 Aquatic life being transferred between licensed private fish hatcheries, aquatic farms,
3.16 or aquarium facilities must be accompanied by shipping documents and salmonids ~~and~~,
3.17 catfish, or species on the official list of viral hemorrhagic septicemia susceptible species
3.18 published by the United States Department of Agriculture, Animal and Plant Health
3.19 Inspection Services, being transferred or transported intrastate without a transportation
3.20 permit must be accompanied by a copy of their most recent fish health inspection.

3.21 (b) Shipping documents required under paragraph (a) must show the place of origin,
3.22 owner or consignee, destination, number, and species.

3.23 Sec. 3. Minnesota Statutes 2006, section 17.4985, subdivision 5, is amended to read:

3.24 Subd. 5. **Permit application.** An application for a transportation permit must
3.25 be made on forms provided by the commissioner. An incomplete application must be
3.26 rejected. An application for a transportation permit for salmonids ~~and~~, catfish, or species
3.27 on the official list of viral hemorrhagic septicemia susceptible species published by the
3.28 United States Department of Agriculture, Animal and Plant Health Inspection Services,
3.29 their eggs, or sperm must be accompanied by certification that the source of the eggs or
3.30 sperm are free of certifiable diseases, except that eggs with enteric redmouth, whirling
3.31 disease, or furunculosis may be imported, transported, or stocked following treatment
3.32 approved by the commissioner, and fish with bacterial kidney disease or viral hemorrhagic
3.33 septicemia may be imported, transported, or stocked into areas where the disease has been
3.34 ~~previously introduced~~ identified as being present. A copy of the transportation permit
3.35 showing the date of certification inspection must accompany the shipment of fish while

4.1 in transit and must be available for inspection by the commissioner. By 14 days after a
4.2 completed application is received, the commissioner must approve or deny the importation
4.3 permits as provided in this section.

4.4 Sec. 4. Minnesota Statutes 2006, section 17.4986, subdivision 1, is amended to read:

4.5 Subdivision 1. **Importation and stocking restrictions.** A person may not import
4.6 fish into or stock fish in the state without first obtaining a transportation permit with a
4.7 disease certification, as prescribed under section 17.4985, subdivision 5, when required or
4.8 a bill of lading from the commissioner, unless the person is exempted.

4.9 Sec. 5. Minnesota Statutes 2006, section 17.4986, subdivision 2, is amended to read:

4.10 Subd. 2. **Licensed facilities.** (a) The commissioner shall issue transportation
4.11 permits to import:

4.12 (1) indigenous and naturalized species except trout, salmon, ~~and~~ catfish, or species
4.13 on the official list of viral hemorrhagic septicemia susceptible species published by the
4.14 United States Department of Agriculture, Animal and Plant Health Inspection Services,
4.15 and sperm from any source to a standard facility;

4.16 (2) trout, salmon, ~~and~~ catfish, or species on the official list of viral hemorrhagic
4.17 susceptible species published by the United States Department of Agriculture, Animal
4.18 and Plant Health Inspection Services, from a nonemergency enzootic disease area to a
4.19 containment facility if the fish are certified within the previous year to be free of certifiable
4.20 diseases, except that eggs with enteric redmouth, whirling disease, or furunculosis may
4.21 be imported following treatment approved by the commissioner, and fish with bacterial
4.22 kidney disease or viral hemorrhagic septicemia may be imported into areas where the
4.23 disease has been ~~previously introduced~~ identified as being present; and

4.24 (3) trout, salmon, ~~and~~ catfish, or species on the official list of viral hemorrhagic
4.25 septicemia susceptible species published by the United States Department of Agriculture,
4.26 Animal and Plant Health Inspection Services, from a facility in a nonemergency enzootic
4.27 disease area with a disease-free history of three years or more to a standard facility, except
4.28 that eggs with enteric redmouth, whirling disease, or furunculosis may be imported
4.29 following treatment approved by the commissioner, and fish with bacterial kidney disease
4.30 or viral hemorrhagic septicemia may be imported into areas where the disease has been
4.31 ~~previously introduced~~ identified as being present.

4.32 (b) If a source facility in a nonemergency enzootic disease area cannot demonstrate a
4.33 history free from disease, aquatic life may only be imported into a quarantine facility.

5.1 Sec. 6. Minnesota Statutes 2006, section 17.4986, subdivision 4, is amended to read:

5.2 Subd. 4. **Disease-free history.** Disease-free histories required under this section
5.3 must include the results of a fish health inspection. When disease-free histories of more
5.4 than one year are required for importing salmonids ~~or~~, catfish, or species on the official
5.5 list of viral hemorrhagic septicemia susceptible species published by the United States
5.6 Department of Agriculture, Animal and Plant Health Inspection Services, the disease
5.7 history must be of consecutive years that include the year previous to, or the year of,
5.8 the transportation request.

5.9 Sec. 7. Minnesota Statutes 2006, section 17.4987, is amended to read:

5.10 **17.4987 STOCKING PRIVATE AQUATIC LIFE.**

5.11 (a) A person may not release private aquatic life into public waters that are not
5.12 licensed as part of an aquatic farm without first obtaining a transportation permit from the
5.13 commissioner. The commissioner may:

5.14 (1) deny issuance of a permit if releasing the private aquatic life is not consistent
5.15 with the management plan for the public waters; and

5.16 (2) approve the import, transport, and stocking of fish with bacterial kidney disease
5.17 or viral hemorrhagic septicemia into areas or waters where either disease has been
5.18 identified as being present.

5.19 (b) The commissioner shall make management plans available to the public.

5.20 ~~(b)~~ (c) If a permit is denied, the commissioner must provide reasons for the denial
5.21 in writing.

5.22 Sec. 8. Minnesota Statutes 2006, section 17.4992, subdivision 2, is amended to read:

5.23 Subd. 2. **Restriction on the sale of ~~game~~ fish.** (a) Except as provided in paragraph
5.24 (b), species on the official list of viral hemorrhagic septicemia susceptible species
5.25 published by the United States Department of Agriculture, Animal and Plant Health
5.26 Inspection Services, must be free of viral hemorrhagic septicemia and species of the
5.27 family salmonidae or ictaluridae, except bullheads, must be free of certifiable diseases if
5.28 sold for stocking or transfer to another aquatic farm.

5.29 (b) The following exceptions apply to paragraph (a):

5.30 (1) eggs with enteric redmouth, whirling disease, or furunculosis may be transferred
5.31 between licensed facilities or stocked following treatment approved by the commissioner;

5.32 (2) fish with bacterial kidney disease or viral hemorrhagic septicemia may be
5.33 transferred between licensed facilities or stocked in areas where the disease has been
5.34 ~~previously introduced.~~ identified as being present; and

6.1 (3) the commissioner may allow transfer between licensed facilities or stocking of
6.2 fish with enteric redmouth or furunculosis when the commissioner determines that doing
6.3 so would pose no threat to the state's aquatic resources.

6.4 Sec. 9. Minnesota Statutes 2006, section 17.4993, is amended to read:

6.5 **17.4993 MINNOWS.**

6.6 Subdivision 1. **Taking from public waters.** (a) Under an aquatic farm license, a
6.7 licensee may take minnow sperm, minnow eggs, and live minnows for aquatic farm
6.8 purposes from public waters for aquatic farm purposes under an aquatic farm license,
6.9 except that have been tested for viral hemorrhagic septicemia when the testing indicates
6.10 the disease is not present.

6.11 (b) A licensee may take sucker eggs and sperm may only be taken in approved
6.12 waters with a sucker egg license endorsement as provided by section 17.4994.

6.13 Subd. 2. **Importation of live minnows.** Minnows from outside the state may not be
6.14 imported live by a licensee for purposes other than processing or feeding aquatic farm
6.15 fish. A transportation permit as prescribed under sections 17.4985, 17.4986, and 97C.515,
6.16 subdivision 4, is required for importation.

6.17 Sec. 10. Minnesota Statutes 2006, section 84D.03, subdivision 4, is amended to read:

6.18 Subd. 4. **Commercial fishing and turtle, frog, and crayfish harvesting**
6.19 **restrictions in infested and noninfested waters.** (a) All nets, traps, buoys, anchors,
6.20 stakes, and lines used for commercial fishing or turtle, frog, or crayfish harvesting in
6.21 an infested water that is designated because it contains invasive fish ~~or~~₂ invertebrates,
6.22 or certifiable diseases, as defined in chapter 17, may not be used in any other waters. If
6.23 a commercial licensee operates in both an infested water designated because it contains
6.24 invasive fish ~~or~~₂ invertebrates, or certifiable diseases, as defined in chapter 17, and other
6.25 waters, all nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or
6.26 turtle, frog, or crayfish harvesting in waters not designated as infested with invasive fish
6.27 ~~or~~₂ invertebrates, or certifiable diseases, as defined in chapter 17, must be tagged with tags
6.28 provided by the commissioner, as specified in the commercial licensee's license or permit,
6.29 and may not be used in infested waters designated because the waters contain invasive fish
6.30 ~~or~~₂ invertebrates, or certifiable diseases, as defined in chapter 17.

6.31 (b) All nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or
6.32 turtle, frog, or crayfish harvesting in an infested water that is designated solely because it
6.33 contains Eurasian water milfoil must be dried for a minimum of ten days or frozen for a
6.34 minimum of two days before they are used in any other waters, except as provided in this

7.1 paragraph. Commercial licensees must notify the department's regional or area fisheries
7.2 office or a conservation officer before removing nets or equipment from an infested water
7.3 designated solely because it contains Eurasian water milfoil and before resetting those
7.4 nets or equipment in any other waters. Upon notification, the commissioner may authorize
7.5 a commercial licensee to move nets or equipment to another water without freezing or
7.6 drying, if that water is designated as infested solely because it contains Eurasian water
7.7 milfoil.

7.8 (c) A commercial licensee must remove all aquatic macrophytes from nets and other
7.9 equipment when the nets and equipment are removed from waters of the state.

7.10 (d) The commissioner shall provide a commercial licensee with a current listing of
7.11 designated infested waters at the time that a license or permit is issued.

7.12 Sec. 11. Minnesota Statutes 2006, section 97C.203, is amended to read:

7.13 **97C.203 EXCHANGE OF FISH OR WILDLIFE RESOURCES; DISPOSAL**
7.14 **OF STATE HATCHERY PRODUCTS.**

7.15 (a) The commissioner shall dispose of fish hatchery products or exchange fish or
7.16 wildlife resources only after they have been tested for certifiable diseases, as defined
7.17 in chapter 17. The testing must have been completed within the 12 months preceding
7.18 the disposal or exchange. Fish or wildlife resources subject to an exchange must have
7.19 received a disease-free certification for those certifiable diseases not currently documented
7.20 in Minnesota. Disease certification must be provided prior to accepting the fish or wildlife
7.21 resource. When the fish or wildlife resource is not certified as disease-free, they may be
7.22 stocked or transferred only into waters that already contain that disease.

7.23 (b) State hatchery products shall be disposed of according to the following order of
7.24 priorities:

7.25 (1) distribution of fish eggs and fry to state hatcheries to hatch fry or raise fingerlings
7.26 for stocking waters of the state for recreational fishing;

7.27 (2) transfer to other government agencies in exchange for fish or wildlife resources
7.28 of equal value or private fish hatcheries in exchange for fish to be stocked in waters of
7.29 the state for recreational fishing;

7.30 (3) sale to private fish hatcheries or licensed aquatic farms at a price not less than the
7.31 fair wholesale market value, established as the average price charged at the state's private
7.32 hatcheries and contiguous states per volume rates;

7.33 (4) transfer to other government agencies, colleges, or universities for cooperative
7.34 fish management and research purposes; and

8.1 (5) sale of not more than \$25 fair market value to any school, museum, or
8.2 commercial enterprise for curriculum implementation, educational programs, public
8.3 exhibition, or cooperative displays.

8.4 Sec. 12. Minnesota Statutes 2006, section 97C.205, is amended to read:

8.5 **97C.205 TRANSPORTING AND STOCKING FISH.**

8.6 (a) Except on the water body where taken, a person may not transport a live fish in a
8.7 quantity of water sufficient to keep the fish alive, unless the fish:

8.8 (1) is being transported under an aquaculture license as authorized under sections
8.9 17.4985 and 17.4986;

8.10 (2) is being transported for a fishing contest weigh-in under section 97C.081;

8.11 (3) is a minnow being transported under section 97C.505 or 97C.515;

8.12 (4) is being transported by a commercial fishing license holder under section
8.13 97C.821; or

8.14 (5) is being transported as otherwise authorized in this section or as prescribed
8.15 for certifiable diseases under chapter 17.

8.16 (b) The commissioner may adopt rules to allow and regulate:

8.17 (1) the transportation of fish and fish eggs; and

8.18 (2) the stocking of waters with fish or fish eggs.

8.19 (c) The commissioner shall prescribe rules designed to encourage local sporting
8.20 organizations to propagate game fish by using rearing ponds. The rules must:

8.21 (1) prescribe methods to acquire brood stock for the ponds by seining public waters;

8.22 (2) allow the sporting organizations to own and use seines and other necessary
8.23 equipment; and

8.24 (3) prescribe methods for stocking the fish in public waters that give priority to the
8.25 needs of the community where the fish are reared and the desires of the organization
8.26 operating the rearing pond.

8.27 ~~(d) A person age 16 or under may, for purposes of display in a home aquarium,~~
8.28 ~~transport largemouth bass, smallmouth bass, yellow perch, rock bass, black crappie,~~
8.29 ~~white crappie, bluegill pumpkinseed, green sunfish, orange spotted sunfish, and black,~~
8.30 ~~yellow, and brown bullheads taken by angling. No more than four of each species may~~
8.31 ~~be transported at any one time, and any individual fish can be no longer than ten inches~~
8.32 ~~in total length.~~

8.33 Sec. 13. Minnesota Statutes 2006, section 97C.341, is amended to read:

8.34 **97C.341 CERTAIN FISH AQUATIC LIFE PROHIBITED FOR BAIT.**

9.1 (a) A person may not use live minnows imported from outside of the state, game
9.2 fish, goldfish, or carp for bait.

9.3 (b) A person may not import or possess live, frozen, or processed bait from known
9.4 waters where viral hemorrhagic septicemia has been identified as being present. For
9.5 purposes of this paragraph, "bait" includes fish, aquatic worms, amphibians, invertebrates,
9.6 and insects used for angling.

9.7 Sec. 14. Minnesota Statutes 2006, section 97C.391, is amended by adding a
9.8 subdivision to read:

9.9 Subd. 3. **Rules.** The commissioner may by rule establish reasonable conditions on
9.10 the buying and selling of fish that would prevent or slow the spread of certifiable diseases,
9.11 as defined in chapter 17, and invasive species.

9.12 Sec. 15. Minnesota Statutes 2006, section 97C.505, subdivision 1, is amended to read:

9.13 Subdivision 1. **Authority to take, possess, buy, and sell.** (a) Minnows may be
9.14 taken, possessed, bought, and sold, subject to the restrictions in this chapter, section
9.15 84D.03, subdivision 3, and in rules adopted by the commissioner under paragraph (b). A
9.16 person may not take, possess, or sell minnows except for use as bait or for ornamental
9.17 or aquacultural purposes.

9.18 (b) The commissioner may adopt rules for the taking, possession, purchase, sale,
9.19 and transportation of minnows.

9.20 Sec. 16. Minnesota Statutes 2006, section 97C.515, subdivision 2, is amended to read:

9.21 Subd. 2. **Permit for transportation.** (a) A person may transport minnows through
9.22 the state with a permit from the commissioner. The permit must state the name and
9.23 address of the person, the number and species of minnows, the point of entry into the
9.24 state, the destination, and the route through the state. The permit is not valid for more
9.25 than 12 hours after it is issued.

9.26 (b) The commissioner may require the person transporting minnow species found
9.27 on the official list of viral hemorrhagic septicemia susceptible species published by the
9.28 United States Department of Agriculture, Animal and Plant Health Inspection Services, to
9.29 provide health certification for viral hemorrhagic septicemia or other certifiable diseases,
9.30 as defined in chapter 17. For certifiable diseases not currently documented in Minnesota,
9.31 the certification must be dated within the 12 months preceding transport.

9.32 Sec. 17. Minnesota Statutes 2006, section 97C.515, subdivision 4, is amended to read:

10.1 Subd. 4. **Private fish hatchery or aquatic farm.** (a) A person with a private fish
10.2 hatchery or aquatic farm license may transport minnows with a transportation permit from
10.3 contiguous states to the private fish hatchery or aquatic farm, provided the minnows are
10.4 used for processing or feeding hatchery fish.

10.5 (b) The commissioner may require inspection of minnows and disease certification
10.6 for species on the official list of viral hemorrhagic septicemia susceptible species
10.7 published by the United States Department of Agriculture, Animal and Plant Health
10.8 Inspection Services, that are being transported from outside the state.

10.9 (c) The commissioner may approve the import of minnows into areas or waters
10.10 where certifiable diseases have been identified as being present.

10.11 Sec. 18. Minnesota Statutes 2006, section 97C.515, subdivision 5, is amended to read:

10.12 Subd. 5. **Special permits.** (a) The commissioner may issue a special permit, without
10.13 a fee, to allow a person with a private fish hatchery license to import minnows from
10.14 other states for export. A permit under this subdivision is not required for importation
10.15 authorized under subdivision 4.

10.16 (b) An applicant for a permit under this subdivision shall submit to the commissioner
10.17 sufficient information to identify potential threats to native plant and animal species and
10.18 an evaluation of the feasibility of the proposal. The permit may include reasonable
10.19 restrictions on importation, transportation, possession, containment, disease certification,
10.20 and disposal of minnows to ensure that native species are protected. The permit may
10.21 have a term of up to two years and may be modified, suspended, or revoked by the
10.22 commissioner for cause, including violation of a condition of the permit.

10.23 Sec. 19. Minnesota Statutes 2006, section 97C.821, is amended to read:

10.24 **97C.821 POSSESSION, SALE, AND TRANSPORTATION OF**
10.25 **COMMERCIAL FISH.**

10.26 Subject to the applicable provisions of the game and fish laws, fish taken under
10.27 commercial fishing licenses may be possessed in any quantity, bought, sold, and
10.28 transported at any time. Commercial fishing licensees may transport their catch live to
10.29 holding facilities, if the licensee has exclusive control of the facilities. Commercial fishing
10.30 licensees may harvest fish from their holding facilities at any time with their licensed gear.
10.31 The commissioner may prohibit the transport of live fish taken under a commercial fishing
10.32 license from waters that contain nonnative species, are designated as infested waters, or
10.33 are infected with any certifiable disease, as defined in chapter 17.

11.1 Sec. 20. **REPEALER.**

11.2 Minnesota Statutes 2006, section 97C.515, subdivision 3, is repealed.

11.3 Sec. 21. **EFFECTIVE DATE.**

11.4 Sections 1 to 20 are effective the day following final enactment.