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DATE: May 8, 2003

**PERSL #1378**

TO: Human Resource Directors/Designees

FROM: Cal R. Ludeman, Commissioner

RE: **State Employees and the Minnesota Citizens' Personal Protection Act of 2003**

The "Minnesota Citizens' Personal Protection Act of 2003" (often referred to as conceal and carry) modifies the granting of gun permits. It also significantly changes restrictions on the possession of firearms by permit holders, in ways which will affect state agencies and their employees.

Under the Act, the general rule is that a permit to carry is valid statewide. Permit holders may carry weapons anywhere in Minnesota at any time except as limited by the Act itself or by other state and federal laws. The Act expands existing restrictions regarding public and private elementary, middle and secondary schools and adds restrictions for licensed child care centers. House Research identified additional laws that ban or limit firearms in certain places even if the individual has a valid permit to carry. Those below may be applicable to particular state agencies:

- Firearms are prohibited in any state building within the Capitol area--other than the National Guard Armory--unless the permit holder has notified the Commissioner of Public Safety (M.S. 609.66, subd. 1g). "Capitol area" is as defined in M.S. 15.50, subd. 2. A map showing the boundaries is available on the Capitol Area Architectural and Planning Board's website.
- Without the consent of the chief executive officer, weapons of any kind are prohibited on the grounds belonging to or controlled by a correctional facility or state hospital (M.S. 243.55). As used in this law, state hospitals are only those state-operated facilities under the Commissioner of Human Services.
- Firearms are prohibited in a courthouse complex unless the permit holder has notified the sheriff (M.S. 609.66, subd. 1g).
- Federal law prohibits guns in federal courts and other federal facilities.

In addition to these limits based on location, the Act allows employers to place restrictions on their employees wherever and whenever they are acting in the course and scope of employment:

[EMPLOYERS; PUBLIC COLLEGES AND UNIVERSITIES.]

- (a) An employer, whether public or private, may establish policies that restrict the carry or possession of firearms by its employees while acting in the course and scope of employment. Employment related civil sanctions may be invoked for a violation.
- (b) A public postsecondary institution regulated under chapter 136F or 137 may establish policies that restrict the carry or possession of firearms by its students while on the institution's property. Academic sanctions may be invoked for a violation.
- (c) Notwithstanding paragraphs (a) and (b), an employer or a postsecondary institution may not prohibit the lawful carry or possession of firearms in a parking facility or parking area.

Note that you may restrict only your own employees. Except as provided by other law, public agencies cannot limit permit holders who are non-employees (e.g., contractors, vendors, clients, job applicants) even if the individuals are in your workplace, working on contract for your agency, obtaining services from your employees, etc. The Act allows private businesses to ban guns by meeting certain requirements such as posting notices. However, those provisions apply only to a "private establishment" which is defined as "a building, structure, or portion thereof that is owned, leased, controlled, or operated by a nongovernmental entity for a nongovernmental purpose."

The legislation passed on April 28 and most provisions regarding gun permits - including the employer language above - go into effect on May 28. Failure to establish policies restricting employees means that those who are permit holders may carry and possess firearms subject only to the limits provided by state and federal law. Therefore, agencies will want to have their policies in place prior to the effective date.

Each state agency should immediately review its Zero Tolerance of Violence policy and plans developed pursuant to M.S. 15.86 and any related policies to ensure consistency with the new law. These must clearly describe your agency's management policies restricting the possession of firearms by employees in the course of their state work. "Course and scope of employment" is not defined in the legislation but is a phrase used in other contexts such as workers' compensation. There it refers to an injury which takes place within the period of employment, at a place where the employee reasonably may be and while the employee is fulfilling his/her duties or engaged in doing something incidental to employment. With regard to policies on firearms possession, agencies should think more broadly than paid time employees spend at their desks.

You may also need to modify or add provisions to address the lawful carrying and possession of firearms in a parking area. With regard to employee permit holders, your management policy cannot be inconsistent with the language of (c) above unless a more restrictive law applies such as the ban on guns at correctional facilities and state hospitals.

Finally, whether your policies require revision or remain unchanged, be sure they are clearly communicated to current employees before May 28 and to new employees at the time of hire. I suggest you post your policy as appropriate. If requested, you should also provide a copy to exclusive representatives of your employees.

The full text of Chapter 28 (Senate File 842) is available on the legislative website at: <http://www.leg.state.mn.us/leg/legis.asp>. At the same site, House Research has posted its summary which includes further information on certain items. I encourage you to review these materials for other provisions that may affect your agency.

cc: Exclusive Representatives