

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 4588

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DATE
05/07/2020

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Introduction and first reading
Referred to Judiciary and Public Safety Finance and Policy

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to public safety; clarifying the penalties for violations related to Minnesota
1.3 Statutes, chapter 12; amending Minnesota Statutes 2018, section 12.45.

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

1.5 Section 1. **LEGISLATIVE FINDINGS AND PURPOSE.**

1.6 (a) Under Minnesota Statutes, section 609.095, the legislature has the exclusive authority
1.7 to define crimes and the range of sentences and punishments for their violation. A willful
1.8 violation of Minnesota Statutes, chapter 12, and associated rules and orders, is a misdemeanor
1.9 under Minnesota Statutes, section 12.45, unless a different penalty or punishment is
1.10 specifically prescribed. Accordingly, a violation is a misdemeanor unless another statute
1.11 provides a different penalty.

1.12 (b) Emergency Executive Order 20-33, signed by Governor Walz and filed on April 8,
1.13 2020, provides that it is a misdemeanor under Minnesota Statutes, section 12.45, for a worker
1.14 to willfully violate the order and a gross misdemeanor for a business owner, manager, or
1.15 supervisor to require or encourage an employee to violate the order. The gross misdemeanor
1.16 is predicated on the theory that Minnesota Statutes, section 12.45, authorizes the governor
1.17 to prescribe a different penalty from the misdemeanor.

1.18 (c) The governor's interpretation of Minnesota Statutes, section 12.45, is incorrect and
1.19 inconsistent with legislative intent and with a more measured reading of the law. In addition,
1.20 it is an infringement on the legislature's authority to define and prescribe the punishment
1.21 for a crime. Finally, the governor's interpretation is alarming because there would be no
1.22 limitation to the severity of the punishment that a governor could impose without any
1.23 legislative involvement.

2.1 (d) Therefore, this act amends Minnesota Statutes, section 12.45, to make it clear that
2.2 the applicable penalty is a misdemeanor unless a different penalty is specifically prescribed
2.3 in another statute and that the governor does not have the authority to unilaterally establish
2.4 a criminal penalty.

2.5 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.6 Sec. 2. Minnesota Statutes 2018, section 12.45, is amended to read:

2.7 **12.45 VIOLATIONS, PENALTIES.**

2.8 Unless a different penalty or punishment is specifically prescribed in statute, a person
2.9 who willfully violates a provision of this chapter or a rule or order having the force and
2.10 effect of law issued under authority of this chapter is guilty of a misdemeanor and upon
2.11 conviction must be punished by a fine not to exceed \$1,000, or by imprisonment for not
2.12 more than 90 days.

2.13 **EFFECTIVE DATE.** This section is effective the day following final enactment.