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Minn. Stat. § 480A.08, subd. 3 (2010).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A10-1335**

Owner-Operator Independent Drivers Association, Inc., et al.,
Appellants,

vs.

The State of Minnesota, et al.,
Respondents.

**Filed May 9, 2011
Affirmed
Peterson, Judge**

Hennepin County District Court
File No. 27-CV-09-28801

Albert T. Goins, Sr., Minneapolis, Minnesota; and

Paul D. Cullen (pro hac vice), Cullen Law Firm PLLC, Washington, DC (for appellants)

Lori Swanson, Attorney General, Thomas Vasaly, Assistant Attorney General, St. Paul,
Minnesota (for respondents)

Considered and decided by Toussaint, Presiding Judge; Peterson, Judge; and
Hudson, Judge.

UNPUBLISHED OPINION

PETERSON, Judge

Appellants sued respondents in 2009, alleging that respondents did not have authority under Minn. Stat. § 221.605, subd. 1 (2008), to enforce federal motor-carrier-safety regulations listed in the statute. The district court granted respondents' motion to

dismiss appellants' complaint for failing to state a claim upon which relief can be granted. We affirm.

FACTS

The Federal Motor Carrier Safety Administration (FMCSA) has jurisdiction over safety standards and regulations related to commercial motor vehicles. States receive money from the FMCSA through the Motor Carrier Safety Administration Program (MCSAP) to enforce the federal regulations through compatible state statutes or rules. *See Owner-Operator Indep. Drivers Ass'n, Inc. v. Fed. Motor Carrier Safety Admin.*, 494 F.3d 188, 193-94 (D.C. Cir. 2007); 49 C.F.R. § 350.201 (2010). To be compatible, a state's regulations must be "identical to . . . or have the same effect as" the federal regulations. 49 C.F.R. § 355.5 (2010).

In 1988, the Minnesota Legislature enacted Minn. Stat. § 221.605. The 1988 legislation stated:

Subdivision 1. Federal Regulations. Interstate carriers and private carriers engaged in interstate commerce shall comply with the federal motor carrier safety regulations, Code of Federal Regulations, title 49, parts 390 to 398, and with the rules of the commissioner concerning inspections, vehicle and driver out-of-service restrictions and requirements, and vehicle, driver, and equipment checklists.

Subd. 2. Investigation, Prosecution, and Enforcement. The commissioner shall investigate the operations of carriers engaged in interstate commerce in Minnesota and their compliance with federal regulations, this chapter, and the rules of the commissioner, and may institute and prosecute proceedings in the proper district court for their enforcement.

1988 Minn. Laws. ch. 544, § 25, at 484. A person who violates the statute may receive a misdemeanor citation and may also be declared “out of service” until the violation is corrected. Minn. Stat. § 221.605 (2008). An out-of-service order is a declaration by a federal or state official that a motor carrier is in violation of a rule or regulation, including the out-of-service criteria. 49 C.F.R. § 383.5 (2010). The out-of-service criteria generally regulate the conduct of drivers, including prohibiting driving for extended periods of time and requiring that logbooks be maintained. 49 C.F.R. § 395.13 (2010). The Minnesota Department of Transportation and the Minnesota State Patrol, a division of the Minnesota Department of Public Safety, enforce section 221.605. Minn. Stat. § 221.605, subd. 2; Minn. Stat. § 299D.03, subd. 1(b)(1), (13) (2008).

In 2008, an FMCSA contractor audited Minnesota’s participation in the MCSAP and found that Minn. Stat. § 221.605 did not indicate an intention by the legislature to incorporate into the statute the federal regulations related to interstate carriers. The auditor also found that, in contrast, Minn. Stat. § 221.0314 (2008) indicated legislative intent to incorporate the federal regulations related to intrastate carriers. The auditor determined that because Minn. Stat. § 221.605 did not incorporate the federal regulations, the state did not have authority to enforce the regulations against interstate carriers. Therefore, the auditor concluded, the state had been improperly enforcing federal regulations against interstate carriers under Minn. Stat. § 221.605.

In response to the audit, the legislature amended Minn. Stat. § 221.605 in May 2009 to add the clause “which are incorporated by reference,” as follows:

Interstate carriers and private carriers engaged in interstate commerce shall comply with the federal motor carrier regulations in Code of Federal Regulations, title 49, parts 40, 382, 383, 387, and 390 through 398, *which are incorporated by reference*, and with the rules of the commissioner concerning inspections, vehicle and driver out-of-service restrictions and requirements, and vehicle, driver, and equipment checklists.

2009 Minn. Laws, ch 64, § 52, at 503; Minn. Stat. § 221.605, subd. 1(a) (Supp. 2009) (emphasis added).

In November 2009, four named commercial motor-vehicle operators, a motor carrier operating in interstate commerce, and the Owner-Operator Independent Drivers Association, Inc., a non-profit corporation acting in a representative capacity on behalf of its members (collectively OOIDA), filed a lawsuit alleging that, before the statute was amended in 2009, the state did not have authority under Minn. Stat. § 221.605, subd. 1, to enforce the federal regulations listed in the statute because the federal regulations were not incorporated into the statute. The plaintiffs had been cited by state officers for violating federal regulations listed in Minn. Stat. § 221.605. The citations were issued between February 2006 and July 2009 for violations that included failing to wear a seat belt, falsifying a driver's logbook, and driving for longer than allowed.

OOIDA sought declaratory judgment under Minn. Stat. § 555.01 (2008) and alleged that the state violated the Federal Civil Rights Act, 42 U.S.C. § 1983 (2006), and the Minnesota Constitution and had been unjustly enriched by improperly enforcing the federal regulations listed in Minn. Stat. § 221.605. OOIDA sought to expunge all

citations issued by the state to motor carriers prior to August 1, 2009, and to recover all fines paid by motor carriers to the state during that period.

The state moved to dismiss under Minn. R. Civ. P. 12.02(e) on the ground that OOIDA's complaint failed to state a claim upon which relief can be granted. The district court granted the state's motion. The district court rejected OOIDA's interpretation of Minn. Stat. § 221.605—that it failed to incorporate the federal motor carrier safety regulations into Minnesota law—because the interpretation would frustrate the intent of the statute to enforce federal motor-carrier-safety regulations and would be contrary to the legislative history, which indicated that the 2009 amendment was intended only to clarify that the statute incorporated the federal regulations. OOIDA filed this appeal.

DECISION

In reviewing cases involving dismissal for failure to state a claim upon which relief can be granted pursuant to Rule 12.02(e), the question before the appellate court is whether the complaint sets forth a legally sufficient claim for relief. The standard of review is therefore *de novo*. The reviewing court must consider only the facts alleged in the complaint, accepting those facts as true and must construe all reasonable inferences in favor of the nonmoving party.

Bodah v. Lakeville Motor Express, Inc., 663 N.W.2d 550, 553 (Minn. 2003) (citations omitted).

OOIDA argues that because, under the plain language of Minn. Stat. § 221.605, subd. 1, prior to the 2009 amendment, the federal regulations listed in the statute are not incorporated into Minnesota law, the district court erred by granting the state's motion to dismiss. OOIDA contends that the failure to incorporate the federal regulations means

that the state lacked authority to enforce the federal regulations, and, therefore, citations that the state issued pursuant to the pre-amendment Minn. Stat. § 221.605 were invalid. Thus, this appeal requires us to interpret the pre-amendment version of Minn. Stat. § 221.605, subd. 1.

Statutory interpretation is a question of law that we review under a de novo standard of review. *State v. Al-Naseer*, 734 N.W.2d 679, 683 (Minn. 2007). The goal of statutory interpretation and construction “is to ascertain and effectuate the intention of the legislature,” and each statute “shall be construed, if possible, to give effect to all its provisions.” Minn. Stat. § 645.16 (2010). Our first step is to determine whether the statute’s language is clear or ambiguous. *Larson v. State*, 790 N.W.2d 700, 703 (Minn. 2010). “A statute is unclear or ambiguous if it is susceptible to more than one reasonable interpretation.” *Premier Bank v. Becker Dev., LLC*, 785 N.W.2d 753, 759 (Minn. 2010). If the legislative intent is clear from a statute’s language, we must interpret the language according only to its plain meaning. *Larson*, 790 N.W.2d at 703.

We conclude that, as enacted in 1988, Minn. Stat. § 221.605, subd. 1, is clear and unambiguous. When enacted, the statute stated that “carriers engaged in interstate commerce shall comply with the federal motor carrier safety regulations, Code of Federal Regulations title 49, parts 390 to 398.” Minn. Stat. § 221.605, subd. 1 (1988). “‘Shall’ is mandatory.” Minn. Stat. § 645.44, subd. 16 (2010). “Comply” means “[t]o act in accordance with another’s command, request, rule, or wish.” *The American Heritage Dictionary of the English Language* 387 (3d ed. 1992); *see* Minn. Stat. § 645.08(1) (2010) (in construing statutes, words are construed according to their common and

approved usage). Thus, the plain meaning of the statute as enacted in 1988 is that interstate carriers must act in accordance with the federal motor-carrier-safety regulations listed in the statute. Although the 1988 statute did not include the phrase “which are incorporated by reference,” its plain meaning made complying with the listed federal regulations a requirement under state law. Consequently, beginning in 1988, the statute had the same effect as the federal regulations.

Accordingly, the district court did not err by granting the state’s motion to dismiss because OOIDA failed to state a claim upon which relief can be granted.

Affirmed.