

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT Public Safety

Office Memorandum

TO : Ted Martinez
Special Assistant Attorney General

Attn: Judith Wehrwein

DATE: July 13, 1983

FROM : Diane Dybevik
Assistant to the Commissioner

PHONE: 296-6642

SUBJECT: In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing the Possession or Ownership of Machine Guns and Short Barrelled Shotguns.

The rules in the above referenced matter are resubmitted for your review and approval.

In your memo of June 28, 1983, you did not approve these rules for reasons relating to the data privacy rule 11MCAR 1.3065. This rule is deleted in the modified adopted rule. I hope these rules are now satisfactory and may be approved.

DD/cre

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : JUDITH WEHRWEIN
204 Administration Building

DATE: 6/14/83

FROM : JERRY ANDERSON
Special Assistant
Attorney General

PHONE:

SUBJECT: Public Safety Rules

The enclosed rules are submitted to you for the Attorney General's review as to form and legality. As you may recall, these rules were withdrawn from your review a short time ago. In connection with this submission, we ask that you consider the other documents that presently are in your file on this matter.

If you have any questions, please call me.

JSA:dmg

Enc.

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

RECEIVED
MAY 16 1983
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

TO : TED MARTINEZ
Special Assistant
Attorney General

DATE: 5/13/83

FROM : JERRY ANDERSON
Special Assistant
Attorney General

PHONE: 6-8429

SUBJECT: Rules Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns

After reviewing the above-referenced rules that have been adopted by the BCA and submitted to your office for review as to form and legality, I have advised the agency to withdraw the rules from your consideration and make a few nonsubstantial changes to them. Therefore, please do not proceed with your review of the rules as presently submitted. These rules will be resubmitted for your review at a later date.

JA/njh
cc: Steve Hennessy

Our File No. 720

submission withdrawn - 5-16-83

RULE REVIEW CHECKLIST

Resubmitted 7-25

DATE RULE RECEIVED 5-2-83 6/14/83
DATE FOR REVIEW 5-11-83 6/23/83
DATE DUE 5-16-83 6/28/83 7-25

Adopted w/a hearing _____
Adopted w/o hearing ✓
Temporary rule _____

Approved _____ Disapproved _____ Returned to Agency _____

NEW
Resubmitted 6-14-83 Due 6-24-83
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State _____ Revisor approved _____ disapproved _____

✓ ✓ Rule as Adopted

✓ Rule as Proposed

✓ ✓ ✓ Order Adopting 4.29.83 Date Combined with FofF Date 7/12/83 Date 6/13/83

✓ Notice of Intent to Solicit Outside Opinion SR. 11.30.81

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

_____ Notice of rulemaking
_____ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
✓ 1.28.83 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
✓ 1.31.83 At least 30/~~20~~ days prior to ~~hearing~~/adoption

N/A Hearing Examiner's Report

_____ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

✓ ✓ ✓ Agency's Findings of Fact combined with Order Adopting

N/A LCRAR Report or agency Affidavit

N/A Certificate of Board's Resolution Adopting Rules

✓ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ ✓ Certificate of Compliance w/Rulemaking Procedures

✓ ✓ Affidavit of Mailing Notice of Submission to Attorney General

✓ ? Notice of Submission to the Attorney General - contains nonsense sentence; words are missing. AG address is incorrect

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Paul J. Tschida
Commissioner of Public Safety

DATE: July 21, 1983

Attn: JERRY S. ANDERSON
Special Asst. Atty. Gen.

FROM : TED A. MARTINEZ
Special Assistant
Attorney General

TAM

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns.

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register. This must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

Encs.
TAM/ls
cc: Ms. Kathy Burek
Mr. Duane Harves

408

AG copy.

2nd submission 7/14

Department of Public Safety

Bureau of Criminal Apprehension

Adopted Rules Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns

Rules as Adopted

11 MCAR S 1.3060 Statutory authority.

Rules 11 MCAR SS 1.3060-1.3066 are adopted pursuant to the authority granted to the superintendent of the Bureau of Criminal Apprehension by Minnesota Statutes, sections 299C.03, and 609.67.

11 MCAR S 1.3061 Definitions.

A. Applicability. For the purpose of 11 MCAR SS 1.3060-1.3066, the following terms have the meanings given them.

B. ~~Bureau.--"Bureau"-means-the-Minnesota-Bureau-of-Criminal Apprehension.~~

~~C.--Collector's-items,-relics,-museum-pieces-or-objects-of curiosity,-ornaments-or-keepsakes,-and~~ Approved machine gun or short-barrelled shotgun. "Approved machine ~~guns-and~~ gun or short-barrelled ~~shotguns-not-likely-to-be-used-as-weapons."~~ ~~collector's-items,-relics,-museum-pieces-or-objects-of curiosity,-ornaments-or-keepsakes,-and-approved-machine-guns-and short-barrelled-shotguns~~ shotgun" means a machine gun or short-barrelled shotgun that, although designed as a weapon, has been determined by the superintendent as not likely to be used as ~~weapons"-means-firearms-which-have~~ a weapon and that has been determined by the superintendent ~~of-the-bureau-or-his-delegate pursuant-to-Minnesota-Statutes,-section-609.67,-subdivision-3, clause-(3)~~ to ~~be-firearms-which~~ appear on the National Firearms Act Curios and Relics List, as provided by United States Code, title 18, chapter 44, and as issued by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (Washington, D.C.).

C. Bureau. "Bureau" means the Minnesota Bureau of Criminal

Apprehension.

D. Report form. "Report form" means the official form created by the bureau ~~of Criminal Apprehension~~ on which ~~contains~~ the data ~~required by~~ specified in Minnesota Statutes, section 609.67, subdivision 4 is to be reported to the superintendent.

E. Superintendent. "Superintendent" means the superintendent of the ~~Minnesota~~ bureau ~~of Criminal Apprehension~~ or his delegate.

11 MCAR S 1.3062 Procedures for reporting ownership or possession of approved machine guns or short-barrelled shotguns.

A. Requirements. If a person owns or possesses an approved machine gun or short-barrelled shotgun, the following procedures must be followed.

B. Report. ~~The person shall send to the superintendent a completed Bureau of Criminal Apprehension report form indicating the ownership or possession of an approved machine gun or short-barrelled shotgun. This form must be sent~~ Within ten days after ~~the applicant~~ a person takes possession or ownership of ~~the~~ an approved machine gun or short-barrelled shotgun, the person shall send a report form to the superintendent.

C. Fee. The reporting person shall send a $15 nonrefundable fee with each report form.

~~D. Taking ownership or possession of firearm. Within ten days of taking ownership or possession, the person who takes ownership or possession shall send the superintendent one fully completed copy of the approved report form indicating the date the firearm was transferred and shall certify that the firearm is now owned or possessed by the person making the report.~~

11 MCAR S 1.3063 ~~Return of report form~~ Filing not accepted.

The superintendent shall ~~return the~~ not accept a report form ~~to the reporting person~~ for filing if:

A. the reporting person misrepresents, falsifies, or fails to complete any information on the report form; or

B. the superintendent determines that the firearm is not a ~~firearm which appears on the National Firearms Act Curios and~~

~~Relics-List,-as-specified-under-United-States-Code,-title-18,~~
~~chapter-44,-and-as-issued-by-the-Department-of-the-Treasury,~~
~~Bureau-of-Alcohol,-Tobacco-and-Firearms-(Washington,-D.C.)~~ an approved machine gun or short-barrelled shotgun.

C. If the superintendent refuses to accept the report form on the grounds of A. or B., the report required by Minnesota Statutes, section 609.67, shall be deemed not to have been made. If the report can be corrected or completed properly, the reporting person shall submit a new report form within ten days after receipt of the superintendent's notice of nonacceptance. A new fee need not accompany a report form resubmitted under this provision.

11 MCAR S 1.3064 Right to contest decision.

If the superintendent ~~returns~~ does not accept the report form ~~to-the-reporting-person~~, the superintendent shall notify the reporting person in writing, specifying the reasons for nonacceptance. That person may contest the decision of the superintendent~~.~~ in proceedings ~~shall-be~~ conducted pursuant to the Administrative Procedure Act, Minnesota Statutes, sections 14.57 to 14.70, and ~~9-MCAR-SS-2.201-2.222~~ rules of the Office of Administrative Hearings, 9 MCAR SS 2.201 to 2.222.

~~If-the-superintendent-refuses-to-accept-the-report-form-on the-grounds-of-9-MCAR-S-1.3063,-the-person-attempting-to-make the-report-required-by-Minnesota-Statutes,-section-609.67-shall be-deemed-to-have-not-made-the-required-report.~~

~~11-MCAR-S-1.3065-Data-privacy.~~

~~Report-forms-and-associated-documents-shall-be-filed-with the-bureau-of-Criminal-Apprehension-and-shall-be-considered private-data,-available-only-to-law-enforcement-officials.~~

11 MCAR S 1.3066 Limited protection of reporting information.

All persons possessing or owning ~~a~~ an approved machine gun or a short-barrelled shotgun prior to the effective date of 11 MCAR SS 1.3060-1.3066 shall have 90 days after the effective date of these rules to ~~report-the-possession-or-ownership.--The information-contained-in-the~~ file a report form ~~submitted-to~~

with the superintendent ~~within 90 days of the effective date of these rules shall not be used against the reporting person in any criminal proceeding.~~

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

Agency: Department of Public Safety AR0296

Division: Bureau of Criminal Apprehension

Agency Contact: Diane Dybevik 6-7096

Rule Numbers: 11 MCAR SS 1.3060-1.3066

Title: Adopted Rules Governing the Possession or Ownership of Machine Guns and Short-barrelled Shotguns

Type of Rules: Permanent

Incorporations by Reference:

Rule Number:	Material Incorporated:
11 MCAR SS 1.3061 and 1.3063	National Firearms Act Curios and Relics List

Duplication of Statutory Language: None

The attached rules are approved as to form, subject to the following editorial changes:

APPROVED AS TO LEGALITY
July 21 19 83
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Ted A. Martinez
SPECIAL ASSISTANT ATTORNEY GENERAL

Steven C. Cross
Revisor of Statutes

Maryanne Hruby
Maryanne V. Hruby
Assistant Revisor
Phone: 297-2948
Date: June 29, 1983

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL 21 1983
3:24 P.M.

Department of Public Safety

Bureau of Criminal Apprehension

Adopted Rules Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns

Rules as Adopted

11 MCAR S 1.3060 Statutory authority.

Rules 11 MCAR SS 1.3060-1.3066 are adopted pursuant to the authority granted to the superintendent of the Bureau of Criminal Apprehension by Minnesota Statutes, sections 299C.03, and 609.67.

11 MCAR S 1.3061 Definitions.

A. Applicability. For the purpose of 11 MCAR SS 1.3060-1.3066, the following terms have the meanings given them.

~~B. Bureau.--"Bureau"-means-the-Minnesota-Bureau-of-Criminal Apprehension.~~

~~C.--Collector's-items,-relics,-museum-pieces-or-objects-of curiosity,-ornaments-or-keepsakes,-and~~ Approved machine gun or short-barrelled shotgun. "Approved machine ~~guns-and~~ gun or short-barrelled ~~shotguns-not-likely-to-be-used-as-weapons."~~ ~~collector's-items,-relics,-museum-pieces-or-objects-of curiosity,-ornaments-or-keepsakes,-and-approved-machine-guns-and short-barrelled-shotguns~~ shotgun" means a machine gun or short-barrelled shotgun that, although designed as a weapon, has been determined by the superintendent as not likely to be used as ~~weapons"-means-firearms-which-have~~ a weapon and that has been determined by the superintendent ~~of-the-bureau-or-his-delegate pursuant-to-Minnesota-Statutes,-section-609.67,-subdivision-3, clause-(3)~~ to ~~be-firearms-which~~ appear on the National Firearms Act Curios and Relics List, as provided by United States Code, title 18, chapter 44, and as issued by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (Washington, D.C.).

C. Bureau. "Bureau" means the Minnesota Bureau of Criminal

Apprehension.

D. Report form. "Report form" means the official form created by the bureau ~~of Criminal Apprehension~~ on which ~~contains~~ the data ~~required by~~ specified in Minnesota Statutes, section 609.67, subdivision 4 is to be reported to the superintendent.

E. Superintendent. "Superintendent" means the superintendent of the ~~Minnesota~~ bureau ~~of Criminal Apprehension~~ or his delegate.

11 MCAR S 1.3062 Procedures for reporting ownership or possession of approved machine guns or short-barrelled shotguns.

A. Requirements. If a person owns or possesses an approved machine gun or short-barrelled shotgun, the following procedures must be followed.

B. Report. ~~The person shall send to the superintendent a completed Bureau of Criminal Apprehension report form indicating the ownership or possession of an approved machine gun or short-barrelled shotgun. This form must be sent~~ Within ten days after ~~the applicant~~ a person takes possession or ownership of ~~the~~ an approved machine gun or short-barrelled shotgun, the person shall send a report form to the superintendent.

C. Fee. The reporting person shall send a $15 nonrefundable fee with each report form.

~~D. Taking ownership or possession of firearm. Within ten days of taking ownership or possession, the person who takes ownership or possession shall send the superintendent one fully completed copy of the approved report form indicating the date the firearm was transferred and shall certify that the firearm is now owned or possessed by the person making the report.~~

11 MCAR S 1.3063 ~~Return of report form~~ Filing not accepted.

The superintendent shall ~~return the~~ not accept a report form ~~to the reporting person~~ for filing if:

A. the reporting person misrepresents, falsifies, or fails to complete any information on the report form; or

B. the superintendent determines that the firearm is not a ~~firearm which appears on the National Firearms Act Curios and~~

~~Relics-List,-as-specified-under-United-States-Code,-title-18,~~ ~~chapter-44,-and-as-issued-by-the-Department-of-the-Treasury,~~ ~~Bureau-of-Alcohol,-Tobacco-and-Firearms-(Washington,-D.C.)~~ an approved machine gun or short-barrelled shotgun.

C. If the superintendent refuses to accept the report form on the grounds of A. or B., the report required by Minnesota Statutes, section 609.67, shall be deemed not to have been made. If the report can be corrected or completed properly, the reporting person shall submit a new report form within ten days after receipt of the superintendent's notice of nonacceptance. A new fee need not accompany a report form resubmitted under this provision.

11 MCAR S 1.3064 Right to contest decision.

If the superintendent ~~returns~~ does not accept the report form ~~to-the-reporting-person~~, the superintendent shall notify the reporting person in writing, specifying the reasons for nonacceptance. That person may contest the decision of the superintendent~~.~~ in proceedings ~~shall-be~~ conducted pursuant to the Administrative Procedure Act, Minnesota Statutes, sections 14.57 to 14.70, and ~~9-MCAR-SS-2.201-2.222~~ rules of the Office of Administrative Hearings, 9 MCAR SS 2.201 to 2.222.

~~If-the-superintendent-refuses-to-accept-the-report-form-on the-grounds-of-9-MCAR-S-1.3063,-the-person-attempting-to-make the-report-required-by-Minnesota-Statutes,-section-609.67-shall be-deemed-to-have-not-made-the-required-report.~~

~~11-MCAR-S-1.3065-Data-privacy.~~

~~Report-forms-and-associated-documents-shall-be-filed-with the-bureau-of-Criminal-Apprehension-and-shall-be-considered private-data,-available-only-to-law-enforcement-officials.~~

11 MCAR S 1.3066 Limited protection of reporting information.

All persons possessing or owning ~~a~~ an approved machine gun or a short-barrelled shotgun prior to the effective date of 11 MCAR SS 1.3060-1.3066 shall have 90 days after the effective date of these rules to ~~report-the-possession-or-ownership.--The information-contained-in-the~~ file a report form ~~submitted-to~~

with the superintendent ~~within 90 days of the effective date of these rules shall not be used against the reporting person in any criminal proceeding.~~

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

Agency: Department of Public Safety AR0296

Division: Bureau of Criminal Apprehension

Agency Contact: Diane Dybevik 6-7096

Rule Numbers: 11 MCAR SS 1.3060-1.3066

Title: Adopted Rules Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns

Type of Rules: Permanent

Incorporations by Reference:

Rule Number:	Material Incorporated:
11 MCAR SS 1.3061 and 1.3063	National Firearms Act Curios and Relics List

Duplication of Statutory Language: None

The attached rules are approved as to form, subject to the following editorial changes:

Steven C. Cross
Revisor of Statutes

Maryanne V. Hruby
Assistant Revisor
Phone: 297-2948
Date: July 20, 1983

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : PAUL J. TSCHIDA
Commissioner of Public Safety

DATE: 6/28/83

ATTN: JERRY S. ANDERSON, Spec. Ass't. Atty. Gen.

FROM : TED A. MARTINEZ
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns

The rules in the above-referenced matter have not been approved by this office for the following reasons:

11 MCAR § 1.3065 classifies report forms and associated documents as private data under the Minnesota Governmental Data Practices Act, Minn. Stat. ch. 13.

This section, as written, appears to be a gratuitous statement rather than a stated requirement of the affected individuals and thus does not constitute a rule; therefore, it cannot be promulgated.

Even assuming arguendo that such a statement is proper under any circumstances, it should be noted that Minn. Stat. § 13.36, provides that:

> All data pertaining to the purchase or transfer of firearms and applications for permits to carry firearms which are collected by state agencies, political subdivisions or statewide systems pursuant to sections 624.712 to 624.718 are classified as private, pursuant to section 13.02, subdivision 12.

(Emphasis added.)

However, Minn. Stat. § 609.67 (1982) is the statute dealing with machine guns and short-barrelled shotguns. As a result, it falls outside the scope of section 13.36 and the report forms and associated documents cannot be classified under that section.

After consideration of the above comments and agency action, if any, these rules may be resubmitted for our review. Upon resubmission, please include a new or supplemental Order Adopting and two copies of the new Rule as Adopted. Also, please include a memorandum specifying that the rules are being resubmitted so that we may obtain our initial file in this matter.

Additionally, at the time when you resubmit the new rule to this office, you must submit two copies of the same to the Revisor of Statutes.

If you have any questions concerning the issues raised in this memorandum, please do not hesitate to call me.

TAM:dw

cc: Kathy Burek
Paul Marinac
Duane Harves

AG copy

Department of Public Safety
Bureau of Criminal Apprehension

Adopted Rules Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns

Rules as Adopted

11 MCAR S 1.3060 Statutory authority.

Rules 11 MCAR SS 1.3060-1.3066 are adopted pursuant to the authority granted to the superintendent of the Bureau of Criminal Apprehension by Minnesota Statutes, sections 299C.03, and 609.67.

11 MCAR S 1.3061 Definitions.

A. Applicability. For the purpose of 11 MCAR SS 1.3060-1.3066, the following terms have the meanings given them.

B. ~~Bureau.--"Bureau"-means-the-Minnesota-Bureau-of-Criminal Apprehension.~~

~~C.--Collector's-items,-relics,-museum-pieces-or-objects-of curiosity,-ornaments-or-keepsakes,-and~~ Approved machine gun or short-barrelled shotgun. "Approved machine ~~guns-and~~ gun or short-barrelled ~~shotguns-not-likely-to-be-used-as-weapons."~~ ~~collector's-items,-relics,-museum-pieces-or-objects-of curiosity,-ornaments-or-keepsakes,-and-approved-machine-guns-and short-barrelled-shotguns~~ shotgun" means a machine gun or short-barrelled shotgun that, although designed as a weapon, has been determined by the superintendent as not likely to be used as ~~weapons"-means-firearms-which-have~~ a weapon and that has been determined by the superintendent ~~of-the-bureau-or-his-delegate pursuant-to-Minnesota-Statutes,-section-609.67,-subdivision-3, clause-(3)~~ to ~~be-firearms-which~~ appear on the National Firearms Act Curios and Relics List, as provided by United States Code, title 18, chapter 44, and as issued by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (Washington, D.C.).

C. Bureau. "Bureau" means the Minnesota Bureau of Criminal

Apprehension.

D. Report form. "Report form" means the official form created by the bureau ~~of Criminal Apprehension~~ on which ~~contains~~ the data ~~required by~~ specified in Minnesota Statutes, section 609.67, subdivision 4 is to be reported to the superintendent.

E. Superintendent. "Superintendent" means the superintendent of the ~~Minnesota~~ bureau ~~of Criminal Apprehension~~ or his delegate.

11 MCAR S 1.3062 Procedures for reporting ownership or possession of approved machine guns or short-barrelled shotguns.

A. Requirements. If a person owns or possesses an approved machine gun or short-barrelled shotgun, the following procedures must be followed.

B. Report. ~~The person shall send to the superintendent a completed Bureau of Criminal Apprehension report form indicating the ownership or possession of an approved machine gun or short-barrelled shotgun. This form must be sent~~ Within ten days after ~~the applicant~~ a person takes possession or ownership of ~~the~~ an approved machine gun or short-barrelled shotgun, the person shall send a report form to the superintendent.

C. Fee. The reporting person shall send a $15 nonrefundable fee with each report form.

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B. the superintendent determines that the firearm is not a ~~firearm which appears on the National Firearms Act Curios and~~

~~Relics-List,-as-specified-under-United-States-Code,-title-18,~~ ~~chapter-44,-and-as-issued-by-the-Department-of-the-Treasury,~~ ~~Bureau-of-Alcohol,-Tobacco-and-Firearms-(Washington,-D.C.)~~ an approved machine gun or short-barrelled shotgun.

C. If the superintendent refuses to accept the report form on the grounds of A. or B., the report required by Minnesota Statutes, section 609.67, shall be deemed not to have been made. If the report can be corrected or completed properly, the reporting person shall submit a new report form within ten days after receipt of the superintendent's notice of nonacceptance. A new fee need not accompany a report form resubmitted under this provision.

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~~If-the-superintendent-refuses-to-accept-the-report-form-on the-grounds-of-9-MCAR-S-1.3063,-the-person-attempting-to-make the-report-required-by-Minnesota-Statutes,-section-609.67-shall be-deemed-to-have-not-made-the-required-report.~~

11 MCAR S 1.3065 Data privacy.

Report forms and associated documents ~~shall-be~~ filed with the bureau ~~of-Criminal-Apprehension-and-shall-be-considered~~ are classified as private data, under the Minnesota Governmental Data Practices Act, Minnesota Statutes, chapter 13, and are available only to law enforcement officials.

11 MCAR S 1.3066 Limited protection of reporting information.

All persons possessing or owning ~~a~~ an approved machine gun or a short-barrelled shotgun prior to the effective date of 11 MCAR SS 1.3060-1.3066 shall have 90 days after the effective

date of these rules to ~~report-the-possession-or-ownership.--The information-contained-in-the~~ file a report form ~~submitted-to~~ with the superintendent ~~within-90-days-of-the-effective-date-of these-rules-shall-not-be-used-against-the-reporting-person-in any-criminal-proceeding.~~

sub. change

Department of Public Safety

Bureau of Criminal Apprehension

Adopted Rules Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns

Rules as Adopted

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A. Applicability. For the purpose of 11 MCAR SS 1.3060-1.3066, the following terms have the meanings given them.

B. Bureau. "Bureau" means the Minnesota Bureau of Criminal Apprehension.

C. ~~Collector's items, relics, museum pieces or objects of curiosity, ornaments or keepsakes, and~~ Approved machine guns or short-barrelled shotguns. "Approved machine guns ~~and~~ or short-barrelled shotguns ~~not likely to be used as weapons.~~" means collector's items, relics, museum pieces or objects of curiosity, ornaments or keepsakes, ~~and approved machine guns and short-barrelled shotguns~~ not likely to be used as weapons" ~~means firearms~~ and which have been determined by the superintendent of the bureau or his delegate pursuant to Minnesota Statutes, section 609.67, subdivision 3, clause (3) to be firearms which appear on the National Firearms Act Curios and Relics List, as provided by United States Code, title 18, chapter 44, and as issued by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (Washington, D.C.).

D. Report form. "Report form" means the official form created by the Bureau of Criminal Apprehension which ~~contains~~ requests data required by Minnesota Statutes, section 609.67, subdivision 4.

E. Superintendent. "Superintendent" means the superintendent of the Minnesota Bureau of Criminal Apprehension.

11 MCAR S 1.3062 Procedures for reporting ownership or possession of approved machine guns or short-barrelled shotguns.

A. Requirements. If a person owns or possesses an approved machine gun or short-barrelled shotgun, the following procedures must be followed.

B. Report. The person shall send to the superintendent a completed Bureau of Criminal Apprehension report form indicating the ownership or possession of an approved machine gun or short-barrelled shotgun. This form must be sent within ten days after the applicant takes possession or ownership of the approved machine gun or short-barrelled shotgun.

C. Fee. The reporting person shall send a $15 nonrefundable fee with each report form.

~~D. Taking ownership or possession of firearm. Within ten days of taking ownership or possession, the person who takes ownership or possession shall send the superintendent one fully completed copy of the approved report form indicating the date the firearm was transferred and shall certify that the firearm is now owned or possessed by the person making the report.~~

11 MCAR S 1.3063 ~~Return of report form~~ Filing not accepted.

The superintendent shall ~~return~~ the not accept a report form ~~to the reporting person~~ for filing if:

A. the reporting person misrepresents, falsifies, or fails to complete any information on the report form; or

B. the superintendent determines that the firearm is not a firearm which appears on the National Firearms Act Curios and Relics List, as specified under United States Code, title 18, chapter 44, and as issued by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (Washington, D.C.).

C. If the superintendent refuses to accept the report form on the grounds of 11 MCAR S 1.3063, the person attempting to make the report required by Minnesota Statutes, section 609.67 shall be deemed to have not made the required report.

11 MCAR S 1.3064 Right to contest decision.

If the superintendent ~~returns~~ does not accept the report form ~~to the reporting person,~~ for filing, the superintendent shall notify the reporting person. That person may contest the decision of the superintendent. Proceedings shall be conducted pursuant to the Administrative Procedure Act, Minnesota Statutes, sections 14.57-14.70, and 9 MCAR SS 2.201-2.222 of the Office of Administrative Hearings.

~~If the superintendent refuses to accept the report form on the grounds of 9 MCAR S 1.3063, the person attempting to make the report required by Minnesota Statutes, section 609.67 shall be deemed to have not made the required report.~~

11 MCAR S 1.3065 Data privacy.

Report forms and associated documents shall be filed with the Bureau of Criminal Apprehension and shall be considered private data, available only to law enforcement officials.

11 MCAR S 1.3066 Limited protection of reporting information.

All persons possessing or owning ~~a~~ an approved machine gun or a short-barrelled shotgun prior to the effective date of 11 MCAR SS 1.3060-1.3066 shall have 90 days after the effective date of these rules to report the possession or ownership. ~~The information contained in the report form submitted to the superintendent within 90 days of the effective date of these rules shall not be used against the reporting person in any criminal proceeding~~ During this time period reporting persons shall not be subject to prosecution for violation of the reporting requirements in Minnesota Statutes, section 609.67, subdivision 4.

OFFICE OF THE REVISOR OF STATUTES

Certificate of Approval of Adopted Rules

Agency: Department of Public Safety AR0296

Division: Bureau of Criminal Apprehension

Agency Contact: Diane Dybevik 296-7096

Rule Numbers: 11 MCAR SS 1.3060-1.3066

Title: Adopted Rules Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns

Type of Rules: Permanent

Incorporations by Reference:

Rule Number:	Material Incorporated:
11 MCAR S 1.3061	National Firearms Act Curios and Relics List
11 MCAR S 1.3063	National Firearms Act Curios and Relics List

Duplication of Statutory Language: None

Rule Number:	Statutory Section Duplicated:

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Maryanne V. Hruby
Assistant Revisor
Phone: 297-2948
Date: May 3, 1983

Department of Public Safety
Bureau of Criminal Apprehension

Adopted Rules Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns

Rules as Adopted

11 MCAR S 1.3060 Statutory authority.

Rules 11 MCAR SS 1.3060-1.3066 are adopted pursuant to the authority granted to the superintendent of the Bureau of Criminal Apprehension by Minnesota Statutes, sections 299C.03, and 609.67.

11 MCAR S 1.3061 Definitions.

A. Applicability. For the purpose of 11 MCAR SS 1.3060-1.3066, the following terms have the meanings given them.

B. Bureau. "Bureau" means the Minnesota Bureau of Criminal Apprehension.

C. ~~Collector's items, relics, museum pieces or objects of curiosity, ornaments or keepsakes, and~~ Approved machine guns or short-barrelled shotguns. "Approved machine guns and or short-barrelled shotguns ~~not likely to be used as weapons.~~" means collector's items, relics, museum pieces or objects of curiosity, ornaments or keepsakes, ~~and approved machine guns and short-barrelled shotguns~~ not likely to be used as weapons" ~~means firearms~~ and which have been determined by the superintendent of the bureau or his delegate pursuant to Minnesota Statutes, section 609.67, subdivision 3, clause (3) to be firearms which appear on the National Firearms Act Curios and Relics List, as provided by United States Code, title 18, chapter 44, and as issued by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (Washington, D.C.).

D. Report form. "Report form" means the official form created by the Bureau of Criminal Apprehension which ~~contains~~ requests data required by Minnesota Statutes, section 609.67, subdivision 4.

E. Superintendent. "Superintendent" means the superintendent of the Minnesota Bureau of Criminal Apprehension.

11 MCAR S 1.3062 Procedures for reporting ownership or possession of approved machine guns or short-barrelled shotguns.

A. Requirements. If a person owns or possesses an approved machine gun or short-barrelled shotgun, the following procedures must be followed.

B. Report. The person shall send to the superintendent a completed Bureau of Criminal Apprehension report form indicating the ownership or possession of an approved machine gun or short-barrelled shotgun. This form must be sent within ten days after the applicant takes possession or ownership of the approved machine gun or short-barrelled shotgun.

C. Fee. The reporting person shall send a $15 nonrefundable fee with each report form.

~~D.--Taking-ownership-or-possession-of-firearm.--Within-ten days-of-taking-ownership-or-possession,-the-person-who-takes ownership-or-possession-shall-send-the-superintendent-one-fully completed-copy-of-the-approved-report-form-indicating-the-date the-firearm-was-transferred-and-shall-certify-that-the-firearm is-now-owned-or-possessed-by-the-person-making-the-report.~~

11 MCAR S 1.3063 ~~Return-of-report-form~~ Filing not accepted.

The superintendent shall ~~return-the~~ not accept a report form ~~to-the-reporting-person~~ for filing if:

A. the reporting person misrepresents, falsifies, or fails to complete any information on the report form; or

B. the superintendent determines that the firearm is not a firearm which appears on the National Firearms Act Curios and Relics List, as specified under United States Code, title 18, chapter 44, and as issued by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (Washington, D.C.).

C. If the superintendent refuses to accept the report form on the grounds of 9 MCAR S 1.3063, the person attempting to make the report required by Minnesota Statutes, section 609.67 shall be deemed to have not made the required report.

11 MCAR S 1.3064 Right to contest decision.

If the superintendent ~~returns~~ does not accept the report form ~~to the reporting person,~~ for filing, the superintendent shall notify the reporting person. That person may contest the decision of the superintendent. Proceedings shall be conducted pursuant to the Administrative Procedure Act, Minnesota Statutes, sections 14.57-14.70, and 9 MCAR SS 2.201-2.222 of the Office of Administrative Hearings.

~~If the superintendent refuses to accept the report form on the grounds of 9 MCAR S 1.3063, the person attempting to make the report required by Minnesota Statutes, section 609.67 shall be deemed to have not made the required report.~~

11 MCAR S 1.3065 Data privacy.

Report forms and associated documents shall be filed with the Bureau of Criminal Apprehension and shall be considered private data, available only to law enforcement officials.

Rule cannot classify data

11 MCAR S 1.3066 Limited protection of reporting information.

All persons possessing or owning ~~a~~ an approved machine gun or a short-barrelled shotgun prior to the effective date of 11 MCAR SS 1.3060-1.3066 shall have 90 days after the effective date of these rules to report the possession or ownership. ~~The information contained in the report form submitted to the superintendent within 90 days of the effective date of these rules shall not be used against the reporting person in any criminal proceeding~~ During this time period reporting persons shall not be subject to prosecution for violation of the reporting requirements in Minnesota Statutes, section 609.67, subdivision 4.

Rules as Proposed (all new material)

11 MCAR S 1.3060 Statutory authority.

Rules 11 MCAR SS 1.3060-1.3066 are adopted pursuant to the authority granted to the superintendent of the Bureau of Criminal Apprehension by Minnesota Statutes, sections 299C.03, and 609.67.

11 MCAR S 1.3061 Definitions.

A. Applicability. For the purpose of 11 MCAR SS 1.3060-1.3066, the following terms have the meanings given them.

B. Bureau. "Bureau" means the Minnesota Bureau of Criminal Apprehension.

C. Collector's items, relics, museum pieces or objects of curiosity, ornaments or keepsakes, and approved machine guns and short-barrelled shotguns not likely to be used as weapons. "Collector's items, relics, museum pieces or objects of curiosity, ornaments or keepsakes, and approved machine guns and short-barrelled shotguns not likely to be used as weapons" means firearms which have been determined by the superintendent of the bureau or his delegate pursuant to Minnesota Statutes, section 609.67, subdivision 3, clause (3) to be firearms which appear on the National Firearms Act Curios and Relics List, as provided by United States Code, title 18, chapter 44, and as issued by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (Washington, D.C.).

D. Report form. "Report form" means the official form created by the Bureau of Criminal Apprehension which contains data required by Minnesota Statutes, section 609.67, subdivision 4.

E. Superintendent. "Superintendent" means the superintendent of the Minnesota Bureau of Criminal Apprehension.

11 MCAR S 1.3062 Procedures for reporting ownership or possession of machine guns or short-barrelled shotguns.

A. Requirements. If a person owns or possesses an approved machine gun or short-barrelled shotgun, the following procedures must be followed.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY: MVH

B. Report. The person shall send to the superintendent a completed Bureau of Criminal Apprehension report form indicating the ownership or possession of an approved machine gun or short-barrelled shotgun. This form must be sent within ten days after the applicant takes possession or ownership of the approved machine gun or short-barrelled shotgun.

C. Fee. The reporting person shall send a $15 nonrefundable fee with each report form.

D. Taking ownership or possession of firearm. Within ten days of taking ownership or possession, the person who takes ownership or possession shall send the superintendent one fully completed copy of the approved report form indicating the date the firearm was transferred and shall certify that the firearm is now owned or possessed by the person making the report.

11 MCAR S 1.3063 Return of report form.

The superintendent shall return the report form to the reporting person if:

A. the reporting person misrepresents, falsifies, or fails to complete any information on the report form; or

B. the superintendent determines that the firearm is not a firearm which appears on the National Firearms Act Curios and Relics List, as specified under United States Code, title 18, chapter 44, and as issued by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (Washington, D.C.).

11 MCAR S 1.3064 Right to contest decision.

If the superintendent returns the report form to the reporting person, that person may contest the decision of the superintendent. Proceedings shall be conducted pursuant to the Administrative Procedure Act, Minnesota Statutes, sections 14.57-14.70, and 9 MCAR SS 2.201-2.222 of the Office of Administrative Hearings.

If the superintendent refuses to accept the report form on the grounds of 9 MCAR S 1.3063, the person attempting to make the report required by Minnesota Statutes, section 609.67 shall be deemed to have not made the required report.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

11 MCAR S 1.3065 Data privacy.

Report forms and associated documents shall be filed with the Bureau of Criminal Apprehension and shall be considered private data, available only to law enforcement officials.

11 MCAR S 1.3066 Limited protection of reporting information.

All persons possessing or owning a machine gun or a short-barrelled shotgun prior to the effective date of 11 MCAR SS 1.3060-1.3066 have 90 days after the effective date to report the possession or ownership. The information contained in the report form submitted to the superintendent within 90 days of the effective date of these rules shall not be used against the reporting person in any criminal proceeding.

APPROVED BY THE
REVISOR OF STATUTES
OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD296

Agency: Department of Public Safety

Division: Bureau of Criminal Apprehension

Agency Contact: Diane Hamilton 296-7096

Rule Numbers: 11 MCAR SS 1.3060-1.3066

Title: Proposed Rules Governing the Possession or Ownership of Machine Guns and Short-barrelled Shotguns

Type of Rules: Permanent

Incorporations by Reference:

Rule Number:	Material Incorporated:
11 MCAR S 1.3061	National Firearms Act Curios and Relics List
11 MCAR S 1.3063	National Firearms Act Curios and Relics List

Duplication of Statutory Language: None

Rule Number:	Statutory Section Duplicated:

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Maryanne V. Hruby
Assistant Revisor
Phone: 297-2948

Date: November 18, 1982

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns.

ORDER ADOPTING RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on January 31, 1983, and was sent by the United States mail to all persons on the list maintained by the agency pursuant to Minn. Stat. section 14.22, on January 28, 1983. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above captioned rules.

NOW, THEREFORE, IT IS ORDERED that these rules, identified as 11 MCAR 1.3060 through 1.3066 are adopted this 29th day of April, 1983, pursuant to authority vested in me by Minn. Stat. Section 299A.01, subd. 6. and Minn. Stat. sections 299C.03 and 609.67.

STATE OF MINNESOTA

Paul J. Tschida

PAUL J. TSCHIDA
COMMISSIONER OF PUBLIC SAFETY

ACDKHF0018

~~(i) At least two patrol members shall be used at a particular crossing when, in the opinion of local law enforcement officials, traffic is such that more than one patrol member is needed for the safety of the school children.~~

~~(j)~~ I. Patrol members shall continually watch oncoming traffic while children are crossing the roadway and be constantly alert for danger. They shall stand between the children and approaching traffic with at least one foot remaining on the curb or shoulder.

~~SafAd 69~~ 11 MCAR § 1.0069 **Procedure at railroad crossings.**

~~(a)~~ The patrol flag shall never be used at railroad crossings. ~~(b)~~ The patrol member shall direct children to remain at least a distance of 20 feet from the nearest railroad track until ~~he~~ the patrol member has completed ~~his~~ an inspection to see if there are any approaching trains. When there are no approaching trains, ~~he shall direct~~ the children shall be directed to cross the tracks ~~and~~ by the patrol member who shall remain at ~~his~~ the proper position until all have crossed.

~~SafAd 70~~ 11 MCAR § 1.0070 **School bus safety patrol procedures.**

~~(a)~~ A. School bus crossing at railroad tracks~~:~~. Patrol members shall motion the bus across the railroad tracks in the following manner:

~~(1)~~ 1. Patrol members shall take a position so as to have a clear view of the railroad track in both directions.

~~(2)~~ 2. If a train is approaching the crossing, the patrol member shall not cross the tracks but shall face the bus at a safe distance from the tracks and give the signal for the bus not to proceed by holding up both hands above his or her head.

~~(3)~~ 3. When the railroad track is clear and safe for crossing, the patrol member shall cross the tracks and signal, with a forward motion of ~~his~~ an upraised arm, for the driver to proceed across the tracks to a point at least 2½ bus lengths beyond the tracks, where the patrol member shall reenter the bus.

~~(b)~~ B. Crossing roadways from a school bus.

~~(1)~~ 1. The driver of a school bus is responsible for the safety of the children, and the presence of a school bus safety patrol member in no way relieves ~~him~~ the driver of such responsibility.

~~(2)~~ 2. In directing pupils across the roadway after alighting from the bus, the patrol member shall escort the pupils to a position at least ten feet in front of the bus. When ~~he has~~ it is ascertained that there is no approaching traffic, ~~he~~ the patrol member shall step out one pace beyond the fender line of the bus and extend ~~his~~ the flag into the opposite lane at a 45 degree angle and direct the pupils to proceed across the roadway.

~~(3)~~ 3. The patrol member shall not escort each pupil across the roadway, but shall remain at ~~his~~ the designated post near the front of the bus.

~~(4)~~ 4. Crossing the roadway behind the bus shall never be permitted.

~~SafAd 71~~ 11 MCAR § 1.0071 **Police officer, traffic signal control.**

~~(a)~~ A. Traffic controlled intersections. At intersections where traffic is controlled by a police officer, a traffic signal, or both, the patrol member shall direct the crossing of the children in conformity with the direction of the signal or the police officer.

~~(b)~~ B. Intersections not regularly controlled. At intersections where there is no regular traffic control, the traffic may be sufficiently heavy to require the special assignment of a police officer at times when children are going to and from school. When this is done, the patrol member should cooperate with police officers.

Repealer. SafAd 72 and 73 are repealed.

Department of Public Safety
Bureau of Criminal Apprehension

Proposed Rules Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns

Notice of Intent to Adopt Rules without a Hearing

Notice is hereby given that the State Department of Public Safety is proposing to adopt the above entitled rules without a public hearing. The Commissioner of Public Safety has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow procedures set forth in Minn. Stat. § 15.0412, subdivision 4h.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified prior to final adoption if modifications are supported by the data and views submitted to the Department of Public Safety and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. The written request must be specific on which rule(s) a hearing is desired. Identification of the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are desired. In the event a public hearing is required, the department will proceed according to the provisions of Minn. Stat. § 15.0412, subdivision 4-4f.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a copy of this notice and/or a copy of the proposed rules, should address their correspondence to the address below and include the name of the rulemaking:

Diane Hamilton
Department of Public Safety
211 Transportation Building
St. Paul, MN 55155

The department's authority to adopt the proposed rules is contained in Minn. Stat. §§ 299C.03 and 609.67. A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Department of Public Safety upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written request to the above address.

Please be advised that Minn. Stat. chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minn. Stat. § 10A.01, subdivision 11 defines a lobbyist as any individual: (a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or (b) who spends more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

The department estimates that there will be no cost to local public bodies in the state to implement the rules for the two years immediately following their adoption, within the meaning of Minnesota Statutes Section 15.0412, subdivision 7.

A copy of the proposed rules is attached to this notice.

Paul J. Tschida
Commissioner of Public Safety

Rules as Proposed (all new material)

11 MCAR § 1.3060 Statutory authority.

Rules 11 MCAR §§ 1.3060-1.3066 are adopted pursuant to the authority granted to the superintendent of the Bureau of Criminal Apprehension by Minnesota Statutes, sections 299C.03, and 609.67.

11 MCAR § 1.3061 Definitions.

A. Applicability. For the purpose of 11 MCAR §§ 1.3060-1.3066, the following terms have the meanings given them.

B. Bureau. "Bureau" means the Minnesota Bureau of Criminal Apprehension.

C. Collector's items, relics, museum pieces or objects of curiosity, ornaments or keepsakes, and approved machine guns and

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

short-barrelled shotguns not likely to be used as weapons. "Collector's items, relics, museum pieces or objects of curiosity, ornaments or keepsakes, and approved machine guns and short-barrelled shotguns not likely to be used as weapons" means firearms which have been determined by the superintendent of the bureau or his delegate pursuant to Minnesota Statutes, section 609.67, subdivision 3, clause (3) to be firearms which appear on the National Firearms Act Curios and Relics List, as provided by United States Code, title 18, chapter 44, and as issued by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (Washington, D.C.).

D. Report form. "Report form" means the official form created by the Bureau of Criminal Apprehension which contains data required by Minnesota Statutes, section 609.67, subdivision 4.

E. Superintendent. "Superintendent" means the superintendent of the Minnesota Bureau of Criminal Apprehension.

11 MCAR § 1.3062 Procedures for reporting ownership or possession of machine guns or short-barrelled shotguns.

A. Requirements. If a person owns or possesses an approved machine gun or short-barrelled shotgun, the following procedures must be followed.

B. Report. The person shall send to the superintendent a completed Bureau of Criminal Apprehension report form indicating the ownership or possession of an approved machine gun or short-barrelled shotgun. This form must be sent within ten days after the applicant takes possession or ownership of the approved machine gun or short-barrelled shotgun.

C. Fee. The reporting person shall send a $15 nonrefundable fee with each report form.

D. Taking ownership or possession of firearm. Within ten days of taking ownership or possession, the person who takes ownership or possession shall send the superintendent one fully completed copy of the approved report form indicating the date the firearm was transferred and shall certify that the firearm is now owned or possessed by the person making the report.

11 MCAR § 1.3063 Return of report form.

The superintendent shall return the report form to the reporting person if:

A. the reporting person misrepresents, falsifies, or fails to complete any information on the report form; or

B. the superintendent determines that the firearm is not a firearm which appears on the National Firearms Act Curios and Relics List, as specified under United States Code, title 18, chapter 44, and as issued by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms (Washington, D.C.).

11 MCAR § 1.3064 Right to contest decision.

If the superintendent returns the report form to the reporting person, that person may contest the decision of the superintendent. Proceedings shall be conducted pursuant to the Administrative Procedure Act, Minnesota Statutes, sections 14.57-14.70, and 9 MCAR §§ 2.201-2.222 of the Office of Administrative Hearings.

If the superintendent refuses to accept the report form on the grounds of 9 MCAR § 1.3063, the person attempting to make the report required by Minnesota Statutes, section 609.67 shall be deemed to have not made the required report.

11 MCAR § 1.3065 Data privacy.

Report forms and associated documents shall be filed with the Bureau of Criminal Apprehension and shall be considered private data, available only to law enforcement officials.

11 MCAR § 1.3066 Limited protection of reporting information.

All persons possessing or owning a machine gun or a short-barrelled shotgun prior to the effective date of 11 MCAR §§ 1.3060-1.3066 have 90 days after the effective date to report the possession or ownership. The information contained in the report form submitted to the superintendent within 90 days of the effective date of these rules shall not be used against the reporting person in any criminal proceeding.

Waste Management Board

Proposed Rules to Evaluate Applicants for Permits to Operate Hazardous Waste Processing Facilities

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Waste Management Board proposes to adopt the above-entitled rules without a public hearing. The Waste Management Board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.21 to 14.28 (1982).

Department of Public Safety
Bureau of Criminal Apprehension

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Possession of Machine Guns and Short-barreled Shotguns Pursuant to Minn. Stat. § 609.67, subds. 3 and 4

Notice is hereby given that the State of Minnesota, Department of Public Safety, Division of Bureau of Criminal Apprehension is seeking information or opinions from sources outside the agency and is preparing to promulgate new rules governing the possession of machine guns and short-barreled shotguns. The promulgation of these rules is authorized by Minnesota Statutes, § 609.67, subds. 3 and 4, which permit and require the superintendent of the Bureau of Criminal Apprehension to establish rules concerning the possession of machine guns and short-barreled shotguns.

The Bureau of Criminal Apprehension requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to: John D. Erskine, Superintendent, Bureau of Criminal Apprehension, 1246 University Avenue, St. Paul, Minnesota 55104. Oral statements will be received during regular business hours over the telephone at (612) 296-2662 and in person at the above address.

All statements of information and comment shall be accepted until January 1, 1982. Any written material received by the Bureau of Criminal Apprehension shall become part of the record in the event that the rules are promulgated.

John P. Sopsic, Commissioner
John D. Erskine, Superintendent

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns.

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 12th day of January, 1983, that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Department of Public Safety for that purpose and be published in the State Register.

STATE OF MINNESOTA

Paul J. Tschida

PAUL J. TSCHIDA
COMMISSIONER OF PUBLIC SAFETY

ACDKHF0006

Department of Public Safety
Bureau of Criminal Apprehension

In The Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns.

NOTICE OF INTENT TO ADOPT RULES WITHOUT A HEARING

Notice is hereby given that the State Department of Public Safety is proposing to adopt the above entitled rules without a public hearing. The Commissioner of Public Safety has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow procedures set forth in Minn. Stat. Section 15.0412, Subdivision 4h.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified prior to final adoption if modifications are supported by the data and views submitted to the Department of Public Safety and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. The written request must be specific on which rule(s) a hearing is desired. Identification of the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are desired. In the event a public hearing is required, the department will proceed according to the provisions of Minn. Stat. 15.0412, subdivision 4-4f.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a copy of this notice and/or a copy of the proposed rules, should address their correspondence to the address below and include the name of the rulemaking:

Diane Hamilton
Department of Public Safety
211 Transportation Building
St. Paul, MN 55155

The Department's authority to adopt the proposed rules is contained in Minn. Stat. Sections 299C.03 and 609.67. A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Department of Public Safety upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written request to the above address.

Please be advised that Minn. Stat. Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minn. Stat. Section 10A.01, subdivision 11 defines a lobbyist as any individual: (a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or (b) who spends more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

The department estimates that there will be no cost to local public bodies in the state to implement the rules for the two years immediately following their adoption, within the meaning of Minnesota Statutes Section 15.0412, subdivision 7.

A copy of the proposed rules is attached to this notice. 10

STATE OF MINNESOTA

Jan. 14, 1983
DATE

Paul J. Tschida
PAUL J. TSCHIDA
COMMISSIONER OF PUBLIC SAFETY

ACDKHF0008

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns.

AFFIDAVIT OF MAILING NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

LeeAnn Aitkin, being first duly sworn, deposes and says:

That on the 28th day of January, 1983, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the Notice of Intent to Adopt Rules Without Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State Department of Public Safety for the purpose of receiving notice of the proposed adoption of rules by this department, mailing list A. In addition, discretionary notice was served on all persons and associations contained on mailing list B.

LeeAnn Aitkin

Subscribed and sworn to before me

this 27th day of January.

1983

Dorothy F. Gerlach

DOROTHY F. GERLACH
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires Feb. 4, 1987

ACDKHF0011

Mailing List H - Machine Guns

AID Homes, Inc./Horizon Apts.
1094 Waterloo Ave.
West St. Paul, MN 55118

Board of Directors
Alpha Homes, Inc.
P.O. Box 475
Spicer, MN 56288

Amer. Bapt. Homes/Up. Midwest
7928 Eden Road
Eden Prairie, MN 55344

Gertrude M. James
Anoka Cnty Comm. Heath &
Social Services Dept.
Courthouse, 4th Floor
Anoka, MN 55303

Arnie Lee Memorial Home
Route 2
Evansville, MN 56326

Board of Directors
Assisi Residences
218 S. Linton
Blue Earth, MN 56013

Assoc. Bldrs/Contractors, Inc.
6300 Walker St., Suite 109
Mpls, MN 55416

Rick Carter
Assoc./Health Care Facilities
2850 Metro Drive, Suite 429
Mpls, MN 55420

Assoc./Residences for Retarded
459 Rice St. Suite 301
St. Paul, MN 55013

Brighter Day Residences, Inc.
620 N. Wood St.
Mora, MN 55051

Board of Directors
Cath. Charities/Dioc. St. Cloud
1726 Seventh Av. S
St. Cloud, MN 56301

Board of Directors
Christian Concern, Inc.
402 N. Third St.
St. Peter, MN 56082

Board of Directors
Community Involvement
1926 Nicollet Ave. S.
Mpls, MN 55403

Community Living
Box 128
Victoria, MN 55386

Crippled Children's School
Box 23
Worthington, MN 56187

Dakota's Children, Inc.
400 W. Marie
West St. Paul, MN 55118

Board of Directors
Dell's Place, Inc.
235 S. Second Ave.
Delano, MN 55328

Dorothe Lane Children's Home
205 Sixth St.
Sauk Centre, MN 56378

Board of Directors
Duluth Regional Care
603 Alworth Bldg.
Duluth, MN 55802

Dungarvin, Inc.
865 Front St.
St. Paul, MN 55117

Kent E. Eklund
MN Dept. Economic Development
480 Cedar St.
St. Paul, MN 55101

Richard C. Buske
MN Dept. Economic Development
480 Cedar St.
St. Paul, MN 55101

Charles Schaffer
MN Dept. Economic Development
480 Cedar St.
St. Paul, MN 55101

Ed. Phillips & Sons, Co.
2345 Kennedy St. NE
Mpls, MN 55413

Fredrik M. Christiansen
Department of Education
Room 911, Capitol Sq. Bldg.
St. Paul, MN 55101

Episcopal Group Homes
522 Shadyway Road
Wayzata, MN 55391

Bonnie M. Spencer
Dir. State Regulatory Div.
Federal-State Reports, Inc.
5203 Leesburg Pike, Suite 1201
Falls Church, VA 22041

Fillmore Cnty Hndcpped Svcs.
135 Center St. SE
Harmony, MN 55939

Forestview Community Homes
P.O. Box 1249
Minnetonka, MN 55343

Board of Directors
Greenbrier Home, Inc.
941 Birmingham St.
St. Paul, MN 55106

Great River Homes, Inc.
717 Rustic Lane
Wabasha, MN 55981

Group Homes of Winona, Inc.
377 Main St.
Winona, MN 55987

Forestview-Hemmingway
8045 Hemmingway Ave. S.
Cottage Grove, MN 55016

Friendship Haven, Inc.
P.O. Box 576
Sherburne, MN 56171

Board of Directors
Harry Meyering Center
109 Homestead Drive, Box 302
Mankato, MN 56001

Heartland Homes/Ret. Citizens
P.O. Box 214
Park Rapids, MN 56470

Board of Directors
Hiawatha Manor, Inc.
107 Fifth Ave. NE
Pipestone, MN 56164

Homeward Bound, Inc.
4741 Zealand Ave.
New Hope, MN 55428

Conrad M. Fredin
Johnson, Fredin, Killen,
Thibodeau & Seiler
811 1st Nat'l Bank Bldg.
Duluth, MN 55802

Kathleen Burek
Executive Director
Leg. Comm./Review Admin. Rules
Rm 430, State Office Bldg.
St. Paul, MN 55155

Gen. Counsel/Legal Div.
MN Gas Company
300 Peavey Bldg.
Mpls, MN 55402

John G. Horner
MN Multi-Housing Assoc.
3100 W. Lake St.
Mpls, MN 55416

Mt. Olivet Rolling Acres
7200 Rolling Acres Rd.
Excelsior, MN 55331

Nekton, Inc.
633 N. Snelling Ave.
St. Paul, MN 55104

[redacted]ood Neighbor Home
1091 Fairmount Ave.
St. Paul, MN 55105

Sam Ruhle
Office of Admin. Hearings
310 So. 4th Ave.
Mpls, MN 55415

Henry Hagen Residence
19845 Lillehei Drv.
Hastings, MN 55033

Board of Directors
Home for Creative Living
108 Ninth St.
Windom, MN 56101

Innovative Homes, Inc.
P.O. Box 11
Kasson, MN 55944

Koep Group Home
Route 3
Fergus Falls, MN 56537

M.B.W. Company
801 Center St.
New Ulm, MN 56073

Jean Dawson
Editor
MN Government Report
B-12, Press Room
State Capitol Bldg.

Moore's Haven, Inc.
3490 N. Victoria
St. Paul, MN 55113

Abe Rosenthal
Executive Vice President
MN Motor Transport Assoc.
1821 University Ave. (N310)
St. Paul, MN 55104

Board of Directors
New Dawn, Inc.
Route 1, Box K1
Fulda, MN 56131

[redacted]Board of Directors
Hammer Residences, Inc.
1909 E. Wayzata Blvd.
Wayzata, MN 55391

Board of Directors
Hearthside Home
Pike Bay Drive, Lake Vermillion
Tower, MN 55790

Board of Directors
Hiawatha Children's Home
1820 Valkyrie Drive NW
Rochester, MN 55901

Hope Residence, Inc.
Box 63
Waterville, MN 56096

President
Interstate Power Co.
1000 Main St.
Dubuque, IA 52001

Lakeview Home
Lincoln & W. Second Sts.
Sauk Centre, MN 56378

Mental Health Assoc. of MN
5501 Green Valley Drive #103
Mpls, MN 55437

John T. Farmer
Executive Director
MN Manufactured Housing Assoc.
222 E. Little Canada Rd.
Little Canada, MN 55117

Gordon Forbes
MN Railroads Assoc.
480 Cedar St., 303 Hanover Bldg
St. Paul, MN 55101

James Murphy
Vice President
Nat'l Assoc. Indep. Insurers
2600 River Road
Des Plaines, IL 60018

Board of Directors
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1394 Jackson St.
St. Paul, MN 55117

Board of Directors
Northeast House, Inc.
2821 S. Inglewood Ave.
Mpls, MN 55416

Board of Directors
Olmsted ARC
1312 Seventh St. NW
Rochester, MN 5901

Outreach Group Homes, Inc.
3601 Park Center Blvd. #304
Mpls, MN 55416

Phillips Leg. Serv. Inc.
459 Rice St.
St. Paul, MN 55103

Pine River Group Home
Box 96
Pine River, MN 56474

Presbyterian Family Foundation
901 Service Drive
Willmar, MN 56201

Board of Directors
Range Center, Inc.
1001 Eighth Ave. NW
Chisholm, MN 55719

Residential Alternatives, Inc.
5449 Lyndale Ave. N
Mpls, MN 55430

Claudia Smith
Corporate Law Dept.
St. Paul Companies, Inc.
385 Washington St.
St. Paul, MN 55101

Dev. Disabilities Pl. Office
State Planning Agency
200 Capitol Sq. Bldg.
St. Paul, MN 55101

Bob Franklin
City Editor
Minneapolis Tribune
425 Portland Ave.
Mpls, MN 55488

Board of Directors
Northest Residence, Inc.
104 Bald Eagle Ave.
White Bear Lake, MN 55110

Bernice Fields
Research Analyst
Ombudsman for Corrections
333 Sibley, Rm 101 Nalpak Bldg.
St. Paul, MN 55101

Our House of MN, Inc.
1864 Portland Ave.
St. Paul, MN 55104

Board of Directors
Phoenix Residence, Inc.
135 Colorado St. E.
St. Paul, MN 55107

Thomas M. Polt
Polt Law Offices
McCarthy Bldg.
Eyota, MN 55934

Charles A. Kroeger
Executive Director
QSS, Inc.
P.O. Box 838
Faribault, MN 55021

Resa, Inc.
38 Seventh Ave. N.
Hopkins, MN 55343

Residential Svcs. of NE MN
2048 E. Eighth St.
Duluth, MN 55812

Board of Directors
Salmi Board & Lodging Home
Route 1, Box 235
Aurora, MN 55705

Summit House
1004 Summit Ave.
Mpls, MN 55403

Robert L. Haven
Twin Town Treatment Center
1706 University Ave.
St. Paul, MN 55104

G. V. Welk
Mgr./Regulatory Compl. & Svc
Northern States Power Co.
414 Nicollet Mall
Mpls, MN 55401

Board of Directors
Orvilla, Inc.
3430 Westcott Hills Dr.
Eagan, MN 55123

People, Inc.
1245 NW Nat'l Bank Bldg.
St. Paul, MN 55101

Pine Ridge Homes, Inc.
915 18th St.
Cloquet, MN 55720

Peter S. Popovich
Peterson, Popovich, Knutson
& Flynn
314 Minnesota Bldg.
St. Paul, MN 55101

Ramsey Cnty. Commissioners
Courthouse
St. Paul, MN 55101

Board of Directors
Residence, Inc.
2499 N. Rice St. Suite 139
Roseville, MN 55133

Board of Directors
Riverview Manor, Inc.
Box 215
Wanamingo, MN 55983

South Center Manor, Inc.
Park Island
Center City, MN 55012

Sur La Rue, Inc.
1386 Jackson St.
St. Paul, MN 55117

Robert A. Silvagni
University of Minnesota
319 15th Av SE, 200 Shops Bldg.
Mpls, MN 55455

Board of Directors
Valley Group Home
1332 Second Ave. No.
Moorhead, MN 56560

Windom CRF, Inc.
Box 244
Windom, MN 56101

Woodvale Management Svcs.
Box 1047
Austin, MN 55912

H. LeRoy DeBoom
3945 Zarthan Ave.
St. Louis Park, MN 55416

Kathy R. Van Kleeck
Motorcycle Industry Council
1235 Jefferson Davis Hwy #1410
Arlington, VA 22202

Joseph G. Beaton, Jr.
Attorney at Law
3109 Hennepin Ave. So.
Mpls, MN 55408

Board of Directors
[redacted]arner Care Homes
450 E. Third St.
Cokato, MN 55321

Robert Carstenbrock
Police Chief
Winona City Hall
4th & Lafayette St.
Winona, MN 55987

Jerry Kennan
Region Nine Dev. Commission
410 S. 5th St., PO Box 3367
Mankato, MN 56001

Marlis Johnson
Box 3367, Region 9
Mankato, MN 56001

POST Board
500 Metro Square Bldg.
St. Paul, MN 55101

Mark Groettum
Attorney at Law
311 E Howard St., Box 764
Hibbing, MN 55746

[redacted]Willmar Nursing Home, Inc.
1004 Ella Ave.
Willmar, MN 56201

Woodvale Homes, Inc.
Box 1047
Austin, MN 55912

George C. Mastor
General Manager/Legal Div.
MN Gas Company
300 Peavey Bldg.
Mpls, MN 55402

Rodney Watkins
105 University Road
Cloquet, MN 55720

Frundt, Frundt & Johnson
117 West 5th St.
Blue Earth, MN 56013

Department of Public Safety
Machine Gun Rules
1-31-83

Mailing
List
B.

Jon Willand
145 Malcolm Ave. S.E.
Minneapolis, MN 55414

Fred L. Tonne
Don Streicher Guns, Inc.
2465 South 84th Street
Milwaukee, Wisc. 53227

Roger Beach
8554 East River Road
Coon Rapids, MN 55433

Bill Larson
625 4th Ave. South
Minneapolis, MN 55415

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns.

CERTIFICATE OF MAILING LIST

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. 15.0412, subd. 4, that their names be placed on file with and maintained by the State Department of Public Safety for the purpose of receiving notice of the proposed adoption of rules by this department, is accurate and complete as of 9:00 A.M., this 27th day of January, 1983.

Diane Dybevik

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing the Possession or Ownership of Machines Guns and and Short-Barrelled Shotguns

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on January 31, 1983 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 14.22 on January 28, 1983. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments that were received, and determining the need for and reasonableness of the above-captioned rules, the Commissioner makes the following Findings of Fact, Conclusions, and Order Adopting Rules.

FINDINGS OF FACT

1. The authority of the Department of Public Safety to promulgate these rules is contained in Minnesota Statutes sections 299C.03 and 609.67.

2. The Statement of Need and Reasonableness for these rules sets forth the need for and reasonableness of the rules to be adopted and is incorporated into these findings and becomes a part hereof as though fully set forth herein.

3. During the 30-day public comment period, no requests for public hearing were received. Four public comment letters were received, which are discussed in the following paragraphs.

4. In a letter dated February 8, 1983, Steven Jennings states that he is in favor of the proposed rules, with a few exceptions. He states that the rules duplicate efforts of the federal alcohol, tobacco, and firearms agency, that restricted data may be made public, that an exemption should exist for federally licensed dealers, and that the rules will adversely affect the transfer of firearms to police.

5. In a letter dated February 14, 1983, Roger Beach states three objections: that the form required in the rules will cause additional delays in getting these rules implemented, that the filing fee is unwarranted, and that an exemption should exist for federally licensed dealers.

6. In a letter dated February 25, 1983, Jon Willand disputes the definition of approved machine guns and short-barrelled shotguns, disputes the need for a state filing form, claims the filing fee is unwarranted, disputes the procedure for the superintendent not accepting a filing, questions how compliance with the state rules and National Firearms Act will dovetail, and questions whether federal or state law will have supremacy.

7. In a letter dated February 1, 1983, Fred L. Tonne disputes the definition of approved machine guns and short-barrelled shot guns and suggests using National Firearms Act firearms by definition, states that the rules will adversely affect the transfer of firearms to police, suggests that the state retain a copy of the applicant's federal registration form, and states that an exemption should exist for federally licensed dealers.

8. A number of changes have been made to the rules as proposed.

   a. Section 1.3061 B. and C. have been reordered to follow an alphabetical order.

   b. New section 1.3061 B. has been modified in wording only, with no change in substance or content.

   c. Section 1.3061 D. has been modified in syntax and to reflect the definition of "Bureau."

   d. Section 1.3061 E. has been modified to reflect the definition of "Bureau" and to incorporate the statutory authority of the superintendent to delegate his responsibility to make the required determination, as provided in Minn. Stat. § 609.67, subd. 3(3) (1982).

   e. Section 1.3062 B. has been rewritten to simplify the rule, without any change in substance or content.

   f. Section 1.3062 D. has been deleted. The content is covered sufficiently in section 1.3062 B.

   g. Section 1.3063 has been modified to reflect more accurately the subject matter of this section. Paragraph B. has been modified to incorporate the definition of an approved machine gun or short-barrelled shotgun.

   h. Section 1.3063 C. has been added. The basic content previously was included in section 1.3064, second paragraph. Additional language was added to clarify the possibility of a resubmission and the fact that a new fee will not be required.

i. Section 1.3064 has been modified in syntax, without any change in meaning, and to clarify the superintendent's responsibility upon nonacceptance. The second paragraph has been deleted, its contents shifted to section 1.3063 C.

j. Section 1.3065 has been modified to reflect the definition of "Bureau" and to clarify that the report forms are classified according to the Minnesota governmental data practices act rather than by these rules.

k. The first sentence of section 1.3066 has been rewritten slightly, without change in substance or content. The second sentence has been deleted as beyond the scope of the agency's authority.

CONCLUSIONS

1. The Commissioner of Public Safety gave due, timely, and adequate legal notice of his intent to adopt these rules without a public hearing.

2. The Commissioner of Public Safety has statutory authority to promulgate the proposed rules.

3. The Commissioner of Public Safety has fulfilled all relevant substantive and procedural requirements of law and rule.

4. The Commissioner of Public Safety has demonstrated the need for and reasonableness of the proposed rules by an affirmative presentation of facts.

5. The rules as adopted contain several modifications, none of which were the result of public comment. With only one exception, these modifications are all for the purpose of clarifying the rules, removing redundancies, and generally to streamline the wording. The one exception occurs in section 1.3066, where language that was beyond the agency's authority to adopt was striken. All modifications are therefore permissible.

6. Regarding the comments made in the four letters that were received:

   a. These rules are required by Minnesota Statutes section 609.67, and therefore the question of whether they duplicate federal efforts is irrelevant.

   b. Restricted data will not be made public. Privacy laws and procedures will prevail. The data privacy section within these rules (11 MCAR 1.3065) addresses this.

c. An exemption for federally licensed dealers must be instituted by statute.

d. Under the existing statute, law enforcement agencies may possess modern machine guns and only need to register them.

e. The required form will not delay implementation of these rules because the form has been ready for several months.

f. The fee is needed to defray addministrative costs. The amount chosen is an amount that will cover costs only.

g. The definition of "approved machine gun or short-barrelled shotgun" is essentially the same as the state statutory definition. The federal definition would not be adequate because the definition must correspond to state law.

h. The state filing form is needed because the state statute requires the Bureau of Criminal Apprehension to collect certain information. No one in Minnesota can legally possess National Firearms Act weapons unless approved by the BCA. Acceptance of the federal registration form for state filing would not suffice, because federal registration is contingent on prior state action.

i. The form contains certain information required by statute to be collected. The superintendent makes a determination based on that information. It is therefore reasonable that the rules contain a procedure and criteria for acceptance and nonacceptance of the filing by the superintendent.

j. The question of "supremacy of federal law in cases of conflict with state law" (Willand letter) is in error. What may be lawful under federal statutes may not necessarily be lawful under state statutes. The BCA will enforce the state statute and rules.

k. It would be of no value for the state to use the federal registration form, as it has nothing to do with state filing requirements.

ORDER

NOW, THEREFORE, IT IS ORDERED that these rules, identified as rules governing the possession or ownership of machine guns and short-barrelled shotguns, are adopted this 13th day of June, 1983, pursuant to authority vested in me by Minnesota Statutes sections 299C.03 and 609.67.

STATE OF MINNESOTA

Paul J. Tschida

COMMISSIONER OF PUBLIC SAFETY

STATE OF MINNESOTA
DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns

SUPPLEMENTAL FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULES

FINDINGS OF FACT

1. The attached Findings of Fact, which were submitted to the Attorney General with the adopted rules on June 14, 1983, are hereby incorporated by reference as if set forth fully herein, with the exception of Finding of Fact 8.j., which is not incorporated herein.

2. On June 13, 1983, the Commissioner adopted rules in above-captioned matter and submitted them to the Attorney General for his review as to form and legality on June 14, 1983.

3. On June 28, 1983, the Attorney General disapproved the rules, stating as his basis for disapproval that section 1.3065 of these rules was an improper subject of rulemaking by the agency. No other objections to the rules were raised.

4. In response to the comments of the Attorney General, section 1.3065 has been deleted from the rules. As a result, section 1.3066 has been renumbered as 1.3065.

CONCLUSIONS

1. The attached Conclusions, which were submitted to the Attorney General with the adopted rules on June 14, 1983, are hereby incorporated by reference as if set forth fully herein, with the exception of Conclusion 6.b., which is not incorporated herein.

2. Proposed section 1.3065 of the above-referenced rules is beyond the scope of the agency's authority to adopt and therefore must be deleted from these rules.

ORDER

NOW, THEREFORE, IT IS ORDERED that these rules, identified as rules governing the possession or ownership of machine guns and short-barrelled shotguns, are adopted this 12th day of July, 1983, pursuant to authority vested in me by Minn. Stat. §§ 299C.03 and 609.67.

STATE OF MINNESOTA

Paul Tschida

Commissioner of Public Safety

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns.

FINDINGS OF FACT AND CONCLUSIONS

Notice of the Commissioner's intent to adopt the above captioned rules without a public hearing was published in the State Register on January 31, 1983 and was sent by the United States Mail to all persons on the list maintained by the Department of Public Safety pursuant to Minnesota Statutes section 14.14 subdivision 1, on January 28, 1983.

After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, having received fewer than seven requests for a public hearing within the 30 day comment period, and having reviewed and considered the comments, I find the following:

FINDINGS OF FACT

1. The authority of the Department of Public Safety to promulgate these rules is contained in Minn. Stat. Sections 299C.03 and 609.67.

2. The Statement of Need and Reasonableness for these rules sets forth the need for and reasonableness of the rules to be adopted, and is incorporated into these findings and becomes a part hereof as though fully set forth herein.

3. During the 30 day public comment period, no requests for public hearing were received. Four public comment letters were received, which are discussed in the following paragraphs.

4. In a letter dated February 8, 1983, from Steven Jennings, he states he is in favor of the proposed rules, with a few exceptions. He feels that the rules duplicate efforts of the federal alcohol, tobacco, and firearms agency, that restricted data may be made public, that an exemption should exist for federally licensed dealers, and that the rules will adversely affect the transfer of firearms to police.

5. In a letter dated February 14, 1983, from Roger Beach, he states three objections: that a form required in the rules will cause additional delays in getting these rules implemented, that the filing fee is unwarranted, and that an exemption should exist for federally licensed dealers.

6. In a letter dated February 25, 1983, from Jon Willand, he disputes the definition of approved machine guns and short barrelled shotguns, he disputes the need for a state filing form, he claims the filing fee is unwarranted, he disputes the procedure for the superintendent not accepting a filing, he questions how compliance with the state rules and National Firearms Act will dovetail, and he questions whether federal or state law will have supremacy.

7. In a letter date February 1, 1983, from Fred L. Tonne, he also disputes the definition of approved machine guns and short barrelled shot guns and suggests using National Firearms Act firearms by definition, he also feels the rules will adversely affect the transfer of firearms to police, he suggests the state retain a copy of the applicant's federal registration form, and he also feels an exemption should exist for federally licensed dealers.

CONCLUSIONS

1. The Commissioner of Public Safety gave due, timely and adequate legal notice of his intent to adopt rules without a public hearing.

2. The Commissioner of Public Safety has statutory authority to promulgate the proposed rules.

3. The Commissioner of Public Safety has fulfilled all relevant, substantive and procedural requirements of law and rule.

4. The Commissioner of Public Safety has demonstrated the need for and reasonableness of the proposed rules by an affirmative presentation of facts.

5. The rules as adopted contain several modifications, none of which were the result of public comment. These modifications are all for the purpose of clarifying the rules, removing redundancies and generally to streamline the wording.

6. Conclusions regarding comments made in the four letters received are as follows:

   - Whether or not the rules duplicate federal efforts, they are required by Minn. Stat., section 609.67.

   - Restricted data will not be made public. Privacy laws and procedures will prevail, and the data privacy section within the rules (11MCAR 1.3065) addresses this.

   - An exemption for federally licensed dealers would have to be instituted by statute.

   - In existing statute, law enforcement agencies can possess modern machine guns and only need to register them.

   - The required form will not delay implementation of these rules, since the form has been ready for several months.

   - The fee is needed to defray administrative costs, and it is an amount that will only cover costs.

   - The definition of approved machine gun and short barrelled shotgun is essentially the same as the state statutory definition, and the federal definition would not be adequate since it needs to correspond to state law.

   - The state filing form is needed since state statute requires the bureau of criminal apprehension to collect certain information. No one in Minnesota can legally possess National Firearms Act weapons unless approved by the BCA. Acceptance of the federal registration form for state filing would not suffice, since federal registration is contingent on prior state action.

   - The form contains certain information required by statute to be collected. The superintendent makes a determination based on that information. It is

therefore reasonable that the rules contain a procedure and criteria for acceptance and nonacceptance of the filing by the superintendent.

- The question of "supremacy of federal law in cases of conflict with state law" (Willand letter) is in error. What may be lawful under federal statutes may not necessarily be lawful under state statutes. The BCA will enforce state statute and rules.

- It would be of no value for the state to retain a copy of the federal registration form, since it has nothing to do with state requirements for filing.

STATE OF MINNESOTA

April 29, 1983
DATE

Paul J. Tschida
PAUL J. TSCHIDA
COMMISSIONER OF PUBLIC SAFETY

ACDKDNA012

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing The Possession or Ownership of Machine Guns and Short-Barrelled Shotguns.

STATEMENT OF NEED AND REASONABLENESS

The above captioned rules are not amendments to existing rules of the State Department of Public Safety.

The need to adopt these rules arises because of the requirements of Minn. Stat. 609.67, which prohibits ownership, possession or operation of machine guns or short-barrelled shotguns with certain exceptions. That statute defines who may own or possess such guns. It requires the superintendent of the Bureau of Criminal Apprehension to define certain guns as collectors items, relies and objects of curiosity and to provide for a reporting procedure. The need for and reasonableness of the substantive portions of the above captioned rules are outlined below:

11 MCAR 1.3060 gives the statutory authority for promulgating the proposed rules in order to clarify the parameters of the rules.

11 MCAR 1.3061 defines certain terms and phrases used in the rules so that these terms and phrases are not otherwise interpreted.

11 MCAR 1.3062 explains the procedures for reporting the ownership or possession of a machine gun or short-barrelled shotgun. The step by step procedures are as follows:

1. The applicant requests and receives a reporting form (a one-page form in duplicate made of self-carboning paper) from the Bureau of Criminal Apprehension.

2. The applicant completes the report form and submits the report form to the Superintendent of the Bureau of Criminal Apprehension within ten days after taking possession or ownership of the approved machine gun or short-barrelled shotgun.

3. The reporting individual returns the completed form with a $15 non-refundable fee which is used to defray administrative costs of handling the report.

4. The Superintendent then files the form. One copy is retained by the reporting individual.

Subd. A. explains that the procedures defined in 11 MCAR 1.3062 must be followed to report the possession or ownership of a machine gun or short-barrelled shotgun. Subd. B. states that a completed report form must be sent to the Superintendent within ten days after taking possession or ownership of the machine gun or shotgun. Subd. C. requires the $15.00 fee paid to the Bureau for each report submitted. The $15.00 fee is necessary to cover the reasonable cost of form duplication, postage, and clerical tasks. The form will be in duplicate with self-carboning pages. Subd. D. states that the reporting person shall, within ten days of obtaining ownership or possession of an approved firearm, submit to the Superintendent one fully executed report form indicating the date the firearm was transferred and shall certify the firearm is now owned or possessed by the reporting person. This rule is necessary and reasonable in order to have a simple, uniform method of reporting and should not place any undue hardship on the applicant.

11 MCAR 1.3063 defines the conditions that would cause the Superintendent to return the form. They are:

1. The reporting person misrepresents, falsifies, or fails to complete any information on the form.

2. The Superintendent determines that the firearm is not an approved firearm.

It is necessary to define conditions which constitute non-acceptance of the form, because non-acceptance means that the applicant does not meet one of the exceptions under Minn. Stat. Section 609.67 and therefore is in violation of the statute. It is reasonable that the Superintendent of the Bureau of Criminal Apprehension specify the grounds in which the form is to be returned, since noncompliance is a felony.

11 MCAR 1.3064 states that any applicant who wishes to contest the denial may do so by following procedures of the Administrative Procedure Act, Minn. Stat. 15.0418 - 15.0426, and 9 MCAR 2.201 - 2.222 of the Office of Administrative Hearings. It is necessary and reasonable to explain the procedure for an applicant to follow to contest a decision of denial or revocation made by the Superintendent which the applicant feels is in error.

11 MCAR 1.3065 states that all materials collected by the Bureau pursuant to 11 MCAR 1.3061 - 1.3066 will be kept at the Bureau and be considered private data. The designation of private data is necessary to protect information on where approved machine guns and short-barelled shotguns may be found, and by whom they are owned or possessed. This information should be protected to help prevent theft of these particularly dangerous firearms, thereby increasing public safety. The classification "private" is reasonable because it provides for this protection without jeopardizing the applicant's right and ability to know what is in his or her record.

11 MCAR 1.3066 states that for the first 90 days after 11 MCAR 1.3061 - 1.3066 becomes effective, information on the application form cannot be used in a criminal proceeding against the applicant. There is some concern that machine guns and short-barrelled shoguns may currently be owned or possessed by unknown persons in Minnesota who are not permitted to do so under the existing statutes. When these rules become effective, it is desired that all persons owning/possessing any machine guns or short-barrelled shotguns apply for approval for such ownership/possession, including those who owned/possessed them prior to the effective date of these rules. 11 MCAR 1.3066 is necessary and reasonable in order to prompt all persons to apply. Without this rule, persons who owned/possessed a machine gun or short-barrelled shotgun prior to the effective date of these rules might not be willing to apply for approval for fear of prosecution upon their admission in the application, of illegally owning/possessing a machine gun or short-barrelled shotgun. This rule will simply prevent any criminal proceeding against the applicant based solely on information appearing on the application. If, however, there is an independent investigation involving the applicant concerning his or her suspected illegal possession of these firearms, this rule will not end the criminal investigation or proceedings or provide immunity from prosecution with evidence gathered by the independent investigation.

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Jerry Anderson, Special Assistant Attorney General, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act and the rules of the Attorney General have been followed. Any exceptions are noted below.

Jerry Anderson

Special Assistant Attorney General

Dated: June 14, 1983

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns.

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General Norman B. Coleman, Jr., do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

May 2, 1983
DATED

SPECIAL ASSISTANT ATTORNEY GENERAL

ACDKHF0021

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

Diane Dybevik, being first duly sworn, deposes and says:

That on June 14, 1983, in the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Submission to the Attorney General, by depositing a copy thereof in the United States mail at said City of St. Paul, properly enveloped, with postage prepaid, on all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Diane Dybevik

Subscribed and sworn to before me
this 13th day of June, 1983.

Dorothy F. Gerlach

DOROTHY F. GERLACH
NOTARY PUBLIC - MINNESOTA
RAMSEY COUNTY
My commission expires Feb. 4, 1987

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed Adoption of Rules of the State Department of Pubic Safety Governing the Possession or Ownership of Machine Gun and Short-Barrelled Shotguns.

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

Diane Dybevik, being first duly sworn, deposes and says:

That on the 29th day of April, 1983, in the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Submission to the Attorney General by depositing in the State of Minnesota Central Mail System for United States mailing, a copy thereof, properly enveloped, with postage prepaid, to all persons and associations who requested notice that the rules in the above-entitled matter have been submitted to the Attorney General.

Diane Dybevik

Subscribed and sworn to before me this 29th day of April, 1983

JoAnne Monsour

JO ANNE MONSOUR
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES NOVEMBER 1, 1989

ACDKHF0020

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns

NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

Pursuant to your earlier request and in accordance with Minnesota Statutes section 14.26:

PLEASE TAKE NOTICE that the above-captioned rules have been resubmitted to the Office of the Attorney General on this date, June 14, 1983, for review as to form and legality. Pursuant to 1 MCAR § 1.206 C., the Attorney General will not approve the rules for at least eight calendar days after receipt to allow any person or association time to comment on the legality of the rules, after which that office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, 204 State Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155, telephone (612) 296-1288. Please note that the above-cited rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

If you are interested in determining what changes, if any, were made in the proposed rules after publication in the State Register and before submission to the Attorney General, you may contact Stephen Hennessy, Minnesota Bureau of Criminal Apprehension, 1246 University Avenue, St. Paul, Minnesota 55104.

STATE OF MINNESOTA

DEPARTMENT OF PUBLIC SAFETY

211 Transportation Building
St. Paul, Minnesota 55155

In the Matter of the Proposed Adoption of Rules of the State Department of Public Safety Governing the Possession or Ownership of Machine Guns and Short-Barrelled Shotguns.

NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

Pursuant to your request and in accordance with Minn. Stat. sections 14.16 and 14.26:

PLEASE TAKE NOTICE that the above-captioned rules have been submitted to the Office of the Attorney General on this date, April 29, 1983, for review as to form and legality. Pursuant to 1MCAR 1.206B, the Attorney General will not approve the rules for at least 8 calendar days after receipt, to allow any person or association time to comment on the legality of the rules, after which that office will complete its review. If you desire to comment on the legality of the above-captioned rules, you should direct your comments to the Office of the Attorney General, G-25, State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155, telephone (612) 296-7030. Please note that the above-cited rule of the Attorney General also provides that a copy of any written comments submitted to the Attorney General must be submitted simultaneously to this agency.

A copy of the adopted rules the changes were made in the proposed rules after publication in the State Register and before submission to the Attorney General.

Duane Dybevick